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Vindictive Justice and Participatory Revenge:

English Revenge Tragedy's Engagement with Early Modern Law

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Submitted in fulfilment of the requirements for a Doctorate of Philosophy

School of English

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Summary

This thesis demonstrates revenge tragedy's ongoing engagement with early modern law in its myriad forms during the late sixteenth and early seventeenth century. I begin by showing in the introduction the relevance of an interdisciplinary approach to law and literature, and how much revenge tragedy has to offer from a legal–literary perspective (Methodology). I also investigate the genre's long-standing critical neglect, since it is frequently seen by academics as neither socially engaged nor legally sophisticated (Literature Review). I finish my introduction with a basic account of England's participatory justice system in the period, while also pointing towards the major stresses and strains that system was undergoing at the time. These include exponential growth in litigation, jurisdictional conflicts, and increasing professionalisation within the legal system that undermined the participatory structures on which English common law was founded.

Beginning with *The Spanish Tragedy* and its depiction of a highly partial judiciary blocking Hieronimo's pursuit of justice, coupled with the protagonist's own judicious final 'spectacle' (4.4.89), I demonstrate the genre's deep engagement with legal matters from its inception. Kyd problematises any simple binaries between lawless revenger and judicious law-giver by staging a series of judgement scenes that illustrate the dangers of judicial prejudice, while Hieronimo's own revenge conforms to early modern legal procedure to a greater degree than has previously been suggested.

In Chapter Two, I investigate the disparity between the common law veneration of trial by jury, and a gradual erosion of jury powers within the early modern courtroom. While such a shift is shown to be more practical than ideologically motivated, it nevertheless has important implications for our conception of early modern law as participatory and open. This is then used as an underlying framework in my exploration of sensory deprivation in *Titus Andronicus*. I trace the curtailment of sounds, sight and speech in this play, activities central to the interpretation of evidence, and show how this critiques early modern courtroom procedure at a time when that procedure was in a process of transformation.

Chapter Three excavates the various crises of the 1590s – social, economic, political – and the reactions that these prompted from early modern citizens. In particular, I look at the early modern riot as a species of social protest that displays signs of political consciousness. I link

this with the staging of participatory communal action in *Antonio's Revenge*, in order to demonstrate the revenge genre's full potential for socio-political engagement. The final act sees a band of revengers being praised for regicide, and this shocking climax is made intelligible with reference to the social upheavals in 1590s England, which saw citizens forcefully reminding those in power of their duty of care.

Next, I turn to Shakespeare's *Hamlet*, a revenge play unique for the attention it has garnered from a literary-legal perspective. I dispute the centrality of both law and politics to Hamlet's revenge, and instead show the displacement of legal and political discourse onto the figures of Fortinbras and Laertes. Ultimately I argue that Shakespeare's protagonist refuses to conflate personal revenge and political action in the manner of other revengers, thus bringing the tragic mode in a direction more familiar to modern audiences. By demonstrating how this play actively resists a socio-legal reading, I reinforce the need to pay attention to other early modern revenge tragedies when excavating legal discourse in literature of the period.

A case in point is the critically neglected *Tragedy of Hoffman*, and in Chapter Five I show how this play raises questions of considerable complexity from a legal standpoint. Chettle's plot sees the intersection of discourses of piracy, insurrection, and legitimacy on the early modern stage, but this has been obscured by the protagonist's bloodthirsty pursuit of revenge. I argue that the play subverts traditional binaries: lawful duke/convicted pirate; virtuous mother/villainous son; pious forgiveness/sinful rebellion. Furthermore, Jerome's staging of rebellion (3.2), as well as the burning crowns which bookend the action, mark the play out as a radical socio-political statement at the turn of the century.

My final chapter is on *The Revenger's Tragedy*, which I describe as post-participatory in its use of legal mechanisms to drive the plot, without a deeper engagement on a thematic level. I do however argue that the trial scene in 1.2 is directly relevant to jurisdictional conflicts in Jacobean England. One such conflict culminated in Sir Edward Coke's clash with James I on the question of whether or not a sovereign is subject to the laws of the realm, an issue proleptically addressed in *The Revenger's Tragedy*. At the same time, the relevance of legal issues argued for elsewhere in the thesis is shown to be lacking in Middleton's play.

My conclusion brings together the major findings of this study: the prevalence of legal discourse in revenge tragedies, the lack of attention given to trial scenes in the genre, the representation of collective revenge as a species of political action, and the ways in which contemporary changes within the legal system made their presence felt on the early modern stage. I also emphasise the applicability of this research outside the remit of revenge tragedy, as the methodology used here can be extended either chronologically or thematically.

Since neither piety nor pity moves

The king to justice or compassion,

I will revenge myself upon this place.

Isabella in the arbour,
The Spanish Tragedy, 4.2.2

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I have been lucky enough to be surrounded by an incredibly supportive community over the past four years, and I cannot possibly mention all those who have helped on this journey. Let me then misappropriate some Shakespeare on this occasion: 'I desire you in friendship, and I will in one way or other make you amends' (*The Merry Wives of Windsor*, 3.1.77).

A Note on Texts

All scholarly references are taken from the following editions, unless otherwise stated: Thomas Kyd's *The Spanish Tragedy*, in *Five Revenge Tragedies: Kyd, Shakespeare, Marston, Chettle, Middleton*, ed. by Emma Smith (Oxford: Penguin, 2012); William Shakespeare's *Titus Andronicus*, ed. by Jonathan Bate, Arden Shakespeare third series (London: Routledge, 1995); John Marston's *Antonio's Revenge*, in *Five Revenge Tragedies*, ed. by Emma Smith; William Shakespeare's *Hamlet*, ed. by Ann Thompson and Neil Taylor, Arden Shakespeare third series (London: Thomson Learning, 2006); Henry Chettle's *The Tragedy of Hoffman,* or *A Reuenge For A Father*, in *Five Revenge Tragedies*, ed. by Emma Smith; Thomas Middleton's *The Revenger's Tragedy*, ed. by MacDonald P. Jackson, in *Thomas Middleton: The Collected Works*, ed. by Gary Taylor and John Lavagnino (Oxford: Clarendon Press, 2007). For Shakespearean texts not listed above, I use the Arden editions (third series where possible), details of which can be found in the bibliography. I also frequently make use of early modern editions available on Early English Books Online (EEBO), and in this case I give the short-title catalogue (STC) numbers of Pollard and Redgrave (or Wing for texts printed after 1641). For texts with regular pagination I give a page number (p.), otherwise I give the signature (sig.).

Introduction

> [I]t is the receiued manner of teaching in our law, To shew things by their contraries and differents: and seeing that great lighte commeth to the matter thereby, I may neyther condemne it as unapt, nor reiect it as vnseruiceable.
>
> William Lambarde (1536-1601), *Eiranarcha*[1]

In the opening moments of *The Spanish Tragedy*, Kyd presents his audience with an image of judicial uncertainty that is almost emblematic in its starkness. As the ghost of Don Andrea wanders in the underworld, he is faced with three judges: Minos, Aeacus, and Rhadadmanth. After discussing the matter among themselves, the judges fail to decide on an appropriate fate for Don Andrea, and resolve to pass the matter on to to 'our infernal king', Pluto (1.1.52).[2] The

[1] From the epilogue of *Eiranarcha, or Of the Office of the Iustices of the Peace* (London, 1581) (available on EEBO, STC no. 15163), p. 511.

[2] This mirrors provisions in early modern England for local justices of the peace to refer more complex cases on to the assize judges, as discussed in Chapter One, p. 66. Pluto's subsequent decision (1.1.78ff), influenced as it is by Persephone, precipitates the tragedy of revenge that then unfolds.

image of three judges unable to reach a verdict sets a worrying trend for what is to come: from the inaugural moment of early modern revenge tragedy, the law is in crisis. Yet the possibility that revenge tragedy as a genre is capable of serious legal engagement has as yet been given no systematic attention. Bearing in mind Lambarde's suggestion that in order to learn about the law it can be illuminating to seek out law's 'contraries and differents', this thesis sets out to analyse the ways in which early modern revenge tragedy evinces an ongoing and thorough interrogation of the legal system of its time.

In the pages that follow, I investigate the problematic representation of the law in the genre of revenge tragedy. This manifests itself in everything from the faulty interpretation of evidence to the more overt corruption of justice, and stretches across a range of social groups and jurisdictions, whether in the questionable legitimacy of the early modern pirate, or the hotly contested issue of a sovereign's prerogative powers and its limitations. The cumulative effect is that revenge tragedy becomes a valuable site for the critical examination of early modern law in its myriad forms. The relation between these discourses has too often slipped into easy binaries: Law/Revenge, Good/Bad, Public/Private.[3] Such binaries will be shown to be inadequate when dealing with topics as complex and nuanced as early modern drama and legal discourse respectively. The majority of plays in this study feature fully-functioning trial scenes, sometimes more than one. The fact that these fundamental social institutions fail to function as they should is a recurring problem, yet trial scenes within the genre have not been given any sustained critical examination to my knowledge.[4] This is all the more surprising

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[3] This is typified by Fredson Thayer Bowers' *Elizabethan Revenge Tragedy, 1587-1642* (Princeton: Princeton University Press, 1940). See the Literature Review below for the lasting impact of Bowers' work on critical approaches to the revenge genre, pp. 24-38.

[4] Scholarly interest in the trial scene of *The Merchant of Venice* is in marked contrast to that shown to trials in the revenge genre, see for example the section entitled 'Before the Law' in the introduction to *The Merchant of Venice*, ed. by John Drakakis, Arden Shakespeare third series (London: Methuen, 2010), pp. 96-105.

considering the extensive work being done in the area of early modern law and literature at the beginning of the twenty-first century.[5]

This thesis puts forward the argument that the crisis of justice that is at the heart of so many revenge plays reflects in a very real sense a concurrent crisis in the legal system of early modern England. The late sixteenth- and early seventeenth-centuries witnessed an explosion in litigation that put unprecedented pressure on the country's legal institutions.[6] Combined with lengthening gaol deliveries were efforts towards centralisation and professionalisation, all of which resulted in major changes to how the law was being administered in the period.[7] The early modern legal system is often lauded for its participatory structure; it is no exaggeration to say that the delivery of justice was a communal labour in early modern England.[8] Trial by jury is seen as the jewel in the crown of English common law, yet this image too is in need of revision as theory and practice are seen to diverge at this critical juncture.[9] Legal innovations

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[5] For example, Victoria Kahn and Lorna Hutson, eds, *Rhetoric and Law in Early Modern Europe* (New Haven: Yale University Press, 2001); Erica Sheen and Lorna Hutson, eds, *Literature, Politics and Law in Renaissance England* (Basingstoke: Palgrave Macmillan, 2005); Subha Mukherji, *Law and Representation in Early Modern Drama* (Cambridge: Cambridge University Press, 2006); Lorna Hutson, *The Invention of Suspicion: Law and Mimesis in Shakespeare and Renaissance Drama* (Oxford: Oxford University Press, 2007); Constance Jordan and Karen Cunningham, eds, *The Law in Shakespeare* (Basingstoke: Palgrave Macmillan, 2007); Paul Raffield and Gary Watt, eds, *Shakespeare and the Law* (Oxford: Hart Publishing, 2008); Andrew Zurcher, *Shakespeare and Law*, Arden Critical Companions (London: Methuen, 2010). The predeliction for Shakespeare's work is evident from the titles even in this small sample.

[6] See C. W. Brooks, 'Litigants and Attorneys in the King's Bench and Common Pleas, 1560-1640', in *Legal Records and the Historian*, ed. by J. H. Baker (London: Royal Historical Society, 1978), pp. 41-59.

[7] J. H. Baker, 'English Law and the Renaissance', *Cambridge Law Journal*, 44 (1985), 46-61.

[8] The participatory nature of early modern justice is well documented by legal and social historians. See Thomas Green, *Verdict according to Conscience: Perspectives on the English Criminal Trial Jury 1200-1800* (London: University of Chicago Press, 1985); Cynthia B. Herrup, *The Common Peace: Participation and the Criminal Law in Seventeenth-century England* (Cambridge: Cambridge University Press, 1987); Steve Hindle, *The State and Social Change in Early Modern England, 1550-1640* (Basingstoke: Macmillan Press, 2000). I return to this idea below, p. 47, as well as in subsequent chapters.

[9] Innovations such as plea-bargaining and multiple arraignments had the potential to weaken jury powers or completely circumvent the need for a trial: 'In practical terms it meant that from about 1590

had a profound effect on how citizens came to experience and interact with their legal system, and, I suggest, for how that legal system was being conceptualised and represented on the public stage. Revenge tragedies were one of the most popular forms of dramatic entertainment at that time, and I contend that the correlation between phenomena goes deeper than has previously been posited.

At the very moment that early modern law is undergoing a process of profound transformation and professionalisation, a genre emerges which is dedicated to showing groups of non-professionals quite literally taking the law into their own hands.[10] Revenge tragedy's common ancestry with law on both sides of the family, as it were – through the subject matter of revenge, and through the medium of theatre – makes the genre an ideal testing ground for the staging of the law in the early modern period.[11] Lorna Hutson's work on the forensic rhetoric of early modern revenge tragedy has amply demonstrated the crossover between stage revengers' methods of investigation and legalistic modes of thought, destabilising the boundaries between legal and extra-legal activity in the early modern theatre.[12] We must not forget the pertinent fact that many revengers first seek legal remedies for their losses before stepping outside the law; as Hieronimo puts it in *The Spanish Tragedy*, 'Justice, O justice,

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onwards the petty jury and formal process became redundant in between 15 and 20 per cent of the routine felonies tried at assizes', J. S. Cockburn, 'Trial By the Book? Fact and Theory in Criminal Process', in *Legal Records and the Historian*, pp. 60-79 (p. 74). Tensions surrounding the role of the jury will be discussed in depth in Chapter Two.

[10] Here we might think of Hieronimo tearing legal papers to pieces with the words: 'Then will I rent and tear them thus and thus,/ Shivering their limbs in pieces with my teeth' (*The Spanish Tragedy*, 3.13.127).

[11] For the vengeful roots of common law practices, see Oliver Wendell Holmes Jr, *The Common Law* (Harvard: Harvard University Press, 2009), p. 38 (first publ. in 1881). See also p. 38ff below. The significant overlap between theatre and courtroom in the early modern period is explored in the Methodology section below.

[12] *The Invention of Suspicion*, in particular chapters 2 and 6. The concept of forensic plotting is first explored by Hutson in 'Rethinking the "Spectacle of the Scaffold": Juridical Epistemologies and English Revenge Tragedy', *Representations*, 89 (2005), 30-58 (p. 32ff). See below, p. 22, for a fuller discussion of Hutson's work and its implications for my own research.

justice, gentle king!' (3.12.63).[13] At the same time, the rash and arbitrary judgements passed down by official judges at the beginning of *The Spanish Tragedy*[14] give way to ever more blatant abuses of the law by the likes of Saturninus (*Titus Andronicus)* and Piero (*Antonio's Revenge*), until the Duke of *The Revenger's Tragedy* simply halts the process of law mid-sentence: 'We will defer the judgment till next sitting' (1.2.83). Since it is the flawed justice system itself that often acts as a spur to vengeance in the first place, it seems reasonable to investigate whether the examination of law at work in these plays operates at a more fundamental level. This requires a re-evaluation of the genre in terms of a more historically grounded, culturally sensitive and legally nuanced approach.

Of course, revenge as a theme is ubiquitous in Western literature since the epics of Homer.[15] Even within an early modern context, revenge can be seen behind narratives as diverse as religious tracts, historical narratives or Shakespearean comedy.[16] So when I talk of early modern revenge tragedy, I specifically mean the group of plays written for the public playhouses that dwell predominantly on the theme of revenge, and have as their focus a

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[13] Titus too appeals to the judges in the case of Quintus and Martius, but to no avail (*Titus Andronicus*, 3.1). In the case of Antonio and Vindice, the revenger is prevented by the fact that the main perpetrator is himself the judge.

[14] This includes not only the judgement of Pluto (1.1), but also the 'trials' carried out by the Kings of Portugal and Spain (1.2; 1.3), as discussed in Chapter One.

[15] Homer, *The Iliad*, trans. by Martin Hammond (Harmondsworth: Penguin, 1987); Homer, *The Odyssey*, trans. by Walter Shewring (Clarendon: Oxford University Press, 1980).

[16] John Reynolds, *The Triumphs of Gods Revenge against the crying and execrable Sinne of Murther* (London, 1621) (available on EEBO, STC no. 20942). See also example Bradley J. Irish's survey of the theme and its various manifestations before the emergence of a distinct revenge genre, 'Vengeance, Variously: Revenge before Kyd in Early Elizabethan Drama', *Early Theatre*, 12 (2009), 117–34. On the idea of revenge in the genre of comedy, see Anne Rosalind Jones, 'Revenge Comedy: Writing, Law and the Punishing Heroine in *Twelfth Night*, *Merry Wives of Windsor*, and *Swetnam the Woman-Hater*', in *Shakespearean Power and Punishment: A Volume of Essays*, ed. by Gillian Murray Kendall (Madison, NJ: Fairleigh Dickinson University Press, 1998), pp. 23-38. A good example of this occurs in *Merry Wives of Windsor*, where 'revenge' is a prominent word in the vocabulary of Mistress Page, who says of Falstaff, 'How shall I be revenged on him? For revenged I will be, as sure as his guts are made of puddings' (2.1.25).

protagonist who achieves his revenge at the play's climax.[17] Kyd's play marks a natural starting point, as the first in a long line of revenge tragedies written for the popular stage.[18] Composed some time in the late 1580s, the play continued in popularity right into the seventeenth century.[19] However, this does not necessarily mean that there was an appetite for revenge among the audience; the abiding popularity of revenge as a theme in literature should caution us from reading any specific eruption as a species of wish-fulfillment on the part of the audience. As will be shown, there is far more to early modern revenge tragedy than a taste for blood and spectacle. In terms of Shakespearean drama, I deal primarily with *Titus Andronicus* (c.1594)[20] and *Hamlet* (1600/1601)[21], although inevitably other plays by Shakespeare are drawn in on occasion. Chapters are also dedicated to both Marston's *Antonio's Revenge* (c.

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[17] As the protagonists in revenge tragedy are predominantly male, I will be using the pronoun 'he' throughout. Women do have a significant part to play in many of the revenge plays, and this will be addressed when discussing the collective nature of onstage revenge. Janet Clare has a chapter dedicated to the role of women in revenge tragedy from Isabella and Bel-imperia in *The Spanish Tragedy*, to Evadne in *The Maid's Tragedy*, in *Revenge Tragedies of the Renaissance* (Devon: Northcote House, 2007) , p. 115ff. Unfortunately she does not include Fletcher's *Valentinian* in her study, which offers a striking counter-example: in the play's closing moments the empress Eudoxa is revenged on the principle revenger Maximus and claims 'my deed is justice' (5.8.108), for which she is praised by all present: 'Romans, she is righteous./ And such a piece of justice heaven must smile on' (5.8.111).

[18] I deliberately do not discuss an earlier tradition within the Inns of Court that includes plays such as *Gorboduc*, *Horestes*, *Gismond of Salerne*, and *The Misfortunes of Arthur*. No doubt these plays are deeply embedded in legal culture, but the difference between private performances at the Inns of Court and the staging of revenge in the public playhouse is, in my opinion, crucial to the genre's participatory structure. See below, p. 19ff, for the importance of the Inns of Court in the period.

[19] On dating this play, see Edwards' introduction, p. xxiff. Emma Smith notes in her introduction to the play that *The Spanish Tragedy* is performed twenty-nine times between 1592 and 1597, *The Spanish Tragedie* (Harmondsworth: Penguin, 1998), p. xiii.

[20] On dating this play see *Titus Andronicus*, ed. by Jonathan Bate, Arden Shakespeare third series (London: Routledge, 1995), p. 69ff.

[21] For an indepth discussion of possible dates for this play in its various iterations see 'The challenge of dating *Hamlet*', in *Hamlet*, ed. by Ann Thompson and Neil Taylor, Arden Shakespeare third series (London: Methuen Drama, 2006), pp. 43- 59.

1600) and Chettle's *The Tragedy of Hoffman* (c. 1601).[22] Although roughly contemporaneous with *Hamlet*, in many respects these plays owe more to each other than to Shakespeare's generically troubled prince, specifically in the socio-legal construction of their final revenges.[23] Lastly I turn to Middleton's *The Revenger's Tragedy* (c. 1607), with its highly self-conscious title and metatheatrical style that seems to announce itself as the apex of the revenge genre. Middleton's play makes a suitable *terminus ad quem* as we move into the Jacobean period where different cultural and legal imperatives are at play.[24] Having said that, an engagement with legal questions is apparent in later plays such as Webster's *The White Devil*, Fletcher's *Valentinian*, or even Shirley's late play, *The Cardinal*. However, I will demonstrate that there is more uniting the earlier plays, from Kyd to Middleton, than simple chronology. These plays display a striking similarity, solidarity almost, in terms of socio-legal critique. This cannot be said for the later offerings of Webster and others, who continue to use the central trope of revenge but to very different ends.[25] No doubt every instance of drama can be said to reflect something of its culture's stresses and pressure-points; it is my intention to show that the representation of collective action unique to the early modern revenge tragedies present in

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[22] Both available in *Five Revenge Tragedies: Kyd, Shakespeare, Marston, Chettle, Middleton*, ed. by Emma Smith (Oxford: Penguin, 2012). I am very grateful to Dr. Smith for making available to me the proofs for *The Tragedy of Hoffman* before it went to print, which has been an immense help to my own research.

[23] The collective and participatory revenges at the culmination of both of these plays is in striking contrast to Hamlet's fencing match, where his only ally, Horatio, is left to report Hamlet and his cause 'aright' (*Hamlet*, 5.2.323).

[24] See Eileen Allman's *Jacobean Revenge Tragedy and the Politics of Virtue* (London: Associated University Presses, 1999), where she argues for the increasing misogyny of the genre as a response to Jacobean absolutism.

[25] The protagonists of Jacobean revenge tragedy usually operate alone, thus limiting their ability to embody wider social groups, as with Charlemont in *The Atheist's Tragedy*, Clermont in *The Revenge of Bussy d'Ambois*, Maximus in *Valentinian*, or Bosola in *The Duchess of Malfi*.

this study offers a particular and pointed challenge to the legal institutions of London, at a time of unprecedented upheaval in virtually every sector of society.[26]

At its most basic, early modern revenge tragedy tells the story of someone from outside the ruling elite challenging the status quo, having been failed by the institutions designed to protect citizens: 'Many revengers are disempowered people, unjustly treated, who step up and take control'.[27] The potential for socio-legal engagement here is immense, yet this has too often been obscured by the critical apparatus surrounding the genre. The figure of the solitary revenger dominates revenge tragedy criticism, when in fact the taking of revenge is rarely enacted alone. Hieronimo gives Bel-imperia a part to play in his revenge drama (*The Spanish Tragedy*, 4.4); Titus enlists the help of Lavinia while his son Lucius recruits the Goths to their cause (*Titus Andronicus*, 5.2); Vindice and his brother Hippolito are aided by two other lords in their masque of revenge (*The Revenger's Tragedy*, 5.3); and Antonio, Pandulpho and Alberto exit with *'their armes wreathed'* to show the united nature of their action (*Antonio's Revenge*, 4.5).[28] Yet the communal configuration of revenge has not been acknowledged to date; indeed, more often the opposite is asserted. Kerrigan in his discussion of revenge literature throughout the ages claims: 'Group violence makes for lively theatre because its ambushes are spectacular, but Elizabethan revengers – much given to soliloquy – are often

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[26] On the question of social upheaval see for example Ian W. Archer, *The Pursuit of Stability: Social Relations in Elizabethan London* (Cambridge: Cambridge University Press, 1991); Hindle, *The State and Social Change*; John Guy, ed., *The Reign of Elizabeth I: Court and Culture in the Last Decade* (Cambridge: Cambridge University Press, 1995). This is a dominant theme in Chapter Three on *Antonio's Revenge*.

[27] Linda Woodbridge, *English Revenge Drama: Money, Resistance, Equality* (Cambridge: Cambridge University Press, 2010), p. 6. The exception here is Hamlet, who is very much a part of a ruling elite. Elsewhere in the genre, protagonists are either drawn from the middling sort or find themselves cut off from political power, as is the case with Hieronimo, Titus, Antonio, Hoffman, and Vindice. Titus is an interesting case here in that his innate conservative nature makes him favour Saturninus as emperor (through primogeniture), when the people show their willingness to elect Titus himself: 'the people of Rome,/ Whose friend in justice thou hast ever been/.../.../...name thee in election for the empire' (*Titus Andronicus*, 1.1.182).

[28] This stage direction is in the original printing of 1602 (available on EEBO, STC no. 17474).

individual and isolated'.[29] Similarly, Hallett and Hallett focus on the alienation of the revenger who 'usually acts alone, and with secrecy', and Michael Neill echoes the sentiment when he asserts that the revenger 'has ceased to be a social man'.[30] I contend that the enactment of revenge on the early modern stage is a communal activity more often than current criticism might suggest, and that it encompasses an array of characters from differing social backgrounds as its main actors.[31] Furthermore, I believe that the discovery of a communal justice at the heart of revenge tragedy is the key to unlocking the genre's full potential in terms of social, legal and political engagement.

Real life revenge may spring from an intensely personal motivation, but in the early modern theatre revenge tends to be more public than private.[32] It is readily apparent that the plots of revenge plays depend on kinship ties of obligation and reciprocity, as in *The Spanish Tragedy*, *Hamlet*, or *The Tragedy of Hoffman*. But these plots also encompass wider political action, when characters unite to depose a corrupt or tyrannical ruler, as is the case with *Titus Andronicus*, *Antonio's Revenge*, and *The Revenger's Tragedy*. This change of focus, from individual to community, can be used to transform how we read these plays, by seeing revenge not as a personal duty, but as a political, participatory act carried out by a group of citizens in opposition to the powers that be. The obvious point that regicide is political has long been recognised, yet surprisingly it has not given rise to the idea that revenge tragedy is

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[29] John Kerrigan, *Revenge Tragedy: Aeschylus to Armageddon* (Oxford: Clarendon Press, 1996), p. 204

[30] Charles A. Hallett and Elaine S. Hallett, '*Antonio's Revenge* and the Integrity of the Revenge Tragedy Motifs', *Studies in Philology*, 76 (1979), 366-86 (p. 380); Michael Neill, *Issues of Death: Mortality and Identity in English Renaissance Tragedy* (Oxford: Clarendon Press, 1997). See also Sandra Clark's assertion in discussing Hieronimo's plight, that '[s]ocial bonds and obligations have no currency; Hieronimo is driven back on his own sense of family loyalty and the archaic compulsion to revenge', *Renaissance Drama*, Cultural History of Literature series (Cambridge: Polity, 2007), p. 136.

[31] As I argue in Chapter Four, this has been obscured due to an overly *Hamlet*-centric approach to the revenge genre.

[32] In the sense of a public enactment as well as being played for a paying public.

critiquing social institutions in any serious way.[33] I suggest that it is more than coincidental that the 1590s saw a rise in social disturbances such as food riots, as well as mounting strain on the judicial system, while the playhouses of London strove to satisfy an increased appetite for revenge tragedies with their bands of cooperative vigilantes. On the one hand, the group dynamic created in the pursuit of justice in these plays speaks to the contemporaneous pressures being exerted on the early modern jury.[34] And on the other, the representation of collective action in response to social injustice, which has as its aim the reinstatement of justice by means of the death of a sovereign, offers a terrifying prospect to the ruling elite at a time of socio-political turmoil.[35] The dual nature of such participatory revenge will be investigated in the coming chapters, as well as individual plays' engagement with the pressing legal issues of the day, including fear of a biased judiciary (*The Spanish Tragedy*), an emerging law of evidence (*Titus Andronicus*), social protest (*Antonio's Revenge*), and jurisdictional conflicts – both in terms of common law versus civil law (*The Revenger's Tragedy*), and the

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[33] 'In these circumstances revenge is a political as well as a moral issue', Catherine Belsey, *The Subject of Tragedy* (London: Methuen, 1985), p. 114. Editors of revenge tragedy have seen the political import of these plays for some time, but this has not been taken up by the scholarly community at large: 'the line blurs between personal retaliation and political coup', Katharine Eisaman Maus, ed., *Four Revenge Tragedies* (Oxford: Oxford University Press, 1995), p. xiv; '[Titus'] revenge takes place as part of a public performance which brings political change', Bate, ed., *Titus Andronicus*, p. 26; 'In its representation of a man seeking justice for a murder which the institutions of the state seem powerless to respond, Kyd's *The Spanish Tragedy* initiated a pattern followed by subsequent revenge tragedies', Smith, ed., *Five Revenge Tragedies*, p. xv.

[34] See for example J. S. Cockburn, ed., *Calendar of Assize Records: Introduction, Home Circuit Indictments: Elizabeth I and James I* (London: Her Majesty's Stationery Office, 1985), p. 110ff, where he concludes: 'Almost all the evidence brought together in this study points to a form of criminal trial in which the role of the jury was subordinate to and conditioned by the will of the assize bench', p. 133. This idea is expanded in my discussion of *Titus Andronicus*, Chapter Two.

[35] The fear of violent collective actions in this period is pervasive, and has been described as the 'spectre of riot' by James Sharpe, 'Social Strain and Social Dislocation, 1585-1603', in *The Reign of Elizabeth I: Court and Culture in the Last Decade*, pp. 192-211 (p. 193). This is represented dramatically by Shakespeare's unruly rabbles in *Julius Caesar*, or Jack Cade's mob *2 Henry VI* (4.2). The political ramifications of such collective action is even more pronounced in revenge tragedy, which often culminates in the death of the monarch, as in *Antonio's Revenge* and *The Revenger's Tragedy*. On the crossover between social protest and revenge tragedy, see Chapter Three.

competing jurisdictions of maritime law (*Hoffman*). The danger of prerogative powers is also shown to be a thread that runs through the corpus of revenge tragedy. When viewed in this light, it is hard to see the genre's preoccupations in anything other than socio-legal terms. My discussion of Shakespeare's *Hamlet* is somewhat different, in that it argues for a lack of legal engagement in that play, despite the fact that critics have given it extensive attention from a legal-literary perspective.[36] In effect I argue that *Hamlet* is the exception that proves the rule – the rule being revenge tragedy's deep engagement with legal matters of all stripes.

In the remainder of this introduction I will give a brief overview of the law and literature movement and what it has to offer the literary critic, before focusing in on the early modern period where there is significant overlap between these discourses (Methodology). By looking outside the immediate discipline of English literature, and integrating the work of social and legal historians, this enables a more nuanced image of the early modern stage revenger to emerge in subsequent chapters. I then tackle the question of why revenge tragedy, a genre that is centrally concerned with questions of crime and punishment, has been largely neglected from a legal-literary perspective (Literature Review).[37] I finish this introduction with a section entitled 'Vindictive Justice', which outlines the reasons why legal history provides such a crucial context for our understanding of early modern drama in

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[36] See for example Richard Posner, *Law and Literature: A Misunderstood Relation*, 3rd edn (London: Harvard University Press, 2009) (first publ. 1988), pp. 106-19; William Ian Miller, *Eye for an Eye* (Cambridge: Cambridge University Press, 2006), pp. 93-104; David Gurnham, *Memory, Imagination, Justice: Intersections of Law and Literature* (Surrey: Ashgate, 2009), pp. 13-37; Zurcher, *Shakespeare and Law*, pp. 202-69.

[37] With notable exceptions such as James Shapiro, '"Tragedies Naturally Performed": Kyd's Representation of Violence', in *Staging the Renaissance: Re-interpretations of Elizabethan and Jacobean Drama*, ed. by David Scott Kastan and Peter Stallybrass (London: Routledge, 1991), pp. 99-113; Jonathan Bate, 'The Performance of Revenge: *Titus Andronicus* and *The Spanish Tragedy*', in *The Show Within: Dramatic and Other Insets. English Renaissance Drama (1550-1642)*, ed. by Francois Laroque, 2 vols (Montpellier: Paul-Valéry University Press, 1992), II, pp. 267-83; Lorna Hutson, *The Invention of Suspicion*; Paul Raffield, '*Terras Astraea reliquit*': *Titus Andronicus* and the Loss of Justice', in *Shakespeare and the Law*, pp. 203-20.

general, and revenge tragedy in particular. This includes an account of the participatory nature of early modern law, as well as gesturing towards some of the changes and stresses that system was undergoing at the time that the plays were being written. Finally, by dismantling the binaries that have dominated discussion of revenge tragedy, I seek to realign the discourses of law and revenge as a necessary precursor to a more sophisticated account of how the two interact on the early modern stage.

Methodology: A Mirror for Magistrates

> God onely gaue authority of publique instruction and correction but to two sorts of men: to his Ecclesiasticall Ministers, and temporal Magistrates: hee neuer instituted a third authority of Players.
>
> *A Refutation of the Apology for Actors*[38]

This quotation captures much of the tension inherent in the relationship between literature, for the most part beyond the control of the authorities, and the more formalised institutions of church and state, where the 'authority of publique instruction and correction' traditionally resides.[39] The fact that it needs to be asserted with such vehemence in the seventeenth century is itself suggestive of literature's latent power. The imagined opposition between law and literature has led critics in recent years to analyse the various intersections of these

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[38] I. G., *A Refutation of the Apology for Actors* (London, 1615) (available on EEBO, STC no. 12214), p. 57. Montrose says of this statement, 'the theatre was perceived to have constituted itself as an alternative site of authority within contemporary [Elizabethan] society', Louis Montrose, *The Purpose of Playing: Shakespeare and the Cultural Politics of the Elizabethan Theatre* (London: University of Chicago Press, 1996), p. 50.

[39] This dichotomy of course has its own nuances and complications, for example the ways in which early modern dramatists regulated what they wrote in conjunction with the Master of Revels, a theme explored in Richard Dutton's *Mastering the Revels: The Regulation and Censorship of English Renaissance Drama* (London: Macmillan, 1991).

discourses, as a way of bridging the gap between two of the most fundamental pillars of Western civilisation.[40] As Kieran Dolin puts it, 'law and literature are adjoining fields, divided by a boundary fence that keeps breaking down, despite regular maintenance'.[41]

The law cannot and does not exist in a vacuum; it is a product of the society to which it belongs. Literature similarly can perform as a barometer of societal concerns. The intertwined nature of law and literature has a long and varied history, from Aeschylus' *Oresteia* with its aetiological journey from vengeance to law, to the more sardonic perspective offered by Franz Kafka in the twentieth century.[42] Kafka's parable on the frustrations of legal process, 'Before the Law', masterfully encapsulates how literature can function as a critique of the law.[43] Telling the story of an old man who is denied admittance to the inner sanctum of law, and eventually dies at the outer gate, Kafka paints an unflattering portrait of the formidable edifice of law. I would argue that the representation of the legal process as unwelcoming, unintelligible, and ultimately inaccessible does not apply to the same extent in the early modern period, where the legal system had not become formalised and professionalised to the same extent as in the twentieth century.[44] Nevertheless, in successive ages literature has shown its capacity for

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[40] James Boyd White, *The Legal Imagination* (Chicago: University of Chicago Press, 1985); Posner, *Law and Literature*; Martha C. Nussbaum, *Poetic Justice*: *The Literary Imagination and Public Life* (Boston: Beacon Press, 1995); Richard Weisberg, *Poethics: and other Strategies of Law and Literature* (New York: Columbia University Press, 1992).

[41] Kieran Dolin, *A Critical Introduction to Law and Literature* (Cambridge: Cambridge University Press, 2007), p. 8. Dolin borrows the metaphor from Robert Frost's 'Mending Wall'.

[42] Aeschylus, *The Oresteia*, trans. by Robert Fagles (Harmondsworth: Penguin Books, 1977); Franz Kafka, *The Trial* (London: Hesperus, 2005) (first publ. 1925).

[43] Originally published as a stand-alone piece in Kafka's lifetime, the story would later appear posthumously as part of *The Trial*, his more thoroughgoing critique of legal process. See also Jacques Derrida's explication of Kafka's story, in an article also called 'Before the Law', in *Acts of Literature*, ed. by Derek Attridge (London: Routledge, 1992), pp. 181-220.

[44] I will, however, suggest that the seeds of such formalisation are sown in the early modern period. Here the work of Peter Goodrich is instructive, *Languages of Law: From Logics of Memory to Nomadic Masks* (London: Weidenfeld and Nicolson, 1991).

commenting on the law, as it were, from a distance: 'it is the ability of literary texts to represent and draw attention to such boundaries and how they function that produce their greatest insights into law'.[45]

Richard Posner's *Law and Literature: A Misunderstood Relation* downplays the usefulness of such an interdisciplinary approach, in particular from the point of view of legal scholarship.[46] Nevertheless, a growing body of work has shown that literature offers an important counterbalance to the tendency towards univocality within contemporary legal discourse. In particular, Richard Weisberg's *Poethics: and other Strategies of Law and Literature*, as the title suggests, stresses the potential for literature to encourage empathy and promote a sense of ethical responsibility.[47] However, we must be careful not to oversimplify either law or literature in an effort to assign moral superiority to one over and above the other. On this point, Subha Mukherji writes: 'Put simply, the temptation is to think that literary uncertainties are more complex than legal certainties, and that this makes literature more ethically satisfying'.[48] In her rejoinder to Posner's idea that the field of law and literature is a 'misunderstood relation', Mukherji nevertheless stresses that there 'remains a distinction

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[45] Dolin, p. 8.

[46] Posner, p. 305ff. His comments on the early modern period, and specifically revenge tragedy, are returned to in the Literature Review below, p. 24.

[47] Such a view is supported by a statement by retired High Court Judge Bryan McMahon, when speaking of a legal exercise where he was asked to argue both for and against the death penalty: 'I later read *Cry, the Beloved Country* by Alan Paton and that convinced me the death penalty was wrong in all circumstances. Afterwards I looked at literature and the law in a different way', from his keynote address at the first Law, Literature and Translation conference in Trinity College Dublin, June 2012. <http://www.irishtimes.com/newspaper/ireland/2012/0611/1224317692362.html> [accessed 20 June 2012].

[48] See Subha Mukherji's astute critique of 'the problematic assumption that literature is an equitable corrective to law', '"Understood Relations": Law and Literature in Early Modern Studies', *Literature Compass*, 6 (2009), 706-25 (p. 710). For a more in-depth analysis of the need to surpass such 'sterile polarity' in relation to early modern drama and law, see Mukherji's 'Jonson's *The New Inn* and a Revisiting of the "Amorous Jurisdiction"', *Law and Literature*, 18 (2006), 149-69 (p. 154).

between a discipline that is invested at arriving at verdict and one that seeks to complicate it'.[49]

Having opened my introduction with the words of William Lambarde ('it is the received manner of teaching in our law, To shew things by their contraries and different...'[50]), I want to turn to a more modern legal theorist who similarly advocates an interdisciplinary approach:

> To tell a meaningful story about modern law, one cannot talk only about law itself, that is, law as it is lived and felt within the world of the jurists. Nor is the story best told in the language of law and in the categories that are peculiar to law. One has to start the story somewhere else, that is, outside the law itself.[51]

Revenge tragedy certainly inhabits a space outside the law, both in terms of its own provenance (theatre) and its subject matter (revenge). Yet each of these aspects has its own unique connections and crossovers with early modern law.[52] It is for this reason that the genre is doubly capable of far-reaching and meaningful commentary on the legal system that brought it into existence – without law, there are no outlaws.[53]

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[49] Subha Mukherji, '"Understood Relations"', p. 709. For a less optimistic outlook see Julie Stone Peters, 'Law, Literature, and the Vanishing Real: On the Future of an Interdisciplinary Illusion', *Publications of the Modern Language Association*, 120 (2005), 442-53.

[50] Lambarde, *Eiranarcha*, p. 511.

[51] From Lawrence M. Friedman, *The Republic of Choice: Law, Authority, and Culture* (Cambridge, MA: Harvard University Press, 1990), p. 4.

[52] The ongoing and problematic dialogue between vengeance and law is the subject of the last section in this introduction, 'Vindictive Justice', below, p. 38ff.

[53] Cf. 'Indeed the original (Italian) meaning of *bandito* is a man "placed outside the law"', E. J. Hobsbawm, *Bandits* (London: Abacus, 2001), p. 12.

The relation between drama and law is a vexed one, especially in the early modern period. For all their superficial differences, the fundamental similarities between the theatre and the courtroom are illuminating. The lawyer relies on constructing convincing narratives and suggesting motivations from a given set of facts, which are precisely the tools used by dramatists to develop compelling drama.[54] At a practical level, the legal system is 'tailor-made for literature':

> Legal processes meet literature's structural needs. There is conflict and resolution, whether in a civil or criminal setting, in the adversary system. There is suspense and uncertainty, especially while the verdict is up in the air. There is occasional eloquence...There is drama.[55]

A prime example of this overlap in function in the early modern period is the practice of mooting at the Inns of Court (themselves a venue for early modern drama[56]). Lawyers' moots were designed to train law students in the art of argumentation.[57] In effect the students were performing the role of lawyers, as part of a tradition that continues to this day. Moots involved complex narratives and unexpected twists, with each side expected to argue a fictional case involving long-lost relatives, missing spouses and strangers in a manner intrinsically theatrical

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[54] See Kathy Eden's introduction to *Poetic and Legal Fiction in the Aristotelian Tradition* (Princeton: Princeton University Press, 1986), p. 5ff.

[55] Daniel Kornstein, *Kill All the Lawyers?: Shakespeare's Legal Appeal* (Princeton: Princeton University Press, 1994), p. 4. This chimes well with Richard Weisberg's suggestion that 'law has drawn the attention of the literary artist because of its similarities to narrative art, not its differences', Weisberg, p. x.

[56] Some of Shakespeare's plays, including *Twelfth Night* and *The Comedy of Errors*, are known to have been put on at the Inns, with the latter famously performed at Gray's Inn as part of the Christmas revels of 1594 (see *Gesta Grayorum, or the History of the High and mighty Prince, Henry Prince of Purpoole... Who Reigned and Died, A. D. 1594* (London: 1688) (available on EEBO, Wing C444), p. 22).

[57] Elyot gives a brief account of what a moot entailed in *The Book names 'The Governor'*, ed. by S. E. Lehmberg (London: Dent, 1962), pp. 53-4. See also chapters 6 and 7 of Wilfred Prest, *The Inns of Court under Elizabeth I and the Early Stuarts, 1590-1640* (London: Longman, 1972).

in structure.[58] Baker gives the example of a landowner turned monk who comes 'back to life' to reclaim his lands, which bears a resemblance to the 'disguised Duke' motif as used by Shakespeare in *Measure for Measure*.[59] As Luke Wilson puts it, 'without seeing how deeply performative legal practice is, we cannot get a sense of how much the theater, for its part, owes to the law'.[60]

Another significant point of contention for authors and lawyers is their mutual reliance on the art of rhetoric. This reliance has long resulted in ideological tensions within the law itself, as legal discourse struggles with 'a body of truth which [a judge] seeks to assimilate to a science, but in the process of exposition he is practicing an art'.[61] Law's concern with objective truth is destabilised by its dependence on language known to be both persuasive and ambivalent; the 'antagonistic dependence of law upon rhetoric' can be traced back to Classical authors such as Plato, and the resulting insecurities continue to make themselves felt.[62]

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[58] For an excellent discussion of the sociocultural implications of mooting, which 'anticipate threats to the realm, process those threats through imaginative discourse, and redefine them as contained within laws', see Karen J. Cunningham, '"So Many Books, So Many Rolls of Ancient Time": The Inns of Court and *Gorboduc*', in *Solon and Thespis*, pp. 197-217 (p. 200).

[59] J. H. Baker and Samuel E. Thorne, eds, *Readings and Moots at the Inns of Court in the Fifteenth Century*, 2 vols (London: Seldon Society, 1952-1989), II (1989), p. lxxii. On Shakespeare's inclination to argue both sides (*in utramque partem*) when it comes to political questions, see Quentin Skinner's afterword in *Shakespeare and Early Modern Political Thought*, ed. by David Armitage, Conal Condren and Andrew Fitzmaurice (Cambridge: Cambridge University Press, 2009), pp. 271-81 (pp. 272-5).

[60] Luke Wilson, *Theaters of Intention: Drama and the Law in Early Modern England* (California: Stanford University Press, 2000), p. 21.

[61] Weisberg, p. 15. Cf. Peter Goodrich's entry on 'Law' in *The Encyclopedia of Rhetoric*, ed. by Thomas O. Sloane (Oxford: Oxford University Press, 2007), where he argues that the law wants to be 'an incontestable science that exceeds the realms of contingency', pp. 417-26 (p. 425). As Stanley Fish puts it, 'the law is at once thoroughly rhetorical and engaged in effacing its own rhetoricity', 'The Law Wishes to have a Formal Existence', in *Closure or Critique: New Directions in Legal Theory*, ed. by Alan Norrie (Edinburgh: Edinburgh University Press, 1993), pp. 157-174 (p. 170).

[62] Goodrich, 'Law', p. 425. Goodrich argues that legal argument 'had to have a sacramental aura and a didactic quality that would remove it from mere social use to the domain of doctrine or truth', p. 420. See also Mukherji, 'Jonson's *The New Inn* and a Revisiting of the "Amorous Jurisdiction"', where she discusses how 'the legal tradition itself developed a resistance to acknowledging the fundamentally

Barbara Shapiro excavates the influence of Classical rhetoric on early modern common law, while acknowledging that this connection is often obfuscated by legal writers themselves.[63] Drama, being itself heavily dependent on rhetorical strategies, is in an ideal position to draw attention to the power and artifice of rhetoric, and this is compounded by the frequent staging of trial scenes in early modern drama.[64] When the case to be decided is transferred from the courtroom to the theatre, law can no longer control the outcome of proceedings. The topos of audience-as-jury is acknowledged by early modern authors themselves, whether in the form of Hamlet's advice to the players not to upset the 'judicious' few (3.2.26), or Jonson's 'Commission of Wit' in the induction to *Bartholomew Fair* (Induction.90).[65] As Mukherji notes, '[t]he notion of the audience as an equitable jury that underlies so much of Renaissance drama...[provides] a provocative basis for alternative criteria of adjudication'.[66]

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rhetorical character of legality', p. 151. This antagonism is arguably more prominent in modern-day legal theory, but it still has relevance for the early modern period.

[63] Barbara Shapiro, 'Classical Rhetoric and the English Law of Evidence', in *Rhetoric and Law in Early Modern Europe*, pp. 54-72.

[64] The arraignment of Vittoria Corombona is a perfect example, *The White Devil* (3.2). See Mukherji, *Law and Representation in Early Modern Drama*, chapter 4, pp. 135-74; Luke Wilson, '*The White Devil* and the Law', in *Early Modern English Drama: A Critical Companion*, ed. by Garrett A. Sullivan Jr, Patrick Cheney and Andrew Hadfield (Oxford: Oxford University Press, 2006), pp. 225–36.

[65] Jonson parodies the language of contract law in this induction, when he says 'It is covenanted and agreed, by and between the parties abovesaid, that the said spectators and hearers, as well the curious and envious as the favouring and judicious, as also the grounded judgements and understandings, do for themselves severally covenant and agree...' (Induction.65).

[66] Mukherji, 'Jonson's *The New Inn* and a Revisiting of the "Amorous Jurisdiction"', p. 151. She cites the example of Volpone, who after being sentenced onstage, re-emerges in an epilogue 'to ask the spectators to exercise their judgement which, by implication, he trusts to be distinct from that of the law court in Jonson's Venice', p. 150. For a contrasting view of the audience's role in the early modern theatre, see Holger Schott Syme, '(Mis)representing Justice on the Early Modern Stage', *Studies in Philology*, 109 (2012), 63-85: 'Unlike a jury's verdict, which forms an integral part of the judicial process, the audience's verdict is of economic and aesthetic importance but not part of the performance in the same sense', p. 79.

At the same time, the crossover between law and literature is arguably at its strongest during the early modern period. The English educational system was heavily reliant on manuals of Classical rhetoric that contained strong forensic elements; in the words of Quintilian, narrative 'was not invented simply to acquaint the judge with the facts, but rather to ensure that he agrees with us'.[67] Such an education had implications not only for those that went into the legal profession, but also for the many non-professionals that were engaging in contracts, litigating, and attending the playhouses of early modern London. As Lorna Hutson has demonstrated, forensic modes of thinking had a profound impact on the construction of character in the period, which can be traced back to a rhetorical education stressing the importance of probability, inference and fiction-making.[68] Before creating a false binary between early modern law and literature, it must be also remembered that there is no clear distinction between legal professional and author during the period. The literary output of the Inns of Court at the time includes drama, poetry and masques as well as legal treatises, with authors such as Gascoigne, Norton and Sackville, and later Harrington, Marston, Shirley and Donne all having Inns of Court training.[69] Not undeservedly was it known as the third

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[67] Quintilian, *Institutio Oratoria*, trans. by Donald A. Russell, Loeb Classical Library series (Cambridge, MA: Harvard University Press, 2001) 4.2.21. The *Rhetorica Ad Herrenium* attributed to Cicero at the time was also hugely influential. William Lily's grammar book, *Rudimenta Grammatices* (London, 1534) (available on EEBO, STC no. 5543), was also authorised by statute in 1542 for use in the classroom. For a detailed account of grammar school rhetorical education as specifically forensic in nature, see James McBain, 'Early Tudor Drama and Legal Culture, c. 1485-1558' (unpublished doctoral thesis, Magdalen College, Oxford, 2007), with a section entitled 'Forensic Rhetoric and the Progymnasmata', p. 33ff. See also Allen D. Boyer, 'Drama, Law, and Rhetoric in the Age of Coke and Shakespeare', in *The Law in Shakespeare*, pp. 20-37 (p. 22ff).

[68] *The Invention of Suspicion*, p. 78ff. For the application of such 'probable' modes of thinking to the development of the illusion of character depth on the early modern stage, see 'Law, Probability and Character in Shakespeare', in *Fictions of Knowledge: Fact, Evidence, Doubt*, ed. Yota Batsaki, Subha Mukherji, and Jan-Melissa Schramm (Basingstoke: Palgrave, 2012), pp. 61-83: 'That Shakespeare's characters still seem, to many readers and audiences, to have a life beyond the plays is an effect that we may be able to ascribe, at least in part, to Shakespeare's mimetic uses of forensic rhetoric', p. 73.

[69] Philip J. Finkelpearl discusses the many connections between legal and literary circles, going so far as to say: 'For a brief space of time – roughly from 1550 to 1575 – [the Inns of Court] were the literary

university.[70] Jurists such as Lambarde, Coke, and Bacon were prolific in areas as diverse as local history, judicial reform, and science.[71] Meanwhile Inns of Court men were busy integrating humanist principles of counsel into their writing, whether in the form of translations of Seneca,[72] or the collaborative project of *A Mirror for Magistrates* in the *de casibus* tradition.[73] Sackville and Norton wrote the first blank verse English tragedy, *Gorboduc*, which offered a powerful model for literature's ability to intervene in its socio-political environment.[74] Undoubtedly the Inns of Court offer rich interpretive ground to the literary critic, but I have chosen not to cover this particular topic in depth, for the dual reasons that it has been a focus

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center of England', *John Marston of the Middle Temple: an Elizabethan Dramatist in his Social Setting* (Cambridge, MA: Harvard University Press; London: Oxford University Press, 1969), p. 24.

[70] See Sir George Buck's tract, *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 about the Most Famous Cittie of London*, published in an appendix to John Stow's *The Annales of London* (London, 1615) (available on EEBO, STC no. 23338).

[71] *A Perambulation of Kent* (London, 1576); *Judges judged out of their own mouthes* (London, 1650); and *Novum Organum* (London, 1620), respectively.

[72] The obvious example here is *Seneca his tenne tragedies*, ed. by Thomas Newton (London, 1581) (available on EEBO, STC no. 22221). Jessica Winston sees this translation project as part of 'the domestication of tragedy as a genre for cultivating political consciousness in Elizabethan England', in 'Seneca in Early Elizabethan England', *Renaissance Quarterly*, 59 (2006), 29-58 (p. 55). I contend that such 'political consciousness' is not confined within the walls of the Inns of Court in the period.

[73] William Baldwin, *A myrroure for magistrates* (London, 1559) (available on EEBO, STC no. 1247) and *The last parte of the Mirour for magistrates* (London, 1574) (available on EEBO, STC no. 1250), plus Thomas Blenerhassett, *The seconde part of the Mirrour for magistrates* (London, 1578) (available on EEBO, STC no. 3131). C. W. Brooks says 'what comes through most consistently is the idea that sound administration and the maintenance of law and equity were the essential benefits of government that any self-respecting commonwealth should expect', *Law, Politics, and Society in Early Modern England* (Cambridge: Cambridge University Press, 2009), p. 57; Winston says of the collection, 'the *Mirror* provided an immediate and compelling example of the way that authors might use literature to think through, and comment upon, contemporary political questions', p. 41; see also Finkelpearl, p. 22ff.

[74] Thomas Sackville and Thomas Norton, *The tragedie of Gorboduc* (London, 1565) (available on EEBO, STC no. 18684). For criticism see Franco Moretti, '"A Huge Eclipse": Tragic Form and the Deconsecration of Sovereignty', in *The Power of Forms in the English Renaissance*, ed. by Stephen Greenblatt (Norman, OK: Pilgrim Books, 1982); Henry James and Greg Walker, 'The Politics of *Gorboduc*', *English Historical Review*, 110 (1995), 109-21; Cunningham, '"So Many Books, So Many Rolls of Ancient Time": The Inns of Court and *Gorboduc*'.

of attention for some time already, and also because the revenge tragedies treated in this thesis are designed to be staged outside such an overtly legal environment.[75]

Due to the many connections and intersections described above, there has been an upsurge in interest in the field of law and literature in the early modern period, especially where the theatre is concerned: 'The representational arsenal of early modern drama was clearly well suited to critiquing judicial systems that fail to follow common law procedure and as a consequence fail to produce just verdicts'.[76] As is to be expected, Shakespeare has proved to be the locus of attention, with essay collections such as *Shakespeare and the Law*, and *The Law in Shakespeare*, illuminating the legal context of particular plays without any programmatic approach.[77] There has also been a dictionary of Shakespeare's legal language, a critical companion, numerous book chapters and countless articles, on everything from marine insurance in early modern London to modern-day judges and their appropriations of the bard.[78] Others have broadened the scope of the interaction, with Luke Wilson's *Theaters of Intention* linking dramatic representation to emerging theories of intentionality in the period,

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[75] The most recent contributions to the study of Inns of Court culture include Margaret McGlynn, *The Royal Prerogative and the Learning of the Inns of Court* (Cambridge: Cambridge University Press, 2003); Jayne Elisabeth Archer, Elizabeth Goldring, Sarah Knight, eds, *The Intellectual and Cultural World of the Early Modern Inns of Court* (Manchester University Press, 2010); the latest REED publication in three volumes will also no doubt be invaluable, *Records of Early English Drama: Inns of Court*, ed. by Alan H. Nelson and John R. Elliott Jr (Cambridge: Brewer, 2010).

[76] '(Mis)representing Justice', p. 72. It is noteworthy that not until Syme's article from 2012 is it underlined that the frequent staging of justice in early modern drama does not include the representation of a single trial by jury, p. 69. As I see it, this makes the collective pursuit of justice in the revenge genre all the more relevant to English legal procedure.

[77] Constance Jordan and Karen Cunningham, eds, *The Law in Shakespeare* (Basingstoke: Palgrave Macmillan, 2007); Paul Raffield and Gary Watt, eds, *Shakespeare and the Law* (Oxford: Hart Publishing, 2008).

[78] B. J. Sokol, and Mary Sokol, *Shakespeare's Legal Language: a Dictionary*, (London: Athlone, 2000); Zurcher, *Shakespeare and Law*; Luke Wilson, 'Drama and *Marine Insurance* in *Shakespeare's* London', in *The Law in Shakespeare*; Sebastian McEvoy, 'The Function of "Shakespeare" in Present Adjudication', presented at the first Law, Literature and Translation conference in Trinity College Dublin, June 2012.

while Mukherji's monograph focuses on the position of women under early modern law.[79] Kezar's essay collection, *Solon and Thespis*, also goes beyond the Shakespearean canon, and takes account of Ben Jonson's legal background.[80] James McBain's as yet unpublished thesis, 'Early Tudor Drama and Legal Culture, c. 1485-1558', is also an invaluable reappraisal of early sixteenth-century drama and its ongoing engagement with legal discourse.[81]

While instructive in their methodology, these works do not broach the unique link between criminal law and the theatre offered by the genre of revenge tragedy, which is explicitly preoccupied with the law and its absence: *'Terras Astraea reliquit*: be you remembered, Marcus,/ She's gone, she's fled' (4.3.4). The exception here is Hutson's work on the evidential plot and forensic rhetoric as governing principles in a broad range of early modern drama that includes the revenge genre.[82] Working forward from the penitential drama of medieval England to a post-Reformation context where issues of truth are to be decided in a more secular context, Hutson sees the evidential processes of sixteenth-century common law as hugely influential beyond the confines of the courtroom. Taking revenge tragedy as an example of a genre preoccupied with notions of guilt and proof, Hutson argues convincingly for forensic modes of thought governing the circulation of information onstage, attributable to English audiences' familiarity with judicial methods of sifting alternatives. In the process she debunks the applicability of Foucault's 'spectacle of the scaffold', due to the vast ideological gap between the Continental inquisitorial trial and the trial by jury that dominates English

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[79] Wilson, *Theaters of Intention*; Mukherji, *Law and Representation in Early Modern Drama*.

[80] Dennis Kezar, ed., *Solon and Thespis: Law and Theater in the English Renaissance* (London: University of Notre Dame Press, 2007).

[81] James McBain, 'Early Tudor Drama and Legal Culture, c. 1485-1558' (unpublished doctoral thesis, Magdalen College, Oxford, 2007).

[82] *The Invention of Suspicion*, chapters 2 and 6. Hutson's work on revenge tragedy deals primarily with *The Spanish Tragedy*, *Titus Andronicus*, and *Hamlet*.

common law procedure.[83] The argument for legal structures affecting genre formation is compelling, while an engagement with lesser-known early modern dramatists is particularly welcome and timely considering the focus on Shakespeare in much law and literature criticism.

My own approach to the revenge genre builds on Hutson's thesis, by looking beyond the deployment of forensic rhetoric and positing revenge tragedy as a space of legal critique in a broader sense. By focusing in on the closing decades of the sixteenth century as a time of unprecedented legal innovation as well as a concurrent proliferation of revenge tragedies, I seek to make specific connections between plays and the legal crises of their day. For example, I identify social unrest in the 1590s as a context for *Antonio's Revenge*, and the contested jurisdictions of maritime law in my discussion of *Hoffman*, where the protagonist's father is a disgraced vice-admiral that 'turn'd a terrible pirate' (1.1.122). Such minute engagements between revenge tragedy and law have not to my knowledge been investigated before, and thus I see the need to build up a more nuanced, diachronic picture of their interrelations. Inseparable from this is my larger thesis that the genre represents revenge as a form of communal action that can be traced to the participatory structures of the legal system itself, as well as standing for a more ephemeral embodiment of socio-political agency. The revenge plays studied here are structured around the same principles of participation, equity and justice that early modern English law prided itself on, issues that were becoming particularly acute in the last decades of the sixteenth century.[84] Far from being an escape from the law, revenge tragedy offers a wholly new perspective on that law. To date, this has not been

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[83] *The Invention of Suspicion*, chapter 2. I will engage more fully with Hutson's work on *Titus Andronicus* when discussing that play in Chapter Two.

[84] 'In the long relationship between law and society in England, the later sixteenth century must be reckoned one of the most dynamic', C. W. Brooks. *Law, Politics, and Society in Early Modern England*, p. 93.

properly appreciated due to a critical heritage that seems intent on treating these plays in isolation from their cultural contexts.

Literature Review: Revenge v Law?

The call for papers for the 2010 Royal Shakespeare Academy conference on revenge tragedy states: 'these works – as a genre – have garnered a remarkably small amount of scholarly attention, particularly in the past ten years'.[85] This is a sentiment echoed by critics working in the area; for example, Annalisa Castaldo observes that despite the popularity of the genre in the early modern period, revenge tragedies 'have been resolutely ignored by most literary critics, who seem embarrassed by the melodramatic plots, over-the-top murders, and (for more recent critics) the apparent conservatism of the major themes'.[86] She continues that '[e]ven the name of Shakespeare has not been enough to draw the critics; *Hamlet*, of course, is intensely studied, but not often mainly as a revenge tragedy'.[87] Castaldo is right to point out that discussions of *Hamlet* are often prefaced with an apologia for its uncomfortable place within the revenge genre. Rosalie Colie says of *Hamlet* that 'the playwright has constructed a more complicated and more intellectual play than a revenge-tragedy has any right to be'.[88] Posner is even more dismissive of the genre to which *Hamlet* belongs:

> *Hamlet* stands to its contemporary revenge literature, in
> point of ambivalence as well as of quality, as the *Iliad*

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[85] Available online at <call-for-papers.sas.upenn.edu/node/32707> [accessed 28 April 2009].

[86] Annalisa Castaldo, '"These were spectacles to please my soul": Inventive Violence in the Renaissance Revenge Tragedy', in *Staging Pain, 1580–1800: Violence and Trauma in British Theater*, ed. by James Robert Allard and Mathew R. Martin (Surrey: Ashgate, 2009), pp. 49- 56 (p. 49).

[87] Castaldo, p. 49.

[88] Rosalie Colie, *Shakespeare's Living Art* (Princeton: Princeton University Press, 1974), p. 240.

> presumably stood to the lost heroic epics on which it built. In many Elizabethan and Jacobean revenge plays the violence and the revenger's emotional excess are so grotesque that any social or ethical observation is submerged in melodrama, as in *Titus Andronicus*.[89]

Such a statement encapsulates much of what this thesis argues against.[90] First, it is necessary to revisit previous critical approaches to the genre, in order to explore why revenge tragedy has been neglected from a legal-literary perspective. This neglect is all the more surprising considering the common ground of reciprocity, punishment and justice that the revenge genre shares with the early modern legal system.

In 1931 Lily B. Campbell argued that 'the great tragic theme of sixteenth- and seventeenth-century teaching is this theme of God's revenge for sin'.[91] Drawing on a host of early modern sources, Campbell's article set out in detail the religious injunction against revenge, and how 'God did not permit one who seized his prerogative of revenge to go himself unpunished'.[92] Revenge tragedy was seen to be complicit in this general didacticism, a charge from which it has never fully recovered. In the first book-length study of revenge tragedy, Fredson Bowers situates revenge plays in the context of the contemporary legal and moral prohibition of revenge. He juxtaposes an older native tradition of private justice (revenge) with the spread of an emerging centralised justice system (law):

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[89] Posner, p. 106.

[90] I engage more fully with Posner's argument in Chapter Four, where I argue that *Hamlet* has less to offer from a legal perspective than the supposedly derivative *Antonio's Revenge* or *Hoffman*.

[91] Lily B. Campbell, 'Theories of Revenge in Renaissance England', *Modern Philology*, 28 (1931), 281-96 (p. 290).

[92] Campbell, p. 294.

> The authorities, conscious of the Elizabethan inheritance of private justice from earlier ages, recognized that their own times still held the possibilities of serious turmoil; and they were determined that private revenge should not unleash a general disrespect for law.[93]

It is my contention that, far from unleashing a 'general disrespect for law', the treatment of revenge in the early modern theatre tends to replicate, modify, and critique legal procedures.[94] Such a reading only becomes available, however, once the critical presuppositions surrounding the genre have been dismantled.

According to Bowers, Elizabethans knew revenge was wrong, but because of this deep-seated inheritance of revenge, '[t]here would be few Elizabethans who would condemn the son's blood-revenge on a treacherous murderer whom the law could not apprehend for lack of proper legal evidence'.[95] This of course succinctly describes the plot of a number of revenge tragedies, including *Antonio's Revenge*, *Hamlet*, *The Tragedy of Hoffman*, and to some extent *The Revenger's Tragedy*. In his discussion of the plays, however, Bowers makes it clear that he believes the revenger loses the sympathy of the audience once he steps outside the bounds of law-abiding society. On the one hand he asserts that '[t]he right to punish their own wrongs

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[93] Bowers, p. 11. As the title suggests, Bowers uses the term Elizabethan beyond the years of Elizabeth's reign.

[94] As mentioned above, this builds on the work of Hutson and the concept of forensic rhetoric as a driving force in revenge tragedy, but comes to encompass a far more radical political stance within the revenge genre.

[95] Bowers, p. 40. Rather than seeing this as a product of Elizabethans' cultural inheritance, I would see this as a more basic human empathy, as attested to by the continuing popularity of vigilante stories, e.g. *A Time to Kill*, dir. Joel Schumacher (Warner Bros, 1996), *The Brave One*, dir. Neil Jordan (Warner Bros 2007), and the aptly titled *The Avengers*, dir. Joss Whedon (Marvel Studios, 2012).

was dear to many Elizabethans',[96] while on the other he sees the stage revenger's actions as unambiguously criminal: 'there is hardly a doubt that, mad or sane, Hieronimo was a villain to the English audience at the end'.[97] Revenge tragedy, then, is seen as participating in the transition from private to public modes of justice, with the underlying assumption that revenge and law are polar opposites.[98] By tracing the impact of this dichotomy on subsequent critical writing, much is revealed about why critics have been slow to take a serious interest in the relation between revenge tragedy and the law.

Others such as Philip J. Ayers and Catherine Belsey have sought to exculpate the stage revenger from Bowers' charges of villainy, showing that Elizabethans were capable of more complex responses to revenge than straightforward condemnation. Ayers demonstrates 'that there is a large number of revengers in Elizabethan narrative literature who are clearly not meant to be seen as villains'.[99] Yet by posing the question of '[w]hether an Elizabethan dramatist might portray justified private revenge on the stage',[100] Ayers frames discussion of the genre in precisely the terms set out by Bowers. Belsey brings out the ethical ambiguities inherent in revenge when she writes of Hamlet that 'to act morally he must act violently'.[101] Belsey points out that while Hamlet prefers to think in antitheses ('To be or not to be'), the play as a whole deals with the paradox of a revenge that is both right and wrong. This means

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[96] Bowers, p. 10.

[97] Bowers, p. 82.

[98] Eleanor Prosser argues along similar lines in Hamlet *and Revenge*, 2nd edn (Stanford: Stanford University Press, 1971): 'In short, Elizabethan moralists condemned revenge as illegal, blasphemous, immoral, irrational, unnatural, and unhealthy – not to mention unsafe. Moreover, not only did revenge violate religion, law, morality, and common sense, it was thoroughly un-English', p. 10.

[99] Philip J. Ayers, 'Degrees of Heresy: Justified Revenge and Elizabethan Narratives', *Studies in Philology*, 69 (1972), 461-74 (p. 465).

[100] Ayers, p. 474.

[101] Catherine Belsey, 'The Case of Hamlet's Conscience', *Studies in Philology*, 76 (1979), 127-48 (p. 148).

that '[t]o uphold the law Hamlet has to break it', but Belsey does not expand on the revenge play's challenging relation to law, as her primary concern is to explore the morality of the revenger.[102] Bowers' legacy leads to a situation where the plays become a focal point for a debate about the merits and demerits of revenge, while I would argue that the plays have far more to say on the subject of state justice and its shortcomings.

In contrast to the assumption that revenge was always associated with criminality, Ronald Broude sets out to show that vengeance in the early modern period does not carry the same pejorative weight that it has since acquired. He opens with a warning:

> When we speak of 'revenge tragedy', we are often unaware of the extent to which our approach to these important Renaissance plays has been conditioned by the name we have given them.[103]

By looking at early modern definitions of 'revenge' and 'vengeance', where they are more often linked to the concept of punishment than to that of crime, Broude shows how revenge and retribution become practically interchangeable in an early modern context.[104] The notion of *lex talionis* is shown to be deeply embedded in early modern thinking, ranging from state justice to personal grudges, extending even to conceptions of war and treason.[105] Broude goes on to assert that 'popular thought was slow to accept a system which denied the individual or

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[102] Belsey, 'The Case of Hamlet's Conscience', p. 146. She does say that Claudius' usurpation of the crown means that the 'fountainhead of justice is poisoned', precluding a legal remedy for Hamlet (p. 129). In *The Subject of Tragedy*, Belsey offers a more politically-charged reading of revenge tragedy where 'it is ultimately a question about authority – God's, the sovereign's or the subject's', p. 116.

[103] Ronald Broude, 'Revenge and Revenge Tragedy in Renaissance England', *Renaissance Quarterly*, 28 (1975), 38-58 (p. 38).

[104] Broude, p. 40.

[105] Broude gives the examples of the destruction of the Spanish Armada and the punishment of Catholics for assassination plots against the Queen being seen in retributory terms, p. 53.

family their age-old right to secure their own redress', which returns us to the world of the vengeful Elizabethans described by Bowers.[106] I will argue shortly that this overstates the case, as early modern citizens were capable of separating the idea of *lex talionis* from its practice, but Broude's work on the proximity of legitimate retribution and extra-legal revenge is a much-needed corrective to the binary opposition found elsewhere.

Despite Broude's pioneering work on the genre's moral and social context, many critics writing in his wake have tended not to look at the social import of revenge, focusing instead on the revenge play's aesthetic qualities, in particular its obsessive self-referentiality. This has led to much work on the conventions of the genre, as in Hallett and Hallett's book, *The Revenger's Madness: A Study of Revenge Tragedy Motifs*.[107] In the metatheatrical world of the early modern playhouse, the revenger becomes an analogue for the artist.[108] This is apparent in titles such as Barbara J. Baines' *'Antonio's Revenge*: Marston's Play on Revenge Plays', Leslie Sanders' '*The Revenger's Tragedy*: A Play on the Revenge Play', and Lillian Wilds' 'The Revenger as Dramatist: A Study of the Character-as-Dramatist in *The Revenger's Tragedy*'.[109] Such criticism has done much to vindicate the formal aspects of the genre, but at the expense of the plays' more immediate cultural resonance. Even Jonathan Dollimore's reading of *The Revenger's Tragedy* and its engagement with providentialism sees it as more

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[106] Broude cites feuds and duelling as examples of this continuing 'tradition of self-government', with examples drawn primarily from Bowers, p. 46.

[107] Charles A. Hallett and Elaine S. Hallett, *The Revenger's Madness: A Study of Revenge Tragedy Motifs* (Lincoln: University of Nebraska Press, 1980)

[108] As Smith puts it in her introduction, critics accept 'the thoroughgoing equivalance between revenger and playwright', *Five Revenge Tragedies*, p. xxiii.

[109] Barbara J. Baines, *'Antonio's Revenge*: Marston's Play on Revenge Plays', *Studies in English Literature, 1500-1900*, 23 (1983), 277-294; Leslie Sanders, *'The Revenger's Tragedy*: A Play on the Revenge Play', *Renaissance & Reformation*, 10 (1974), 25-36; Lillian Wilds, 'The Revenger as Dramatist: A Study of the Character-as-Dramatist in *The Revenger's Tragedy*', *Rocky Mountain Review of Language and Literature*, 30 (1976), 113-122.

camply metatheatrical than seriously political, where 'retributive justice is being reduced to a parody of stage effects'.[110]

James Shapiro and Jonathan Bate have paid closer attention to historical context, marking a fresh departure for revenge tragedy criticism. Shapiro argues for the theatre as 'an agent of social change', where the boundaries between state spectacle and theatrical representation are problematised.[111] He observes that by staging the hanging of Pedringano (3.6), *The Spanish Tragedy* is unique in portaying an onstage execution in the style of early modern capital punishment.[112] Such dangerous crossover makes Kyd's play a site where 'the potential indistinguishability of theatrical and state violence' could be explored.[113] Bate also examines the performative nature of state power by focusing on the role of the law in *Titus Andronicus* and *The Spanish Tragedy*:

> The players who represented the enactment of revenge undertake the same kind of usurpation of the law as the revenger himself does. By casting the revenge in the form of an elaborate public performance, the drama

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[110] Jonathan Dollimore, *Radical Tragedy: Religion, Ideology, and Power in the Drama of Shakespeare and his Contemporaries*, 2nd edn (Hertfordshire: Harvester Wheatsheaf, 1989), p. 140. While he does grant Vindice a unique subjective position, the basis for this is more philosophical than historical.

[111] James Shapiro, '"Tragedies Naturally Performed"', p. 99.

[112] James Shapiro, '"Tragedies Naturally Performed"', p. 100. In in his discussion of the proximity of onstage execution to state spectacle, Shapiro does not mention the onstage hanging of the guilty parties in either the anonymous *A Warning for Fair Women*, ed. by Charles Dale Cannon (The Hague: Mouton, 1975) (first printed in London, 1599, available on EEBO, STC no. 25089) or Robert Yarrington's *Two Lamentable Tragedies* (London, 1601) (available on EEBO, STC no. 26076), sig. $K2^{v}$.

[113] James Shapiro, '"Tragedies Naturally Performed"', p. 107.

> reveals that the public performance known as the law is also a form of revenge action.[114]

Onstage revenge becomes 'a kind of usurpation of the law' while 'the law is also a form of revenge action'. By suggesting that revenge can be like the law and the law can be like revenge, Bate posits a more subversive relation between discourses, yet he does so in precisely the same binary terms set up by Bowers half a century earlier. Bate suggests that 'the revenge dramatist opens up the possibility that official justice is no different from revenge', but implicit in this is the idea that vengeful justice is the antithesis of good governance and social responsibility.[115] I argue that such a clear-cut division simply does not apply in the early modern period. Take for example the words of justice of the peace William Lambarde from 1581: '[T]here can be nothing more just than to bring the due revenge of law upon wicked and licentious persons'.[116] What Bate reads as the subversiveness of drama is in fact standard practice for its time: revenge inheres in the early modern concept of justice from the beginning.[117]

Another dominant mode of interpretation has revolved around the question of 'maimed' funerary rites in the genre (*Hamlet*, 5.1.208), taking them to be a displacement of

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[114] Bate, 'The Performance of Revenge, p. 275.

[115] Bate, 'The Performance of Revenge', p. 278. This idea is developed in his introduction to *Titus Andronicus*: 'The necessity to revenge reveals the inadequacy of the law; the formalization of revenge in performance acts as a substitution for the law, simultaneously revealing the law to be itself nothing other than a performance', pp. 26-7. I am keen to get away from the idea that onstage revenge represents some sort of subversion or substitution of the law, as I find such a model too reductive.

[116] William Lambarde, *William Lambarde and Local Government: His "Ephemeris" and Twenty-nine Charges to Juries and Commissions*, ed. by Conyers Read (New York: Cornell University Press, for The Folger Shakespeare Library, 1962), p. 157.

[117] This idea will be explored further in the section on 'Vindictive Justice' below.

anxieties over the fate of loved ones in a post-Reformation context.[118] In her edition of five early modern revenge plays, Smith says of the figure of the revenger:

> The anxieties which they embody...have been seen by recent critics as less concerned with matters of temporal justice and law – the ethics of revenge in contemporary society – and instead related to the post-Reformation religious context and to contested attitudes to the dead.[119]

While the prevalence of ghosts certainly indicates a concern for matters spiritual, I believe that this does not preclude a concomitant preoccupation with temporal matters. It is my contention that major changes in the legal system of the late sixteenth century have as much claim to influencing the revenge genre as religious upheaval in the first part of the century.[120]

John Kerrigan's transhistorical approach to revenge tragedy touches on the importance of reciprocal violence to the prehistory of the law, yet deeper and more abiding links among these discourses in the early modern period are seldom if ever pursued.[121] Surprisingly, Kerrigan sees Athenian drama as embedded within its legal context, where

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[118] Michael MacDonald, 'Ophelia's Maimed Rites', *Shakespeare Quarterly*, 37 (1986), 309-17; Michael Neill, *Issues of Death*; Robert N. Watson, *'The Rest is Silence': Death as Annihilation in the English Renaissance* (California: University of California Press, 1994); Thomas Anderson, *Performing Early Modern Trauma from Shakespeare to Milton* (Aldershot: Ashgate, 2006), chapter 5, pp. 125-68; Thomas Rist, *Revenge Tragedy and the Drama of Commemoration in Reforming England*, Studies in Performance and Early Modern Drama series (Surrey: Ashgate, 2008).

[119] Smith, *Five Revenge Tragedies*, p. xix.

[120] Anderson's account of post-Reformation anxieties continuing to inform the revenge genre appears to me to be particularly lacking in attention to historical detail, as he argues for *Titus Andronicus*, *The Duchess of Malfi*, *The Spanish Tragedy*, and *The Revenger's Tragedy* (in that order) as embodying 'the past's revenge, as the scorned return to transmit a loss thought to be overcome', p. 126.

[121] Kerrigan, pp. 22-9.

'theatre audiences were full of potential, or active, jurors', but such cultural relevance is not extended to the early modern period, when there seem to be even more resonances.[122] The revenge genre, broadly understood, is seen to 'explore the differences between what social institutions offer and what full retribution urges', with the process of law falling short of the personal satisfaction of revenge.[123] There is no suggestion that revenge tragedy may be capable of astute criticism of those very legal institutions, leading to the familiar assertions that revenge plays are conduits for inner urges and vengeful fantasies: 'recent revivals of Jacobean tragedy...owe something to a feeling that the modern state is taking too much of the initiative in punishing criminals away from individuals'.[124]

Kerrigan is not alone in linking the popularity of revenge tragedy with some imagined lack within the legal system, with some critics taking the popularity of revenge tragedy as indicative of a culture of revenge more broadly. I have already cited Posner's disdain for the melodramatic genre of revenge,[125] and he goes on to claim that the 'ambivalent attitude toward revenge that one senses in *Hamlet* mirrors the prevailing attitude in Shakespeare's society'.[126] Peter Mercer too says that the 'weight of denunciation may also suggest that it was an all-too-frequent recourse in everyday life',[127] while Robert Watson thinks that revenge 'must have been an important supplement to official justice in an era of very limited police

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[122] Kerrigan, p. 27. For Hutson's corrective to this, see *The Invention of Susicion*, p. 69. I deal below, p. 47ff, with the high degree of participation which characterises the legal system in early modern England.

[123] Kerrigan, p. 25.

[124] Kerrigan, p. 25.

[125] Posner, p. 106.

[126] Posner, p. 108.

[127] Peter Mercer, Hamlet *and the Acting of Revenge* (London: Macmillan, 1987), p. 4.

powers'.[128] Anselm Haverkamp in an article on *Hamlet* in *Law and Literature* from 2006 asserts in a note that '[r]evenge is, in other words, like melancholy, a chronic Elizabethan malady'.[129] I would like to challenge such assumptions with a more in-depth analysis of conflict resolution in early modern England, in particular the penchant for litigation that was to become a defining feature of English legal history.[130]

Some twenty-first century critics have continued to take as their starting point the modern, straightforward distinction between justice and revenge.[131] By projecting this neat division onto a time when such concepts were far more fluid, and then proceeding to deconstruct it, they only succeed in breaking down binaries that never existed. In *The Law in Shakespeare,* Dympna Callaghan and Chris R. Kyle set out to show how early modern law was still heavily invested in the concept of revenge, when this had been demonstrated by Broude thirty years previously.[132] They say of William Prynne's case 'we can see the state meting out not only justice but vengeance as well', as if such a co-existence were exceptional.[133] Similarly, they use the example of Richard Topcliffe, an Elizabethan interrogator famed for his savage punishments and torture tactics: 'Topcliffe was, to use a contradiction in terms, a kind of legal avenger'.[134] But my point is that this is not a contradiction in terms within an early modern

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[128] Robert N. Watson, 'Tragedies of Revenge and Ambition', in *The Cambridge Companion to Shakespearean Tragedy*, ed. by Claire McEachern (Cambridge: Cambridge University Press, 2002), pp. 160-81 (p. 160).

[129] Anselm Haverkamp, 'The Ghost of History: *Hamlet* and the Politics of Paternity', *Law and Literature*, 18 (2006), 171-97 (p. 192, n. 10).

[130] See p. 45, below on Elizabethan litigiousness.

[131] With significant exceptions, such Lorna Hutson and Paul Raffield, whose research has been fundamental to my own argument.

[132] Dympna Callaghan and Chris R. Kyle, '"Wilde justice" in Early Modern England and *Titus Andronicus'*, in *The Law in Shakespeare*, pp. 38-57 (p. 39).

[133] Callaghan and Kyle, p. 50.

[134] Callaghan and Kyle, p. 39.

context. The retributive aspect of law is something no early modern citizen, lawyer or judge would deny.[135] When in the final paragraph they describe *Titus Andronicus* as revealing 'the conceptual and practical struggle to appropriate retaliation for injury to the state', it is clear that we have not moved on from an evolutionary model of public law gradually supplanting private justice in Elizabethan England.[136] In a similar vein, Gregory Semenza says of Elizabethan revenge that 'the impulse toward self-government was greater [than it is today], however, because the legal system was less effective...and because the old familial obligations and rights, as defined by the wergild system, were less distant'.[137] The wergild system referred to is Anglo-Saxon in origin, and is therefore as close to the early modern period as the early modern period is to our own time. And as I am about to show, reading revenge tragedy in terms of clan-like kinship ties and a resistance to state justice relies on an outdated and inaccurate picture of early modern citizens and their attitudes towards the law.

Lastly, I would like to acknowledge Linda Woodbridge's monograph, *English Revenge Drama: Money, Resistance, Equality*, a work which does much to recuperate the radical political potential of the revenge genre: 'With its book-balancing devotion to equality, revenge fed into the broad stream of Renaissance egalitarianism'.[138] Revenge drama is conceived by Woodbridge as widely as possible, to include Marlowe's *oeuvre*, Shakespeare's history play, and many tyrant tragedies from the Civil War era. She focuses on economic inequalities in the

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[135] See 'Vindictive Justice' below.

[136] Callaghan and Kyle, p. 54. They also discuss how the 'impulses and energies that inform the practice of vengeance do not vanish from the cultural horizon as the state attempts to appropriate them', which bears a striking resemblance to Bowers' 'Elizabethan inheritance of private justice', without telling us what exactly 'the practice of vengeance' might involve, Callaghan and Kyle, p. 45.

[137] Gregory M. Colón Semenza, '*The Spanish Tragedy* and Revenge', in *Early Modern English Drama: a Critical Companion*, ed. by Garrett A. Sullivan Jr, Patrick Cheney, and Andrew Hadfield (Oxford: Oxford University Press, 2006), pp. 50-60 (p. 54).

[138] Woodbridge, p. 270. While this book only came to my attention at a late stage of my revisions, I am glad to see the genre receive recognition as socially relevant and politically engaged.

period, drawing parallels between the revenger's need for reciprocity and a new-found fascination with 'balancing the books'.[139] While she does note that '[t]he drama seethes with judicial corruption', the legal system itself does not come under scrutiny: 'while legal inequity *did* disturb Elizabethans, I place more weight on economic malaise as a fomenter of revenge plays' (original emphasis).[140] Woodbridge sees in the 'kangaroo courts' of revenge tragedy a general indictment of worldly justice, more so than specific, pointed interventions in the central yet shifting discourse of law.[141] However, I take issue with the assertion that the 'prevalence of revenge in plays can be ascribed partly to the frequency with which the Tudor pursuit of justice ended in disappointment',[142] as I believe the engagement with early modern law is more subtle than simply offering a vicarious alternative to a failed justice system. Similarly, while I welcome her chapter, 'Revenge and Class Warfare', I disagree that the seeds of this antagonism are to be found in the fact that '[j]ustice was perceived as available to the well-born and well-off'.[143] If anything, the legal system offered a level playing field for those of lower social status who wished to challenge their superiors, as detailed in my next section.[144]

This brief survey of revenge tragedy criticism has been necessary to demonstrate the extent to which the plays themselves have become obscured by the critical framework surrounding them. This attitude can be summed up by the character of the Portuguese viceroy

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[139] See chapter 3, 'Balancing the Books: Revenge, Commercial Mathematics, and the Balance of Trade', pp. 61-83.

[140] Woodbridge, p. 108; p. 12. This may account for the omission of Lorna Hutson's work from Woodbridge's own book.

[141] Woodbridge, p. 106.

[142] Woodbridge, p. 110.

[143] Woodbridge, pp. 225-53 (p. 232). This chapter includes Kyd's *The Spanish Tragedy*, Shakespeare's *Othello*, and Jack Cade in *2 Henry VI*.

[144] For the accessibility and participation that was at the heart of the English judicial system, see below, p. 47ff.

in Kyd's *The Spanish Tragedy*: 'They reck no laws that meditate revenge' (1.3.48). Such a bald statement has too long been accepted at face value, when dramatists repeatedly question, ironise and undermine these easy dichotomies. It seems clear to me, for example, that the viceroy's words must be read in the context of the miscarriage of justice he himself is about to perpetrate when acting as judge.[145] As Hutson observes, '[t]he critical debate surrounding the cultural significance of revenge tragedy has repeatedly turned on the question of the opposition of justice to revenge'.[146] In order to get new answers from these revenge plays, we must change the terms of the questions being asked.

In discussing the relation between revenge and law in the early modern period, it is traditional to quote the observations of Francis Bacon (1561-1626) on the subject:

> Revenge is a kind of wild justice, which the more man's nature runs to, the more ought law to weed it out. For as for the first wrong, it doth but offend the law; but the revenge of that wrong putteth the law out of office.[147]

Bacon's comments appear to register the threat offered by revenge putting the law 'out of office', but at the same time there is no indication that revenge is seen to be endemic in early modern England. Furthermore, revenge is seen to partake of justice, albeit in its wilder manifestations, and so it is inaccurate to see the two in oppositional terms. This is more complicated than any simple binary that sees revenge as the antithesis of law, and indeed a triangulation between revenge, justice and law seems implicit in Bacon's construction. I next

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[145] See Chapter One, p. 87.

[146] *The Invention of Suspicion*, p. 262.

[147] Francis Bacon, 'Of Revenge', in *The Essays*, ed. by John Pitcher (Harmondsworth: Penguin, 1985), pp. 72-3 (p. 72).

seek to disentangle the complex relationship between these seemingly conflicting concepts within the early modern legal system itself, as a final prerequisite for my re-evaluation of the revenge genre.

Vindictive Justice

> Obserue the statutes of your Heauenly King;
>
> And from his Lawe make all your Lawes to spring.
>
> James I, *Basilikon Doron*[148]

> Once the concept of interminable revenge has been formally rejected, it is referred to as *private* revenge. The term implies the existence of a *public* vengeance, a counterpart never made explicit. By definition, primitive societies have only private vengeance. Thus, public vengeance is the exclusive property of well-policed societies, and our society calls it the judicial system.
>
> Rene Girard, *Violence and the Sacred*[149]

It is true that many assumptions surrounding revenge tragedy have been challenged since the time of Bowers' writing, yet the overall architecture of the argument has remained in place. The opposition between lawless revenge and legal redress has exerted a lasting influence on criticism of the genre. But what Callaghan and Kyle call 'the problematic contiguity between

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[148] James I, *Basilikon Doron* (Edinburgh, 1599) (available on EEBO, STC no. 14348), sig. A3^{r}.

[149] René Girard, *Violence and the Sacred*, trans. by Patrick Gregory (London: Athlone Press, 1988), p. 15.

legal and extra-legal reprisal' is only problematic when looked at in binary terms.[150] While this opposition may seem obvious to modern observers, early modern writers have a far more sophisticated conception of the relation between revenge and law. As one minister says in his sermon before the assizes, 'Reuenge is the punishment of iniuries, and the redresse of wrongs: the question is to whom this punishment and vengeaunce belongeth'.[151]

An early modern audience, be it in the theatre or at Tyburn, would have been capable of entertaining the possibility that justice could be vengeful, and revenge just. In Belsey's formulation, revenge 'exists in the margin between justice and crime'.[152] Susan Dwyer Amussen examines the proximity of legitimate and illegitimate forms of violence in an early modern context, asking 'not only whether some extra-legal forms of violence are legitimate, but also whether the legitimacy of some forms of legal violence is contested'.[153] The precise relation between legitimacy and violence is a central concern in early modern revenge tragedy, and so the realisation that violence itself could be 'contested' in the period is an important one. Steve Hindle, when discussing the close relation between the threat of violence and litigation in the early modern period, says:

> Indeed, the tendency to place violence and the law at opposite moral poles is arguably a very modern one, which ignores the extent to which they might operate in

[150] Callaghan and Kyle, p. 40.

[151] William Westerman, *Two Sermons of Assise: The one intituled A prohibition of Reuenge: The other, A Sword of Maintenance* (London, 1600), (available on EEBO, STC no. 25282), p. 3.

[152] Belsey, *The Subject of Tragedy*, p. 115. She continues: 'An act of injustice on behalf of justice, it deconstructs the antithesis which fixes the meanings of good and evil, right and wrong', p. 115.

[153] Susan Dwyer Amussen, 'Punishment, Discipline and Power: The Social Meanings of Violence in Early Modern England', *Journal of British Studies*, 34 (1995), 1-34 (p. 2).

> tandem to establish and protect divinely ordained social and political order.[154]

Literary critics have been slow to adopt such a non-oppositional approach, but the shared ancestry of law and revenge has long been recognised by legal historians. In 1881 Oliver Wendell Holmes argued that the common law grew directly out of the practice of vengeance, even going so far as to say '[i]t certainly may be argued, with some force, that it has never ceased to be one object of punishment to satisfy the desire for vengeance'.[155] In her book *Wild Justice: the Evolution of Revenge*, Susan Jacoby discusses how law is designed 'to regulate the vindictive impulse', containing the desire for revenge rather than erasing it.[156] 'Vindictive' and 'vindication' share a common root.[157] Similarly, Posner sees the formalised structures of revenge in Greek, Anglo-Saxon and Icelandic societies as a prototype for subsequent legal procedure.[158] He asserts that even nowadays, 'revenge remains an important supplement to formal law enforcement', through the role of the victim in apprehension and prosecution.[159]

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[154] Steve Hindle, 'The Keeping of the Public Peace', in *The Experience of Authority in Early Modern England*, ed. by Paul Griffiths, Adam Fox and Steve Hindle (Basingstoke: Macmillan, 1996), pp. 213-248 (p. 227).

[155] Holmes Jr, p. 38.

[156] Susan Jacoby, *Wild Justice: the Evolution of Revenge* (London: Collins, 1985), p. 153.

[157] According to OED, 'vindictive' is defined firstly as 'Given to revenge, having a revengeful disposition', but secondly as 'Involving retribution or punishment; punitive, retributive; avenging. Now *rare*', with examples drawn from the seventeenth century where it is used as an epithet for justice. The first definition of 'vindication', although now obsolete, is 'The action of avenging or revenging'. Both of these aspects are clearly embodied in the figure of Vindice in *The Revenger's Tragedy*. Jacoby discusses how the concepts, more so than the words, have a common root, p. 353.

[158] Posner, p. 51ff.

[159] Posner, p. 54.

To quote Foucault on the subject: 'In the execution of the most ordinary penalty, in the most punctilious respect of legal forms, reign the active forces of revenge'.[160]

If all law is to some extent vindictive, then early modern law is firmly rooted in revenge. The clearest example that revenge is not necessarily pejorative comes from the New Testament dictum, 'Vengeance is mine; I will repay saith the Lord' (Romans 12. 19).[161] As Prosser points out, this contains 'both a command and a promise'.[162] Rather than forbidding vengeance outright, God appropriates the right to Himself alone. Jacoby succinctly captures the paradox of religious attitudes towards revenge, whereby the Church representatives reject 'human revenge on the ground that it usurps the prerogative of God, but they have simultaneously conferred approval on vengeance thought to serve God's purposes and conducted by his agents'.[163] The divine sanction of vengeance is one of the cornerstones of early modern law, which metes out punishment according to retributive principles.

Not only positive (man-made) law, but even divine law is imagined to be grounded in direct and violent reciprocity. We need only think of Thomas Beard's *The Theatre of Gods Judgements* (1597) or John Reynolds' *The Triumphs of Gods Revenge against the crying and execrable Sinne of Murther* (1621).[164] Both are filled with stories of crimes that eventually

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[160] Michel Foucault, *Discipline and Punish: The Birth of the Prison*, trans. by Alan Sheridan (Harmonsworth: Penguin, 1979), p. 48.

[161] This is of course quoted by Hieronimo in *The Spanish Tragedy* (3.13.1), see Chapter One, p. 81.

[162] Prosser, p. 282. On this Biblical passage, see also Campbell, p. 282; Kerrigan, p. 120.

[163] Jacoby, p. 67-8.

[164] Beard is translating from the French by Jean de Chassanion, *The Theatre of Gods Judgements* (London, 1597) (available on EEBO, STC no. 1659); Reynolds, *The Triumphs of Gods Revenge*. Lily B. Campbell surveys these and many other early modern texts that promise God's vengeance in her seminal article, 'Theories of Revenge in Renaissance England'.

come to light,[165] and how 'few or none escaped the apparent vengeance of God'.[166] Here is an extract from Reynold's first history:

> And now that Great and soueraigne Iudge of the World...will no longer permit Hautefalia and la Fresnay to goe vnpunished for these their execrable murthers: for the innocent and dead bodies of Mermanda and her husband Grand-Pre, out of their graues cry to him for reuenge.[167]

God's impartiality as a judge is in no way thought to be impaired by the victims' cries for revenge, and indeed appears to be motivated by them. The Senecanism of the scene, where the dead 'cry... for reuenge' from beyond the grave, is not seen to contradict the workings of divine justice. While these texts are designed to dissuade readers from the execrable sin of murder, it is equally the case that revenge is the guiding principle behind the stories, as both crime and punishment. When revenge has such a central role to play in divine matters, this is a clear indication that its negative connotations have been overstated for the early modern period.

Naturally God was not always expected to take such a direct role in the punishing of sin. Such duties fell primarily to the judicial system with the monarch as its titular head; in James' own formulation, 'Obserue the statutes of your Heauenly King;/ And from his Lawe

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[165] At one point Beard describes how 'though vengeance had slept a while, yet at length it wakened', p. 169. This of course provides an interesting intertext for Kyd's device of a sleeping Revenge in *The Spanish Tragedy* (3.15).

[166] Beard, in relation to the massacre at Paris, p. 200. It is also notable that Beard advocates the view that 'the lawes ought to be aboue the prince, not the prince aboue the lawes', p. 13.

[167] Reynolds, p. 35.

make all your Lawes to spring'.[168] When acting in the place of God, it is essential that magistrate and monarch act in a suitably godly fashion: 'And as himselfe commeth in iudgement to take vengeance, so hee woulde haue them that supplie his place among men...to followe his example'.[169] As God's minister on earth the sovereign is empowered to carry out the divine will through human law, and his delegates are similarly seen to partake of divine authority.[170] The judge in his official capacity is taken to be 'sitting in the place of God', from which position he metes out vindictive justice.[171] From a more secular perspective, this is summed up as follows: 'During ages in which faith in a god's judgment was pervasive, the state linked its judging to that of the divine'.[172]

Harry Keyishian shows how retribution is an integral part of law's function, which 'promises to avenge those it has been unable to protect'.[173] He takes the example of the treason trials following the Gunpowder Plot in 1606, when Lord Chief Justice John Popham

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[168] James I, *Basilikon Doron*, sig. A3^{r}.

[169] Pierre de la Primaudaye, *The second part of the French Acadamie* (London, 1594) (available on EEBO, STC no. 15238), p. 327. Quoted by Campbell, p. 287.

[170] This culture of delegation is described in detail by Holger Schott Syme when he discusses how' [l]egal and government officials throughout the land were imagined to speak for and in place of the monarch, and it was through their actions and speech acts that king or queen established a palpable presence in the realm', *Theatre and Testimony in Shakespeare's England: A Culture of Mediation* (Cambridge: Cambridge University Press, 2012), p. 6.

[171] William Lambarde, *The courts of justice corrected and amended* (London, 1642), p. 7. For this reason an assault on a judge was seen as an assault on the monarch, and, by extension, God. See also *The Lord Coke his speech and charge VVith a discouerie of the abuses and corruption of officers* (London, 1607) (available on EEBO, STC no. 5491): 'you are Gods on earth: when by your execution of Iustice and Iudgement, the God of heauen is by your actions represented: but if by vs, that so are called Gods, Iustice and Iudgement be peruerted; it will be heauy for our soules, when we shall dye like men', sig. C4^{r}.

[172] Dennis E. Curtis and Judith Resnik, 'Images of Justice', *The Yale Law Journal*, 96 (1987), 1727-72 (p. 1734).

[173] Harry Keyishian, 'Punishment Theory in the Renaissance: the Law and the Drama', in *Shakespeare and the Law*, pp. 175-84 (p. 176). See also his monograph, *The Shapes of Revenge: Victimization, Vengeance and Vindictiveness in Shakespeare* (Atlantic Highlands, NJ: Humanities Press, 1995).

'matched punishment to crime with meticulous care'.[174] This vengeful aspect of law deserves equal recognition alongside the many examples of the condemnation of private revenge cited by critics such as Bowers and Prosser; both work together to characterise early modern conceptions of what it means to be just. It is undoubtedly true that revenge and reciprocity pervade early modern culture, but this applies as much to the legal system itself as it does to an unruly populace. It is to that populace that I will now turn my attention, in order to investigate another of Bowers' critical legacies: 'the Elizabethan inheritance of private justice'.[175]

The idea that the Elizabethan population at large was liable to lapse back into private revenge is in need of serious revision, in light of research into early modern legal history and the nature of conflict resolution. Neighbours sought to settle their differences amicably, but if informal methods of reconciliation failed, it was to the law, not to vigilante justice, that they were to turn: 'The veneration of the common law in general, and of the rule of law in particular, was one of the most important intellectual legacies which the seventeenth century handed down to the eighteenth'.[176] In the words of Sir Matthew Hale (1609-1676), the English common law was 'singularly accommodated to the Frame of the English Government, and to the Disposition of the English Nation; and such as by a long Experience and Use is as it were incorporated into their very Temperament, and, in a Manner, become the Complection and

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[174] Sentencing involves hanging between heaven and earth, since the perpetrators are unworthy of both; disembowelling, since they should leave no generation behind; and decapitating, as the head is where the plot was first hatched, Keyishian, p. 180, using the account found in *Cobbett's Complete Collection of State Trials and Proceedings for High Treason and Other Crimes and Misdemeanors* (London: Hansard, 1809). Although Keyishian prefers the term 'retribution' to 'revenge', such a punishment could be described as both.

[175] Bowers, p. 11.

[176] James Sharpe, 'The People and The Law', in *Popular Culture in Seventeenth-Century England*, ed. by Barry Reay (London: Croom Helm, 1985), pp. 244-70 (p. 245).

Constitution of the English Commonwealth'.[177] Sir Edward Coke (1552-1634) describes the relationship between the English and their common law in similarly glowing terms: 'the ancient and excellent laws of England are the birthright, and the most ancient and best inheritance that the subjects of this realm have.'[178] Yet such official sentiments cannot be taken as universally accepted; for proof of that we must look at who was using the courts of justice, and why.

The notion that early modern citizens were loth to use the law is belied by the fact that they were going to court in unprecedented numbers. Cases at advanced stages of the King's Bench and the Court of Common Pleas combined had risen from 2,100 in 1490 to 13,300 in 1580 and 23,453 by 1606.[179] Brooks demonstrates that from 1560, 'litigation in both courts began to soar', with the King's Bench enjoying a fourfold increase between 1560 and 1580.[180] Elsewhere, Hindle's work on the process of being 'bound over' to keep the peace has shown that early modern citizens were heavily invested in reconciliation methods which used legal officials, but stopped short of going to law:

> The desire for authoritative arbitration therefore led to a substantial increase in quasi-formal dispute settlement during the late sixteenth and early seventeenth

[177] Sir Matthew Hale, *The History of the Common Law of England*, ed. by Charles M. Gray, Classics of British Historical Literature series (Chicago: University of Chicago Press, 1971), p. 30.

[178] Sir Edward Coke, *The Reports of Sir Edward Coke*, 13 vols (Union, NJ: Lawbook Exchange, 2002), III, Part V, p. v.

[179] C. W. Brooks, 'Litigants and Attorneys in the King's Bench and Common Pleas, 1560-1640', p. 43.

[180] Brooks, 'Litigants and Attorneys', p. 43.

> centuries, without which the increase of litigation would have been even more marked.[181]

Both historians agree that it was the middling sort – yeomen, merchants, artisans – that were the primary users of such legal machinery.[182] This was facilitated by the fact that legal remedies were not prohibitively expensive, and in a nascent marketplace economy 'each transaction was, of course, a potential lawsuit'.[183] On the question of class, J. H. Baker notes that in 'the royal courts, fewer than a third of all litigants were from the gentry class; as many plaintiffs were yeomen as gentlemen; and at least a quarter were tradesmen'.[184] Since it is the moderately prosperous that make up the bulk of early modern court business, Brooks makes the point that we must modify previous accounts of a feuding aristocracy putting down their pistols and taking up lawsuits.[185] It also means that the idea that revenge tragedy was there to point the way didactically towards the courtroom is anachronistic at best; it presupposes an audience resistant to legal remedies, when in fact the litigiousness of Elizabethans is infamous

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[181] Steve Hindle, 'The Keeping of the Public Peace', p. 229.

[182] Hindle, 'The Keeping of the Public Peace', p. 218; Brooks, 'Litigants and Attorneys', p. 46-47.

[183] C. W. Brooks, *Pettyfoggers and Vipers of the Commonwealth: The 'Lower Branch' of the Legal Profession in Early Modern England* (Cambridge: Cambridge University Press, 1986), pp. 95-101 (p. 95). See also Luke Wilson's work on intentionality in the period, as the law of contract grew in importance, *Theaters of Intention*, pp. 68-113.

[184] J. H. Baker, 'Law and Legal Institutions', in *William Shakespeare: His World, His Work, His Influence*, ed. by John F. Andrews, 3 vols (New York: Charles Scribner's Sons, 1985) I, pp. 41-54 (p. 42). Brooks puts the figure of non-landed gentry at between 70 and 80 percent of the courts' customers, 'Litigants and Attorneys', p. 46.

[185] Brooks, *Pettyfoggers and Vipers*, p. 91. This viewpoint is summarised by Brooks as 'a growing tendency for the nobility and gentry to replace violence with resort to law as their principle means of resolving disputes', p. 91. Such a stance is associated with Lawrence Stone, *The Crisis of the Aristocracy, 1558-1641* (Oxford: Clarendon Press, 1966).

in legal history.[186] It would seem Robert Burton was not far wrong when he wrote '[w]hereas now for euery toy and trifle they goe to law'.[187]

Early modern citizens not only interacted with the law as litigants; they were also heavily involved in each stage of the judicial process, from the initial 'hue and cry'[188] to the jury of one's peers: 'The private individual was the most important law-enforcing officer in the community'.[189] Apprehension, presentment, collection of evidence, and ultimately the jury's decision of guilt or innocence were all non-professional activities undertaken as part of one's ordinary civic duties. In the words of J. A. Sharpe:

> the system of law enforcement was characterized by a high level of popular participation, which must have ensured that numerous Englishmen had first-hand knowledge of how the law operated, albeit on a lowly level.[190]

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[186] Brooks attempts to quantify his litigation statistics by means of transhistorical comparison (with many accompanying caveats) and concludes: 'What is absolutely certain is that at no time before or since have the central courts of London been more frequently resorted to', *Pettyfoggers and Vipers*, pp. 75-9 (p. 78).

[187] Robert Burton, *The Anatomy of Melancholy* (London, 1621) (available on EEBO, STC no. 4159), sig. C3^{v}.

[188] OED's first recorded usage of this phrase is from the Yearbook of Edward I, 1292. By the seventeenth century the responsibility for apprehension fell more to the sheriff and his constables, Herrup, pp. 70-1. Nevertheless the concept still held some potency for early modern audiences, as dramatists show the communal apprehension of culprits onstage, in for example *The Comedy of Errors* (4.1), or the Host of the Garter Inn's call in *Merry Wives of Windsor*: 'Fly, run, hue and cry, villain!' (4.5.90). See also Hutson, 'Law, Probability, and Character' (p. 78), for the idea that the rousing of Brabantio in the opening scene of *Othello* carries similar echoes of hue and cry.

[189] Herrup, p. 92.

[190] J. A. Sharpe, *Crime in Early Modern England, 1550-1750* (Cambridge: Chadwyck Healey, 1986), p. 206.

Whether as litigants, jurors, witnesses or defendants, the majority of early modern citizens had some level of contact with the law. The participatory nature of early modern law 'made vigilance a communal obligation'.[191]

In Brooks' research on litigation he finds that by 1640 'one in every eighty Englishmen was using the king's courts', and this figure does not include those serving on juries or involved in the various pre-trial processes.[192] Since it was also the middling sort who 'characteristically served as jurors, constables, tithingmen and churchwardens',[193] then in a very real sense ordinary citizens made up a significant part of the machinery of law.[194] Far from being viewed antagonistically, or as something alien to day-to-day life, the law was integral to the people who interacted with it on a regular basis:

> Both the massive growth of civil litigation and extensive popular participation in the criminal and administrative aspects of the legal system, suggests a general familiarity with, and desire to use, judicial structures and processes.[195]

Thus, the image of an Elizabethan population still deeply invested in private revenge must be reconciled with the fact that by and large the population accepted the rule of law: 'In resorting

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[191] Herrup, p. 70.

[192] Brooks, 'Litigants and Attorneys', p. 57. I will go into greater depth on the central yet problematic role of trial by jury in the English judicial system in Chapter Two.

[193] Ingram, 'Reformation of Manners in Early Modern England', p. 74.

[194] This is comparable to the image of the sovereign made up of many smaller individuals from the frontispiece of Hobbes' *Leviathan* (London, 1651) (available on EEBO, Wing H2246).

[195] Hindle, 'The Keeping of the Public Peace', p. 218. Such familiarity with the law is far truer of early modern society than the more recent past, where the law is often portrayed as the enemy of the people, as in Kafka's *The Trial*, or The Clash's 'I Fought the Law'.

to the law, English people invited the state in and their engagement with the formal authorities of national government was intensified'.[196] This is not to deny that vengeance still had its role to play. I have shown how law itself is characterised by a certain vindictiveness, and by the same token revenge could be perfectly legal, through what Hindle calls 'the institutionalised vengeance of litigation'.[197] Therefore, the binary opposition between revenge and law is revealed to be wrong on both counts – in the early modern period, each partakes of the other.

This is not to say that revenge and law are no different from each other, only that they inhabit the same discursive space, and not opposite ends of the spectrum. We must shake off the idea that the 'right to punish their own wrongs was dear to many Elizabethans',[198] or at least if it was, that this was irreconcilable with a law-abiding citizenry. Once it is accepted that revenge and law are conceptually compatible, a far more fluid approach to the dynamics of early modern revenge tragedy becomes possible. Hindle captures the paradox of early modern conflict when he says that '[b]inding over therefore reflects two facets of early modern social relations: on the one hand, the ubiquitous threat of violence, on the other, notorious legal-mindedness'.[199] The 'ubiquitous threat of violence' in early modern culture is much in evidence in revenge tragedy criticism, but we must also become attuned to the 'notorious legal-

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[196] Michael Braddick, *State Formation in Early Modern England, c. 1550-1700* (Cambridge: Cambridge University Press, 2000), p. 161. James Sharpe even goes so far as to say that law had become 'internalised' in the early modern period, 'The People and the Law', p. 246.

[197] Hindle, *The State and Social Change*, p. 106. On fears about vexatious litigation, see Cockburn, *A History of English Assizes, 1558-1714* (Cambridge: Cambridge University Press, 1972), pp. 145-9; Martin Ingram, 'Communities and Courts: Law and Disorder in Early-Seventeenth-Century Wiltshire', in *Crime in England, 1550-1800*, ed. by J. S. Cockburn (London: Methuen, 1977), p. 118ff. Brooks makes the point that although this concern was frequently raised, malicious lawsuits appear to be statistically insignificant, *Pettyfoggers and Vipers*, pp. 108-10.

[198] Bowers, p. 10.

[199] Hindle, 'The Keeping of the Public Peace', p. 226.

mindedness' identified by social historians if we are to fully appreciate the complexity of the genre.

I hope to have shown that the presumed anxiety surrounding private revenge unleashing a 'general disrespect for law' in Elizabethan England has been much exaggerated.[200] Revenge was not an imminent threat to the status quo, nor were the majority of Elizabethan citizens likely to disrespect such an important social tool as the law. In short, the typical theatre-going Elizabethan was more likely to have a case in the courts for the suing of a neighbour than an elaborate plot to do away with them. While there must have been a period of transition from private to public modes of justice, whether it persists in the Elizabethan period is doubtful, and whether it should form the primary context for our reading of revenge tragedy is even more questionable. The brief sketch presented here of a participatory justice system characterised by cooperation has been necessarily introductory, and I hope to complicate this view somewhat in the thesis as a whole. Before being able to describe the interactions between revenge tragedy and the legal system in any meaningful way, it is necessary to understand some of the complexities of early modern law. Finally therefore, I want to touch the major legal points of contention in the late sixteenth century, to illustrate the central yet shifting edifice of early modern law.

According to Sokol and Sokol, law is 'a subject matter which is in textual and social terms tentacular, and in intellectual and historical ones labyrinthine'.[201] The intricacies of early modern law include overlapping jurisdictions of common law, civil law and ecclesiastical law,

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[200] Bowers, p. 11.

[201] *Shakespeare, Law, and Marriage*, p. 9. See also the epilogue to Subha Mukherji's *Law and Representation in Early Modern Drama*, entitled 'The Hydra head, the labyrinth and the waxen nose: discursive metaphors for law', pp. 233-48.

leading to conflicts which are a recurrent feature of early modern English legal history.[202] Not only were relations between the various institutions periodically volatile, each branch of law was itself undergoing major changes in how legal business was conducted in the period.[203] This was only to intensify in the final years of the century, as England experienced crises both at home and abroad.[204] In order, then, to move towards a more diachronic approach to revenge tragedy's engagement with law in its myriad forms, it is necessary to chart those changes in legal procedure, and their consequences for the inhabitants of early modern England. As the system of law enforcement changed, so too did people's relation to it, to the state, and to each other. This state of flux will subsequently be shown to be an important component in the new-found popularity of early modern revenge tragedy.

Thus far I have used the term law as if it were a single, stable entity in the period; and as a system of governance, investigation and punishment, the law in early modern England does form an organic whole. But it is equally important to recognise that within the organism of early modern law are to be found innumerable variations and contradictions. Bradin Cormack sees the Tudor and Jacobean periods as part of

> a transitional moment in the development of a national law and a rationalized legal discourse, a moment in which, necessarily, the question of jurisdictional

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[202] Wilfred Prest says of the period that it consisted of 'a series of running battles with various rival jurisdictions, notably the Church courts, the provincial councils, the Court of Requests, the Court of Admirality, and Chancery', *The Rise of the Barristers: A Social History of the English Bar, 1590-1640* (Oxford: Clarendon Press, 1986), p. 262.

[203] This is connected with the explosion in litigation discussed above, as well as forming part of a larger tendency towards centralisation and professionalisation that is a feature of the late Elizabethan polity.

[204] Some of these interconnected crises are the subject of Archer's *The Pursuit of Stability*. I return to the question of social unrest in 1590s London and its impact on the drama of the period in my chapter on *Antonio's Revenge*.

> heterogeneity was messier than in either the earlier period, when legal orders alternative to the common law were more efficacious, or the later period, when the dominance of common law received more formal expression.[205]

The rise of the common law, as his title has it, is a key feature of early modern English legal history; but this must be balanced with the knowledge that other jurisdictions were still thriving well into the seventeenth century, creating 'interrelated spheres of judicial activity'.[206] At a glance this includes leets, ecclesiastical courts, the Star Chamber, Chancery, the Exchequer, the Admiralty, the Court of Requests, and manorial courts.[207] After giving an excellent summary of the court structure and personnel of the early modern criminal justice system, J. A. Sharpe concludes his chapter with the heartening line: 'No account of the machinery of law enforcement in early modern England can ever hope to be complete'.[208]

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[205] *A Power to Do Justice: Jurisdiction, English Literature and the Rise of the Common Law, 1509-1625* (Bristol: University of Chicago Press, 2007), p. 27.

[206] Cormack, p. 27. The use of 'rise' echoes Prest's *The Rise of the Barristers: A Social History of the English Bar, 1590-1640.*

[207] For an overview of the multiplicity of jurisdictions see the entry on 'jurisdiction' in Sokol and Sokol, *Shakespeare's Legal Language: a Dictionary*, pp. 167-71. For a discussion of overlapping jurisdictions and how this can inform our reading of early modern texts, see Cormack's introduction in *A Power to Do Justice*, pp. 11-44. On Church courts see Sokol and Sokol, *Shakespeare, Law, and Marriage*, chapter 1 (pp. 13-29); Mukherji, *Law and Representation in Early Modern Drama*, chapter 1 (pp. 17-54); for primary materials see P. Hair, ed., *Before the Bawdy Court: Selections from church court and other records relating to the correction of moral offences in England, Scotland and New England, 1300-1800* (London: Elek, 1972). On the Star Chamber, see Hindle *The State and Social Change*, pp. 66-93; John A. Guy, *The Court of Star Chamber and its Records to the Reign of Elizabeth I*, Public Record Office Handbooks 21 (London: Her Majesty's Stationery Office, 1985). For other courts and their appearance in the drama of Shakespeare and others, Sokol and Sokol's *Shakespeare's Legal Language: a Dictionary* is invaluable.

[208] Chapter 2, 'Courts, Officers and Documents', in *Crime in Early Modern England, 1550-1750* (London: Longman, 1984), pp. 29-58 (p. 57). This chapter also provides excellent bibliographical notes for further reading.

While no account of early modern law can hope to be exhaustive, at the same time an awareness of its multiplicity is essential to the sensitive study of law and literature in the period.[209]

The increasing dominance of common law procedure was by no means pre-ordained or universally accepted; the universities of Oxford and Cambridge continued to train lawyers in civil law based on Justinian's Code, while a degree of friction between King's Bench and Chancery under James I is well documented.[210] The tension between common law and other rival jurisdictions extends back to the fifteenth century, with formative debates such as that between Thomas More and Christopher St. German, leading to the latter's dialogue, *Doctor and Student*.[211] In large part this debate centres on the question of equity, and where it rightfully belongs within the English legal system: 'It is no exaggeration to say that the question of equity dominated jurisprudential thought of the entire century'.[212] Equity was thought to

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[209] Good introductory accounts of the structure of the legal system in early modern England can be found in the works of legal historian, J. H. Baker: 'Law and Legal Institutions' in *William Shakespeare: His World, His Work, His Influence*, ed. by John F. Andrews, 3 vols (New York: Charles Scribner's Sons, 1985) I, pp. 41-54; 'Criminal Courts and Procedure, 1550–1800', in *Crime in England, 1550-1800*, ed. by J. S. Cockburn (London: Methuen, 1977), pp. 15-48; 'The Refinement of English Criminal Jurisprudence, 1500-1848', in *The Legal Profession and the Common Law: Historical Essays*, ed. by J. H. Baker (London: Hambledon Press, 1986), pp. 302-24.

[210] For an account of the clash between common law and both the ecclesiastical courts and Chancery in the Jacobean period, culminating in the dismissal of Sir Edward Coke by James I personally, see James S. Hart, *The Rule of Law, 1603-1660: Crowns, Courts, and Judges* (Harlow: Pearson Longman, 2003) pp. 42-55. This conflict will be returned to in my discussion of *The Revenger's Tragedy* in my final chapter, as the play is shown to preempt just such an interference of a monarch in the workings of the legal system.

[211] Christopher Saint German, *The dyaloges in Englishe, between a Doctour of diuinitie, and a student in the lawes of Englande* (London, 1565) (available on EEBO, STC no. 21571.5). On the underlying ideological conflict in Reformation England and its impact on the legal system, see Hutson, *The Invention of Suspicion*, pp. 48-63.

[212] For a good survey of the jurisprudential debate over equity in law, and the reception and influence of Aristotle's notion of *epieikeia*, see Theodore Ziolkowski, *The Mirror of Justice: Literary Reflections of Legal Crises* (Princeton: Princeton University Press, 1997), p. 163ff (p. 166); see also Mark Fortier, *The Culture of Equity in Early Modern England* (Aldershot: Ashgate, 2005), chapter 2, 'Equity and Law', pp. 59-86; Dennis Klinck, *Conscience, Equity, and the Court of Chancery in Early Modern England* (Farnham: Ashgate, 2010).

soften the severity of the letter of the law in cases where it would be unfair to apply the general rule to a particular instance. Equity was commonly associated with the courts of Chancery, which were presided over by the Chancellor and popularly known as the 'court of conscience', and could thus be seen as a corrective to the literalism of common law procedure.[213] Yet it has been necessary to modify such a neat division in recent years, as equity is shown to be an integral part of the common law as well as other jurisdictions.[214] This means that the idea that drama is to be read as a more 'equitable' alternative to law in the period is also in need of revision.[215]

Early modern law defies easy categorisation: at any given moment, competing jurisdictions staked their claim to the same legal territory, while within each institution major changes were underway in how legal business was to be administered. Of course, something as complex and multifarious as the law is always in a process of adjustment, but I believe that the innovations of the last decades of the sixteenth century are of a different magnitude. This idea of unprecedented flux is reiterated by many scholars working in the field. Cormack describes how '[i]n the long history of English jurisdiction, the sixteenth century was an unusually important period for the rationalization of English common law and the legal system as a

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[213] William West, *The Second Part of Symboleography* (London, 1641) (available on EEBO, Wing W1394A) p. 176, quoted in Bernadette A. Meyler, 'Substitute Chancellors: The Role of the Jury in the Contest between Common Law and Equity', *Legal Studies Research Paper Series* (Cornell Law School, 2006) <http://scholarship.law.cornell.edu/cgi/viewcontent.cgi?article=1038&context=lsrp_papers> 1-39 (p. 12).

[214] See Lorna Hutson, 'Imagining Justice: Kantorowicz and Shakespeare', *Representations*, 106 (2009), 118-42. Hutson rightly points out that equity is by no means incompatible with common law procedure, and therefore is not the sole property of the courts of Chancery: 'Rather than an arbitrary discretion to suspend law, equity is an interpretative enlargement of law by fiction. It reconciles the potentially unjust generality of the law with the particularity of individual circumstances by generating fictions of the general intent behind the words of the law'.

[215] See B. J. Sokol and Mary Sokol, 'Shakespeare and the English Equity Jurisdiction: *The Merchant of Venice* and the Two Texts of *King Lear*', *Review of English Studies*, 50 (1999), 417-39, for a review of literary critics' erroneous application of theories of equity to the plays of Shakespeare.

whole'.[216] Hindle observes that the 'late Elizabethan and early Stuart period constituted a crucial phase of adjustment, a decisive episode of discontinuity, during which the parameters of the relationship between the state and society were redefined'.[217] J. S. Cockburn identifies the late 1580s as a period of 'mini-revolution' for the English legal system, citing innovations such as confessions and plea-bargaining that resulted in 'something of a watershed in criminal administration'.[218] As for the reasons behind such a watershed, it would seem that the explosion in litigation throughout the century was compounded by higher prosecution rates towards its latter stages.[219] As well as much heavier workloads, there was also a new push towards centralisation throughout the Elizabethan polity, what Hindle calls 'the centripetal tendencies of sixteenth-century government'.[220] Brooks too sees 'a distinct centralization of the legal life of the realm, a shift from the provinces towards London'.[221] He goes on to pinpoint a new-found professional autonomy within the barristers' profession to 1590: 'From this date, therefore, the barristers can be said to have gained considerable powers of supervision over their own professional affairs'.[222] Centralisation and professionalisation went

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[216] Cormack, pp. 26-7.

[217] Hindle, p. 231.

[218] 'Trial By the Book? Fact and Theory in Criminal Process', in *Legal Records and the Historian*, ed. by J. H. Baker, (London: Royal Historical Society, 1978), pp. 60-79 (p. 78). The finer details of these legal innovations – which include increasing professionalisation, circumvention of the jury, and jurisdictional changes – are the subject of subsequent chapters.

[219] See J. S. Cockburn, 'The Nature and Incidence of Crime in England, 1559-1625: A Preliminary Survey', in *Crime in England 1550-1800*, ed. by J. S. Cockburn (London: Methuen, 1977), pp. 49-71 (pp. 67-9).

[220] Hindle, p. 3.

[221] C. W. Brooks, *Pettyfoggers and Vipers*, p. 96.

[222] Brooks, *Pettyfoggers and Vipers*, p. 267. On the issues of professionalisation, see also J. H. Baker 'English Law and the Renaissance', *Cambridge Law Journal*, 44 (1985), 46-61, where he discusses how 'the shift of emphasis from *doctrine* (or common learning) to *jurisprudence* (or judge-made law)...is striking' (original emphasis), p. 59.

hand-in-hand, as the legal system struggled to cope with the extra pressure being exerted on the machinery of the law from all sides.[223]

Discussing a more general shift towards formalisation in legal discourse itself, Peter Goodrich says that the 'emergence of an English jurisprudential literature may be traced with some precision to a genre of legal writing that first appeared in the closing decades of the sixteenth century'.[224] The elevation of the law to the more esoteric practice that Goodrich describes can be seen in Coke's differentiation between natural reason and artificial reason; while reason may be the soul of the law, this does not mean that everyone could hope to attain mastery of 'an art which requires long study and experience, before that a man can attain to the cognizance of it'.[225] This professionalisation of the law is an important component in the changing dynamics between early modern citizens and their legal system in the late sixteenth century, and I believe it deserves recognition alongside the more established view of early modern law as essentially participatory.[226]

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[223] See also Clive Holmes, 'The Legal Instruments of Power and the State in Early Modern England', in *Legislation and Justice*, ed. by Antonio Padoa-Schioppa (Oxford: Clarendon Press, 1977), pp. 269-89.

[224] Peter Goodrich, '*Ars Bablativa*: Ramism, Rhetoric, and the Genealogy of English Jurisprudence', in *Legal Hermeneutics: History, Theory, and Practice*, ed. by Gregory Leyh (Berkeley: University of California Press, 1992) <http://publishing.cdlib.org/ucpressebooks/view?docId=ft4779n9h2&chunk.id=d0e1453&toc.depth=1&toc.id=d0e1453&brand=eschol> [accessed 16 September 2010]. Cf. Peter Goodrich, *Reading the Law: A Critical Introduction to Legal Method and Techniques* (Oxford: Blackwell, 1986): 'The law administered as the common law from Westminster was already inaccessible, esoteric and extremely technical, an "occult" science', p. 69.

[225] Case of Prohibitions (1607), 12 Co Rep 63-64. (available online at <http://www.bailii.org/ew/cases/EWHC/KB/1607/J23.html>) [accessed 16 August 2011]. For the influence of Coke on the formalisation and codification of English common law, see Richard Helgerson, *Forms of Nationhood: the Elizabethan Writing of England* (London: University of Chicago Press, 1992), chapter 3, 'Writing the Law', pp. 63-104.

[226] While professionalisation and participation are not mutually exclusive concepts, an awareness of the friction between the two can be useful in approaching such a highly-charged discourse as early modern law.

Despite widespread agreement among legal historians that late sixteenth-century England witnessed major modifications to how the legal system conducted its business, the repercussions of such rapid and far-reaching changes have yet to be systematically applied to the literature of the period.[227] Cockburn notes that 'the period of most intense official concern and procedural improvisation apparently occurred between 1585 and 1590'.[228] That this period corresponds closely to the presumed composition date for *The Spanish Tragedy*, the first popular revenge tragedy on the English public stage, lends further weight to my argument that revenge tragedy responds to contemporaneous changes within the early modern legal system. Alongside the ubiquity of early modern law (which has become something of a critical commonplace in recent years) must be placed a concomitant appreciation for the dynamism of that law. I intend to redress this balance by showing how changes in the administration of the law feed directly into the portrayal of revenge on the early modern stage. In the process, I build up a profile of the stage revenger and his accomplices that belies the critical commonplace that revenge tragedy is essentially an introverted genre, centring on a lone, isolated revenger, and primarily of interest for its metatheatrical and intertextual qualities. By employing a more diachronic view of both discourses, I demonstrate the socio-legal and political valency of a genre that is too often dealt with in isolation from such realities.

I want to close this introduction with a quotation from Aeschylus' *Oresteia*, a central text to any discussion of revenge in the context of law and literature. As she awaits the return of her brother Orestes, Electra discourses with the chorus leader at the tomb of her dead father.

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[227] While Lorna Hutson's work traces the prominence of forensic rhetoric in Tudor education and the effect of the Reformation on judicial epistemology, she does not take account of more immediate changes within the law such as an over-burdened judicial system in the tumultuous 1590s which formed the inescapable realities of late Elizabethan legal history.

[228] *Calendar of Assize Records: Introduction*, p. 131.

Their desire for the death of Clytemnestra and Aegisthus for the murder of Agamemnon is expressed as follows:

Slave Leader: Let some god or man come down upon them.

Electra: Judge or avenger, which?

Slave Leader: Just say 'the one who murders in return!'

The Libation Bearers, l. 121-3

In mapping the journey from darkness to light, Aeschylus' *Oresteia* explicitly deals with the issue of replacing private revenge with public legal institutions. The trilogy culminates with the trial of Orestes for the murder of Clytemnaestra – the cycle of vengeance can only be broken through recourse to law. While in many ways this speaks to the central dilemma of revenge tragedy across epochs, we must be wary of importing the socio-legal functions of drama from one period to another without flagging up their fundamental differences. It is my contention that such an aetiological model cannot be applied to the revenge tragedy of early modern England, where well-established legal systems inhere from the beginning. As I argue in the next chapter, Hieronimo's quest for vengeance grows directly out of the arbitrary and prejudicial actions of those holding political and legal authority. In Aeschylus' *Oresteia* such a crisis does not arise because the legal institutions are not yet in place, and only come into being in the course of the trilogy. The difference between taking revenge because the law does not yet exist and taking revenge because the law is unavailable is crucial.

Chapter One

> How should we term your dealings to be just,
>
> If you unjustly deal with those that in your justice trust?
>
> *The Spanish Tragedy*, 3.2.3

In his survey of representations of London in early modern drama, Darryll Grantley says of the opening of London's first permanent theatres in the mid-1570s:

> The advent of London-based commercial theatre meant that drama would fairly rapidly come to be orientated towards an urban audience and increasingly reflect its social experience and attitudes, in a period in which that experience was in a process of change and development.[1]

[1] Darryll Grantley, *London in Early Modern English Drama: Representing the Built Environment* (Basingstoke: Palgrave Macmillan, 2008), p. 51.

Nowhere is this truer than in the case of law. Not only was it an integral part of the 'social experience' of urban life, it was also going through major changes in how it conducted its business.[2] The ubiquity of law in the lives of citizens described in the introduction thus came to be reflected in the drama of the time. Lawyers and courtrooms are frequent features of early modern drama, from Medwall's *Fulgens and Lucres* (written in the 1490s, printed c. 1512) to Jonson's *The New Inn* (first performed in 1629, published in 1631) and beyond.[3] Indeed the law-terms themselves are familiar enough to be personified in the induction to Thomas Middleton's *Michaelmas Term* (1604).[4] Even in Shakespeare's early comedy *The Taming of the Shrew* (1590-1594), it is not inconceivable that the self-proclaimed tinker Christopher Sly would dream in law:

> Yet would you say ye were beaten out of door,
>
> And rail upon the hostess of the house
>
> And say you would present her at the leet
>
> Because she brought stone jugs and no sealed quarts.
>
> Induction.2.83[5]

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[2] See Introduction, pp. 51-56.

[3] The legal context of *Fulgens and Lucres*, the first secular play in English, is itself a testament to the importance of the law in the popular imagination. On Medwall's legal background, see Alan H. Nelson, ed., *The Plays of Henry Medwall*, Tudor Interludes series (Cambridge: Brewer, 1980), pp. 9-16; James McBain, 'Early Tudor Drama and Legal Culture, c. 1485-1558' (unpublished doctoral thesis, Magdalen College, Oxford, 2007), p. 41ff. On *The New Inn* as a legally-inflected play, see Subha Mukherji, 'Jonson's *The New Inn* and a Revisiting of the "Amorous Jurisdiction"', *Law and Literature*, 18 (2006), 149-69.

[4] In a prologue the figure of Michaelmas term talks of 'those familiar accidents which happened in the town in the circumference of those six weeks whereof Michaelmas Term is lord' (1.1.72). *Michaelmas Term*, in *Thomas Middleton: The Collected Works*, ed. by Gary Taylor and John Lavagnino (Oxford: Clarendon Press, 2007).

[5] While Sly's 'dream' is the invention of the Lord's servingman, it still illustrates how legal terminology (and the threat of litigation) was part of the everyday language of a wide range of Elizabethans. The 'leet' was a minor manorial court dealing with cases such as inn-keeping, weights and measures, poaching, etc.

Early modern law is not simply another context in such cases; it is an active ingredient in the thematic concerns of any number of plays on the Renaissance stage.[6]

It is only natural then that the genre of revenge tragedy, with its countless crimes and injustices, is also embedded in legal structures and processes. Although the established critical framework has until recently overlooked the legal context of revenge tragedy,[7] it should be noted that many revengers first seek legal remedies for their losses before stepping outside the law. As Hieronimo puts it in *The Spanish Tragedy*, 'I will go plain me to my lord the king,/ And cry aloud for justice through the court' (3.7.69).[8] Hieronimo's use of 'court' here signifies both the royal court and a place of law, since the full separation between the two is not yet complete.[9] In their book on Shakespeare and early modern marriage law, Sokol and Sokol observe that 'in nearly all cases where legal matters come into question, Shakespeare's

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See B. J. Sokol, and Mary Sokol, *Shakespeare's Legal Language: a Dictionary* (London: Athlone, 2000), pp. 204-6.

[6] The most obvious candidates here would be *The Merchant of Venice* (c. 1596), *Measure for Measure* (c. 1603) and *The Winter's Tale* (c. 1611) from Shakespeare, Jonson's *Volpone* (1606), Middleton's *The Old Law* (c. 1614), as well as *Michaelmas Term* (1604) mentioned already, Webster's *The White Devil* (1612) and *The Devil's Law Case* (with the subtitle *When Women Go to Law, the Devil is Full of Business*) (1623).

[7] See the Literature Review in the Introduction, pp. 24-38.

[8] Cf. Shakespeare's *Measure for Measure*, where Isabella threatens to give voice to her abhorrence following Angelo's advances:

> I will proclaim thee, Angelo, look for't.
> Sign me a present pardon for my brother,
> Or with an outstretch'd throat I'll tell the world aloud
> What man thou art.
> (2.4.150)

Of course this does not happen because, as Angelo reminds her, 'Who will believe thee, Isabel?' (2.4.153). This too has its parallel in Kyd, when Hieronimo voices his fear that Lorenzo and his faction '[w]ill bear me down with their nobility' (3.13.38).

[9] This overlap in function leads to one of the key conflicts in the play, where a sovereign acts directly as a judge with disastrous results, discussed below, p. 86ff.

dramatic articulation alludes to actual English legal problems, ambiguities, or enigmas'.[10] I believe the same can be said for Shakespeare's contemporaries, including Kyd, whose revenge tragedy based in the Spanish court is riven with legal issues that were distinctly topical in early modern London. These include the dangers of partiality in a judicial context, an emerging law of evidence, and the function and necessity of spectacular exemplary punishment. First, I focus on the ideology of law in this period as a mainstay of civilisation and a bulwark against anarchy. I examine the system of quarter sessions and assizes as broadly representative of how law is converted from theory to practice in early modern England, ending with a discussion of public execution as the ultimate expression of legal authority.[11] This then acts a springboard for my reading of *The Spanish Tragedy*, which sees the conflation of stage and scaffold in Hieronimo's climactic play-within-a-play.[12] *The Spanish Tragedy* is a play that is outspoken on the power of judges within the early modern courtroom, and on the danger of that power being abused. Kyd's exploration of justice is shown to be directly relevant to the structures and stresses of the legal system in early modern England.

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[10] B. J. Sokol, and Mary Sokol, *Shakespeare, Law, and Marriage* (Cambridge: Cambridge University Press, 2003), p. 9. Cf. Jonathan Bate, also talking about Shakespeare, when he says 'this is not to say that revenge plays set abroad could not comment on England', *Titus Andronicus*, ed. by Jonathan Bate, Arden Shakespeare series (London: Routledge, 1995), p. 27. He cites Heywood's comment in *An Apology for Actors*: 'If wee present a forreigne Histroy, the subject is so intended, that in the lives of *Romans*, *Grecians*, or others, either the vertues of our Countrymen are extolled, or their vices reproved', (London, 1612) (available on EEBO, STC no. 13309), sig. F3^{v}. More recently, Holger Schott Syme asserts that '[i]t is certainly true that the judicial scenes in plays set "abroad" generally reflect critically on the distinctions between English and continental legal customs', '(Mis)representing Justice on the Early Modern Stage', *Studies in Philology*, 109 (2012), 63-85 (p. 69).

[11] See for example Michel Foucault, *Discipline and Punish: The Birth of the Prison*, trans. by Alan Sheridan (Harmondsworth: Penguin, 1979), chapter 2, pp. 32-69.

[12] The slippage between stage and scaffold is a common one; in the first edition of James I's *Basilikon Doron* (Edinburgh, 1599) the king is as 'one set on a *skaffold'* but this is then changed to 'stage' for subsequent editions. On this point, see Thomas W. Laqueur, 'Crowds, Carnival and the State in English Execution, 1604-1868', in *The First Modern Society: Essays in English history in honour of Lawrence Stone*, ed. by A. L. Beier, David Cannadine and James M. Rosenheim (Cambridge: Cambridge University Press, 1989) pp. 305-56 (p. 326).

The centrality of law in this period is hard to overestimate; surveying seventeenth-century encomiums to law and order, J. A. Sharpe sees law as a kind of 'social cement' in early modern England.[13] Sharpe quotes a preacher at the assizes in 1678 as saying 'without judgement and justice there can be no society. These are the bonds of all communities, which knit, and keep all the members of the body-politic together'.[14] The metaphor of bodily integrity is also to be found in Fortescue's fifteenth-century legal treatise, *In Praise of the Laws of England*: 'The law...resembles the sinews of the physical body, for, just as the body is held together by the sinews, so this body mystical is bound together and preserved as one by the law'.[15] It follows that without law and order keeping chaos at bay, civil society would break down: 'all kingdoms and estates would be brought to confucyon, and all humane society would be dissolved'.[16] William Lambarde, Elizabethan jurist and writer of numerous legal handbooks, in a charge at quarter sessions in 1600 asserts that

> even as the body of man and all the parts and members thereof derive their life, sense, and moving from the soul or spirit of man, so the laws of each country and kingdom

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[13] *Crime in Early Modern England, 1550-1750* (Cambridge: Chadwyck Healey, 1986), p. 206.

[14] Humphrey Babington, *Mercy and Judgement: a sermon preached at the assize held in Lincolne, July 5 1678* (Cambridge, 1678), p. 18 (quoted in *Crime in Early Modern England*, p. 205).

[15] *In Praise of the Laws of England*, ed. by Shelley Lockwood (Cambridge: Cambridge University Press, 1997), p. 17. First printed in Latin c. 1470 with the title *De Laudibus legume Angliae*. This idea still has traction in more modern times: 'The legal system is part of society in the same way that muscles and the circulation system are part of the body; the legal system does not and cannot exist as a viable, independent agency', Lawrence M. Friedman, *The Republic of Choice: Law, Authority, and Culture* (Cambridge, MA: Harvard University Press, 1990), p. 4.

[16] Judge at York assizes, 1620, British Museum Harleian MS. 7581, ff. 61-62^{v}, quoted in Cockburn, *A History of English Assizes 1558-1714* (Cambridge: Cambridge University Press, 1972), p. 310. This idea is also to be found, in a somewhat altered form, in the opening arguments of Thomas Hobbes' *Leviathan*: 'Hereby it is manifest, that during the time men live without a common Power to keep them all in awe, they are in that condition which is called Warre', ed. by C. B. Macpherson (Harmondsworth: Penguin, 1985), p. 185.

> be the very soul and life thereof, by whose continuance they do joy, grow, and flourish, and by the neglect and want whereof they fall to jar, poverty, ruin, and desolation in the end.[17]

Law is seen to offer a bulwark against confusion, and its neglect is ineluctably tied to the destruction of civilisation itself.

I now turn to the system of common law courts, as it was experienced by the majority of citizens in the period, through the dual operation of the quarter sessions (so-called because they occurred four times a year), and the assizes, where professional judges from London rode the circuit (six in total) bi-annually to deliver justice to the provinces. One of the defining characteristics of common law procedure in early modern England is its participatory structure, as touched on in the introduction.[18] This is in large part due to the pivotal role of the jury of twelve peers,[19] but it also extends to a range of non-professional officers drawn from the locality, without whom the early modern legal system could not have operated.[20] This includes

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[17] Taken from *William Lambarde and Local Government: His "Ephemeris" and Twenty-nine Charges to Juries and Commissions*, ed. by Conyers Read (Ithaca, New York: Cornell University Press for The Folger Shakespeare Library, 1962), p. 128. He continues, 'to take from men the exercise of law were to draw the benefit of the sun from the world, whereof palpable darkness, confusion, and horror of all things would immediately follow and fall upon it', p. 128.

[18] See pp. 47-9. The best introduction to this idea is Cynthia B. Herrup's *The Common Peace: Participation and the Criminal Law in Seventeenth-century England* (Cambridge: Cambridge University Press, 1987).

[19] The importance of trial by jury in early modern England is dealt with in more detail in Chapter Two on *Titus Andronicus*.

[20] 'Mediating between the national legislative ideal and ambivalent local realities was the whole apparatus of Tudor and Stuart local government', Keith Wrightson, 'Two Concepts of Order: Justices, Constables and Jurymen in Seventeenth century England', in *An Ungovernable People: The English and their Law in the Seventeenth and Eighteenth Centuries*, ed. by John Brewer and John Styles (London: Hutchinson, 1980), pp. 21-46 (p. 26).

justices of the peace, sheriffs, bailiffs, gaolers, coroners, and constables.[21] Of these, the local justices of the peace are by far the most important officers of the law, due to their powers to examine suspects, take recognizances, commit suspects to prison, and bind over anyone found to be disturbing the King's peace.[22] They also sat in judgement at the quarter sessions, courts designed originally to deal with all crime in the area, but which came to deal mainly with petty offences and misdemeanours, as well as the administrative duties of local government.[23] The justices of the peace were drawn from the local population to adjudicate on matters directly affecting their own communities on a quarterly basis, and so questions of social harmony had a place alongside the strict demands of state justice. This led to what Keith Wrightson has identified as two competing concepts of order: 'The maintenance of order meant less the enforcement of impersonal regulations than the restraint of conflict among known individuals in a specific local context'.[24] Or in the words of William Lambarde:

> And lest we should either be wearied in seeking these needful helps a great way off and far from us, or should be over-roughly entreated by strange persons that might be sent for the administration of [the laws] amongst us,

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[21] Sharpe gives an excellent summary of these officers and their various functions in *Crime in Early Modern England*, pp. 40-50.

[22] *Crime in Early Modern England*, pp. 40-1.

[23] *Crime in Early Modern England*, pp. 33-4.

[24] 'Two Concepts of Order', p. 24. Wrightson argues that the 'concept of order was ubiquitous, but this is not to say it was monolithic' (p. 22), giving the following vivid example: '"Unlawful gaming" and "inordinate tippling" in a "disorderly alehouse" in the eyes of the law might be "good fellowship and a good means to increase a love amongst neighbours" in the eyes of villagers', p. 25. See also J. A. Sharpe, 'Enforcing the Law in the Seventeenth-Century Village', in *Crime and the Law: the Social History of Crime in Western Europe since 1500*, ed. by V. A. C. Gatrell, Bruce Lenman and Geoffrey Parker (London: Europa, 1980), pp. 97-119, for an account of the variety of non-trial-based methods of control available in the locality, including the practice of summary conviction before a justice, binding over, and the use of the house of correction.

> the selfsame laws have brought justice home to our very doors and have commanded the same to be distributed by men of our own country, yea, our near neighbours and familiars, our dear friends and kindred.[25]

In contrast to the justice of the peace from quarter sessions are the London-based judges of the assizes: 'By 1550 there were six circuits, each ridden by two justices, twice a year. They were usually judges in the superior court and in this sense they represented central law'.[26] The distinction between the local justice and a centrally-appointed judge is crucial, as each brought their own values and motives to the proceedings.[27] Unlike justices of the peace, assize judges were trained at Serjeants' Inn, with much more technical knowledge of legal intricacies. For this reason the bulk of felony trials as well as any other difficult cases were held over from quarter sessions until assizes. This became formalised in the 1590 provision known as *casus difficultatis*, requiring that local justices refer any complex cases or questions of law to the Serjeants' Inn, London.[28] This 'ensured that trial of capital felony became the prerogative of the assizes', but even more importantly, it showed a desire to keep important matters of law out of

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[25] *William Lambarde and Local Government*, p. 92. Shakespeare too praises the local justice: 'I am Robert Shallow, sir, a poor esquire of this county, and one of the King's justices of the peace', *2 Henry IV*, 3.2.56.

[26] Michael J. Braddick, *State Formation in Early Modern England c. 1550-1700* (Cambridge: Cambridge University Press, 2000), p. 37.

[27] On the differing authorities and priorities of justices of the peace versus assize judges, see Herrup, pp. 63-5; Wrightson, 'Two Concepts of Order'; Braddick, p. 36ff. Steve Hindle says: 'Some magistrates were acutely sensitive to this difficulty of reconciling the priorities of the state with those of the community', *The State and Social Change in Early Modern England, 1550-1640* (Basingstoke: Macmillan Press, 2000), p. 130.

[28] '[I]n all cases of ambiguitie and doubt, they shall spare to proceed to iudgement, and shall expect the advise [*sic*] either of some one of the Iudges of the Kings Bench, or of the Common place, or (at the least) of the one of the iustices of Assise in that Countie', William Lambarde *Eiranarcha, or Of the Office of the Iustices of the Peace...Whereunto is added the newly reformed Commission of the peace* (London, 1591) (available on EEBO, STC no. 15166), p. 49.

the hands of those with no formal legal training drawn from the locality.[29] The division between local justice and London judge may be a crude one; nevertheless it does serve as a useful warning against taking a label such as 'judge' at face value. Homogeneity is not a characteristic of early modern law. While quarter sessions 'brought justice home to our very doors...to be distributed by men of our own country',[30] the assize circuit presided over by professional judges has come to be associated with the interests of the state, 'a vehicle for executive control' carrying the message of their monarch from centre to locality.[31]

The idea of law as a social tool is an important one in the period, yet it must also be recognised that the structures of law were fundamental to the governance of early modern England: 'The law had a political nature, not least because the state used the courts as a chief means of exercising authority and enforcing regulations'.[32] The assizes offer a good example of this, accompanied as they were by a degree of pomp and ceremony, which Braddick describes as 'the ritual display of social and political order': 'Like the pulpit, the assize courts were a means of publicising royal policy and projecting the authority of the crown'.[33] Instrumental in

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[29] *Crime in Early Modern England,* p. 33. John Langbein observes how restrictions in the commission granting justices of the peace their jurisdiction 'kept power in the hands of the professionals', i.e., assize judges, in *Prosecuting Crime in the Renaissance: England, Germany, France* (Cambridge, MA: Harvard University Press, 1974), p. 116.

[30] Lambarde, *William Lambarde and Local Government*, p. 92.

[31] Cockburn, *A History of English Assizes 1558-1714* (Cambridge: Cambridge University Press, 1972), pp. 153-87 (p. 153).

[32] *Crime in Early Modern England*, p. 201.

[33] Braddick, p. 38. Barbara Shapiro echoes this sentiment when she says: 'When those judges went out on circuit from the capital to hold civil and criminal trials in the localities, central authority was projected into the countryside', in 'Political Theology and the Courts: A Survey of Assize Sermons c.1600–1688', *Law and Humanities*, 2 (2008), 1-28 (p. 1). See also Holger Schott Syme, *Theatre and Testimony in Shakespeare's England: A Culture of Mediation* (Cambridge: Cambridge University Press, 2012): 'Legal and government officials throughout the land were imagined to speak for and in place of the monarch, and it was through their actions and speech acts that king or queen established a palpable presence in the realm', p. 6. Speaking of a later period, Douglas Hay says of the assizes that they were 'the most visible and elaborate manifestation of state power to be seen in the countryside', 'Property, Authority

this was the judge's charge to the grand jury at the assizes, which was clearly intended for a wider public audience: 'And when I speake to yow I conceave that I speake to the whole countye of Yorke, for yow represent the whole bodye of this whole countye'.[34] These charges were a statement of government policy as much as they were a reiteration of points of law, and have justly been described as secular sermons.[35] The charge by Serjeant Davis to the grand jury at York Assizes from 1620 encapsulates this political dimension to legal procedure: 'The publick peace is the cause that youre fruitfull feyldes are so well manured...and all the commodytyes of the earth improved'.[36] Lambarde puts the case in even stronger terms in a charge to the quarter sessions at Maidstone from 29 April 1595: 'if these good laws were not, our whole course and conversation should be disturbed and could be nothing else but a continual confusion, horror, and a living death'.[37] Such vehement expression of the necessity of law to the lives of citizens indicates the importance attached to the courts and their proper functioning. Barbara Shapiro thus sees in the assize system

> a channel through which a politically active segment of the population received repeated reinforcement of a rather complex political story – one of the legitimacy of central political power and legal authority projected into

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and the Criminal Law', in *Albion's Fatal Tree: Crime and Society in Eighteenth Century England*, ed. by Douglas Hay et al. (London: Allen Lane, 1975), pp. 17-63 (p. 27).

[34] Judge at York assize 1620, quoted in *History of English Assizes*, p. 308.

[35] 'Property, Authority and the Criminal Law', p. 28. Hindle too sees the charge as a political tool, one which also borrows from the power of theatre itself, as he notes how 'the lord keeper's address was echoed and embellished by the judges in the political theatre of the assize', p. 6.

[36] *History of English Assizes*, p. 309.

[37] *William Lambarde and Local Government*, p. 117. Lambarde occupies the unusual position of local justice of the peace, despite his evident legal expertise.

> the countryside, divine in origin, but exercised under moral and religious obligations to truth.[38]

Speaking of the more overt political aspect of these charges, Hindle connects their use with 'periods of acute governmental anxieties, especially in the critical period 1595-1602'.[39] Did the law act as a mouthpiece for official policy from London, or did it serve its citizens with a view to justice for all? There are no clear answers to these questions, but we must be alert to the possibility that changes to the law could be motivated by political expediency as well as rational development.

Alongside the development of assize sessions as projections of royal authority, the late sixteenth century also saw the refinement of a further manifestation of state power – exemplary punishment:

> if the assizes was a particular instance of social theater, it was also a theater of blood. For the crucial ceremony, the one that gave all the earlier ones their meaning, was the ceremony of the gallows.[40]

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[38] Shapiro, 'Political Theology and the Courts', p. 28. Focusing on the sermon that preceded the trials, Shapiro says the occasion 'was a vehicle by which political meanings could be assigned to the spectacle about to unfold', p. 1. Brooks observes how charges help 'to piece together a fuller picture of the transmission of juristic ideas into the localities, and the ways in which they were articulated for those outside the social and political elite', *Law, Politics, and Society in Early Modern England*, pp. 87-92 (p. 87).

[39] Hindle, p. 6. The time-span of 1595 to 1602 covers the performance of at least five of the revenge tragedies covered in this study (*The Spanish Tragedy*, *Titus Andronicus*, *Antonio's Revenge*, *Hamlet*, and *Hoffman*).

[40] P. G. Lawson, 'Lawless Juries? The Composition and Behaviour of Hertfordshire Juries, 1573-1624', in *Twelve Good Men and True: the Criminal Trial Jury in England, 1200-1800*, ed. by J. S. Cockburn and Thomas A. Green (Princeton: Princeton University Press, 1988), pp. 117-57 (p. 148).

In her study of the social meaning of violence in early modern England, Susan Dwyer Amussen puts it simply: 'punishments were public; spectacle was central to punishment'.[41] The word 'spectacle', now synonymous with entertainment, was used in early modern England to describe works of an exemplary nature.[42] Noting the extension of judicial authority in general, and the elevation of state execution to an art-form in particular, Hindle sees this as 'the first period in criminal justice history to see the significant broadening of the scope of felony and the peculiar elaboration of the theatrical element of public execution'.[43] The inherently theatrical quality of the gallows has significant implications for the study of early modern drama, particularly, I would argue, for a genre centrally concerned with the more spectacular elements of justice.[44] Foucault famously characterised the gallows of early modern France as the 'spectacle of the scaffold', and while the applicability of Foucault's theory of punishment to an English context has been challenged in recent years, the link between public execution and exemplary spectacle still stands.[45] As one preacher put it at the Essex assizes in 1660, 'stocks,

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[41] Susan Dwyer Amussen, 'Punishment, Discipline and Power: The Social Meanings of Violence in Early Modern England', *Journal of British Studies*, 34 (1995), 1-34 (p. 11).

[42] OED cites Wilkinson, 1579: Judas 'should be a notable spectacle of God's vengeance'. Huston Diehl also gives the example of Calvin describing the image of fallen man as a 'sorry spectacle' in his *Institutes of the Christian Religion* (1.15.4), in *Staging Reform, Reforming the Stage: Protestantism and Popular Theater in Early Modern England* (London: Cornell University Press, 1997), p. 89.

[43] Hindle, p. 119.

[44] This link is explored in, for example, Sarah Covington's 'Cutting, Branding, Whipping, Burning: The Performance of Judicial Wounding in Early Modern England', in *Staging Pain, 1580–1800: Violence and Trauma in British Theater*, ed. by James Robert Allard, and Matthew R. Martin (Farnham: Ashgate, 2009), pp. 93-110. Covington is mostly concerned with the interactions between judicial punishment and medieval morality plays. See also James Shapiro, '"Tragedies Naturally Performed": Kyd's Representation of Violence', in *Staging the Renaissance: Re-interpretations of Elizabethan and Jacobean Drama*, ed. by David Scott Kastan and Peter Stallybrass (London: Routledge, 1991), pp. 99-113: 'The lines separating official and theatrical violence are blurred, as Kyd's play insistently seeks out representational no-man's-land, testing the boundaries between the prerogatives of the state and those of the theater', p. 100.

[45] Michel Foucault, *Discipline and Punish*: 'The public execution is to be understood not only as a judicial, but also as a political ritual. It belongs, even in minor cases, to the ceremonies by which power is manifested', p. 47. See Hutson, 'Rethinking the "Spectacle of the Scaffold"', p. 30ff, for the problems inherent in applying Foucault's theory grounded in early modern French practices to the very different

and whips, pillories and ropes, the prison and the gallows are those engines upon which hangs the garland of peace'.[46] This was a ceremony with a clear didactic purpose; 'civil and religious authorities designed the execution spectacle to articulate a particular set of values, inculcate a certain behavioural model and bolster a social order perceived as threatened'.[47] As for the utility of executing criminals for all to see, Hindle posits that

> Public punishment served three purposes: the renewal of community values as a consequence of general disapproval of deviant acts; the discouragement of others from committing similar offences; and the reaffirmation of the moral boundaries of society.[48]

When it comes to the efficacy of such a system, it is equally important to realise how careful the authorities were in whom they chose to send to the gallows, as '[e]xemplary punishment by definition required relatively few victims'.[49] Again a certain amount of flexibility would appear to be built into the workings of the law: 'Early-modern criminal justice was founded on the logic of exemplary punishment, and this logic demanded that the law be

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legal context of early modern England. I discuss this in more detail in relation to *Titus Andronicus* in my next chapter.

[46] Nathaniel Hardy, quoted by Sharpe, *Crime in Early Modern England*, p. 206.

[47] J. A. Sharpe, '"Last Dying Speeches": Religion, Ideology and Public Execution in Seventeenth-Century England', *Past & Present*, 107 (1985), 144-67 (p. 148). Sharpe's study is on the pamphlet literature which grew up around this ceremony, and how the criminals themselves 'were the willing central participants in a theatre of punishment...they were helping to assert the legitimacy of the power which had brought them to their sad end', p. 156.

[48] Hindle, pp. 123-4.

[49] Hindle, p. 124.

enforced selectively rather than absolutely'.[50] J. H. Baker estimates that the number of convicted felons condemned to death was between ten and twenty percent, and of these only around half were actually executed.[51] Aggregating the available statistics, Alan Macfarlane proposes that somewhere between 2.5 to 7.5 percent of those indicted for felony met their fate on the gallows or equivalent.[52] This would suggest that the severity of early modern law in particular instances is matched by a canny tractability by those who administered justice in early modern England; as Bacon puts it, '[i]n causes of life and death, judges ought (as far as the law permitteth) in justice to remember mercy, and to cast a severe eye upon the example, but a merciful eye upon the person'.[53]

Thus as well as multiplicity and fluctuation being defining characteristics of early modern law, flexibility is an important component in any account of the workings of England's legal system at this time. This idea is shared by those who have studied early modern law in practice: 'Perhaps the best characterization of the formal system would be to say that a harsh legal code existed, but that a great deal of flexibility and compromise was permitted in its

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[50] Lawson, p. 157. For an excellent account of this selectivity in action see Herrup, pp. 168-90, where she analyses how the community discriminated between occasional moral lapses and repeat offenders, as well as preferring outsiders to locals for participation in the spectacle of punishment.

[51] J. H. Baker, 'Criminal Courts and Procedure at Common Law, 1550-1800', in *Crime in England, 1550-1800*, ed. by J. S. Cockburn (London: Methuen, 1977), pp. 15-48 (p. 43). Strictly speaking, all felonies in early modern England were punishable by death, but leniency was possible through such mechanisms as benefit of clergy (see the entries on 'branding' and 'felony' in Sokol and Sokol, *Shakespeare's Legal Language*, pp. 41-44; pp. 123-5; Herrup, pp. 48-50: 'Although benefit of clergy had outgrown its original purpose by the sixteenth century, it remained in use because it provided a means for punishing first offenders (whether clerical or lay) without executing them', p. 48). For a concise account on the workings of benefit of clergy, see J. S. Cockburn, ed., *Calendar of Assize Records: Introduction, Home Circuit Indictments: Elizabeth I and James I* (London: Her Majesty's Stationery Office, 1985), pp. 117-21.

[52] Alan Macfarlane in collaboration with Sarah Harrison, *The Justice and the Mare's Ale: Law and Disorder in Seventeenth-Century England* (Oxford: Blackwell, 1981), p. 195 (using figures available in J. S. Cockburn, *A History of English Assizes 1558–1714* (Cambridge University Press, 1972).

[53] Francis Bacon, 'Of Judicature', in *The Essays*, ed. by John Pitcher (Harmondsworth: Penguin, 1985), pp. 222-5 (p. 223).

application'.[54] Hindle couches the history of state formation in early modern England in similar terms: 'The process of state formation necessitated the renegotiation of institutional and communal interests at every stage of law enforcement: the reconciliation of "two concepts of order" was continuous'.[55] In the concluding paragraph of his book, he goes on to say that the 'negotiation of authority in local society is, indeed, evident in all the social dramas which characterised early modern communities'.[56] Hindle's study of state formation and social change does not extend to the literary output of the early modern period, yet his use of the word 'drama' is suggestive. If the 'negotiation of authority' is evident in all the social dramas of early modern England, surely this too is in evidence in the other dramas of the period, being written and performed in the playhouses of early modern London. Having given some idea of the complexity and ubiquity of law at this time, I now turn to the first in a long line of revenge tragedies that dominate London's public theatres in the late sixteenth- and early seventeenth-centuries, to see the enactment of just such a 'negotiation of authority'.

The Spanish Tragedy: Judging the Judges

As the first early modern revenge tragedy, Thomas Kyd's *The Spanish Tragedy* adumbrates many of the themes and conventions that would come to characterise the genre.[57] Hamlet's

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[54] Macfarlane, p. 195. Cf. Herrup who asserts that while the 'rigidity of English criminal law reflected its moral underpinnings, the flexibility of enforcement reflected a realization of the frailty of humanity', p. 195.

[55] Hindle, borrowing Wrightson's terminology, p. 120. Elsewhere Hindle puts it as follows: 'Historians should therefore think less of *government* as an institution or as an event, than of *governance* as a process' (original emphasis), p. 23.

[56] Hindle, p. 238.

[57] I take *The Spanish Tragedy* (c.1587) as my starting point for revenge tragedy because, unlike *Gorboduc* (1565), *Horestes* (1567) or *Gismond of Salerne* (c.1567), it was written for the public stage and not for private performance at the Inns of Court. This has a marked influence on the social and political alignment of the revenge tragedies of the popular stage.

'antic disposition' (1.5.170) has as its forerunner Hieronimo's ambiguous performance of insanity-as-disguise, while Kyd's yoking together of revenge and theatricality in the play-within-the-play leaves an indelible mark on subsequent revenge tragedies well into the seventeenth century.[58] The play's enduring popularity throughout the period must also suggest that its themes struck a chord with contemporary audiences.[59] It is my contention that Kyd's play contains within it a sustained engagement with legal discourse, which, I argue, is another hallmark of the revenge genre. As Emma Smith puts it in her edition of five revenge tragedies: 'In its representation of a man seeking justice for a murder which the institutions of the state seem powerless to respond, Kyd's *The Spanish Tragedy* initiated a pattern followed by subsequent revenge tragedies'.[60] Kyd stages no fewer than four trial scenes, one of which leads to an execution onstage, which 'conforms closely in its outward features to the spectacle of public execution with which Londoners would have been familiar'.[61] My primary concern is to excavate these legal resonances, which are frequently noted in passing but rarely the subject of more in-depth analysis.[62] For example, it is often observed that Hieronimo is the Knight

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[58] For example the murderous nuptial masque in Middleton's *Women Beware Women* (5.2), in *Thomas Middleton: The Collected Works* (first printed 1657, written c.1620).

[59] The play was performed twenty-nine times between 1592 and 1597, Emma Smith, ed., Introduction, *The Spanish Tragedie* (Harmondsworth: Penguin, 1998), p. xiii. James Shapiro also notes that the play went through eleven editions by 1633, '"Tragedies Naturally Performed"', p. 112, n. 14.

[60] Smith, *Five Revenge Tragedies*, p. xv.

[61] James Shapiro, '"Tragedies Naturally Performed"', p. 102.

[62] Lorna Hutson has taken seriously the affinities between Hieronimo's mode of investigation and early modern forensic rhetoric, which has provided a strong basis for my own work; see *The Invention of Suspicion*, chapter 6, pp. 277-86. My argument is more concerned with drawing out the tensions inherent in the early modern legal system towards the end of the sixteenth century, and how these manifest themselves in contemporaneous revenge plays.

Marshal of the Spanish court, but this is then taken to be a cruel piece of irony, or as a marker of his later depravity.[63] As Semenza puts it:

> [N]o fact in *The Spanish Tragedy* so loudly proclaims the failure of the public justice system as the decision of Spain's chief magistrate to pursue justice through self-governmental means.[64]

The other familiar argument is that in order to become a revenger, Hieronimo must take on the 'savage amorality' of his enemy, and there is much critical weight to recommend such a reading.[65] Rather than discussing how 'the hero is changed from his normal social self to a monster of revenging fury',[66] I argue that Hieronimo's revenge relies heavily on his experience as an official of state justice: 'For blood with blood shall, while I sit as judge,/ Be satisfied, and the law discharged' (3.6.36).

Instead of measuring the distance that Hieronimo travels from sane judge to mad revenger in the course of the play, I wish to draw out the structural similarities between playhouse revenge and courtroom justice. As I will demonstrate, Hieronimo does not simply

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[63] See for example, John Kerrigan, *Revenge Tragedy: Aeschylus to Armageddon* (Oxford: Clarendon Press, 1996), p. 177; Peter Womack, *English Renaissance Drama* (Oxford: Blackwell, 2006), pp. 129-30; Jonathan Bate calls it 'highly significant', 'The Performance of Revenge: *Titus Andronicus* and *The Spanish Tragedy*', in *The Show Within: Dramatic and Other Insets. English Renaissance Drama (1550-1642)*, ed. by Francois Laroque, 2 vols (Montpellier: Paul-Valéry University Press, 1992), II, (1992), pp. 267-83 (p. 275).

[64] Gregory M. Colón Semenza, '*The Spanish Tragedy* and Revenge', in *Early Modern English Drama: A Critical Companion*, ed. by Garrett A. Sullivan Jr, Patrick Cheney and Andrew Hadfield (Oxford: Oxford University Press, 2006), pp. 50-60 (p. 58). Semenza's notion of self-government is itself a problematic assumption, in the context of the well-developed Elizabethan legal system described thus far, as argued in my Introduction, p. 35.

[65] Peter Mercer, Hamlet *and the Acting of Revenge* (London: Macmillan, 1987), p. 41. See also Sandra Clark's assertion in discussing Hieronimo's plight, that '[s]ocial bonds and obligations have no currency; Hieronimo is driven back on his own sense of family loyalty and the archaic compulsion to revenge', *Renaissance Drama*, Cultural History of Literature series (Cambridge: Polity, 2007), p. 136.

[66] Mercer, p. 2.

choose the path of bloody vengeance and pursue his enemies to the death. Rather, he seeks justice for a murdered son in ways strikingly similar to contemporaneous legal procedures, from his initial evidence gathering to the spectacle of his final revenge plot. This does not lead me to conclude, as Jonathan Bate does, that the play shows how 'official justice is no different from revenge'.[67] Rather than viewing theatre's relation to the law as inherently subversive, I contend that a far more open critical stance towards the law is implied, especially when we consider the familiarity of early modern citizens with legal discourse. I believe that Kyd juxtaposes private revenge and public law without fully resolving the contradictions between the two. This opens up a much richer interpretive field for the genre as a whole, revealing a serious interrogation of legal procedure at the heart of the first popular early modern revenge tragedy.

'Soliciting for justice and revenge' (3.7.14)

G. K. Hunter observes of *The Spanish Tragedy* that it is the need for justice more than the desire for revenge that drives the play, uniting as it does the framing device, subplot and main action.[68] Throughout the play, the imperative to see justice done is set against the need to be patient and await the working of God's providence:

> The heavens are just, murder cannot be hid;
>
> Time is the author both of truth and right
>
> And time will bring this treachery to light.
>
> 2.5.57

[67] Bate, 'The Performance of Revenge', p. 278.

[68] G. K. Hunter, 'Ironies of Justice in *the Spanish Tragedy*', in *Dramatic Identities and Cultural Tradition: Studies in Shakespeare and his Contemporaries* (Liverpool: Liverpool University Press, 1978), pp. 214-29 (p. 217). Of course, the opposition between justice and revenge has been shown to be less clear-cut than is often assumed, see my Introduction, p. 38ff.

Such providentialism is complicated by the framing device of non-Christian deities who have their own scheme of reciprocity. In this scheme, the death of Horatio is only an intermediate step towards the murder of Don Lorenzo and Balthazar for Don Andrea's slaying on the battlefield. The entire play is presided over by a personification of Revenge, who accompanies the ghost of Don Andrea to the upper world and comments intermittently on the ensuing murders. The revenge for Don Andrea's death leads to the death of his close friend Horatio, yet his protests to Revenge are ineffectual: 'Then argue not, for thou hast thy request' (3.15.39). Clearly a point is being made here about the cyclical and unending nature of revenge; the final words of the play, spoken by Revenge, are 'endless tragedy' (4.5.48). But without mitigating the negative effects of revenge, I believe that the parallels Kyd draws between legal and extra-legal action are deliberate and worthy of attention.

For example, it is no idle detail that Don Andrea's case is brought before three judges of the underworld in the opening scene. Kyd structures his Classical underworld along the lines of the English judicial system; the judges, Aeacus, Rhadamanth and Minos, are shown to confer in the manner of justices of the peace, before resolving to pass the matter on to a higher authority (1.1.53). This exactly mirrors the provision for local justices to refer any complex cases or questions of law arising from quarter sessions to the assize judges or Serjeants' Inn, London.[69] Kyd also inserts a lively scene of local law enforcement, when he presents the arrest of Pedringano in 3.3 by officers of the watch:

> 1 [Watch]: Hark gentlemen, this is a pistol shot.
>
> 2 [Watch]: And here's one slain: stay the murderer.
>
> Pedringano: Now by the sorrows of the souls in hell.
>
> *He strives with the Watch*

[69] On the *casus difficultatis* clause, see p. 66 above.

3 [Watch]: Sirrah confess, and therein play the priest,

Why hast thou thus unkindly killed the man?

3.3.34

Much like Shakespeare's well-meaning constable Dogberry (*Much Ado About Nothing*, 3.3), what the Watch lack in professionalism they make up for in amateur enthusiasm. Paying attention to such contemporary and local details within the foreign world of the play can lead to conclusions which go beyond the conventional reading that it portrays 'the dehumanizing power of the revenge impulse'.[70]

As for the protagonist's position as Knight Marshal, this doubtless heightens the irony in his pursuit of bloody vengeance for his son's murder; it is all the more shocking for a judge to utter the words, 'For justice is exiled from the earth' (3.13.145). Hieronimo's vigilantism would seem to contain within it an implicit rejection of judicial procedure, but such a superficial reading is repeatedly complicated by Kyd. Mercer assumes that Hieronimo's desire for revenge is automatically bloody and monstrous, even in the second act.[71] He claims that the 'most obvious course of action, to cry murder and demand justice, is not even considered'.[72] But this ignores the many instances of Hieronimo doing precisely that: 'Justice, O justice, justice, gentle king!' (3.12.63). From the outset Hieronimo is wholly prepared to pursue his revenge by legal means: 'I will go plain me to my lord the king,/ And cry aloud for justice through the court' (3.7.69). Catherine Belsey astutely observes that 'it is the sovereign's failure to administer

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[70] Semenza, '*The Spanish Tragedy* and Revenge', p. 56.

[71] Mercer takes the line 'For in revenge my heart would find relief' (2.5.41) as proof that Hieronimo seeks 'a more chilling satisfaction', p. 42. But 'revenge' in the early modern sense has a wider range of meanings than this, see Introduction, p. 39.

[72] Mercer, p. 43.

justice which inaugurates the subject's quest for vengeance'.[73] But it would be a mistake to assume that extra-legal vengeance is Hieronimo's primary objective; as Hutson puts it, his pursuit of revenge 'is not a wild or violent one; it is the path of judicial due process'.[74] It is not that Hieronimo seeks legal remedies in lieu of revenge, but rather that for him they are one and the same; there is no contradiction in his pleas to heaven '[s]oliciting for justice *and* revenge' (3.7.14, my emphasis).[75] Hieronimo's search for a 'just revenge' is thwarted, but it is important to bear this impetus in mind when reviewing his subsequent actions.[76]

Kyd is quick to bring his audience's attention to the universal, almost symbolic, nature of Hieronimo's quest for justice,[77] in a passage that also points up the close relation between justice and vengeance. Within two hundred lines of discovering the body of his son, and before the idea of private revenge has been broached, Hieronimo emerges on stage alone:

> O world, no world, but mass of public wrongs,
>
> Confused and filled with murder and misdeeds;
>
> Oh sacred heavens! If this unhallowed deed,
>
> .../.../...

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[73] Belsey, *The Subject of Tragedy*, p. 111. Cf. Janet Clare, *Revenge Tragedies of the Renaissance* (Devon: Northcote House, 2007): 'If he cannot find legal redress, he must become the executioner himself', p. 31.

[74] *The Invention of Suspicion*, p. 284.

[75] As discussed in the Introduction, the idea of a revenge which in itself is perfectly legal is in no way strange in the early modern period, p. 49.

[76] The phrase 'just revenge' is used by Hieronimo when describing how the distraught Isabella 'cries on righteous Rhadamanth/ For just revenge against the murderers' (3.13.147). Such a juxtaposition is not unique to Kyd, and can be seen in Golding's translation of Ovid's *Metamorphoses*, when Minos asks of Aeacus that he 'assist me in the just/ Revengement of my murdered son that sleepeth in the dust' (7.617), Ovid, *Metamorphosis*, trans. by Arthur Golding, ed. by Madeleine Forey (Harmondsworth: Penguin, 2002), p. 218. Thus the judges of the underworld in Kyd's play are themselves implicated in a pattern of vindictive justice.

[77] What Mercer calls 'an action with many of the qualities of ritual', p. 42.

> Shall unrevealed and unrevenged pass,
>
> How should we term your dealings to be just,
>
> If you unjustly deal with those that in your justice trust?[78]
>
> 3.2.3

The crux of the play, and to a certain extent the genre, is articulated here, whereby revengers seek justice in an unjust world, amid a 'mass of public wrongs'. Hieronimo's utterance here relates directly to the rhetoric of law as the bulwark of civilisation, which continually reminded citizens that without law 'all kingdoms and estates would be brought to confucyon, and all humane society would be dissolved'.[79] Compare William Lambarde's charge to a quarter session jury in 1595, when he says:

> [I]f these good laws were not, our whole course and conversation should be disturbed and could be nothing else but a continual confusion, horror, and a living death.[80]

Does not Hieronimo talk of his 'lively form of death' in the same scene (3.2.2)? For a more modern formulation, in his book *Homo Juridicus*, Alain Supiot says that the 'devices of the law must be held firmly in place if human beings and society are not to fall apart'.[81] Judges, both fictional and actual, fear the 'confusion' that would inevitably result from neglect of the law, which preserves the commonwealth and keeps anarchy at bay. That Hieronimo borrows from the ideology of law as the cornerstone of civilisation while meditating on his son's murder is

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[78] The failure of the iambic pentameter to contain Hieronimo's emotion at 3.2.11 is in itself telling.

[79] Judge at York assizes, 1620, quoted in J. S. Cockburn, *History of English Assizes*, p. 310.

[80] *William Lambarde and Local Government*, p. 117.

[81] *Homo Juridicus: On the Anthropological Function of the Law*, trans. by Saskia Brown (London: Verso, 2007), p. 40.

highly significant, again underscoring that his main aim is the reinstatement of justice more than the pursuit of a personal vendetta.

Of course, Hieronimo's struggle to secure justice for his own family is interspersed with scenes requiring him to dispense justice to the citizens of Spain; the job of Knight Marshal is one that all agree he is well suited to.[82] He even warns Pedringano (who has not yet been implicated in Horatio's murder):

> For blood with blood shall, while I sit as judge,
>
> Be satisfied, and the law discharged.
>
> 3.6.36

The chief magistrate of Spain has a clear conception of what justice entails, and this includes full and violent reciprocity, 'blood with blood'.[83] We must be careful not to artificially inflate the difference between these earlier scenes of official justice and the play's climax where Hieronimo is 'mad againe', as the title page of the 1615 edition has it, when on closer inspection the gap narrows considerably: '[T]here can be nothing more just than to bring the due revenge of law upon wicked and licentious persons'.[84]

After his own pleas for justice have been ignored by the king (3.12.63), Hieronimo delivers the crucial '*Vindicta mihi*' soliloquy in 3.13. Beginning as he does with the biblical

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[82] '[F]or learning and for law,/ There's not any advocate in Spain/ That can prevail, or will take half the pain/ That he will, in pursuit of equity' (3.13.51).

[83] 'Hieronimo gives the unbending principle of exchange and revenge its proper name, "the law"', Steven Justice, 'Spain, Tragedy, and *The Spanish Tragedy*', *Studies in English Literature, 1500-1900*, 25 (1985), 271-88 (p. 274). For Justice this idea of law applies specifically to dark Catholic Spain, and is therefore at a remove from Elizabethan England where mercy can prevail. I believe this elides the complex conceptualisation of legal retribution available to early modern English citizens.

[84] *William Lambarde and Local Government*, p. 157. Cf. Susan Dwyer Amussen, 'Punishment, Discipline and Power': 'Violence that was not legitimate gained in effectiveness because of its structural similarities to the legitimate violence', p. 33. Such a conception of violence is pertinent to the question of how 'legitimate' we deem Hieronimo's actions to be later on.

injunction against private revenge, Hieronimo shows himself aware of the Christian ethos against revenge and the need to attend God's will. Yet in his desperation, providential justice is rejected in favour of private vengeance, as he next quotes not from the Bible, but from Seneca: '*Per scelus semper tutum est sceleribus iter*' (3.13.6).[85] His turn towards vengeance is not a rejection of the pursuit of justice in itself. Instead of petitioning his own king, he redirects his efforts downwards, to the king of the underworld:

> Though on this earth justice will not be found,
>
> I'll down to hell and in this passion,
>
> Knock at the dismal gates of Pluto's court.
>
> 3.13.113

Despite claiming to have surrendered up his 'marshalship' (3.12.75), Hieronimo is drawn ineluctably to legal phrasing and the idea of the court. He next imagines himself arraigned before a panel of judges for his delays, met by a Fury to 'summon me to make appearance/ Before grim Minos and just Rhadamanth' (3.13.160).[86] Even in the midst of his delusions, Hieronimo still envisages the world in judicial terms.

Significantly, it is not the rejection of legal redress, but rather its denial that forces Hieronimo to '[k]nock at the dismal gates of Pluto's court' (3.13.115). The reasons for his choice lie in the failings of the Spanish legal system, which is shown by Kyd to be deeply flawed from the outset: 'Hieronimo's tragedy is not so much that of a man who makes the wrong choice as

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[85] 'The safest path to mischiefe is by mischiefe open still', from Seneca's *Agamemnon* (2.17), translated by John Studley and printed in *Seneca His Tenne Tragedies* (London, 1581) (available on EEBO, STC no. 22221). The book Hieronimo holds in his hands would seem to contain both the biblical and the classical passages, suggesting perhaps that it is Hieronimo's own personal commonplace book.

[86] These are of course the same justices Don Andrea encounters in the opening scene (1.1.53).

that of a man to whom the right choice is unavailable'.[87] Posner states that a 'central element of the concept of corrective justice is adjudicating disputes without regard to the status of the disputants'.[88] Hieronimo's inability to secure legal satisfaction is seen to stem directly from a judicial system that does not treat everyone as equals. We need only think of Lorenzo's reminder to Pedringano when convincing him to betray Bel-imperia: 'I stood betwixt thee and thy punishment' (2.1.51). Such a statement intimates that perversions of justice are a regular occurrence in Kyd's Spanish court.[89] Hieronimo gestures towards the social inequalities inherent in the system when he complains how his enemies '[w]ill bear me down with their nobility' (3.13.38). Hieronimo's role as Knight Marshal is compromised not by his own desire for vigilante justice, but by a biased legal system that privileges the ruling elite.

Class antagonism is also to be found in Lorenzo's grim pun, shared with the royal Balthazar, as they hang Horatio for his presumptuous love of the noble Bel-imperia: 'Although his life were still ambitious proud,/ Yet is he at the highest now he is dead' (2.4.61). Such details shift the play's focus onto more socio-political terrain: 'Hieronimo has a very clearly defined social position that makes him an appropriate figure for a middle-class London audience to identify with'.[90] Hieronimo's middling status has far-reaching implications, as revenge tragedy becomes notable for its portrayal of tragic protagonists not drawn exclusively from the

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[87] Steven Justice, p. 278.

[88] *Law and Literature: A Misunderstood Relation*, p. 58.

[89] Mercer's assertion that there is little evidence of general corruption (p. 45) seems to ignore the many scenes of questionable judgement that are deliberately juxtaposed with Hieronimo's revenge. One might also think of the crucial but often overlooked last clause of Lorenzo's words to Balthazar: 'Where words prevail not, violence prevails,/ But gold doth more than either of them both' (2.1.108).

[90] C. L. Barber, *Creating Elizabethan Tragedy: The Theater of Marlowe and Kyd* (London: University of Chicago Press, 1988), p. 135.

nobility.[91] This deserves closer attention in conjunction with social histories of the middling sort and the rise of political consciousness in seventeenth-century England.[92] Christopher Crosbie recognises that the play is riven with class tensions, seeing revenge 'not as the play's *raison d'être* but as a vehicle for its stymied middling protagonists to redirect their energies for advancement into a darker register'.[93] But Crosbie does not relate this to the play's most relevant and pressing social context, and that is the threat of arbitrary law replacing participatory justice. Before examining the precise relation between Hieronimo's final revenge and early modern conceptions of justice, therefore, I want to turn to the numerous scenes of judgement juxtaposed by Kyd, to 'begin judging the judgement of the judges'.[94] It is the Spanish king's failure to deliver justice to Hieronimo that triggers the chain of events leading to the final bloody spectacle, and this is by no means an isolated incident in the world of the play.

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[91] This provides an interesting parallel with the growth of city comedy and domestic tragedy in the 1590s – for example the anonymous *Arden of Faversham*, (1592), or Jonson's *Every Man in His Humour* (1598) – which are concerned with the portrayal of ordinary citizens, albeit in extraordinary circumstances.

[92] See, for example, *The Middling Sort of People: Culture, Society and Politics in England, 1550-1800*, ed. by Jonathan Barry and Christopher Brooks (Basingstoke: Macmillan, 1994); *The Experience of Authority in Early Modern England*, ed. by Paul Griffiths, Adam Fox and Steve Hindle; Hindle, *The State and Social Change in Early Modern England*.

[93] Christopher Crosbie, '*Oeconomia* and the Vegetative Soul: Rethinking Revenge in *The Spanish Tragedy*', *English Literary Renaissance*, 38 (2008), 3-33. Crosbie says of Kyd's foregrounding of class issues: 'Locating Hieronimo and Horatio as members of the "middling sort", a category roughly tantamount to the middle class, Kyd sets the Knight Marshal and his son in conflict with an entrenched aristocracy jealous to retain its own privileged insularity', p. 3.

[94] Gregory M. Colón Semenza, '*The Spanish Tragedy* and Metatheatre', in *The Cambridge Companion to English Renaissance Tragedy*, ed. by Emma Smith and Garrett A. Sullivan Jr (Cambridge: Cambridge University Press, 2010), pp. 153-62 (p. 156). In discussing the judicial theme of the play, Semenza references neither G. K. Hunter nor Lorna Hutson.

'They reck no laws that meditate revenge' (1.3.48)

In his essay 'Of Judicature', Bacon observes 'then is the virtue of a judge seen, to make inequality equal, that he may plant his judgement as upon an even ground'.[95] Yet inequality is much in evidence in the legal system portrayed by revenge tragedies of the period. I now want to turn to the other characters that Kyd sets up as arbiters of justice in *The Spanish Tragedy*, in order to see what exactly Hieronimo rejects by turning away from the legal system. The opening scene shows Don Andrea's case to be beyond the powers of Minos and his fellow judges, and so they resolve to send him on to Pluto, to 'doom him as best seems his majesty' (1.1.53). As king of the underworld, Pluto is the highest legal authority and guarantor of justice. Yet his decision on Don Andrea's fate sets a worrying trend for exemplary justice in the play:

> Whereat fair Proserpine began to smile,
>
> And begged that only she might give my doom.
>
> Pluto was pleased and sealed it with a kiss.
>
> 1.1.78

Persephone's 'doom' sets in train the entire revenge cycle we are about to witness, including the deaths of Balthazar, Lorenzo, Horatio, Hieronimo and the innocent Bel-imperia.[96] Rather than being suggestive of equity, this first encounter with the law displays a disturbing mix of partiality and seduction. This is the antithesis of proper judicial behaviour, according to Sir Edward Coke:

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[95] Bacon, 'Of Judicature', p. 223.

[96] That Don Andrea himself expresses no desire to be revenged in the opening scene tends to be overlooked; for example, Thomas Anderson asserts that Don Andrea's revenge is the 'reflex of a morally insane world', *Performing Early Modern Trauma from Shakespeare to Milton* (Aldershot: Ashgate, 2006), p. 166, n. 44.

> wee must vprightly Iudge, according to Equitie, without (in the least sort) beeing drawne, by respecting eyther Person or Profite, to beare a Partiall Hand in the Execution of Iudgement. Partialitie in a Iudge, is a Turpitude, which doth soyle and stayne all the Actions done by him.[97]

It is worth remembering at this point that 'the question of equity dominated jurisprudential thought of the entire century'.[98] While Hieronimo is praised for his tireless 'pursuit of equity' (3.13.54), the same cannot be said for Pluto's verdict. This is only the first of numerous encounters between kings and their laws which show legal impartiality tainted by personal feeling, casting doubts on a monarch's capacity for unprejudiced judgement.

The obvious objection here is that this 'trial' takes place in the underworld – that is, a hell of sorts – and so unfair judgements are to be expected. But in the world above, we are shown a similar blend of prejudice and favouritism. In the next scene, we see the King of Spain trusting to his innate sense of justice, as he adjudicates between his own son and Hieronimo's in the matter of Balthazar's capture on the battlefield. When asked to whom he yielded himself, Balthazar replies, 'To him [Lorenzo] in courtesy, to this perforce [Horatio];/ He spake me fair, this other gave me strokes' (1.2.162). While Horatio forced him to yield in battle, earning him the label 'this other', Lorenzo shows himself more skilled at the flatteries of court, replacing violent action with fair words. This illustrates just how deep-seated class bias is in the Spanish court. Hieronimo intervenes to warn the king of the dangers of partiality, albeit diplomatically:

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[97] *The Lord Coke his Speech and Charge with a Discouerie of the Abuses and Corruption of Officers* (London, 1607) (available on EEBO, STC no. 5491), sig. C3^{r}.

[98] Theodore Ziolkowski, *The Mirror of Justice: Literary Reflections of Legal Crises* (Princeton: Princeton University Press, 1997), p. 166. See also my Introduction, pp. 53-4.

But that I know your grace for just and wise,

And might seem partial in this difference,

Enforced by nature and by law of arms,

My tongue should plead for young Horatio's right.

1.2.167[99]

Hieronimo masks his advice in flattery, yet the self-effacing reference to 'partial' seems to apply as much to the king as it does to his servant. The king's verdict mixes the 'law of arms' with courtly etiquette, whereby the spoils of war are divided between both parties, while Balthazar is deemed more comfortable as Lorenzo's guest (1.2.186). The king's 'doom' (1.2.176) proves to be cruelly ironic for all concerned: 'Then by my judgement thus your strife shall end' (1.2.179). It is not difficult to anticipate problems arising from judging a case that concerns one's own family, and this is compounded by the differing social status of the parties involved.[100] As Edward Coke reminds his own audience in 1606, the jury at the Norwich Assizes: '*Caue ne sis Iudex inter Amicos* because *inter Amicos Inditare* [*sic*], Amongst friends to iudge, is a thing nothing more dangerous'.[101]

The problem of personal emotion influencing a sovereign's legal decisions is made even more explicit in the Portuguese court. Following the news of Portugal's defeat at the hands of Spain, the former King of Portugal is distraught at the thought of his son's death. When told by Alexandro of the possibility of Balthazar's survival, he feels sure this cannot be:

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[99] This bears comparison with Shakespeare's *Richard II*, when John of Gaunt must adjudicate on the quarrel between his son and Mowbray: 'You urged me as a judge, but I had rather/ You would have bid me argue like a father' (1.3.237).

[100] *The Revenger's Tragedy* shows a similar anxiety over the problem of impartial justice where family members are concerned, when the Duke delays the sentencing of his step-son Junior Brother (1.2).

[101] *The Lord Coke his speech and charge*, sig. B3^{v}.

Viceroy: Survives? Ay where?

Alexandro: In Spain, a prisoner by mischance of war.

Viceroy: Then they have slain him for his father's fault.

Alexandro: That were a breach to common law of arms.

Viceroy: They reck no laws that meditate revenge.

1.3.44

Law of arms is once again invoked only to be dismissed. The defeated monarch seeks to create his own binary between law-abiding citizen and bloody-minded revenger. But this is then undercut by the viceroy's own actions as the scene progresses.

Viluppo approaches the viceroy and promises him news of his son's fortune, in return for reward: 'Then hear that truth which these mine eyes have seen' (1.3.59). He then purports to recount the tale of Balthazar's death, contradicting Alexandro's version of events. In the midst of his grief, the viceroy convicts the innocent Alexandro without trial on Villuppo's false accusation. After renouncing his kingship and casting off his crown earlier in the scene, he makes a point of taking it back up before pronouncing Alexandro's doom: 'But now I'll wear it till thy blood be spilt' (1.3.87). The fact that the king reclaims his crown before passing sentence reminds the audience (if they needed reminding) that the title of sovereign invests the king with the power of justice. Here Kantorowicz's 'body politic' is invoked by a grieving father to pass sentence without any hearing.[102] The scene is 'admonitory of the consequences of failure to examine evidence', a mistake Hieronimo refuses to make.[103] Even more than this,

[102] Ernst Kantorowicz, *The King's Two Bodies: A Study in Medieval Political Theology* (Princeton: Princeton University Press, 1957), p. 9.

[103] *The Invention of Suspicion*, p. 281.

Kyd seems intent on showing the danger of royal prerogative fuelled by personal emotion instead of impartiality.[104]

As Curtis and Resnik observe in their trans-historical survey, '[a]ll sovereigns claim (notwithstanding evidence to the contrary) that their violence goes forth in the name of Justice'.[105] Three separate monarchs in the first three scenes are shown meting out justice however they deem fit – 'as best seems his majesty' (1.1.53) – trusting to their sovereign authority to guarantee the legality of their actions. Mukherji notes in relation to her own selection of plays that 'the vision of law that emerges from the drama of the period is one of a peculiarly human and contingent measure'.[106] Thus the law is already in crisis before the mainspring of the action, Horatio's murder, has even taken place. The imagined antithesis of conscientious law-giver and ruthless revenger voiced by the Portuguese sovereign is deeply complicated by the disregard for legal procedure demonstrated by the various heads of state. If *Gorboduc* or Shakespeare's history plays deal explicitly with questions of just and rightful kingship, revenge tragedy too asks what is, or should be, the relation between royal prerogative and divine justice.

In stark contrast to sovereignty's partiality is Hieronimo's scrupulous methodology. When describing a 'revenge system', in contrast to the law, Posner says revenge has no 'machinery of investigation and adjudication'.[107] *The Spanish Tragedy* challenges this notion by showing the revenger to be more meticulous than the various law-givers.[108] Hieronimo's first

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[104] The opening scene of *King Lear* also rehearses this problem (1.1).

[105] Dennis E. Curtis and Judith Resnik, 'Images of Justice', *Yale Law Journal*, 96 (1987), 1727-72 (p. 1734).

[106] Mukherji, p. 234.

[107] Posner, p. 111.

[108] *The Invention of Suspicion*, p. 279.

piece of evidence is Bel-imperia's letter, identifying Lorenzo and Balthazar as his son's murderers, and his judicial instincts are immediately apparent:

> What cause had they Horatio to malign?
>
> Or what might move thee Bel-imperia,
>
> To accuse thy brother, had he been the mean?
>
> 3.2.35

The language here is imported directly from the courtroom: Maus annotates 'mean' as 'perpetrator', while 'cause' and 'accuse' are distinctly legal.[109] After warning himself to 'be not credulous' (3.2.40), he next resolves to find corroborating evidence: 'I therefore will by circumstances try,/What I can gather to confirm this writ' (3.2.49).[110] Hieronimo's initial steps towards revenge echo trial procedure in the collection and verification of evidence, down to minute examination of a second letter in comparison with the first some scenes later: 'Now may I make compare 'twixt hers and this,/ Of every accident' (3.7.53). The presence of judicial methods of reasoning in the construction of plots from Gascoigne to Shakespeare has received some attention of late.[111] This forensic method is particularly interesting in *The Spanish Tragedy* because not only does it make use of legal habits of thinking in a dramatic context, but it actually represents the process of piecing together a case, by a legal official who is nevertheless

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[109] Katharine Eisaman Maus, ed., *Four Revenge Tragedies* (Oxford: Oxford University Press, 1995), p. 339. Cf. Mukherji, p. 6, on how Othello's line 'It is the cause, it is the cause, my soul' (5.2.1) relies on the legal resonances of 'cause'. Later in *The Spanish Tragedy*, Hieronimo employs the same lexicon: 'For you have given me cause,/ Ay, by my faith have you' (4.1.59).

[110] William K. Wiatt, 'The Dramatic Function of the Alexandro-Villupo Episode in *The Spanish Tragedy*', *Notes & Queries*, 5 (1958), 327-9: 'If the playgoer remembers here the credulity of the Viceroy, he should be willing to wait with Hieronimo for better evidence. He will realize that Hieronimo cannot, like the Viceroy, act when and as he chooses, and that, unlike the Viceroy, he must first seek justice through the law' (repr. in *Shakespeare's Contemporaries: Modern Studies in English Renaissance Drama*, ed. by Max Bluestone and Norman Rabkin, 2nd edn (New Jersey: Prentice Hall, 1970), pp. 57-60).

[111] On Gascoigne see James McBain, 'Early Tudor Drama and Legal Culture, c. 1485-1558', p. 215ff. Lorna Hutson discusses the emergence of the evidential plot in 'Forensic Aspects of Renaissance Mimesis', *Representations*, 94 (2006), 80-109 (p. 90).

operating outside the law. In a play so concerned with the notion of crime and punishment, the fact that legal process is integral to the plotting of revenge is only surprising if we do not take account of the proximity of revenge and law in an early modern context.

'See here my show, look on this spectacle' (4.4.89)

The Spanish Tragedy is a play suffused with scenes that reflect upon one another. The Spanish court is mirrored by its Portuguese counterpart; the Portuguese king thinks he loses a son when this is a reality for Hieronimo; for his part in the hanging of Horatio, Pedringano is himself hanged. Hieronimo comes face-to-face with Don Bazulto who has also lost his son, and whom he calls 'the lively image of my grief' (3.13.167). The very act of judgement is multiplied by numerous scenes ranging from underworld courts to judicial execution. The final play-within-the-play similarly reiterates and inverts what has gone before. 'Soliman and Perseda' is first and foremost a mirror-image for the larger play which the audience have just witnessed, but one where murderers are murdered and victims become vigilantes. But if we look to the structured and ritualised nature of the violence enacted onstage, the revenge play also acts as a warped mirror of legal procedure.

As Hieronimo becomes '[a]uthor and actor in this tragedy' (4.4.147), he is seen to exchange his role of Knight Marshal for that of Master of the Revels.[112] In critical assessments of the play's theatrical denouement, the impulse to revenge is taken to be inherently theatrical. Womack sees Kyd offering his audience 'an idea of theatre itself as a place where the injustices

[112] '*The Spanish Tragedy* and Revenge', p. 58.

of life are put right'.[113] Similarly, Semenza reads the play-within-the-play as metatheatrical and introspective, a place where the artist delivers the reciprocity denied by legal means:

> The suggestion here is that art, like revenge – but unlike the law or even the gods – is capable of satisfying our desire for essential equilibrium. In a sense, revenge *is* art because it is constructed order.[114]

Such a reading is consistent with much of the criticism of other stage revengers as introspective and metatheatrical, such as Vindice or Antonio.[115] This aestheticising impulse is put succinctly by John Kerrigan when he describes 'the familiar posture of the Elizabethan revenger, standing slightly outside his role, examining his actions like a playwright at work'.[116] But in making revenge theatrical, does Kyd depart from the forensic methods identified earlier? It is my contention that Hieronimo's final revenge is as judicial as it is artistic, since it is in the act of onstage revenge that law and drama are finally brought into communication, and conflict, with one another.

William Lambarde outlines his criteria for lawful punishment as follows:

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[113] Womack, p. 130.

[114] '*The Spanish Tragedy* and Revenge', p. 58. Semenza also says 'the grotesque and spectacular nature of Hieronimo's revenge plot is not so much the problem as it is the central point of *The Spanish Tragedy*', '*The Spanish Tragedy* and Revenge', p. 51, but this ignores the extent to which the 'spectacular' can also be instructive, see above, pp. 69-70.

[115] For example, Leslie Sanders, '*The Revenger's Tragedy*: A Play on the Revenge Play', *Renaissance & Reformation*, 10 (1974), 25-36; Lillian Wilds, 'The Revenger as Dramatist: A Study of the Character-as-Dramatist in *The Revenger's Tragedy*', *Rocky Mountain Review of Language and Literature*, 30 (1976), 113-22; Barbara J. Baines, '*Antonio's Revenge*: Marston's Play on Revenge Plays', *Studies in English Literature, 1500-1900*, 23 (1983), 277-94.

[116] *Revenge Tragedy*, p. 17. Kerrigan's description of 'Soliman and Perseda' as 'demonstrative not investigative' glosses over Hieronimo's earlier scrupulous investigations, p. 79.

> first, for the amendment of the offendor. Secondly, for examples sake, that others may thereby bee kept from offe[n]ding. Thirdly, for the maintainance of the authoritie and credite of the person that is offended: & these three reasons be common to all such punishments. Seneca rehearseth the fourth finall cause, that is to say, that (wicked men being take[n] away) the good may live in better securitie: and this pertaineth not to all, but to Capital punishments onelie.[117]

Hieronimo's personal revenge play conforms to a surprising degree to these criteria for public punishment. While the amendment of the offenders cannot apply *post mortem*, Lambarde's final reason pertaining to capital punishment supersedes this first. It is significant that the legal author is comfortable citing Seneca in his justification for capital punishment – the removal of wicked men from society. This can certainly be applied to Hieronimo's revenge plot, which echoes Seneca in its own way. The idea of punishment 'for examples sake' is also highly relevant to Kyd's theatrical denouement. Hieronimo refers to his play as a 'spectacle' not once but twice within the space of twenty-five lines, when justifying his actions by recounting the crimes of Lorenzo and Balthazar (4.4.89-113). By describing his actions as 'spectacle' Hieronimo seeks to elevate himself from murderer to executioner; he 'legitimizes the revenge itself by linking it to the spectacles of public execution and torture used by the early modern state'.[118]

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[117] Lambarde, *Eirenarcha,* p. 67. These punishment criteria are also used by Harry Keyishian in 'Punishment Theory in the Renaissance: the Law and the Drama', in *Shakespeare and the Law*, ed. by Paul Raffield and Gary Watt (Oxford: Hart Publishing, 2008), pp. 175-84.

[118] Annalisa Castaldo '"These were spectacles to please my soul": Inventive Violence in the Renaissance Revenge Tragedy' in *Staging Pain, 1580–1800*, pp. 49- 56 (p. 56). Cf. Clare: 'the link between stage and scaffold is particularly apparent as Kyd constructs dramatic entertainment for the public theatre from the images of public execution', p. 28.

Elsewhere the word 'spectacle' when used in the theatre is designed to accentuate the providential nature of what we see onstage, for example in Robert Yarrington's domestic tragedy of 1601: 'The Lord of heauen haue mercy on her soule/ And teach all other by this spectacle,/ To shunne such dangers as she ran into'.[119] What could be more exemplary than the divinely-ordained violence of public execution?[120]

The public nature of the revenge also serves to accentuate the legal resonances of the denouement. This desire for an audience is not simply the revenger's sadistic and ostentatious need to show off. Hieronimo needs the presence of the Spanish court to witness his drama of retribution: 'What is clear by the end is that revenge is not enough; the revenge must be public, spectacular, and witnessed in order to matter'.[121] By requiring that his audience judge what they have seen, Hieronimo makes them into unwitting, and unwilling, jurors to his public pronouncement of justice. As for maintaining the 'credite of the person that is offended', it is clear that Hieronimo views his actions as a duty that restores to him a sense of equilibrium or satisfaction. His subsequent defence similarly employs legal discourse to underline the judicial nature of his actions:

> Soliciting remembrance of my vow.
>
> With these, O these accursed murderers,
>
> Which now performed, my heart is satisfied.
>
> 4.4.127

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[119] Robert Yarrington, *Two Lamentable Tragedies* (London, 1601) (available on EEBO, STC no. 26076), sig. K2^{v}. The same scene sees Merry and his sister lament their evil-doings, the former claiming how 'we both must satisfie the lawe' and the latter saying 'let me be merror to ensuing times'.

[120] On the effects of real-life executions on early modern spectators, see J. A. Sharpe, '"Last Dying Speeches": Religion, Ideology and Public Execution in Seventeenth-Century England', *Past & Present*, 107 (1985), 144-67.

[121] Castaldo, p. 55. Cf. Bate, 'The Performance of Revenge': 'His courtroom is a play...it makes the playhouse into a courtroom in which the law itself is tried and found wanting', p. 280.

Just as he was seen earlier to solicit for justice and revenge (3.7.14), this passage makes it clear that Hieronimo wishes for his drama to be judged on judicial grounds. In the sixteenth century, 'to perform' was a verb used primarily not in the theatre, but in the courtroom, in relation to contracts, debts and vows.[122] The performance of one's duty was more current than the performance of a play, and it is in this context that we must take Hieronimo's utterance. Similarly, 'satisfied' implies the completion of an act previously agreed to, as in Bacon's *Maxims of the Law*: 'I shall satisfy my contract'.[123] Hieronimo's use of 'satisfied' at this point echoes his earlier utterance as Knight Marshal, when meting out Pedringano's punishment: 'For blood with blood shall, while I sit as judge,/ Be satisfied, and the law discharged' (3.6.36). Lastly, Hieronimo's 'authoritie' as Knight Marshal is in a sense symbolically re-instated in this scene, fulfilling Lambarde's remaining criteria.

Thus, while Hieronimo clearly steps outside the justice system that has failed him, his own revenge closely parallels the methods and procedures of official justice. This is not to say Hieronimo's revenge is not vindictive, for as we have seen in the introduction this is an active ingredient in early modern law.[124] The other key components of legal procedure and due process are all present to some extent; we have already seen Hieronimo's pursuit of justice in the court at the start, and when this is frustrated he plots a revenge that is both public and participatory.[125] Unlike the verdicts passed down by the Portuguese and Spanish monarchs,

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[122] OED's first definition is 'To carry out in action, execute, or fulfil (a command, request, undertaking, threat, etc.); to carry into effect, discharge (a service, duty, etc.)'.

[123] Bacon, *Maxims of the Lawes of England*, (London, 1630) (available on EEBO, STC no. 1134) p. 33. OED's definition of 'satisfy' begins with the fulfilment of an obligation, and specifically states 'Now somewhat rare exc. in *Law*'.

[124] See Introduction, p. 38ff. Compare, for example, the king's own instantaneous reaction to his son's death, which has the full backing of royal authority behind it: 'Fetch forth the tortures' (4.4.183).

[125] Hieronimo offers Bel-imperia a leading role in his drama of revenge, which she follows to the letter (4.4.140ff). As I will argue, the participatory nature of the final catastrophe becomes increasingly central

Hieronimo's executions are neither rash nor arbitrary; Hieronimo 'performs his revenge as coolly, as stylishly, and as professionally as any self-respecting judge or executioner going about his daily business'.[126] Instead of seeing Hieronimo's choice of theatre to resolve his revenge play as a clever artistic device, devoid of social relevance, I argue that Kyd deliberately draws out parallels with a legal system with which the audience were fully conversant.[127] Far from conforming to the Portuguese monarch's dictum that 'They reck no laws that meditate revenge' (1.3.48), Hieronimo is scrupulously judicious, albeit excessively so, in punishing all those who are implicated in his son's death.

But what are we to make of the slaying of the innocent Duke of Castile at 4.4.201, after Hieronimo bites out his own tongue? While Hieronimo echoes legal procedure, he does so without the constraint of legal mechanisms of control. On the one hand this demonstrates the disproportionate and unworkable nature of private revenge as a means to justice. On the other, it brings out the radically political implications of Hieronimo's actions. From much earlier, Hieronimo's plans for revenge incorporated more than those directly responsible for his son's death. When he is frustrated in his attempt to secure justice from the King, he responds:

> For I'll go marshal up the fiends in hell,
>
> To be avenged on you all for this.
>
> 3.12.76

This is closely followed by the scene with the old Don Bazulto, where Hieronimo resolves to petition Pluto for a 'troop of Furies and tormenting hags,/ To torture Don Lorenzo and the rest'

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to the representation of revenge on the early modern stage, in particular in *Antonio's Revenge*, *Hoffman*, and *The Revenger's Tragedy*.

[126] 'The Performance of Revenge', p. 280.

[127] I would not go so far as to claim, as Bate does, that by performing his revenge onstage, Hieronimo reveals 'the law to be itself nothing other than a performance', 'The Performance of Revenge', p. 278.

(3.13.117). The inclusivity of 'you all' and 'Don Lorenzo and the rest' implies that Hieronimo's reassertion of justice must go beyond the individual criminals to the corrupt administration of the law itself. The legal systems in both Spain and Portugal are shown to be seriously flawed, and so Hieronimo's 'root and branch' approach can be seen as the former Knight Marshal's misguided attempts at reform. The death of the Duke of Castile stands as a reminder to those who would obstruct an innocent man's pursuit of justice.

Revenge is no satisfactory alternative to law, yet it is the failure of law that makes revenge so necessary in the first place.[128] Paradoxically law is both critiqued and reinforced by the events of the play; the dangers that result from a biased legal system are foregrounded, while at the same time it is clear that a fair and equitable legal system is favourable to vigilante justice, however scrupulous. The legal system as it developed in early modern England depended on the coming together of royal judges of the assize, local justices of the peace, and the community more generally, to adjudicate on matters of vital importance for all concerned. This relied on a delicate balancing of interests for the parties involved – what Hindle calls the 'negotiation of authority' – that was to come under increasing pressure towards the end of the sixteenth century.[129] Kyd's play is shot through with anxieties about justice ceasing to be participatory and being replaced by arbitrary government, and this is as relevant to early modern England as it is to Catholic Spain or the Continental legal system more generally. As I turn to *Titus Andronicus* in Chapter Two, I demonstrate that this was becoming a real and

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[128] 'In the end, *The Spanish Tragedy* laments unsound judgement and inappropriate judicial action, rather than suggesting that interpretation and judgement are futile', Semenza, '*The Spanish Tragedy* and Metatheatre', p. 159. This is a modification of Semenza's reading of the play from 2006, '*The Spanish Tragedy* and Revenge'.

[129] Hindle, p. 238. See my Introduction, pp. 51-6, on the professionalisation of the legal system at this time, as well as my argument in Chapter Two that this period witnessed serious changes to the administration of justice that negatively impacted on the role of the jury in the early modern courtroom pp. 106-16.

pressing concern for an over-burdened legal system, which sought to circumvent the traditional role of the jury in order to expedite the judicial process.

Ben Jonson, in the induction to *Bartholomew Fair*, complains of the enduring taste for revenge tragedy shown by the undiscerning spectator: 'He that will swear, *Jeronimo* or *Andronicus* are the best plays, yet shall pass unexcepted at, here, as a man whose judgement shows it is constant, and hath stood still these five and twenty or thirty years'.[130] Yet Jonson belies himself; his use of 'judgement', whether deliberate or not, points toward the ongoing engagement with questions of law in revenge tragedy; perhaps Jonson's spectator saw more in this play of blood and vengeance than moral didacticism or vicarious thrills. It is not surprising that *The Spanish Tragedy* remained popular throughout the late sixteenth- and early seventeenth-centuries, a critical period in the development of early modern legal procedure. The dialogue Kyd sets up between revenge and the law in *The Spanish Tragedy* becomes a fundamental concern of a genre that is as yet in its infancy.

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[130] *Bartholomew Fair*, in The Alchemist *and other plays*, ed. by Gordon Campbell (Oxford: Oxford University Press, 1995), p. 332. Cf. In the induction to *Cynthias Reuels* (London, 1601) (available on EEBO, STC no. 14773), the following passage occurs: 'Another (whome it hath pleas'd Nature to furnish with more Beard, then Brayne)...sweares downe all that sit about him; That the olde Hieronimo, (as it was first acted) was the onely best, and Iudiciously-pend Play, of Europe', sig. B^{v}. Ironically, Henslowe is recorded as paying Ben Jonson for his additions to the play in 1601, Edwards, p. lxvi.

Chapter Two

> Thus you see how by the only default of jurors and inquests the native liberty and ancient preëminence of the English policy [of trial by jury] is already little by little exceeding shred off and diminished, very like also in short time to be utterly lost and taken from us if you lay not better hands and hold upon it.[1]

Trial by jury has been lauded as the defining feature of English common law since at least the fifteenth century, in overt contrast to Continental legal models.[2] Much attention has been devoted to the early modern trial jury when investigating the nature of judicial change: 'The central place of the jury in the constitution of a particularly English kind of justice is evident

[1] 'Michaelmas sessions of the peace at Maidstone, 28 September, 1591', from *William Lambarde and Local Government: His "Ephemeris" and Twenty-nine Charges to Juries and Commissions*, ed. by Conyers Read (Ithaca, New York: Cornell University Press for The Folger Shakespeare Library, 1962), p. 108.

[2] See for example the fifteenth century treatise by Sir John Fortescue, *In Praise of the Laws of England*, ed. by Shelley Lockwood (Cambridge: Cambridge University Press, 1997), where Chapter 21 is entitled 'Here he shows how often the civil law is deficient in justice' (p. 44), while Chapter 30 is called 'The Prince here commends the laws of England in respect of their procedure by juries', p. 34.

everywhere in the early modern literature on legal process'.[3] When it comes to discussing the virtues of trial by jury, Lambarde's provocative statement on the precarious position occupied by the jury in the 1590s acts as a prudent reminder that legal theory and legal practice could diverge widely. Therefore it is necessary to pay close attention to the realities of trial by jury in the period alongside the idealised portrait of twelve 'good men and true'.[4] This is particularly pertinent to my analysis of *Titus Andronicus*, which has been compared by Lorna Hutson to a displaced form of trial by jury.[5] The decade that saw Shakespeare's first revenge tragedy being composed and performed also witnessed the introduction of numerous legal procedures designed to circumvent the need for trial by jury, thus undermining one of the central tenets of English common law.[6] The tension between judge and jury in the early modern courtroom is a recurring theme in the legal history of the period.[7] It is my intention to demonstrate how integrally these phenomena are related, and in the process show how *Titus Andronicus*

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[3] Holger Schott Syme, '(Mis)representing Justice on the Early Modern Stage', *Studies in Philology*, 109 (2012) 63-85 (p. 67). See for example Thomas Green, *Verdict According to Conscience: Perspectives on the English Criminal Trial Jury, 1200-1800* (London: University of Chicago Press, 1985); J. S. Cockburn and Thomas A. Green, eds., *Twelve Good Men and True: the Criminal Trial Jury in England, 1200-1800* (Princeton: Princeton University Press, 1988). My own focus falls more on the trial jury than on the grand jury because it is the trial jury that listen to witness testimony and deliberate on the facts of the matter, skills much in use in the early modern playhouse.

[4] Thomas Smith, *De Republica Anglorum*, ed. by Mary Dewar (Cambridge: Cambridge University Press, 1982) (first printed in 1583) (available on EEBO, STC no. 22857), p. 113.

[5] Lorna Hutson, *The Invention of Suspicion: Law and Mimesis in Shakespeare and Renaissance Drama* (Oxford: Oxford University Press, 2007), 'The Displaced Jury Trial in *Titus Andronicus*', pp. 90-103. As discussed more fully below, p. 120ff, Hutson rejects the Foucauldian model for the inscription of power being applied to early modern England, due to the participatory nature of the English legal system at that time. However she does not take into account the extent to which that participatory structure was itself in crisis by the late sixteenth century.

[6] These include multiple arraignments, the introduction of plea-bargaining and increased powers of justices of the peace for summary conviction, discussed below, pp. 112-6. A concise account of these changes can be found in Cockburn, 'Trial By the Book? Fact and Theory in Criminal Process', in *Legal Records and the Historian*, ed. by J. H. Baker (London: Royal Historical Society, 1978), pp. 60-79.

[7] T. A. Green, 'The Jury and the English Law of Homicide, 1200-1600', *Michigan Law Review*, 74 (1976), 413-99.

illustrates the dangers posed by the weakened position of the early modern jury, particularly in its role as an interpreter of the available evidence.

In the previous chapter, I examined Hieronimo's pursuit of justice within a prejudicial legal system, and the ways in which revenge could mimic as well as subtly criticise contemporary legal institutions and procedures. In the imperial Rome of *Titus Andronicus* there is an even greater threat of arbitrary government, in the person of the emperor Saturninus, and this can be directly related to anxieties surrounding autocracy in late Elizabethan England.[8] Just as political struggles staged in ancient Rome are relevant to early modern England, so too is the search for justice in the play oddly congruent with Shakespeare's own legal system. In the displaced jury of the Andronicii is to be found some of the most acute criticism of current changes within the English legal system, which were having a profound impact on the balance of power within the early modern courtroom. Once I have established the jury in crisis as an underlying socio-legal context for *Titus*, I use this foundation to explore the problem of evidential uncertainty in the play as a whole. I do this by investigating the ambivalence of signs such as Lavinia's muted gestures (3.2) or the gold planted by Aaron to frame Titus' sons (2.2), and linking it to the persistent curtailment of the evidence of the senses. Lavinia's enforced silence is by far the most iconic loss of voice in the play, but this belongs to a network of images such as Quintus' complaint, 'My sight is very dull' (2.2.195), or the metaphorical deafness of the judges to Titus' pleas (3.1). While the play's frequent murders and mutilations are shocking to an audience, I argue that the language of sensory deprivation – being debarred from such shocking sights, sounds and sensations – is just as pervasive and thematically important. Hutson notes how 'metaphors of sightlessness

[8] See Paul Raffield, '"*Terras Astraea reliquit*": *Titus Andronicus* and the Loss of Justice', in *Shakespeare and the Law*, ed. by Paul Raffield and Gary Watt (Oxford: Hart Publishing, 2008), pp. 203-20, in particular the section entitled 'Fin de Siècle Imperial Government and the Common Law', p. 207ff.

permeate the rape and murder scenes of *Titus*',[9] while Raffield links the motif of aurality with a symbolic lack of open hearing in imperial Rome.[10] But the assault on the senses perpetrated in Shakespeare's play is all-encompassing, pointing towards the inherent difficulties of interpreting evidence based on sensory perception.[11] Characters and audience alike are made to feel that the ability to discern truth is never straightforward, and this becomes magnified when the organs of sense and speech are under constant threat.

In his study of contract law in relation to *The Comedy of Errors*, Andrew Zurcher observes:

> In both legal and literary discourses, the early 1590s witnessed a serious engagement with the problem of interpretative error...Shakespeare turned to the law as an important context for his framing of the hermeneutical crisis facing literary among other forms of writing.[12]

Zurcher's reading of *The Comedy of Errors* sees this early comedy as deeply concerned with exposing 'the insoluble problem of the knowability of intention', and relates this to current

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[9] *The Invention of Suspicion*, p. 95.

[10] Raffield, p. 215.

[11] For a succinct account of early modern sense theory see Jennifer Rae McDermott, 'Perceiving Shakespeare: A Study of Sight, Sound, and Stage', *Early Modern Literary Studies*, 19 (2009) <http://extra.shu.ac.uk/emls/si-19/mcdeshak.html> [accessed 20 July 2011], para 5-24. McDermott's primary concern is to show 'how *Hamlet* invites us to practice a new model of perceiving Shakespeare: a model that casts spying as a method of spectatorship with heightened awareness in eyes and ears', para. 3. *Titus Andronicus* offers a powerful counter-example to precisely this 'heightened awareness in eyes and ears'.

[12] 'Consideration, Contract and the End of *The Comedy of Errors*', in *Shakespeare and the Law*, pp. 19-37 (p. 20).

changes in the common law treatment of contracts and debts.[13] But *The Comedy of Errors* is one of Shakespeare's most derivative plays, with Plautus' *Menaechmi* and *Amphitruo* as dual sources.[14] *Titus Andronicus*, for which there is no known source text,[15] and which is roughly contemporaneous with *The Comedy of Errors*, is intensely interested in the problems of knowability and interpretive error, and Shakespeare frames this 'hermeneutical crisis' in specifically legal ways.

To put Lambarde's comments, quoted at the beginning of the chapter in context, it is important to note that the same speech begins full of admiration for England's common law, calling it 'this inestimable jewel and precious patrimony...which your forefathers, not without sweat and blood, have recovered and left to descend upon you'.[16] Speaking at the beginning of the 1590s, and presumably with some knowledge of conditions on the ground as a justice of the peace himself, Lambarde warned of the dangers that could result from lessening jury powers in the commonwealth. Having begun with the many virtues of trial by jury (in particular

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[13] Zurcher, 'Consideration, Contract and the End of *The Comedy of Errors*', p. 36. Surprisingly in this essay on legal intention and contract, Zurcher does not reference Luke Wilson's *Theaters of Intention: Drama and the Law in Early Modern England* (Stanford: Stanford University Press, 2000).

[14] Hutson's work on the influence of the forensic methods of New Comedy on Renaissance drama is also highly relevant here. For her discussion of *The Comedy of Errors* as a manifestation of this, see *The Invention of Suspicion*, pp. 147-57.

[15] On the multiple maimed sources for *Titus Andronicus*, see Jane Grogan, '"Headless Rome": *Titus Andronicus*, Herodotus and Ancient Persia', *English Literary Renaissance*, (forthcoming late 2012/early 2013). I would like to thank Dr. Grogan for allowing me to see this article prior to publication.

[16] *William Lambarde and Local Government*, p. 108. This is strikingly similar to Hieronimo's own description of the precious legacy of law: 'Why, all the undelved mines cannot buy/ An ounce of justice, 'tis a jewel so inestimable', from the third addition to *The Spanish Tragedy*, (the Painter scene), line 85, in *Four Revenge Tragedies*, ed. by Katharine Eisaman Maus (Oxford: Oxford University Press, 1995), p. 87.

its superiority to other, foreign, methods of adjudication[17]), Lambarde is nevertheless forced to admit that this hallowed institution is under threat:

> I will only propound unto you that great fear, peril, and danger wherein we stand to have the benefit of this free and familiar use of our country laws (through our unreverent and careless handling of them) to be quite and clean removed and taken from us.[18]

He proceeds to enumerate how 'by the careless and dissolute service of jurors', the authorities are actively seeking to circumvent trial by jury:

> And this is the only true cause for which both the Parliament of the realm and the council of estate, seeing that this way by jury is not prosperous, have and do daily bethink them of other courses and have thereby worthily deprived us already of no small part of that liberty and freedom which the ages before us have enjoyed.[19]

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[17] 'The law or policy of this realm of England...not borrowed of the imperial or Roman law....so doth it in one special thing above any other most apparently vary from the usage of other countries: I mean in the manner of proceeding that we have by jurors, which our law calleth the judgement by peers or equals', *William Lambarde and Local Government*, p. 104. Lambarde's distinction between the native trial by jury and Continental methods is an important context for our understanding of Shakespeare's choice of Rome for his first forensic tragedy. As Bate points out, '[t]he appeal to "precedent", the bedrock of the common law, in a play set in Rome, the home of civil law, suggests something of the contemporaneity of the play's exploration of justice', Jonathan Bate, 'The Performance of Revenge: *Titus Andronicus* and *The Spanish Tragedy*', in *The Show Within: Dramatic and Other Insets. English Renaissance Drama (1550-1642)*, ed. by Francois Laroque, 2 vols (Montpellier: Paul-Valéry University Press, 1992), pp. 267-83 (p. 280).

[18] *William Lambarde and Local Government*, p. 104.

[19] *William Lambarde and Local Government*, p. 105; p. 106. Cockburn sees 'a more decisive commitment to non-trial procedure': 'on balance it seems more likely that the decisive consideration in the later 16th

Lambarde cites the operations of the Star Chamber as an example of a courtroom that dispenses with the jury altogether to better fulfil the requirements of justice, as well as the recent introduction of a provost marshal 'to rake rogues together...because they are compelled thus to correct the slothfulness of jurors'.[20] He also points towards justices' of the peace new powers of summary conviction that obviated the need for a trial.[21]

This is not an isolated outburst on Lambarde's part, and indeed the dissolution of the early modern jury is a recurrent theme in these charges at quarter sessions. Lambarde appears to gradually lose faith in the institution first described as 'this inestimable jewel'; by 1596 he talks of 'this our cold and slack justice', while two years later it is 'that usual negligence' of jurors, seeing trial by jury as an empty ritual 'for fashion's sake' by 1599.[22] Even allowing for hyperbole, there must be some reason for an Elizabethan justice of the peace to talk this way. The anxieties expressed by Lambarde here act as a useful corrective to the triumphalism that often accompanies accounts of the common law in early modern England, by someone with an intimate knowledge of that law.[23] It should alert us to the fact that all is not well within the confines of the courtroom.

[*sic*] century, as it is today, was the increased efficiency inherent in a non-trial form of procedure', Cockburn, ed., *Calendar of Assize Records: Introduction, Home Circuit Indictments: Elizabeth I and James I* (London: Her Majesty's Stationery Office, 1985), p. 69.

[20] *William Lambarde and Local Government*, p. 107.

[21] Cf. Baker, 'Criminal Courts and Procedure, 1550–1800', in *The Legal Profession and the Common Law: Historical Essays*, ed. by J. H. Baker (London: Hambledon Press, 1986), pp. 259-302: 'So, throughout our period [1550-1800], grew a list of novel crimes which, by statute, were triable "summarily": that is, by magistrates alone', p. 268.

[22] *William Lambarde and Local Government*, p. 123; p. 134; 'I have, not without grief of mind, observed, after some long experience, that these our sessions of the peace by only formal and for fashion's sake, that our presentments also be not many and the same cold and without any zeal of justice', p. 138.

[23] Compare Fortescue, *In Praise of the Laws of England*, p. 47:

> the law never determines by witnesses alone a cause which can be decided by a jury of twelve men, since this is a better and more

'[S]imple Idiotes haue in their hands the Iudgement of our causes':[24] Tensions in the Early Modern Courtroom

Being tried before a jury of your peers has long been seen as the foundation of a fair and equitable legal system in England, differentiating it from its continental neighbours: 'we are not to be peremptorily sentenced by the mouth of the judge, as other peoples are, but by the oath and verdict of jurors that be our equals'.[25] Bacon describes the trial jury as consisting of free-holders 'sworne to make true delivery betweene the King and the Prisoner', a description which perfectly captures their mediatory position – conduits of royal justice drawn from the community at large.[26] Neither witness nor defendant, a juror occupies the role of impartial observer. While the jury had begun as a self-informing body (i.e. jurors were expected to know the details of the crime beforehand), by the second half of the sixteenth century any foreknowledge of the case is incidental and increasingly rare, meaning they do not have a vested interest in the outcome of the trial.[27] This makes them ideal candidates for an in-depth

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> effective method for eliciting the truth than the method of any other law in the world, and further removed from the danger of corruption and subornation.

[24] Thomas Fitzherbert, *A Defence of the Catholyke Cause* (London, 1602) (available on EEBO, STC no. 11016), p. 12, sig. E^{v}.

[25] *William Lambarde and Local Government*, p. 105. See for example the title of a legal treatise written in the mid-sixteenth century, *The Excellency and Praeheminence of the Law of England, above All other Humane Lawes in the World. Asserted In a Learned Reading upon the Statute of 35 H. 8. Cap. 6. Concerning Tryals by Iury of Twelve Men, and Tales de Circumstantibus*, by Thomas Williams (printed London, 1680) (available on EEBO, Wing no. W2772). See also Fortescue, *In Praise of the Laws of England*, chapters 20-32; Smith, *De Republica Anglorum*, pp. 112-5.

[26] Francis Bacon, *The elements of the common lavves of England branched into a double tract: the one contayning a collection of some principall rules and maximes of the common law...The other the vse of the common law* (London, 1630) (available on EEBO, STC no. 1134), p. 12.

[27] The range of parishes drawn on by constables when impanelling jurors also makes it unlikely that jurors would be familiar with the details of the case in hand. See Smith, *De Republica Anglorum*, p. 113; John Langbein, *Prosecuting Crime in the Renaissance: England, Germany, France* (Cambridge, MA: Harvard University Press, 1974), pp. 118-22; Daniel Klerman, 'Was the jury ever self-informing?', in

discussion of how legal innovation affected ordinary citizens' lives. By taking the jury of twelve 'substantial yeomen'[28] as a touchstone of sorts for how early modern law was experienced, much can be learned about the shifting priorities of early modern courtroom procedure.

Just as 'judge' can denote different roles within the machinery of state justice,[29] so too 'jury' has multiple meanings in an early modern context. The chief distinction is between grand jury and trial or 'petty' jury, with both quarter sessions and assizes requiring both sets of jurors. It was the task of the grand jury to decide whether those accused were to be indicted and sent forward to trial, by returning either a *billa vera* (true bill) or *ignoramus*.[30] Once indicted, the accused had to wait for the appointed day in either quarter or assize sessions to stand trial, where an appearance before the trial jury would decide their fate. It was the responsibility of the trial jury to return a verdict based purely on the facts of the matter laid before them: 'The law leaveth both supply of testimony and the discerning and credit of testimony, wholly to the juries' consciences and understandings'.[31] Meanwhile judging matters of law and sentencing was in the hands of the judge: 'Our Iurers are not to Iudge de Iure, but de facto, not of matters of Lawes, or right itself, but of matter of fact only'.[32] This meant that the legal expertise came from those on the bench, while the onus of deciding between guilt

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Judicial Tribunals in England and Europe, 1200-1700 (Manchester: Manchester University Press, 2003), pp. 58-80.

[28] Smith, *De Republica Anglorum*, p. 113.

[29] See Chapter One, pp. 64-7.

[30] See Cynthia B. Herrup, *The Common Peace: Participation and the Criminal Law in Seventeenth-Century England* (Cambridge: Cambridge University Press, 1987), p. 93ff. The grand jury 'acted as a barrier between local gossip and legal process by sifting substantial complaints from casual accusations', p. 93.

[31] Francis Bacon, quoted in William Searle Holdsworth, *History of English Law*, 10 vols (London: Methuen, 1923-1966) I, p. 333. Cf. Fortescue, 'by the laws of England, the truth cannot be settled for the judge, unless by the oath of twelve men of the neighbourhood where the fact is supposed to have been located', p. 29.

[32] Fitzherbert, p. 12, sig. E^{v}.

and innocence fell to a body of men from the locality with no formal training in the law.[33] Langbein says that by the mid-sixteenth century jurors 'had effectively become a panel of lay judges'.[34] Hindle talks of how 'every time judge and jury came face to face, the judicial priorities of the state and the community were rearticulated'.[35] For this reason, the trial jury can be seen as the fulcrum of the tenuous balance of power between judicial authority and local initiative in the early modern courtroom.

While the importance of trial by jury to the legal system of the time is beyond question, the exact composition of the early modern trial jury, along with their level of autonomy, is a source of much debate in the academic community. As to the question of who was serving on the trial juries, the ideal candidates are substantial yeomen and freeholders.[36] Cockburn finds that the minimum property qualification for jurors is relatively high, requiring freehold valued at 40 shillings, and subsequently raised to £4 from 1585.[37] But this is by no means a rigid threshold, due to a 'chronic shortage of jurors': there is much evidence of any able-bodied men in court that day being impanelled for jury duty, including constables, bystanders and even witnesses from other cases.[38] Cockburn details widespread dissatisfaction with the standard of trial jurors, emphasising their lack of education and experience, which

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[33] This is analogous to the tensions discussed in the last chapter between professional judges of the assizes and local justices of the peace at quarter sessions, see pp. 64-7.

[34] Langbein, *Prosecuting Crime in the Renaissance: England, Germany, France* (Cambridge, MA: Harvard University Press, 1974), p. 124.

[35] Steve Hindle, *The State and Social Change in Early Modern England, 1550-1640* (Basingstoke: Macmillan, 2000), p. 117.

[36] On the composition of trial juries see P. G. Lawson, 'Lawless Juries? The Composition and Behaviour of Hertfordshire Juries, 1573-1624', in *Twelve Good Men and True: the Criminal Trial Jury in England, 1200-1800*, pp. 117-157 (p. 133). On the question of property qualifications, Matthew Hale says 'I do not find anything determined but freeholders they ought to be', *The History of the Pleas of the Crown*, 2.155.

[37] *Calendar of Assize Records: Introduction*, p. 57.

[38] *Calendar of Assize Records: Introduction*, pp. 59-61: 'Negligence, profiteering and the widespread recourse to talesmen were seen as diluting both the quality and the reliability of trial juries', p. 61.

earned them the label 'silly', i.e. simple, from one tract writer in 1597.[39] Herrup's account of the power of trial jurors is by far the most optimistic in terms of seeing them as a body standing for the community's interests and moral rectitude, where leniency and social harmony prevail.[40] On the other hand, Lawson sees trial jurors as very much a product of an emerging middle class, whose interests are aligned with those of the judiciary more so than the accused.[41] Thus he sees the jury's relationship with the bench as one predominantly characterised by cooperation, not conflict.[42]

Either way, a degree of friction between the bench and the jury has been well documented.[43] There is evidence of intimidation in the courtroom, as judges direct juries to return a particular verdict on pain of being fined or appearing in court themselves at the Star Chamber if they do not.[44] The extent of such intimidation is difficult to ascertain precisely, but the fact that it had to be legislated against in the late seventeenth century shows that it was a recurrent problem.[45] Ostensibly the jury had complete control over the verdict at trial, but in

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[39] 'Twelve Silly Men? The Trial Jury at Assizes, 1560-1670', in *Twelve Good Men and True*, pp. 158-81 (pp. 162-4), quoting Robert Parsons, *The Jesuit's Memorial for the Intended Reformation of England Under their First Popish Prince* (written in 1597, but published in 1690).

[40] Herrup, pp. 131-64.

[41] Lawson, 'Lawless Juries?', pp. 146-7.

[42] Lawson, 'Lawless Juries?', p. 157.

[43] Hutson writes 'the history of jury trial through the late sixteenth and seventeenth centuries was indeed a history of attempted intimidation by and conflict with the Bench', *The Invention of Suspicion*, p. 87.

[44] See for example *William Lambarde and Local Government*, p. 121. At least fourteen juries are fined or bound over between 1559 and 1596 according to Cockburn, *Calendar of Assize Records: Introduction*, p. 70. Thomas Green gives the example of Lord Chief Justice Keeling from 1667 for his 'abusive tactics with respect to trial juries', 'The Jury and the English Law of Homicide', p. 497, n. 304.

[45] Bushell's Case in 1670, where Bushell is fined as a juror for acquitting the accused at trial and is afterwards jailed for non-payment, *Howell's State Trials*, VI, p. 999 <http://constitution.org/trials/bushell/bushell.htm>. Bushell subsequently goes to court to appeal and wins, whereby it is finally enshrined in law that a judge could not interfere with a jury's verdict through

reality it would seem the bench exerted considerable control.[46] Even when explicit threats are not employed, complaints about jury behaviour are common, frequently before trials commenced. In his charge to the jury at quarter sessions, Lambarde freely comments on how 'our jurors for trial will needs moderate their verdict by a feigned equity and thereby acquit most guilty offendors'.[47] Similarly Edward Hext, a justice of the peace in Somerset, writes to Lord Burghley of how criminals 'lawghe in ther sleves att the lenyty of the lawe and the tymerousnesse of thexecutyoners of yt'.[48] This is attributed to the use of intimidation by the defendant, together with a fear of so-called pious perjury.[49]

Even Fitzherbert's defence of trial by jury does not dispute that 'ignorant and simple men are to determine the cause', and only says that their role requires them to judge 'not of intricate, and ambiguous pointes but of playne and euident matters'.[50] Lambarde accuses those jurors entrusted with delivering justice of being themselves guilty of a great injustice through negligence: 'Yea, we may in a manner repute them to be the very authors and causers of all the disorder, malady, and mischief that is bred and nourished within the body of the

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threats or fines. But see John Langbein, 'The Criminal Trial before the Lawyers', *University of Chicago Law Review*, 45 (1978), 263-316 (pp. 297-300) for how the impact of this outcome was not immediate.

[46] 'In fact the pervasive nature of judicial control – through the charge, constant interference, formal direction, bullying, and discretionary sentencing – underlies virtually all contemporary accounts of criminal trial', Cockburn, 'Trial By the Book?', p. 74.

[47] *William Lambarde and Local Government*, p. 120.

[48] Edward Hext, letter to Lord Burghley on 25 September 1596, from Lansdowne MS., No. 81, Art. 6, ff 161-62, printed in R. H. Tawney and Eileen Power, eds, *Tudor Economic Documents*, 3 vols (London: Longmans, 1924-1965), pp. 339-46 (pp. 345-6).

[49] '[F]or most commonly the simple Cuntryman and woman, lokynge no farther then ynto the losse of ther owne goods, are of opynyon that they would not procure a mans death for all the goods yn the world', Hext, p. 341. On pious perjury see Cockburn, *Calendar of Assize Records: Introduction*, p. 115; Green, *Verdict According to Conscience*, pp. 77-8; Louis A. Knafla, '"John at Love Killed Her": The Assize and Criminal Law in Early Modern England', *University of Toronto Law Journal*, 35 (1985), 305-20 (pp. 314-7).

[50] Fitzherbert, p. 12, sig. E^{v}.

commonwealth amongst us'.[51] James I's proclamation for jurors from 1607 is aimed at restoring the 'ancient integrity and credit' of trial by jury, which he acknowledges has fallen into disrepute:

> So that the service oftentimes resteth vpon such as are either simple and ignorant, and almost at a gaze in any cause of difficultie, or else vpon those that are so accustomed and inured to passe and serve vpon Juries, as they haue almost lost that tendernesse, which in such cases is to bee wished.[52]

Such widespread dissatisfaction with jury behaviour must modify the idea of trial by jury as pre-eminent in early modern England; legal professionals often view jurors' input as counterproductive.

Compounding the problem of juries' ability to deliberate was the sheer volume of cases. I have already noted the explosion in litigation as the sixteenth century progressed. The final years of Elizabeth's reign also saw a marked increase in prosecution rates. According to indictment files from the Home Circuit assizes, there is a 'steady increase in the indictment of

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[51] *William Lambarde and Local Government*, p. 118. Elsewhere he goes so far as to say of remiss jurors, 'what do you less than betray your country, which you profess to defend and maintain?' (p. 134) and '[i]f you will not, then, bewray yourselves to be the murderers of your native country, the most cruel parricide that man may commit', p. 143.

[52] James I, 'By the King. A Proclamation for Jurors' (London: Robert Barker, 1607) (available on EEBO, STC no. 8406), p. 1. Bernadette A. Meyler observes: 'James thus attempted to ensure that they [juries] would be composed of those upon whom...he would not be ashamed to place the imprimatur of his judicial power', 'Substitute Chancellors: The Role of the Jury in the Contest between Common Law and Equity', *Legal Studies Research Paper Series* (Cornell Law School, 2006) <http://scholarship.law.cornell.edu/cgi/viewcontent.cgi?article=1038&context=lsrp_papers> [accessed 17 April 2009] 1-39 (p. 19). Hutson quotes somewhat selectively from the same document, noting only how the 'jury's task was increasingly conceived as "a wise sifting and examination of the fact, where testimonie was obscure", in the words of James's proclamation of 1607', *The Invention of Suspicion*, p. 104.

crime in the second half of the 1590s'.[53] Higher prosecution rates in general suggest a judiciary more active in the pursuit of crime, but whether increased prosecutions indicate higher levels of criminality or simply increased judicial severity is unclear.[54] Most likely a number of factors – economic, social, and political – combined to create an upsurge in offences that met with harsher treatment at trial. Either way, this meant more and more cases going to trial: 'By 1590 judges on the Home Circuit were delivering more than twice as many prisoners as they had thirty years earlier, in a circuit of the same duration'.[55] This reinforces the impression of a judicial system ill-equipped to handle the growing legal needs of the population. Hamlet's complaint about 'the law's delay' (3.1.71), while obviously contained within a larger philosophical framework, would resonate smartly with many audience members faced with such problems when using the courts.[56]

With an ever-increasing number of cases, yet the same manpower to deal with those cases, officials sought to speed up the process as much as possible: 'Caught in a spiral of problems which threatened to slow criminal proceedings to a standstill, assize judges must have welcomed any course which would reduce the significance of the trial jury'.[57] The Marian bail and committal statutes of 1554 and 1555 gave justices of the peace powers of pre-trial examination, much increasing their control over the production of evidence in court.[58] Green

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[53] Jim Sharpe, 'Social Strain and Social Dislocation', p. 200.

[54] See Hindle, pp. 125-28, for a discussion of the difficulty of extrapolating crime rates from prosecution statistics.

[55] *Calendar of Assize Records: Introduction*, p. 111.

[56] See C. W. Brooks' chapter on 'The Attitudes of Laymen and Attempts at Reform', in *Pettyfoggers and Vipers of the Commonwealth: The 'Lower Branch' of the Legal Profession in Early Modern England* (Cambridge: Cambridge University Press, 1986), p. 132ff.

[57] *Calendar of Assize Records: Introduction*, p. 132.

[58] Green, 'The Jury and the English Law of Homicide', p. 490. Cf. Elizabeth Hanson, 'Torture and Truth in Renaissance England', *Representations* 34 (1991) 53-84: 'In short, the production of an account of the crime was now supposed to be in the hands of the investigating justice rather than the jury', p. 62.

describes how the 'shift from a trial dominated by the self-informing jury to a trial based mainly on evidence produced by the prosecution...revolutionized the relationship between judge and jury'.[59] As Holger Schott Syme observes, the change 'effected a partial shift of prosecutorial responsibility from individual subjects and the community to the government and its representatives'.[60] On top of this, outside the courtroom the powers of justices of the peace were being increased so as to obviate the need for a trial in the first place.[61] Lambarde himself describes how 'a great sort of other offenses should, upon information made for the King, be heard and determined by the only discretion of the justices of peace, without any jury at all', while his revised *Eiranarcha* of 1591 outlines how the certificate of a justice or sheriff shall, in certain circumstances, 'be of like force of the verdite of twelue men'.[62]

Further innovations within trial procedure also significantly undermined the position of the trial jury in the early modern courtroom. Multiple arraignments meant that several defendants would be tried one after the other with the judge and jury listening to each *in seriatum*. Sir Thomas Smith recommends that two or three prisoners should be arraigned at a time, so as not to overcharge jurors' memories, but in reality this figure was much higher.[63] Cockburn shows that the average number of prisoners arraigned before each jury on the Home Circuit rose from 4.5 between 1559-63 to 8.1 in the period 1584-1588.[64] This raises the

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[59] Green, 'The Jury and the English Law of Homicide', p. 491.

[60] Holger Schott Syme, *Theatre and Testimony in Shakespeare's England: A Culture of Mediation* (Cambridge: Cambridge University Press, 2012), p. 33.

[61] On 'crimes which, by statute, were triable "summarily": that is, by magistrates alone', see J. H. Baker, 'Criminal Courts and Procedure, 1550–1800', p. 268.

[62] *William Lambarde and Local Government*, p. 106; *Eiranarcha, or Of the Office of the Iustices of the Peace...Whereunto is added the newly reformed Commission of the peace* (London, 1591) (available on EEBO, STC no. 15166), p. 312.

[63] Smith, *De Republica Anglorum*: 'For if they should be charged with more, the inquest will say, my Lord, we pray you charge us with no more, it is ynough for our memorie', p. 114.

[64] *Calendar of Assize Records: Introduction*, p. 64.

question of how much practical influence a jury could have at trial, given that they were faced with so many cases at a time and with only memory to distinguish between them, especially since each trial may have taken only thirty minutes or so from arraignment to verdict.[65] It is little wonder then that judicial direction would be seen as not simply helpful, but essential: 'Multiple arraignment must have destroyed the jurors' capacity for independent deliberation and at the same time increased their reliance on judicial direction'.[66]

There is also evidence for what looks like an early form of plea-bargaining, which obviated the need for a trial altogether. Often this took the form of the valuation of goods stolen being amended by the clerk to less than 12.d, thus making the crime petty larceny instead of grand larceny, which was a capital offence.[67] Almost unheard of before Elizabeth's reign, confessions became a regular feature of criminal proceedings from 1587, suggesting that prisoners were offered reduced charges in return for a confession and therefore did not have to stand trial.[68] By pleading guilty to the lesser offence, the accused could avoid the gallows and escape with whipping. This strategy undoubtedly helped to clear the backlog of cases to be heard at assizes, but at the expense of a fair hearing in open court. Most importantly for my purposes, such innovations considerably weakened a jury's position within

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[65] *Calendar of Assize Records: Introduction*, p. 110.

[66] *Calendar of Assize Records: Introduction*, p. 112.

[67] There are several amended indictments in appendix VIII of the *Calendar of Assize Records: Introduction*, pp. 252-61.

[68] *Calendar of Assize Records: Introduction*: 'confessions were extremely rare before 1577, fairly common in the following decade and a regular feature of criminal proceedings from 1587 until about 1616', p. 69.

the early modern legal system. While multiple arraignments make the jury's role in the delivery of justice perfunctory, plea-bargaining completely circumvents the need for a trial.[69]

The early modern jury remains an elusive body within the shifting confines of courtroom procedure, given an active and important role in trial procedure, yet with strong indications that this was not as straightforward as it seemed. Cockburn estimates that 'in thirty of the sixty-six years under consideration [1558-1625] between ten and thirty percent of the criminal cases heard on the Home Circuit were decided without recourse to jury trial'.[70] This is a far cry from the 'panel of lay judges' praised by Langbein.[71] Trial by jury may be lauded as evidence for the superiority of English law in the period, but the reality shows a judiciary keen to go over the heads of those yeomen when the opportunity arises. In Lambarde's own words, 'seeing that this way by jury is not prosperous...[the authorities] have thereby worthily deprived us already of no small part of that liberty and freedom which the ages before us have enjoyed'.[72] Similarly Thomas Green in his review of the role of the jury in homicide cases talks of how the 'age of nearly unlimited jury control was passing; the age of the law and of the bench was commencing'.[73] On the one hand such ad hoc procedural adjustments were necessary to cope with lengthy gaol deliveries and a litigious population. Yet these practical modifications to criminal procedure had a significant effect on the delicate balance of power in

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[69] 'In practical terms it meant that from about 1590 onwards the petty jury and formal process became redundant in between 15 and 20 per cent of the routine felonies tried at assizes', Cockburn, 'Trial By the Book?', pp. 73-4.

[70] *Calendar of Assize Records: Introduction*, p. 70.

[71] Langbein, *Prosecuting Crime in the Renaissance*, p. 124.

[72] *William Lambarde and Local Government*, p. 106.

[73] Green, 'The Jury and the English Law of Homicide', p. 499. This follows on from his conclusion that 'the jury ceased in fact to be self-informing, and much of its control over legal categories was shifted to the bench', p. 499. Cf. *Calendar of Assize Records: Introduction*: 'The right to jury trial was thought to have been guaranteed by chapter 29 of Magna Carta. By the 16th [*sic*] century, however, respect for the institution was by no means universal', p. 111.

the early modern courtroom.[74] Paraphrasing Henry Care, author of *English Liberties, or The Free-Born Subjects Inheritance*, Barbara Shapiro sums up the problem by saying that '[d]iminishing the jury meant diminishing the "rights of Englishmen"'.[75]

Such a shift is of interest to legal historians, but it is also germane to the study of early modern literature, since law formed such an important interface between citizen and state in the period. In particular, I wish to expand upon how heightened tensions between judge and jury are central to our understanding of revenge tragedy, where often a group of citizens seek to attain justice in the face of tyrannical practices by those in power. The judge's single authoritative pronouncement and the collective yet competing voices of the jury can serve as a model for the revenge genre, where such quotidian events become greatly inflated.

Titus Andronicus: 'My scars can witness, dumb although they are' (5.1.113)[76]

When discussing *The Spanish Tragedy*, I touched on the legal rhetoric that sees law as the mainstay of civilisation, a bulwark against 'confucyon'.[77] Without laws, man is no better than a beast, according to Aristotle: 'For as man is the best of the animals when perfected, so he is the worst of all when sundered from law and justice'.[78] In the 'wilderness of tigers' that is

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[74] Cf. J. H. Baker 'English Law and the Renaissance', *Cambridge Law Journal*, 44 (1985), 46-61, where he discusses how 'the shift of emphasis from *doctrine* (or common learning) to *jurisprudence* (or judge-made law)...is striking', p. 59.

[75] Barbara Shapiro, 'The Beyond a Reasonable Doubt doctrine: "Moral Comfort" or Standard of Proof?', *Law and Humanities*, 2 (2008), 149-73 (pp. 156-7), quoting Henry Care, *English Liberties, or The Free-Born Subjects Inheritance* (London, 1680) (available on EEBO, Wing C515).

[76] I will be using Jonathan Bate's Arden edition for scholarly referencing. However for internal dramatic reasons, I prefer the First Folio division between the first and second act before Aaron's soliloquy at line 500. I would argue for Aaron remaining onstage in the interim because of his Vice-like qualities, which puts his speech closer to interlude than soliloquy, thus signalling a formal act division.

[77] See Chapter One, p. 63ff.

[78] Aristotle, *Politics*, trans. by H. Rackham, 23 vols, Loeb Classical Library series, XXI (Cambridge: Harvard University Press, 1932), I. 1253a31.

Rome (3.1.54), *Titus Andronicus* stages the anarchy attendant on the abandonment of justice. In the vacuum created by justice's absence, revenge rushes in to fill the stage with mutilation, decapitation, cannibalism and rape: 'For worse than Philomel you used my daughter,/ And worse than Progne I will be revenged' (5.2.194). Frank Kermode says of Shakespeare's first revenge tragedy that '[t]he endless horrors can be justified if one thinks of them as in some way delicately orchestrated'.[79] Compare this with Kerrigan's comment on the accumulation of murders in the play's final moments: 'the horrible dance of violence has a vicious playful beauty'.[80] Such comments encapsulate the traditional and persistent view of *Titus* as a bloody and mindless massacre, 'justified' only by being aesthetically pleasing.[81]

On the surface, the play described by T. S. Eliot as 'one of the stupidest and most uninspired plays ever written' shows little concern for legal niceties.[82] Amid the carnage of a bloody revenge plot, however, are embedded questions of guilt, probability and evidence directly relevant to early modern legal procedure. Coming some six or seven years after the success of Kyd's *The Spanish Tragedy*, Hieronimo's meticulous evidence-gathering gives way to a far more unsettling view of the process of fact-finding and truth-telling.[83] Aaron plants evidence to frame Quintus and Martius for Bassianus' murder (2.2), Lavinia's 'martyred signs' are in constant danger of misinterpretation (3.2), and an innocent clown is sent to his death for bearing Titus' letter to Saturninus (4.4). The interpretation of evidence is fundamental to

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[79] *Shakespeare's Language* (London: Allen Lane, 2000), p. 51. In the last paragraph of his introduction to the play in the Riverside Shakespeare, Kermode says it is 'certainly the least of the tragedies', p. 1068.

[80] *Revenge Tragedy*, p. 200. This aestheticising impulse is evident in Albert H. Tricomi's much earlier essay, 'The Aesthetics of Mutilation in *Titus Andronicus*', *Shakespeare Survey*, 27 (1974), 11-19.

[81] See below, p. 119ff, for critics who have taken seriously the play's legal engagement.

[82] T. S. Eliot, 'Seneca in Elizabethan Translation', in *Selected Essays*, ed. by Valerie Eliot (London: Faber and Faber, 1972) 3rd edn (first publ. 1951), p. 82.

[83] The exact timeframe is difficult to ascertain, due to the vexed question of dating both plays: see Edwards, p. xxiff; Bate, ed., *Titus Andronicus*, p. 69ff.

the establishing of truth, be it on the stage or in the courtroom, and this is systematically challenged by *Titus Andronicus*.

'Terras Astraea reliquit: be you remembered, Marcus,/ She's gone, she's fled' (4.3.4)

In the midst of his 'ecstasy' of grief (4.1.125), Titus co-opts his kinsmen to seek out the goddess Justice above and below the earth, and finally in heaven:

> And sith there's no justice in earth nor hell,
>
> We will solicit heaven and move the gods
>
> To send down Justice for to wreak our wrongs.
>
> 4.3.50

The revenger calls on the heavens to put right the injustices on earth. There are clear echoes in this scene of Hieronimo's desperate actions in *The Spanish Tragedy*: where Hieronimo makes 'a pickaxe of my poniard' (3.12.75) in order to dig down to hell, Titus instructs Publius and Sempronius to dig with mattock and spade until 'you come to Pluto's region' (4.3.13). Both protagonists are their own solicitors, in that they 'solicit' the heavens for justice (*Titus Andronicus*, 4.3.51; *The Spanish Tragedy*, 3.7.14). Similarly, both invoke Ovid as a classical precedent for the loss of Justice on earth. In Kyd this takes the form of Hieronimo's exclamation 'For justice is exiled from the earth' (3.13.140), casting justice as a victim akin to the goddess in Golding's translation:

> And Lady Astrey last
>
> Of Heauenly vertues, from this Earth in slaughter drowned past.
>
> 1.162-70[84]

[84] Ovid, *Metamorphosis*, trans. by Arthur Golding (London, 1565) (available on EEBO, STC no. 18955), sig. A3^{v}. I here quote directly from the folio, as the modern translation substitutes 'passed' for 'past', which makes Lady Astrey's actions slightly more active and less ambiguous than the early modern printing; Ovid, *Metamorphoses*, trans. by Arthur Golding, ed. by Madeleine Forey (Harmondsworth: Penguin, 2002), p. 36.

Titus, however, is less sympathetic to Justice's plight, paraphrasing Ovid's '*Terras Astraea reliquit*' as 'She's gone, she's fled' (4.3.5). This is a subtle but important distinction. For him, the goddess has actively abandoned the earth – 'fled' – as opposed to Kyd's less accusatory use of the passive 'justice is exiled'. By the same token, where Kyd's play valorises judicial procedure and points up the need for an equitable justice system to be administered by the state without prejudice, Shakespeare's play is not so optimistic in its vision of justice. Without being overly schematic, *Titus Andronicus* takes up where *The Spanish Tragedy* left off, testing the limits of judicial procedure, where the way evidence is interpreted becomes a matter of life or death.

Jonathan Bate's edition of the play puts forward the idea that *Titus*' relation with early modern law is not as straightforward as it might seem, seeing in the setting of imperial Rome a reference to English civil law, in contrast to the common law procedure extolled by the likes of John Fortescue, Thomas Smith, and Edward Coke: 'Consequent upon the failure of imperial law is the revenger's establishment of an alternative procedure'.[85] According to Bate, this makes Titus into 'the voice of the English common law, a dramatic antecedent to Sir Edward Coke', in particular in his use of 'precedent'.[86] While I would agree that the tension between common and civil law is one we see played out in *Titus*, I take issue with Bate's argument that revenge tragedy's relationship with law is one characterised by subversion. Bate sees the genre as subversive in that it shows law to be 'dependent upon the performances of power':

> The necessity to revenge reveals the inadequacy of the law; the formalization of revenge in performance acts as

[85] Bate, ed., *Titus Andronicus*, p. 28.

[86] Bate, ed., *Titus Andronicus*, p. 28. It should be noted that Titus' argument from 'precedent' (5.3.43) is used as a justification for murdering his daughter Lavinia, not in itself a glowing endorsement.

> a substitution for the law, simultaneously revealing the law to be itself nothing other than a performance.[87]

I find such a model too reductive of the relation between two such complex discourses; nevertheless, Bate's astute analysis of legal discourse in relation to *Titus* has done much to enable a fresh critical approach to the play.[88]

In 'Rethinking the "Spectacle of the Scaffold"', Lorna Hutson rightly argues that *Titus Andronicus* is a play that invites analysis from a legal perspective, driven as it is by the 'forensic rhetoric of plot'.[89] Hutson considers the extent to which England's 'participatory justice system might have had an impact on dramatic epistemology and vice versa'.[90] She refutes the relevance of Foucault's 'spectacle of the scaffold' within an English context. The continental inscription of power through a theatre of punishment is seen to be inadequate to describe the English legal system, due to the highly participatory nature of criminal law in England:

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[87] Bate, ed., *Titus Andronicus*, pp. 26-7. This argument is also to be found in Bate, 'The Performance of Revenge', which ends with the line: 'acknowledging the theatricality of revenge kills the credibility of the law', p. 281. For a discussion of this essay, see Introduction, pp. 30-1.

[88] This includes essays in both *Shakespeare and the Law*, and *The Law in Shakespeare*: Dympna Callaghan and Chris R. Kyle, '"Wilde justice" in Early Modern England and *Titus Andronicus'*, in *The Law in Shakespeare*, ed. by Jordan Constance and Karen Cunningham (Basingstoke: Palgrave Macmillan,2007) pp. 38-57, discussed in the Introduction pp. 34-5; Christian Biet, '*Titus Andronicus* vs *Le More Cruel* and *Les Portugais Infortunés*: Humiliation, Punishment and Violence in the Shakespearean and French Theatre of the Late Sixteenth and Early Seventeenth Centuries', in *Shakespeare and the Law*, pp. 221-34, which has relatively little to say on either *Titus* or the law, with the majority of the article (pp. 224-34) devoted to two French tragedies of revenge from the seventeenth century; I engage more fully with Raffield's essay, '"*Terras Astraea reliquit*": *Titus Andronicus* and the Loss of Justice', from the same collection below, p. 128ff. Zurcher's monograph, *Shakespeare and Law*, Arden Critical Companions (London: Methuen, 2010), makes no reference to *Titus Andronicus*, despite recent work on the legal context of the play.

[89] Lorna Hutson, 'Rethinking the "Spectacle of the Scaffold": Juridical Epistemologies and English Revenge Tragedy', *Representations*, 89 (2005), 30-58 (p. 32). This argument subsequently appears in *The Invention of Suspicion*, chapter 2.

[90] 'Rethinking the "Spectacle of the Scaffold"', p. 32.

> [T]he epistemology of the jury trial, with its hearing of witnesses on both sides, and its contested freedom to evaluate witness testimony both as to the fact and the question of felonious intent, differed in significant ways from the epistemology of the inquisitorial trial described by Foucault.[91]

Hutson then goes on to discuss *Titus Andronicus* as 'a perfect example of how Elizabethan revenge tragedy is self-consciously plotted to distinguish the participatory, open, and adversarial jury trial from the inquisitorial system Foucault described'.[92] Furthermore, political tyranny is figured as 'the refusal of an open hearing of the evidence', meaning that 'there is...a significant *political* charge in the play's representation of resistance to tyranny as participation in the work of justice' (original emphasis).[93] Saturninus' failure to examine the evidence properly is aligned with continental practices where evidence for and against a defendant is simply tallied rather than subjected to investigation. This is then contrasted with the 'slow and painful attempts of Marcus, Titus, and young Lucius to interpret Lavinia's signs [as] a displaced form of inquiry into the evidence denied by official justice'.[94]

While I agree in principle with Hutson's argument for common law trial procedure as an important context for our reading of *Titus Andronicus*, I believe that she fails to account for the degree to which that institution was itself under threat in the late sixteenth century; as Lambarde warns us, 'the native liberty and ancient pre-eminence of the English policy is

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[91] 'Rethinking the "Spectacle of the Scaffold"', p. 43.

[92] 'Rethinking the "Spectacle of the Scaffold"', p. 32.

[93] *The Invention of Suspicion*, p. 91; p. 105.

[94] *The Invention of Suspicion*, p. 93.

already little by little exceeding shred off and diminished'.[95] Despite Hutson's awareness of the many pivotal moments where the examination of evidence does not result in the discovery of truth, most notably in the case of Lavinia who 'embodies the uncertainty of evidence', she maintains that the play demonstrates the superiority of English legal procedures.[96] But in my reading of the play, the language employed points towards the caveats and pitfalls of English legal procedure more than the efficacy of trial by jury.

A fundamental similarity between theatre and courtroom is that both rely on the presentation of evidence, to an audience or a jury, and this evidence is open to interpretation. Nowadays when we talk about the facts of the matter, this usually means what has been established as true, but this was not always the case. When Marcus describes Lavinia's assailants as '[c]onfederate in the fact' (4.1.39), he is uses the word 'fact' in the early modern sense of something yet to be proved, not a foregone conclusion. As Barbara Shapiro's work on the origin of 'facts' in early modern England demonstrates, '"[f]act" in this context did not necessarily refer to an established truth but often to an issue of truth'.[97] The idea that facts are not the end-point of truth so much as a starting-point for discovery is important to bear in mind when approaching the 'facts' of *Titus Andronicus*. Shapiro records how '[f]irsthand sensory experience might provide "best evidence" for "matters of fact", but...was unattainable by courts'.[98] The job of the early modern law court was to establish the truth of the matter

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[95] *William Lambarde and Local Government*, p. 108.

[96] *The Invention of Suspicion*, p. 93.

[97] Barbara Shapiro, *A Culture of Fact: England, 1550-1720* (Ithaca: Cornell University Press, 2000), p. 31. The quote continues 'Indeed, one of the great changes that occurred over the course of two centuries...was the transformation of "fact" from something that had to be sufficiently proved by appropriate evidence...to something for which appropriate verification had already taken place'. See also Peter Goodrich's entry on 'Law' in *The Encyclopedia of Rhetoric*, ed. by Thomas O. Sloane (Oxford: Oxford University Press, 2007): 'What is important to the status and fate of the discipline of legal rhetoric is that proof was conceived as an agonistic and theatrical craft', p. 421.

[98] Shapiro, p. 13.

from such ephemeral facts; this required, necessitated even, a belief that 'it was possible to gain adequate if not perfect knowledge of events that could not be seen, heard, or repeated in court'.[99] Shapiro describes this as the primary epistemological assumption underlying the modes of inquiry in the early modern courtroom, and it is this assumption that is so heavily scrutinised by Shakespeare in *Titus Andronicus*.

The theatre is a space where the evidence of the audience's own eyes is often revealed to be faulty; in the words of Macbeth, 'Mine eyes are made the fools o' th' other senses,/ Or else worth all the rest' (2.1.44). *Titus Andronicus* plays on this instability in many key scenes: as Titus himself says at one point, 'we worldly men/ Have miserable, mad, mistaking eyes' (5.2.65).[100] In 2.2, Tamora conjures through language two antithetical images of the forest in the space of seventy lines, as it is transformed from a place of cheerful sun and sweet shade (2.2.13) to a place where the sun never shines: 'A barren detested vale you see it is' (2.2.93). This last statement is as much a challenge to the audience as it is a statement of 'fact' to her sons, and we are left struggling to resolve such visible, or rather verbal, contradictions. As one critic notes, '[o]nly words create the scene'.[101] By focusing on the vulnerability of the senses as discerners of truth, I intend to show how *Titus Andronicus* casts new light on the evidential practices of English jury trial in the late sixteenth century.

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[99] Shapiro, p. 13.

[100] Huston Diehl argues that dramatists of this period deliberately destabilize their spectators' relation to what they see onstage, *Staging Reform, Reforming the Stage: Protestantism and Popular Theater in Early Modern England* (London: Cornell University Press, 1997), p. 92.

[101] Gillian Murray Kendall, '"Lend Me Thy Hand": Metaphor and Mayhem in *Titus Andronicus*', *Shakespeare Quarterly*, 40 (1989), 299-316 (p. 311). See also *The Invention of Suspicion*, p. 95.

'Open thy deaf ears' (2.3.160)

In the 'palace full of tongues, of eyes, and ears' (2.1.128), the curtailment of senses is not immediately apparent. Yet in *Titus* characters talk of deafness or being deaf four times, twice as much as any other play of Shakespeare's. Loss of hearing becomes a central metaphor for a justice system that does not listen.[102] The first instance relates to the planned rape of Lavinia, as Aaron describes the woods as 'ruthless, dreadful, deaf and dull' (1.1.628). Unlike the eye or the mouth, which can be shut voluntarily or by force, the ear is not so readily controlled. It is this very openness that makes rhetoric such a potent force in the play. This potency is figured in aural terms when Aaron describes Tamora's influence over Saturninus:

> This siren that will charm Rome's Saturnine
>
> And see his shipwreck and his commonweal's.
>
> 1.1.522

Tamora's siren-like qualities are here directly connected to the 'shipwreck' of the commonwealth; political stability is threatened by the emperor's unguarded ear.[103]

Despite such aural vulnerability, one can also become metaphorically deaf to another's pleas, as demonstrated by Tamora in the forest 'ruthless, dreadful, deaf and dull' (1.1.628). As Lavinia begs for mercy, Tamora responds 'I will not hear her speak' (2.3.137), to which Lavinia paradoxically replies, 'Open thy deaf ears' (2.3.160), alerting us to the possibility of self-imposed deafness.[104] Jennifer Rae McDermott's research on early modern sensory theory refutes the 'open ear' theory by showing how 'it can be *attentively* closed' according to early

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[102] See Raffield, p. 215.

[103] A motif that Shakespeare will return to when Old Hamlet is killed by poison administered through the ear.

[104] Cf. One of the additions to *The Spanish Tragedy* where the Spanish King wishes to block his senses as a defence against the pain of his grief: 'Be deaf my senses, I can hear no more' (4.4.44).

modern commentators.[105] Tamora's deafness thus shows an act of will as much as anything: she 'will not hear her' (2.3.137). The more violent counterpart of not hearing someone speak is stopping their mouth by force, and Shakespeare repeatedly stages this very action. Tamora's metaphorical deafness gives way to Lavinia's literal dumbness, after the latter's desperate entreaties to Chiron and Demetrius fall on deaf ears:

Lavinia: Confusion fall –

Chiron: Nay then, I'll stop your mouth.

2.2.184

These are Lavinia's final words: within the space of a single line of pentameter the rapist's voice supplants that of his victim. The attendant 'confusion' is also the confusion of senses in the play; again and again, organs of sense are juxtaposed and coupled together. A fitting example comes towards the end of the play, as Lucius asks Aaron: 'Why dost not speak? What, deaf? Not a word?' (5.1.46). Here dumbness and deafness are momentarily conflated, reminding us of the integrated nature of the senses in one's own body, and in the body of the play.[106]

When Titus later orders the gagging of Chiron and Demetrius, there is a similar and insistent juxtaposition of speechlessness and hearing:

Sirs, stop their mouths, let them not speak to me,

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[105] McDermott, para 10. See also Keith M. Botelho, *Renaissance Earwitnesses: Rumor and Early Modern Masculinity* (Basingstoke: Palgrave Macmillan, 2009): 'early modern dramatists contended that the path to truth and authority rested in careful listening with a discerning ear to all voices, distilling the truth from male and female talk by aurally detecting the veracity of the information and the credibility of the teller', p. 7.

[106] For a more light-hearted example, see Bottom's utterance in *A Midsummer Night's Dream*: 'The eye of man hath not heard, the ear of man hath not seen...' (4.1.209).

But let them hear what fearful words I utter.

5.2.167[107]

Here Titus combines the enforced dumbness of Chiron and Demetrius with their inability to close their ears. He insists on them hearing 'what fearful words I utter', compounded by the imperative 'Hark villains' (5.2.186). Just as they silenced Lavinia and subjected her to their aural taunts, so too they are constrained to listen to Titus' plans for vengeance. But there is more at stake here than dramatic symmetry or poetic justice. The stopping of mouths and silencing of tongues is characteristic of the tyrannical Roman state, encapsulated perfectly by the tribunes' deafness to Titus' pleas at the beginning of the third act. Titus begs for pity through the display of emotion, relying on the veracity of his grief: 'And let me say, that never wept before,/ My tears are now prevailing orators' (3.1.26). Yet the judges pass on, and Lucius must tell his father, 'My gracious lord, no tribune hears you speak' (3.1.32).

In *The courts of justice corrected and amended*, William Lambarde describes the proper emblem for a judge:

> And therefore the Embleme of a Judge was rightly pourtrayed with wide ears, but without eyes at all, to denote that he ought fully and patiently to heare the whole Cause, but not affectionately to respect any party.[108]

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[107] Titus has already given the order, 'And stop their mouths if they begin to cry' (5.2.161).

[108] William Lambarde, *The courts of justice corrected and amended. Or the corrupt lawyer untrust, lasht and quasht* (London, 1642) (available on EEBO, Wing, 2nd edn L86), p. 5. On the ongoing debate between depictions of Lady Justice as clear-sighted or blind in the period, see Dennis E. Curtis and Judith Resnik, *Representing Justice: Invention, Controversy and Rights in City-states and Democratic Courtrooms* (New Haven and London: Yale University Press, 2011), chapter 5, 'Why Eyes? Color, Blindness, and Impartiality', pp. 91-105.

Saturninus in his role as judge repeatedly shows an unwillingness to listen to the pleas of others. On the arrest of Titus' supposedly guilty sons, the emperor's pronouncement rejects the spoken word in favour of visual evidence: 'If it be proved? You see it is apparent' (2.2.292). He then proceeds to silence the brothers, thus violating their right to defend themselves verbally: 'Let them not speak a word: the guilt is plain' (2.2.301). In the words of Coke, 'to judge in a point of difference, hearing but one partie speake, is assuredly to be vnjust'.[109] Like *The Spanish Tragedy*, we find the familiar scenario of a head of state acting as judge in a case where family ties interfere with his capacity to act fairly. When his brother's body is discovered, Saturninus is given a forged letter implicating Titus' two sons. But instead of emulating Hieronimo's forensic methods, comparing hand-writing samples and so forth, he takes the letter at face value and sentences the brothers to death on the spot.[110] Saturninus is similarly impassive in the scene when the clown is sent to his death for delivering Titus' letter. After reading the letter, Saturninus does not even address the clown directly, simply ordering his execution: 'Go, take him away and hang him presently!' (4.4.44).[111] The similarity with the summary conviction of Alexandro by the Portuguese viceroy is telling (*The Spanish Tragedy*, 1.3); while Alexandro is ultimately set free through the workings of providential justice (3.1), Shakespeare's clown is never heard from again. The emperor's consistent refusal to listen is the antithesis of Lambarde's emblematic judge 'with wide ears'.[112]

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[109] *The Lord Coke his speech and charge VVith a discouerie of the abuses and corruption of officers* (London, 1607) (available on EEBO, STC no. 5491), sig. C4^{v}.

[110] Indeed it is possible that a perceptive audience who knew their *Spanish Tragedy* might object that Saturninus need only ask for a hand-writing sample from the accused to establish their innocence. Hutson too notes the similarity with Kyd's play in this scene, *The Invention of Suspicion*, p. 96

[111] Bate's annotations bring out the clown's persistent legal punning in his last line, 'Hanged, by'Lady? Then I have brought up a neck to a fair end' (4.4.47), with 'brought up', 'neck' and 'end' all having specific legal meanings in the period, *Titus Andronicus*, pp. 239-40.

[112] Cf. It is noteworthy that Shakespeare has another emperor with impaired hearing in *Julius Caesar*: 'Come on my right hand, for this ear is deaf' (1.2.212).

Raffield links the lack of open hearing for Titus' sons directly to Saturninus' tyranny:

> The absence of an impartial trial before an independent tribunal is a flagrant breach of the basic principles of natural justice, *audi alteram partem* ('hear the other side'): the right to a fair hearing.[113]

Similarly, of the execution of the clown, he notes: 'The scene is inexplicable and strange only if it is forgotten that in the 1590s, the equitable principles of common law ideology were often blatantly ignored by the prerogative courts'.[114] By placing the denial of free speech in the context of 'the increasing autocracy of government' in Elizabethan England, Raffield highlights how Shakespeare integrates contemporary anxiety surrounding judicial control into his representation of imperial Rome.[115] Such a reading has the virtue of registering the political import of a play, but its tight focus on the figure of Saturninus magnifies that character's importance at the expense of other, more central figures. While Saturninus' tyranny is manifest, it is Tamora and Aaron who plot the downfall of the Andronicii. As confirmation that Saturninus is not Titus' professed enemy, we need only look to the final revenge plot – it is Tamora and her sons that are the object of Titus' revenge, while Saturninus is slain by Lucius in retaliation for the killing of Titus. Since Saturninus does not die by Titus' hand, this implies that he is not the true antagonist of the piece, which has major implications for Raffield's republican reading of the play. As already touched on, Titus too is deaf to the pleas of others ('Sirs, stop their mouths, let them not speak to me' (5.2.167)), and his son Lucius also closely mirrors Saturninus when he orders Aaron's silence during his confession of crimes: 'Sirs stop

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[113] Raffield, p. 216.

[114] Raffield, p. 205. I would add that common law procedure was itself lacking in transparency at this time due to the circumvention of trial by jury described above.

[115] Raffield, pp. 205-6.

his mouth and let him speak no more' (5.1.151). Such echoes have important implications for Hutson's argument that the Andronicii are champions of open and participatory trial by jury, which will be drawn out in the final section. For now it is sufficient to note that wilful deafness and involuntary silence are two sides of the same coin; taken together they become symbolic of the suppression of free speech.

'My tears will choke me if I ope my mouth' (5.3.174)

The first instance of dumbness in the play is not the gruesome removal of Lavinia's tongue, nor the violent stopping of mouths mentioned above. It is the eerily silent presence of the supporters of Saturninus and Bassianus onstage in the opening scene. In *Julius Caesar* (3.2), Shakespeare demonstrates his ability to give the multitude a voice, while *Coriolanus* foregrounds the issue of voice by using the word thirty-two times in a single scene (2.3).[116] Even in the reported speech of *Hamlet* there is a sense of a vocal majority: 'The rabble call him lord' (4.5.103). But in the opening scene of *Titus Andronicus*, silence speaks volumes; there is no indication that the followers of either Saturninus or Bassianus give any response to their masters' rhetorical flourishes. Similarly, the tribunes 'aloft' with Marcus remain silent. When they do speak, after being onstage for some two hundred lines, it is to give over to Titus the power of election: 'To gratify the good Andronicus/.../The people will accept whom he admits' (1.1.224). There is no indication that they open their mouths for the remainder of the scene.

Titus of course chooses Saturninus, and Marcus proclaims the new emperor:

With voices and applause of every sort,

[116] Annabel Patterson argues that *Coriolanus* treats 'the popular voice as a constitutional entitlement', *Shakespeare and the Popular Voice* (Oxford: Blackwell, 1989), p. 127. In her discussion of voicing discontent in Shakespeare's Roman plays, Patterson does not touch on the issue of voice, or lack thereof, in *Titus Andronicus*.

Patricians and plebeians, we create

Lord Saturninus Rome's great emperor.

1.1.234[117]

Whether this is an imperative or a statement is unclear, yet no response is forthcoming from either patricians or plebeians. His shout of 'Long live our emperor Saturnine!' (1.1.237) is again received in silence, recalling Richard III's difficulty in obtaining popular support, or the illusion thereof (*Richard III*, 3.7). But rather than the 'wilful silence' (3.7.28) of *Richard III*, where the people withhold their cry of assent as a political statement, in *Titus* the silence of the masses is suggestive of a people without a voice.

Lavinia's speechlessness is the most palpable loss of voice in the play – 'the mute embodiment of a discordant society'[118] – reinforced by her silent presence onstage for the majority of the play. This is most often read in gendered terms, as the woman is excluded from patriarchal language: 'Others speak of her, about her, and to her'.[119] Before she ever loses her tongue, her speech is impaired by what it is possible or proper for a woman to say, as we see in her encounter with Tamora: "Tis present death I beg, and one thing more/ That womanhood denies my tongue to tell' (2.3.173). Mary Laughlin Fawcett talks of the subtle ways in which Lavinia is silenced from the opening scene: at first she echoes her father's words back to him, before remaining silent while Bassianus and Saturninus argue over their right to

[117] Of course, Titus lives to regret his decision, which he frames in specifically political terms: 'Ah, Rome! Well, well, I made thee miserable/ What time I threw the people's suffrages/ On him that thus doth tyrannize o'er me' (4.3.18).

[118] Raffield, p. 214.

[119] Kendall, p. 305.

appropriate her.[120] Her tongue is always in some sense absent, removed, by the force of patriarchy if not by the force of the Goths.[121]

On Lavinia's first appearance after the rape, Marcus posits the central question when he asks 'Shall I speak for thee?' (2.4.33). While much work has been done on the feminist implications of Lavinia's plight in the play, here I wish to focus on the opacity of Lavinia's actions when not mediated through language, and how this affects the notion of proof in the play. As she tries desperately to communicate the horrific crimes against her to her family, Titus turns away from daughter to brother: 'How now Lavinia? Marcus, what means this?' (4.1.30). In response to his daughter's frantic signs, Titus again must ask 'Why lifts she up her arms in sequence thus?' (4.1.37), to which Marcus replies:

> I think she means that there were more than one
>
> Confederate in the fact. Ay more there was,
>
> Or else to heaven she heaves them for revenge.
>
> 4.1.38

Marcus introduces the problem of not knowing the facts of the matter, which is inseparable from the struggle to decipher Lavinia's 'alphabet' (3.2.44). When trying to ascertain the facts – the number of assailants – Marcus' initial progress is sharply undercut by the 'Or' at the beginning of the next line. The truth is not so easily determined, and indeed the scene severely undermines Titus' confident assertion that he 'can interpret all her martyred signs' (3.2.36). In lieu of speech, Lavinia is forced to communicate non-verbally, but the meaning of her signs as

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[120] Mary Laughlin Fawcett, 'Arms/Words/Tears: Language and the Body in *Titus Andronicus*', *English Literary History*, 50 (1983), 261-77 (p. 266).

[121] See also Barbara Antonucci, 'Romans versus Barbarians: Speaking the Language of Empire in *Titus Andronicus*', in *Identity, Otherness and Empire in Shakespeare's Rome*, ed. by Maria Del Sapio Garbero (Surrey: Ashgate, 2009), pp. 119-30 (p. 129).

read by Titus and others is ambiguous at best. Fawcett recognises that the 'possibility of misinterpreting Lavinia's actions is strong' but she does not connect this to judicial procedure.[122] Lavinia's status as '[s]peechless complainer' (3.2.39) can never be fully reconciled with English adversarial trial procedure, which relied on the calling forth of witnesses and the hearing of testimony. This distinctly problematises Fitzherbert's assertion that a jury's role is to interpret 'matter of fact only that is to say, not of intricate, and ambiguous pointes but of playne and euident matters'.[123]

It must not be forgotten that the curtailment of speech is not limited to Lavinia – within the world of the play it is almost universal. Kermode, when talking of *King Lear*, senses 'a silence at the very heart of Shakespeare' but he goes on to say in the same utterance that this was 'not available to the author of *Titus Andronicus*'.[124] I would take issue with such an interpretation; we've already seen Chiron, Demetrius, and Aaron gagged, but quite apart from the violent silencing of blabbing tongues, there is a deeper impetus towards silence, moving beyond physical mutilation to symbolic loss of voice. There is the unnatural silence of both supporters and tribunes in the play's opening scene. In the final act this is developed into a pervasive silence that threatens to overwhelm many of the key characters. Bate notes the uncharacteristic silence of the Goths in the last scene, without linking this to either the silent crowd of 1.1 or the curtailment of speech in general.[125] Within twenty lines of this, Marcus

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[122] Fawcett, p. 274. Hutson notes 'how easily Lavinia's signs are misread, or ignored', 'Rethinking the "Spectacle of the Scaffold"', p. 50.

[123] Fitzherbert, p. 12, sig. E^{v}.

[124] Kermode, p. 11. He sees early Shakespeare as 'a non-dramatic poet who cannot offer a blank page but must always be talking, like Marcus in *Titus*', p. 12. This misses the point that Marcus' verbose description in 2.4 only highlights Lavinia's profound silence. Similarly Bate says that 'throughout the play, the action turns on mouths that speak, mouths that abuse and are abused, mouths that devour', *Titus Andronicus*, p. 9. I would assert rather the opposite is the case here.

[125] 'The Goths are definitely present but uncannily silent in this final sequence', *Titus Andronicus*, p. 269.

doubts his own ability to express himself: 'But floods of tears will drown my oratory/ And break my utterance' (5.3.90). One hundred lines later it is the younger Lucius who feels he 'cannot speak to him [Titus] for weeping;/ My tears will choke me if I ope my mouth' (5.3.174).[126] In the linguistically-fraught atmosphere of *Titus Andronicus* where words mean power, the play's 'wrongs unspeakable' (5.3.125) provoke verbal paralysis. It is particularly pertinent that tears are the enemy of speech here, as 'words and tears compete for outlet'.[127] Shakespeare introduces tears as a source of temporary dumbness, and they are also instrumental in much of the sightlessness experienced by characters, as we shall now see.

'For such a sight will blind a father's eye' (2.3.50)

Sightlessness is not the most obvious affliction in the play, since none of the characters are left blinded. Yet *Titus Andronicus* challenges the eye in more ways than one, as characters continually show their myopia, both literal and metaphorical. Even divine sight loses its omniscience, as Lavinia's rape is figured as hidden from sight: 'There serve your lust, shadowed from heaven's eye' (1.1.630). The murder of Bassianus is similarly linked with darkness and loss of sight, taking place as it does beside the 'dark, blood-drinking pit' (2.2.224).[128] When Quintus and Martius approach the pit, Quintus complains 'My sight is very dull' (2.2.195), fulfilling Aaron's prophecy that 'The woods are ruthless, dreadful, deaf, and dull' (1.1.628).

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[126] This in itself is a powerful rhetorical strategy, as noted by Quintilian, recalling Cicero's defence of Milo: 'A confession of being overcome by grief and fatigue is also wonderfully effective in an Epilogue', *Institutio Oratoria*, trans. by Donald A. Russell, part of the Loeb Classical Library series (Cambridge, MA: Harvard University Press, 2001) 11.3.175. My thanks to Prof. Hutson for bringing this quotation to my attention.

[127] Fawcett, p. 264.

[128] For a more psycho-sexual interpretation of the pit, see Bate, ed., *Titus Andronicus*, pp. 7-9.

Once in the pit, Quintus again insists on his lack of vision 'My heart suspects more than mine eye can see' (2.2.213), while Martius echoes these sentiments from above:

> my compassionate heart
>
> Will not permit mine eyes once to behold
>
> The thing whereat it trembles by surmise.
>
> 2.3.217

The vision of evil threatens to blind characters' eyes, and this play offers many such visions.

One of the most arresting visual images of the play is of course Lavinia's emergence in 2.3, with hands cut off, tongue cut out, and ravished. And again this is linked with loss of sight. At first, Marcus struggles to find an appropriate language for what he sees.[129] He then describes how Lavinia as an object of sight is to become the cause of sightlessness in others:

> Come, let us go and make thy father blind,
>
> For such a sight will blind a father's eye.
>
> One hour's storm will drown the fragrant meads:
>
> What will whole months of tears thy father's eyes?
>
> 2.3.52

The actual violence committed against Lavinia is transmuted into the metaphorical source of further violence, or more specifically, blinding. Amid the hyperbole of torrential tears, there is an implicit connection between blindness and weeping, a link that becomes increasingly apparent as the play progresses.

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[129] See, for example, Eugene M. Waith on the disjunction between visual image and poetic description, 'The *Metamorphosis* of Violence in *Titus Andronicus*', *Shakespeare Survey*, 10 (1957), 26-35.

The next scene sees the accumulation of griefs for the Andronicii, with the arrival of Lavinia, the banishment of Lucius, and the execution of Quintus and Martius, and tears are the natural expression of such grief:

> Titus, prepare thy aged eyes to weep,
>
> Or if not so, thy noble heart to break:
>
> I bring consuming sorrow to thine age.
>
> 3.1.59

Sorrow is piled on sorrow, testing the limits of dramatic representation and its effect on both audience and characters, exemplified by Titus' extravagant suggestion of a 'brine pit of our bitter tears' (3.1.130). Finally, on the return of his sons' heads, Titus resists the urge to cry, since sorrow 'would usurp upon my watery eyes/ And make them blind with tributary tears' (3.1.268).[130] The motif of blinding tears culminates in Titus' speech following his slaying of Lavinia, as he replies to Saturninus that he has '[k]illed her for whom my tears have made me blind' (5.3.48). This statement is more than a conventional expression of grief – it signposts Shakespeare's ongoing interrogation of tears and their signification.

Marjory Lange's survey of 'telling tears' in the early modern period shows how even this seemingly most natural of phenomena is socially conditioned, gendered and subject to changing interpretations. While her selection of medical, poetic and religious texts does not encompass *Titus Andronicus*, it does draw attention to the fact that tears act as a prism of meaning in early modern discourse; as she puts it, 'many artistic tears gain interpretive

[130] While 'usurp' registers a note of political import, 'tributary tears' echoes Lavinia's 'tributary tears' for her brothers in the opening scene (1.1.163), again where the political and the personal coalesce uncomfortably. 'Tributary' also connotes 'tribute', the payment of other states due to Rome, which elsewhere is so central to the plot of *Cymbeline*.

amplitude'.[131] Tears have an important and ambiguous status throughout the text of *Titus*, as they insist on being interpreted; indeed, they foreground the issue of interpretation. While Marcus' tears stifle his speech, and Titus' obscure his sight, Lavinia's tears threaten to obscure meaning itself:

> Perchance she weeps because they killed her husband,
>
> Perchance because she knows them innocent.
>
> 3.1.115[132]

Marcus speaks of his niece's tears, but only conditionally; he presents his audience (on stage, in theatre) with 'competing hypotheses', but without any way of deciding between them.[133] As with her gestures at 4.1.38, the evidence of Lavinia's body is deeply ambivalent.[134] Hutson rightly notes how '[c]ritics write of this play and of this scene without seeming to register at all the radical quality of the uncertainty that is being represented here'.[135] While the unintelligibility of Lavinia to her family is well recognised, the significance and signification of her tears has been neglected.[136] On the tendency for drama to relativise truth, Mukherji observes how 'inscribing such an awareness of the fluidity of signs would run counter to the

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[131] Marjory E. Lange, *Telling Tears in the English Renaissance* (New York: Brill, 1996), p. 19.

[132] Titus replies that if they were guilty 'then be joyful,/ Because the law hath ta'en revenge on them' (3.1.117) again showing an easy commerce between revenge and law.

[133] *The Invention of Suspicion*, p. 98.

[134] Cf. I think she means that there were more than one
Confederate in the fact. Ay more there was,
Or else to heaven she heaves them for revenge.
4.1.38

[135] *The Invention of Suspicion*, p. 98.

[136] Fawcett's promising title of 'Arms/Words/Tears' does not in fact pay attention to the carefully structured language of tears in the play.

positivism of the institutional discourse of law'.[137] This is precisely what we are presented with in *Titus*, typified by Lavinia, the 'map of woe, that thus dost talk in signs' (3.2.12) and her fluid expressions of grief. As something at once both natural and ambiguous, tears are central to Shakespeare's challenge to the process of signification itself.

In his *Treatise on Melancholy*, Timothy Bright asks 'What maruell then, if contraries in passions bring forth like effects; as to weepe and laugh, both for ioy and sorow?'.[138] The polyvalency of tears is familiar to early modern authors, as weeping/laughter and joy/sorrow become interchangeable. In the case of Titus, while at one point tears threaten to overwhelm him, at the height of his grief it is laughter that issues forth; Marcus must ask him, 'Why dost thou laugh? It fits not with this hour' (3.1.265). Yet there is no doubt that Titus feels deeply the loss of his sons and rape of his daughter.[139] When even the expression of grief is indeterminate, Shakespeare makes it difficult for his audience and would-be jury to deliberate on the truth of the matter, complicated as it is by ambivalent signs. Not only is Shakespeare careful to give us an example of Bright's assertion that it is 'not straunge to see one laugh for griefe',[140] he also subtly inserts an example of its opposite. In 5.1, when Aaron is confronted by Lucius and his band of Goths, he recounts a scene from 3.1 which the audience have witnessed, but adds his own perspective which radically destabilises our interpretation of that scene:

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[137] Subha Mukherji, *Law and Representation in Early Modern Drama* (Cambridge: Cambridge University Press, 2006), p. 172.

[138] From the chapter opening: '*Why and how one weepeth for ioy, and laugheth for griefe...*' Bright, *Treatise of Melancholy* (London, 1586) (available on EEBO, STC no. 3748), p. 144. Lange's assertion that Bright categorically states 'one weeps only for sorrow' seemingly does not allow for such internal inconsistencies within the early modern text, p. 38.

[139] Cf. The Portuguese viceroy in *The Spanish Tragedy* says of his grief for his son: 'For deepest cares break never into tears' (1.3.7).

[140] Bright, p. 149.

I pried me through the crevice of a wall

When for his hand he had his two sons' heads,

Beheld his tears and laughed so heartily

That both mine eyes were rainy like to his.

5.1.114

Aaron's eyes were 'rainy like' to Titus': the same tokens are used by Shakespeare to represent the protagonist's grief and a villain's glee. To borrow a phrase from *The White Devil*, all is a matter of 'perspective art' (1.2.101).[141] A double vision is created by the image of us watching Aaron who is watching Titus receiving his sons' heads, showing how the full significance of the scene may escape the observer even when one has witnessed it first-hand. Aaron's re-presentation of the facts leaves the audience with a much occluded picture of what they have seen, undercutting the merits of witness testimony, never mind the jury's interpretation of that testimony. Here Shapiro's observation about first-hand sensory experience as the best sort of evidence is called into question, since we are presented with two sets of transparent tears that mean opposite things.

This instability of visual signification has important implications for the reading of character in the theatre, but it also affects early modern courtroom procedure, which relies heavily on the impression a defendant makes on the jury.[142] Indeed this is the reason given for the denial of an attorney to defendants at trial:

> if the partie himselfe defend it, peradventure his conscience will prick him to utter the truth, or his

[141] John Webster, *The White Devil*, ed. by John Russell Brown, Revels Plays series (Manchester: Manchester University Press, 1996) (first printed 1612, available on EEBO, STC no. 25178).

[142] On the ocularcentrism of the law in modern America, see the introduction to *Law and the Senses: Sensational Jurisprudence*, ed. by Lionel Bently and Leo Flynn (London: Pluto Press, 1996).

> countenance or gesture will show some tokens thereof, or by his simple speeches somewhat may be drawn from him to bolt out the verity of the cause, which would not be won of men learned in the Law, who endeavour to speake providently, and artificially, which be the causes that the offendor shal answer in his owne person, and not by councell learned.[143]

In her discussion of *The White Devil*, Mukherji too notes that defendants were expected to deliver their plea verbally in court, in the hope that 'this might provide supplementary evidence by way of expressive gestures which would help the court in coming to a verdict'.[144] However, in *A guide to grand-iury men*, Richard Bernard notes the worrying possibility that physical characteristics could be dissembled:

> There was one *Marwood*, a confederate with *Weston, Dibdale*, and other Popish Priests, who did so cunningly act his part, in trembling, foaming, and raging, when he was touched with *Campions* girdle, forsooth, as made the gull'd lookers on to weepe.[145]

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[143] Ferdinando Pulton, *De Pace Regis et Regni* (London, 1609) (available on EEBO, STC no. 20495), pp. 184-5 (sig. Ii1^{v} - Ii2^{r}), quoted by Syme, p. 68.

[144] Mukherji, p. 156. Similarly, Herrup says 'early modern jurors relied on judgements of characters formed in the courtroom', p. 149.

[145] Richard Bernard, *A guide to grand-iury men* (London, 1627) (available on EEBO, STC no. 1943) p. 30 (sig. C2^{v}). See also Stephen Greenblatt's discussion of Samuel Harsnett's *A Declaration of Egregarious and Popish Impostures* (London, 1603), *Shakespearean Negotiations: The Circulation of Social Energy in Renaissance England* (Oxford: Clarendon Press, 1988) chapter 4, p. 94ff. Mukherji also notes 'a wider scepticism about the notion of evidence', p. 159.

Marwood and his confederates act their part so well that they bring forth tears in their spectators, and this clearly is seen in a negative light. What then are we to make of the performance of emotion intrinsic to the early modern theatre, where actors daily play out the extremes of love, hate and grief, drowning the stage with tears? The consistent metatheatricality of a genre like revenge tragedy faces this problem head-on: 'Why, all this while I ha' but played a part,/ Like to some boy, that acts a tragedy,/ Speaks burly words, and raves out passion' (*Antonio's Revenge*, 4.5.49). The copious tears of *Titus Andronicus* refuse to signify what they are supposed to, as signs of evidence slide uneasily between performance and authenticity. If Lavinia's tears could signify her brothers' guilt or their innocence, and Titus' tears of sorrow are indistinguishable from Aaron's tears of mirth, it is not unreasonable to see in this a challenge to the infallibility of trial by jury, which infers truth from a series of signs.[146] The stifling tears of *Titus Andronicus* are both more and less than a sign of grief; like the decapitated heads of Quintus and Martius, they are signifiers severed from their signifieds.[147] When taken in conjunction with Hutson's work on the forensic rhetoric of plot in the play, Lavinia's silent signifiers, be they tears or gestures, are at the centre of an ongoing interrogation of hermeneutic crisis.

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[146] Lambarde describes the jury as 'a politic Argus' (p. 143), yet he also warns that 'if you, which by this office ought to be the very eyes and spies of the country...[did not] willfully [*sic*] wink and shut your eyes at the rest, then neither should offenders go on with such impunity, nor this country be so grieved with their wrongs, nor you so justly burdened with the fault', *William Lambarde and Local Government*, p. 73. The failure of the early modern jury is specifically described in terms of the failure of sight.

[147] See Ferdinand de Saussure, *Course in General Linguistics*, ed. by Charles Bally and Albert Sechehaye, trans. by Roy Harris (London: Duckworth, 1983) (first publ. in French as *Cours de linguistique generale* in 1916). Words too are no stable signifiers in *Titus Andronicus*: 'O handle not the theme, to talk of hands' (3.2.29).

"Tis true, 'tis true, witness my knife's sharp point' (5.3.65)

In the final act of *Titus Andronicus*, there are indications of a counter-movement to the sensory deprivation identified thus far, as sight and voice are gradually restored to the people of Rome. But what are the implications of this restoration of the senses in the context of Shakespeare's ongoing interrogation of judicial procedure? The opening lines of Act 5 are given over to Lucius:

> Approved warriors and my faithful friends
>
> I have received letters from great Rome
>
> Which signifies what hate they bear their emperor
>
> And how desirous of our sight they are.
>
> Therefore, great lords, be as your titles witness.
>
> 5.1.1

These lines re-introduce the acts of signifying ('Which signifies what hate') and seeing ('how desirous of our sight') as central components of the play's denouement. The key verb 'witness' occurs ten times in the final act alone. Lucius' popular support is an obvious counterbalance to the tyrannical tendencies of Saturninus, but even here there are warning signs.[148] After the preceding acts, Lucius' blithe confidence in the process of signification is unnerving: 'I have received letters from great Rome/ Which signifies what hate they bear their emperor'. The

[148] On the question of whether or not Lucius is to be viewed in a positive light in the final act, see Anthony Brian Taylor, 'Lucius, the Severely Flawed Redeemer of *Titus Andronicus*', *Connotations*, 6 (1996/7), 138-57; Jonathan Bate, '"Lucius, the Severely Flawed Redeemer of *Titus Andronicus*": A Reply', *Connotations*, 6 (1996/7), 330-33; Maurice Hunt, 'Exonerating Lucius in *Titus Andronicus*: A Response to Anthony Brian Taylor', *Connotations*, 7 (1997/8), 87-93; Philip C. Kolin, '"Lucius, the Severely Flawed Redeemer of *Titus Andronicus*": A Reply', *Connotations*, 7 (1997/8), 94-6; Anthony Brian Taylor, 'Lucius, Still Severely Flawed: A Response to Jonathan Bate, Maurice Hunt, and Philip Kolin', *Connotations*, 7 (1997/8), 97-103. This controversy is available online at <http://www.uni-tuebingen.de/connotations/taylor62.htm>.

status of letters as a medium of truth is already debased in the eyes of the audience, who have witnessed Lucius' two brothers sentenced to death because of a leader's readiness to accept the contents of a letter uncritically (2.2.292). Also, the plural 'letters' is followed by the singular 'signifies;' an ominous disagreement of noun and verb that raises the question of who the authors of these letters are, and what, precisely, is being signified.

Titus is next to call on a witness, in this case his own body, as he is confronted with the appearance of Tamora disguised as Revenge:

> Witness this wretched stump, witness these crimson lines,
>
> Witness these trenches made by grief and care,
>
> Witness the tiring day and heavy night,
>
> Witness all sorrow, that I know thee well.
>
> 5.2.22

The anaphoric repetition of 'Witness' stresses the need to assert a truth-value, and in the act of swearing Titus links this to the grief and violence suffered by the Andronicii. However, like his daughter Lavinia, Titus' body is a silent text, an issue of fact to be interpreted according to what the audience-jury know.

In the play's final scene, in the midst of Titus' bloody revenge, witnessing as a vehicle for truth continues to be scrutinised. Titus' final words reveal his Thyestian revenge to Tamora:

> Why, there they are, both baked in this pie,
>
> Whereof their mother daintily hath fed,
>
> Eating the flesh that she herself hath bred.
>
> 'Tis true, 'tis true, witness my knife's sharp point.
>
> *He stabs the Empress.*
>
> 5.3.62

Witnessing is equated with a guarantee of truth, but this is not the glory of English justice one might have hoped for.[149] If witnessing is to be coupled with truth, it is also implicated in the language of violence once again, as Titus plunges his knife into Tamora. Sight is further tainted with violence when Lucius declares 'Can the son's eye behold his father bleed?' (5.3.64) as justification for his act of regicide in stabbing Saturninus. If blindness made the Andronicii unwitting victims, the return of their sight can be said to fully reverse the situation.

In the aftermath of the onstage bloodbath, Lucius again speaks with confidence of the process of signification, which has now become conflated with the witnessing of truth. Firstly he refers to his 'true tears' drowning the enmity of the Goths (5.3.106), a statement that cannot be anything but problematic in light of the play's other tears. He then asks his 'gracious auditory' to believe his account by calling on his body as a witness in his case, much in the manner of his father:

> My scars can witness, dumb although they are,
>
> That my report is just and full of truth.
>
> 5.3.113

Lucius' true tears and dumb scars are offered as guarantees of authenticity, yet we have encountered numerous instances of ambiguous tears, and the other dumb witness, Lavinia, is repeatedly misread. If Saturninus was deaf to those around him, Lucius seems blind to the fact that dumb witnesses are not the most effective in a courtroom environment. Scars may express pain, as tears express grief, but neither gives an indication of truth.

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[149] Thomas Anderson says of oaths in the play that they are 'virtually identified with the acts of violence that accompany them', *Performing Early Modern Trauma from Shakespeare to Milton* (Aldershot: Ashgate, 2006), p. 32.

With Saturninus' death, the way is clear for a new regime of openness, underpinned by a new language of truth. Marcus' voice returns to him after being temporarily muted by his tears:

> Now is my turn to speak [*Points to Aaron's baby*]
>
> Behold the child.
>
> 5.3.118

The spell of silence is broken, but it is coupled with the action of sight – 'Behold the child' – again implying the primacy of sight. But was it not Saturninus who earlier contemptuously dismissed the need for trial in light of visual evidence: 'If it be proved? You see it is apparent' (2.2.292)? Marcus goes on to tell his audience how Aaron has been kept alive:

> And as he is to witness this is true,
>
> Now judge what cause had Titus to revenge,
>
> Those wrongs unspeakable...
>
> ...
>
> Now have you heard the truth: what say you, Romans?
>
> 5.3.122

Shakespeare clearly evokes the language of the courtroom, as Marcus offers to bring forth witnesses, while those onstage are to judge Titus' cause. But Aaron does not appear to give testimony, while the issue of fact so fundamental to the early modern courtroom is treated as a foregone conclusion: 'Now have you heard the truth'. Such truth-telling does not conform to Shapiro's model of reasoned argument, and is in fact just as pre-emptory as Saturninus' over-hasty judgements.

As for the Roman people's response to Marcus, it should come as no surprise that he is greeted with silence. Marcus continues for a full ten lines more, and must once again urge an answer:

Speak, Romans, speak, and if you say, we shall,

Lo, hand in hand, Lucius and I will fall.

5.3.134

Emillius answers on behalf of the Romans, electing Lucius emperor on the instant:

Lucius, our emperor, for well I know

The common voice do cry it shall be so.

5.3.138

Finally the common voice is heard, albeit through a third party, and it calls for Lucius to rule in Saturninus' place. While the *Rape of Lucrece* ends in intimations of republicanism, *Titus Andronicus* shows no sign of regime-change.[150] When the crowd finally does speak in its own voice, they hail Lucius as their emperor. But this is only after the first death-sentence of Lucius' rule has already been passed (5.3.144). After earlier refusing Aaron an open hearing (5.1.151), Lucius now passes sentence as summarily as any tyrant. Aaron's punishment involves torture for him, but also a worrying and unwarranted threat of violence to the population at large: 'If anyone relieves or pities him,/ For the offence he dies' (5.3.180). When Lucius as judge says 'This is our doom' (5.3.181), this has an ominous ring to it.[151] The episode carries disturbing echoes of Saturninus' treatment of Lucius' own brothers in 2.2, rendering an optimistic reading of the play's final moments problematic.[152] This is especially true in light of the play's final lines:

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[150] While the *Rape of Lucrece* had some basis in Roman history which dictated the ending, the inability to place *Titus Andronicus* historically means that other options were open to Shakespeare.

[151] Cf. 'Whereat fair Proserpine began to smile,/ And begged that only she might give my doom' (*The Spanish Tragedy*, 1.1.78).

[152] Kendall too registers Shakespeare's pessimistic outlook at the play's close, citing the knitting together of the broken limbs of Rome (5.3.71) as a return to the language used earlier in the play, and not a new language, pp. 315-6. Taylor observes that the 'figure of Aaron breast-deep in the earth constitutes the play's final dramatic icon, and is proof that the nightmare goes on', 'Lucius, Still Severely Flawed: A

Her life was beastly and devoid of pity,

And being dead, let birds on her take pity.

5.3.198

The repetition of 'pity' only serves to remind us that pity now carries a death-sentence in Lucius' Rome.

After the silences and sightlessness earlier in the play, Shakespeare re-introduces the senses in the final act, but this is by no means straightforwardly positive. Instead, Shakespeare dwells on unsettling ambiguities, where even the signs of change are themselves ambivalent. The accumulation of witnessing and voice seem to usher in a more expressive society, but justice and punishment are still firmly in the hands of an absolute ruler. Like *Measure for Measure*, the play's conclusion imposes order on disorder, without resolving the underlying causes of that disorder. While it is tempting to read the proximity of witnessing and truth as symbolic of the triumph of English jury trial over Continental practice, we must not forget how this is linked to violent action: 'witness my knife's sharp point' (5.3.62).[153] Fact-finding is shown to be as problematic in the hands of the displaced jury of the Andronicii as it is in the hands of Saturninus. On reflection, Shakespeare also seems reluctant to privilege the eye's ability to perceive the truth, as the theatre becomes a space that questions what the eye sees: 'But we worldly men/ Have miserable, mad, mistaking eyes' (5.2.65). Titus' line resonates through a play that so forcefully demands the process of re-vision from its audience.

Response to Jonathan Bate, Maurice Hunt, and Philip Kolin', p. 99. Taylor's use of the word 'proof' is not as nuanced as that of Hutson or Shapiro, as something not taken for granted but subject to investigation. Indeed Shakespeare seems to leave the very restoration of order of the denouement open to conflicting interpretation, as the exchanges between Taylor, Bate, Hunt and Kolin amply demonstrate.

[153] The same can be said of Titus' argument from 'precedent' for the killing of Lavinia (5.3.43).

While the 'common law courts provided a critical site for inquiry about facts',[154] the early modern theatre too could offer its own site of inquiry. If 'English law of the early modern era existed in an epistemological space of probability',[155] Shakespeare's presentation of the evidence in *Titus Andronicus* demonstrates the dangers inherent in the notion of probability, especially where human lives hang in the balance. When describing the function of sessions of the peace, Lambarde says: 'Which three things, namely, to Enquire, Heare, and Determine, doe (in effect) comprehende whatsoeuer belongeth to these Sessions'.[156] But *Titus Andronicus* dramatises a process of inquiry where the chief witness cannot speak, the judges are deaf, and the displaced jury are periodically blinded and struck dumb by their own tears. From the outset, the play evinces an intense suspicion of methods of inquiry. The truth of what one witnesses becomes a function of where one is standing – the audience observes the grief of Titus with empathy, but the same scene brings tears of laughter to Aaron's eyes. Thus it is through Lavinia's troubled and troubling tears that we come closest to early modern courtroom procedure, and in such a way as to make the outcome of that procedure eternally provisional.

[154] Shapiro, p. 13.

[155] Shapiro, p. 31.

[156] Lambarde, *Eiranarcha* (1581 edn), p. 288.

Chapter Three

> We must be stiff and steady in resolve.
>
> Let's thus our hands, our hearts, our arms involve.
>
> *Antonio's Revenge*, 4.5.86

> [W]ithout Justice the land would be full of theeves, the sea full of pirates, the commons would ryse against the nobylytye, and the nobylytye against the Crowne...In a worde, there should be nothing certayne, nothing sure.[1]

The idea that 'there should be nothing certayne, nothing sure' in the absence of justice has been shown to be a common theme of both *The Spanish Tragedy* and *Titus Andronicus*. But revenge tragedy's engagement with legal institutions goes far beyond the danger of biased judgements or the difficulty of interpreting evidence. Having established these early revenge

[1] Judge's charge to the grand jury at York assizes, 1620, British Museum Harleian MS. 7581, ff. 61-62^{v}, quoted in Cockburn, *A History of English Assizes, 1558-1714* (Cambridge: Cambridge University Press, 1972), p. 310.

tragedies' ambivalent attitude towards legal methods of inquiry, in this chapter I develop the socio-political dimension to the staging of revenge in the early modern theatre. The judge's fear of an uprising 'against the Crowne' is precisely what we see enacted in revenge tragedies, which usually end in a regicide that has a degree of popular support.[2] To some extent this is visible in Hieronimo's struggle against class prejudice when seeking justice through the courts.[3] It becomes more pronounced in the revenge tragedies around the turn of the century like Marston's *Antonio's Revenge* and Chettle's *Hoffman*, whose revengers are more forthright in their anti-authoritarian stance.

Antonio's Revenge places at its centre a corrupt ruler who manipulates the legal institutions at his disposal in a trial scene (4.3) that has been given no critical analysis to my knowledge. Piero is at once tyrant and judge, and his removal calls for the mobilisation of citizens that have been denied their proper role in the delivery of justice. This then leads to the representation of revenge as a communal action, as citizens are forced to seek justice without (both 'devoid of' and 'outside') the courtroom. I see this as symptomatic of wider social unrest in the 1590s, a decade habitually seen as a time of crisis in early modern Europe.[4] In England this took the form of repeated bad harvests between 1594-7, rampant inflation, outbreaks of

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[2] As discussed in my next chapter, Hamlet's failure to garner popular support is an interesting exception to this, where we see the rising instead transferred to 'young Laertes in a riotous head' (*Hamlet*, 4.5.101).

[3] See Chapter One, pp. 82-4.

[4] Peter Clark, ed., *The European Crisis of the 1590s: Essays in Comparative History* (London: Allen and Unwin, 1985); Ian Archer, *The Pursuit of Stability: Social Relations in Elizabethan London* (Cambridge: Cambridge University Press, 1991); Jim Sharpe, 'Social Strain and Social Dislocation, 1585-1603' in *The Reign of Elizabeth I: Court and Culture in the Last Decade*, ed. by John Guy (Cambridge: Cambridge University Press, 1995) pp. 192-211. Trevor Aston, ed., *Crisis in Europe, 1560-1660: Essays from* Past & Present (London: Routledge and K. Paul, 1969) speaking specifically of the 1590s: 'The pathology of the crisis, then, is reasonably clear, with symptoms of distress and discontent visible across the European continent, particularly if we stretch the time-frame to embrace the late 1580s and the first years of the seventeenth century'. These dates coincide exactly with the revenge tragedies that are the focus of this thesis.

plague, a growing vagrancy problem and the issues associated with foreign war, including higher taxation and returning soldiers, as well as loss of life. One social historian, Peter Clark, goes so far as to say: 'At certain times, as in London in 1595, it seemed as if the whole fabric of the urban community might be about to disintegrate'.[5] Crisis forms an urgent and socially relevant backdrop for the performance of revenge on the early modern stage. The relationship between the two has yet to be explored.

For the judge quoted above, the natural corollary of being without justice is not only that 'there should be nothing certayne', but also a concomitant threat that 'the commons would ryse against the nobylytye, and the nobylytye against the Crowne'. This points towards a fear that pervaded early modern England – that of social upheaval, or what Jim Sharpe calls the 'spectre of riot'.[6] Shakespeare taps into this when he has Dick the Butcher shout 'The first thing we do, let's kill all the lawyers' to the crew of rebels in *2 Henry VI* (4.2.71) – the threat from below is conceived as a threat to the legal establishment. While this does not come to pass in Shakespeare's play, the judge speaking at York assizes has good reason to be apprehensive. For England's lower and middling sort have a rich history of popular protest by this time: 'Fear of riot, and of riot's accompanying potential for overturning the established social order, is a constant theme in Tudor and Stuart political pronouncements'.[7] The deprivations of the 1590s led to an upsurge in civil disturbances that seem to constitute a nascent form of political activity. Noting the highly structured and distinctly legalistic methods employed by early modern rioters, John Walter observes that

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[5] Peter Clark, 'A Crisis Contained? The Condition of English Towns in the 1590s' in *The European Crisis of the 1590s*, pp. 44-66. This essay gives an excellent snapshot of how the city of London in 1595 was 'dominated by disorder', p. 53.

[6] Sharpe, 'Social Strain and Social Dislocation', p. 193.

[7] Buchanan Sharp, *In Contempt of All Authority: Rural Artisans and Riot in the West of England, 1586-1660* (Berkeley: University of California Press, 1980), p. 4.

> Where petition failed and riot followed, knowledge of the law could be used to reinforce popular norms and to offer a sense of legitimacy to the actions of a crowd bent on enforcing these in the face of magisterial inactivity.[8]

In what follows I want to explore 'riot as part of the process of interaction between rulers and ruled',[9] and show how this informs the representation of revenge as a form of collective action, at a time when such representation (in the dual sense of theatrical acting and political advocacy) was much in demand. By linking together the social upheaval of the late sixteenth century with a genre that was at the height of its popularity at that time, I argue that revenge tragedy stages a form of social protest not unlike that of the early modern riot.

Links between disorder and the early modern playhouse are not hard to find.[10] Located on the periphery of the city, this meant that theatres, like other houses of entertainment and ill-repute, fell outside the jurisdiction of the city in the 'liberties'. This supposed liberty did not stop officials from trying to suppress the theatres, as a petition from the Lord Mayor to Privy Council from 1595 shows:

> [stage plays] which wee verily think to bee the cheef cause, aswell of many other disorders & lewd demeanours which appeer of late in young people of all

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[8] John Walter, 'Grain Riots and Popular Attitudes to the Law: Maldon and the Crisis of 1629', in *An Ungovernable People?: The English and their Law in the Seventeenth and Eighteenth Centuries*, ed. by John Brewer and John Styles (London: Hutchinson, 1980), pp. 47-84 (p. 81).

[9] Archer, p. 7.

[10] See for example Richard Helgerson's *Forms of Nationhood: the Elizabethan Writing of England* (London: University of Chicago Press, 1992), where he suggests that 'there may have been a special relation between popular revolt and the theater', p. 210.

> degrees, as of the late stir & mutinous attempt of those
> fiew apprentices and other servants, who wee doubt not
> driew their infection from these & like places.[11]

Annabel Patterson gives the example of rioters in 1592 gathering at Blackfriars to protest, 'using the theater as a pretext for unlawful assembly'.[12] We are not just talking here about apprentices rioting on Shrove Tuesday in the stews of Southwark, for there is far more at stake in early modern England.[13] I first want to show the extent of the crisis facing England in the last years of Elizabeth's reign, and the legally questionable responses that it provoked from the population, before discussing the cross-fertilisation of the social and literary spheres as manifested in *Antonio's Revenge*.

In his survey of the harsh conditions during the 1590s, Sharpe writes of the importance of integrating the social, political and economic historiographies of the early modern period, since they are too tightly interwoven to be treated in 'hermetically sealed compartments'.[14] I would argue that the same can be said of literary history, which should not be dealt with in isolation from the social climate and political realities on the authors' doorstep, so to speak. In the last chapter I outlined the precarious position of trial by jury in the early modern period,[15]

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[11] E. K. Chambers, *The Elizabethan Stage*, 4 vols (Oxford: Clarendon Press, 1923), IV, 'Documents of Control', ciii, 'Toutching the putting doune of the plaies at the Theater & Bankside which is a great cause of disorder in the Citie', p. 318. In another letter, the Lord Mayor laments that this 'cannot be prevented nor discovered by the Gouernours of the Citie for that they are owt of the Citiees iurisdiction', p. 322.

[12] Annabel Patterson, *Shakespeare and the Popular Voice* (Oxford: Blackwell, 1989), p. 35. In chapter 3 Patterson sees the troubles of the 1590s in evidence in *A Midsummer Night's Dream*, pp. 52-70.

[13] Sharp, *In Contempt of All Authority*: 'The popular disturbances that are so prominent a feature of the late Elizabethan period were usually attributed to "apprentices", for lack of a better term to describe the amorphous London "crowd" of these tumultuous decades', pp. 191-2.

[14] Sharpe, 'Social Strain and Social Dislocation', p. 211.

[15] See Chapter Two, pp. 106-16.

but here I am interested in a more diffuse idea of protest as an extra-legal yet valid form of action by the people. From the outset revenge tragedies are tied up with questions of power and participation that are specifically legal in nature. It is not so much in the tyranny of the ruler as in the cooperation of the ruled that the plays show their full potential for serious socio-political commentary.

'Necessity hath no law': Social Unrest as a Threat to Law and Order

In the introduction to his essay collection *The European Crisis of the 1590s*, Peter Clark outlines what is meant by the term 'crisis': 'short-term and interrelated economic, social and political upheavals precipitating longer-term structural changes in society'.[16] Clark goes on to detail what this meant for early modern England, arguing that 'many of the difficulties of the 1590s pervaded all levels of the urban hierarchy'.[17] In assessing how far the crisis stretched, Lagemann's study of Cheshire in the 1590s finds that the effects are to be felt far beyond London and its environs: 'the administrators of local law were forced to deal with the consequences of economic distress, particularly in the form of vagrancy, poor relief, and property offenses'.[18] Crisis took the form of ballooning population, an ever-increasing gap between rich and poor, inflation, poverty, plague, and harvest failures. On top of these domestic issues, wars abroad put extra pressure on the population; while maintaining a continual presence in the Low Countries from 1585, British troops also led expeditions into France as well as mounting multiple campaigns in Ireland to quell unrest there.[19] Having given

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[16] Introduction, *The European Crisis of the 1590s*, p. 3.

[17] 'A Crisis Contained?', p. 45.

[18] Abby E. Lagemann, 'A Decade of Disorder? The Performance of Justice in Cheshire in the 1590s', *Journal of the Wooden O Symposium*, 10 (2010), 49-59 (p. 49).

[19] Sharpe, 'Social Strain and Social Dislocation', p. 196.

a brief summary of the various factors of 'social strain', Sharpe observes that this led to 'a continual undercurrent of adverse comment among the lower orders'.[20]

Among the worst deprivations suffered by the population during this decade were the chronic food shortages throughout the island. Bad harvests were not unknown in the sixteenth century, but those of 1595, 1596 and 1597 cause 'a period of food shortage unprecedented in the reign of Elizabeth', causing higher mortality rates through starvation and related illnesses.[21] This also had knock-on effects for the epidemics of plague during these years.[22] In the capital the problem was compounded by an influx of poor people, the number of which was growing on a daily basis, as those who were unable to support themselves or their families elsewhere migrated towards the city.[23] London's population doubled to 200,000 in the space of twenty years, further increasing demand for already scarce resources.[24] Together with rising number of demobilised (and deserting) troops,[25] it is little wonder that the city fathers were terrified by a mounting vagrancy problem.[26] In light of all this, it is not difficult to see why historians talk of the 'crisis of the 1590s', with one going so far as to say '[t]his was clearly the

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[20] Sharpe, 'Social Strain and Social Dislocation', p. 199.

[21] Sharp, *In Contempt of All Authority*, p. 17. See also Andrew B. Appleby, *Famine in Tudor and Stuart England* (Stanford: Stanford University Press, 1978), pp. 137-9.

[22] Clark, 'A Crisis Contained?', p. 47. For a more detailed study see Paul Slack, *The Impact of Plague in Tudor and Stuart England* (Oxford: Clarendon Press, 1985).

[23] Clark, 'A Crisis Contained?', p. 50.

[24] London's population grew from roughly 100,000 in 1580 to twice that by 1600, R. B. Manning, *Village Revolts: Social Protest and Popular Disturbances in England, 1509-1640* (Oxford: Clarendon Press, 1988), p. 189. With food shortages throughout England, the appetite of the metropolis had consequences for the whole country, see Clark, 'A Crisis Contained?', p. 57

[25] See Sharpe, 'Social Strain and Social Dislocation', p. 196-7.

[26] See 'An Acte for Punyshment of Rogues, Vagabondes and Sturdy Beggars' (39 Elizabeth, c. 4) from 1597, printed in R. H. Tawney and Eileen Power, eds, *Tudor Economic Documents*, 3 vols (London: Longmans, 1924-1965), pp. 354-62.

worst decade sixteenth-century Londoners experienced'.[27] With mortality rates, crime rates and taxation all rising precipitously, an enormous strain was placed on civic life, leading to much unrest in the country.

Repeated poor harvests also pushed up prices throughout England, with the price of grain increasing sixfold between 1500 and 1640.[28] One estimate calculates real wages in the period 1594-98 to be at their lowest for any time from the thirteenth century to 1950.[29] Not only do modern historians comment on rampant inflation, early modern writers are themselves aware of the effect of food shortages on prices. In his *Annales of London*, Stow opens his account of 1595 with the following: 'This yeere by means of the late transporting of graine into foraine countries, the same was here grown to an excessive price'.[30] On the following page he notes how '[i]n this time of dearth and scarcity of victuals, at London, an hens eg[g] was sold for a peny...exceeding measure in price, such was our sins deserving it'.[31] This report is directly preceded by one concerning the hanging, drawing and quartering of youths rioting on Tower Hill on 29 June 1595, a disturbance to which I will return.[32] Stow then goes on to give an account of 'a day of great triumph, for the long and prosperous raygne of

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[27] Archer, p. 11. While the severity of the crisis is debated by social historians, there is little doubt that the hardship was real and pressing for the citizens of London and further afield.

[28] Sharpe, 'Social Strain and Social Dislocation', p. 194. See also Michael J. Braddick, *State Formation in Early Modern England, c. 1550-1700* (Cambridge: Cambridge University Press, 2000), p. 49ff.

[29] Clark, Introduction, *The European Crisis of the 1590s*, p. 10.

[30] John Stow, *The Annales of London* (London, 1615) (available on EEBO, STC no. 23338), p. 768.

[31] Stow, p. 769.

[32] See below, p. 160ff.

her maiestie, at London', yet the same page also talks of the imposition of martial law, London's growing vagrancy problem, and conscription for the wars in France.[33]

Considering the hardships detailed already, it is not surprising that citizens did not always manage the strictest adherence to the law. Clark details how the stresses of the 1590s led to 'the heightening of intra-communal tension with a near epidemic of conflicts between civic rulers and commons'.[34] When it came to making their rulers aware of their plight, early modern citizens were vocal in expressing their discontent. This could take the form of petitioning figures of authority for assistance, but it could also lead to organised action and violent protest. Indeed petitioning and riot are closely linked, such as when an anonymous letter to Norwich magistrates in 1595 complained of the high price of grain and warned of the possibility of taking what they needed by force, ending with the ominous observation 'Necessity hath no law'.[35] This proverb is current during the sixteenth century, and its meaning is not difficult to discern.[36] Clark finds evidence of eleven riots in Kent connected with the price or transporting of grain in Kent between 1585-1603.[37] Anti-enclosure riots also doubled during this period, as people protested against prosperous land-owners securing their land at the

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[33] With his recounting of executions, inflation, royal triumph and foreign war in quick succession, Stow manages to integrate the social, political and economic historiographies in precisely the way recommended by Sharpe almost four centuries later, 'Social Strain and Social Dislocation', p. 211.

[34] Clark, 'A Crisis Contained?', p. 55.

[35] Sharp, *In Contempt of All Authority*, p. 34.

[36] See Morris Tilley, *A Dictionary of the Proverbs in England in the Sixteenth and Seventeenth Centuries* (Ann Arbor: University of Michigan Press, 1950), N76, p. 493. This resonates strongly with the opening scene of *Coriolanus*, which also focuses on food shortages:

> They said they were an-hungry, sigh'd forth proverbs –
> That hunger broke stone walls; that dogs must eat;
> That meat was made for mouths; that the gods sent not
> Corn for the rich men only.
>
> 1.1.204

[37] Peter Clark, 'Popular Protest and Disturbance in Kent, 1558-1640', *Economic History Review*, n.s. 29 (1976), 365-82 (pp. 367-8).

expense of the livelihoods of the labouring poor.[38] Meanwhile London saw no fewer than thirty-five outbreaks of disorder between 1581 and 1602.[39]

In his essay 'Of Seditions and Troubles', Francis Bacon describes the danger of discontent spreading within the polity:

> And if this poverty and broken estate in the better sort be joined with a want and necessity in the mean people, the danger is imminent and great. For the rebellions of the belly are the worst.[40]

In response to the food shortages already discussed, some citizens were apparently willing to take what they could afford. What is most interesting though is that they did not steal from the merchants and vendors, but rather they paid what they thought to be a fair price. As Stow records in June 1595, apprentices who 'being pinched of their victuals, more then [*sic*] they hadde been accustomed, tooke from the market people in Southwarke, butter for their money, paying for the same but three pence the pound, whereas the owners would haue had 5. Pence'.[41] Or compare the women of Wye in May 1595, who seized corn in the marketplace with the justification that they 'would have the same at their own prices'.[42] This is in effect *taxation populaire*, far predating the French Revolution or what E. P. Thompson identifies as

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[38] Manning, p. 82.

[39] Manning, p. 187. Manning attributes twelve of these to economic distress, fourteen protesting the administration of justice, four directed against gentlemen and lawyers and five are unspecified, p. 202.

[40] Francis Bacon, 'Of Seditions and Troubles', in *The Essays*, ed. by John Pitcher (Harmondsworth: Penguin, 1985) pp. 101-7 (p. 103).

[41] Stow, *The Annales of London*, p. 768.

[42] Clark, 'Popular Protest and Disturbance in Kent', p. 368.

the 'moral economy' of food riots in eighteenth-century Britain.[43] The paying of a fair price and the absence of looting marks early modern riot as a very different animal from its modern-day equivalent. One account from 1596 records how the people of Canterbury first consult an attorney's clerk, before stopping the transportation of corn from leaving their area, while other examples show the rioters depositing the grain seized with local officers.[44] Like Hieronimo in the Spanish court, rioters achieve their aims through extra-legal methods, yet they do not entirely subvert the system that has failed them.

The outward lawlessness of the early modern riot does not contradict my earlier assertions that Elizabethans were notoriously legal-minded; indeed, social historians see in the rioters' actions much that is judicious. Jim Sharpe identifies 'a surprising orderliness in their disorder', seeing early modern riots as made up of 'thinking men and women with the ability to formulate their grievances, to act in ways appropriate to gaining redress for them, and to combine together when so doing'.[45] Similarly, Buchanan Sharp sees riots in the early modern period not as uncontrolled outbursts but 'disciplined forms of popular action', going so far as to say that '[m]ost food riots can in fact be regarded as extreme forms of petitioning'.[46] Peter Clark feels there is an 'implication that crisis was in some ways a self-regulating phenomenon with its own technical correcting mechanisms'.[47] Such measured and rational action on the part of the mob has led social historians to see riot in this period as a bargaining chip of sorts: 'most historians who have studied such episodes have been struck more by their law-abiding

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[43] E. P. Thompson, 'The Moral Economy of the Crowd in the Eighteenth Century', *Past & Present*, 50 (1971), 76-136.

[44] John Walter and Keith Wrightson, 'Dearth and the Social Order in Early Modern England', *Past & Present*, 71 (1976), 22-42 (p. 33).

[45] J. A. Sharpe, *Crime in Early Modern England, 1550-1750* (London: Longman, 1984), p. 198.

[46] Sharp, *In Contempt of All Authority,* p. 32; p. 42.

[47] Introduction, *The European Crisis of the 1590s*, p. 18.

character than any demands for root and branch change to the existing legal or political regime'.[48] This attests to the pervasive legalism of early modern England, even when the actions themselves are not strictly legal, a feature that has elsewhere been identified with the forensic rhetoric of the stage revenger.[49]

The riot thus acts as a way to bring people's plight to the attention of those in power, a physical manifestation of the latent power of the lower orders: 'The resort to riot, whatever its immediate objectives, was the ultimate political weapon available to the poor, a form of petitioning in strength and in deed'.[50] It is almost as if the riot acts as a warning shot, reminding the authorities of their responsibilities. Not only that, but rioters achieved this by themselves copying official procedures: 'There was a conscious mimicry of administrative practice by the crowd within the riot'.[51] As for the outcome of these disturbances, while the rioters are punished in the immediate aftermath, this is often accompanied by ameliorative measures, as when the execution of the Oxfordshire rebel leaders was followed by the lifting of tolls on grain imports and the impounding of foreign grain supplies.[52] After all, it is in magistrates' interests to ensure further unrest does not upset the delicate status quo. With the

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[48] C. W. Brooks, *Law, Politics and Society in Early Modern England* (Cambridge: Cambridge University Press, 2009), p. 425.

[49] Lorna Hutson, *The Invention of Suspicion: Law and Mimesis in Shakespeare and Renaissance Drama* (Oxford: Oxford University Press, 2007), chapter 6.

[50] Walter and Wrightson, 'Dearth and the Social Order', p. 32.

[51] Walter, 'Grain Riots and Popular Attitudes to the Law': 'In so doing, the poor displayed a perhaps surprising knowledge of the law and an often acute awareness of its uses', p. 81.

[52] Walter, 'A "Rising of the People"?', p. 131. As this rising had as its motivation recent enclosures in Oxfordshire, in the aftermath Coke also ordered a review of 'what gentlemen in the Countrey have inclosed of Converted theire lands from tillage', even leading to prosecutions in the Star Chamber. Walter says that '[t]he response Steer's plans invoked from government provides valuable evidence about the fragile relationship between rulers and ruled and the obligation it forced on the government to enter into a dialogue with the people', p. 137.

benefit of hindsight it is clear that these were no random attacks – they are manifestations of nascent political activity against the ruling elite.

A final illustration of the potential for disorder during this period occurs in London in 1595.[53] While the apprentices who seized butter in the market-place 'paying for the same but three pence the pound' were punished with 'whipping, setting on the pillorie, and long imprisonment', another demonstration in the city later that month met with far harsher treatment at the hands of the magistrates.[54] On 29 June 1595, a crowd of one thousand marched on Tower Hill, tearing down the pillories in Cheapside on their way, and supposedly erecting a gallows in front of the Lord Mayor's house.[55] The symbolism of destroying the pillories, the instruments used to punish other rioters, while erecting their own gallows shows a group with a far more worrying agenda than reasonable food prices. It is the usurpation of official justice, complete with its machinery of execution, that makes this crowd such a threat to the powers that be. Such a radically alternative version of justice could not be tolerated, and so the riot was put down in short order. In the aftermath, Stow tells us that martial law was imposed, vagrants and idle persons were rounded up and imprisoned, and five of the unruly youths apprehended on Tower Hill were sentenced to be hanged, drawn and quartered within a month.[56] This incident shows just how serious was the threat posed by a population suffering prolonged and extreme hardship. Rioters may have been in the minority, but there was always the possibility that disorder might spread. Yet it also underlines the strength of official responses when rioters went too far.

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[53] Stow, p. 769.

[54] For an account of twelve unlawful assemblies in London during June 1595, see Manning, pp. 208-11.

[55] Hale, *The History of the Pleas of the Crown*, 1.144, quoted by Manning, p. 209.

[56] Stow, p. 769. The site of execution being Tower Hill again highlights the reciprocity inherent in early modern justice of all sorts.

Having set out the potential for public disorder in the harsh years of the 1590s, I do not want to give the impression that the streets of London ran with blood. Indeed the real question is why there was not more rioting and revolt under the circumstances: 'what is so striking is that, despite all the stress and strain in urban communities...there was no breakdown of urban government'.[57] Times were tough, but the majority of citizens endured their lot with patience. A minority advocated rioting, but the destruction of property or resort to violence by rioters was minimal. When riots did occur, such flashpoints never became more than isolated incidents. This is attributed by social historians to the authorities' response to the crisis, through a combination of harsh penalties and efforts at relief: 'Welfare seems to have been actively pursued, whether from a sense of social responsibility, or as a prophylactic against disorder'.[58] Nevertheless, the threat of widespread disorder was never far from the minds of government, as when Edward Hext says in his letter to Lord Burghley, after reporting the taking of a cart of cheese by an assembly of eighty people, how he fears the people 'may grow dangerous by the ayde of suche numbers as are abroade, especially in this tyme of dearthe'.[59]

When arguing for the usefulness of studying early modern riot, Archer says:

> Once we appreciate that riot was a negotiating strategy, we may become sensitive to other means by which pressure was brought to bear upon the elite and other

[57] Clark, 'A Crisis Contained?', p. 62. See also Walter's work on the abortive Oxfordshire rising, where he sees the lack of full-scale rebellion as a telling reminder not to overstate how large an issue such disturbances were in the period, 'A "Rising of the People"?', p. 139.

[58] C. S. L. Davies, 'Popular Disorder', in *The European Crisis of the 1590s*, pp. 244-60 (p. 253).

[59] The quotation continues 'who no dowpt anymate them to all contempte bothe of noble men and gentlemen, contynially Bussynge into there eares that the ritche men have gotten all into ther hands and will starve the poore', from Lansdowne MS., No. 81, Art. 6, ff 161-62, printed in R. H. Tawney and Eileen Power, eds, *Tudor Economic Documents*, 3 vols (London: Longmans, 1924-1965), pp. 339-46 (p. 341).

> ways in which tensions in the civic polity were expressed.[60]

The early modern playhouse is the ultimate site for the expression of tensions within the polity, even acting as a magnet for a discontented populace according to the authorities: 'they give opportunity to the refuse [*sic*] sort of euill disposed & vngodly people, that are within and abowte this Cytie, to assemble themselves'.[61] Yet the exhaustive efforts of social historians have yet to be adequately linked to the drama of the same time in the same city, where undoubtedly audience members were daily faced with the challenge of meeting poor rates, avoiding conscription and so on. Revenge tragedy is particularly invested in the interaction between society and the law, an interaction beset with frictions by its very nature. Having set out the broad cultural contexts of socio-economic crisis and civil unrest in early modern London, I will now use these as points of entry into a genre very much engaged with both topics. Even the fictionalised resistance to authority becomes an important socio-political statement in a society where such a high price was put on order. I now turn to Marston's *Antonio's Revenge*, in order to investigate how, and why, private revenge is transmuted into communal action. By seeing the play in terms of a 'negotiating strategy' that could bring pressure to bear on the ruling elite, albeit within the fictional world of the play, I want to make a case for revenge tragedy responding perspicuously to its immediate environment, one that was on the brink of disorder.

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[60] Due to his focus on social history, Archer's study does not encompass literature of the period, Archer, p. 7.

[61] 'To the Lords against Stage playes', letter from the Lord Mayor and Aldermen to Privy Council from 1597, in Chambers, IV, p. 321. The letter goes on to describe theatres as 'the ordinary places for vagrant persons, Maisterles men, thieves, horse stealers, whoremongers, Coozeners, Conycatchers, contrivers of treason, and other idele and daungerous persons to meet together', p. 322.

Antonio's Revenge: Tipping the Scales of Justice

With an aging, childless monarch on the throne, as bad harvests prevailed, inflation rose and foreign wars raged, people were flocking to the playhouses of London.[62] It seems reasonable to think that this grim state of affairs occupied the minds of playgoers, when attending a revised *Spanish Tragedy* for example, for which twenty-nine performances are recorded between 1593 and 1597.[63] Likewise, it does not seem far-fetched that during the process of composition, playwrights were aware of the most pressing social concerns in the city. Is it any less likely that their works would address the anxieties of their patrons in the public theatres, than that they would meditate on the high-level politics at court? I believe such a change of focus, from the preoccupations of the aristocratic classes to the concerns of those frequenting the theatres of Bankside and St. Paul's, is edifying.

The crucial difference between revenge tragedy and other early modern tragedy is its representation of communal politics in the person of the revenger and his accomplices. Unlike Lear or Macbeth who are to a large extent isolated in their tragic subjectivity, the protagonist of revenge tragedy is by and large a far more socially-constituted individual. By this I mean that the Antonios and Vindices that populate these plays have wives, mothers, daughters, brothers, sons, and comrades, with whom they interact on a regular basis. For example, Hieronimo has the job of Knight Marshal, making him a 'middling civil servant',[64] while Titus is a general come from the wars; unlike their distant cousin Prince Hamlet, these tragic protagonists are gainfully

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[62] See Andrew Gurr, *Playgoing in Shakespeare's London* (Cambridge: Cambridge University Press, 1987), p. 144ff.

[63] Emma Smith, ed., *The Spanish Tragedie* (Harmondsworth: Penguin, 1998), p. xiii. The Admiral's Men are recorded as giving twelve performances in 1597 alone, Edwards, p. lxvi.

[64] Christopher Crosbie, '*Oeconomia* and the Vegetative Soul: Rethinking Revenge in *The Spanish Tragedy*', *English Literary Renaissance*, 38 (2008), 3-33 (p. 20).

employed.[65] Revenge dramatists thus locate their protagonists within – not above – a web of social connections and relations. In the process they create characters closely resembling the complex subjectivity of the early modern citizen. London's inhabitants were not only autonomous individuals, they were also members of a household, a guild, a parish (and, occasionally, a riot).[66] Rather than seeing any perceived lack of interiority as a failure on the part of revenge dramatists, I would contend that the portrayal of a socially-aware revenger means that the revenge play is singularly suited to the representation of collective action, at a time of unprecedented upheaval.

Marston's contribution to the revenge genre offers numerous puzzles to the literary critic: what is the relation between the revenge play and its prequel, *Antonio and Mellida*? how are we to reconcile the gruesome murder of Piero and Julio with the pardon granted to Antonio and his accomplices at the end? and to what extent are we to take seriously the actions of the Children of St. Paul's playing adult characters?[67] As one critic puts it: 'Among all John Marston's plays, *Antonio's Revenge* seems to be the hardest to pin down'.[68] I would add

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[65] The next chapter addresses the question of Hamlet's unique status within revenge tragedy due to both his royal lineage and his introverted, philosophical demeanour.

[66] '[A]t every stage of the life-cycle the individual's progress was structured by a set of collective practices and associations', Introduction to *The Middling Sort of People: Culture, Society and Politics in England, 1550-1800*, ed. by Jonathan Barry and Christopher Brooks (Basingstoke: Macmillan, 1994), p. 15.

[67] On the issue of whether or not child actors can perform tragedy without burlesque, I would disagree with Janet Clare's claim that 'boy actors with their high-pitched voices and small stature...may have produced an absurdly comic tone in performance complementing the often outrageous and bizarre events of the play', *Revenge Tragedies of the Renaissance* (Devon: Northcote House, 2007), p. 56. My conviction is based on having attended a performance of Marston's play in Middle Temple Hall, London directed by Perry Mills and performed by the boys of King Edward VI School, Stratford, March 13 2011.

[68] Phoebe Spinrad, 'The Sacralization of Revenge in Antonio's Revenge', *Comparative Drama*, 39 (2005), 169-85 (p. 169). Spinrad is one of relatively few modern critics who engage with the play in any great depth, hence the paucity of more up-to-date criticism in this chapter. See also T. F. Wharton, *The Critical Fall and Rise of John Marston* (Columbia, SC: Camden House, 1994) and *The Drama of John Marston: Critical Re-visions*, ed. by T. F. Wharton (Cambridge: Cambridge University Press, 2001), which contains a single essay on the *Antonio* plays by Rick Bowers, 'John Marston at the "mart of woe": the "Antonio"

to this list the question of why Marston feels the need to supply Antonio with accomplices in the first place. While undoubtedly the villainous exploits of Piero mean that he accrues a number of enemies in the course of the play, surely it would be more heroic, and dramatic, for Antonio to dispatch the tyrant single-handedly at the play's climax. This is the case for the roughly contemporaneous Hamlet, whose status as a tragic hero is assured when Claudius falls by the prince's own hand: 'is't not perfect conscience/ To quit him with this arm [?]' (5.2.67).[69] Marston prefers to share the spoils of Piero's defeat equally among several revengers, thus decentring Antonio as the hero of the piece. To ask why *Antonio's Revenge* is in fact about the revenge of Antonio, Pandulpho and Alberto may seem a strange question, but I think it is worth asking, since I believe the answer goes to the heart of the revenge genre and its popularity during these years of social, political and legal turmoil.

Despite the fact that Marston is known to have lived and studied at the Middle Temple for upwards of a decade,[70] and despite the prominent place given to issues of justice in this play – for example, the trial of Mellida in Act 4 – legal context is given scant attention in critical studies of *Antonio's Revenge*. Even Finkelpearl's *John Marston of the Middle Temple: an Elizabethan Dramatist in his Social Setting* fails to investigate the link between the revenge mode and Marston's intimate knowledge of legal matters.[71] Yet as early as the Prologue the

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plays', pp. 14-26. Bowers reads Marston as more excessively parodic than socially engaged: 'to take Marston seriously is to understand that his thrust is basically sensational, not moral', p. 14.

[69] On the vexed question of dating these two plays, see Philip J. Finkelpearl, *John Marston of the Middle Temple: an Elizabethan Dramatist in his Social Setting* (Cambridge, MA: Harvard University Press; Oxford: Oxford University Press, 1969), Appendix C, pp. 268-71, and also Michael Neill and Macdonald P. Jackson, 'Morphew, Leprosy, and the Date Of Marston's *Antonio and Mellida*', *Notes & Queries*, 45 (1998), 358-60.

[70] Finkelpearl supplies a useful timeline of Marston's life and works in Appendix B, pp. 265-7.

[71] Finkelpearl's wide-ranging study makes a strong case for the literary output of the Inns of Court and the fact that this was not simply a place of law, but when addressing Marston's dramatic works he makes no attempt to show how the literary could also be infused with the legal.

audience are told that the play they are about to witness strives to 'weigh massy in judicious scale' (Prologue.30). The scales of justice, in which crimes are weighed, are well established in the iconography of a personified Justice by this time.[72] And while the scales play an important part in early modern conceptualisations of justice, we must not forget what occupies Justice's other hand – the sword.[73] This dual nature of justice, simultaneously balanced yet violent, becomes a guiding principle as the play progresses.

The opening scene is filled with blood and vengeance, with Piero '*smeared in blood*' (s.d. 1.1.1) bragging of the double murder of Feliche and Andrugio: 'I can scarce coop triumphing vengeance up,/ From bursting forth in braggart passion' (1.1.11). The pride Piero takes in his crimes, along with his desire for them to be admired by others ('Ha, Strotzo, is't not rare?' (1.1.74)), mark him out as a villain with much in common with Marlowe's Barabas or Shakespeare's Aaron.[74] Unlike the King of Spain or even the emperor Saturninus, this head of state is wholly dedicated to evil: 'Sweet wrong, I clap thy thoughts' (2.1.9). Piero's revelling in his crimes continues even in the presence of his victims' families, as he seemingly taunts them:

> Pandulph Feliche, I have stabbed thy son:
>
> Look, yet his life-blood reeks upon this steel.
>
> Albert, yon hangs thy friend. Have none of you

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[72] On scales as a symbol of justice, in Egyptian, Classical and Christian representations, see Dennis E. Curtis and Judith Resnik, 'Images of Justice', *Yale Law Journal*, 96 (1987), 1727-72 (p. 1741, n. 32); *Representing Justice: Invention, Controversy and Rights in City-states and Democratic Courtrooms* (New Haven and London: Yale University Press, 2011).

[73] Curtis and Resnik, 'Images of Justice', p. 1741, n. 33. Justice's blindfold is not yet mandatory in pictorial representations, which in itself is interesting in light of questions surrounding partial judges as addressed in the chapter on *The Spanish Tragedy*.

[74] Fredson Bowers is of the opinion that Piero 'has more real blood in his veins' than these earlier stage villains, *Elizabethan Revenge Tragedy, 1587-1642* (Princeton: Princeton University Press, 1940), p. 120. I see the sadistic pleasure he derives from his 'unpeered mischief' (1.1.10) as being of a piece with such dramatic predecessors.

Courage of vengeance? Forget I am your duke.

Think Mellida is not Piero's blood.

1.4.11

Piero goads Antonio, Alberto, and Pandulpho to take their revenge immediately. By inviting them to forget their allegiance to him as duke, he offers the perfect form of private revenge, where public duty to the sovereign is forgotten in favour of personal satisfaction. This offer is not taken up by any of the three, thus marking out their eventual revenge as something more than violent reciprocity.[75] It is of course predetermined that they do not act so rashly; for if they did there would be no revenge play, and the paradox of acting justly in an unjust society would go unsolved. Marston positions his protagonists as rational citizens who think twice about the crime of regicide, even as he brings his plot to the point where such regicide is inevitable. Like Hieronimo before him, Antonio sees revenge as a last resort. But whereas Hieronimo makes frequent calls on justice both earthly and divine, Antonio's grief seems to overwhelm his purpose at first: 'What, whom, whether, which shall I first lament?' (1.5.33).[76] Surprisingly, the character most often seen to be appealing to justice in this play is not Antonio, but Piero, as the manipulation of justice becomes a central concern of the play's thematics.

'Our friends we should affect, justice adore' (2.2.50)

While Piero is boastful of his crimes in private, once faced with his citizens he is careful to advertise his love of justice above all. Even in the process of revealing his crime, directly after offering the others their revenge, he suddenly proclaims, 'cast my life/ In a dead sleep, whilst

[75] Already revenge is multiple and not individual, as Piero appeals to each person separately by name.

[76] Antonio's copious expression of grief occupies him until Act 3, when the ghost of Andrugio galvanises him into action. Mercer puts in succinctly when he observes how Antonio's woe is 'consuming his will in its own intensity', p. 73.

law cuts off yon main [ie Mellida]' (1.4.19). Piero has accused his daughter of being unchaste with the freshly murdered Feliche on the eve of her wedding day, and says he is willing to step aside for the wheels of justice to operate. Even as he denounces his own flesh and blood, he shows his apparent faith in, and respect for, due process and the law.[77] By creating the tableau of Feliche hung up at Mellida's window, Piero attempts to frame the two through circumstantial evidence.[78] But such evidence is only part of the early modern evidential process, and prior knowledge of character and how a defendant conducts him- or herself are equally important.[79] This is where Piero first shows his unwillingness to listen to the assembled crowd, who exercise their judgement of character when deciding on the matter.[80] Chief among these is Antonio, who refuses outright to believe Mellida's guilt: 'That's a large lie, as vast as spacious hell!' (1.5.31). Citizens' judgements are shown to be ineffectual when sentencing is in the hands of the judge, which in this case is Piero. While Piero has much in common with other stage villains, he is distinctive in using the legal systems to further his grand plans of revenge.[81] In this he resembles Kyd's Lorenzo, who sends Pedringano to a state execution presided over by his enemy, Hieronimo. Bowers notes these two characters' similarities in terms of their shared Machiavellianism, but does not mention their (un)scrupulous use of the law within their politic plots.[82]

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[77] The irony created by the fact that Piero is still covered in Feliche's blood illustrates that his love of justice does not extend to all crimes equally.

[78] Cf. Aaron's planting of evidence in *Titus Andronicus*, 2.2.

[79] Cynthia B. Herrup, *The Common Peace: Participation and the Criminal Law in Seventeenth-century England* (Cambridge: Cambridge University Press, 1987), p. 149. See also Chapter Two, pp. 138-40.

[80] This corresponds with Langbein's identification of the jury as a 'panel of lay judges' but one which is again denied their traditional role in the fact-finding process, *Prosecuting Crime in the Renaissance: England, Germany, France* (Cambridge, MA: Harvard University Press, 1974), p. 124.

[81] This becomes most clearly apparent in the trial of Mellida, discussed below, p. 176ff.

[82] Fredson Bowers, p. 122.

Piero's avowed dedication to justice continues when he calls Pandulpho into his presence (2.2), where he attempts, and fails, to convince the old man that Antonio is guilty of murdering Andrugio. The exchange does little to further the plot, since Pandulpho is unlikely to give credence to Antonio's patricide. Similarly we have already heard Pandulpho express his faith in Stoic fortitude in the face of his own grief (1.5), and so his continued adherence to Senecan precepts such as 'A wise man's home is wheresoe'er he is wise' (2.2.100) comes as no surprise. For these reasons, this scene is often passed over as unconnected to the larger revenge plot, when I would argue that it is integrally connected with the play's engagement with the concept of justice. And it is not Pandulpho, but Piero who raises this very issue: 'Pandulpho, hark./ My lustful daughter dies. Start not, she dies./ I pursue justice, I love sanctity' (2.2.28). For the second time Piero claims to put the requirements of justice above the life of his own daughter.[83] But this is closely followed with him asking Pandulpho to incriminate his friend Antonio by falsifying evidence: 'Antonio is a villain. Will you join/ In oath with me, against the traitor's life,/ And swear, you knew he sought his father's death?' (2.2.46). Piero then attempts to sway Pandulpho by appealing to justice: 'I loved him well, yet I love justice more:/ Our friends we should affect, justice adore' (2.2.50). The most admirable precept in the play, that a love of justice comes before all personal ties, is put in the mouth of the murderer.

But this is not the last we hear about justice in this scene. Marston goes on to set up an extended meditation on a citizen's duty to obey their sovereign, in particular when that sovereign's orders are themselves unlawful. In response to Pandulpho's refusal to be implicated in framing Antonio, we are given a stychomachic dialogue between sovereign and

[83] James I, *Basilikon Doron* (Edinburgh, 1599) (available on EEBO, STC no. 14348): 'providing always, that yee doe it onelie for love to justice, and not for satisfyinge any partyculare passiones of youres vnder coloure thereof: otherwise, how justlie that ever the offender deserve it, ye are guyltie of murther before God: for yee must consider, the God ever looketh to your inwarde intention in all your actiones', pp. 35-6.

citizen that raises key questions about the nature of loyalty versus legality. I have chosen to quote at length, to give a sense of Marston's keen interrogation of such ideas:

Piero: 'Tis just that subjects act commands of kings.

Pandulpho: Command then just and honourable things.

Piero: Even so myself then will traduce his guilt.

Pandulpho: Beware, take heed, lest guiltless blood be spilt.

Piero: Where only honest deeds to kings are free,

It is no empire, but a beggary.

Pandulpho: Where more than noble deeds to kings are free,

It is no empire, but a tyranny.

2.2.53

The conversation continues in this vein, alternating between Piero's claim for 'immunity/ Proper to princes' (2.2.61) and Pandulpho's insistence that "Tis praise to do not what we can but should' (2.2.70). The dialectic set up between tyranny and good government has at its centre the question of what constitutes just action; this is a contested term at once attaching to a citizen's obedience ("Tis just that subjects act commands of kings') and a king's proper conduct towards such citizens ('Command then just and honourable things').[84] Before ever suggesting the possibility of collective action, indeed as one would-be revenger is asked to turn against another, Marston opens up a space in the revenge genre for reflections on the nature of justice and its place within a tyrannical regime.[85] A temporary solution to this problem is

[84] Cf. Christopher Goodman argues that 'vnlawful demandes may be lawfully denied', in his treatise, *How Superior Powers ought to be obeyd of their subiects and wherin they may lawfully by Gods Worde be disobeyed and resisted* (London, 1558) (available on EEBO, STC no. 12020), p. 113.

[85] Catherine Belsey, *The Subject of Tragedy* (London: Methuen, 1985): 'On the one hand, it was widely assumed that the subject was not obliged to obey a command from an earthly ruler which was contrary

given in Pandulpho's Stoic resolve in the face of adversity: 'Loose fortune's rags are lost; my own's my own' (2.2.107). But it gradually becomes apparent as the play progresses that this response is not sufficient: 'Man will break out, despite philosophy' (4.5.48). Marston's answer in the play is more pragmatic, but also more shocking, in that it involves the citizens uniting against their lawful ruler.[86] That this is not purely fantastical on Marston's part should be clear from the history of small-scale yet significant popular protests witnessed throughout England in the previous decade. At the same time, the violence of the revenge play presents an exaggerated form of such resistance, including the horrific and unwarranted murder of the innocent Julio at the play's midpoint.

'O, my soul's enthroned/ In the triumphant chariot of revenge' (3.5.18)

Revenge tragedy's continuing interest for audiences and scholars lies in the paradoxical relation between law and revenge contained within their lines. At first a protagonist like Hieronimo is largely justified in his revenge, eliciting our empathy for his actions. Yet when he proceeds to kill the innocent Duke of Castile at the play's close, this upsets any simplistic attitude towards what we have witnessed onstage. The dramatic interest comes from the combined effect of an understandable quest for justice which entails actions that we as an

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to the will of God. And on the other, it was held that the sovereign was broadly subject to the law', p. 109.

[86] For an excellent review of sixteenth-century political thought on this question, see Quentin Skinner's chapter on 'The Right to Resist', in *The Foundations of Modern Political Thought*, 2 vols (Cambridge: Cambridge University Press, 1978), I, pp. 302-48. For a less secular justification of tyrannicide, see Ryan J. Croft's article, 'Sanctified Tyrannicide: Tyranny and Theology in John Ponet's *Short Treatise of Politike Power* and Edmund Spenser's *The Faerie Queene*', *Studies in Philology*, 108 (2011), 538-71. I would also bring the reader's attention to Linda Woodbridge, *English Revenge Drama: Money, Resistance, Equality* (Cambridge: Cambridge University Press, 2010): 'Although avengers such as Hamlet, Titus Andronicus, and Vindice benefit their countries by assassinating power-abusing tyrants, revenge tragedy and resistance theory have traditionally occupied separate mental compartments', p. 130. This book's publication came to my attention after the present chapter was complete, but the idea of revenge as resistance in early modern drama complements my own work on *Antonio's Revenge*.

audience cannot condone: 'the absence of justice...propels the revenger to take in the interests of justice action which is itself unjust'.[87] It is in the gap between a just cause and unjust action that revenge tragedy thrives. Such a statement is particularly applicable to Marston's play, which at once sets up the antagonist of the piece as a paragon of evil, but also besmears his hero in the blood of innocents before executing revenge upon the villain. Nowhere is this more clearly brought out than in Antonio's slaying of the innocent Julio, which has been dubbed 'one of the worst excesses in revenge literature'.[88]

The crime is made all the more surprising considering what has been occupying Antonio up until this point. After exiting the first act on the line 'My woes more weighty than my soul can bear' (1.5.61), Antonio returns in act two only to reiterate his position, telling Alberto 'my pined heart shall eat on naught but woe' (2.3.9). Even his mother Martha remarks 'Dost naught but weep, weep?', to which her son replies 'Yes mother, I do sigh and wring my hands,/ Beat my poor breast, and wreathe my tender arms' (2.4.6); Marston has Antonio expend more energy lamenting his situation than seeking ways to remedy it. This all changes with the appearance of the ghost of Andrugio in 3.1 who reveals all to his son, accusing Piero of murder, and exhorting Antonio to revenge – seven times in the course of a twenty line speech (3.1.32-51). Thenceforth Antonio's mind is fully focused, not on grief but on revenge: 'May I be cursed by my father's ghost/.../If my heart beat on aught but vengeance' (3.2.35). Unlike *Hamlet*, where the delay falls between the appearance of the ghost in the first scene and the accomplishment of revenge in the last, Marston delays the entry of the ghost until the

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[87] Belsey, *The Subject of Tragedy*, p. 112.

[88] Hallett and Hallett, *The Revenger's Madness: A Study of Revenge Tragedy Motifs* (Lincoln: University of Nebraska Press, 1980), p. 170. This is to miss the point that Marston here consciously echoes Seneca's *Thyestes*. Fredson Bowers recognises the intertextual reference to *Thyestes*, but, he feels, 'without the clear-cut motivation present in Seneca', p. 123, n. 13.

third act, only to have it closely followed by the revenger's first act of vengeance, the murder of Julio.

The pathos of this scene is palpable, as Marston first has Julio run on stage looking for his father because he is unable to sleep, '[c]rying that bugbears and spirits haunted him' (3.2.89). Sympathy for Piero's 'little pretty son' (3.2.86) is heightened once alone with Antonio, as he addresses him as brother (3.3.1) and ask for a kiss: 'Buss me, good/ Truth, I love you better than my father, 'deed' (3.3.4).[89] The mention of 'father' (both Julio's and Antonio's own) acts as a spur to Antonio's revenge: 'Thy father? Gracious, O bounteous heaven!/ I do adore thy justice' (3.3.6).[90] Whereas in the previous act Piero manipulated the meaning of justice to fit his tyrannical purposes, it is now Antonio's turn to misappropriate the word for his own murderous ends. The repeated use and misuse of 'justice' makes its definition an issue at the heart of this play. This is followed by a quotation by Antonio from Seneca's *Thyestes*: '*Venit in nostras manus/ Tandem vindicta, venit et tota quidem*' (3.3.7).[91] Marston here makes explicit his source for the appalling revenge to follow, joining other revenge dramatists who refer back to Seneca amid their own bloody plots. In *Titus Andronicus*, the Thyestian treatment of Chiron and Demetrius is gruesome in the extreme, but they are themselves guilty of the rape and dismemberment of Lavinia. Julio, on the other hand, has done nothing to merit such treatment at the hands of his '[b]rother'.[92] Antonio is then 'forced into a gruesome rationalisation of his

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[89] The effect was no doubt much heightened by the young age of the child actor playing Julio's part.

[90] Rick Bowers observes that '[a]ssociations around consanguine terms such as "brother", "father", and "sister" sung from the mouth of the innocent Julio only further enrage Antonio and compel his vengeance', p. 21.

[91] This is translated in Smith as follows 'At last revenge has come totally into my hands', noting how Marston substitutes 'vindicta' in place of Seneca's 'Thyestes'. The mixture of Classical and Christian elements is typical of Marston's method, as with Alberto's later use of 'scourging nemesis' (4.3.128).

[92] In this, Marston's revenge plot is more purely Senecan, since Atreus' son Phylisthenes has no part in the crimes of his father.

savagery', as he attempts to make a spurious distinction between Julio's 'soul' and Piero's blood that runs in his veins: 'This breast, this heart, Piero all,/ Whom thus I mangle' (3.3.57).[93] But as with his earlier appeals to heaven and justice (3.3.6), it is difficult to accept such specious reasoning.

Nor are the audience expected to, I would argue; for what other reason does Marston insert the murder of Julio, soul of innocence, if not to isolate the revenger from the affections of onlookers? That this is the case seems to be confirmed by the fact that Julio is introduced only to be killed; from his first appearance to his bloody murder there are barely fifty lines of dialogue. This begs the question of why Marston seeks to vilify his protagonist at this point, when ultimately he seeks to exonerate Antonio's actions. Bowers calls this 'a purely gratuitous piece of business brought in merely to make the audience shudder'.[94] Surely the gratuitousness of the murder is precisely the point; if we accept that Marston could easily have done without the murder of Julio, then its sole function is to taint Antonio with an unforgiveable crime.[95] I see this as a deliberate strategy to complicate the revenge action, counterbalancing the villainy of Piero with an action which is quite out of character for the mournful Antonio, who weeps as he murders: 'Whilst thy wounds bleed, my brows shall gush out tears' (3.3.41). By criminalising Antonio in this way, Marston puts the pressure of deciding between tyranny and revenge back on the audience, who must 'weigh massy in judicious scale' (Prologue.30). It is almost as if without the slaying of Julio, there would be no moral dilemma between the two.

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[93] Peter Mercer, Hamlet *and the Acting of Revenge* (London: Macmillan, 1987), p. 78.

[94] Fredson Bowers, p. 123.

[95] On infanticide, Spinrad gives a good account of early modern attitudes towards child slayers and how they would have been punished, p. 185, n. 20.

In the aftermath of the murder, Antonio appears almost indistinguishable from his enemy Piero. Just as Piero had earlier boasted of his 'unpeered mischief' (1.1.10), Antonio is urged by his father's ghost to 'be peerless in revenge' (3.5.29), which is precisely what he has done. Antonio's language has also changed register, from 'Herculean woe' (2.3.142) to something far more visceral: 'Lo, thus I heave my blood-dyed hands to heaven:/ Even like insatiate hell, still crying: more' (3.3.67). Not only has Antonio's language become distinctly Senecan, there are also visual echoes created when Antonio comes onstage with '*his arms bloody, [with] a torch and a poniard*' (s.d. 3.5.13) just as Piero's first entrance was '*smeared in blood, a poniard in one hand bloody, and a torch in the other*' (s.d. 1.1.1).[96] This fits well with Marston's complication of the distinction between right and wrong at this point, as 'Antonio becomes his opposite'.[97] As the act draws to a close, Antonio has fully embodied his role as a Senecan revenger:

> Look how I smoke in blood, reeking the steam
>
> Of foaming vengeance! O, my soul's enthroned
>
> In the triumphant chariot of revenge.[98]
>
> 3.5.17

This is Antonio at the apex of his revenge, and also at his closest to Piero's overblown rhetoric of revenge.[99] But the play's two final acts significantly modify this image of a protagonist dripping with blood and crying out for 'vindicta', as Marston retires the Senecan model of a

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[96] This conscious mirroring is also noted by Philip J. Ayres, 'Marston's *Antonio's Revenge*: The Morality of the Revenging Hero', *Studies in English Literature, 1500-1900*, 12 (1972), 359-74 (p. 367).

[97] Finkelpearl, p. 154.

[98] The chariot of revenge may even be inspired by that of Medea herself, who escaped her due punishment by a chariot yoked by dragons. See *Seneca his tenne tragedies* (London, 1581) (available on EEBO, STC no. 22221), sig. T6^{v}.

[99] Antonio's 'foaming vengeance' and 'triumphant chariot of revenge' bear striking linguistic similarities to Piero's 'triumphing vengeance' in the play's opening scene (1.1.11).

single revenger bent on the destruction of his or her enemies, replacing it with a more inclusive form of retribution, hitherto unrepresented on the early modern stage. Why this might be, and what its implications are for the study of revenge tragedy as a genre, will be the subject of the final section. I first want to turn to the pivotal yet neglected courtroom scene; it is highly relevant that it is the abuse of justice more so than any individual murder on Piero's part that pushes revenge towards inclusivity.

'Who riseth up to manifest her guilt?' (4.3.9)

The affinity between revenge drama and issues of proof had already been firmly established in *The Spanish Tragedy* and *Titus Andronicus* by the time of Marston's revenge play. But whereas in Kyd and Shakespeare a trial was desirable yet unattainable, *Antonio's Revenge* sees the courtroom act as one of the main vehicles for the antagonist's plans. This centres on the trial of Mellida in act 4, presided over by none other than Piero: 'My lord, the duke, with the Venetian states,/ Approach the great hall to judge Mellida' (4.1.60). As duke, Piero is the ultimate source of justice in the realm, and Marston utilises this to much greater effect than his predecessors. Kyd's prejudicial monarchs were shown to be misguided in their attempts to pass judgement on cases involving family members, but here we have a head of state in complete control of his own daughter's trial. In fact, Piero is the first of the heads of state in revenge drama to actively manipulate, rather than passively misjudge, the legal cases before him.[100] In this he is closer to the later Duke of *The Revenger's Tragedy* (1607), but with one important distinction. For while the Duke in *The Revenger's Tragedy* uses his power to save his step-son from the gallows, here we have Piero seeking to hasten his daughter's execution, even asking impatiently 'Why stays the doom of death?' (4.3.8).

[100] Even Saturninus does not seek to wrongfully execute Titus' sons, but convicts them on the basis of untrustworthy evidence.

To ask the question of why Piero calls so vehemently for Mellida's death in open court is to realise the extent of his control over the legal process itself. Piero knows that such summary execution will never be permitted, thus using the law to shield his daughter even as he calls for her punishment. As he exclaims to the court at large 'Why stays the doom of death?' (4.3.8), he is safe in the knowledge that his deputies must immediately object with 'Who riseth up to manifest her guilt?' (4.3.9) and 'You must produce apparent proof, my lord' (4.3.10).[101] The way in which Piero wields his power is subtle in the extreme, stage-managing the trial scene from first to last. As far back as 2.5, he has briefed Strotzo on how to make a convincing confession, in order to reveal Mellida's innocence and Antonio's guilt at the opportune moment: 'Do it with rare passion, and present thy guilt,/ As if 'twere wrung out with thy conscience grip' (2.5.6). Piero coaches him as a director might coach an actor, and the stage for Strotzo's performance is none other than the courtroom of Mellida's trial.[102] As the trial commences, Piero plays the part of impartial judge – 'Most just and upright in our judgement seat' (4.2.8) – and this seems to be confirmed by his disregard for his own daughter: 'And shall justice sleep/ In fleshy lethargy, for mine own blood's favour [?]' (4.2.19). Such an assertion fits with his public image as the champion of justice above favour or personal feeling: 'Our friends we should affect, justice adore' (2.2.50).

With Strotzo waiting in the wings, Piero can confidently cast aspersions on his daughter's chastity, knowing that her reputation will soon be cleared. He calls on his deputies to '[p]roduce the strumpet in her bridal robes,/ That she may blush t'appear so white in show,/And black in inward substance' (4.2.11). By stressing Mellida's physical appearance, the

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[101] Cf. *Titus Andronicus*: 'If it be proved? You see it is apparent' (2.2.292). The slippage produced by the dual meaning of 'apparent' (both 'obvious' and 'seeming') is used to different ends by both authors in a judicial setting.

[102] Piero's attention to detail is so meticulous that it could almost be described as his play-within-a-play, complete with staged entrances, scripted speeches and dramatic murders.

issue of visual proof before the court is immediately foregrounded. By its very nature, drama destabilises any correlation between what is shown onstage and what is actually happening; or to put it another way, what is seen and what is known. The problem of knowing versus seeming is a ubiquitous theme in early modern drama.[103] This acquires a particular urgency when it occurs within the staging of the trial procedures themselves. In pointing out the supposed contrast between Mellida's pure white bridal robes and the blackness of her inner moral decrepitude, Piero alerts his audience to a discrepancy between outward signs ('white'/innocence) and inward truth ('black'/guilt). At the same time, his assertion that 'she may blush' expresses a faith in one's guilt being made manifest within the confines of the courtroom. But this too is unstable as a signifier of proof. Piero continues to denigrate Mellida as follows: 'Now thou impudent,/ If thou hast any drop of modest blood/ Shrouded with thy cheeks; blush, blush for shame' (4.3.15). Mellida's apparent failure to blush, despite being urged three times within the space of sixty lines, can be read by the audience as proof of her innocence. Yet Piero twists the meaning of the visual sign to indicate not innocence, but impudence. In this rendering, by failing to blush Mellida succeeds only in showing her lack of remorse, and not her lack of guilt.[104] Such conflicting interpretations have worrying implications for judicial methods in the Venetian court, as outward appearance gives no

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[103] The difference between what one knows and what one believes provides the main plot complications of *Othello*, *Cymbeline*, and *Measure for Measure*, to name but a handful of examples from Shakespeare's canon.

[104] This is very different from the providential drama of the anonymous *A Warning for Fair Women*, ed. Charles Dale Cannon (The Hague: Mouton, 1975) (first printed 1599, available on EEBO, STC no. 25089). This play also focuses on the importance of visual signification when Anne Sanders' rose dramatically turns from white to red or purple, indicating her guilt (l. 2374ff). Again this draws on a shared vocabulary of visual signs: 'By the time Anne enters the courtroom spectacularly with the white rose, then, colour is a readily perceived index of moral condition', Subha Mukherji, *Law and Representation in Early Modern Drama* (Cambridge: Cambridge University Press, 2006), p. 121. In *Antonio's Revenge* such straightforward signification is complicated by Piero's contradictory interpretations.

indication of either guilt or innocence, thus problematising Mellida's own performance of truth to come.

When it comes to defending herself, rather than contradicting her father's markers of proof, Mellida instead shows her shared belief in the outward expression of an inner moral state. When told that Strotzo will corroborate Piero's version of events, she claims 'I can defeat his strongest argument' (4.3.19). To Piero's question, 'With what?'(4.3.20), she answers:

> With tears, with blushes, sighs, and clasped hands,
>
> With innocent upreared arms to heaven:
>
> With my unnooked simplicity. These, these
>
> Must, will, can only quit my heart of guilt.
>
> Heaven permits not taintless blood be spilt.
>
> 4.3.22

Such faith in the triumph of genuine emotion over dissimulation is not without its risks; we have already seen Piero coaching Strotzo to '[d]o it with rare passion' (2.4.6). Mellida does not claim to have that within which passes show, and instead relies on her audience's ability to distinguish between her demeanour-as-proof, her 'unnooked simplicity', and Strotzo's staged display of emotion.[105] In short, Marston stages the judging of Mellida's guilt or innocence as a contest between two opposing actors.

Mellida's faith in bodily signs ('With tears, with blushes, sighs, and clasped hands') contrasts with Strotzo's use of stage properties: '*Enter Strotzo, a cord about his neck*' (s.d.

[105] The added dimension of Mellida as a boy actor who has rehearsed these lines further destabilises the dichotomy between truth-telling and feigning.

4.3.30). The use of the cord makes him instantly recognisable as an emblem of despair.[106] His language echoes this impression as he asks 'O what vast ocean of repentant tears/ Can cleanse my breast from the polluting filth/ Of ulcerous sin!' (4.3.36). Once again Mellida's signs are turned against her, as both parties resort to 'tears' to convince their audience-jurors.[107] Strotzo continues, 'Supreme efficient,/ Why cleav'st thou not my breast with thunderbolts/ Of winged revenge?' (4.3.38). Marston here shows his thorough grasp of the conventions of the revenge genre; an appeal to heaven for swift and thunderous vengeance is obligatory. However this appeal is not uttered by the maligned and desperate revenger Antonio, but by his enemy's confidant and accomplice on the verge of incriminating the hero. After the initial theatrics, Strotzo confesses how 'I have a mount of mischief clogs my soul' (4.3.51) and goes on to implicate Antonio in both his father's death and Mellida's defamation. This is accepted by the courtroom at large, meaning that ultimately, it is Strotzo's testimony and not Mellida's appeals to heaven that prove to the courtroom her innocence, showing just how far Marston is willing to push the debasement of law in his revenge play.

Strotzo's performance of remorse culminates in an impassioned plea for death: 'O, why permit you now such scum of filth/ As Strotzo is, to live, and taint the air/ With his infectious breath?' (4.3.65). Piero has already scripted the scene: 'Ay, ay, fall on thy face and cry: "Why suffer you/ So lewd a slave as Strotzo is to breath?"' (2.5.20). But where Strotzo expects mercy at his master's hands, he receives only the wages of sin: 'Myself will be thy strangler, unmatched slave' (4.3.68). Even this still agrees with the scene rehearsed by the pair earlier; Piero has assured Strotzo that he will first 'offer a rude hand,/ As ready to gird in thy

[106] Cf. Hieronimo's entrance with cord and dagger as he contemplates suicide before approaching the King for justice, *The Spanish Tragedy*, 3.12. Dramatic precedent can be traced back to the English morality tradition, when the eponymous figure of Mankind calls for a rope to hang himself, *Mankind*, in *Everyman and Mankind*, ed. by Douglas Bruster and Eric Rasmussen, Arden Early Modern Drama series (London: Methuen, 2009), l. 800.

[107] This recalls the ambivalent tears of Lavinia, Titus, and Aaron from Chapter Two.

pipe of wind' (2.5.25) but then 'on the sudden straight, I'll stand amazed,/ And fall in exclamations of thy virtues' (2.5.27). Instead, Piero here departs from the script, and proceeds to do away with his accomplice in open court, without a word of opposition from those present. The sheer ingenuity of Piero having Strotzo primed for his own strangling not only creates a moment of dramatic brilliance, it also underscores how thoroughly he has mastered the legal means at his disposal. Strotzo's confession is followed swiftly by his execution at the hands of the duke, who is also the presiding judge.[108]

I explored in the last chapter how plea-bargaining was a new phenomenon in the late sixteenth century, obviating the need for jury trial and leaving sentencing in the hands of the judge.[109] Here we have a telescoped version of the process, but with a very different outcome. For the criminal's admission of guilt does not lead to leniency from the bench, because the judge is himself a co-conspirator. Furthermore, what appears to the court as an attack committed in the heat of the moment, albeit with the backing of royal power, is in fact a cold-blooded and premeditated assassination of an accomplice.[110] Indeed, this is the same defence used by Piero in the play's opening scene, when he openly admits to the murder of Feliche, but claims that it was a crime of passion (1.4.17).[111] Piero murders two people in cold blood, but continues unscathed as ruler of Venice. This is in large part due to his status putting him not so much above the law, as in control of the law. In this Piero differs markedly from other villains

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[108] Clearly this 'execution' does not adhere strictly to the legal requirements of a murderer's punishment. Nevertheless, death by strangling has a close and deliberate connection with the hangings used to punish murderers in early modern England.

[109] See pp. 114-5.

[110] Cf. Macbeth's slaying of King Duncan's grooms to disguise his own guilt: 'Th' expedition of my violent love/ Outrun the pauser, reason' (2.3.108).

[111] On the relatively new distinction between murder and manslaughter, relying on the presence or absence of 'malice aforethought', see T. A. Green, 'The Jury and the English Law of Homicide, 1200-1600', *Michigan Law Review*, 74 (1976), 413-99.

who exult in getting away with their crimes undetected.[112] By dressing his crimes in the robes of justice, rather than simply hiding his crimes from the law as we might expect, Piero offers a more fundamental challenge to the institution of the law. Murder and execution become indistinguishable in the hands of a tyrant.

The fact that Marston chooses to have Piero's villainy manifest itself in a courtroom environment, through the very legal mechanisms designed to protect citizens, is no doubt significant. But unlike *The Spanish Tragedy* or *Titus Andronicus*, where the interrogation of judicial process and fact-finding takes up much of the action, in *Antonio's Revenge* this is concentrated mainly in the trial scene of Mellida. This is not to suggest that Marston's concern for legal matters is any less serious than that of his predecessors. Indeed, it could be argued that this play is decisively more engaged in questions of law. *Antonio's Revenge* is focused not so much on the difficulty of interpreting evidence in the courtroom, as on where judicial power lies within the state more generally. After Piero's abuses of the law in Act 4, Marston presents us with a radically alternative version of justice in the final act. This centres not on a single unjust judge, but on a more communal vision that draws its power from its citizenry.

'Now, swear we by this Gordian knot of love' (4.5.90)

In studies of *Antonio's Revenge*, much has been made of the deliberate twinning of Piero and Antonio in their deeds of blood, and how this feeds into the moral landscape of the play overall.[113] Mercer makes the familiar assertion that to 'put on the tragic mask of the revenger

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[112] In *Titus Andronicus*, Aaron the Moor is voluble in his catalogue of crimes towards the play's end (5.1), but up until his capture he is careful to cover up his involvement in the murder of Bassianus, the rape of Lavinia, and the framing of Quintus and Martius.

[113] Finkelpearl, pp. 155-6, Hallett and Hallett, '*Antonio's Revenge* and the Integrity of the Revenge Tragedy Motifs', *Studies in Philology*, 76 (1979), 366-86 (p. 381); Ayres, p. 36.

Antonio will have to put off his humanity'.[114] In what remains of this chapter, I argue that the fundamental opposition in *Antonio's Revenge* is not that between grieving son and wicked villain, but rather between Piero and his people. When read in this way, as a juxtaposition between autocracy and commonwealth, Marston's play is opened up to a far more political reading. This could not fail to have resonances for an audience in the final years of Elizabeth's reign, characterised by tensions across the polity and sporadic outbreaks of disorder. Given that Marston is a member of the Middle Temple, the fact that these political issues are framed in legal terms is also more than coincidental.

The exaggerated nature of Piero's crimes should not blind us to the fact that the power he wields throughout the play is judicial power. This is in evidence from the very beginning, as he asks his citizens to believe that Mellida is unchaste, Feliche an adulterer and, later, that Antonio is an ambitious parricide. The murder of Strotzo is similarly disguised as the workings of justice. Piero is so firmly in control of the mechanisms of law that there is no way for the people to contradict – to speak against – his version of events. This returns us to Hieronimo's dilemma of acting justly in an unjust world, with the difference that Hieronimo is an upright judge who cannot achieve justice for himself, while Piero as judge is himself the source of injustice. If we accept that Piero abuses his position as a judge, then where can any challenge emerge from? The law is traditionally where people went to settle their differences, and this is structured in a highly participatory fashion in the early modern period. In the courtroom, the work of meting out justice was to be divided between the judges who decided matters of law and a jury who were judges of fact. Piero's unwillingness to leave the judgement in the hands of a lay jury is obvious, due to his own guilty role in the crimes. What is interesting is how Marston creates a group of citizens in opposition to the unjust judge, to

[114] Mercer, p. 61. Cf. Mercer's reading of Hieronimo in similar dehumanising terms: 'Hieronimo's descent to the horrible inhumanities of his revenge', p. 19.

act as a kind of surrogate jury.[115] This group is of course the revengers – Antonio, Pandulpho and Alberto – and while they each have their own reasons for wanting Piero dead, I demonstrate that there is a strong sense that they are acting on the mandate of a wider social group, particularly in the play's final stages.

The emergence of a group response to Piero's tyrannical behaviour has its roots in the aftermath of Mellida's trial. Even before we have left the courtroom, a remarkable exchange occurs between Alberto and his Duke that again reveals the personal to be intensely political. After Strotzo has died for revealing Feliche's innocence, and Mellida has been carried out in a swoon, Piero seeks to recuperate his reputation by showing posthumous mercy to the corpse of Feliche. Opening with the line 'Alberto, I am kind, Alberto, kind' (4.3.111), Piero goes on to show his generosity of spirit:

> Piero: Let him be buried, look ye, I'll pay the priest.
>
> Pandulpho: Please you to admit his father to the court?
>
> Piero: No.
>
> Pandulpho: Please you to restore his lands and goods again?
>
> Piero: No.
>
> Pandulpho: Please you to vouchsafe him lodging in the city?
>
> Piero: God's fut, no, thou odd uncivil fellow.
>
> 4.3.110

Alberto's probing 'uncivil' questions makes Piero's mask of amiability slip, revealing the initial show of reconciliation to be empty of content. Having shown the unscrupulous political realities behind Piero's display of liberality – Pandulpho is still deprived of his land and goods –

[115] This is comparable to the displaced trial jury in *Titus Andronicus* argued for by Hutson, *The Invention of Suspicion*, pp. 90-103.

Alberto now reminds Piero that his actions must come to a reckoning at some point: 'I think you do forget, sir, where you must be' (4.3.122). For his pains, Alberto is taken away under armed guard – 'Away with that same yelping cur, away!' (4.3.127) – but not before delivering the crucial couplet: 'Ay, I am gone: but mark, Piero, this./ There is a thing called scourging nemesis' (4.3.128). Alberto's use of 'scourging nemesis', together with the reference to the Last Judgement ('where you must be'), draws on a belief in providential justice that has been lacking thus far. We have already witnessed Piero abusing the law in open court, while Strotzo even mockingly called on God to send his 'thunderbolts/ Of winged revenge' (4.3.39).[116] Alberto's language gestures towards a power that will put right such abuses and reinstate justice, but which has hitherto been unavailable.

As Alberto is escorted away, Balurdo (who will go on to join the revengers) exclaims to the court 'God's neaks he has wrong, that he has' (4.3.130). In his own unique register he talks of how he would not bear such an injustice, ending with the nonsensical 'La, I – I begin to swell – puff!' (4.3.131). Balurdo's speech has traditionally been edited to make it more readable, but I believe this elides a legal reference in the original, which in fact has him say 'lawe I, I begin to swell, puffe'.[117] Since this occurs in the context of a courtroom, surrounded by issues of justice, could 'lawe I' not be read as meaning 'I would go to law'?[118] This would have been a natural recourse at this time, but one which Piero's position as judge makes impossible. The impression that Balurdo considers legal action is reinforced when he continues 'I will swear the

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[116] As for whether God does send revenge in the person of Piero is a matter for debate, but a line in Marston's *The Malcontent* provides in telling parallel: when Aurelia is being sentenced by the wicked Mendoza she says 'Judgement is just yet from that vast villain' (4.5.9), from John Marston, *The Malcontent*, ed. by George K. Hunter, Revels Plays series (London: Methuen, 1975).

[117] This emendation is made in both Smith's and Gair's editions. Finkelpearl quotes from H. Harvey Woods' three volume edition of *The Plays of John Marston* (Edinburgh, 1934-9), which has Balurdo saying 'lawe' instead of 'la', but this passes without comment by Finkelpearl, p. 157.

[118] John Marston, *Antonios Reuenge* (London, 1602) (available on EEBO, STC no. 17474), sig. H2^{r}.

fellow hath wrong' (4.3.138), and ten lines later 'Go to, 'tis just, the man hath wrong; go to' (4.3.149).[119] Balurdo's verbosity is the source of much comedy in the play, but it can also have a more serious purpose. For his pains he is arrested, receiving in his turn a punishment much worse than Alberto's: 'Clap him into the palace dungeon:/ Lap him in rags, and let him feed on slime' (4.3.151).[120] Having started the scene as the champion of the law, 'Most just and upright in our judgement seat' (4.2.8), and even trying to make amends with Alberto by giving back the body of Feliche, Piero ends up showing clearly his autocratic tendencies: 'Away with him; observe it strictly, go!' (4.3.156).

Having definitively established Piero's tyranny, it remains only for Marston to put an end to such oppression in the final act. This simply requires the death of Piero, and who better than the eponymous hero to dispatch the villain of the piece? Hallett and Hallett would seem to agree when they ask 'How does one cope with such injustice? Marston's notion seems to be that individual action is the only possible answer'.[121] Yet this is emphatically not what happens; indeed, rather the opposite is true. Marston instead decides to bring together all those wronged by Piero in the course of the play for the final revenge. This includes Pandulpho, who has lost his son, Alberto, who has lost his friend, and Antonio, who has lost both father and fiancée. It is as if, after the elaborate twinning of protagonist and antagonist in act 3, this no

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[119] Even Balurdo's line 'but poor as I am, I will swear the fellow hath wrong' (4.3.135) could be read as a reference to the proverbial expense of going to law. For the economic reality behind this common complaint, see Brooks, *Pettyfoggers and Vipers of the Commonwealth: The 'Lower Branch' of the Legal Profession in Early Modern England* (Cambridge: Cambridge University Press, 1986): 'by 1560 litigation at common law was not prohibitively expensive and...the cost of litigation actually declined steadily relative to prices over the next eighty years', p. 101.

[120] Finkelpearl calls Balurdo 'a moving and pathetic example of unjust suffering' at this point, going on to say that 'Piero tries to ignore him, but Balurdo continues to criticize the Duke's judgment until he is sent to the dungeon for his momentary rebellion' p. 157. Rebellion is a telling word in the play's politically charged language, but Finkelpearl does not expand upon this.

[121] '*Antonio's Revenge* and the Integrity of the Revenge Tragedy Motifs', p. 379.

longer adequately reflects the kind of revenge Marston wishes to portray. As the play reaches its climax, the community takes precedence over the individual.

Once Pandulpho's Stoic fortitude disintegrates in the famous 'Man will break out, despite philosophy' speech (4.5.48), the three men are united in their grief. Bereavement is at first a source of tension in the group; when Pandulpho claims to be the 'miserablest soul that breathes' (4.5.55), Antonio objects ''Slid sir, ye lie' (4.5.56), taking for himself the title of 'most unmatched in woe' (4.5.59).[122] Competition in grieving gives way to solidarity in redress, as the mourners find common cause in the destruction of Piero. To Pandulpho's question of 'Will't still be so? and shall yon bloodhound live?', Antonio replies 'Have I an arm, a heart, a sword, a soul?' (4.5.61). The sword of Antonio will be used as the sword of justice in due course, but first another weapon is deployed in the space between grief and retribution: 'Let's dig [Feliche] his grave with that shall dig the heart,/ Liver, and entrails of the murderer' (4.5.65).[123] Their daggers are momentarily used as tools of mourning before becoming instruments of revenge, with a suggestion of the capital punishment of disembowelling in the reference to digging the 'heart,/ [l]iver, and entrails'.

As the revengers prepare to exit before the final act, Antonio issues the instruction, 'We must be stiff and steady in resolve:/ Let's thus our hands, our hearts, our arms involve' (4.5.86), accompanied by the stage direction '*They wreathe their arms*'. This gesture mirrors a similar action by Antonio and his father Andrugio in *Antonio and Mellida*. But while father and son are also united in grief at this point, this is accompanied only by a wish for their own death: 'Now come, united force of chap-fall'n death!' (*Antonio and Mellida*, 4.2.1). In *Antonio's*

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[122] *Hamlet* too has a scene of competitive grief, with Hamlet and Laertes fighting over, and in, the grave of Ophelia, *Hamlet* 5.1.

[123] This action also echoes similar moments in *The Spanish Tragedy* (3.12), and *Titus Andronicus* (4.3), but here the objective is to bury the dead, rather than gain access to the underworld.

Revenge on the other hand, the forces being united foreshadow Piero's death, not their own. The other difference is subtler, but ultimately more far-reaching, since the union of father and son is familial, while the union of Antonio, Pandulpho and Alberto is political.[124] Hereditary grief has been replaced by communal action. Hallett and Hallett see in this scene 'the image of passion and reason joined together' in the persons of Antonio and Pandulpho.[125] Such a union of binaries leaves Alberto out of the equation. Similarly Bowers talks about how '[a]n extra fullness of plot is gained by creating a pair of revengers for two different murders', seemingly forgetting the role of either Alberto or Pandulpho.[126] Such elision has the effect of keeping Antonio at the centre of the revenge plot, albeit with outside help. In actual fact, when it comes to swearing their revenge, Marston seems determined to make the revengers equal partners:

> Now swear we by this Gordian knot of love,
>
> By the fresh turned-up mould that wraps my son,
>
> By the dead brow of triple Hecate:
>
> Ere night shall close the lids of yon bright stars,
>
> We'll sit as heavy on Piero's heart
>
> As Etna doth on groaning Pelorus.
>
> 4.5.90

The dumbshow which opens the final act already shows signs of political discontent that runs far deeper than the murder of Andrugio or Feliche, when it specificies that Galeatzo

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[124] Cf. Titus' prayer of revenge together with his family, which also takes the form of a circle, straddling the boundary between the personal and the political, *Titus Andronicus*, 3.1.277.

[125] '*Antonio's Revenge* and the Integrity of the Revenge Tragedy Motifs', p. 380.

[126] Fredson Bowers, p. 119. This is contradicted by his later comment that 'the wanton murder of Feliche eventually raised two revengers, Pandulfo and Alberto, who at a critical moment joined with Antonio', p. 122.

from neighbouring Florence and two senators of Venice '*knit their fists*' at Piero (s.d. 5.1.1).[127] This is followed by Andrugio's prologue of sorts, which displays a worrying blend of providentialism and vigilante justice: 'Now down looks providence/ T'attend the last act of my son's revenge' (5.1.10).[128] But this speech also serves the important function of widening the scope of the revenge, from those immediately affected by Piero's crimes to a wider dissatisfaction within the community: 'The states of Venice are so swollen in hate/ Against the duke, for his accursed deeds –/.../.../.../ That they can scarce retain from bursting forth/ In plain revolt' (5.1.17). Together with the preceding dumbshow, Andrugio's language of political unease and potential 'revolt' changes the play's focus from personal revenge to communal action. This political aspect has been acknowledged in passing, as when Finkelpearl describes the revenge as 'political assassination', without developing the implications of such a statement. Hunter discusses how it serves a religious end: 'the political justification of tyrannicide in the final speeches reaches out to religious approval'.[129] I see the emphasis on politically-charged language not as a means of accessing other discourses, but rather as the most insistent and relevant discourse of the play. More terrifying to the Elizabethan establishment than any individual act of revenge is the fear of open insurrection, Sharpe's 'spectre of riot', and this is precisely what Marston utilises in this scene.[130] The threat to the establishment centres on the group of revengers who are brought together in an image of unity not dissimilar to the wreathed arms of the previous scene: 'For now the plot unites his scattered limbs/ Close in contracted bands' (5.1.13). Mercer notes the political import of the

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[127] On this fist-shaking Sarah Sutherland says: 'Only now, after this dumb show, does Antonio's vengeance have the full secular authority it needs', *Masques in Jacobean Tragedy* (New York: AMS Press, 1983), p. 40.

[128] Andrugio also appropriates Christian language when he says 'heaven's just! For I shall see/ The scourge of murder and impiety' (5.1.24), recalling Alberto's earlier 'scourging nemesis' (4.3.128).

[129] From his introduction to the play, *Antonio's Revenge*, ed. by. G. K. Hunter (Lincoln: University of Nebraska Press, 1965), p. xvi.

[130] Sharpe, 'Social Strain and Social Dislocation', p. 193.

final act and its representation of social inclusivity, but he sees this as a distraction from revenge tragedy proper: 'Nevertheless the communal nature of the revenge still diminishes its tragic meaning'.[131] I see this not as a distraction, but rather a culmination.

A political lexicon becomes even more pronounced when the revengers return to the stage to finalise their plans. Antonio's cry of 'Vindicta' (5.3.1) is swiftly followed by a discussion of political backing for their actions. At Antonio's mention of the Florentine Galeatzo, Alberto responds 'Even he is mighty on our part. The states of Venice –' (5.3.11).[132] Alberto is cut off by the entry of Pandulpho, who exclaims: 'Like high-swollen floods, drive down the muddy dams/ Of pent allegiance' (5.3.12). At the play's opening Piero had taunted these three to 'Forget I am your duke' (1.4.14); now such 'allegiance' has clearly been forgotten in the groundswell of support for the revengers. It is also apparent that some campaigning has been involved, when Pandulpho tells of how 'I have been labouring general favour firm./ And I do find the citizens grown sick' (5.3.15). He also describes the finding of Strotzo's letters to confirm Piero's guilt, before we are told of 'The graver statesmen whispering fearfully' (5.3.25). This reference to 'graver statesmen', like the mention of Galeatzo's support, imply a whole community behind the revengers' attempt, and not just a radical element bent on violence. As Finkelpearl puts it, 'every figure of any importance in the play is implicated in the plot against Piero'.[133] Unlike Hieronimo or Hamlet they seek, and acquire, popular support, and this tips the balance decisively in their favour.

Next Balurdo joins the ranks of the revengers, led for the most part by his stomach. He complains that '[t]hey say, hunger breaks through stone walls; but I am as gaunt as lean-ribbed famine, yet I can burst through no stone walls' (5.2.1). Having been left to rot in prison and

[131] Mercer, p. 86. Cf. Hallett and Hallett see the final act as a failure, *The Revenger's Madness*, p. 180.

[132] Cf. Lucius Andronicus garnering the support of the Goths, *Titus Andronicus*, 5.1.

[133] Finkelpearl, p. 158.

'feed on slime' (4.3.152), Balurdo's hunger gets the better of him as he joins with Antonio, Alberto and Pandulpho in return for 'a fat leg of ewe mutton' (5.3.58). In this trade of victuals for support could be seen a reference to recent times of poor harvest and food riots, where 'Necessity hath no law'. Even without such specific topicality, there is a definite link between deprivation and political action: 'Nay, and you talk of revenge, my stomach's up, for I/ am most tyrannically hungry' (5.3.52). Revenge and tyranny intersect in Balurdo's famished stomach, and as Bacon puts it 'the rebellions of the belly are the worst'.[134] This scene again ends on an emblem of unity as Antonio asks his accomplices 'Give me thy hand and thine, most noble heart,/ Thus will we live, and, but thus, never part' (5.3.73).[135] The final stage direction is '*Exeunt twin'd together*', indicating that all present are somehow involved (both implicated and intertwined) with Antonio at this point.

Once Piero appears on the stage again, his death is assured. Much like his Danish counterpart Claudius, he has tried to replace proper mourning with matrimony.[136] But this interruption of the natural order is denied by the masquers. As the disguised revengers appear onstage, the Florentine Galeatzo makes explicit his support for the conspirators when he says to Antonio, 'All blessed fortune crown your brave attempt./ [To Pandulpho] I have a troop to second your attempt./ [To Alberto] The Venice states join hearts unto your hands' (5.5.5). Having earlier exited with hands, hearts and arms involved (4.5.89), now the revengers are assured the hearts and hands of their fellow citizens. When there is such open and widespread

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[134] Bacon, 'Of Seditions and Troubles', p. 103.

[135] Gair's interpolated stage directions at this point leave out the newly recruited Balurdo, only making reference to Alberto and Pandulpho.

[136] The similarity continues when Piero calls to a page to 'sing aloud, make heaven's vault to ring/ With thy breath's strength. I drink' (5.4.31), while Claudius keeps 'wassail' and 'as he drains his draughts of Rhenish down/ The kettledrum and trumpet thus bray out/ The triumph of his pledge' (1.4.9). Alberto's description in the previous scene of how 'each man strains/ To feign a jocund eye' (5.3.8) also bears a striking resemblance to Claudius' speech: 'With an auspicious, and a dropping eye/ With mirth in funeral and with dirge in marriage' (1.2.11).

support for the conspiracy, it should come as no surprise that the revengers go free at the play's end. Martha too plays her part, for when Antonio asks 'Mother, is Julio's body –' she cuts him off with the assurance 'Speak it not, doubt not; all is above all hope' (5.5.13). Antonio's revenge has by now become the revenge of Antonio, Pandulpho, Alberto, Balurdo and Martha, with the support of Galeatzo and his 'troop'.

The revenge itself is a protracted one, notable for its cruelty and violence, which may or may not imply a Thyestian banquet has been prepared using the corpse of Julio: 'Here lies a dish to feast thy father's gorge./ Here's flesh and blood, which I am sure thou lovest' (5.5.50).[137] Regardless of the exact stage business, Piero is confronted with his son's murdered corpse in some form, while he is taunted by his revengers: 'Was he thy flesh, thy son, thy dearest son?' (5.5.52). After reminding Piero of his numerous crimes, Antonio claims immunity from mercy: 'Now, therefore, pity, piety, remorse/ Be aliens to our thoughts: grim fiery-eyed rage/ Possess us wholly' (5.5.60). This is followed by a further twenty lines of torture, insults and curses for Piero, 'till he hath died and died/ Ten thousand deaths in agony of heart' (5.5.78), until finally Antonio invokes their divine purpose: 'This the hand of heaven chokes/ The throat of murder' (5.5.79). On the point of death, Marston structures the final blow to be highly stylised and communal:

Antonio: This for my father's blood.

[*He stabs* Piero]

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[137] There is some confusion regarding exactly what happens onstage at this point, and it is most often assumed that Julio has in fact been cooked in keeping with the Thyestian motif. This is not unheard of for the early modern stage, as attested to by *Titus Andronicus* (5.3). Gair inserts the stage direction '[*Uncovering the dish that contains Julio's limbs*]', before the actual stage direction from the original printing: '*Piero seems to condole his son*' (s.d. 5.5.50). If Piero can seemingly 'condole' his son, this may suggest that he recognises Julio, and that Julio's body is intact in some form. This would simply require the dead body of Julio to be revealed in the discovery space, as it is in *The Spanish Tragedy* (4.4), *The Tragedy of Hoffman* (1.1),*The Revenger's Tragedy* (1.4) and later, the waxworks in *The Duchess of Malfi* (4.1).

Pandulpho: This for my son.

Alberto: This for them all.

5.5.80

Piero is at last dispatched, with the memory of his crimes fresh in the audience's mind. Alberto's 'all' reaches beyond the immediate murders of Andrugio and Feliche, to a wider community who have already shown their intolerance of Piero's tyranny. The ghost of Andrugio caps the proceedings, stressing the heavenly approval of the deed: ''Tis done, and now my soul shall sleep in rest./ Sons that revenge their father's blood are blest' (5.5.85). Such an unchristian sentiment is by no means offered as authorial approval for regicide, but it does pave the way for the even more problematic arrival of Galeatzo and senators who openly praise the revengers over the body of their dead duke.

In the aftermath of Piero's death, the revengers do not try to hide their crime, but rather jostle with each other to take full credit for the murder. When asked by a Venetian senator, 'Whose hand presents this gory spectacle?' (5.6.1), they reply:

Antonio: Mine.

Pandulpho: No: Mine.

Alberto: No: Mine.

Antonio: I will not lose the glory of the deed.

5.6.2

This competitiveness is allayed by Alberto's 'Tush, to say troth, 'twas all' (5.6.11); again individuality gives way to inclusiveness: 'Mine' becomes 'all'. This word is picked up by the senator who responds in kind with, 'Blessed be you all, and may your honours live/ Religiously held sacred, even for ever and ever' (5.6.12). This reaction has been described as 'morally

repulsive', and such a description has some merit in light of Piero's gruesome death.[138] But the play is structured in such a way that no alternative is available to the citizens of Venice, since the primary culprit for a double homicide is himself the guarantor of justice.[139] This would seem to confirm Bacon's assertion that '[p]ublic revenges are for the most part fortunate', as Antonio's personal grievance is transformed into a public good in the form of tyrannicide.[140]

Galeatzo's appellation of Antonio as 'another Hercules' (5.6.14) is a telling one in this context, for Hercules is a hero known for using his own violent methods in ridding the classical world of monsters. With his super-human strength, he straddles the division between civilised man and the monsters that he does away with.[141] In his essay 'Of Wisdome', Pierre Charron makes this connection explicit, writing that 'it is honorable for a stranger, yea, it is most noble and heroicall in a prince by warlike means to defend a people vniustlie oppressed; and to free them from tyrannie, as *Hercules* did'.[142] While Antonio's actions in the final act are monstrous in their own way, this does not mean they are unnecessary or indefensible. It is no longer Antonio's woes than are Herculean, it is his actions. The senators once again make a point of underlining Piero's guilt, as corroborated by the evidence of Strotzo's letters: 'We have found/ Beadrolls of mischief, plots of villainy,/ Laid 'twixt the duke and Strotzo' (5.6.18). This is the third time since the beginning of the act that these pieces of evidence have been mentioned

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[138] Ayres, p. 372.

[139] Cf. Richmond's words on the eve of battle to his men: 'If you do sweat to put a tyrant down,/ You sleep in peace, that tyrant being slain', *Richard III*, 5.3.256.

[140] Francis Bacon, 'Of Revenge', in *The Essays*, pp. 72-3 (p. 73).

[141] 'The Greek hero, son of Zeus and exemplar of strength and patience, is also the man wielding the primitive weapon of the club and wearing the lion's skin', *Classical Mythology*, ed. by Mark P. O. Morford and Robert J. Lenardon, 6th edn (Oxford: Oxford University Press, 1999), p. 437.

[142] Pierre Charron, *Of Wisdome* (London, 1608), trans. by Samson Lennard (available on EEBO, STC no. 5051), p. 493 (sig. Kk^{r}).

(5.1.19, 5.3.21, 5.6.18), suggesting that proof of Piero's specific crimes is as important as any general tyrannical behaviour in exculpating the revengers.[143]

That the revengers have acted judiciously is further implied when they are praised for being 'well-seasoned props/ And will not warp or lean to either part' (5.6.27). The image of wooden props is here less a theatrical image ('prop' does not yet mean 'stage property') than it is an image of steadfastness and also unbiasedness, much as the scales of justice do not 'lean to either part'. This contrasts with Piero's pre-emptive and prejudicial use of the law throughout. The verdict is clearly that Piero deserved to die, and in the absence of a legal system able to bring him to justice, it has fallen to a group of revengers to take over the role of delivering justice. This enactment of justice does not take place in a courtroom, nor does it conform to early modern conceptions of law and order, but this is what gives the play its moral complexity. Marston acknowledges as much when he has Antonio say 'We are amazed at your benignity' (5.6.30). Just as the murder of Julio is earlier introduced with the sole purpose of staining Antonio's hands with innocent blood, so the torturous execution of Piero begs the question of what sort of justice is acceptable, or even possible, when law itself has been utterly debased by those in power. Like *The Spanish Tragedy* before it, this play dramatises what must be done when justice and law are no longer synonymous. The vibrancy of Marston's depiction is heightened by being linked with the various crises of the 1590s, in particular the spate of riots and disturbances, as citizens took it upon themselves to bring their hardship to the attention of their superiors. The London crowd and Antonio's band of followers have much in common, a word which Patterson reminds us has particular associations in the period: 'In such a semantic network as we have seen existed in the early

[143] Sutherland too notes the repetition as unusual, p. 40.

sociology of theater, "common" acquires a force that speaks of social and professional cooperation'.[144]

In *Shakespeare and the Legal Imagination*, when discussing Shakespearean tragic heroes prone to revenge such as Coriolanus and Othello (but omitting Titus) Ian Ward writes: 'Ultimately, the problem with revenge is that if it is not justified in terms of providence, then it becomes an acutely individual exercise of justice. Necessarily it is a form of justice which denies the relevance of community'.[145] But such a view of revenge does not take account of the many instances in early modern drama where community is one of the most central elements of the revenge plot. Marston's *Antonio's Revenge* is a case in point, going out of its way to make the final revenge into a collective and communal activity (we will see more of this with *The Tragedy of Hoffman* in Chapter Five). Having shown his familiarity with the concept of the Senecan revenger through both implicit and explicit allusions, the influence of Seneca becomes less and less apparent as the play approaches its denouement. Marston's revenge tragedy takes its own path, gradually replacing the triumph of the individual that opens the play with a group revenge at its end surrounded in an aura of cooperation and social approval.

This returns us to the question posed earlier of why Marston dilutes the centrality of his hero by having him joined by others in the final act. Such a decision is difficult to justify on purely dramatic grounds, as it upsets the internal symmetry of Antonio versus Piero. Marston's logic becomes more comprehensible if we posit an appetite among Marston's audience for the representation of collective action. In *The Spanish Tragedy*, Hieronimo has Bel-imperia play her part in his theatre of revenge, much as Maria aids the masquers in the final act of *Antonio's Revenge* (5.5.14). Shakespeare's *Titus Andronicus* sees the eponymous hero swear an oath of

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[144] Patterson, p. 26.

[145] Ian Ward, *Shakespeare and the Legal Imagination* (London: Butterworths, 1999), p. 187.

vengeance with his family, before instructing his son Lucius 'Hie to the Goths and raise an army there' (3.1.286). Even in *Hamlet*, we are given the portrait of the traditional revenger in the person of Laertes, who appears to have the backing of the populace: 'The rabble call him lord' (4.5.98). *Antonio's Revenge* unites all of these aspects in the final revenge, making explicit the desire for collective action: Maria's role in the revenge, Galeatzo and his 'troop', and Pandulpho's 'labouring general favour firm' (5.3.15). Such a reconfiguration of revenge – from private crime to collective justice – gives the revenge tragedy a scope and relevance that is both politically charged and legally inflected. Ward's description of revenge as an 'acutely individual exercise of justice' may have much to recommend it in terms of actual, real-world revenge. Yet when revenge is transposed onto the early modern stage, it is no longer acutely individual, and instead becomes decidedly communal: 'to say truth, 'twas all' (5.6.11).

Chapter Four

> Two assumptions are apt to be made about Elizabethan revenge plays: first, that all of them, except for *Hamlet*, are unproblematic in structure to the point of naïveté; and, second, that all of them, including *Hamlet*, are concerned centrally with the *ethical* dilemma of revenge. Both assumptions are incorrect, and the source of endless misleading critical labour.[1]

Hamlet, at once the most well-known of all revenge tragedies and a significant departure from its predecessors, occupies a unique and complicated place within the genre of revenge tragedy. Shakespeare's second revenge tragedy has been heralded as the apotheosis of a genre hitherto lacking in moral and philosophical depth: 'the playwright has constructed a more complicated and more intellectual play than a revenge-tragedy has any right to be'.[2]

[1] These are the opening sentences of Peter Mercer's Hamlet *and the Acting of Revenge* (London: Macmillan, 1987), p. 1 (original emphasis).

[2] Rosalie Colie, *Shakespeare's Living Art* (Princeton: Princeton University Press, 1974), p. 240.

Indeed a correlation can be made between the inordinate focus on *Hamlet* by literary scholars and a dearth of critical material on other revenge tragedies.[3] As the second most written-about text after the Bible,[4] the critical heritage that has accreted to this play is daunting to say the least. One scholar puts it succinctly when he says, '[i]t would seem at this late day that all that could be said about the play of *Hamlet* has been said and often repeated'.[5] Considering this comment was written in 1885, this gives some idea of the scale of the challenge facing today's literary scholar. Therefore I begin this chapter with the briefest of critical introductions, before focusing in on criticism that concerns itself with the question of *Hamlet* and the law. This then leads into my own argument regarding Hamlet's aversion to couching his revenge in terms of justice, law, and ultimately, revenge itself. The atypical nature of *Hamlet* is apparent in the language of the play, where staples such as 'law' and 'justice' do not feature heavily, and in its politics, which never sees the alignment of the revenger's aims with the good of the commonwealth.[6] Above all it is apparent in the isolation of the protagonist, who consistently fails to merge personal vengeance with political action: 'O cursed spite/ That ever I was born to set it right!' (1.5.186). Such a change of focus explains in large part the anomalous relation between *Hamlet* and the genre from which it stems.

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[3] As recently as 2009, Annalisa Castaldo notes the paucity of revenge tragedy criticism: 'Even the name of Shakespeare has not been enough to draw the critics; *Hamlet*, of course, is intensely studied, but not often mainly as a revenge tragedy', '"These were spectacles to please my soul": Inventive Violence in the Renaissance Revenge Tragedy', in *Staging Pain, 1580–1800: Violence and Trauma in British Theater*, ed. by James Robert Allard and Matthew R. Martin (Farnham: Ashgate, 2009), pp. 49-56 (p. 49).

[4] L. E. Semler, 'A Proximate Prince: The Gooey Business of *Hamlet* Criticism', *Sydney Studies in English*, 32 (2006), 97-127 (p. 100).

[5] R. A. Guernsey, *Ecclesiastical Law in* Hamlet*: The Burial of Ophelia* (New York: Brentano Bros, 1885), p. 6. Originally presented before the Shakespeare Society of New York, June 9, 1885.

[6] In this Hamlet is aided by Shakespeare, who reconstitutes the usurper king from his sources as an upstanding and approved monarch: 'Nor have we herein barred/ Your better wisdoms, which have freely gone/ With this affair along' (1.2.14).

Following on from the examination of *Antonio's Revenge*, which shares close structural parallels with *Hamlet,* this chapter sets out to resituate *Hamlet* within the genre of revenge tragedy more generally. Without a full appreciation of the social relevance and political charge of earlier revenge tragedies, much of the generic innovation in *Hamlet* is lost. Rather than arguing that Shakespeare's second revenge tragedy covers the same ground as other plays in the genre but in a more sophisticated way, I put forward the theory that *Hamlet* in fact displays less of an engagement with legal issues than other revenge tragedies. For example, the idea of revenge as a metaphor for political action brought about by the failings of a judicial system does not impinge on Hamlet's deeply personal struggle to be revenged. Hamlet's isolation within the world of the play will be examined as a deliberate strategy by Shakespeare to extend the scope of the genre beyond communal socio-political action, in order to focus more fully on individual tragic subjectivity. At the same time, I demonstrate that the tension between these two 'options' continues to make itself felt in the play, through the analogues provided by Fortinbras and Laertes, both of whom combine personal ends and political means. Laertes in particular readily conflates the two, as he arrives at the castle of Elsinore 'in a riotous head' (4.5.101); but this radical potential is subsequently shown to dissipate as the play approaches its denouement. This leads me to question such a *Hamlet*-centric approach to the genre of revenge tragedy, particularly when it comes to its engagement with early modern law.

Even the most cursory glance at the shelves of *Hamlet* criticism throws up a bewildering variety of titles such as (in no particular order) *Hamlet and Oedipus*, *Hamlet in Purgatory*, Hamlet *and Revenge*, Hamlet *and the Acting of Revenge*, Hamlet *and the Philosophy of Literary Criticism*, Hamlet *and the Distracted Globe*, Hamlet *and the Scottish Succession*, or

Hamlet *and the Visual Arts, 1709-1900*.[7] The first question to be asked then is simply: Why *Hamlet*? Margreta de Grazia gives a fascinating account of the play's relative obscurity until the Romantic period, which is followed thereafter by a preoccupation with *Hamlet* bordering on obsession among literary scholars.[8] She attributes this to the play's protagonist and his 'anachronistic futurity', which has become something of a totem for modern and even post-modern existence.[9] As L. E. Semler observes:

> Readers nowadays tend to feel that it goes without saying that *Hamlet* – a play apparently so rich in self-interrogating soliloquies and agonising introspection – is all about subjectivity, that is to say, it is the defining drama of the dawn of modern self-consciousness.[10]

Hamlet's existentialist bent appears to have secured the play's position as a symbol of modernity.[11] But I argue that what modern audiences identify with in the character of the melancholic prince is something quite different from what early modern audiences would have expected from a tragedy of revenge. This disjunction is precisely what I wish to investigate, for

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[7] Ernest Jones, *Hamlet and Oedipus* (London: Gollancz, 1949); Stephen Greenblatt, *Hamlet in Purgatory* (Princeton: Princeton University Press, 2001); Eleanor Prosser, Hamlet *and Revenge*, 2nd edn (Stanford: Stanford University Press, 1971); Peter Mercer, Hamlet *and the Acting of Revenge*; Morris Weitz, Hamlet *and the Philosophy of Literary Criticism* (London: Faber, 1965); Andrew Gurr, Hamlet *and the Distracted Globe* (Edinburgh: Scottish Academic Press for Sussex University Press, 1978); Lilian Winstanley, Hamlet *and the Scottish Succession* (Cambridge: Cambridge University Press, 1921); Alan R. Young, Hamlet *and the Visual Arts, 1709-1900* (Newark: University of Delaware Press, 2002).

[8] 'When did *Hamlet* become modern?', *Textual Practice*, 17 (2003), 485-503 (p. 496). See also her monograph, Hamlet *without Hamlet* (Cambridge: Cambridge University Press, 2007).

[9] 'When did *Hamlet* become modern?', p. 496.

[10] Semler, p. 107. For a good example of this in action, see Harold Bloom, *Shakespeare and the Invention of the Human* (Harmondsworth: Penguin, 1998).

[11] In Francis Barker's phrase, *Hamlet* is 'the great tragedy of... *bourgeois* culture', *The Tremulous Private Body: Essays on Subjection* (London: Methuen, 1984), p. 34.

in it lie not only the seeds of *Hamlet*'s enduring popularity, but also evidence of a well-established socio-legal discourse within the genre that still makes its presence felt in this play.

When *Hamlet* is discussed in terms of revenge tragedy, it is most often to distance Shakespeare's play from any such label. I have already quoted Colie's assertion that *Hamlet* is a 'more intellectual play than a revenge-tragedy has any right to be'.[12] While I may quibble with Colie's generalisation, it is still the case that *Hamlet* does not sit easily within the genre of revenge tragedy. This has long been noted by literary critics, who seem intent on removing *Hamlet* from the contaminating influence of other revenge plays before engaging with the text *sui generis*.[13] Despite Mercer's treatment of revenge tragedies by authors other than Shakespeare, he still feels the need to preface his discussion of *Hamlet* with the following caveat: 'It is not, of course, just *another* revenge play. In fact it forces the revenge structure to the point where it turns in on its own forms and metaphors' (original emphasis).[14] Michael Neill writes in a similar vein when he observes: 'Ironically enough, however, *Hamlet* has become so much the best-known example of revenge tragedy, whose premisses it explores and questions, that it is difficult to recognize how significantly it reshaped the genre to which it belonged'.[15] Neill's observation is an important one, recording as it does both continuity and change, but it still stems from the presumption that *Hamlet* is more sophisticated in its

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[12] Colie, p. 240.

[13] Emma Smith observes that 'Hamlet's own inability to escape the commandment of his father has a curious parallel in critical attempts to construct *Hamlet* as a play uniquely unfathered by literary or dramatic tradition', 'Shakespeare and Early Modern Tragedy', in *The Cambridge Companion to English Renaissance Tragedy*, ed. by Emma Smith and Garrett A. Sullivan Jr (Cambridge: Cambridge University Press, 2010), pp. 132-49 (p. 137).

[14] Mercer, p. 7. The self-consciousness of the genre is already well established by this time, as when Hieronimo calls himself '[a]uthor and actor in this tragedy' (*The Spanish Tragedy*, 4.4.147), or Pandulpho compares himself to a boy actor (*Antonio's Revenge*, 4.5.49).

[15] Michael Neill, *Issues of Death: Mortality and Identity in English Renaissance Tragedy* (Oxford: Clarendon Press, 1997), p. 244. The thrust of Neill's argument is that in post-Reformation England, 'revenge tragedy shows vengeance to be no more than memory continued by other means', p. 247.

treatment of revenge than its predecessors. *Hamlet* is to be admired in spite of, not because of, its affinity with earlier revenge tragedies.

It is undoubtedly the case that Shakespeare is doing something very different with revenge in *Hamlet* from what he does in *Titus Andronicus* for example. But is it too much to suggest that this stems from a change in dramatic focus rather than a difference in artistic merit? I wish to look at the question of why *Hamlet* is such an anomaly in the revenge genre, and in the process put forward the theory that as far as early modern law is concerned, the play's protagonist has less to offer in terms of socio-legal content than his fellow revengers. Here there are no court cases, no corrupt judgements, and the only evidence of a crime is the report of an insubstantial Ghost. Instead of focusing on the political consequences of his revenge, Hamlet dwells on the enactment of revenge as precisely that, an act. This metatheatrical approach to revenge leads to some of Shakespeare's most eloquent observations on the dilemma of action as a species of acting: 'What would he do/ Had he the motive and the cue for passion/That I have?' (2.2.555).[16] Such a philosophical turn has no doubt contributed to the play's enduring success, but I am more concerned with what has been left behind to make way for Hamlet's meditations.

As a text *Hamlet* often seems to be amenable to every possible critical approach. It is my contention, however, that *Hamlet*'s legal context is given decidedly less prominence by Shakespeare compared to other revenge plays. This is not to say, as Richard Posner does, that the law is absent from *Hamlet*.[17] Nor am I suggesting that legal matters in *Hamlet* have received no attention. It seems that everything has been written about in relation to this play,

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[16] The word 'cue' appears in the Folio version, quoted here from the second volume of Thompson and Taylor's edition. Such metatheatricality is not unknown in the revenge genre, but Hamlet's wariness of role-playing is more endemic, see Mercer, pp. 192-3.

[17] 'We learn about law from its absence in *Hamlet*', Richard Posner, *Law and Literature: A Misunderstood Relation*, 3rd edn (London: Harvard University Press, 2009) (first publ. 1988), p. 108.

and the law is no exception. Therefore, before arguing for what *Hamlet* seems to be lacking (or rather, consciously avoiding) in socio-legal terms, I engage with a critical heritage intent on excavating the law in minute detail within the play.

'[A]ll bands of law' (1.2.24)

Hamlet is unique among revenge tragedies for the longevity and variety of approaches to the play that take the law as their starting point. The tradition stretches from R. A. Guernsey's *Ecclesiastical Law in* Hamlet*: The Burial of Ophelia* from 1885, to books such as David Gurnham's on law and literature published in 2009, the opening chapter of which is entitled '"My thoughts be bloody, or be nothing worth!"; *Hamlet*, Hot Blood and Malice Aforethought'.[18] If a member of the legal profession does look to literature for the relation between law and vengeance in the early modern period, it is most often with this play in mind.[19] Zurcher's monograph, simply entitled *Shakespeare and Law*, devotes almost a quarter of its contents to the chapter 'The Report of the Cause of Hamlet', while the front cover of the essay collection, *Shakespeare and the Law* is adorned with a picture of Olivier's Hamlet, complete with skull in hand.[20] *Hamlet*'s elevated status as cultural artefact appears to have become equated with being an authority on every facet of early modern culture, the law included.

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[18] Guernsey, *Ecclesiastical Law in* Hamlet; David Gurnham, *Memory, Imagination, Justice: Intersections of Law and Literature* (Surrey: Ashgate, 2009), pp. 13-37.

[19] See for example Posner's discussion of the play, pp. 106-19; William Ian Miller, *Eye for an Eye* (Cambridge: Cambridge University Press, 2006), pp. 93-104; Gurnham, *Memory, Imagination, Justice*, pp. 13-37.

[20] Andrew Zurcher, *Shakespeare and Law*, Arden Critical Companions series (London: Methuen, 2010), pp. 202-69; *Shakespeare and the Law*, ed. by Paul Raffield and Gary Watt (Oxford: Hart Publishing, 2008). Zurcher's chapter is rather curious in its methods, starting with a tenuous reading of the opening line, 'Who's there?' as a pun on 'Who's th'heir?', and proceeding from the 'inverse relation between paronomasia and doublet [as] elemental to this play' (p. 229), to the importance of conventionalist language in Plato's *Cratylus*, to a reading of Hamlet's love-letter to Ophelia (p. 235ff).

In his book *Law and Literature*, Posner asserts:

> *Hamlet* stands to its contemporary revenge literature, in point of ambivalence as well as of quality, as the *Iliad* presumably stood to the lost heroic epics on which it built. In many Elizabethan and Jacobean revenge plays the violence and the revenger's emotional excess are so grotesque that any social or ethical observation is submerged in melodrama, as in *Titus Andronicus*.[21]

Despite such claims to superiority, Posner goes on to assert that we 'learn about law from its absence in *Hamlet*'.[22] Posner's subsequent argument has the effect of reducing the tragedy to a warning against private revenge, reminiscent of Bowers: 'The play exhibits the negative aspects of private revenge as a method of vindicating rights and maintaining public order'.[23] Since 'the criminal justice system was inoperative', the play's moral complexity stems from the fact that Hamlet is forced to seek a private revenge.[24] This is by no means an innovative position in relation to Hamlet's dilemma. Posner does raise the issue of proof in the play, but

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[21] Posner, p. 106. My disagreement with such an uncritical approach to *Hamlet*'s predecessors should be clear from Chapter One. Posner goes on to cite the savagery of Titus' cannibalistic feast, quoting the line "Tis true, 'tis true, witness my knife's sharp point' (5.3.65), but he does not pick up on the legal connotations of 'witness'. Two decades later, the situation has not changed dramatically, when David Gurnham argues '*Hamlet* is of course recognized both as more than a revenge play inasmuch as it offers a more satisfying account of the character of the affected revenger than Kyd's *The Spanish Tragedy* or Middleton's *The Revenger's Tragedy*, and also as less than a revenge play: after all...Hamlet arguably never actually gets around to avenging the death of his father at all', p. 13.

[22] Posner, p. 108.

[23] Posner, p. 108. This point is reiterated several times: 'the play contains a good deal of implicit criticism of revenge', p. 105; 'we must consider whether *Hamlet*, and perhaps the gorier revenge plays as well, are trying to remind the audience of Romans 12:19-20 [Vengeance is mine; I will repay, saith the Lord]', p. 107.

[24] Posner, p. 109.

again this is linked to a lack of concern for the law, rather than an engagement with that law: 'Hamlet's doubt [about the veracity of the Ghost] also illustrates the problem of proof that plagues a revenge system...because of the absence of a machinery of investigation and adjudication'.[25] Surely the 'problem of proof' is of far more relevance to the early modern legal system, where evidence is open to conflicting interpretation, than it is to some pre-legal 'revenge system'.[26]

Hutson is more aware of the 'narrative importance of the play's detective elements' in her reading of the play.[27] She argues that certain crucial plot points are deliberately left uncertain by Shakespeare, thus leaving the audience to tease these out for themselves:

> Unusual care has been taken, in the emplotment of *Hamlet*, to exploit the potential inherent in dramatizing a number of issues (including the murder, the state of Hamlet's mind, the degree of Gertrude's complicity) as uncertain *issues of fact* rather than, as in the example of Orestes, an ethical issue of which the facts are already certain.[28]

Hamlet's engagement with the law continues to attract attention, with increasingly ingenious methods employed to show just how much this play has to offer, legally speaking. William Miller's study of *lex talionis* takes up the matter of remembrance in *Hamlet* to argue that memory is a legally loaded concept: 'The only sign of having remembered is a completed

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[25] Posner, p. 111.

[26] This is apparent in the approach to issues of proof in *Titus Andronicus*, as discussed in Chapter Two.

[27] Lorna Hutson, *The Invention of Suspicion: Law and Mimesis in Shakespeare and Renaissance Drama* (Oxford: Oxford University Press, 2007), p. 67.

[28] *The Invention of Suspicion*, p. 141 (original emphasis).

revenge, just as remembering you owe a debt that you still fail to repay can properly be understood to be a failure of your memory'.[29] This supplements the work of Greenblatt and Kerrigan on memory and revenge nicely, by showing how memory in the early modern period had a legal (public) meaning as well as a religious (private) one.[30] The idea that to 'remember is to revenge' also chimes well with Neill's argument that revenge tragedy shows vengeance to be 'no more than memory continued by other means'.[31] For all that, Miller's observations on *Hamlet* are limited to generalities, and he does not engage with the text in any detailed way: 'It was all about memory and memorializing a claim in the past that obliged you to remember, to even things up in the future: "remember me"'.[32]

Others have taken a far more technical approach, citing particular laws and even specific legal cases in their discussions of *Hamlet*. David Gurnham sets out to apply the emerging legal categories of murder and manslaughter to the various crimes committed in the play. Gurnham's chief thesis is that Hamlet's killing of Claudius is manslaughter because it lacks the crucial ingredient of malice aforethought.[33] He even goes so far as to say: 'Thus the moral problem posed in the play is whether or not there is good cause to regard Hamlet's use of violence as hot blooded retaliation or as calculated revenge'.[34] It

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[29] Miller, p. 99. That is to say, 'remember' as a legal term implies an action rather than a thought, as in to 'remember' someone in a will.

[30] Kerrigan, *Revenge Tragedy*, pp. 170-92; Greenblatt, *Hamlet in Purgatory*, p. 237ff. In her own study, Hutson rebuts such an over-emphasis on memory, *The Invention of Suspicion*, p. 263.

[31] Miller, p. 99; Neill, p. 247.

[32] Miller sees 'memory, money, and revenge, all holding hands in an intimate way', p. 108. Much like Kerrigan, Miller uses a transhistorical approach which limits his ability to engage with a specifically early modern context. Hamlet's failure to remember his father adequately at the moment of revenge will be examined towards the end of this chapter.

[33] Gurnham, pp. 36-7.

[34] Gurnham, p. 48.

would seem that Gurnham's primary concern (or rather what Gurnham takes to be Shakespeare's primary concern) is proving a lack of premeditation on Hamlet's part that creates a legal loophole to justify his killing of Claudius. The idea that Shakespeare wishes to exonerate his hero is something I will come back to, but that this is the moral centre of the play seems an over-simplification of Hamlet's dilemma, as if Shakespeare is concerned only about some posthumous trial for his protagonist.

As for Shakespeare's own legal expertise, this remains a vexed question, and one which again has *Hamlet* at its centre.[35] Guernsey is of the opinion that 'in *Hamlet* can be found allusions and statements showing the most thorough and complete knowledge of the canon and statute law of England, relating to the burial of suicides that has ever been written'.[36] Ever since, critics have found evidence of a minute engagement with early modern law in *Hamlet*. This is nowhere more apparent than in the case of Hales v. Petit, which can be found in Plowden's *Commentaries*, and which is thought to inform the Gravedigger scene in *Hamlet*, 5.1.[37] For this reason, I want, finally, to trace some of the critical responses to the most overt overlap between play-text and legal text.

As early as 1765 Sir John Hawkins makes the connection between Shakespeare's play and the case of Sir James Hales, a judge of Common Pleas who drowned himself during the reign of Queen Mary in 1554.[38] Hales death was deemed suicide, which meant that his lands

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[35] Se, for example, Mark Alexander, 'Shakespeare's Knowledge of Law: A Journey through the History of the Arguments', *The Oxfordian*, 4 (2001), 59-102.

[36] Guernsey, p. 6.

[37] Edmund Plowden, *The Commentaries or Reports of Edmund Plowden* (London, 1792) Vol I, 253-64a. Originally appearing in 1571 as *Les Commentaries, ou les Reportes* (London, 1571) and not translated into English until 1761, which raises the question of in exactly what form Shakespeare encountered the case.

[38] As recorded in the edition of Samuel Johnson and George Steevens, *The Plays of William Shakespeare* (London, 1765), Vol 8, p. 278.

were forfeit to the state. The case reported by Plowden recounts how Hales' widow brought an action to recover her husband's lands, on the basis that forfeiture only applied if a felony had occurred, and Hales had only become a felon after death (by murdering himself, *felo de se*). Since forfeiture could not occur after death, the widow's argument relied on the notion that she inherited the lands lawfully at the moment of her husband's death, in the instant before he became a felon. In response, counsel for Petit (who had since leased the lands from the Crown) argues that Hales became a felon during his lifetime and before his death actually occurred, since actions undertaken in his lifetime led directly and knowingly to a person's death – his own. This argument proceeds by the separation of Hales' act into three parts – the imagination, the resolution, and the perfection – and locates the felonious intent in the first of these parts.[39] The parallel with *Hamlet* occurs during the gravedigger's description of Ophelia's suicide, where he too separates her action into discrete parts: 'For here lies the point: if I drown myself wittingly, it argues an act, and an act hath three branches – it is to act, to do, to perform' (5.1.10). His further syllogism of the water coming to the man leads him to conclude 'Argal, he that is not guilty of his own death shortens not his own life' (5.1.19), which again recalls details of the Hales v. Petit trial. To this his companion asks pointedly 'But is this law?' (5.1.21), and receives the answer 'Ay, marry is't. Crowner's 'quest law' (5.1.22).[40]

Critics have resoundingly agreed with the gravedigger on this point. Such a direct correlation has been seized on as evidence of an underlying engagement with legal discourse in *Hamlet*, not just in this scene but throughout the play. Over one hundred years after Guernsey's explication of the law of suicide in the play, Luke Wilson takes a more theoretical approach by linking the trial's parsing of action into its component parts to the 'unmooring in

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[39] Plowden, *Commentaries*, Hales v. Petit, 259.

[40] The companion's further bitter comment that if 'this had not been a gentlewoman she should have been buried out o'Christian burial' (5.2.23) taps into class anxieties in the play that will be returned to later.

Hamlet of utterance from both reference and an originating agent'.[41] Wilson argues that the prominence of intentionality in the construing of Hales' act as a felony focuses our attention on the question of Hamlet's own intentions in the play.[42] This leads him to conclude:

> The increasingly litigious and legalistic culture in which *Hamlet* was produced made the means to manipulate accounts of intentional action widely available for use in both inculpatory and exculpatory schemes, at the same time that new market forces...led to conceptualizations of person that tended to frustrate the business of linking actions to agents.[43]

More recently, Carolyn Sale's feminist approach uses the case of Hales v. Petit together with another legal case to show how *Hamlet* 'produces various forms of symbolic compensation for sixteenth-century jurisprudence'.[44] She uses the space between Hamlet's fatal wound and his eventual demise (akin to the space between Hales stepping into the river and the moment of death) to argue that Hamlet 'acts without culpability not despite the law, but because of it'.[45] Much like Wilson, Sale sees how agents and their actions in *Hamlet* have become detachable from each other by being viewed through the lens of Plowden's *Commentaries*. Zurcher also

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[41] Luke Wilson, '*Hamlet*, Hales v. Petit, and the Hysteresis of Action', *English Literary History*, 60 (1993), 17-55 (p. 33). This subsequently appears as the first chapter in Wilson's book, *Theaters of Intention: Drama and the Law in Early Modern England* (Stanford: Stanford University Press, 2000), which investigates intentionality in the period more generally.

[42] '*Hamlet*, Hales v. Petit, and the Hysteresis of Action', p. 26.

[43] '*Hamlet*, Hales v. Petit, and the Hysteresis of Action', p. 44.

[44] Carolyn Sale, 'The "Amending Hand": Hales v. Petit, Eyston v. Studd, and Equitable Action in *Hamlet*', *The Law in Shakespeare*, eds. Constance Jordan and Karen Cunningham (Basingstoke: Palgrave Macmillan, 2007), pp. 189-207 (p. 205).

[45] 'The "Amending Hand"', p. 205. 'From the moment he is struck by the envenomed sword, Hamlet inhabits an unusual ontological space and a charged legal one', p. 201.

treads the familiar ground of Hales v. Petit, coming to the somewhat unexpected conclusion that the case was 'enclosed within an impossibility': 'Dyer CJ's [Chief Justice's] arguments at the end of Plowden's reports matter to *Hamlet* precisely because they reveal the degree to which the entire substance of the argument on the case...is a series of moot points'.[46]

The flurry of criticism surrounding Shakespeare's use of the Hales v. Petit case epitomises how determined most critics are to focus on aspects of the law in the illumination of *Hamlet*.[47] It is undeniable that Shakespeare is drawing on this case for the gravediggers' conversation in 5.1. No doubt this is deliberate, lending as it does further depth to the issue of burial and 'maimed rights' (5.1.208) in the play.[48] At the same time, the dense legal technicalities of Hales v. Petit elide the more overarching difference between *Hamlet* and its counterparts in the revenge genre that engage with the law in far more open and obvious ways, without reference to obscure cases from Plowden.[49] Such ingenious readings of the play situate early modern law at the centre of *Hamlet*, whereas I see the law as deliberately side-lined by Shakespeare. Such a position may seem perverse in light of the wealth of critical material that has been written on law in *Hamlet*. Nevertheless, my next section demonstrates

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[46] Zurcher, pp. 256-64 (p. 263; p. 262).

[47] To quote momentarily from Brian Vickers, in his critique of New Historicism and its 'anecdotalism': 'The dangers of this elevation of the anecdotal to a central status are clear, encouraging as it does the use of interesting little stories not as ornaments to the text but as load-bearing props in the argument, a role to which they are unsuited', *Appropriating Shakespeare: Contemporary Critical Quarrels* (New Haven and London: Yale University Press, 1993), p. 229. The relevance to *Hamlet* of Hales v. Petit is above the level of anecdote, but the principle of elevation is, I would argue, the same.

[48] The issue of curtailed burial rites has also been a recurrent feature of *Hamlet* criticism: 'No play is more obsessively concerned with funeral properties than *Hamlet*', Neill, p. 300. See also Michael MacDonald, 'Ophelia's Maimed Rites', *Shakespeare Quarterly*, 37 (1986), 309-17.

[49] Elsewhere, Carolyn Sale also argues for the play's engagement with another case from Plowden, regarding the Queen's prerogative rights to the mining of copper, '"The King is a Thing": the King's Prerogative and the Treasure of the Realm in Plowden's Report of the *Case of Mines* and Shakespeare's *Hamlet*', in *Shakespeare and the Law*, ed. by Paul Raffield and Gary Watt (Oxford: Hart Publishing, 2008), pp. 137-57.

how this play does not contain the sustained investigation of early modern law at work elsewhere in the genre of revenge tragedy. Let us turn then to the text itself, to see where the law is explicitly invoked, and where it remains an absent presence.

'But is this law?' (5.1.22)

Within the text of Shakespeare's longest play, the word 'law' and its cognates appear twelve times. Of these, two refer to a specific branch of law ('But is this law?/ Ay...Crowner's 'quest law' (5.1.22)). Another two appearances are accounted for by the adjective 'lawless'; this word is applied once to Fortinbras' followers (1.1.97) and once to Hamlet himself, after having slain Polonius in his 'lawless fit' (4.1.8). The 'sealed compact' between Old Hamlet and Old Fortinbras is also described twice in legal terms. Horatio describes their single combat as '[w]ell ratified by law and heraldry' (1.1.85), an opinion reiterated by Claudius in his opening speech: 'Lost by his father [Old Fortinbras] with all bands of law' (1.2.24).[50] As with Piero's repetition of the word 'justice' in *Antonio's Revenge*, it is Claudius the law-breaker who most often utters the word 'law'.[51] In public he calls himself and Polonius 'lawful espials' (3.1.32), and later decides against putting Hamlet on trial: 'Yet must not we put the strong law on him:/ He's loved of the distracted multitude' (4.3.3).[52] In private he is aware that 'Offence's gilded hand may shove by justice,/ And oft 'tis seen the wicked prize itself/ Buys out the law' (3.3.58).[53] In contrast to Claudius' four usages, the character who utters more than half the

[50] Mercer says of Horatio that he 'gives us the legalities of the dispute, in a language stiff with the diction and syntax of learned counsel', p. 129.

[51] See Chapter Three, p. 167.

[52] The phrase 'lawful espials' appears only in the Folio.

[53] This is the only appearance of the word 'justice' in the play. Compare this with *Titus Andronicus*, where the word appears nineteen times. If we include cognates such as 'just', 'justly', 'injustice' the figure for *Hamlet* rises to six, while for *Titus* it is twenty-nine. Even such crude statistics as these say much about the playwright's change of focus in his second tragedy of revenge.

lines of the play uses the word 'law' only once. During his 'To be or not to be' speech, Hamlet includes 'the law's delay' in his list of life's struggles. But he does not expand on how this might affect him personally, and the comment is practically lost within the speech itself:

> For who would bear the whips and scorns of time,
>
> Th'opressor's wrong, the proud man's contumely,
>
> The pangs of despised love, the law's delay,
>
> The insolence of office and the spurns
>
> That patient merit of th'unworthy takes.
>
> 3.1.69[54]

While critics often appear to have the law uppermost in their minds when approaching *Hamlet*, the same cannot be said for the play's characters, least of all for its eponymous hero.[55]

Of course the use of the word 'law' is no indication of the level of engagement with that law; just because Hamlet does not refer to the Oedipus complex does not discount the theory's relevance to the play. However, if *Hamlet* is to be read as interrogating the early modern legal system, one might expect it to utilise some of the machinery of that system such as courtrooms, judges and evidence, which are all staples of the revenge genre by this time. When placed alongside the multiple trial scenes of *The Spanish Tragedy*, or the villain

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[54] Of all of these challenges, 'the law's delay' seems least likely to have any immediate relevance to Hamlet's situation, since legal avenues are never even considered by the prince. Belsey suggests that 'question of a recourse to law does not arise' because Claudius is the source of that law in Elsinore, Catherine Belsey, 'The *Case of Hamlet's* Conscience', *Studies in Philology*, 76 (1979), 127-48 (p. 129). For a strong argument that this speech is in fact 'feigned soliloquy', making Hamlet's utterances more conventional than personal, see James Hirsh, *Shakespeare and the History of Soliloquies* (Fairleigh: Dickinson University Press, 2003), pp. 231-77 (p. 275).

[55] The final two references to law are when Polonius refers to the players' repertory ('for the law of writ and the liberty. These are the only men' (2.2.237)) and when Hamlet makes reference to 'the skull of a lawyer' in the graveyard scene (5.1.93), discussed below, p. 235.

Piero's mastery of the law in *Antonio's Revenge*, neither *Hamlet* nor Hamlet seem overly concerned with the law on the whole. The play features neither trials nor judgements, fair or otherwise. Shakespeare's own penchant for staging trials is already well established by this time, in plays as diverse as *The Comedy of Errors* (1.1), *The Merchant of Venice* (4.1), and even *Much Ado about Nothing* (4.2). This makes it all the more surprising that in *Hamlet*, a play so often mined for its legal complexities, there is not a single courtroom scene. Similarly, the revenger's exclamation that justice has fled the earth can be considered almost a conventional *sine qua non* by this point, but Hamlet utters no such sentiment.[56] It is as if in order to remould the revenger into a psychologically compelling character, Shakespeare jettisons much of what makes the revenger such an interesting specimen from a legal standpoint.

It is left to the usurper Claudius to raise the issue of a possible court-case, in relation to Polonius' death. On hearing of Laertes' return and bemoaning his decision to inter Polonius in 'hugger-mugger' (4.5.84), Claudius fears that Laertes 'wants not buzzers to infect his ears' (4.5.90). Deaf to the irony of such a sentiment, he continues: 'Wherein necessity, of matter beggared,/ Will stick nothing our person to arraign/ In ear and ear' (4.5.92).The sense here is that Claudius himself is suspected of having a hand in Polonius' death, and may be made to stand trial by the people of Denmark despite a lack of evidence. This is the closest we come to a participatory justice system in *Hamlet*, and it is marked by the absence of due process. When Laertes does demand justice from the king ('O thou vile King,/ Give me my father' (4.5.115)), Claudius employs the language of the courtroom to exonerate himself: 'That I am guiltless of your father's death/.../ It shall as level to your judgement 'pear/ As day does to your eye' (4.5.148). For the first time in the play, a sustained legal lexicon is introduced. This becomes even more pronounced when Claudius elects to stand trial to prove his innocence in the

[56] *The Spanish Tragedy*, 4.3.50; *Titus Andronicus*, 4.3.4.

matter: 'Make choice of whom your wisest friends you will,/ And they shall hear and judge 'twixt you and me' (4.5.196).[57] Some sort of trial seems imminent at this point, but it is a trial that we never see staged. Despite Claudius' further promise of judgement and execution – 'where th'offence is let the great axe fall' (4.5.210) – such a judicial response is not forthcoming. The circumstances of Polonius' death may cry to be heard 'from heaven to earth' (4.5.208), but such a hearing happens offstage and in private. Whatever the intervening 'trial' consists of, it is clear that Laertes' followers find in Claudius' favour, since he can open his next scene confidently with the line 'Now must your conscience my acquittance seal/ And you must put me in your heart for friend' (4.7.1). In his willingness to use the law to his own advantage here, Claudius comes closest to the legal machinations of Marston's Piero.[58] That this is not a defining trait of Shakespeare's antagonist is confirmed by the simple fact that the whole episode receives scant attention, from both characters and critics alike.

If Claudius can be acquitted of involvement in Polonius's death, this raises the question of why Hamlet is not made to stand trial for his part. This would seem to be the obvious solution to Claudius' problems, yet instead he chooses to 'ship him hence to England, and this vile deed/ We must with all our majesty and skill/ Both countenance and excuse' (4.1.30). The law is conspicuous by its absence on this point, where instead of eliminating Hamlet through due process, Claudius resorts to underhand methods to neutralise him.[59] Elsewhere Claudius is explicit in his rejection of judicial procedure: 'Yet must not we put the strong law on him:/ He's loved of the distracted multitude' (4.3.3). Laertes voices a concern for this lack of apparent

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[57] He even goes so far as to offer his kingdom as a forfeit: 'If by direct or collateral hand/ They find us touched, we will our kingdom give –/.../ To you in satisfaction' (4.5.198). This proposition bears a striking similarity to the 'sealed compact' between Old Hamlet and Old Fortinbras (1.1.85).

[58] See Chapter Three, p. 176ff.

[59] In his refusal to use the law to further his own ends, Claudius now shows his difference from Marston's Piero.

justice when he asks 'But tell me/ Why you proceed not against these feats/ So criminal and so capital in nature' (4.7.5). The collocation of 'criminal' and 'capital' together with the verb 'proceed' makes Laertes' appeal to the law unmistakeable. Once again, the possibility of a trial is suggested only to be foregone. Claudius explains to Laertes that 'for two special reasons' he has let Hamlet escape the rigours of the law, both of which are inextricably connected to Hamlet's royal blood and social status (4.7.10). The first (according to Claudius) is Gertrude's personal influence on the matter: 'I could not but by her' (4.7.17).[60] The second is more politically motivated, as Claudius explains: 'The other motive/ Why to a public count I might not go/ Is the great love the general gender bear him' (4.7.17).[61] Justice has broken down due to popular opinion, which is an index of just how far the Danish state is from having an operational participatory legal system. Instead of being a victim of a corrupt legal system in the manner of Titus and to a lesser extent Hieronimo, Hamlet is its chief beneficiary. This illustrates the lack of open justice for those in power, bearing out Claudius' earlier admission that 'Offence's gilded hand may shove by justice' (3.3.58). This phrase is arguably more applicable to Hamlet, whose crime is well known and openly admitted, than to his uncle.

The play is thus marked by the absence of trials more so than by their presence. While *Hamlet* avoids the more obvious accoutrements of the law – judges, courtrooms, prisons, etc. – critics have noted a predilection for questions of evidence in the play. Posner notes how the opening exchange between the guards (Barnardo: 'Who's there?'/ Francisco: 'Nay, answer me' (1.1.1)) initiates what he calls 'the pronounced interrogative mood of the play'.[62] When it

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[60] Cf. Persephone's influence over Pluto in the opening scene of *The Spanish Tragedy* (1.1.78ff).

[61] The genuineness of Claudius' statement here is borne out by the fact that he first describes his reluctance to put Hamlet on trial in a moment of privacy with no other major characters onstage at 4.3.4.

[62] Posner, p. 110. As quoted earlier, Posner ultimately sees this not as a reflection on the early modern legal system, but rather a comment on 'the problem of proof that plagues a revenge system', p. 111.

comes to the relating of the ghost's appearance to Hamlet, the protagonist shows a certain amount of suspicion and trepidation, delivering a series of eight questions within thirteen lines (1.2.225ff). This scene even shows Hamlet cross-referencing the details to ensure their story adds up: 'Then saw you not his face' (1.2.227). Hutson labels this Hamlet's 'detective impulse', which she relates to forensic modes of enquiry current at the time.[63] She describes Hamlet's later use of *The Mousetrap* to corroborate the ghost's story as 'his enthusiasm for fiction as a means to aid him in the probing of questions of guilt'.[64] I agree that *Hamlet* is 'concerned at both a formal and an ethical level with questions of evidential probability', and see this as a rare piece of common ground between Hamlet and other stage revengers.[65] Take for example the importance of letters throughout *Hamlet*, which Alan Stewart sees as 'tapping into contemporary anxieties about the ability to forge or doctor official documents'.[66] This is of a piece with *The Spanish Tragedy*, which shows Hieronimo comparing hand-writing to be sure of his son's murderers (3.7.53), or *Antonio's Revenge* where the '[b]eadrolls of mischief' identifying Piero's villainy are crucial to the denouement of the play (5.6.19). But for all their mutual interest in amateur detective work, Hamlet is a revenger in a very different mould from Hieronimo, Titus, or Antonio.[67] I now turn to why that might be the case, focusing on Hamlet's isolation from those around him and what impact this has on the overall politics of the play. In

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[63] *The Invention of Suspicion*, p. 67.

[64] *The Invention of Suspicion*, p. 67. Cf. 'Hamlet searches for proof of Claudius' guilt in the same way that a judge must be presented with evidence in order to deliver justice', Suzanne Ost, '"But is this Law?": The Nature of Law, Sovereign Power and Justice in *Hamlet*', *Law and Humanities*, 1 (2007), 183-208 (p. 194).

[65] *The Invention of Suspicion*, p. 139.

[66] *Shakespeare's Letters* (Oxford: Oxford University Press, 2008), p. 272.

[67] Subha Mukherji asks the question 'how representative can Prince Hamlet be, in his detective impulse, of the "lay" participant in the judicial process', '"Understood Relations": Law and Literature in Early Modern Studies', *Literature Compass*, 6 (2009), 706-25 (p. 719).

short, I argue that what sets *Hamlet* apart is Shakespeare's conscious decision to set its eponymous hero apart.

'O cursed spite/ That ever I was born to set it right!' (1.5.186)

In her book, Hamlet *without Hamlet*, Maria de Grazia sets out to reintegrate Hamlet into the fabric of the play to which he belongs, and from which she feels he has too long been abstracted: 'Because *Hamlet* has been read as a timeless tragedy, the specificity of its historical setting has been overlooked'.[68] While I agree that *Hamlet* has too long been treated ahistorically, I believe that this has less to do with critical myopia than it has to do with Shakespeare's design. Hamlet is indeed all too easily removable from his historical moment, due to his detachment from those around him. Rather than seeing in Hamlet's character the same 'very worldly preoccupations of the play whose name he shares', I believe that he is very deliberately distanced from the quotidian events that surround him.[69] Where Titus is surrounded by his family, and Antonio has the support of the whole community, in *Hamlet* the burden of revenge falls on one man and one man only: 'O cursed spite/ That ever I was born to set it right!' (1.5.186).[70]

The image of the melancholic, brooding prince is our abiding impression of the play. Hamlet's isolation is so axiomatic in literary criticism that it hardly needs rehearsing here. From the outset, we are given strong indications to assume that such solitariness is his wont: 'You

[68] Hamlet *without Hamlet*, p. 63.

[69] Hamlet *without Hamlet*, p. 204. De Grazia's argument that Hamlet is deeply affected by his disinheritance seems to me to be contradicted by his wish to return to his studies at Wittenberg and his overall lack of interest in political affairs. As discussed below, Hamlet fails spectacularly to form a bond with the people of Denmark, even though they are predisposed to love him (see p. 223-4).

[70] The differences between Hamlet's lone journey and the methods of Fortinbras and Laertes are explored below.

know sometimes he walks four hours together/ Here in the lobby?' (2.2.157). On a generic level, the hero's introspection sets him apart from other, more proactive stage revengers. Hamlet's solitary nature places him at the opposite end of the spectrum to his Shakespearean counterpart, Titus Andronicus. The only thing approaching a soliloquy by Titus is three lines of speech when he is momentarily left alone onstage at 1.1.343, and even this only serves to prompt the question 'Titus, when wert thou wont to walk alone?' (1.1.344).[71] Hamlet, on the other hand, delivers upwards of one hundred lines *solus*.[72] When his purpose to absent himself from court to continue his studies is frustrated, we are given the first of many soliloquies in which he dwells on the possibility of 'self-slaughter' (1.2.133). His closest rival in this respect is Hieronimo, who enters onstage alone a full four times, and who also proposes suicide as an end to his cares.[73] But this is not a recurring theme in Hieronimo's speeches, nor does it stem from his revulsion at the world in general. Kyd's use of soliloquy is in a large part attributable to the exigencies of plot; in Shakespeare, it bemoans Hamlet's failure to come up with any such plot.[74] Hamlet's string of soliloquies creates an unmatched intimacy with the audience,

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[71] Aaron's speech at 1.1.500 comes closer to soliloquy, but again this is more plot exposition than self-examination. This privileged position is also attributable to Aaron's Vice-like qualities, as at 2.2 when he enters alone to plant the money-bag (in order to frame Quintus and Martius) with much riddling and direct address: 'Know that this gold must coin a stratagem/ Which, cunningly effected, will beget/ A very excellent piece of villainy' (2.2.6).

[72] This does not include his 'To be, or not to be' speech in 3.1, where he may or may not be aware of his eavesdroppers. Hirsh makes the point that '[n]ot once in the 33 lines of the "To be, or not to be" speech does Hamlet use a first-person singular pronoun', p. 247.

[73] *The Spanish Tragedy*, 3.2; 3.7; 3.12; 3.13. See 3.12 for his discussion, and rejection, of suicide.

[74] Hieronimo's first two soliloquies coincide with the discovery of two letters that help to identify the murderers, while the next two show Hieronimo firstly rejecting suicide, and finally resolving to be revenged. Significantly, both Hamlet and Hieronimo do resolve to be revenged in their final soliloquies: 'Till to revenge thou know when, where, and how' (*The Spanish Tragedy*, 3.13.44); 'O, from this time forth/ My thoughts be bloody or be nothing worth' (*Hamlet*, 4.4.64).

but this also has the effect of distancing him from the rest of the company; he shares with us, not with his fellows.[75]

Hamlet is isolated from those around him not only due to his introspective personality, but also due to the simple fact that knowledge of the central crime is limited to him and him alone. The ghost of Old Hamlet may be visible to those on the battlements, but the message he has to impart is for his son's ears only. It would seem that the smiling damned villain that has usurped the throne of Denmark has kept his crime well concealed.[76] Not only that, but Old Hamlet's murder appears to be Claudius' only demonstrable crime as far as we are aware.[77] Where Marston has Piero malign many of his citizens, trampling on the law in his 'unpeered mischief' (*Antonio's Revenge*, 1.1.10), Claudius does no such thing.[78] For the most part he shows himself to be an astute and capable sovereign, conducting the business of state with aplomb and bringing the country back from the brink of war through diplomatic channels (2.2.60).[79] As Mercer observes, this leaves the would-be revenger in an awkward position: 'Hamlet is faced with the immediate problem of having to find a form for his

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[75] In this he resembles Richard III, but here vicious glee is replaced by virtuous depression.

[76] Gertrude certainly doesn't seem to be aware of the possibility of foul play at 3.4.28, although in the quarto she does appear to suspect Claudius: 'Then I perceive there's treason in his looks/ That seemed to sugar o'er his villainy' (14.10). Whether or not we can even consider Claudius a usurper is also doubtful, since he seems to have the backing of the court (1.2.14). De Grazia is of the opinion that '[o]nly if Denmark had been an hereditary rather than an elective monarchy would Claudius have been a usurper', Hamlet *without Hamlet*, p. 88.

[77] On the question of his marriage with Gertrude being incestuous, see Jason P. Rosenblatt, 'Aspects of the Incest Problem in *Hamlet*', *Shakespeare Quarterly*, 29 (1978), 349-64; B. J. Sokol and Mary Sokol, *Shakespeare, Law, and Marriage* (Cambridge: Cambridge University Press, 2003), pp. 152-3.

[78] It is also notable that Claudius' motivations are themselves free of revenge as a motive. This contrasts sharply with the likes of Piero, who hated Andrugio (*Antonio and Mellida*), and Tamora's actions are wholly driven by her own son's sacrifice at the hands of the Andronicii (*Titus Andronicus*, 1.1).

[79] I would have to disagree with Linda Woodbridge's description of Claudius as 'despotic', presiding over 'a heavily fortified police state', *English Revenge Drama: Money, Resistance, Equality* (Cambridge: Cambridge University Press, 2010), p. 174.

actions in a political world that is not a bloody tyranny, but, to all appearances, an effective, harmonious, and generally approved order'.[80] Shakespeare's departure from the sources on this point can only be read as significant. Where Grammaticus and Belleforest characterise the Claudius figure primarily as a tyrant, this seems to be wilfully suppressed by Shakespeare. In Belleforest, Fengon's most common epithet is 'tyran', and the word is attached directly to his rule twenty-two times; Saxo Grammaticus similarly describes Fengi's rule as tyrannous five times in a much shorter account.[81] Furthermore, knowledge of Fengon's murder is widely known by the populace in both of the sources, whereas Shakespeare keeps the crime concealed. Hamlet may decry Claudius as a king of shreds and patches (3.4.99), but Shakespeare makes sure that he is alone in this opinion.[82] This has the obvious corollary that Hamlet's dislike for his uncle seems stubborn and wayward to the public at large; what else are they to make of Hamlet's lack of gratitude when nominated as next for the throne by his loving uncle (1.2.109)? This alienation has major psychological repercussions for Hamlet, but as we will see it also affects the distribution of political power in the play.

A third and final aspect of Hamlet's solitary position at Elsinore is that of class. As an only child and heir to the throne, Hamlet is alone in terms of social status. It is true that he confides in Horatio, even going so far as to tell him that he wears him in his 'heart of heart' (3.2.69). But from the beginning Horatio maintains a proper distance from his master; his first lines to Hamlet are 'Hail to your lordship' (1.2.160) and 'The same, my lord, and your poor servant ever' (1.2.162). While Hamlet may resist such titles ('Sir, good my friend, I'll change

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[80] Mercer, p. 174.

[81] Both accounts are to be found in *The Sources of* Hamlet, ed. by Sir Israel Gollancz (London: Oxford University Press, 1926). In Belleforest of the twenty-two uses of 'tyran', twelve come from Hamblet himself.

[82] Hamlet is then interrupted mid-sentence by the entrance of the ghost, thus deflecting much of the force of Hamlet's diatribe, as he himself admits (3.4.143).

that name with you' (1.2.163)), Horatio does not forget his place – he calls Hamlet 'my lord' a further twelve times in this scene alone.[83] When all is said and done, these two are not equals.[84] Tom MacFaul's study of male friendship in the period idealises the Hamlet–Horatio relationship as 'a much more positive way in which particularized friendship, however unequal, can be advantageous to both prince and friend'.[85] I believe MacFaul overstates the case, particularly when he argues that Horatio serves Hamlet and not the king, and therefore 'has no real status at court'.[86] Horatio is clearly close enough to advise Gertrude when confronted with Ophelia's madness (4.5), as well as informing her in detail of her son's actions in the quarto (scene 14). At the end of the graveyard scene, when Hamlet storms offstage, Claudius immediately calls on Horatio: 'I pray thee, good Horatio, wait upon him' (5.1.282).[87]

Hamlet also professes Laertes to be his brother (5.2.221), but it is Laertes who first asserts how very different Hamlet's position is from all others: 'His greatness weighed, his will is not his own' (1.3.17). Dodsworth makes this simple point in his opening line, when he says '*Hamlet* is a play about a prince'.[88] While this might seem self-evident, Shakespeare's decision to focus his revenge play on a prince marks an important break with tradition. One of the few

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[83] Both before and after Hamlet's 'heart of heart' speech, Horatio still calls him lord (3.2.52; 3.2.83). The same deference continues to be shown right up to the final scene, where Horatio uses 'my lord' five times (5.2.3; 5.2.37; 5.2.70; 5.2.187, 5.2.192).

[84] Horatio's farewell to the dying Hamlet is equally marked by social hierarchies. While this scene arguably shows the two at their most intimate, Horatio responds to Hamlet's death with the words 'Now cracks a noble heart. Good night, sweet Prince' (5.2.343).

[85] Tom MacFaul, *Male Friendship in Shakespeare and his Contemporaries* (Cambridge: Cambridge University Press, 2007), p. 140.

[86] MacFaul, p.136. While I take MacFaul's point in general, I believe he goes too far in asserting that Horatio's 'presence at Elsinore is dramatically important only in one respect, in that he acts as Hamlet's representative', p. 137.

[87] Earlier, when Ophelia first displays her madness in front of the king, her exit is also followed by Claudius asking Horatio to '[f]ollow her close. Give her good watch, I pray you' 4.5.74. MacFaul makes the point that Horatio does not talk to the king (p. 136) but the king certainly talks to him.

[88] Martin Dodsworth, *Hamlet Closely Observed* (London: Athlone Press, 1985).

common characteristics to revengers of the popular stage by this time is their lack of aristocratic parentage. Beginning with Hieronimo, and including Shakespeare's own Titus Andronicus, revenge tragedies have at their core heroes who are drawn from outside the aristocracy, bringing them closer to the theatre-goer than to their sovereign. Revengers are positioned below, and thus in opposition to, the ruling elite, who control both the government and the justice system. This immediately limits the possibility of social transformation in *Hamlet*, confining the tension as it does to within the ruling elite. Hamlet's closest counterpart in the revenge genre in terms of social status would be not Hieronimo or Antonio, but Lorenzo. Where Kyd's protagonist fears his enemies '[w]ill bear me down with their nobility' (*The Spanish Tragedy*, 3.13.38), Hamlet is very much a member of that nobility.

Shakespeare does hold out the possibility of a more socially unified revenge, only to have it come to nothing. At several points, Hamlet's potential as a popular leader is suggested; we are told of 'the great love the general gender bear him' (4.7.19) and how he's 'loved of the distracted multitude' (4.3.4). As Annabel Patterson puts it, '[i]t is easy to overlook the fact that Hamlet, like Henry V, could himself have been a popular king'.[89] Yet nowhere does Hamlet himself acknowledge any such support, and he voices his disdain for the lower classes at several points.[90] Therefore I would stop short of seeing Hamlet as a popular hero, and instead see these hints as unfulfilled dramatic potential.[91] Hamlet seems intent on going it alone, in

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[89] Annabel Patterson, *Shakespeare and the Popular Voice* (Oxford: Blackwell, 1989), p. 98.

[90] The most obvious example is Hamlet's line to Horatio on how 'the toe of the peasant/ comes so near the heel of the courtier he galls his kibe' (5.1.132). Elsewhere, Hamlet's assessment of the intellectual capacity of the groundlings may not be accurate, but it is undoubtedly informed with class prejudice: 'who for the most part are capable of nothing but inexplicable dumb-shows and noise' (3.2.10). This is reinforced by the line 'the play I remember pleased not the million, 'twas caviar to the general' (2.2.373). This 'general' is precisely those who bear Hamlet 'great love', according to his enemy Claudius (4.7.19).

[91] For a contrasting view of how Hamlet allies himself with the lower orders, see Carolyn Sale, '"The King is a Thing"'. See also Robert Weimann on Hamlet's 'irreverent popular perspective', *Shakespeare and*

contrast to other stage revengers who find common cause with the citizen body.[92] This is consonant with a much larger concern in the play, whereby Hamlet not only distances himself from the people of Denmark, but from politics in general. What I mean by this is that Hamlet's revenge seems deliberately muted when it comes to wider political repercussions. Posner picks up on this when he says that *Hamlet* is more a domestic tragedy than a political one.[93] Here there are no cries to the heavens of *'Terras Astraea reliquit'* (*Titus Andronicus*, 4.3.4), or assertions that 'Where more than noble deeds to kings are free/ It is no empire, but a tyranny' (*Antonio's Revenge*, 2.2.59). In its stead, revenge is recast as a personal filial duty, which falls to Hamlet alone to perform.

This is in part due to Shakespeare's suppression of Claudius' crime, which restricts Hamlet's chances of finding allies among the citizens of Elsinore, if he were so inclined.[94] But it can also be seen as part of a larger movement within the play, whereby the political aspect of revenge is submerged in favour of Hamlet's intensely personal struggle. To borrow the subtitle of Chettle's *The Tragedy of Hoffman* momentarily, this is very much *A Revenge for a Father*; the word 'father' appears upwards of seventy times in total in the play. In telling the story of his murder to his son, the ghost of Old Hamlet focuses almost exclusively on familial relations: 'I am thy father's spirit' (1.5.9); 'If thou didst ever thy dear father love –' (1.5.23); 'The serpent that did sting thy father's life/ Now wears his crown' (1.5.39); 'Upon my secure hour thy uncle

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the Popular Tradition in the Theater: Studies in the Social Dimension of Dramatic Form and Function, ed. by Robert Schwartz (Johns Hopkins University Press, 1978) (first publ. in German in 1967), p. 131.

[92] De Grazia puts it well when she writes 'Hamlet could surely have mustered up support from the rabble as easily as Laertes', Hamlet *Without Hamlet*, p. 77. Mercer observes how the communal action of *Antonio's Revenge* 'is in striking contrast to the deepening isolation of Hamlet at a similar stage of his action', p. 72.

[93] '[T]he political overtones prominent in Shakespeare's Roman and history plays are muted', Posner, p. 111. I would, however, not agree with his description of the killing of Claudius as tyrannicide, p. 109.

[94] 'Although Hamlet may ultimately come to trust the Ghost's word that Claudius is his father's murderer, a more substantial witness would surely be needed to convince the public', Ost, p. 199.

stole' (1.5.61); 'Thus was I sleeping by a brother's hand/ Of life, of crown, of queen at once dispatched' (1.5.74); 'nor let thy soul contrive/ Against thy mother aught' (1.5.85).[95] Thus a highly political act, the murder of the king, is to a large degree depoliticised. Even when viewed from Claudius' perspective, Shakespeare refocuses attention from regicide to fratricide. When attempting to ask for forgiveness, Claudius refers to a 'brother's murder' (3.3.38) and 'brother's blood' (3.3.44); nowhere does the word 'king' appear. He says of his crime that '[i]t hath the primal eldest curse upon't' (3.3.37), meaning that it replicates Cain's slaying of Abel in Genesis 4: 8.[96] Instead of a corrupt and usurping king being deposed by the righteous dispossessed prince, as in *Antonio's Revenge* for example, *Hamlet* retells the story of brother killing brother and sons driven to revenge by their fathers: the political is superseded by the archetypal.[97]

In arguing for the depoliticisation of revenge, I must acknowledge that Shakespeare creates a rich tapestry of international relations in this play: politics are everywhere and nowhere in this play. Hamlet's elevated social status and introspective nature may insulate him from the political dimension of the play, but the same cannot be said for other characters. For when it comes to the daily business of Elsinore, affairs of state are difficult to avoid. Not only does the play open with a tense exchange between soldiers on guard (1.1.1), we are also told of the 'daily cost of brazen cannon/ And foreign mart for implements of war' (1.1.72): this

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[95] 'The Ghost treats Hamlet as if he were a private agent who is to act out of purely personal motives', Prosser, p. 139. Cf. Gurnham says 'Hamlet is very much aware of the personal, as opposed to the public or universal, nature of the Ghost's command to revenge Old Hamlet's untimely death'...'these terrible commands are aimed primarily to appeal to Hamlet's sense of filial solidarity rather than a wider sense of justice', pp. 46-7.

[96] This is later referred to by Hamlet in the graveyard scene, when talking of 'Cain's jawbone, that did the first murder' (5.1.73). Biblical imagery concerning the fall of man is also apparent in the Ghost's own account: "Tis given out that, sleeping in my orchard,/ A serpent stung me' (1.5.35).

[97] This is of course a matter of inflection; *Antonio's Revenge* too is motivated by a father's ghost, but ultimately the Duke Piero's death is for much more than that crime alone.

is a state in preparation for war.[98] Despite the fact that shipwrights are working seven days a week (1.1.75), their labours are never seen to come to anything within the timeframe of the play. Horatio then tells his audience of how Old Hamlet slew Fortinbras of Norway, leading to young Fortinbras sharking up 'a list of lawless resolutes' (1.1.97) in order to recapture his father's lands by force. Barnardo even expresses the hope that the ghost's appearance in armour bodes well for Denmark's political future (1.1.108). As is soon made clear, however, the ghost's appearance has little to do with the threat of invasion and everything to do with Old Hamlet being '[c]ut off even in the blossoms of my sin' (1.5.76).

Despite the detailed account of Denmark's diplomatic and military relations in the opening scenes, macro-politics are introduced only to be largely sidelined in the subsequent revenge action: 'the psychological intricacies of [Hamlet himself] have caused many to forget the politically conditioned framework that literally hovers at the edge of the family saga'.[99] Relations with Norway are intermittently referred to as the play progresses (1.2.17; 2.2.59; 4.4.2), without ever fully erupting into the action proper until the play's closing moments. Why, then, does Shakespeare take such care in detailing precisely where Denmark stands on the international stage? The possibility that the political circumstances could dovetail with Hamlet's own objectives seems tempting, much like the hints about Hamlet's potential as a leader of men. Yet such a course is never pursued – by Shakespeare or by Hamlet. Instead, the crisis with Norway allows Claudius to flex his diplomatic muscle as the country's new king. And

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[98] 'In this, the primal scene of the play, the fully political concerns of the internal and external security of the realm itself are dramatized', Barker, p. 34. De Grazia too sees the play as being '[f]ramed by territorial conflict', Hamlet *without Hamlet*, p. 2.

[99] Anselm Haverkamp 'The Ghost of History: *Hamlet* and the Politics of Paternity', *Law and Literature*, 18 (2006), 171-97 (p. 182). While I agree with Haverkamp's assertion that the Fortinbras plot is deliberately underdeveloped by Shakespeare, I would not go so far as to agree with some of his more far-fetched assertions, such as Polonius as an accessory to Old Hamlet's murder (p. 182), or Claudius as Hamlet's biological father (p. 187). Such assertions are supported by the statement that 'suspicion makes all proof superfluous', p. 187.

judging by Marcellus' speech on the sweaty haste that '[d]oth make the night joint labourer with the day' (1.1.77), there is clearly much defensive work being undertaken behind the scenes also. Claudius' capable management of the war effort means that the revenge Hamlet seeks and the welfare of the state are no longer synonymous. This is perhaps the most serious breach with the revenge tragedy tradition, whereby personal and political interests diverge and remain unreconciled.

Meanwhile, the introduction of another son bent on revenge invites comparison with Hamlet's own predicament. When we first hear of Fortinbras, 'of unimproved mettle, hot and full' (1.1.95), we are told that he intends to undertake an illegal campaign against Denmark, to reclaim the lands that his father lost to Old Hamlet (1.1.101). The fact that the person who killed his father has since died is not seen to be an impediment: for Fortinbras, the personal is the political. Not only is he seeking revenge for his father like Hamlet, Fortinbras is also of the same social status as the prince, making him Hamlet's only political equal in the play.[100] At once fulfilling the roles of analogue for the protagonist (as the son of a dear father murdered), and *deus ex machina* at the play's denouement (when we are left with no member of the Danish royal family alive), Fortinbras is an integral part of Shakespeare's plotting. Despite his importance plot-wise, the character of Fortinbras remains largely undeveloped, functioning primarily as a prism through which to view Hamlet's actions. Even Hamlet is shown to use him in this manner, when Fortinbras' campaign against the Poles prompts the soliloquy, 'How all occasions do inform against me' (4.4.31). It is remarkable that Hamlet must ask the captain four consecutive questions to learn of Fortinbras' intentions at this point.[101] Hamlet's ignorance of Fortinbras' campaign, as a foreign army passes through Danish territory, again

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[100] This is emphasised by the fact that young Fortinbras is the nephew of the current king of Norway (2.2.70).

[101] 'Good sir, whose powers are these?'(4.4.8); 'How purposed, sir, I pray you?' (4.4.10); 'Who commands them, sir?' (4.4.12); 'Goes it against the main of Poland, sir,/ Or for some frontier?' (4.4.14).

suggests the protagonist's apathy when it comes to his nation's welfare. This perhaps makes sense of the fact that the two never share the same stage space, although they do share a single line of iambic pentameter at one point.[102] Shakespeare engineers the play in such a way that they both remain on parallel tracks throughout, operating within the same verbal paradigm but never physically meeting.[103]

Fortinbras demonstrates a very different sort of filial duty from that of Hamlet, taking revenge against an enemy unrelated to his father's death for 'a little patch of ground/ That hath no profit but the name' (4.4.17). [104] This is not without its problems as a course of action,[105] but it does bring Hamlet to a certain realisation about his own situation. In his last soliloquy, Hamlet covers much the same ground as before, fearing that man without reason is '[a] beast – no more' (4.4.34),[106] yet also worrying about '[t]hinking too precisely on th'event' (4.4.40)[107] when '[e]xamples gross as earth exhort me' (4.4.44).[108] However in his final line he strikes a new note of decisiveness: 'O, from this time forth/ My thoughts be bloody or be nothing worth' (4.4.64). For all their differences, Hamlet suggests that he too can make mouths at the invisible event (4.4.49) instead of having his beard plucked (2.2.508). But before he can put his new resolve into practice, he is removed from the action so that yet another bereaved son can occupy centre-stage.

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[102] At 4.4.8, Fortinbras' 'Go softly on' (4.4.8) is separated from Hamlet's 'Good sir, whose powers are these?' (4.4.8) by one's exit and the other's entrance.

[103] Even in the final scene, Hamlet dies three lines before Fortinbras' entrance (5.2.342).

[104] Fortinbras' actions are too often taken as straight-forward revenge, when the connection between his actions and his father's death is tenuous at best.

[105] There is an implicit condemnation in Hamlet's line, 'Rightly to be great/ Is not to stir without great argument/ But greatly to find quarrel in a straw/ When honour's at the stake' (4.4.55).

[106] Cf. 'O God, a beast that wants discourse of reason/ Would have mourned longer' (1.2.150).

[107] Cf. 'And thus the native hue of resolution/ Is sicklied o'er with the pale cast of thought' (3.1.83).

[108] Cf. 'What would he do/ Had he the motive and that for passion/ That I have?' (2.2.495).

'"Choose we: Laertes shall be king!"' (4.5.106)

Simply put, Laertes is everything Hamlet is not. On hearing of his father's death he returns from France post-haste with little but vengeance on his mind. His commitment to revenge is such that he will even threaten the king (4.5.115), something which Hamlet has not managed to do. Instead of agonising over the implications of revenge, he plans to achieve his ends as quickly and brutally as possible, without consideration of any ethical concerns: 'Conscience and grace to the profoundest pit' (4.5.131). Where Hamlet is known for his unwillingness to act, Laertes is characterised by an excess of action (or even excessive acting).[109] Laertes' function as a foil to Hamlet is self-evident, and is even acknowledged as such by Hamlet: 'by the image of my cause I see/ The portraiture of his' (5.2.77). The question is why, after the introduction of Fortinbras, the 'delicate and tender prince' (4.4.47), are we given another dutiful son bound to revenge his father's death? Amplification is one obvious consequence, but surely Laertes' dramatic function is distinct from that of Fortinbras. My contention is that Laertes' brand of revenge belongs firmly within the genre of revenge tragedy, which Shakespeare wishes to include even as he eschews it for his tragic hero. Laertes' function shows itself to be generically motivated not only in his histrionic commitment to revenge, but also in the socio-legal underpinnings of that revenge, which can be forgotten in light of the final aristocratic duel. By excavating the more overtly political aspects of Laertes' revenge, and placing them within a specific dramatic tradition, I wish to show how Shakespeare subtly but deliberately distances *Hamlet* from its predecessors through the figure of Laertes.

For all his superficial similarities to Hamlet in terms of structure, Laertes comes from a very different socio-political position. The son of a well-respected court advisor, Laertes is an

[109] In a play preoccupied with the difference between what something is and what it seems to be, Laertes' theatricality becomes an easy target. Laertes' histrionics, for example at Ophelia's grave, would not be out of place in *Antonio's Revenge* (4.5), showing how easily he fits into the genre more broadly in a way that Hamlet never could.

accomplished courtier in the Danish court. His first words in public show his deference to his superiors ('My dread lord' (1.2.50)), while in private he lectures his sister on the fact that she is no fit mate for the future king of Denmark (1.3.21). Furthermore, he seeks to improve his courtly behaviour – his outward form – by visiting France, in contrast to Hamlet's commitment to intellectual self-improvement through his studies at Wittenberg. Laertes is not a member of the royal family, and apart from one crucial moment in 4.5 he appears to have no pretentions to the throne.[110] If Fortinbras is the closest to Hamlet in terms of social status and motivation, Laertes comes closest to the traditional figure of the revenger for the same reasons. His revenge has the crown prince as its principal target, aligning him with revengers like Hieronimo and Titus Andronicus. In Kydian terms, if Hamlet's social equal is Lorenzo, Laertes' equivalent is the murdered Horatio. Clearly such equating of characters must come with heavy qualification, but we should bear in mind that for all his tragic sensibilities Hamlet escapes unpunished for the murder of Polonius, and this is because he is a member of the royal family.[111]

Laertes as a revenger also operates beyond the bounds of what is legal, but this is of a different magnitude. To put it in spatial terms, if Hamlet's royal blood places him above the law, Laertes' lower social standing places him outside the law. And not to crack the wind of the poor phrase, he is intent on securing readmittance. Arriving at the palace 'in a riotous head' (4.5.101), he gains access to the king by literally battering down the doors of the establishment: 'The doors are broke' (4.5.111). What is more, he is not alone, having gathered a 'rabble' of citizens around him (4.5.102). Not only does this instantly differentiate him from the solipsistic Hamlet, it also suggests that his support base is much greater than a lone man's revenge for a father. The transition from personal revenge to political act becomes clear as the

[110] I return to this incident below, p. 231.

[111] See above, p. 216.

scene progresses, again putting Laertes in the same category as other stage revengers.[112] Describing Laertes' arrival at the palace, the messenger uses the metaphor of a troubled sea: 'The ocean overpeering of his list/ Eats not the flats with more impiteous haste/ Than young Laertes in a riotous head/ O'erbears your officers' (4.5.99).[113] With no punctuation to break the flow, the surge of the words heightens the impact of their meaning, while the last clause even has the suggestion of physical violence towards the king's men. Little wonder that Claudius' response is to label his actions as 'rebellion' (4.5.121) and 'treason' (4.5.124), the seriousness of which is inescapable in an early modern context.[114] Such a response seems warranted by the fact that Laertes is a real rival for Claudius' throne at this point: '"Choose we: Laertes shall be king!"' (4.5.106). Exactly why he is suddenly a candidate for king is unclear, but there is no doubt that he is viewed as a champion of the people: 'The rabble call him lord' (4.5.102). While he may not be the hero of Shakespeare's play, he is certainly a hero of sorts to the people of Denmark.[115]

So why does Shakespeare see fit to turn the career courtier of the first act into some sort of folk hero? The connection between Laertes' revenge for Polonius and the people's dissatisfaction with their sovereign is left mysteriously unexplained. Internal evidence for the citizenry suddenly turning on their king is scant. On the first reports of Ophelia's madness Horatio advises the Queen: "Twere good she were spoken with, for she may strew/ Dangerous

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[112] Compare Laertes' forcible entry to Hieronimo's pleas that '[b]eat at the windows of the brightest heaven/ Soliciting for justice and revenge' (*The Spanish Tragedy*, 3.7.13) or Titus' volley of arrows aimed at the royal court (*Titus Andronicus*, 4.3).

[113] Marston uses similar language in his politicisation of revenge in the final act of *Antonio's Revenge*: 'Like high-swollen floods, drive down the muddy dams/ Of pent allegiance' (5.3.12).

[114] See Rebecca Lemon, *Treason By Words: Literature, Law, and Rebellion in Shakespeare's England* (London: Cornell University Press, 2006).

[115] The people even entertain the idea of putting their new leader on the throne, something which no other revenge play broaches so frankly.

conjectures in ill-breeding minds' (4.5.14), suggesting that the ill-breeding minds predate anything Ophelia has to tell them.[116] Later we are told of 'the people muddied,/ Thick and unwholesome in thoughts and whispers/ For good Polonius' death' (4.5.81), again with nothing more by way of explanation.[117] Considering the expert political acumen Claudius displays elsewhere, this seems inadequate as justification for revolt, even if he does admit 'we have done but greenly' (4.5.83). Rather than searching for the roots of such dissidence in the political context of Elsinore, I wish to look outside the world of the play, to the conventions of revenge tragedy itself. Laertes becomes a leader of men because the genre dictates that a hero will come from outside the ruling elite to put right the injustices that are corrupting the body politic.[118] Usually such a task falls to the protagonist of the piece, and Shakespeare gives every indication that Hamlet could be just such a hero. Except for his princely status, he is in the perfect position to mount such a challenge –beloved of the people, he has been charged from beyond the grave to kill the current king.[119] But Hamlet consistently fails to conflate the political and the personal in the same way as other revengers had done on the early modern stage. From a generic point of view, it is Laertes, not Hamlet, who is the true inheritor of the mantle of revenger at this point.

But Laertes' potential as a rebel rapidly gives way to his duty as the king's subject. The 'riotous head' with which he entered the palace dissipates as soon as it is formed, and within a hundred lines Claudius has talked him down from violent insurrection until he is a loyal

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[116] These lines are attributed to the queen in the Folio, (4.1.14). MacFaul dismisses this scene as 'a rather pointless discussion with Gertrude about Ophelia', p. 137. This misses the fact that the political weight behind Horatio's utterance is palpable.

[117] Cf. *Antonio's Revenge*: 'The rumour's got 'mong troop of citizens,/ Making loud murmur with confused din' (5.3.28).

[118] The lack of injustices committed by Claudius at this point again lends strength to the idea that Laertes' motivation in this scene is as much generic as it is integral to the plot of *Hamlet*.

[119] Other than Piero's status as duke, this is precisely Antonio's predicament in *Antonio's Revenge*.

courtier once more, albeit with vengeance still uppermost in his mind. Remarkably, no more is said about either Claudius' guilt or Laertes' rebellion, as both turn their attentions towards the absent Hamlet.[120] Hamlet's letter announces he is '*set naked on your kingdom*' (4.7.43) with the postscript '"alone"' (4.7.50), as if Shakespeare needed to highlight the contrast between Hamlet's methods and Laertes'. Instantly, the King and Laertes hatch a plan to lure Hamlet into a trap: 'And for his death no wind of blame shall breathe/ But even his mother shall uncharge the practice/ And call it accident' (4.7.64). The form of vengeance concocted between them is foreign to the heroes of revenge tragedy thus far, involving as it does poisoning, subterfuge and stealth. Such a sentiment is unthinkable for the likes of Hieronimo who proclaims his vengeance openly 'See here my show, look on this spectacle' (*The Spanish Tragedy*, 4.4.89), or Antonio who cries 'I will not lose the glory of the deed' (*Antonio's Revenge*, 5.6.5).[121] Laertes' use of poison also classes him as the lowest of the low among murderers, thus putting him in the same unforgivable category as witches, coiners and sodomites according to James I.[122]

After rallying the people to his cause, Laertes' abandonment of his followers – who are left unceremoniously outside the doors of the palace – does little for his status as a revenging hero. It is a fair question to ask why Shakespeare bothers with the introduction of the rabble at

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[120] The fact that Laertes' treasonous riot, a felony that would normally deserve execution, is so easily forgotten is suggestive of how the rabble function as a generic necessity more so than a realistic threat to Claudius' regime. Compare Claudius words to Laertes about Hamlet less than one hundred lines later: 'you must not think/ That we are made of stuff so flat and dull/ That we can let our beard be shook with danger/ And think it pastime' (4.7.31).

[121] Such secretive methods are later employed by Vindice in his killing of the Duke in *The Revenger's Tragedy*, but *Hamlet* paves the way for such devious revengers through the separation of personal vendetta and political cause. Therefore I take issue with Mercer's claim that this 'is the language of the villain of revenge', p. 235.

[122] 'so is there some horrible crymes that yee are bounde in Conscience neuer to forgiue: Such as Witch-craft, wilfull-murther, Incest...Sodomie, Poysoning and false coyne', James I, *Basilikon Doron* (Edinburgh, 1599) (available on EEBO, STC no. 14348), pp. 37-8; Cf. 'And of all murders, murder by poysoning is the most detestable', Edward Coke, *The third part of the Institutes of the laws of England concerning High Treason, and other Pleas of the Crown, and Criminal Causes* (London, 1669) (available on Google Books) Chap. 7, 'Of Murder', p. 47, sig. H2^{v}.

all. The connection forged between the staging of revenge and the staging of protest would appear to be deliberate, mimicking as it does Antonio's Herculean role as champion of the people (*Antonio's Revenge*, 5.6.14). But the fact that Shakespeare then breaks that connection is even more significant; it is not so much that Laertes gathers a rabble around him, as that he walks away from that group at the opportune moment. Rather than viewing Laertes as a foil for Hamlet, I see him as fulfilling an important socio-political function, which is in fact the abandonment of his socio-political function. In *Hamlet*, revenge's potential for serious regime change is first relegated to the sub-plot, before being further marginalised by having that revenger turn his back on his supporters. Laertes chooses the courtly world of poison and intrigue over open insurrection, which leads in due course to the ultimate display of aristocratic prowess, a fencing match. By having Laertes choose the poisoned rapier over communal public action as we enter the final act, *Hamlet* once again shows its resistance to being read in socio-political terms. I now turn to the last act of *Hamlet*, and the last act of Hamlet, to see what becomes of revenge's socio-legal potential in a play so actively resistant to such a reading.

'Come, begin./And you, the judges, bear a wary eye' (5.2.255)

The final act of *Hamlet* opens somewhat unexpectedly with the play's most extended discussion of early modern law, conducted by the unlikely pair of gravediggers. It is left to these clowns to search out the intricacies of early modern jurisprudence, primarily through the case of Hales v. Petit, as touched on above.[123] This leads into a brief discussion of the class bias inherent in the legal system, when the second gravedigger asks 'Will you ha' the truth on't? If this had not been a gentlewoman she should have been buried out o'Christian burial' (5.1.23). His partner agrees, asserting that 'the more pity that great folk should have countenance in

[123] See pp. 208-11 for this exchange, together with the avalanche of criticism it has triggered.

this world to drown or hang themselves more than their even-Christen' (5.1.26). The word 'countenance' recalls another moment of unfair dealing earlier in the play, when Claudius says of Polonius' murder 'this vile deed/ We must with all our majesty and skill/ Both countenance and excuse' (4.1.30). Both utterances reinforce a feeling of class division, where one's treatment before the law depends on one's social status (which ironically is epitomised by Hamlet himself).[124] Yet this is never allowed to develop into a full-blown critique of the law, nor does it form part of a wider concern for legal equity in the play as a whole. The only other possible allies in this matter are Laertes' rabble of 4.5, but they too are literally marginalised by being kept decisively off-stage (4.5.115). Instead, the rustics' conversation segues into the talk of 'Adam's profession' and the riddle of the grave-maker (5.1.31ff).[125] The peripheral nature of these characters highlights once more the marginal place allocated to the law in this play.

When Hamlet does return to the stage, having been absent for several lengthy scenes, he is a changed man. His last words before exiting the stage were 'My thoughts be bloody or be nothing worth' (4.4.65), but no such Senecan rhetoric is to be found in the play's final movement. As the play draws to a close, the setting of the graveyard chimes well with Hamlet's preoccupation with mortality.[126] But when he comes across the gravediggers at their work, he too is struck by the vagaries of the law: 'Why, may not that be the skull of a lawyer?' (5.1.93). He then goes on to ask '[w]here be his quiddities now – his quillets, his cases, his tenures and his tricks?' (5.1.94).[127] Having shown no interest in the workings of the law for four

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[124] It does not seem far-fetched to read Shakespeare's reluctance to develop this issue as being connected with the fact that this would impeach the play's hero.

[125] Adam's potential as a further symbol of egalitarianism is discussed by Patterson, p. 101ff; Hamlet *without Hamlet*, p. 140ff. In the words of Carolyn Sale, 'the grave-digging Clown of Act 5 does a great deal of work', '"The King is a Thing"', p. 151.

[126] We are given no reason as to why he elects to spend his time in the graveyard at this point.

[127] For an explication of these various legal terminologies, see B. J. Sokol and Mary Sokol, *Shakespeare's Legal Language: a Dictionary* (London: Athlone, 2000), pp. 127-8 and pp. 316-8.

acts, suddenly Hamlet is comfortable using the most technical legal language. He proceeds in this manner for a full thirteen lines, almost his longest speech in this act.[128] Not only does he employ legal jargon such as action of battery, statutes, recognizance and indentures (5.1.96; 5.1.99; 5.1.99; 5.1.103), he does so in a playful and knowing manner: 'To have his fine pate full of fine dirt' (5.1.100).[129] Does this mean that Hamlet is preoccupied with thoughts of law as well as thoughts of death at this critical juncture? The persistent legal punning suggests to me not a concern for the law but rather its rejection and ridicule: 'The very conveyances/ of his lands will scarcely lie in this box, and must/ th'inheritor himself have no more, ha?' (5.1.103). Despite its primary function being to allow inheritance from one generation to the next, law is shown to be immaterial when faced with the immensity of death. This episode culminates in the odd question to Horatio, 'Is not parchment made of sheepskins?' (5.1.107), followed by the lesson to be drawn for all this legal talk: 'They are sheep and calves which seek out assurance in that' (5.1.109). This final sentiment, that the law lends one no 'assurance', implies rather the naivety of putting one's trust in the law. Therefore while Hamlet suddenly adopts a legal register for the first time, he does so only to show the law's futility in the face of certain death.[130]

The turn towards death is not only a turn away from the law and its 'quiddities', but also a turn towards providence. This becomes increasingly apparent in the following scene, as

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[128] Hamlet's apology to Laertes at 5.2.204 is marginally longer.

[129] The pun here is on fine and recovery, see *Shakespeare's Legal Language*, pp. 127-8. The pun is expanded in the Folio version to 'Is this the fine of his fines, and the recovery of his recoveries – to have his fine pate full of fine dirt' (5.1.104).

[130] Hamlet's examples of death's power, while being suggestive of a *memento mori* tradition, are drawn exclusively from the wealthier classes: 'This might be my Lord Such-a-One, that praised my Lord Such-a-One's horse' (5.1.78); 'Why, may not that be the skull of a lawyer?' (5.1.93); 'Now get you to my lady's table and tell her, let her paint an inch thick, to this favour she must come' (5.1.182); 'Dost thou think Alexander looked o'this fashion i'th' earth?' (5.1.187). De Grazia notes that he 'chooses to make them all quite grand', Hamlet *without Hamlet*, p. 136. This again emphasises the aristocratic nature of the final act.

Hamlet confides in Horatio his belief that 'There's a divinity that shapes our ends,/ Rough-hew them how we will' (5.2.7). This leads into the narration of his sea-voyage, complete with swapped letters, royal signet rings ('Why even in that was heaven ordinant' (5.2.48)) and kidnapping by pirates. All this culminates in a heart-felt belief in a providential reality, together with a renewed commitment to the killing of Claudius: 'Is't not perfect conscience?' (5.2.66). But paradoxically Hamlet's faith in divine providence actually prevents him from planning Claudius' demise, for to do so would to be undermine that faith. No longer does he equate himself with Heaven's 'scourge and minister' (3.4.173), he instead insists that 'The readiness is all, since no man of aught he leaves knows what is't to leave betimes. Let be' (5.2.200). Such resignation to the workings of providence doubtless works to free Hamlet from much of the guilt associated with premeditated murder.[131] But by divesting him of any pretensions as an active agent of divine justice, it also has the effect of distancing his subsequent actions from his father's command to be revenged (1.5.7ff).

And perhaps this is precisely the point. Hamlet's new-found faith in providence coincides with a chain of events that sees Claudius dead, Hamlet exonerated of guilt by Laertes, and Fortinbras' auspicious arrival at precisely the right moment. Heaven does indeed seem to be ordinant.[132] And most importantly, none of this is Hamlet's doing. This is highly unusual for a revenge tragedy, which typically sees the revenger take control of events in the play's final movement. Hieronimo directs a play, Titus plays the cook, Antonio performs a masque, but Hamlet simply accepts a challenge to a duel. Where Hieronimo confidently asserts that he is '[a]uthor and actor in this tragedy' (4.4.147), Hamlet can only lay claim to the

[131] See Gurnham, pp. 36-8.

[132] Mercer makes the point in reference to the fortuitous pirate ship that 'chance in tragedy is usually fatal, not in the least obliging', whereas in *Hamlet* it is surprisingly serendipitous, p. 237.

latter.[133] The fact that he does not think twice about entering a contest organised between his enemy and the son of the man he has killed is of a piece with his trust in providence, while also confirming Claudius' claim that he is '[m]ost generous and free from all contriving' (4.7.133). Meanwhile, the choice of a fencing match feeds into the overall aristocratic bias of the final act. Having each refused to be part of a wider political movement, both Hamlet and Laertes are shown to turn away from the possibility of popular support.[134] The fencing match underlines how limited the socio-political impact of the outcome is perforce, since it is confined within the ruling elite. At its most basic level, the one-on-one fighting of a fencing match is a departure from the group violence that normally attends the catastrophe of revenge tragedy.[135]

The terms of the wager are described at length by Osric, in a language weighed down with courtly etiquette (5.2.130ff).[136] The courtly language momentarily appears as if it will become the language of the courtroom itself:

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[133] Hamlet's calm acceptance of this role is again in stark contrast to his deep suspicion of acting and role-playing up until this point: 'These indeed "seem",/ For they are actions that a man might play' (1.2.80). Of course Hamlet does show his directorial skill in his advice to the players at the beginning of 3.2. This scene culminates in the staging of the play-within-the-play, *The Murder of Gonzago*, to confirm Claudius' guilt (3.1.539), thus showing the very different uses to which Hamlet puts drama in the service of his revenge.

[134] Hamlet's most recent comment on the lower orders comes after talking with the gravedigger: 'this three years I have took note of it/ the age is grown so picked that the toe of the peasant/ comes so near the heel of the courtier he galls his kibe' (5.1.131). This leads de Grazia to assert that '[i]n the face of such antagonism from below, Hamlet identifies with his own highborn kind', Hamlet *without Hamlet*, p. 137.

[135] The collective tyrannicide of *Antonio's Revenge* (5.5), is a prime example of this, but it can also be seen in Hieronimo's play-within-a-play (*The Spanish Tragedy*, 4.4), the Andronicii's final feast (*Titus Andronicus*, 5.3), the counter-revenge against Hoffman (*Hoffman*, 5.3) or Vindice's masque of vengeance (*The Revenger's Tragedy*, 5.2).

[136] Osric's long-winded manner gives Hamlet the opportunity to mock his overly formal language, as well as hinting at a deeper disdain for the servile courtier, whom he calls 'spacious in the possession of dirt' (5.2.74). The phrase carries with it an echo of Hamlet's recent ridicule of the imaginary lawyer: 'To have his fine pate full of fine dirt' (5.1.100).

Osric: He hath laid on twelve for nine, and it would come to immediate trial if your lordship would vouchsafe the answer.

Hamlet: How if I answer no?

Osric: I mean, my lord, the opposition of your person in trial.

Hamlet: Sir, I will walk here in the hall. If it please his majesty, it is the breathing time of day with me. Let the foils be brought.

5.2.148

The repetition of 'trial' by Osric here seems to imply that the upcoming encounter could be viewed in judicious terms. Having being denied an open trial scene throughout the play, the audience are to be presented with a far more ancient form of trial, trial by combat, which relies on a belief in God's providence.[137] Yet Hamlet appears to be wilfully oblivious to the word, and twice refuses to answer Osric's question directly. This seeming ignorance on Hamlet's part – of both the resonances of the word 'trial' and of Laertes and Claudius' 'contriving' – secures his innocence in the ensuing violence, as it shows him to be lacking the crucial ingredient of malice aforethought. Therefore I see in the duel two contrapuntal movements: the first of these sees the stage become a theatre of God's judgement, while the second keeps Hamlet in ignorance of his role in such a theatre.[138] As Osric retreats to tell the king of Hamlet's willingness, Horatio warns Hamlet that he will lose and asks him to postpone

[137] Again the avoidance of contemporary trial procedures seems deliberate, as Shakespeare chooses the medieval trial by combat over early modern trial by jury.

[138] Cf. Jean De Chassanion, *The Theatre of Gods Judgements*, trans. by Thomas Beard (London, 1597) (available on EEBO, STC no. 1659).

the match. But Hamlet reiterates his faith with the famous formulation: 'There is special providence in the fall of a sparrow' (5.2.197).

This providential structure makes its presence increasingly felt as the scene progresses. Where other revenge tragedies have their heroes plotting and planning their enemies' demise ('till he hath died and died/ Ten thousand deaths in agony of heart' (*Antonio's Revenge*, 5.5.77)), Hamlet continues to operate in complete ignorance. Yet the audience are given key markers that they are witnessing the workings of providential justice. As the duel gets underway, Claudius tells them as much when he says 'Come, begin./And you, the judges, bear a wary eye' (5.2.255). This is reinforced within six lines by Hamlet's single word utterance, 'Judgement!' (5.2.261). Superficially Hamlet is asking whether or not he has achieved a hit, and that is the extent of the word's connotations as far as he is concerned. But the audience know better, having been primed to see the unfolding action in terms of divine justice.[139] To put such a theologically and legally loaded word in the mouth of the protagonist at the very apex of the action, while Hamlet proceeds unawares, is the perfect example of providence at work.

The pseudo-trial by duel proceeds, with the switching of poisoned blades together with the Queen's fatal carouse (5.2.271). All the while Hamlet plays on oblivious to the death and destruction that surrounds him. The dramatic tension at this point depends on Hamlet still believing that he is taking part in a straight-forward fencing match. The very originality of this scene – with the protagonist playing his part unwittingly – can be difficult to discern due to our familiarity with the text. It is left to Laertes to inform Hamlet of what has actually been happening, as well as alerting the audience once more to the justice of what they are witnessing: 'I am justly killed with mine own treachery' (5.2.292). Having listened to Laertes'

[139] Not only is the trope of theatre as place of judgement conventional across early modern drama, but verbal markers such as 'judgement', 'judges' and 'providence' confirm this frame of reference.

account of his collusion with Claudius ('the King, the King's to blame' (5.5.305)), Hamlet is finally in a position to act with full knowledge: 'The point envenomed too? Then venom to thy work!' (5.2.306). Again, Laertes spells out the moral to be drawn, providing a sort of providential commentary on the scene. Having already described himself as 'justly killed', he similarly says of Claudius' death 'He is justly served' (5.2.311).[140] Therefore the spokesperson for providential justice is not, as we might expect, the eponymous protagonist, but rather the failed and ignoble revenger Laertes.[141] Laertes goes on to repeal the vengeful quality of the duel while asking Hamlet's forgiveness with his dying breath: 'Exchange forgiveness with me, noble Hamlet,/ Mine and my father's death come not upon thee,/ Nor thine on me [*Dies*]' (5.2.313).[142]

This leaves only the blood of Claudius on Hamlet's hands, and even this is somewhat diluted by the structure of the play. As Gurnham points out, Hamlet kills Claudius without premeditation, making him guilty of the lesser crime of manslaughter.[143] Sale even goes so far as to assert that Claudius kills Claudius, since he was the one who puts the poisoned rapier into circulation in the first place.[144] While I would not go quite so far as that, it is important to note the reasons Hamlet gives for killing Claudius. As he dispatches his long-hated uncle he talks not

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[140] These are the only two references to justice in the final act and both relate to strict reciprocity, 'purposes mistook/ Fallen on th'inventors' heads' (5.2.368). Laertes is also the only character to use 'revenge' or its cognates in the final act, when he says 'I am satisfied in nature,/ Whose motive in this case should stir me most/ To my revenge' (5.2.223). Hamlet shows no concern for either term.

[141] That the principal revenger does not lay claim to some sort of justice is highly unusual; as Antonio puts it 'the hand of heaven chokes/ The throat of murder' (*Antonio's Revenge*, 5.5.79)

[142] Laertes' ability to free Hamlet from the guilt of killing Polonius is doubtful, and seems more consistent with dramatic exigencies than theological accuracy.

[143] Gurnham, p. 36.

[144] Sale, 'The "Amending Hand"', p. 201. This is with reference to the case of John Saunders, who was found guilty of murdering his daughter when she ate a poisoned apple intended for her mother (also to be found in Plowden's *Commentaries*, 473-76a).

of his father, but of his mother: 'Is thy union here?/ Follow my mother [*King dies*]' (5.2.310).[145] Where we might conventionally be reminded of the various crimes and motivations that have led up to this moment, Hamlet's silence on the matter is deafening. In the aftermath of his revenge play, Hieronimo reminds the assembly of Lorenzo and Balthazar's crimes, while simultaneously displaying the handkerchief dipped in Horatio's blood (4.4.127). Titus too reiterates Chiron and Demetrius' crimes to their mother before revealing to her her act of cannibalism (5.3.56). Marston's characters are insistent that present death is irrevocably linked to past crime:

> Antonio: This for my father's blood.
>
> [*He stabs* Piero]
>
> Pandulpho: This for my son.
>
> Alberto: This for them all.
>
> 5.5.80

But one of the ways in which *Hamlet* is remarkable is how little reference is made to the actions and motivations that started the revenge tragedy.[146] Except for mentioning his 'father's signet in my purse' when recounting his sea-voyage (5.2.49), Hamlet does not once use the word 'father' before, during, or after the duel. In a play so obsessed with the act of

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[145] 'He too can kill with a complex pun', Mercer, p. 248.

[146] Hamlet delivers twenty-eight lines between the killing of Claudius and his own death, yet he neglects to mention the two regicides that form the core of the play's action. De Grazia observes that Hamlet's death speech 'manages to cram in a great deal', Hamlet *without Hamlet*, p. 203; to my mind this makes the omission all the more noticeable.

remembering, Hamlet must forget his father in order to kill his uncle.[147] This in a play 'whose common theme/ Is death of fathers' (1.2.103).[148]

This leaves audiences to judge for themselves the exact relation between the deaths of Old Hamlet and Claudius, and has led some critics to doubt whether the killing of Claudius can be deemed revenge at all.[149] Hamlet's actions participate in justice without partaking of vengeance, 'in a way which extraordinarily leaves him free of guilt'.[150] To suggest that the ending of *Hamlet* is governed by providence is not a new position. As far back as 1955, Bowers recognises the suppression of Hamlet's private revenge motive, arguing that this made the killing of Claudius into a 'ministerial act of public justice'.[151] But this relies on reading Hamlet as still occupying the position of scourge and minister, when in fact the revenge motive has also receded into the background, and Hamlet is more a conduit for divine justice than an active or knowing agent in its delivery. My point here has not been to exonerate Hamlet, but rather to show how much of the generic material usually found in revenge tragedy is incompatible with such an exoneration. If Hamlet is to kill Claudius in a moment of passion, then he cannot draw allies to his cause and plot the downfall of the king over several acts. And if Claudius' death is to be read in providential terms, then its instrument must not revel in the achievement of his

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[147] Both of the ghost's visitations, which give the play its initial impetus towards revenge, are obsessively concerned with the act of remembering ('adieu, adieu, remember me' (1.5.91); 'Do not forget!' (3.4.106))

[148] As mentioned earlier, the word 'father' appears over seventy times in total.

[149] 'Hamlet arguably never actually gets around to avenging the death of his father at all', Gurnham, p. 13; '[Hamlet] is able to achieve the act of revenge without ever really becoming a revenger', Peter Ure, *Elizabethan and Jacobean Drama: Critical Essays by Peter Ure*, ed. by J. C. Maxwell (Liverpool: Liverpool University Press, 1974), p. 42.

[150] Mercer, p. 247.

[151] Fredson Bowers, 'Hamlet as Minister and Scourge', *Publications of the Modern Language Association of America*, 70 (1955), 740-9 (p. 749).

revenge. The purity of such a denouement does not admit of extraneous material, and I see the neglect of revenge's socio-legal potential as a prime example of this.

In his dying moments, Hamlet charges Horatio with the task of reporting 'me and my cause aright' (5.2.323). Hamlet's bid to clear his 'wounded name' (5.2.328) has been interpreted in the most forensic of terms, and rightly so: 'Hamlet's final concern not so much with the afterlife as with an evidential reconstruction of his own actions and intentions *in this world*' (original emphasis).[152] This returns us to the common ground that Hamlet shares with other revengers, a concern with the question of evidence. However it also, finally, shows how very different Hamlet's end is from other heroes of revenge tragedy: Hamlet must ask Horatio to 'tell my story' (5.2.333) because no-one else can. The prince's isolation throughout the text leaves his final actions open to charges of 'treason' from onlookers (5.2.307), because his revenge has all along been kept private and detached from the people of Denmark.[153] If it were not for Horatio, Hamlet's story could indeed be interpreted as treasonous. In Marston's *Antonio's Revenge*, which most closely parallels the plot of *Hamlet*, Antonio has no need to explain his bloody actions to those present because he has been assured of their support beforehand (5.5.5). Justification is not necessary when it is clear to all that justice is on your side. But Hamlet's heroic status is not so clear to onlookers within the world of Elsinore, because they do not know the circumstances to which Horatio and ourselves are privy

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[152] *The Invention of Suspicion*, p. 269. See also Zurcher, p. 268.

[153] Again, it is useful to compare Shakespeare's version with his source material. In Belleforest, Hamblet gives a lengthy speech after his slaying of Fengon, where he explains his actions to the citizens of Denmark and justifies the killing as tyrannicide: 'overthrowing both the tirant and the tiranny', Gollancz, p. 281. In the 1608 English translation, Hamblet says: 'I pray you remember this body is not the body of a king, but of an execrable tyrant, and a parricide most detestable', Gollancz, p. 265. Such a speech is hard to imagine at the climax of Shakespeare's play.

(5.2.2).[154] The final revenge is not only apolitical, it is also in danger of being unrecognisable as revenge at all, if not for the choric functions provided by Laertes and Horatio.

'This was sometime a paradox, but now the time gives it/ proof' (3.1.113)

I began this chapter by claiming that *Hamlet* shows less concern for the early modern legal system than its counterparts in the revenge genre, and have ended by demonstrating how Hamlet's final actions are a perfect example of the workings of providential justice. However, a display of providence is something very different from an engagement with early modern law. In other revenge plays, justice and politics meet and ignite at the point of contact provided by revenge, and most often it is early modern law that provides the spark, partaking as it does of both. No such flashpoint is forthcoming in *Hamlet*; as I see it, in order for divine justice to triumph, human justice is largely ignored in the play. Throughout Shakespeare downplays the crisis of public justice in Elsinore, leaving him free to focus on the personal toll exacted by the duty of revenge on his protagonist. As the acting of revenge comes to stand in for the possibility of authentic personal action – that within that passeth show – it no longer functions as a metaphor for socio-political action, thus bringing the tragic mode in a direction more familiar to modern audiences.

For as long as *Hamlet* has been studied, it has been recognised that this is a revenge tragedy that struggles with its own identity as a revenge tragedy. My purpose here has been to show that an integral part of this is Shakespeare's subtle distancing of revenge from political action in the mould of *Titus Andronicus* or *Antonio's Revenge*. This distance manifests itself in Hamlet's isolation from his environment, Fortinbras' military campaigns that are unconnected

[154] Horatio's ability to relate Hamlet's cause aright is another matter, as his first attempt falls far short of the mark when he talks 'Of accidental judgements, casual slaughters,/ Of deaths put on by cunning, and for no cause' (5.2.366).

with his father's death, and Laertes' all-too-brief alliance with a discontented populace. This last appears to me uniquely deliberate, because it is largely unnecessary. Like the macro-politics of the first act, Laertes' rebellion is a strand of plot that leads nowhere. When placed alongside Hamlet's own lack of concern for questions of justice, law, or even national politics, as well as the trial scene that we are promised but never witness, a conscious and concerted effort to steer revenge away from an early modern legal context seems implicit.

In making Hamlet's revenge more personal than political, Shakespeare severs the link between revenge and the law. Hamlet is not forced onto the path of vengeance by an unjust verdict, nor is he plagued by falsified evidence or corrupt judgements. This is a play that actively avoids the early modern legal system and all its accompanying paraphernalia of courtrooms and judges. The law is not completely absent from *Hamlet*, and I have shown how remnants of socio-legal issues do remain embedded in the plot. They surface in such places as Laertes' rabble who lend their support to the hot-blooded revenger at a moment's notice (only to disappear just as suddenly), or in the grave-diggers' disquisition on the law of burial, complete with garbled Latin: 'Argal, he that is not guilty of his own death shortens not his own life' (5.1.19). It is one of the mysteries of *Hamlet* that the most technical legal discussion is given to the lowly gravediggers and not to those of the king's court. At the same time, it makes a certain sense that the law is dealt with from such a marginal position, at the edge of a grave, because it illustrates perfectly how early modern law does not hold centre-stage in Shakespeare's play. Therefore while many critics have excavated specific facets of the law in *Hamlet*, I have been more concerned to demonstrate an overall displacement of law in the text as a whole. This serves the dual purpose of helping to illuminate what it is that sets *Hamlet* apart from other revenge tragedies, and also why those other revenge tragedies are worthy of more intensive study from the point of view of early modern law.

Chapter Five

Lorrique: 'tis, I take it, the son to that vice-admiral that

turned a terrible pirate!

Otho: Let us turn back into the sea again.

The Tragedy of Hoffman, 1.1.122

[P]iracy...is more often than not a problem of perception:

it matters who calls whom a pirate, and why.[1]

On 25 September 2010, a production of Henry Chettle's *The Tragedy of Hoffman* was staged in Magdalen College, Oxford, as part of a one-day conference on the play.[2] Instead of giving the text its early modern subtitle of *A Revenge for a Father*, the cover of the conference

[1] Bernhard Klein, '"We are not pirates": Piracy and Navigation in *The Lusiads*', in *Pirates? The Politics of Plunder, 1550-1650*, ed. by Claire Jowitt (Basingstoke: Palgrave Macmillan, 2007), pp. 105-17 (p. 110).

[2] This appears to be the first recorded performance in modern history, directed by Elisabeth Dutton (available online here: <http://media.podcasts.ox.ac.uk/engfac/hoffman/hoffman_act1.mp4>).

programme read '*Hoffman, or Hamlet without the Prince*'. This invented subtitle points towards just how difficult it can be to discuss revenge tragedies without recourse to *Hamlet* – in asserting its difference from Shakespeare's play, it simultaneously invites comparison with it. Such a tension can also be detected in the opening lines of the play itself, when Hoffman stalks onstage to declare 'Hence clouds of melancholy' (1.1.1), evoking *Hamlet* even as he rejects it.[3] Parallels of plot, structure, and even characterisation between the two texts have long been noted, and I will touch on these in the coming pages. As well as looking at why Chettle might wish to echo Shakespeare at certain junctures, I want to go beyond this and take the play on its own merits. In Hoffman, Chettle creates a revenger whose villainous exploits may be abhorrent, but which ask to be placed within a wider frame of reference. This is achieved by the introduction of discourses of piracy and rebellion that resist simple categorisation and instead act to destabilise even the most basic early modern hierarchies of meaning. Superficially, Chettle's play seems to deal in straightforward binaries – lawful duke/convicted pirate; virtuous mother/villainous son; pious forgiveness/sinful rebellion – but each of these hierarchies is overturned in due course.

My reading of *Hoffman* sees in Chettle's filial revenge motif a way of reflecting on a citizen's responsibility to the sovereign, and what happens when this clashes with familial or personal duties. This is of course a common idea in revenge tragedies, from Hieronimo's crisis of duty over his son's murder, to Antonio's filial revenge, which lies between regicide and tyrannicide. *Hoffman* may not pitch a heroic avenger against the forces of social injustice; nevertheless, I suggest that Chettle's play evinces the genre's skill for acute social commentary. Firstly, I examine the play's problematic deployment of the term 'pirate', to show how this raises larger questions of legality and loyalty in the context of late Elizabethan England. At its centre *Hoffman* stages an abortive rising led by a disinherited prince, and I look

[3] Cf. Vindice's first appearance with skull in hand, *The Revenger's Tragedy* (1.1).

at the implications of this for the politics of the play at large, as well as suggesting a more subtle engagement with Shakespeare's *Hamlet* than has been previously entertained. More generally, I will demonstrate how Chettle's *Hoffman* carries forward the work of earlier revenge tragedies that frequently posit the problem of revenge within a network of legal, and even jurisdictional questions, in a way *Hamlet* never does. Due to the play's relative obscurity, I will give a brief overview of the text's provenance, before sketching out a basic plot summary. I will then move on to my analysis of the play, which takes account of the little work that has already been done on Chettle. I address recent scholarship on early modern oceanography and piracy as a way of approaching Hoffman's revenge, which has its roots in his father's execution for piracy. I also argue for Jerome's rising in 3.2 as a complex intertextual response to *Hamlet*, one which shows a prince successfully bring together personal grievance and political action. Lastly, I look at Hoffman's violent revenge and the counter-revenge it engenders, to see to what extent the ending might be seen to resolve the socio-legal issues raised. The burning crowns that bookend the action of this play may have very different motivations and justifications, but the very fact that Chettle chooses to introduce that particular method of punishment, within a revenge play that asks so many questions about the nature of authority and what constitutes legitimate action, lends the symbol a significance that exceeds both didacticism and sensationalism.

Henry Chettle is a somewhat enigmatic figure, who is known to have been involved in shady printing practices with Hoskins and Danter, most notably concerning the quarto of *Romeo and Juliet*.[4] There is evidence of widespread collaboration with other early modern dramatists –

[4] On this, see John Jowett, 'Notes on Henry Chettle [pt 2]', *The Review of English Studies*, 45 (1994), 517-22 (p. 518ff). It is worth noting that Danter also printed the first quarto of *Titus Andronicus* in 1594, which was the earliest printed Shakespearean play, see *Titus Andronicus*, ed. by Jonathan Bate, Arden Shakespeare series (London: Routledge, 1995), p. 96.

Frances Meres lists him, somewhat surprisingly, among 'the best for comedy'[5] – and Jowett discusses his possible contribution to *Sir Thomas More*.[6] His level of involvement with *Greenes Groatsworth of witte* continues to be debated, in particular whether he was the author of the infamous comment on 'an upstart Crow...with his *Tygers hart wrapt in a Players hyde*' (original emphasis), which again has direct implications for his relationship with Shakespeare.[7] Due to Chettle's connections with the printing profession, Jowett describes him as 'an important mediator between drama and print'.[8] He is also known for having often been in debt, resulting on at least one occasion in a stay in the Marshalsea debtors' prison.[9]

As for *The Tragedy of Hoffman* itself, the text comes down to us in an anonymous quarto printed in 1631. Jowett describes the text as chaotic, due to inconsistent speech prefixes for characters' names, 'suspect' act divisions and an abrupt ending that may or may not suggest that the final lines of the play are missing.[10] The play has been attributed to Chettle on the basis of an entry in Henslowe's diary recording a payment of five shillings to

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[5] Francis Meres, *Palladis tamia Wits treasury being the second part of Wits common wealth* (London, 1598) (available on EEBO, STC no. 17834), p. 284, sig. Oo4^{v}.

[6] Jowett, 'Notes on Henry Chettle [pt 2]', p. 519; p. 517.

[7] John Jowett, 'Notes on Henry Chettle [pt 1]', *The Review of English Studies*, 45 (1994), 384-8 (p. 386ff). See also Katherine Duncan-Jones, *Shakespeare from Upstart Crow to Sweet Swan: 1592-1623*, Arden Shakespeare series (London: Routledge, 2011), p. 37ff.

[8] Jowett, 'Notes on Henry Chettle [pt 1]', p. 384

[9] Jowett, 'Notes on Henry Chettle [pt 2]', p. 521. For the reference to the Marshalsea prison, see Harold Jenkins, *The Life and Work of Henry Chettle* (London: Sidgwick and Jackson, 1934), p. 24.

[10] Jowett, 'Notes on Henry Chettle [pt 2]', p. 520; Jenkins was similarly unsparing when he says that Chettle 'is doubly unfortunate in that this one play, *Hoffman*, has survived with a most atrocious text', *The Life and Work of Henry Chettle*, p. 90. Hoffman's first name is sometimes given as Clois and other times as Sarlois, while Prince Otho of Luningberg is occasionally called by the name Charles, *The Life and Work of Henry Chettle*, p. 101. Jenkins even suggests that Charles is excised in favour of Otho at the time of printing so as not to coincide with the name of the king when the play was revived, p. 101-2. For a full account of the discrepancies and textual errors in the quarto, see *The Life and Work of Henry Chettle*, pp. 90-107.

Chettle for 'A tragedie called Hawghman' on 29 December 1602.[11] Such a date implies that Chettle was writing before Shakespeare's *Hamlet* was available in print.[12] Having said that, the similarities of plotting and characterisation (for example, Lucibella's madness bears a striking resemblance to that of Ophelia[13]) seem to suggest that Chettle was aware of Shakespeare's text when composing his own revenge tragedy around 1601/1602, but precision about such matters remains elusive. Whether this can be accounted for with reference to an Ur-*Hamlet* is hard to say, but I argue that Chettle's engagement with Shakespeare's *Hamlet* can be seen at a minute thematic and structural level, giving further weight to the argument that *Hoffman* post-dates *Hamlet*. The title page of the quarto also describes how it 'hath bin diuers times acted with great applause, at the Phenix in Druery-lane', indicating that the play underwent a revival on the stage before going to print.[14]

The play's main plot focuses on the fortunes of Hoffman, whose father was at one time a vice-admiral but who turned to piracy before being captured and executed by the duke of Luningberg by means of a burning iron crown. The exact nature of the father's crimes is left in doubt, and I will return to the significance of this later. Before the action of the play begins, Hoffman has stolen down the 'bare bones' of his father's gibbeted corpse and fled to a cave in the wilderness, where he preserves the skeleton as a 'dead remembrance' and swears vengeance (1.1.47; 1.1.6). As the play opens, providence seems to favour Hoffman, when a shipwreck delivers to him the son of his father's enemy, Prince Otho of Luningberg, and his servant Lorrique. Hoffman privately convinces Lorrique to turn against his master, and together they dispatch Otho with a burning iron crown (thus mimicking Hoffman's father's

[11] *The Life and Work of Henry Chettle*, p. 72.

[12] The first quarto we have for *Hamlet* does not appear until 1603. On the lack of concrete verbal parallels between texts see *The Life and Work of Henry Chettle*, p. 79-80.

[13] Jenkins is not convinced of their kinship, *The Life and Work of Henry Chettle*, p. 79.

[14] Jenkins' date range for this revival is 1625-36, *The Life and Work of Henry Chettle*, p. 90.

method of execution). With Lorrique to corroborate his story, Hoffman now travels to the Prussian court of Duke Ferdinand posing as the duke's nephew, Otho, whom Ferdinand has never met. Ferdinand is overjoyed and names 'Otho' (Hoffman) his heir, in place of his own son, Jerome, whom he describes as a 'witless fool' (1.2.50).

In the subplot, the lovers Lodowick and Lucibella have fled from their feuding fathers, the dukes of Saxony and Austria respectively, and take shelter in the Prussian court. Saxony and Austria are then shown meeting at the hermitage of Rodorick (himself fled into the wilderness after attempting to gain the throne of Austria from his brother). All three are eventually united in amity and set out to follow the pair of lovers to Ferdinand's court. Back at court, Hoffman has disguised himself as the hermit Rodorick in order to convince the lovers to flee in Grecian garb, claiming Duke Ferdinand seeks their life. This leads to a scene in the forest where Lodowick's brother Mathias slays Lodowick in error, having been told by 'Rodorick' that Lucibella was absconding with 'a base Greek' (3.1.96). Lucibella is also wounded, albeit not fatally, and subsequently goes mad. In the aftermath, Austria, Saxony and Rodorick appear, and in the ensuing melee Hoffman manages to stab Austria while making it look like Saxony's doing.

Meanwhile, the disinherited Jerome has raised a '*rabble of poor soldiers*' with the intention of taking his father's throne by force (s.d. 3.2.1). Jerome's attempt is doomed to failure, and Ferdinand enters to crush the rebellion. But bloodshed is averted when 'Otho' negotiates a peace between father and son, and gets Jerome appointed as his father's cup-bearer. This paves the way for Lorrique, disguised as a French doctor, to convince Jerome to poison his father and his rival 'Otho'. Hoffman knows of the plot in advance, and watches as father and son die after ingesting the poison, leaving him free to rule Prussia unimpeded. Hoffman's fortunes begin to turn, however, with the arrival of Martha, mother to the murdered Otho and newly bereaved wife of the duke of Luningberg (meaning that Hoffman's

principle target for revenge dies without ever having made an appearance). On the point of killing Martha and securing his dominion over Prussia, Hoffman falls in love with the mother of his first victim. He decides to tell her that her son drowned, and that he, Hoffman, assumed the name Otho to 'keep black care/From her white bosom' (4.2.181). Martha is initially convinced, and agrees to keep his secret.

In the final movement of the play, Lucibella in her madness leads the other characters to the bodies of Old Hoffman and the real Otho. Lorrique confesses that Hoffman has been the villain from the start (while keeping silent on his own role in the murders). The remaining characters conceive of a plan to be revenged on Hoffman, but not before Hoffman has killed Lorrique after becoming suspicious about his loyalty. They lure Hoffman to his cell, using Martha as bait, where he is finally executed in the same manner as his father, and dies raving while wearing a burning crown in the last lines of the play. Poisonings, disguises and a bloody catastrophe are run-of-the-mill for early modern revenge tragedy. Chettle however introduces some interesting modifications to the genre. Most obvious is the lack of justification for the protagonist's revenger Hoffman, since his target is the legal executioners of his father, although this is something I wish to problematise. It could also be argued that Hoffman never actually achieves his revenge, since his primary target, the Duke of Luningberg, dies of natural causes. It is my intention to demonstrate that in other ways, *Hoffman* is more clearly recognisable as a revenge tragedy than its more famous analogue, *Hamlet*, due to the marrying of personal revenge with political strife. I will argue that Chettle's *Hoffman* fits well with the socio-legal preoccupations of earlier revenge tragedies through its focus on civil unrest, legal ambiguity, and social critique.

Firstly, I want to touch on the relatively small amount of literary criticism available on the play. In comparison to *Hamlet* the dearth of critical material on *Hoffman* is quite surprising, especially in light of the tendency towards New Historicism and the many socio-

political discourses engaged with by Chettle's play. An online biography of Chettle from 2005 opens the final paragraph as follows: 'Aside from questions of attribution, critical discussion of Chettle has not been extensive'.[15] Pursglove continues that 'Harold Jenkins's book of 1934, *The Life and Work of Henry Chettle*, remains the standard work'.[16] Although Duncan-Jones' latest book on Shakespeare's reception by his contemporaries discusses Chettle at some length, she explicitly foregoes the opportunity to discuss the crossover between *Hoffman* and *Hamlet*.[17] While we have evidence for Chettle as an influential figure on the early modern dramatic scene, *The Tragedy of Hoffman* is the only extant play believed to be solely authored by him. Despite this, the attention *Hoffman* has received from the academic community has been slight. Having said that, Emma Smith's latest edition of five revenge tragedies including *Hoffman*, as well as the one-day symposium in Magdalen College, Oxford, may indicate a recent renewal of interest.[18] In Bowers' book of 1940, he says of the play, '*Hoffman* is a play of considerable historical interest because of Chettle's creation of his protagonist villain...through the logical development of vices inherent in the heroes of earlier revenge tragedy'.[19] Chettle's play is taken by Bowers as a turning point for the genre: the protagonist segues from

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[15] From Glyn Pursglove's biographical entry for Henry Chettle, *Literature Online* (2005) <http://gateway.proquest.com/openurl?ctx_ver=Z39.88-2003&xri:pqil:res_ver=0.2&res_id=xri:lion&rft_id=xri:lion:ft:ref:BIO000461:0> [accessed 13 August 2011] (para. 9 of 9). Emma Smith's 2004 entry in the *Oxford Dictionary of National Biography* cites Jenkins and Jowett in relation to *Hoffman*, *Oxford Dictionary of National Biography* (2004) <http://www.oxforddnb.com/view/article/5245> [accessed 10 August 2011] (para. 4 of 6).

[16] Pursglove, para. 9 of 9. He goes on to list five critics who have engaged with Chettle's work in more recent years. Of these, only one deals with *Hoffman*, Richard Brucher, 'Piracy and Parody in Chettle's *Hoffman*', *The Ben Jonson Journal*, 6 (1999), 209-22, which I will return to below.

[17] *Shakespeare from Upstart Crow to Sweet Swan*, p. 173.

[18] Previously the play was available either in an out-of-print edition by the Malone Society (London: Malone Society, 1951), or a little known edition by John Jowett (Nottingham: Nottingham Dramatic Texts, 1983), the latter growing out of Jowett's doctoral thesis, '*The Tragedy of Hoffman*: An Edition' (Liverpool University, 1983).

[19] Bowers, p. 130.

misguided to malevolent, since 'Elizabethan audiences were growing increasingly chary of accepting the bloody heroes as good and admirable men'.[20] Such a verdict, which sees the play as lacking in moral complexity and useful more for its 'historical interest' than any intrinsic merit, went virtually unchallenged for the remainder of the twentieth century.

In more recent decades, John Jowett has significantly modified Jenkins' account of Chettle's work as both author and printer, paving the way for a fresh approach to his work. Even still, since Jowett's two-part account of Chettle's textual history in 1994, critics that engage with *Hoffman* can be counted on the fingers of one hand. Sarah J. Glady argues for *Hoffman* as an anti-revenge play, but one which contradicts itself by having an illegal counter-revenge at the end instead of bringing Hoffman to justice by means of state punishment. Her suggestive title of 'Revenge as Double Standard in *The Tragedy of Hoffman*' slips easily into the fallacy that revenge and law are mutually exclusive, reading Martha's counter-revenge as an author's 'inconsistency [which] undermines whatever stance against revenge Chettle might have been taking by having Hoffman executed'.[21] I will argue instead that the collective counter-revenge acts an important piece of common ground with other communal political actions in the genre. Paul Browne's contribution to *Notes & Queries* supplements the story of a real-life 'Hans Hofeman' who was beheaded for robbery in Gdansk in 1580,[22] with an account of György Dózsa, who led a peasant uprising in Hungary in 1514, and was punished with a

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[20] Bowers, p. 127.

[21] Sarah J. Glady, 'Revenge as Double Standard in *The Tragedy of Hoffman*', *Discoveries: South-Central Renaissance Conference News and Notes*, 18 (2001), 3-4 (p. 3). Janet Clare also touches on the play briefly in *Revenge Tragedies of the Renaissance* (Devon: Northcote House, 2007), pp. 49-54, saying of Martha's counter-revenge that her position of authority means that '[a]narchy and autocracy are seen thus to overlap', p. 53.

[22] See *The Life and Work of Henry Chettle*, p. 85.

burning crown and red-hot iron throne.[23] The link made between popular insurrection and that particular method of execution is irrefutable. At the same time, Browne's certainty that Chettle had specific knowledge of Dózsa appears to me to be undercut by the many other instances of death by burning crown cited by him.[24] Elsewhere, Duke Pesta discusses the uncanny crossover between the revenger and the early modern anatomist, both of whom try to uncover what is hidden in the human core in a highly theatrical manner.[25] Pesta claims that 'the revenger and the anatomist are merely different branches of the same family tree', but that ultimately both are doomed to failure: 'despite the totalizing gestures of the revenger in his quest to make sense of a diseased and infected world, epistemological certainty remained elusive'.[26] Pesta goes on to claim that *Hamlet* succeeds where *Hoffman* fails, because Hamlet 'transcends the physicality of his own death by transforming it into a *memento mori*'.[27] Each of these pieces contributes something to our knowledge of *Hoffman*, but stop short of challenging the perception that the play is fundamentally flawed. I want, finally, to discuss to the work of both Brucher and Honda more fully, as they both mark something of a new departure in critical approaches to the play.

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[23] Paul Browne, 'A source for the "burning crown" in Henry Chettle's *The Tragedy of Hoffman*', *Notes & Queries*, 51 (2004), 297-9 (p. 298).

[24] Browne mentions in passing that the same method of execution was used on the Earl of Atholl at the Cross of Edinburgh, who was declared King of Traitors for conspiring against James I in Scotland in 1437, p. 297. This may be more significant than the Hungarian account to the genesis of Chettle's play, if we consider the fact that James' succession to the English throne came within three months of Henslowe's payment to Chettle for the play.

[25] Duke Pesta, 'Articulating Skeletons: *Hamlet*, *Hoffman*, and the Anatomical Graveyard', *Cahiers Élisabéthains*, 69 (2006), 21-39.

[26] Pesta, p. 27.

[27] Pesta, p. 36. Of Hoffman Pesta says, 'Hoffman becomes in death that which he could not recognize in life, a crowned exemplum of the *memento mori* tradition', p. 31.

In his essay 'Piracy and Parody in Chettle's *Hoffman*', Richard Brucher sees *Hoffman* as 'a play preoccupied with threats to civil order'.[28] By designating Hoffman's father a pirate, Brucher argues, Chettle engages and exploits popular attitudes towards piracy that stopped short of outright condemnation.[29] This is then linked with Jerome's rising, as both Hoffman's revenge for his father and Jerome's feeble attempt at rebellion become subtly politicised by Chettle:

> Hoffman's rise to power and Jerom's [*sic*] uprising are two of the startling improbabilities that supposedly mark Chettle's incompetence. However, the plot devices serve the play's critique of the ruling class and play directly on audience anxieties about orderly succession and the wounds of civil war.[30]

Such a repoliticisation of *Hoffman* brings a welcome relevance and contextualisation to the study of the play. However, Brucher is wary of giving Chettle full credit for a more radical political stance: 'Clearly, Hoffman means to subvert the political order; what is less clear is the degree to which Chettle reproves him for it'.[31] While Brucher identifies in the play a political undercurrent that Bowers could never have imagined, such class antagonism is then seen as an anomaly for a revenge play. I will argue instead that far from being an aberration, Chettle's

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[28] Brucher, p. 210.

[29] Brucher makes the connection between privateers like Drake and Ralegh and 'the state's capricious, ungrateful treatment of his [Hoffman's] father's good service, which was a familiar enough story in the late 1590s and early 1600s', p. 212. As I will argue, Chettle's choice of piracy for Old Hoffman also introduces a considerable degree of legal ambiguity.

[30] Brucher, p. 215.

[31] Brucher, p. 214. He later reiterates this point by saying 'The play refuses to yield coherent socio-political commentary', which seems to go against his perceptive analysis of the play overall, p. 220.

Hoffman makes complete sense when viewed as part of revenge tragedy's penchant for acute social commentary.

Honda takes a similar line of approach, by examining the socio-political milieu of late Elizabethan foreign policy – in particular, the problems posed by returning soldiers – and linking this to *Hoffman*'s representation of ungrateful sovereigns and rebellious veterans.[32] The genre of revenge tragedy is seen as a vehicle for Chettle to express his own political position in the run-up to James' coronation. Honda goes so far as to see the outline of a specific course of action: 'the play seems strongly to assert the need for war, and to oppose pacifists such as James and Cecil'.[33] She takes the state's treatment of demobilised soldiers as the most relevant context in which to view the play, and repeats at some length instances where Chettle's depiction of the soldiers can be read as being sympathetic.[34] Again, Jerome's rising is a key scene here, as the aristocratic Duke offers to mercilessly crush the *'rabble of poor soldiers'* (s.d.), and is prevented only by Hoffman's intercession. Thus, Hoffman the character and *Hoffman* the play are seen to criticise 'those who, like the Dukes, extort and exploit the common people, and who have deprived the ordinary soldiers of their pay and other benefits'.[35] This is then taken as a species of nostalgia for an Elizabethan Golden Age, containing within it Chettle's implicit rejection of Jacobean appeasement: 'He dealt with this topical war theme in *Hoffman* from a pro-war viewpoint, in other words, anti-Catholic and

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[32] Marie Honda, *'The Tragedy of Hoffman* and Elizabethan Military Affairs', 演劇研究センター紀要 [*Bulletin for the Centre of Theatre Research*, Waseda University Japan], 6 (2006), 197-207 <http://dspace.wul.waseda.ac.jp/dspace/bitstream/2065/26864/1/019.pdf> [accessed 3 August 2011].

[33] Honda, p. 198.

[34] Honda: 'the poverty of soldiers in general seems to be emphasized', p. 201; 'the Duke sneers at the poor living conditions of the common soldier', p. 202; 'His [Old Stilt's] miserable status can be thought to reflect the social problems of veterans', p. 202; 'Chettle thus clearly describes poor soldiers with considerable sympathy in *Hoffman*', p.203.

[35] Honda, p. 203.

anti-James'.[36] While I agree broadly with Honda's excavation of the social problems underlying the play, I believe her focus on military matters is too narrow. At the same time, Hoffman's actions are not always as noble as Honda implies, and I would take issue with the notion that Hoffman is motivated by a genuine concern for returning veterans.[37] Jerome's rising is indeed important, but not only or even primarily for the plight of returning soldiers, and I will argue that it also acts as Chettle's intertextual reply to Shakespeare's *Hamlet*, which is elided by Honda.

Rather than focusing on a particular social context, I seek to read *Hoffman* within a wider generic framework that includes social, political and legal preoccupations. As I see it, *Hoffman*'s own questionable politics become intelligible when read alongside other revenge plays, forming part of the genre's ongoing engagement with the nexus between the citizen, his sovereign, and the bonds of law that connect each to the other in early modern England. And again, this becomes most immediately apparent if we focus on the problematisation of legal categories embedded in the play. With this in mind, I want to look more closely at the figure of Hoffman's piratical father and Jerome's rabble of soldiers, to test whether they can be read as further examples of my thesis that socio-political upheaval is a pre-requisite of the revenge genre in this period.

'A proscript outlaw for a little debt' (1.1.156)

Chettle's play opens with Hoffman alone onstage, as he rehearses his plans for revenge in soliloquy:

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[36] Honda, p. 205. It should be noted that James was not yet on the throne at the time of Chettle's writing, thus undermining Honda's notion of nostalgia for an Elizabethan Golden Age.

[37] Honda claims Hoffman 'complains about arbitrary and ungrateful rulers, who have used his father, and at the same time he refers to social inequalities and injustice: the poor status of soldiers and the prosperity of cunning monarchs', p. 202.

Hence clouds of melancholy!

I'll be no longer subject to your schisms.

But thou dear soul, whose nerves and arteries

In dead resoundings summon up revenge,

And thou shalt ha't.

1.1.1

Hoffman's commitment to violent action is clear, as he rejects stultifying thoughts and instead remembers his duty to revenge his dead father.[38] It soon becomes clear that this re-membering has a physical dimension, when Hoffman '[s]*trikes ope a curtain where appears a body*' (s.d. 1.1.6). As we learn, this is the body of Hoffman's father executed for piracy, preserved by Hoffman after he stole the body from the gallows. It would seem Old Hoffman suffered the further humiliation of public dissection, as we are later told of 'the flesh, mangled with many scars,/ Pared from the bones of my offended father' (1.1.166) until he was 'a bare anatomy' (1.1.168).[39]

Not only is Hoffman committed to revenge, he believes in the justness of his actions: 'I'll execute justly in such a cause./ Where truth leadeth, what coward would not fight?/Ill acts move some, but mine's a cause is right' (1.1.8). At this point he is interrupted by the heavens

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[38] The faint echo of *Hamlet* that can be detected in Hoffman's denunciation of melancholic thoughts in the first line would seem to be continued in line seven, as he says he will act rapidly, 'with a heart as air, swift as thought' (1.1.7). This is reminiscent of Hamlet's resolution to sweep to revenge 'as swift/ As meditation or the thoughts of love' (1.5.29).

[39] As Pesta points out, the anatomy theatres of Europe were supplied exclusively with the bodies of executed felons, p. 28. J. A. Sharpe notes: 'The custom of giving the corpse of the deceased to the medical profession for dissection, a frequent cause of riot in the eighteenth century, was already current in the seventeenth, and as early as 1635 we read of the body of an executed murderess being "conveied to Barber Sur-gions Hal for a skeleton"', '"Last Dying Speeches": Religion, Ideology and Public Execution in Seventeenth-Century England', *Past & Present*, 107 (1985), 144-67 (p. 149). Hoffman's 'bare anatomy' considerably predates Sharpe's example, albeit in a theatrical context.

themselves, with a stage direction calling for '*thunder and lightning*' (s.d. 1.1.10). Hoffman interprets the divine sign favourably, goading him on to his revenge: 'See the powers of heaven.../ [are] incensed/ That I thus tardy am to do an act/ Which justice and a father's death excites', accompanied by another thunder-clap (1.1.11). By this stage, Hoffman is fully convinced that his revenge is just, with the thunder simply confirming that he has divine backing. As Kerrigan observes in relation to *The Revenger's Tragedy*, thunder straddles the border where 'theatre turns inside out' by acting as both a marker of divine assent, and a distinctly terrestrial stage-effect.[40] Ayers reads this satirically, whereby the stage conventions become hackneyed: 'Chettle's play can be read as an ironic treatment of its protagonist's own self-justification'.[41] While I have no doubt that Chettle was well aware of generic conventions, I do not think this discounts the relevance of the thunder. For example in Tourneur's *The Atheist's Tragedy*, thunder is unambiguously aligned with the powers above without a trace of irony.[42] *Hoffman* presents us in the opening scene with a series of signs – soliloquy, appeals to justice, responsive thunder – that an early modern audience are primed to accept as genuine. And when his first victim arrives in his vicinity, providence does appear to be operative, and leaning distinctly in his favour. This is not to say that his subsequent actions are completely justifiable. Rather, the opening scene ensures that the question of justification is open to debate.

The central reason Hoffman gives for pursuing revenge is of course the death of his father. Hoffman's father may not appear as a ghost, but as Pesta says of his skeleton, Old

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[40] John Kerrigan, *Revenge Tragedy: Aeschylus to Armageddon* (Oxford: Clarendon Press, 1996), p. 203.

[41] Philip J. Ayres, 'Marston's *Antonio's Revenge*: The Morality of the Revenging Hero', *Studies in English Literature, 1500-1900*, 12 (1972), 359-74 (p. 374). He goes on to say that 'vindictiveness is clearly the cause of Hoffman's subsequent villainy'. I will argue that the quality of vindictiveness (linked etymologically with vindication) does not automatically make Hoffman's actions unjustifiable. Bowers says something broadly similar: 'Hoffman, however, had wrongfully convinced himself that his cause, and his intention also, were both rightful', p. 128.

[42] D'Amville's dismissal of thunder proves fatal (*The Atheist's Tragedy*, 2.4.143).

Hoffman 'hovers over every scene in the play'.[43] Therefore, it seems only right to look into what we are told of the man and his criminal activities, as well as how those details are communicated. Chettle reveals Old Hoffman's history to us not in a prologue, or his son's opening soliloquy, or even through Old Hoffman's own ghostly report. It is a fragmented narrative to which most of the characters contribute over the course of the play, and which we the audience must labour to re-assemble. The first we hear of the man's past is not in relation to his piracy, but conversely, in relation to his loyalty to the state. Gesturing to the skeleton, Hoffman tells the newly-arrived Lorrique 'Here were arms/ That served the trothless state of Luningberg' (1.1.49). Instead of being cast as a pirate and outlaw, he is characterised first as a servant of the state, while it is the state of Luningberg that is called 'trothless'. The exact nature of that service is left for Lorrique to expound, when Otho, son to the Duke of Luningberg, arrives on the scene: "tis, I take it, the son to that vice-admiral that turned a terrible pirate' (1.1.122). The servant Lorrique, and not Hoffman, reveals that Old Hoffman's service to the state was the respected position of vice-admiral, and only then are we told that he turned 'pirate'. As we shall see, what constituted piracy was often only a hair's breadth away from lawful conduct.

While no details of that piracy are ever given to us, Hoffman does go on to give some background to his father's role in state affairs. When challenged by Otho about his intentions, Hoffman gives a fuller account of his father's naval career:

> What, though your father with the Pomer state
>
> And your just uncle, duke of Prussia,
>
> After my father had in thirty fights
>
> Filled all their treasures with foemen's spoils,

[43] Pesta links this with the frontispiece of Vesalius' *Fabrica*, where Death hovers over the anatomy theatre unseen by the spectators, p. 27.

And paid poor soldiers from his treasury;

What though for this his merits he was named

A proscript outlaw for a little debt,

Compelled to fly into the Belgic sound

And live a pirate?

1.1.150

As vice-admiral, it would appear Old Hoffman was involved in thirty sea-fights with hostile powers, which provided a substantial source of income to the state. This account is never once contradicted by other characters. On top of this, he pays the wages of his own men, (the 'poor soldiers' expounded upon by Honda), which it would seem led him to run up 'a little debt'. The sequence from vice admiral, to debtor, to pirate is very different from a straightforward characterisation of Old Hoffman as criminal. Hoffman admits that his father was a pirate, but he also makes it clear that this was a position forced upon him. After relating a reasonably glorious record of service, Hoffman switches from the active verb forms ('filled'; 'paid') to a more descriptive mode, telling how his father 'was named' an outlaw and 'compelled to flee'. It is as if Hoffman seeks to minimise his father's responsibility for having 'turned' a pirate through the use of passive verb forms.[44]

Otho responds with 'Prithee speak no more:/ Thou raisest new doubts in my troubled heart,/ By repetition of thy father's wrongs' (1.1.159). Hoffman picks up on this last word, 'wrongs', turning it against Otho's intended meaning: 'Then he was wronged, you grant, but not by you' (1.1.162). Presumably Otho is referring to Old Hoffman's crimes, but Hoffman exposes the inherent ambiguity in the word. Are we to understand Old Hoffman as 'he who

[44] Lorrique's use of the verb 'turned' to describe Old Hoffman's move towards piracy again hovers between the active and the passive.

wrongs' or 'he who has been wronged'? Hoffman maintaining that his father is a victim might seem untenable – after all, he may have been compelled to become a pirate, but the fact of that piracy is never explicitly questioned – but we must be careful not to impose present-day conceptions of piracy onto a period where such terminology was far more fluid. In fact, it is Chettle's perceptive choice of piracy as the *primum mobile* of this drama that marks it out as a play that contests questions of legality at every step. Bowers says that to kill judges in such a manner strikes at 'the very root of the judicial system', and it does; but it does not follow that such actions 'could not be condoned'.[45] Instead of marking the younger Hoffman out as a villain, I want to show that his father's piracy serves to transform Hoffman himself into a site of contention. By opening up the question of piracy to more extended investigation, I demonstrate how Chettle challenges conventional binaries between criminal and magistrate, just as he has already inverted the hierarchy between rebel and monarch by accusing the Duke of Luningberg of being 'trothless'.

There has been something of a renaissance in the study of the early modern ocean, and it is now viewed as much as a discursive plain as a physical space.[46] This is because the high seas were where issues of nationalism, trade, colonialism and warfare all intersected, often violently. Alongside this, a huge revision of what piracy meant in an early modern context is under way. Pirates have come to be viewed as important vectors of meaning, as their activities are shown to be thoroughly enmeshed in religious debates, micro-economics,

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[45] Bowers' quotation in full reads: 'his actions in seeking a personal revenge on the legal judges of his father strikes at the very root of the judicial system and could not be condoned. No man had secretly murdered his father; he had been executed in accordance with the law and was thus a malefactor', p. 127.

[46] See for example Bernhard Klein's edited collections *Fictions of the Sea: Critical Perspectives in British Literature and Culture* (Aldershot: Ashgate, 2002); *Sea Changes: Historicizing the Ocean* (New York: Routledge, 2004).

nation-building and even challenges to royal authority.[47] So multifarious and unstable has the term 'pirate' become, that in Claire Jowitt's essay collection on the subject from 2007 she feels the need to append a question mark to the word: *Pirates? The Politics of Plunder, 1550-1650.*[48] It is from this book that I took my opening quotation from Bernhard Klein, himself an eminent critic of the early modern ocean, where he says 'piracy...is more often than not a problem of perception: it matters who calls whom a pirate, and why'.[49] In the collection, literary representations of piracy are used extensively, enlisting some of the more obscure early modern dramas.[50] Despite the early date and the subject matter of Chettle's play, *Hoffman* unfortunately goes unnoted by contributors. I want to use some of the theoretical findings of Jowitt's book as a way of situating Chettle's play within the discourse of early modern piracy, and by this means to expand the frames of reference available on both sides.

So what does it mean to be an early modern pirate? In an attempt to elucidate the legal status of piracy in the period, Christopher Harding finds inadequate more modern legal formulations, where it is described as an international crime that no country should endorse, 'the pirate being the "enemy of all humankind" – "*hostis humani generis*"'. [51] As a matter of fact, endorsement is a key issue when defining early modern piracy, due to its closeness to the

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[47] Each of these overlapping issues is well developed by the various essays in Claire Jowitt's edited collection, *Pirates? The Politics of Plunder, 1550-1650*. See also Jowitt's monograph, *The Culture of Piracy: English Literature and Seaborne Crime* (Farnham: Ashgate, 2010), which touches on the repeated use of pirates in the plots of late Elizabethan drama (Chapter 4), describing how 'buccaneers and their activities possess a burgeoning political dynamic', p. 134.

[48] Jowitt's collection post-dates the work of Brucher and Honda, who both touch on the vexed issue of piracy at the time of Chettle's writing, without fully examining its equivocal relation to legitimate naval activity in an early modern context.

[49] Klein, '"We are not pirates"', p. 110.

[50] For example, Robert Daborne's *A Christian Turned Turk* (1610-1611), Heywood and Rowley's *Fortune By Land and Sea* (1607-9), and Fletcher and Massinger's *The Double Marriage* (1620-21).

[51] Christopher Harding, '"*Hostis Humani Generis*" – The Pirate as Outlaw in the Early Modern Law of the Sea', in *Pirates? The Politics of Plunder*, pp. 20-38 (p. 20).

legitimate activity of privateering: 'Quite simply, privateering was a form of maritime plunder carried out by private parties but authorized and sponsored by state authority through formal documentation known as letters of marque'.[52] To decide whether an act was considered piracy or privateering under such circumstances was not so much a matter of what crimes were committed on the high seas, but rather, whether or not the ship in question had the necessary letter of marque.[53] This leads Harding to talk of 'the fine line between descriptions of the same conduct as legal or illegal', where in effect a sailor engaged in the same activities was either a privateer or a pirate depending on their documentation.[54] This relativistic view is important to bear in mind, and is reiterated by others in the volume. Writing of pirating activity in the English Channel during the 1590s, Matthew Dimmock sees the pirate as embodying 'the unstable boundaries between legality and illegality, loyal subject and renegade, and between a righteous national cause and individual gain'.[55] Such a description seems custom-made for a vice-admiral turned pirate, who filled the national coffers but was proclaimed an outlaw for a little debt.

In her essay, 'Oceans of Law: The Legal Geography of the Seventeenth-Century Seas', Lauren Benton shows that law and piracy intersected at a practical level, where captains sought out commissions, i.e. letters of marque, and 'labored to interpret them favourably'.[56]

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[52] Harding, p. 24. This was used extensively as part of Queen Elizabeth's policy towards Spain in the 1580s, 'a kind of privatization of state warfare', Harding, p. 25.

[53] 'In practice, letters of marque were documents of considerable legal and economic significance. One notable feature of their legal importance, which also confirms the fine distinction between piracy and privateering, was the extent to which they could be used as a defence in criminal proceedings alleging acts of piracy', p. 25. On pirates' ability to defend themselves legally, see below, p. 267.

[54] Harding, p. 24.

[55] Matthew Dimmock, 'Crusading Piracy? The Curious Case of the Spanish in the Channel, 1590-95', in *Pirates? The Politics of Plunder*, pp. 74-89 (p. 75).

[56] Lauren Benton, 'Oceans of Law: The Legal Geography of the Seventeenth-Century Seas', *Proceedings of the Seascapes, Littoral Cultures, and Trans-Oceanic Exchanges Conference*

Her work demonstrates how pirates 'went out of their way to obtain flawed commissions and even to represent fraudulent commissions as valid'.[57] The maritime legal system relied on letters of marque, which meant that sailors made it their business to know their legal position:

> Because mariners had one eye always on return and the possibility, however remote, of being brought to trial, they rehearsed stories that would legitimate their actions. They certainly had some shared knowledge of defense [*sic*] arguments that might serve them, and they often made efforts even when very far from home to preserve the pretense [*sic*] of legality.[58]

Going back to *Hoffman* momentarily, we are not told whether Old Hoffman had any such defence argument to hand. But when Otho exclaims 'Thy father died for piracy' (1.1.211), Hoffman's answer hints that his father's guilt was not as categorical as we might assume:

> Oh peace, had he been judge himself, he would have showed
> He had been clearer than the crystal morn!
> But wretches sentenced never find defence,
> How ever guiltless be their innocence.
>
> 1.1.212

<http://www.historycooperative.org/proceedings/seascapes/benton.html> [accessed 16 August 2011] (para. 21 of 30).

[57] Benton, para. 22 of 30. Among the examples Benton gives is the case of pirate George Cusack, who presented a commission in someone else's name at trial, claiming they had been accidentally exchanged at sea, para. 22 of 30.

[58] Benton, para. 18 of 30. See also Harding's section entitled 'The pirate as legal defendant', p. 31ff: 'The important point, more generally, is that the legal process and its exploitation were well appreciated both within the pirating community and its shadowy hinterland of promoters and investors', p. 32.

It is as if, Hoffman seems to suggest, his father could have fashioned a convincing narrative to account for his actions, but he was never given the opportunity. More generally, the fact that pirates would come to court prepared with legal defences reinforces the impression of a 'notorious legal-mindedness' at all levels of society during the early modern period.[59] The marginal figure of the pirate shows that being outside the commonwealth, both physically and metaphorically, does not mean that one is beyond the legal system. Like the food rioters who couched their actions in legally defensible terms, pirates show that a knowledge of the law is essential to early modern subjectivity.[60] In such a formulation, the law is not a tool of oppression or the enemy of the masses; rather, it is like the ocean, a contested terrain to which many different and differing social actors laid claim.

Finally, I want to engage with Claire Jowitt's own essay, 'Scaffold Performances: The Politics of Pirate Execution'.[61] In it, she takes the idea of the early modern scaffold as a staged performance that seeks to reinforce cultural hierarchies – Foucault's 'spectacle' – before going on to argue for the 'ambivalent ideological effects of the scaffold speech' in the case of pirate executions.[62] Such executions were inherently theatrical affairs, taking place at low tide in Wapping and accompanied by a good deal of ceremonial custom.[63] By looking at the accounts

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[59] The phrase is taken from Steve Hindle, 'The Keeping of the Public Peace', in *The Experience of Authority in Early Modern England*, ed. by Paul Griffiths, Adam Fox and Steve Hindle (Basingstoke: Macmillan, 1996), pp. 213-48 (p. 226).

[60] See Chapter Three, pp. 157-60.

[61] Claire Jowitt, 'Scaffold Performances: The Politics of Pirate Execution', in *Pirates? The Politics of Plunder*, pp. 151-68.

[62] Jowitt, 'Scaffold Performances', p. 155. It is not difficult to see the lines of connection between such a title and J. A. Sharpe's '"Last Dying Speeches"', or James Shapiro, '"Tragedies Naturally Performed": Kyd's Representation of Violence', in *Staging the Renaissance: Re-interpretations of Elizabethan and Jacobean Drama*, ed. by David Scott Kastan and Peter Stallybrass (London: Routledge, 1991), pp. 99-113.

[63] As piracy was dealt with in the courts of the Admiralty, executions took place in the littoral zone, between high and low tides, which fell under the jurisdiction of the Admiralty. The liminality of this

and speeches surrounding the executions of Purser, Clinton, and even Sir Walter Ralegh, Jowitt identifies a current of radical social critique that is uniquely bound up with the felon-actor's identification as 'pirate'. Taking the example of Purser and Clinton's execution, she shows how it is rich in both theatrical display and political subtext, reading Purser's distribution of his sumptuous clothing as 'a kind of *memento mori* and a way of articulating a shared identity of anti-establishment beliefs'.[64] Of Ralegh, Jowitt goes even further, claiming his 'demeanour at execution and, more particularly, his discussion of what does and does not constitute piracy, adds up to a powerful critique of the political inconsistencies and arbitrary justice of the state, and monarch, who condemns him'.[65] Ralegh defended himself to the last against accusations of piracy, and openly questioned James' redefinition of his encounters with the Spanish in Guiana as piratical.[66] Again, the status of 'pirate' is a contested term that is bound up with issues of international diplomacy, nationalist rhetoric, and what is most expedient to the Crown. Jowitt's conclusion is worth quoting at length, for the way it brings together legal ambiguity, theatricality, and social critique:

> [T]he execution performances and textual representations of their "piracy" discussed here expose the disputed nature of the crime for which they are condemned, where distinctions between outlaw and

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space is itself highly significant, considering the jurisdictional conflicts surrounding the early modern ocean.

[64] Jowitt, 'Scaffold Performances', pp. 153-4. Jowitt acknowledges the work of Ann Rosalind Jones and Peter Stallybrass on the cultural economy with which early modern clothing was imbued, *Renaissance Clothing and the Materials of Memory* (Cambridge: Cambridge University Press, 2000)

[65] Jowitt, 'Scaffold Performances', p. 168.

[66] The charges against Ralegh were primarily related to treason but also included piracy. For an excellent account of Ralegh's trial, see Karen Cunningham, 'A Spanish Heart in an English Body: The Raleigh Treason Trial and the Poetics of Proof', *Journal of Medieval and Renaissance Studies*, 22 (1992), 327-51: 'the consensus is that it was legal but unjust', p. 337.

> commissioned violence at sea appear arbitrary and compromised. By revealing the overlaps between legitimate and illegitimate violence at sea all the texts discussed here question the justice of the legal system that condemns the "pirates", and the government and monarch in whose name "justice" is executed.[67]

The added quotation marks underline that what we now think of as stable categories were highly unstable at the time. It is the explicit connection drawn by Jowitt between the act of piracy, or "piracy", and the potential for legal critique that makes her work so relevant to *Hoffman*, where the revenge action is motivated by a vice-admiral turned "pirate". If the final moments of actual felons convicted of piracy can add up to a powerful critique, then surely the representation of such actions on the early modern stage – a space known for its power to challenge authority and question dominant ideologies – has the potential to be more than an artefact of historical interest, as Bowers dubbed it. Furthermore, if real-life pirates were anxious to 'preserve the pretense [*sic*] of legality', well aware of the role of interpretation in deciding their fate,[68] then how much more does this apply to the early modern playhouse, where issues of interpretation were never far from the minds of authors and audiences alike?

It is interesting to note that the original 'Hans Hoffman' was executed for robbery, not piracy. So one can only assume that Chettle was deliberate in choosing a new sea-faring profession for the father of his protagonist, in the first years of a century that would eventually see England's rise to naval supremacy firmly established. When read in the recontextualisation of early modern piracy provided by recent scholarship, Chettle's choice appears uniquely

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[67] Jowitt, 'Scaffold Performances', p. 168.

[68] Benton, para. 18 of 30.

pertinent to the representation of a violent course of action that nonetheless has its roots in Hoffman's legitimate grievance with state mechanisms of "justice": 'But wretches sentenced never find defence,/ How ever guiltless be their innocence' (1.1.214). In fact it is Old Hoffman's status as pirate that moves the subsequent action towards a far more ambivalent relation between crime and punishment.

While his father's activities elude simple legal categoraistion, Hoffman's own actions are firmly outside the law from the outset. This is signposted before he embarks on his murderous spree when, after Hoffman's opening soliloquy, Lorrique arrives onstage having been shipwrecked. Drawing a distinction between life at court and the wilderness in which he now finds himself, Lorrique's opening lines are as follows:

> Yet this is somewhat like, but brambles, you are too busy: were I at Luningberg, and you catch me thus, I should go near to ask you at whose suit – but now I am out of scent and fear no sergeants, for I think these woods and waters are commonwealths that need no such subjects; nay they keep not a constable at sea, but a man's overwhelmed without order.
>
> 1.1.28

Lorrique's lines go beyond simple plot exposition, as they immediately tap into the play's larger concerns. Wilderness and lawlessness combine effortlessly in his thoughts, where to be without civilisation is to be without law and its attendant officers: constables and sergeants. After almost being swallowed by the sea, Lorrique praises dry land; but Hoffman interjects that dry land has more 'wide-devouring throats' by far (1.1.38). Their subsequent exchange

becomes thinly-veiled social invective aimed at courtly politics: 'They feed them fat, while arms and honour starve./ Desert looks pale as death, like those bare bones' (1.1.46). But Lorrique has not stumbled across the cave of Belarius in *Cymbeline*, where rustic virtues triumph over courtly vices.[69] It soon becomes apparent that Hoffman's cell conforms to the initial impression of the wilderness as an absence of law, replete as it is with the skeleton of a convicted criminal and his son bent on bloody vengeance.

The problematic providence that manifested itself in the heavens' thunderous reply to Hoffman's oaths of vengeance at the beginning now re-emerges, as fate delivers into Hoffman's hands the only son of his chief enemy, Otho of Luningberg. This is the same state of Luningberg that Hoffman calls 'trothless', which we now realise is tied up with his belief that his father was wronged despite his loyal service. Regardless of whether Hoffman's subsequent conversion of the pliable Lorrique to his cause should be read providentially or simply as authorial pragmatism, the first victim of Hoffman's revenge follows in short order. Hoffman lulls Otho into a false sense of security through the subtle manipulation of the 'lawless wilderness' trope, as he kisses the ground in thanksgiving and announces 'For now my savage life, led amongst beasts,/ Shall be turned civil by your gracious help' (1.1.137).[70] Hoffman next reminds Otho of his father's loyal service and mistreatment, leading to execution and dissection; and for this, Otho too must die:

Otho: Oh Lorrique, I am betrayed! Slave, touch me not.

Hoffman: Not touch thee? yes, and thus trip down thy pride:

You placed my father in a chair of state.

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[69] 'O, this life/ Is nobler than attending for a cheque:/ Richer than doing nothing for a robe,/ Prouder than rustling in unpaid-for silk', (*Cymbeline*, 3.3.21).

[70] 'Hoffman mocks social hierarchy from the moment he walks onstage', Brucher, p. 213.

This earth shall be your throne.

1.1.195

It is unclear whether Hoffman's reference to a 'chair of state' is an ironic description of his father's method of execution; Browne's source text from Hungary mentions a red-hot iron throne as well as burning crown.[71] Alternatively, it may imply that the one-time vice-admiral did actually occupy an important political position in the court of Luningberg, perhaps in some sort of advisory capacity.[72] Hoffman seeks to emphasise the reciprocal nature of his actions by equating Otho's murder with that of his father. Reciprocity can even be felt at a metrical level, when to Otho's cry, 'O torture above measure!' Hoffman responds, 'My father felt this pain, when thou hadst pleasure' (1.1.209). Despite Otho's protestations that 'Thy father died for piracy', asserting the justness of state execution, Hoffman proceeds to kill Otho by the same method. A burning crown is brought forth by Lorrique, and as we witness Otho's onstage execution, the pain he feels is described in agonizing detail: 'I feel an Etna burn/ Within my brains' (1.1.219).

At this point, let us look more closely at the precise method of execution employed, first by the state of Luningberg and subsequently appropriated by Hoffman. Browne tells us that the use of a burning crown at execution was most commonly for attempted regicides and leaders of popular rebellions.[73] That is, as a method of punishment the burning crown has nothing to do with piracy, historically speaking. Does the fact that Old Hoffman died by this method imply that as well as piracy he was guilty of sedition or possibly insurrection? We are

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[71] Browne, p. 298.

[72] As a parallel example from real life, Ralegh was appointed governor of Jersey from 1600-03, just before his arrest and trial (see his entry in the *Oxford Dictionary of National Biography*, written by Mark Nicholls and Penry Williams <http://www.oxforddnb.com/view/article/23039> [accessed 30 September 2011].

[73] Browne, pp. 297-8.

not told, but we have already seen how the uncertain legal status of the early modern pirate creates an air of ambivalence around his death. In departing from the usual death by hanging for pirates, and choosing instead the cruel and unusual burning crown used on rebels and traitors, Chettle suggests a tacit link between Old Hoffman's piracy and a challenge to the social order.[74] This makes sense when it is connected to the preoccupation with social struggle and class tension that I have identified running through revenge tragedy since *The Spanish Tragedy*.[75] Furthermore, it is a pattern that we will see repeated later, when Jerome's uprising is couched in terms that are far from condemnatory, recalling the revolt that caps the action in *Antonio's Revenge*, for which the main actors are praised by onlookers (5.6). In lending Old Hoffman's crimes a socio-political hue, any subsequent revenge action must be indelibly imprinted with the same colouring.

So, how are we supposed to read this excruciating method of execution as used by Hoffman on Otho, which at the same time replicates Old Hoffman's treatment at the hands of Otho's father? Brucher reads this subversively, where Hoffman's mimicry of official execution methods becomes a parodic comment on the savagery of state power, a 'travesty [designed] to erase class distinctions and deny state prerogatives'.[76] I would argue that this relies on the anachronistic belief that an early modern audience would consider public executions to be unnecessarily cruel affairs, when their enthusiasm for spectacles of state-sanctioned violence, as typified by the hanging at Tyburn, seems hard to ignore.[77] I prefer to see something more

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[74] For the association between piracy and egalitarianism see Klein, who talks of the development during the eighteenth century of a mythical pirate utopia known as 'Libertalia' on the island of Madagascar, '"We are not pirates"', p. 106.

[75] See Chapter One, p. 82ff.

[76] Brucher, p. 211; p. 214.

[77] We must also consider the fact that death by burning crown is a relatively rare mode of punishment, and so its ability to function as a critique of state execution is hampered by its dissimilarity to the majority of such punishments.

than subversion at work in Hoffman's use of the burning crown. Having already preserved the 'iron crown that burnt his [Old Hoffman's] brains out' (1.1.101), Hoffman re-appropriates the stage property as part of his first and most brutal acts of revenge. Even as the crown is put on, Hoffman maintains that his father died in guiltless innocence, as must Otho of Luningberg: 'No more did he, no more shalt thou, no ruth/ Pitied his winter age, none helps thy youth' (1.1.217). Hoffman insists that his actions are 'no more' than reciprocal.

Of course the superficial similarities between the executions of Old Hoffman and Otho only serve to emphasise the real difference, which is that only one is state-sanctioned. But if the difference between privateers and pirates comes down to the validity of their royal commissions, is not the same true of Hoffman's execution of Otho? He has no authority to carry out the sentence, but according to him, neither did the Duke of Luningberg have the right to execute his father for 'a little debt'. There is enough of a correspondence between the contested nature of Old Hoffman's crimes and Hoffman's own questionable appropriation of state-sanctioned violence to see in the choice of a burning crown more than a travesty of state justice. In replicating the method of execution used on his father so closely and meticulously, Hoffman brings to the fore issues of legitimacy that recur throughout the play. Furthermore, the symbolic resonance of a crown, itself metonymically linked with the very idea of monarchical government, cannot be overstated. It was for precisely this reason that it was employed against those who would topple their sovereign in the first place, functioning as 'a cruel parody of royal investiture'.[78] The full significance of the symbol does not become apparent until its final appropriation by Hoffman's enemies in the dying moments of the play, but for now it should be noted that death by crowning is as much a statement in Hoffman's hands as it had been in the Duke of Luningberg's.

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[78] Browne, p. 298.

Before the act is out, we are given one last, and lasting, image of the two anatomies in Hoffman's cave:

> Father, this youth scorned
> When he was set in an ascending throne,
> To have you stand by him; would he could see
> How the case alters! You shall hang by him,
> And hang afore him too, for all his pride.
>
> 1.3.11

Here we have a pointed reference to Otho's change of fortunes, as death levels the disparity between prince and pirate: 'The notions of equity and retribution are strongly and visually communicated in the stage action as Hoffman suspends Otho's flayed body next to that of his father'.[79] Hoffman is now triumphant over how 'the case alters', as the inversion of social hierarchies is complete with the crown prince subservient to the pirate. In *The Spanish Tragedy*, Lorenzo has a similar cruel pun, as he strings up the corpse of Horatio for presuming to love his superior, Bel-imperia: 'Although his life were still ambitious proud,/ Yet is he at his highest now he is dead' (2.4.61). Both rely on class prejudice to turn their crime into a source of grim humour. The difference is that Kyd has the aristocratic prince mocking the lowly soldier, while Chettle reverses the target and gives the line to the murderous revenger who is about to make his way to the centre of the Prussian court: 'Prussia, I come, as comets against change:/ As apparitions before mortal ends' (1.3.30).

[79] Clare, p. 51.

'I am no fool, I have been at Wittenburg, where wit grows' (1.2.36)

With Otho dead and Lorrique converted to 'murder's slave' (1.3.25), this leaves the stage clear for Hoffman to impersonate his victim at the Prussian court. The next acts focus on Hoffman's skill at disguise and creating havoc, as he sets up the elaborate meeting in the woods where Mathias kills his brother Lodowick, Hoffman fatally wounds the Duke of Austria while blaming the Duke of Saxony, and Lucibella is badly wounded and subsequently goes mad. None of these murders are nearly so politically charged as the burning crown of the first act, and the real political interest lies elsewhere, in the figure of Jerome, son to Duke Ferdinand and heir to the throne of Prussia. For it is Hoffman's arrival at court that indirectly precipitates another crisis of succession.

When we are first introduced to the Prussian court, we see Duke Ferdinand hosting the young lovers, Lodowick and Lucibella. It is here that he also reveals his thoughts on the suitability of his son Jerome to succeed him. When Jerome tells the assembled audience of his learning at Wittenberg, his father responds:

> Peace, thou unshapen honour, my state's shame
>
> My age's corsive, and my black sins' curse!
>
> Oh hadst thou never been, I had been then
>
> A happy childless man.
>
> 1.2.38

Ferdinand's outburst goes on for a full thirteen lines, as he outlines how he mourns less for his own dead wife than for the fact that a 'witless fool must needs be Prussia's heir' (1.2.50). Ferdinand's motivations are unclear, but the portrayal of Jerome is such that the audience too doubts his competence in a position of high authority. He is clearly a figure of fun in the court

at large, as he challenges Mathias to a duel after telling his man Stilt how he has 'practiced these two days' (1.2.55). But Jerome is soon to become the point where questions of legitimacy, succession and ultimately rebellion all meet.

Before the scene is out, Lorrique arrives to tell the tale of how 'Otho' lives. He relates how after Otho and himself came ashore from the shipwreck, they were almost killed by the 'son of a damned pirate', Clois Hoffman, until Lorrique 'in fine, finely cut's throat' (1.2.104). Without even meeting the prince, Ferdinand declares his intention to 'disinherit our fond son' and install 'Otho' in his place as 'our son elect' (1.2.131). This highly unusual twist, whereby the lawful heir is officially supplanted by a disguised revenger, opens up the play's political landscape far beyond the ethical dilemmas posed by revenge. In terms of plot, it puts Hoffman in the perfect position to continue his campaign of vengeance unsuspected from the very heart of the political establishment. Furthermore, it creates a situation where the prince elect finds himself marginalised in his own court, not unlike Shakespeare's Hamlet. The political fallout from this will not be felt until Act 3, when Jerome leads an abortive rebellion against his own father. In the meantime, as well as acting as a figure of fun, Jerome comes to constitute what I consider and will demonstrate to be a sophisticated intertextual comment by Chettle.

From the outset, Chettle's characterisation of the prince invites immediate comparison with Shakespeare's Hamlet; Jerome's opening lines refer to his studies at Wittenberg, much like the other dispossessed student prince that had dominated the early modern stage.[80] Jerome's speech is preoccupied with the death of a parent, before he declares 'but I am a prince, and princes have power more than common people to subdue their passions' (1.2.31) –

[80] Due to inconclusive dating for both *Hoffman* and *Hamlet*, it cannot be said definitively that Chettle's play comes in the wake of Shakespeare's *Hamlet*. The reference to Wittenberg could conceivably belong to the *Ur-Hamlet*, but in the absence of firm evidence to the contrary, I argue for Jerome as an intertextual response to Shakespeare's *Hamlet*.

it would seem that Hamlet is not the only one to have that within which passeth show. Furthermore, both princes share a poetic sensibility that is at times prone to patches of purpleness: 'till red revenge in robes of fire and madding mischief run and rave' (*Hoffman*, 2.1.73); 'Now could I drink hot blood/ And do such business as the bitter day/ Would quake to look on' (*Hamlet*, 3.2.380). The rhetoric here shows how deeply both parties desire to be revenged, but also how easily that desire is converted into ineffectual speeches as they unpack their hearts with words (*Hamlet*, 2.2.520).

The second act sees Ferdinand's reappearance to elect 'Otho' as his heir, in a scene dumbshow-like in its brevity: '*[c]oming near the chair of state, Ferdinand ascends, places Hoffman at his feet, sets a coronet on his head*' (s.d. 2.1.51). In case the audience were left in any doubt, a herald proclaims that Ferdinand has disinherited the 'witless and insufficient prince' Jerome in favour of 'Otho of Luningberg' (2.1.57). The scene is over as soon as it is begun, lasting all of twenty lines, ending with Ferdinand's dismissal of Jerome 'Away, disturb us not: let's in and feast,/ For all our country in our choice is blessed' (2.1.64). Left onstage with his man Stilt, Jerome rails against the injustice of his father's decision *ex tempore* 'till red revenge in robes of fire and madding mischief run and rave' (2.1.73). The Senecan excess of language is reduced to 'red revenge in robes of fire', intricate speech patterns replaced with alliterative commonplaces. The central paradox of revenge, procrastination and grief pitted against action and vengeance, is reduced to the contradictory rhetoric of 'Breast break with grief, yet hold to be revenged' (2.1.80). His speech draws attention to its own construction even as it unfolds, and it is here that Chettle's engagement with the revenge genre is at its most explicit:

> Stilt, we will tread on stilts
>
> Through the purple pavement of the court,
>
> Which shall be – let me see, what shall it be?

No court, but even a cave of misery.

There's an excellent speech.

2.1.83

Jerome's extemporising lampoons the high rhetoric and soliloquising of revengers like Hieronimo and Hamlet, revealing the labours of the author ('let me see, what shall it be?') behind such apparently impromptu flights of fancy. The connection forged between metatheatricality and intertextuality marks Jerome out as much more than comic relief, and this becomes even more apparent when he seeks to convert his words into actions. Jerome's rising of the people sits at the textual and thematic centre of *Hoffman*, and I wish to show how this is integral both to Chettle's socio-economic commentary and to his engagement with *Hamlet*.[81]

After intimations of revenge in 2.1, Jerome reappears in 3.2 as the leader of a popular uprising. His man Stilt together with his father Old Stilt lead a '*rabble of poor soldiers*' onstage first, who perform a '*scurvy march*' (s.d. 3.2.1).[82] While such actions may be presented in a comic vein, the representation of rebellion on the early modern stage is never simply a laughing matter. Stilt tries to inspire 'the general folks' he has assembled (3.2.1), but his speech is littered with malapropisms: 'and remember this, that more than mortality fights on our side; for we have treason and iniquity to maintain our quarrel' (3.2.6).When his father queries the words he corrects himself, but not before the audience registers a radical ambivalence at work here: 'Reason, and equity I meant, father; there's little controversity in the words' (3.2.10). Much like Sir Hugh Evans in *The Merry Wives of Windsor*, Stilt insists that

[81] This scene also has the intertextual comment from Jerome: 'My beard-brush and mirror, Stilt, that set my countenance right to the *Mirror of Knighthood*, for your *Mirror of Magistrates* is somewhat to sober' (2.1.36).

[82] Brucher calls this 'visual reproof of Jerom's [*sic*] cause and an opportunity for low humor', p. 217.

despite choosing the wrong word, his meaning is sound.[83] The slippage created between reason/treason and equity/iniquity serves an important function for Chettle. The grounds of their quarrel is Jerome's dispossession, and so while their activity is a species of treason, at the same time it calls into question the 'equity' of Ferdinand's decision to disinherit his son. Land law and issues of inheritance would often end up in the Court of Chancery due to its equitable remit, where the Chancellor's conscience was supposed to mitigate the strict letter of the law.[84] By invoking equity at the outset, Stilt subtly suggests that Jerome's actions may not be quite as iniquitous as they at first appear. It is not that Chettle is trying to justify rebellion, rather that he carefully juxtaposes both sides of that action: 'reason and equity' alongside 'treason and iniquity'.

As with the legal ambiguity that enshrouds Old Hoffman's execution, Chettle challenges conceptions of what is lawful or unlawful even in the matter of rebellion. The scene is full of such pregnant malapropisms, for example Old Stilt's slippage between resurrection/insurrection and inspire/conspire (3.2.36; 3.2.37), or when he calls Jerome 'the unlawful heir of this land' when he clearly means to say lawful (3.2.34). By drawing attention to the fine linguistic line between opposing meanings, Chettle's staging of insurrection becomes a 'resurrection' of sorts. Old Hoffman's textual presence is not simply implicit, as Old Stilt recalls his campaign in Norway before he was outlawed. We are told he was a gentleman who was 'cut off, as all valiant cavalieros shall, and they be no more negligent of themselves' (3.2.29). Once again, it is implied that heroism and piracy are not mutually exclusive, and even that Old Hoffman's execution was not felt to be deserved in all camps. The alignment of the

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[83] *The Merry Wives of Windsor*, 1.1.237. Dogberry's malapropisms in *Much Ado About Nothing* also serve as a useful counterpoint here (3.3;3.5).

[84] The idea that the courts of Chancery were more equitable than common law courts is more theoretical than actual, as both had strict mechanisms in place to ensure a fair outcome for the cases brought before them. See Sokol and Sokol's entry for 'equity' in *Shakespeare's Legal Language: a Dictionary* (London: Athlone, 2000). See also Introduction, pp. 53-4.

cavalier Old Hoffman and the 'respectless Prince' Jerome can only be deliberate, furthering as it does Chettle's destabilisation of legal categories in the play.[85] The former was 'cut off' for his involvement in an activity that could be defined as lawful or lawless on the basis of documentary evidence, while the latter wishes to reclaim by force his birth-right to succeed despite his father's public disavowal. At their core both are predicated on the question of what it means to be legitimate, where legitimacy is a matter of opposing interpretations.

This balancing of opposites is given a visual dimension as Duke Ferdinand enters '*with Drum and Colours*' (s.d. 3.2.50), and Brucher asserts '[t]his formal array signals legitimacy'.[86] He is accompanied by Hoffman, Lorrique, and a captain leading his soldiers in a march, but one which has lost the adjective 'scurvy' attached to Jerome's rabble of poor soldiers. Jerome's followers are labelled traitors, and the Duke orders his men to '[s]trike their Typhoean body down to fire,/ That dare 'gainst us, their sovereign, conspire' (3.2.55). Ferdinand's anti-insurrectionist rhetoric is conventional, with Jerome's men described alternately as 'that beast the multitude' (3.2.52), Typhoean (3.2.55), and 'rebel bodies [drawn] 'gainst their head' (3.2.96). His language is characterised by an arrogance that Brucher identifies as 'aristocratic hateur', for example when he gives the order to attack: 'Let not that beast the multitude confront/With garlic-breath and their confused cries/The majesty of me their awful duke' (3.2.52). Such sentiments bring to the surface the class antagonism latent in the clash between a sovereign and his disenfranchised populace. The impending assault is averted when Hoffman '*kneels between the armies*' (s.d. 3.2.64), and even here Ferdinand's response seems calculated to alienate him from the audience: 'What means my dukedom's hope to turn thus base? Arise, and smite thy foes' (3.2.68). To turn base is to be on the same level as the

[85] See also Brucher, p. 215, where he links these two themes without recourse to their underlying legal ambiguities.

[86] Brucher, p. 217.

commonalty, such as Jerome's supporters are described as being. Hoffman asks Ferdinand to pardon the misguided actions of '[t]hese silly people' (3.2.72), with 'silly' redolent of 'deserving of pity, compassion, or sympathy', or even 'Of humble rank or state; lowly'.[87] While Hoffman's intercession is self-serving, the plea for mercy on behalf of a disgruntled populace and their dispossessed prince exceeds the requirements of a stage villain's scheming.

At this point two things of significance happen, separate but related. Firstly, Stilt's response to Hoffman pleading 'their pardons with a peaceful tongue' (3.2.75) is neither grateful nor peaceful: 'We scorn pardons, peace and pity: we'll have a prince of our own choosing: Prince Jerome!' (3.2.76). I will return to the intertextual resonance of this line very shortly, but the suggestion of an elective monarchy is unmistakeable. Secondly, we get a discussion of the law of treason and the workings of mercy, as Hoffman tells Jerome: 'This act of yours, by gathering to a head,/ Is treason capital, and, without grace,/ Your lives are forfeit to extremest law' (3.2.115). Jerome's followers have already been labelled traitors, so Hoffman is only right to suggest that they face execution. Unless, that is, they '[c]ast your weapons down,/ And arm yourselves with mercy of your prince [Ferdinand]' (3.2.121). Chettle's chief revenger seeks to mitigate the full rigours of the law:

> I beg your highness grant to their request:
>
> Suppose them silly, simple, and your own;
>
> To shed their blood were just, yet rigorous.
>
> The praise of kings is to prove gracious.
>
> 3.2.152

And what's more, Hoffman is successful. Like Hermione in *The Winter's Tale* (3.2.121), Hoffman makes a distinction between rigour and law, but in this instance the negative

[87] OED 1a; 3b.

repercussions are averted. Jerome is reunited with his father and given the role of cup-bearer, while his men are told piously to '[g]o in peace:/ Lay by your unjust arms; live by your sweat;/ And in content the bread of quiet eat' (3.2.157). The initial impetus to rebel teeters on the brink of violence – 'Upon those traitors, valiant gentlemen!' (3.2.51) – before leading into an excursus on the relation between justice and mercy, and finally giving way to a general pardon for all. Jerome's 'base abjects' cry 'God save Duke Ferdinand, and Prince Otho' (3.2.167) as they exit, and peace returns to the realm. Thanks to Hoffman's intervention rebellion is deferred indefinitely, leaving Ferdinand securely at the helm of the ship of state once more, with Hoffman as his first mate.

As a final example of Chettle's dense layering of meaning in this scene, I want to look at Jerome's rising as an intertextual response to Shakespeare's *Hamlet*. It is my contention that Jerome's successful failure corresponds with Hamlet's failure to succeed, by which I mean that the politicisation of the scene in *Hoffman* works as a rejoinder to some of the issues identified in my last chapter regarding Hamlet's isolation from his socio-political climate. Thus the scene in *Hoffman* can be shown to bring Chettle's play closer to other revenge tragedies where the personal bleeds into the political. Whatever about having been educated at Wittenberg, and other similarities of circumstance noted above, Jerome's attempt to topple the reigning monarch over his own dispossession makes any comparison with *Hamlet* take on a political tone. Superficial similarities give way to structural differences, as each goes about achieving his revenge by fundamentally different means.

Put simply, Hamlet never appears at the head of a popular uprising, despite several hints by Shakespeare that this is a real possibility.[88] In his stead, we find Fortinbras sharking up 'a list of lawless resolutes' (1.1.97), while Laertes arrives at Claudius's court 'in a riotous head'

[88] For example, we are told of 'the great love the general gender bear him' (4.7.19) and how he's 'loved of the distracted multitude' (4.3.4).

(4.5.101). There are intimations of social unrest in Elsinore, but these never manage to gain centre-stage as they do in *Hoffman*. Where Hamlet gives no indication that he is aware of his country's ills and perseveres with his revenge in isolation, it is clear that Jerome has sought and gained the support of the masses. Hamlet's revenge remains an intensely personal affair to the end. Jerome on the other hand lacks such a rich internal life, delivering no soliloquies and failing to puzzle out the ethical implications of his actions. But what he lacks in self-examination, he makes up for in action. There are also linguistic echoes that may not be definitive but are nevertheless suggestive. After a rousing reception for their prince, where soldiers cast up their caps for Jerome, he responds, 'Most noble countrymen, I cannot but condole in joy, and smile in tears to see you all assembled in my right' (3.2.44). This recalls Claudius' ability to combine delight and dole, with 'an auspicious and a dropping eye' (1.2.11), as now the malapropisms seem to be not only loaded but also intertextual. Moments before he intends to join battle with the duke who has disinherited him of the realm, Jerome's phrasing evokes a pivotal moment in *Hamlet* where that prince too must accept that his hopes of succession are severely undermined by his step-father the king. Jerome's popular rising is a clear and strong political statement, which his father is forced to acknowledge. And so while the insurrection fails to achieve its aim of reinstating Jerome, it succeeds insofar as the voice of the people is heard: 'we'll have a prince of our own choosing: Prince Jerome!'.

The closest parallel available in *Hamlet* is of course Laertes' arrival in 4.5:

> They cry, "Choose we! Laertes shall be king" –
>
> Caps, hands and tongue, applaud it to the clouds –
>
> "Laertes shall be king! Laertes king!"
>
> 4.5.106

The difference is that this refers not to the darling prince of the people, but to his enemy Laertes. Where Chettle physically stages the rabble's cries (*'All on Jerome's side cast up their caps and cry "a Jerome"'*, s.d. 3.2.50), in *Hamlet* the account comes to us as reported speech, underlining the play's distance from the representation of social protest. Furthermore, Laertes' potential as a spokesman for a discontented populace dissipates as quickly as it emerges, when he forgets his common cause with the people at the bidding of Claudius. In *Hoffman*, Jerome is reunited with his father, but not before a general pardon is granted. Where Hamlet failed to capitalise on the great love the general gender bear him (4.7.19), Jerome's status as a popular leader remains intact. Taken together with the deliberate parallels between Hamlet and Jerome already noted, Chettle's portrayal of Jerome's uprising seems calculated to contrast with the lack of socio-political commitment displayed by Shakespeare's characters.

The scene of Jerome's rising goes far beyond the remit of comic relief, due to the subtle interweaving of socio-political issues, from demobilised soldiers, fears over royal succession, and the ever-present threat of real social unrest. Not only does it engage with contemporary political concerns, as tensions surrounding succession spill over into insurrection, it also broadens the social scope of the play, by giving voice to counter-narratives through its representation of 'common soldiers' who would 'have a prince of our own choosing'. Instead of the staging of rebellion acting to reaffirm state authority, in Chettle the representation of dissension acts only to question that authority.[89] It has been my aim to illustrate that not only does Chettle undermine questions of legitimacy on numerous levels, he achieves this in part through intertextual means. The radical politicisation of Jerome's displacement at court has never been linked with the apparently conscious parodying of the

[89] This can be usefully compared to Jack Cade's rebellion in *2 Henry VI*, where Dick the Butcher's calls to 'kill all the lawyers' (4.2.71) marks the entire project out as driven by ignorance, or the mob of *Julius Caesar* who murder Cinna the poet for his name (3.3); both examples from Shakespeare see the rabble as negative and disruptive influences. Interestingly, Jerome shares with Cade the intention to set 'a new nap upon his threadbare commonwealth', *Hoffman*, 2.2.30, cf. *2 Henry VI*, 4.2.4-5.

revenge genre's most recent tragic hero, Hamlet. To fully appreciate the characterisation of Jerome, he must be viewed not only in light of his political import, nor simply as a parodic echo of Hamlet, but as a complex compound of the two. Neither is fully intelligible without reference to the other.

'You know his wrongs:/ Be careful, princes to revenge them all' (5.3.24)

Chettle's intertextual uprising brings together two major components of the revenge genre as I see it, by using self-referentiality in the service of socio-political commentary. This cross-over between the necessities of a revenge plot and a keen awareness of larger social issues is not confined to 3.2. I have already discussed the effect of Old Hoffman's piracy, where the term should be taken less as a pejorative label and more as a marker of legal ambiguity as it was for actual pirates in the period.[90] Chettle interrogates the validity of social protest in the insurrection scene, as encapsulated in the slippage between reason and treason. I now want to look more closely at the latter stages of the play, to analyse whether a commitment to social commentary and legal critique is maintained right to the end. I do this by examining the counter-revenge against Hoffman, to see how questions of legitimacy and legality are played out.

In revenge tragedy, the fact that the revenger dies is usually taken as proof of his inherent guilt; the question of how that death comes about is less important. And there is no doubt that Hoffman deserves any punishment meted out to him. But if the play sets out to vilify the acting of revenge, why does Hoffman's punishment conform so closely to his treatment of Otho? By carefully echoing the play's opening moments, Chettle invites his viewers to reflect on the causality between Old Hoffman's execution by burning crown, Otho's

[90] See above, p. 262ff.

death in similar manner, and the eponymous Hoffman's final agonies as 'the melting drops run from my brows' (5.3.153). We must remember the primary use of the burning crown in the period: those who threaten monarchy are put to death by crowning in 'a cruel parody of royal investiture'.[91] This is a crime that Hoffman is certainly guilty of, but the burning crown by which he dies is not administered by the mechanisms of state justice. It is his victims, including Martha, Rodorick, Saxony, and Mathias who are shown following in the footsteps of Hoffman himself: 'Let's hear no more. Seek out the hated wretch,/ And with due torture let his life be forced/ From his despised body' (5.1.242). Such sentiments are clearly motivated by personal loss and anger on the part of Saxony, and Martha's language too borrows heavily from the rhetoric of revenge: 'Hope of revenge in wrath doth make me smile' (5.1.111). Therefore it would be easy to argue that the counter-revenge is little better than Hoffman's own vengeful actions, through its focus on wrath and revenge. But having established the compatibility of revenge and justice in the early modern period in previous chapters, such a conclusion does not seem sufficient. Instead I want to see how Chettle negotiates the possibility of a just revenge that looks remarkably similar to the lawless violence of a homicidal maniac. Before consigning Hoffman's killers to the same category of 'lawless revenge', let us see how Chettle constructs their actions as both vengeful and just.

First of all, it is important to note how Martha and her accomplices learn of Hoffman's villainies. Lucibella in her madness has run off into the woods, and is followed by Saxony, Rodorick and Mathias, whom she leads to the bodies of Old Hoffman and Otho outside Hoffman's cave, 'two lean porters starved for lack of meat' (5.1.29). Having expressed their shock at the 'horrid sight' (5.1.31), an unusual exchange occurs between the men, which brings us back to the opening scene of Otho's execution, but also introduces a wholly new element to the play, that of interrogative questioning:

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[91] Browne, p. 298.

Saxony: What should this mean? Why in this wood,
So thick, so solitary, and remote
From common road of men, should these hang thus?
Brother, your hermitage is not far hence,
When knew you any execution here?

Rodorick: I never knew any, and these bones are green;
This less anatomy has not hung long.
The bigger, by the moss and dryness seems
Of more continuance.

Mathias: What's on their heads?

Lucibella: Why golden crowns: my porters shall be kings.

5.1.34

In reaction to the sight of the bodies, Saxony immediately enters questioning mode as he asks three interlocking questions in quick succession, the primary one being 'What should this mean?'. While Rodorick can provide no direct answers, his contribution sounds like a forensic pathologist's report – 'This less anatomy has not hung long' – and it would seem he is familiar with the look and feel of a variety of skeletons. When they light on the detail of the crown, Saxony is reminded of 'the admiral/ Hoffman.../Was by the duke of Prussia adjudged/ To have his head seared with a burning crown' (5.1.56). In aiming to 'learn the mystery of that sad sight' (5.1.60), they enter the cave, showing a commitment to the discovery of the truth not exhibited elsewhere in the play.

Before they can fully join the dots, Martha and Lorrique come onstage, ostensibly for Lorrique to show Martha where her son is buried. When Lucibella comes forward and confronts Martha with the clothes of Otho, Martha makes a peculiar observation: 'This is not sea wet: if my son were drowned/ Then why thus dry is his apparel found?' (5.1.143). Like

Rodorick's amateur detective work on the rate of decay in exposed skeletons, Martha is surprisingly au fait with the deterioration of clothes from drowning at sea. As Smith observes, '[p]rocesses of revenge and mourning are here folded in with the forensic assessment of death's causes – and consequences'.[92] At this point Lorrique breaks down and confesses that Hoffman has been a villain, although he is careful to edit out his own role in the murders. Hoffman's guilt comes to light through logical questioning and careful inference, leading to the accomplice's confession that gives his enemies a firm basis in fact from which to act. Lorrique's revelations lead Martha to express her resolve to act against Hoffman alone if needs be, but Lorrique reassures her that she 'will find associates,/ For there are many murderers more behind' (5.1.205). This is the beginning of a collective revenge that bears a striking resemblance to Antonio's band of revengers, all of whom have have been bereaved by the villainous Duke Piero, as both sets of victims decide to do what is necessary to achieve their aims. Chettle never gives Hoffman the wider social mandate of Antonio, who has the backing of the citizens of Venice and beyond. Instead, collective action is shifted, first to Jerome's rabble of poor soldiers seeking an elective monarchy, and then to the enemies of Hoffman who are united by their determination to put an end to his villainy. Whereas Hoffman's revenge is relatively solitary, with Lorrique playing the part of criminal confidante (much like Piero's Strotzo in *Antonio's Revenge*), the counter-revenge against him is characterised first by a concern for establishing the facts, and secondly by cooperation and collectivity.

The notion of collective action becomes more pronounced as the play builds towards its catastrophe, while also taking on quasi-legal status by adopting terms like 'just' and 'justice'. As Lorrique goes through Hoffman's catalogue of crimes, Saxony declares 'Let's hear no more. Seek out the hated wretch,/ And with due torture let his life be forced/ From his despised body' (5.1.242). He then goes on to assert that 'All the land will help,/ And each man

[92] *Five Revenge Tragedies*, p. xix.

be a justice in this act' (5.1.246). This shift from the language of personal vendetta to that of public justice lifts the counter-revenge out of any straightforward Revenge/Law binary.[93] The idea that their actions would have the support of '[a]ll the land', in particular justices of the peace, shows that how they pursue revenge against Hoffman is every bit as important as the method of execution that they choose to employ. Mathias reiterates the point some lines later when he talks of how they could 'raise a multitude,/ That by their power might seize the murderer' (5.1.271). Ultimately this course of action is rejected, for fear that Hoffman would learn of their plot beforehand and escape, but the echo of Jerome's rising implied by the term 'multitude' is surely deliberate at this point. Instead they decide to entrap Hoffman by 'sly deceit', since 'revenge should have proportion:/.../.../Then the revenge were fit, just, and square' (5.1.282): reciprocity segues effortlessly into justice.

Their plotting culminates in a vengeance oath not unlike that of *Titus Andronicus* or *Antonio's Revenge*:

> Mathias: join hand and ring him [Lorrique] round;
> Kneel, on his head lay our right hands, and swear
> Vengeance against Hoffman
> All: Vengeance, vengeance, fall
> On him, or sudden death upon us all.
> Saxony: Come, part; we to the cave,
> You to the court.
> Justice dig murder's grave.
>
> 5.1.327

[93] Clare says of the play's climax, 'revenge materializes as state punishment', p. 53. I would not fully agree with this assessment, but it is true that mechanisms of state such as justices of the peace are appropriated during the final scenes.

The encircling action recalls the intertwined arms of *Antonio's Revenge* (4.5.86), while the act of kneeling for the oath is present also in *Titus Andronicus* (4.1.87). The yoking together of revenge and justice has its precedent in *The Spanish Tragedy* with Hieronimo '[s]oliciting for justice and revenge' (3.7.14), and Kyd also plays with the multivalence of 'court' as both the royal court and a place of law: 'I will go plain me to my lord the king,/ And cry aloud for justice through the court' (3.7.69). As we move towards Hoffman's final punishment, Chettle lends his enemies an aura of legitimacy through subtle associations with justices of the peace and the 'multitude', together with the transition from actively swearing vengeance to the more passive formulation, 'Justice dig murder's grave'.

The public endorsement of Hoffman's enemies gets a final, generic, boost with the appearance of a lord with soldiers at 5.3. At first these are thought to be Hoffman's troops, but they have been sent by Martha to help bring Hoffman to justice after she told them of 'the damned plots/ Of that perfidious Hoffman' (5.3.41). Again this has an uncanny resemblance to the support of Galeatzo the Florentine in *Antonio's Revenge*, who, moments before the conspirators set upon Piero, assures them, 'I have a troop to second your attempt' (5.5.6). *The Spanish Tragedy* has no such armed force behind Hieronimo, but Titus Andronicus does have the silent support of a band of Goths. In none of the three cases do the soldiers actively participate in the revenge, but their presence certainly raises the ensuing action above the level of petty revenge. When Saxony tells the troops, 'Stand close, true soldiers, for revenge' (5.3.60), it is clear that their hoped-for revenge is backed by real military power.

With the men awaiting the right moment to apprehend the villain in the name of justice, Hoffman appears onstage for the last time. He has lured Martha to his cave with the aim of raping the virtuous widow, thus obliging the audience with a final example of his wrongdoing. When she resists – 'use not force, I pray' (5.3.78) – he responds that he must have her, to 'quench these lawless heats that burn in me' (5.3.84). In light of the tensions

between legitimate and illegitimate activity throughout the play, the single use of the word 'lawless' coming within the last one hundred lines is especially damning. Hoffman is called many things in the play's final moments – wicked man (5.3.20); cruel murderer (5.3.135); smooth-tongued hypocrite (5.3.138) – but the adjective 'lawless' appears to me to be uniquely apt for a revenger that has so thoroughly shaken the foundations of civil society. His strong-held conviction that his father died wrongfully has led to the decimation of the royal houses of Luningberg, Prussia, Saxony and Austria, as well as indirectly precipitating a rising of the people. As he returns to the cave where the play originated, his lustful intentions are one crime too many. This cave is situated in the lawless wilderness that Lorrique had described so fittingly earlier (1.1.28), and which must now have order imposed upon it by force.[94] Thinking that Martha has submitted to his desires, Hoffman enters the cave expectantly with the line 'I am crowned the king of pleasure' (5.3.105). This crowning is soon to be literalised in a way he neither intends nor wishes, by the combined strength of Martha, Saxony, Mathias, Lucibella, and the soldiers. Martha gives the others the signal, 'Come forth dear friends, murder is in our powers' (5.3.122), with an unmistakeable emphasis on plurality.

When Hoffman questions their authority – 'Whom have I murdered; wherefore bind ye me?' (5.3.129) – Martha tells him of Lorrique's confession and once again the counter-revenge takes on the garb of official justice: 'They are justices to punish thy bare bones' (5.3.130). The two skeletons become both witnesses and evidence of his crimes, and Hoffman is forced to confess that one belongs to Prince Otho (5.3.134). The method of punishment is inevitable, if not overdetermined, as Saxony gives the order to '[b]ring forth the burning crown there' (5.3.143). When an attendant appears with the crown, Hoffman seems to recognise the man: 'Do, old dog, thou help'st to worry my dead father/ And must thou kill me too? 'tis well,

[94] The darkness of the cave also seems indicative of the evil of his intended crime: 'I know a cave, wherein the bright day's eyes/ Looked never but askance' (5.3.104), cf. *Titus Andronicus*: 'There serve your lust, shadowed from heaven's eye' (1.1.630).

'tis fit' (5.3.144). By a quirk of fate, Hoffman's executioner would appear to have had a hand in the putting to death of his father too.[95] The reciprocity is undeniable, as Hoffman himself is forced to admit ("tis well, 'tis fit'). As the play comes full circle, Hoffman suffers the same torture that he had inflicted on Otho. But where Otho's dying words were 'Mount soul to heaven, my body burns in fire' (1.1.227), Hoffman focuses exclusively on hell and its torments (5.3.150; 5.3.172). Hoffman may have argued for his father's innocence as he placed the crown on Otho's head (1.1.212), but there is no doubt about the guilt of Hoffman himself. The audience have been witness to his many crimes, for which he now shows no scruple of remorse:

> I that had sworn unto my father's soul
> To be revenged on Austria, Saxony,
> Prussia, Luningberg, and all their heirs:
> Had prospered in the downfall of some five.
>
> 5.3.156

This confession has something of Aaron the Moor about it (*Titus Andronicus*, 5.1.124), as Hoffman's only regret is not to have brought down more of his enemies. For this he blames his lust for Martha, while also tacitly acknowledging that his punishment is deserved: 'But I deserve it that have slacked revenge/ Through fickle beauty, and a woman's fraud' (5.3.170). Having earlier effectively condemned himself with the admission of 'these lawless heats that burn in me', Hoffman suffers an equally fiery corporal punishment: 'boil on, thou foolish idle brain' (5.3.156).The villainy displayed by Hoffman has no place in an orderly commonwealth, and so he is put to death by the method rightly used on all those that would undermine their sovereign – for threatening the Crown, the traitor himself is crowned.

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[95] At the very least, the executioner occupies an analogous position to those who put his father to death, again aligning the counter-revenge with official justice.

In summation, Chettle's deceptively simple plot is used to raise questions of considerable complexity. For example, we are told that Hoffman's father was executed for piracy, but such a crime was by no means straightforward in the period. In the course of the play we learn that Old Hoffman was a loyal and brave vice-admiral who 'served the trothless state of Luningberg' (1.1.49), before being '[c]ompelled' to become a pirate (1.1.156). This considerably muddies the waters when it comes to apportioning blame, and more importantly it introduces a note of ambivalence into the very mainspring of the action. Similarly, if the binary of loyal subject/lawless criminal becomes untenable in light of Old Hoffman's questionable career, Jerome's status as both prince and rebel also defies easy categorisation. The insurrection that Chettle places at the heart of his revenge tragedy becomes an affront to the ruling elite not only militarily but also ideologically: 'we'll have a prince of our own choosing' (3.2.76). Chettle's challenge to authority operates both directly, through the play's highly ambivalent representation of rebellion, and indirectly, through an intertextual response to Shakespeare that shows a prince's full potential for political action through popular support. Without the creation of a dispossessed prince who seeks to reclaim his birthright by force, Chettle's *Hoffman* could not respond so perspicuously to revenge tragedy's most enduring representative, *Hamlet*.

Hoffman is much more than a derivative of Shakespeare's play however, and it deserves attention in its own right. In his use of the contested legal territory of early modern piracy, or the staging of social protest, Chettle invites a more socially engaged and legally sophisticated interpretation. It has been my intention to go beyond an 'either/or' approach in establishing the play's stance on the various issues that it raises, because it is a play that thrives on complicating simple dichotomies at every turn: 'for we have treason and iniquity to maintain our quarrel' (3.2.6). Chettle appropriates the ultimate symbol of royal authority, a burning crown meant for the head of a traitor, and redeploys it against a pirate, a prince, and

ultimately, against a villainous revenger whose every action has been to destabilise the status quo. The burning crown with which the play ends makes it difficult to argue for a sinple 'restoration of order' governing the play's final moments, and instead acts to re-open and re-activate the questions of legitimate violence with which the play begins.

Even more crucial than the specific method of punishment used against Hoffman, the villain's apprehension and execution is shot through with a borrowed legitimacy that minics the law even as it breaks that law: 'All the land will help,/ And each man be a justice in this act' (5.1.246). The association with the justice of the people is deliberate and sustained, as a bereaved mother, a hermit, and a devoted brother all subscribe to violent revenge. This should not come as a surprise when viewed alongside the other revenge tragedies I have examined, and by banding together the way they do, Hoffman's enemies conform to revenge tragedy's most powerful and recurrent trope, that of collective action. The fact that Chettle's often over-looked play shows a concern for participatory justice demonstrates that the collocation of revenge and collective action in the genre of revenge tragedy is more than coincidental. From Hieronimo's campaign against injustice to Antonio's communal tyrannicide, revenge tragedy repeatedly yokes together private injuries with much larger socio-legal questions and concerns. *Hoffman* too develops complex political issues as a seamless extension of its place within the revenge genre. By paying attention to the extra-textual resonances of terms like 'pirate', 'treason', 'crown' or 'justice', I hope I have shown that Chettle's play, like the genre to which it belongs, is worthy of more nuanced study, especially from a socio-legal perspective.

Chapter Six

One of his single words

Would...

...have made him walk

With a bold foot upon the thorny law,

Whose prickles should bow under him.

The Revenger's Tragedy, 1.2.101

To which it was answered by me...that the Law was the golden metwand and measure...which protected his Majesty in safety and peace: With which the King was greatly offended, and said, that then he should be under the Law, which was Treason to affirm.[1]

[1] Case of Prohibitions (1607), 12 Co Rep 63-64 (available online at <http://www.bailii.org/ew/cases/EWHC/KB/1607/J23.html>) [accessed 16 August 2011].

By its very title *The Revenger's Tragedy* proclaims itself to be the quintessential specimen of the genre that we call early modern revenge tragedy. And in many ways the play does represent the culmination of a number of the features I have been arguing for. Vindice's principle target is a duke who 'strokes the rough head of law/ And makes it lie smooth' (2.3.73). Therefore any revenge action is necessarily forced to circumvent the usual channels of justice. We witness a travesty of justice when the duke interferes with a trial in the first act, and this is then used as justification for the multiple homicides committed in the name of revenge in the last. The protagonist is without doubt drawn from outside the ruling elite, and in the course of the play he accrues a band of followers that help to transform his actions from personal revenge to political assassination. On a purely structural level, these components all have antecedents in other revenge tragedies examined in this study, and my final chapter will elucidate these various connections.

But having identified an undercurrent of social commentary, dissatisfaction with legal innovation, and even civil unrest within the revenge genre, I want finally to suggest how these features can become embedded or fossilised within the narrative arc of a revenge play, where their specific social charge remains unactivated. By this I mean that while the socio-legal elements identified in other revenge plays are present in *The Revenger's Tragedy*, they do not drive the action in the same way as the multiple trial scenes of *The Spanish Tragedy*, or Jerome's abortive insurrection in *Hoffman*, elements which prove to be thematically integral as well as narratively expedient. By comparison, the trial of Junior brother in *The Revenger's Tragedy* moves the plot along, but never strikes a chord with the play's wider thematic concerns of disinheritance, metatheatricality and misogyny. With its generic Italianate court populated by personified vices, *The Revenger's Tragedy* offers an extreme example of a

revenge play largely removed from a specific socio-political context.[2] Unlike Middleton's later *A Game at Chess* – where personified chess pieces double as real-life political figures[3] – *The Revenger's Tragedy* provides far less purchase for an extended investigation into its own political milieu. For example, Vindice's satiric wit targets only the usual courtly vices, making the topicality of his comments decidedly muted.[4]

This is not to say that *The Revenger's Tragedy* is not a thoroughly Jacobean drama, and I will argue that King James looms large in Middleton's portrayal of the vicious court at the centre of the play. But when it comes to the vitality with which earlier revenge dramas grafted their stories of revenge onto some of the most pressing legal issues of the day, it is my suggestion that these issues were losing currency as the seventeenth century progressed. While socio-political matters such as the conflict between monarch and parliament came to the fore, it would appear that anxieties surrounding the legal system receded somewhat, and we can see this reflected in the level of engagement present within the revenge genre. This may have been compounded by the simple fact that the legal system itself had stabilised in the interim, as the various crises of the 1590s no longer posed the same sense of urgency; to quote Thomas Green once more, the 'age of nearly unlimited jury control was passing; the age

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[2] In this Vindice shares much with Hamlet, who also shows little concern for matters of state, as argued for in Chapter Four.

[3] The political satire of *A Game at Chess* was so overt that performances were stopped after only nine days. Middleton's contribution to the conflict between Spain and England in 1624 (with James represented by the White King) is believed to have offended the Spanish ambassador, Diego Sarmiento de Acuna, Conde de Gondomar, who was presented negatively as the Black Knight. See chapter 10 of Margot Heinmann's book, *Puritanism and Theatre: Thomas Middleton and Opposition Drama under the Early Stuarts* (Cambridge: Cambridge University Press, 1980), and, for a slightly modified view, N. W. Bawcutt, 'Was Thomas Middleton a Puritan Dramatist?', *Modern Language Review*, 94 (1999), 925-39 (pp. 935-8).

[4] Eileen Allman argues for the misogyny of the play as 'political' in the sense of being loaded with Elizabethan nostalgia and thus implicitly critical of James' reign, *Jacobean Revenge Tragedy and the Politics of Virtue* (London: Associated University Presses, 1999).

of the law and of the bench was commencing'.[5] Such a shift can be detected in *The Revenger's Tragedy* in the way questions of judicial procedure such as evidence gathering are for the most part absent, and even more so in the disjunction between Vindice's revenge on the Duke, which remains private and personal, and the massacre in the final scene, which has become largely detached from the revenge motive that usually drives the climactic action.

The thrust of this chapter is twofold: on the one hand I argue for Middleton's Duke and his manipulation of the law as particularly topical in light of James' conflict with Sir Edward Coke on the extent of a monarch's prerogative powers, while on the other, I demonstrate how this topicality, itself a distinctive feature of early modern revenge tragedy, does not extend to the revenge of Vindice and his followers. On this latter point, it is my contention that Middleton's play is less concerned with representing revenge as overtly political, as very different cultural imperatives are in play in the early years of the Jacobean period. Revenge tragedy is shown to adapt somewhat to the changing political landscape of James' rule, but the collectivity that characterised other revenge tragedies in this study is largely absent. In its stead we have the figure of Vindice acting as little more than a function of revenge: 'In contrast with earlier avengers, there is with Vindici [*sic*] very little sense of identity, either social or psychological'.[6] This severely limits the protagonist's ability to engage with and champion wider socio-legal issues in the manner of Antonio, who is hailed as 'another Hercules' (5.6.14), or even Hoffman, whose own revenge is impossible to disentangle from his father's piracy. In short, Vindice's full identification with the role of revenger precludes his identification with anything else.

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[5] T. A. Green, 'The Jury and the English Law of Homicide, 1200-1600', *Michigan Law Review*, 74 (1976), 413-99 (p. 499). See Chapter Two for my argument on the 1590s as a decade of unparalleled legal innovation.

[6] Janet Clare, *Revenge Tragedies of the Renaissance* (Devon: Northcote House, 2007), p. 66.

The Revenger's Tragedy has not suffered from the same critical obscurity as Chettle's *Hoffman*, perhaps due to the authorship debate that raged for most of the twentieth century, but which now seems to have been settled in favour of Middleton.[7] Coming in the first years of James' reign in England,[8] the play has been described as distinctly Jacobean in its proclivities, a description which seems to act as shorthand for claustrophobic, decadent, and focused on a corrupt court. Sandra Clark, for example, discusses how the play's unstable society, lapsed morals, and ineffectual law are 'suggestive of Jacobean England and the court of King James, regularly satirized for its extravagance and loose morality'.[9] The play has also received attention as something of a companion piece to *Hamlet*, especially in the way that Vindice's grisly use of the skull of his beloved seems to respond to Hamlet's contemplation of Yorick.[10] Its rampant misogyny has received attention too, for example when Mullaney asserts how Vindice can 'make Hamlet sound like a proto-feminist'.[11]

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[7] See Brian J. Corrigan, 'Middleton, *The Revenger's Tragedy*, And Crisis Literature', *Studies in English Literature, 1500-1900*, 28 (1998), 281-95. Despite the reference to 'crisis literature' in the title, this piece is primarily a summary of the arguments for Middleton's authorship of the play, and has nothing to do with the play's socio-political context.

[8] The play's first performance is uncertain, but a date of 1606 seems likely, see *Thomas Middleton and Early Modern Textual Culture: A Companion to the Collected Works*, ed. by Gary Taylor and John Lavagnino (Oxford: Clarendon Press, 2007), p. 362.

[9] Sandra Clark, *Renaissance Drama* (Cambridge: Polity Press, 2007), pp. 144-5. See also Nicholas Brooke, *Horrid Laughter in Jacobean Tragedy* (London: Open Books, 1979), pp. 10-27.

[10] Richard T. Brucher, 'Fantasies of Violence: *Hamlet* and *The Revenger's Tragedy*', *Studies in English Literature, 1500-1900* 21 (1981), 257-270; Scott McMillin, 'Acting and Violence: *The Revenger's Tragedy* and its Departures from *Hamlet*', *Studies in English Literature* 24 (1984), 275-91; Henry E. Jacobs, 'Shakespeare, Revenge Tragedy, and the Ideology of the *Memento Mori*', *Shakespeare Studies*, 21 (1993), 96-108; Steven Mullaney, 'Mourning and Misogyny: *Hamlet*, *The Revenger's Tragedy*, and the Final Progress of Elizabeth I, 1600-1607', *Shakespeare Quarterly*, 45 (1994), 139-62.

[11] Mullaney, 'Mourning and Misogyny', p. 159; Michael Neill, 'Bastardy, Counterfeiting, and Misogyny in *The Revenger's Tragedy*', *Studies in English Literature, 1500-1900* 36 (1996), 397-416; Karin S. Coddon, '"For Show or Useless Property": Necrophilia and *The Revenger's Tragedy*', *English Literary History*, 61 (1994), 71-88. Thomas Anderson links the theme of bastardy with, somewhat surprisingly, a post-Reformation context: 'as a figure who claims more than the living community at court cares to give, the bastard's wish resembles the return of those recalcitrant rites that consider the dead to be part of the

But the bulk of the criticism on *The Revenger's Tragedy* has concentrated on the aesthetics of violence in the play, with a related concern to establish the degree to which the play is satirical.[12] Brucher says of the play that 'the audience [is] divided against itself by the pleasing spectacle of witty violence and its moral squalor' as Vindice 'epitomizes the aesthetic revenger', and this is a sentiment echoed in much of the criticism.[13] Others have argued for a moral dimension to the play despite its playful tone, as with Peter Lisca's argument that 'the successful function of verbal irony in *The Revenger's Tragedy* is to keep firmly and continually before us the moral basis of the grim revenger's deeds'.[14] But such a view has generally been superseded by sheer weight of numbers on the other side, as typified by Jonathan Dollimore's discussion of the play as a species of 'black camp':

> [*The Revenger's Tragedy*] celebrates the artificial and the delinquent; it delights in a play full of innuendo, perversity and subversion...through parody it declares itself radically sceptical of

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world of the living', *Performing Early Modern Trauma from Shakespeare to Milton* (Aldershot: Ashgate, 2006), p. 162.

[12] Alvin Kernan, 'Tragical Satire and *The Revenger's Tragedy*', in *Shakespeare's Contemporaries: Modern Studies in English Renaissance Drama*, ed. by Max Bluestone and Norman Rabkin, 2nd edn (New Jersey: Prentice Hall, 1970), pp. 317-27; Leslie Sanders, '*The Revenger's Tragedy*: A Play on the Revenge Play', *Renaissance & Reformation*, 10 (1974), 25-36; Lillian Wilds, 'The Revenger as Dramatist: A Study of the Character-as-Dramatist in *The Revenger's Tragedy*', *Rocky Mountain Review of Language and Literature*, 30 (1976), 113-22.

[13] Brucher, p. 258-9. Cf. 'he practices the arts of the theatre with increasing elaborateness and self-consciousness', McMillin, p. 285; 'the emphasis on the jest or the neatness of the contrivance moves us...more to humor than to horror', Robert C. Jones, *Engagement With Knavery: Point of View in* Richard III, The Jew of Malta, Volpone, *and* The Revenger's Tragedy (Durham: Duke University Press, 1986), p. 141.

[14] Peter Lisca, '*The Revenger's Tragedy*: A Study in Irony', in *Shakespeare's Contemporaries*, pp. 307-317 (p. 316). See also Robert Ornstein, 'The Ethical Design of *The Revenger's Tragedy*', *English Literary History*, 21 (1954), 81-93.

> ideological policing though not independent of the social reality
>
> which such scepticism simultaneously discloses.[15]

I include quotations from so many critics who argue for the play's 'witty violence' and 'black camp' to underline the fact that *The Revenger's Tragedy* has primarily been viewed in aesthetic terms.[16] This has been a common trope of revenge tragedy criticism, from commentary on Kyd's use of the play-within-the-play as an escape into art,[17] to the 'aesthetics of mutilation' in *Titus Andronicus*.[18] There is no denying that the revenge genre is one of the more self-conscious modes in this period, but I would submit that there is room for a nuanced view of these plays, that does not see a high degree of metatheatricality and intertextuality on the one hand, and an engagement with their immediate socio-political environment on the other, as being mutually exclusive. This was something I drew attention to in the last chapter, where I argued that Jerome's intertextual response to *Hamlet* did not impinge on the political force of his attempted insurrection; if anything, it reiterated it. As the last revenge play in this

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[15] Jonathan Dollimore, *Radical Tragedy: Religion, Ideology, and Power in the Drama of Shakespeare and his Contemporaries*, 2nd edn (Hertfordshire: Harvester Wheatsheaf, 1989), p. 149. See also Clare's discussion of the Duke's death as 'grotesquely witty', p. 70; Sandra Clark similarly comments on the revenge, 'their success is figured rather as a triumph of wit than of honour or justice', *Renaissance Drama* (Cambridge: Polity Press, 2007), pp. 144-5; Heather Hirschfeld says '[Vindice] sees his demise not as a moral but as an aesthetic end to the play', '*The Revenger's Tragedy*: Original Sin and the allures of vengeance', in *The Cambridge Companion to English Renaissance Tragedy* (Cambridge: Cambridge University Press, 2010), pp. 200-10 (p. 208).

[16] This can also be seen in titles like Sanders' '*The Revenger's Tragedy*: A Play on the Revenge Play', and Wilds' 'The Revenger as Dramatist: A Study of the Character-as-Dramatist in *The Revenger's Tragedy*'.

[17] Peter Womack, *English Renaissance Drama* (Oxford: Blackwell, 2006), p. 130; Gregory M. Colón Semenza, '*The Spanish Tragedy* and Revenge', in *Early Modern English Drama: a Critical Companion*, ed. by Garrett A. Sullivan Jr, Patrick Cheney, and Andrew Hadfield (Oxford: Oxford University Press, 2006) pp. 50-60 (p. 58).

[18] Albert Tricomi, 'The Aesthetics of Mutilation in *Titus Andronicus*', *Shakespeare Survey*, 27 (1974), 11-19; Frank Kermode, *Shakespeare's Language* (London: Allen Lane, 2000), p. 51; John Kerrigan, *Revenge Tragedy: Aeschylus to Armageddon* (Oxford: Clarendon Press, 1996), p. 200.

thesis to be treated in detail, *The Revenger's Tragedy* too can be shown to benefit greatly from a more focused approach to the play's socio-political context.

When they are not discussing Vindice's aesthetic eye for revenge, critics of the play are most frequently drawn to the elements of the morality tradition that the author uses in this relatively late early modern text.[19] This is amply demonstrated in the play's opening lines:

> Duke, royal lecher, go, grey-haired adultery,
>
> And thou his son, as impious steeped as he,
>
> And thou his bastard, true-begot in evil
>
> And thou his duchess that will do with devil
>
> Four exc'llent characters.
>
> 1.1.1

Were the names of the dramatis personae not enough to indicate that Middleton's characters ask to be read allegorically, then Vindice's opening speech should suffice. The Duke is introduced not as an adulterer, but as synonymous with 'adultery' itself, while his family are no more than 'exc'llent characters'.[20] Of course the same can be said of the protagonist, who is vengeance personified: 'Hamlet's name derives from his father, but Vindice's belongs to allegory'.[21] This universality has implications for the play's social commentary – the fact that Vindice represents revenge affects his ability to represent more than that. The intricacies of revenge and its various motivations will be the subject of the second half of this chapter, but I

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[19] 'Each of them seems to be only a living vice, a personification of a single characteristic', Kernan, p. 321. This trend in the criticism stretches as far back as L. G. Salingar's '*The Revenger's Tragedy* and The Morality Tradition', *Scrutiny*, 4 (1938), 402-24. Salingar argues that 'Tourneur's symbols, then, are organized by applying to the contemporary world the standards of the medieval social tradition', p. 420.

[20] Cf. Kernan, p. 322.

[21] McMillin, p. 284.

first want to look in more detail at where the law manifests itself in this play, which shares many similarities with other revenge tragedies, but also some important differences.

'The law's a woman, and would she were you' (1.1.114)

Like the primary characters who are synonymous with their vicious natures, the law too is subject to personification in Middleton's play. Personification is a prevalent trope of the play, as with representations of 'that bald madam, Opportunity' (1.1.55), Occasion and her 'foretop' (1.1.100), Grace the bawd (1.3.16), and Chastity, 'that foolish country girl' (2.1.81).[22] But in the case of the law, the same abstract concept is subject to multiple, varying formulations, as can be seen from the selection below:

> The law's a woman, and would she were you.
>
> 1.1.114
>
> let not relentless law/ Look with an iron forehead on our brother.
>
> 1.2.32
>
> The law is a wise serpent/ And quickly can beguile thee of thy life.
>
> 1.2.50
>
> The law/ Is grown more subtle than a woman should be.
>
> 1.2.71
>
> if judgement have cold blood,/ Flattery and bribes will kill it.
>
> 1.2.89
>
> A duke's soft hand strokes the rough head of law/ And makes it lie smooth.
>
> 2.3.73

The law, it would seem, has many faces in this play, and the proliferation of such sentiments is striking even within the heavily personified world of Middleton's play. Of all the abstractions

[22] On the play's use of personification, see McMillin, pp. 281-4.

brought to life by Middleton, only law is given such conflicting points of view. Vindice's positve representation of the law as female like his virtuous sister Castiza (1.1.114) is modified by the Duchess' addition that it has grown 'more subtle than a woman should be' (1.2.71). Similarly Ambitioso's complaint about the law's relentless iron forehead (1.2.32) does not sit easily with his later assertion that 'A duke's soft hand strokes the rough head of law/ And makes it lie smooth' (2.3.73). These internal contradictions are of course tied up with the outcome of the trial of Junior brother, with the majority of the examples above drawn from or in relation to that scene, 1.2. Let us turn then to an in-depth analysis of the scene where legal issues are most clearly represented.

Abuses of the law manifest themselves very early on in *The Revenger's Tragedy*. After Vindice mentions that the duchess' youngest son, Junior brother has 'played a rape on Lord Antonio's wife' at the end of the first scene (1.1.110), we are immediately presented with the trial of that crime in the second. What is more, Middleton creates an expectation of what the outcome of that trial should be: Castiza's reaction to the news, 'Monster, he deserves to die', is seconded by Vindice – 'Sister, you've sentenced most direct and true/ The law's a woman, and would she were you' (1.1.113). The audience can have little complaint over the law's delay so far, as the next scene has Junior brother escorted onstage by officers, and the trial unfolds presided over by two judges. The duke is also present, but he explicitly states how he will 'leave him to your sentence', not least because '[t]he fact is great', meaning the crime of rape is a serious one (1.2.19). The duchess begs her husband to intervene but he makes no reply, leaving the judge to supply "Tis the Duke's pleasure that impartial doom/ Shall take fast hold of his unclean attempt' (1.2.41). There is a clear tone of disapproval from the judges, as the crime of rape is described as 'the very core of lust,/ Double adultery' (1.2.43). This is apparently compounded by the fact that the victim, Lord Antonio's wife, is well known for her

virtue and honesty (1.1.111; 1.2.44; 1.2.56). The lady's virtuous reputation is itself taken as compelling evidence of Junior brother's guilt.

What is more, the judges imply that imposing anything other than the death sentence (as already suggested by Castiza) can only be viewed as a travesty of justice: 'if our tongues/ Were sparing toward the fact, judgement itself/ Would be condemned and suffer in men's thoughts' (1.2.57). This clearly makes the trial something of a test case, whereby the seriousness of the crime should be matched by the severity of the sentence, leaving little room for leniency. The Duke's son Lussurioso says as much himself: 'offences/ Gilt o'er with mercy show like fairest women,/ Good only for their beauties, which washed off,/ No sin is uglier' (1.2.28).[23] Nor does Junior brother help his own cause by expressing the conventional remorse and penitence, preferring instead to make crude puns about his crime: 'My fault being sport, let me but die in jest' (1.2.66). Any failure on the part of the judiciary to deliver swift and certain punishment can only be read as an indictment of the play's legal system – judgement would indeed suffer in men's thoughts.

The over-determined nature of Junior brother's guilt paves the way for righteous outrage when the promised 'doom' is interrupted:

First Judge: Confirmed, this be the doom irrevocable.

Duchess: O!

First Judge: Tomorrow early–

Duchess: Pray be abed, my lord.

First Judge: Your grace much wrongs yourself.

Ambitioso: No, 'tis that tongue.

Your too much right does do us too much wrong.

[23] The proximity of 'offences' with 'Gilt' recalls *Hamlet*: 'Offence's gilded hand may shove by justice' (3.3.58).

First Judge: Let that offender–

Duchess: Live, and be in health.

First Judge: Be on a scaffold–

Duke: Hold, hold, my Lord.

Spurio: [*aside*] Pox on't,

What makes my dad speak now?

Duke: We will defer the judgment till next sitting.

1.2.76

The Duke does not manipulate the courtroom to his step-son's advantage, as Piero did at his daughter's trial (*Antonio's Revenge*, 4.3), but simply stops the fatal words of the sentence being uttered: 'Hold, hold, my Lord'. The deferral is recognised by characters as tantamount to letting Junior brother walk free: 'Delayed, deferred; nay then, if judgement have cold blood,/ Flattery and bribes will kill it' (1.2.89). It is not so much that the law is subverted, as that its operation has been blatantly suspended. Already, the play moves away from critiquing specific facets of the legal system, towards a more jaundiced view of a corrupted court.

The fall-out from the trial is relatively straightforward. On the one hand, Lord Antonio becomes a rallying point for those nobles unwilling to accept that justice has been done. There is clearly an element of class tension here, since when one lord asks 'What judgement follows the offender?' (1.4.50), Antonio responds: 'O, you must note who 'tis should die:/ The Duchess' son. She'll look to be a saver./ "Judgement in this age is near kin to favour"' (1.4.53).[24] This leads to Hippolito swearing an oath to 'let his soul out, which long since was found/ Guilty in heaven' (1.4.56), and as we might expect, this sentiment receives the support

[24] The legal system's class bias has also been seen in other revenge tragedies, from *The Spanish Tragedy* onwards.

of all present, who join in his oath of semi-vengeance: 'We swear it and will act it'.[25] On the other hand, Junior brother's stay in prison allows for much confusion in the ensuing plot, when his identity is mistaken for that of his brother and enemy, Lussurioso. This results in Junior brother being hastily sent to his death due to a warrant designed to execute Lussurioso prematurely. Of course this means that his death is not ultimately connected to his crime, nor does he die at the hands of Hippolito and his band of vigilantes. This could be construed as providentialism in its broadest sense, but it seems more plausible that the mechanics of the plot have taken over from any overt moralistic framework.

As courtroom scenes go in early modern drama, the trial of Junior brother is distinctly lacking in anything that could be called forensic. The facts of the matter to be determined may be 'great', but the engagement with these facts is non-existent. There is no presentation of evidence, false or otherwise, such as we get with Aaron's forged letter incriminating Quintus and Martius in *Titus Andronicus* (2.2). Nor are we given any witness testimony to evaluate, as happens in the Portuguese court of *The Spanish Tragedy* (1.3), Strotzo's scripted confession in *Antonio's Revenge* (4.3), or – if we look outside the courtroom momentarily – the Ghost's questionable report in *Hamlet* (1.4).[26] In the *Thomas Middleton: The Collected Works*, the introduction to the play notes this lack of attention to detail when it says the play 'lacks *Hamlet*'s "detective" impulse'.[27] This attributes to *Hamlet* alone a feature that inheres in the revenge genre from its inception. It could be argued that a painstaking examination of the

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[25] This oath has an ambiguous relation to other revenge oaths in the genre, where it is most often taken against the primary target of the revenge and is generally more immediately personal to those concerned (*Titus Andronicus*, 4.1; *Antonio's Revenge*, 4.5; *Hoffman*, 5.1). The other obvious departure is that this oath goes unfulfilled.

[26] Note that it is not only the 'good', functioning court systems that contain such forensic elements but even the most debased, such as Piero's mockery of a trial in *Antonio's Revenge*.

[27] *Thomas Middleton: The Collected Works*, ed. by Gary Taylor and John Lavagnino (Oxford: Clarendon Press, 2007), p. 543.

evidence is largely unnecessary due to Junior brother's own admission of guilt. But the fact remains that as an audience we are not invited to examine the steps leading to prosecution (or rather lack of prosecution) in the way that we are elsewhere in the genre. This is what Hutson describes as 'the advocate-jury logic underlying the dramatic use of *narratio*', whereby the forensic questionings of characters onstage act as 'surrogates for audience scepticism, helping to produce an impression of circumstantial fullness'.[28] *The Revenger's Tragedy* provides us with no such plenitude in relation to the various crimes committed, and instead we are simply asked to accept everything from Gloriana's death to Junior brother's sexual assault at face-value. All the elements of a trial are present, but their impact is decidedly subdued.

Having said that, it cannot be denied that Middleton assigns the foreshortened trial scene a prominent place within the structure of the play, suggesting that its relevance is not completely negligible. I now want to examine what the staging of Junior brother's trial might have to say to its immediate political environment. More specifically, I argue that Middleton's trial, while it does not show the same level of engagement with courtroom procedure that we find elsewhere in the revenge genre, nevertheless represents a specific and pointed intervention in one of the most important legal conflicts of the seventeenth century. The trial in *The Revenger's Tragedy*, with the flagrant interference of a monarch in the workings of justice, seems to pre-empt the clash between James I and Sir Edward Coke in 1607 with uncanny accuracy. As part of a larger debate over the Court of Chancery encroaching on the jurisdiction of the common law, King James famously asserted that judges are but the delegates of the king, and the king could elect to act as judge himself in 'what causes he shall please to determine'.[29] The very premise of so many revenge tragedies up to this point, that the head of state is the fountainhead of justice and therefore it is only right for him to act as a

[28] Hutson, p. 144.

[29] Case of Prohibitions (1607), 12 Co Rep 63-64.

judge onstage, finds expression in James' wish that 'the King himself may decide it in his Royal person'.[30]

Coke openly disagreed with his king, stating that 'the King in his own person cannot adjudge any case...but this ought to be determined and adjudged in some Court of Justice, according to the law and custom of England'.[31] Coke's argument rested on a distinction between natural reason and artificial reason, the latter being the special province of legal professionals because the law was 'an art which requires long study and experience, before that a man can attain to the cognizance of it'.[32] While Coke diplomatically conceded that 'God had endowed his Majesty with excellent Science and great endowments of nature', this did not negate the fact that 'his Majesty was not learned in the Lawes of his Realm of England'.[33] Coke stressed the need for due process as fundamental to the operation of the common law, which would be threatened if the monarch felt he could intervene as and when he saw fit. In short, the direct interference by the monarch into the workings of the legal system was itself unlawful, because it denied a citizen's right to a fair trial: 'for the party cannot have remedy against the King, so if the King give any Judgment, what remedy can the party have[?]'.[34] In a final flourish, Coke characterised the integrity of the law as being for the sovereign's own good, to which James did not react kindly:

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[30] Case of Prohibitions (1607), 12 Co Rep 63-64. Of course the notion of the king as the ultimate guarantor of justice does not derive from the early modern playhouse, but the fact that it is primarily within the realm of literary trials that such a collocation of sovereign and judge exists in the period is tantalising nonetheless. The doubling of a sovereign as judge is not limited to revenge tragedy, and can also be found in the Shakespearean canon in works as diverse as *The Comedy of Errors* and *The Winter's Tale*.

[31] Case of Prohibitions (1607), 12 Co Rep 63-64.

[32] Case of Prohibitions (1607), 12 Co Rep 63-64.

[33] Case of Prohibitions (1607), 12 Co Rep 63-64.

[34] Case of Prohibitions (1607), 12 Co Rep 63-64.

> the Law was the golden metwand and measure... which protected his Majesty in safety and peace: With which the King was greatly offended, and said, that then he should be under the Law, which was Treason to affirm, as he said; To which I [Coke] said, that Bracton saith, Quod Rex non debet esse sub homine, sed sub Deo & Lege.[35]

The king is under no man, but he is under God and the law. Such were Coke's final words when he came to write up his *Reports*, under the telling title of *Prohibitions Del Roy*.

This conflict was ultimately about the nature of royal prerogative – exacerbated no doubt by the arrival of a king from a foreign jurisdiction – and the incident can be seen as a major turning point in the balance of power between monarchy and state judiciary.[36] It is one of the most famous of all Coke's *Reports*, because it marks a direct and unambiguous declaration that a sovereign was subject to the law and not vice versa. J. H. Baker describes it as 'the most important long-term achievement of Jacobean jurisprudence': 'No other judge did as much to establish the principle that in England no man is above the law and that the law protects the individual against arbitrary government'.[37] Of course this was not the end of the conflict, but it certainly offers a crystallisation of exactly what was at stake in the seventeenth-

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[35] Case of Prohibitions (1607), 12 Co Rep 63-64. This directly contradicts James' own writings on the subject: 'the Kings were the authors & makers of the lawes, and not the lawes of the Kings', *The true lawe of free monarchies* (Edinburgh, 1598) (available on EEBO, STC no. 14409), sig. C7^{r}.

[36] 'It quite clearly revealed deep ideological differences between the King and his Chief Justice. Their perceptions of the law were fundamentally different and the fissure revealed here would only continue to grow', James S. Hart, *The Rule of Law, 1603-1660: Crowns, Courts, and Judges* (Harlow: Pearson Longman, 2003), p. 47.

[37] J. H. Baker, 'Law and Legal Institutions', in *William Shakespeare: His World, His Work, His Influence*, ed. by John F. Andrews, 3 vols (New York: Charles Scribner's Sons, 1985) I, pp. 41-54 (pp. 52-3).

century courtroom.[38] As for its relevance to Middleton's play of the previous year, I am not arguing that Middleton is clairvoyant. It is unclear whether his representation of a sovereign's interference in the workings of justice should be taken as an indirect critique of Jacobean court politics, although this was something that Middleton was certainly capable of. The Duke's haughty disregard for his judges' work, after having previously expressed his intention not to interfere (1.2.19), acquires new resonances when placed alongside the antagonism between King James and his Chief Justice of the King's Bench.

Such a juxtaposition has not been made before, and this may be due to the simple fact that Middleton's play pre-dates the aforementioned conflict. Yet despite the chronological discrepancy, the parallels are nevertheless illuminating. Speaking of her husband's prerogative power in *The Revenger's Tragedy*, the Duchess claims 'One of his single words/ Would.../...have made him walk/With a bold foot upon the thorny law,/ Whose prickles should bow under him' (1.2.101). If the Duchess' words in the aftermath of the trial seem to anticipate real-life events – during the reign of King Charles, if not of King James – then Coke's words to his sovereign also seem to be peculiarly suited to the action of Middleton's play: 'the King cannot take any cause out of any of his Courts, and give Judgment upon it himselfe, but in his owne cause he may stay it'.[39] Giving his step-son a stay of execution is precisely what the Duke does in *The Revenger's Tragedy*, as he is not yet bold enough to trample on the law as his wife advises. However, the damage done to the judicial system is plain, and while the judges within the play do not stand up to their master as Coke would do, they do make it clear that such a breach in

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[38] For a broader account of jurisdictional problems caused in the wake of James' accession, in particular the tensions between the Court of Chancery and English common law, see C. W. Brooks, *Law, Politics and Society in Early Modern England* (Cambridge: Cambridge University Press, 2009), chapter 6, 'The politics of jurisdiction II: multiple kingdoms and questions about royal authority', p. 124ff (esp. 145-50 dealing with the clash between Lord Ellesmere and Sir Edward Coke which eventually led to Coke's dismissal as Chief Justice of the King's Bench in 1616).

[39] Case of Prohibitions (1607), 12 Co Rep 63-64.

legal procedure could have devastating consequences: 'judgement itself/ Would be condemned and suffer in men's thoughts' (1.2.59).

I have already argued that Middleton's trial scene does not overly concern itself with the minutiae of courtroom procedure, instead preferring to highlight the Duke's abuse of his authority and circumvention of the law. And while this does seem apt in light of the Jacobean context sketched out above, we must be careful not to over-emphasise Middleton's originality here. After all, trial scenes presided over by corrupt, inept or downright evil judges had long been a staple of the revenge genre under Elizabeth. If anything, Kyd's representation of a monarch who blunders his way into having an active role in the delivery of justice and refuses to listen to his experienced chief magistrate (*The Spanish Tragedy*, 1.2), actually has far more resonance with James' behaviour in the Case of Prohibitions than the murderous Duke of *The Revenger's Tragedy*, who admits in private that '[i]t well becomes that judge to nod at crimes/ That does commit greater himself and lives' (2.3.122). Middleton's trial, featuring as it does an evil duke who takes advantage of his position within a courtroom environment, must be understood as being both a specific socio-legal commentary, i.e. Jacobean, *and* a recurrent feature of the revenge play, i.e. generic.

While the legal system takes centre stage in 1.2, a cursory glance at the frequency of legal terms elsewhere in the play can be illuminating. Unsurprisingly, of the sixteen appearances of the word 'law' itself, half of these occur in the trial scene. What is more surprising is a concentration of legal terms in 4.2, which accounts for a further five instances of 'law' in the space of thirteen lines. These come in the context of Lussurioso's first meeting with Vindice under his own name, whom he intends to hire to kill 'Piato'. The ensuing exchange feels strangely out of place, and has at its centre Vindice's supposed (but non-existent) dissatisfaction with the legal system. To Lussurioso's question, 'what has made thee melancholy?', Vindice responds, 'Why, going to law' (4.2.47). This leads into a predictable

discussion of the law's delay, where Vindice complains of having been at law for the last twenty-one years, while others have had to wait 'five-and-fifty, and all about pullen and pigs' (4.2.54). He also ridicules the legal jargon in his speech, which leaves people 'poisoned with the affectation of law words' whereby 'their common talk is nothing but Barbary Latin' (4.2.58). His disquisition is finished off with yet another legal pun on how people 'pray in law,/ that their sins may be removed with a writ of error and their souls fetched up to heaven with a sasarara' (4.2.61).[40] Lussurioso simply responds 'It seems most strange to me,/ Yet all the world meets round in the same bent' (4.2.64), and the conversation moves swiftly on to working Vindice to becoming Lussurioso's hired killer. The curiously stand-alone nature of this legal discussion sounds almost as if it belongs in a city comedy such as *Michaelmas Term*.[41] Its function is to show that Vindice is 'discontented' (4.2.35), and therefore amenable to Lussurioso's murderous plan. Nowhere else in the play is there any such mundane discussion of the law and its vagaries, and while the prevalence of legal actions within early modern London ensures that its meaning would not be lost on the audience, it also fails to go beyond the conventional in its reproach, much like Hamlet's passing mention of 'the law's delay' (3.1.71), which also may or may not be genuine.[42]

Between them, the trial scene discussed above and this short digression account for thirteen of the sixteen uses of the word 'law' in the text; the law as a subject of interrogation is largely exhausted in these two scenes. 'Justice' appears only twice, with both appearances

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[40] '[S]asarara' is annotated as a 'colloquial Anglicization of Latin "certiorari": a writ from a superior court arising from a complaint that a party has not received justice in an inferior court', *Thomas Middleton: The Collected Works*, p. 579.

[41] In Heinmann's brief discussion of the play she notes something similar, although not in relation to this particular exchange centring on the law: 'Vindice, tragic satirist as well as revenger, continually dwells on these relationships [young profligate heirs], which are so often the mainsprings of the plot in city comedy', p. 104.

[42] See Chapter Four, p. 213.

during the trial scene, 1.2.[43] 'Just' is more prevalent, with eight occurrences, but half of these use the word as an adverb connected to the frenetic pace of the action.[44] The remaining four are more straightforward, if slightly ironised by their context, as when Spurio says 'My revenge is just./ I was begot in impudent wine and lust' (1.2.189).[45] If anyone could be said to be preoccupied with questions of law and justice, it is the widower and eventual duke, Antonio, whose early sententious complaint that '"Judgement in this age is near kin to favour"' (1.4.55) is considerably modified by the play's closing moments: 'Just is the law above' (5.3.91). This appeal to divine justice is the only place we see law and justice brought into direct correlation in the play, as well as being the only allusion made to law in the final act. It is fitting that the law referred to is that 'above', i.e. divine, since so little of the revenge action is implicated in problems of formal, terrestrial justice. The trial scene may be given pride of place in the second scene, but its impact is far more structural than it is thematic. I now turn to the various motivations and machinations that drive the plot of *The Revenger's Tragedy*, in an effort to identify what has replaced socio-legal tensions in Middleton's play.

'[F]or you know/ He'll wish all private' (3.5.119)

It is telling that when the theme of vengeance is first broached in *The Revenger's Tragedy*, it is immediately connected with its generic origins:

Vengeance, thou murder's quit-rent, and whereby

[43] First Judge: 'Your grace must pardon us,/ 'Tis but the justice of the law' (1.2.70); Duchess (speaking of Spurio's bastardy): 'Half damned in the conception by the justice/ Of that unbribed, everlasting law' (1.2.161).

[44] 'I rise just in that place' (3.1.26); 'Just after his delivery' (3.6.68); 'just upon the stroke' (4.1.27); 'just as your lordship entered' (5.1.33).

[45] The other three occurrences are Vindice's claim at the Duke's death, 'Nay, heaven is just' (3.5.185); Gratiana's exclamation 'My words prevail'd when they were wickedness,/How much more now when they are just and good?' (4.4.125); and Antonio's final 'Just is the law above' (5.3.91).

Thou show'st thyself tenant to tragedy.

1.1.39

Nowhere is revenge connected to the concept of justice in this first pivotal scene. This should not surprise us when we consider that even the title brings together theme and genre – revenge and tragedy – so self-consciously, without any extraneous terms such as country (*The Spanish Tragedy*), character (*Titus Andronicus*) or motivation (*The Tragedy of Hoffman, or A Revenge for a Father*). This is revenge tragedy at its most refined, as attested to by the protagonist's full and enthusiastic identification with the role laid out for him: "Tis I, 'tis Vindice, 'tis I' (3.5.167). When combined, such details suggest that Middleton's play is far more generically aware than anything we have seen hitherto on the early modern stage.[46] I want to argue that this generic awareness actually has the effect of lessening the play's social impact. What I mean by this is that Middleton's avenger so completely inhabits his role as a revenger that the relevance of his actions beyond the world of the play is drastically reduced. I want to examine the motivations, the methods, and finally the aftermath of the various revenges in this play, in order to demonstrate that while revenge may have gained aesthetic amplitude in this play, what has been lost is the genre's political edge.

In *The Revenger's Tragedy*, what sets Vindice apart as a revenger is any sense of mental anguish accompanying his actions. The protagonist's motivations are to be accepted as a generic 'given', allowing the author to dispense with the usual soliloquies and move on to the action proper. Of course this is connected with Vindice's very identity as a revenger:

Lussurioso: Thy name? I have forgot it.

Vindice: Vindice, my lord.

Lussurioso: 'Tis a good name that.

[46] Francis Beaumont's *The Knight of the Burning Pestle*, coming within a year or so of this play, is similarly obsessed with questions of genre, although this is presented in a purely comic vein.

Vindice: Ay, a revenger.

4.2.172

Vindice's closest counterpart here is Hoffman, who similarly expresses no remorse or hesitation, and in both cases I think it's fair to say that revenge has ceased to be a stumbling block in and of itself. As McMillin observes, '[t]he process of deciding to take revenge for example, which fills out of the plots of earlier revenge plays, has already been completed here'.[47] If 'a revenger' is what he was born to be, then it is unlikely to cause him any undue torment.

The Revenger's Tragedy also dispenses with a staple of the revenge genre by having no ghostly presence return to spur Vindice to his revenge. It would seem that Vindice needs no such encouragement; however, I still think the omission is significant, as it links back to the question of what Vindice's motivations are, precisely, in this play. Most obviously there is the poisoning of Vindice's beloved Gloriana, because she would not consent to the Duke's lust We are not given any further details, meaning that 'the image of the past blurs into a *type* of situation'.[48] We also are told how the Duke is indirectly responsible for the death of Vindice's father, seemingly doubling the revenge motive. But whereas in Chettle's play Hoffman's father dies for piracy after inhabiting a liminal legal space between admiral and pirate, Vindice's father dies through lack of promotion:

Vindice: The Duke did much deject him

Gratiana: Much.

Vindice: Too much.

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[47] McMillin, p. 279. Neill too recognises this when he says how 'revenge is scarcely dramatized as a *problem* here in the way that it is in *The Spanish Tragedy*, say, or even *Hamlet*', p. 398 (original emphasis).

[48] McMillin, p. 278. Vindice's former love functions most obviously as a *mememto mori*, working much like Hieronimo's napkin dipped in Horatio's blood, or more closely Hoffman's preservation of his father's skeleton.

And through disgrace oft smothered in his spirit
When it would mount. Surely I think he died
Of discontent, the nobleman's consumption.

Gratiana: Most sure he did.

1.1.124

There is no real justification here; rather we get a vague suggestion of favouritism at court. To say that such dejection had a part to play in the death of Vindice's father is unlikely to stand up in a court of law. Yet this does not stop Hippolito later chiming in with Vindice when they are in the process of slaying the Duke: 'And let this comfort thee: our lord and father/Fell sick upon the infection of thy frowns/And died in sadness. Be that thy hope of life' (3.5.168). Once the revenge motive is taken for granted, as it is in this play, even such tenuous connections as these can be used to drive the action. It is as if the audience are not expected to scrutinize cause and effect too closely.

Such a lack of participation on the part of the audience relates back to the dearth of forensic evidence employed in the courtroom scene, where the knowledge of a crime is to be accepted without the need for proof. The case in question is the rape of Lord Antonio's wife, and it is telling that even when he comes to recount Junior brother's offence himself in the aftermath of the trial, his language eschews specificity, slipping instead into metaphor and personification: 'He harried her amidst a throng of panders/.../ And fed the ravenous vulture of his lust' (1.4.42). Similarly, if we look at Gloriana and Vindice's father, the details of their deaths are barely glossed. As McMillin puts it, 'the play refuses to recount these events with any sort of particularity'.[49] For McMillin this relates to Middleton's use of the morality tradition, where details and characterisation are secondary to plot structure and types. I would add to this that it limits an audience's ability to identify with the protagonist, when it comes to

[49] McMillin, p. 278.

performing a revenge in which they have no investment. By the same token, if Vindice's actions can be reduced to a function of his personification, then there is little scope for character development. This lack of depth hinders the play's ability to function as oblique social commentary, as the drive to be revenged proves to be so all-encompassing and pathological that wider social imperatives are neglected. It may seem strange to argue that Vindice's dedication to revenge actually differentiates him from other revengers, but I now want to examine how and why revenge remains insulated from politics in this play.

In the revenge tragedies studied thus far, the protagonists most often make common cause with their friends and allies, complemented by a backdrop of wider social discontent. Such a political context is conspicuous by its absence in *The Revenger's Tragedy*; the only riots are 'great folks' riots' in their blood (3.5.15),[50] and insurrection is associated with lust, not regime change.[51] Vindice may be from outside the ruling elite like other revengers, but he does not come to represent the common man in the same way. In Hippolito's vocabulary, and in the sexually charged language of the play as a whole, 'common' has only negative connotations: ''Tis common to be common through the world,/ And there's more private common shadowing vices/ Than those who are known both by their names and prices' (3.5.39).[52] Overall, the political lexicon of the play is decidedly muted when compared with the likes of *Antonio's Revenge*, where 'the citizens grow sick' (5.3.17) and we are told of how the people's hatred for Duke Piero can 'scarce retain from bursting forth/ In plain revolt' (5.1.22).[53] Even in

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[50] Cf. Vindice speaking of the Duke in his opening soliloquy is disgusted by 'one/ That has scarce blood enough to live upon,/ And he to riot it like a son and heir' (1.1.9).

[51] Again Vindice speaks of the Duke: 'the insurrection of his lust' (1.1.87).

[52] Cf. '"'Tis no shame to be bad, because 'tis common"' (2.1.116); on the willingness of women to be seduced for the sake of wealth and status, Vindice says 'Oh common madness!' (4.4.75); Castiza describes her own false capitulation as 'common usury' (4.4.104).

[53] I have already argued above for a minimal engagement with legal language in the play, p. 314ff.

Hamlet, where I argued for the protagonist's revenge remaining personal, there is a well-developed, if largely disregarded, backdrop of international politics and diplomatic crises. In *The Revenger's Tragedy* such a backdrop is entirely and distinctly lacking – we are not even told the name of the city in which the action takes place. Except for a corrupt courtroom scene, the action of the play takes place in dark passages, secluded rooms and private chambers. There are no wars raging outside the battlements, nor social uprisings within to disrupt and divert the flow of the action. Instead there is a tight focus on Vindice's revenge, unmixed with extraneous material. With no sense that this revenge is part of a common cause, this means that the revenger cannot represent, in the dual senses of the word, larger social concerns. The same cannot be said of Hieronimo, Titus, or Antonio, where revenge is always inseparable from a certain brand of populist politics. Even in the counter-revenge of *Hoffman* we have the banding together of various characters for their own private reasons, but which by their very cooperation elevates the revenge to a public good: 'All the land will help,/ And each man be a justice in this act' (5.1.246). *The Revenger's Tragedy* displays no such socio-political awareness. Revenge for Vindice may stem from injuries inflicted by the head of state, but it has little to do with righting the wrongs of the commonwealth. In short, Vindice's personal grievances remain precisely that – personal.[54]

A corollary of this is that Vindice's revenge cannot – and does not – lay claim to the title of open, participatory justice. The ebullience with which Vindice conducts his revenge may match other revengers, but he is lacking one vital component, and that is the commitment to make the reasons for his revenge public at all costs. This becomes most immediately apparent by looking at the methods of revenge Vindice chooses, which rely heavily on disguise, poisoning, and above all, privacy. A case in point comes as early as 2.3, where Vindice shows

[54] The obvious objection here is that Vindice's final revenge is politically motivated, since it sees the death of the new duke, Lussurioso, as well as his brothers, the 'nest of dukes' (5.3.125). I argue below that this act is surprisingly lacking in any identifiable socio-political motivation, p. 329ff.

his indifference to the public proclamation of his revenge and its causes, by expressing the wish that the Duke be killed by accident. When he sends Lussurioso to take the Duchess and Spurio 'twisted' (2.3.2), Lussurioso unwittingly draws his sword on his own father and is thrown in jail for his supposed treason. Looking on, Vindice says to Hippolito: 'Would he had killed him; 'twould have eased our swords' (2.3.33). The idea that after waiting for nine years to see the murder of Gloriana repaid, Vindice would step aside to let another of his own enemies complete the revenge unwittingly on his behalf is hard to accept. Yet it fits with Vindice's initial belief: 'whoe'er knew/ Murder unpaid?' (1.1.42). Vindice's providential outlook means that he is not concerned with how the Duke meets his death, as long as the murder of Gloriana is requited. It also means that any concern to bring the Duke to justice for his crimes is absent, and this becomes increasingly apparent when Vindice and Hippolito do succeed in luring the Duke to his death.

The Duke's murder finally comes in the third act, and it is notable for the fact that it is carried out in complete seclusion, in 'some fit place veiled from the eyes o'th'court' (3.5.13). Vindice dwells on the darkness of the place, describing it as 'this unsunnéd lodge/ Wherein 'tis night at noon' (3.5.18). Nowhere does Vindice express a desire that the reasons for the Duke's death should become public. In fact, the very opposite is the case: at first he tells his brother, 'for you know/ He'll wish all private' (3.5.119), and when he overhears the Duke telling his attendants 'to give out/ We're privately rid forth', Vindice's reaction speaks volumes – 'O happiness!' (3.5.125). Brucher comments on this scene that '[t]he Duke's murder in *The Revenger's Tragedy* seems judicious because the Duke secures the privacy for the killing and condemns himself by relishing sins "rob'd in holiness"'.[55] While I would agree that there is a certain poetic justice to the Duke giving his revengers private access to his person because of his own lust, there is little in this scene to suggest that it is to be taken as judicious. Middleton

[55] Brucher, p. 259.

even draws attention to the non-public nature of the revenge with a legal pun, as Vindice reveals his plans: 'her death/Shall be revenged after no common action' (3.5.70). The annotations pick up on the fact that 'no common action' implies 'through no legal process in the common court', and indeed this revenge is far from court in every sense.[56]

Having said that, Vindice does have a sharp eye for reciprocity, and he is keen that his love 'shall be revenged/ In the like strain, and kiss his lips to death' (3.5.104). Hippolito's response, 'Brother, I do applaud thy constant vengeance,/ The quaintness of thy malice above thought' (3.5.108), moves us towards the 'witty violence' and aestheticisation of revenge that is such a staple of the play's critical reception.[57] In case the quaintness of his malice is lost on the Duke, Vindice spells it out for him in his dying moments: ''tis the skull/ Of Gloriana, whom thou poisonedst last' (3.5.149). The Duke dutifully responds 'O, 't'as poisoned me', allowing Vindice's crude moralising to continue: 'Then those that did eat are eaten' (3.5.162). Hirschfeld's claim that this is a 'witty literalisation of eye-for-an-eye justice' is true up to a point, except for the fact that justice most often implies a participatory, public aspect in the period.[58] For all the carefully structured reciprocity of the scene, Vindice's revenge goes unobserved and unapplauded by all except his brother Hippolito. The idea of bringing the Duke to a wider public account is not so much unavailable as unthought of. Again the focus is on genre, not justice: 'When the bad bleeds, then is the tragedy good' (3.5.202).

The intensely private nature of Vindice's revenge sets him apart from the other protagonists of the genre. The idea that Hieronimo or Titus would be happy with simply killing their enemy, without revealing to the world why they should die, is inconceivable. In Hieronimo's case, he breaks off from his performance in sundry languages to make sure he is

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[56] *Thomas Middleton: The Collected Works*, p. 572.

[57] See above, p. 303.

[58] Hirschfeld, p. 205.

understood: 'Haply you think, but bootless are your thoughts,/ That this is fabulously counterfeit' (4.4.76). He continues uninterrupted for a full seventy-five lines, detailing his motivations, his methods, and the justice of his actions, before finishing with 'Urge no more words, I have no more to say' (4.4.152). While Vindice may be eager to make the Duke aware of his own unworthiness to live, he shows no desire to publish that information once the Duke is dispatched. Again, Hoffman is the closest analogue for this sort of behaviour, but whereas his villainous nature is assured from the outset with the murder of the innocent Otho, in *The Revenger's Tragedy* Vindice is supposed to be championing a righteous cause by killing a lecherous homicidal head of state.

The other peculiarity of Vindice's revenge on the Duke is that it is not the culminating action of the play. Coddon recognises that this puts an end to Vindice's 'ostensible *raison d'etre*', with the consequence for the remaining acts that 'their narrative purpose is radically superfluous'.[59] She sees this 'not an ethical critique of revenge so much as the radical estrangement of signifier from referent'.[60] Having declared his purpose-as-identity in a single breath only some fifty lines previously ("Tis I, 'tis Vindice, 'tis I' (3.5.167)[61]), once that revenge is complete Vindice no longer has a function. This does not prevent him from turning his attention to the Duke's sons: 'The dukedom wants a head, though yet unknown./ As fast as they peep up, let's cut 'em down' (3.5.222). This is the final line of the scene, and it clearly indicates Vindice's realignment of his identity from a revenger of personal injuries to some sort of vigilante in the final act. I now examine how this transition is effected, and whether

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[59] Coddon, p. 85.

[60] Coddon, p. 85.

[61] 'The "Vindice" familiar to readers through stage directions and speech-prefixes is not actually heard in the theatre until the instant of revenge', McMillin, p. 284.

Vindice's second revenge action, against Lussurioso, is similarly marked by a lack of open justice.

'When murder's known, to be the clearest man' (5.1.94)

As Act 5 opens, we see Vindice revelling in the irony of being hired to do away with his own disguised self: 'I must sit to be killed and stand to kill myself' (5.1.7). As he indulges in the variations of this combination, he says ''T'as some eight returns like Michaelmas term' (5.1.8).[62] Once again Vindice shows himself to be fully conversant with legal terms, so to speak, but the simile is empty of content or critique. Law has become purely metaphorical, useful only for comic effect. As the brothers prepare to 'kill' Piato, who is in fact the newly-disguised corpse of the Duke from 3.5, Vindice wonders if he can do away with Lussurioso in the same manner as his father. He asks Hippolito 'does the duke's son come single?' (5.1.11), and when the answer is negative he exclaims, 'Ah, the fly-flop of vengeance beat 'em to pieces!' (5.1.15), expressing his frustration that his enemy cannot be singled out alone and in private. This then leads into an extended reverie on how fitting such a death would have been:

> Here was the sweetest occasion, the fittest hour, to have made my revenge familiar with him, show him the body of the Duke his father and how quaintly he died – like a politician in hugger-mugger, made no man acquainted with it – and in catastrophe

[62] 'Returns' is glossed as 'rhetorical variations for describing the situation; punning on "returns" as the days for sheriff's reports (also "returns") to the law court upon writs', *Thomas Middleton: The Collected Works*, p. 586. In his edition of the play, Brian Gibbons points out: 'The weak jest is meant for lawyers or young students of the Inns of Court, whose presence in the audience resulted in a mass of such detailed references to legal matters in Jacobean plays', *The Revenger's Tragedy*, ed. by Brian Gibbons (London: Benn, 1967), p. 92. I would suggest that a joke about Michaelmas term would be accessible to a much larger section of the audience.

slain him over his father's breast, and – O, I'm mad to lose such

a sweet opportunity!

5.1.16

This passage brings together the central elements of revenge for Vindice, where sweetness, quaintness and fitness take precedence over concerns for the morality or justice of his actions. Where we might expect some reference to the justness of such a killing, we are presented instead with a tableau that is purely theatrical: 'and in catastrophe slain him over his father's breast'. Once again Vindice's generic awareness, signalled by the word 'catastrophe', occludes any other function that a revenger might serve at this point in the action. The phrase 'hugger-mugger' is curiously reminiscent of Claudius' description of Polonius' funeral in *Hamlet*.[63] The crucial difference here is that for Vindice such secrecy is a source of pride, as he boasts of having killed the Duke with 'no man acquainted with it'.

On Lussurioso's arrival the desire for privacy is reiterated yet again, in case the point was lost until now:

Hippolito: Came your honour private?

Lussurioso: Private enough for this. Only a few

Attending my coming out.

Hippolito: [*aside*] Death rot those few.

5.1.36

A point that has escaped notice before, due to the inordinate focus on Vindice's artistry, is his keenness to escape detection for his crimes. The brothers' near obsession with keeping their plans for revenge hidden from public view is a new development for the stage revenger. We see this, for example, when Hippolito says 'Come now, to avoid all suspicion let's forsake this room' (5.1.27). In the moment before stabbing the corpse, Vindice says to Lussurioso, 'You'll

[63] '[W]e have done but greenly/ In hugger-mugger to inter him', *Hamlet*, 4.5.83.

bear us out, my lord?'(5.1.61), to which he receives the reply, 'Puh, am I a lord for nothing, think you?' (5.1.62).[64] The protagonist revenger's first thought is for a false alibi, making him a dependent on his chief enemy Lussurioso in the process. I think it's fair to say that Titus, Antonio, or Hieronimo would never put themselves in such a position.

The three then proceed to think of ways to explain their finding of the Duke's body, with Lussurioso suggesting that they tell the court how 'by miracle we found him dead' (5.1.81). Vindice agrees, 'That will be the best way, my lord, to clear us all./ Let's cast about to be clear' (5.1.83). In an aside to his brother, Vindice conceitedly boasts:

> Thus much by wit a deep revenger can,
>
> When murder's known, to be the clearest man.
>
> We're furthest off and with as bold an eye
>
> Survey his body as the standers-by.
>
> 5.1.93

Vindice is literally reduced to a bystander, and what's more he is happy to be so. His repetition of 'clear', three times in eleven lines, indicates that his primary concern is to appear innocent himself, rather than exposing the guilt of others. This of course ties in with the general debasement of a revenger, who in seeking revenge on his enemies becomes like those enemies. But I believe there is a further significance in a revenge protagonist showing no inclination to see the faults of his enemy proclaimed publicly, content instead 'to be the clearest man'. When it comes to the 'slaying' of Piato, I am less concerned with the

[64] Lussurioso's comment, steeped in class bias, aligns him with the likes of Lorenzo ('I stood betwixt thee and thy punishment', *The Spanish Tragedy*, 2.1.49) and Claudius ('Offence's gilded hand may shove by justice', *Hamlet*, 3.3.58).

significance of having Vindice slay 'himself';[65] what is more pertinent to my purposes is his subsequent preoccupation with being 'clear' of the crime.

What follows in the aftermath of the 'discovery' of the Duke's body is not so much an investigation as a witch-hunt. Lussurioso attacks the Duke's gentleman for telling the court that he was 'privately rid forth' (5.1.121), to which the gentleman can only respond that he lied on the Duke's own orders, and in fact left him in the presence of Piato. This prompts Vindice to whisper 'Confirmed' (5.1.126), as the gentleman's admission means that he is free from suspicion. Lussurioso then sentences the man to death on the spot – 'Bear him straight/ To execution' (5.1.129) – fulfilling the trope of a head of state delivering rash judgement. To this Vindice assents openly, saying 'You've sentenced well' (5.1.132), while Hippolito chimes in with, 'Brother, how happy is our vengeance' (5.1.134). Hirschfeld says of the scene that 'Vindice takes this miscarriage of justice as further validation for his final revenge plot', but this elides the fact that Vindice is in large part responsible for that miscarriage of justice.[66] He candidly praises Lussurioso's verdict when he knows the truth of the matter: that an innocent man is going to his death for Vindice's own actions.

In the following scene, as they prepare for the climactic revenge on Lussurioso, Vindice excoriates those '[n]ot daring to stab home their discontents' (5.2.4). At first, it appears that Vindice is keen to make public their revenge, as he says 'Let our hid flames break out as fire, as lightning,/ To blast this villainous dukedom vexed with sin' (5.2.5). There is also a group element brought into play, as Piero and other lords are made privy to Vindice's plans. The introduction of a band of revengers, moments before the final scene, conforms to the

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[65] 'Vindice solves his identity problem histrionically', Brucher, p. 263; 'There could of course be no wittier illustration of the governing principle of revenge drama, whereby the revenger is transformed into the simulacrum of the criminal he seeks to punish', Neill, p. 403.

[66] Hirschfeld, p. 207.

communal revenge convention that I have argued for previously. What makes it stand out is that there has been no preparatory work done for the emergence of such a group elsewhere in the play. While we are given a discussion of a group revenge against Junior brother as far back as 1.4, that character is long since dead, and any justification for vigilantism along with him. Also, if we look to the motivations attributed to Vindice's followers, again there is a strange lack of concrete, justifiable ire on the part of the revengers. Vindice's initial encouragement that they should 'stab home their discontents' (5.2.4) is subjective in the extreme, and this is reiterated when he talks of 'those few nobles that have long suppressed you' (5.2.11). This recalls Vindice's own father, who died of 'discontent, the nobleman's consumption' (1.1.127), and in both cases a vague sense of personal grievance is taken as de facto justification for acts of tremendous violence.

As for the revenge plan itself, this revolves around the masque being organised for the new duke Lussurioso. Vindice has replicated the masquing suits, '[e]'en to an undistinguished hair almost' (5.2.17), allowing the revengers to come upon Lussurioso unawares. His plan receives the approbation of those present, but when a lord interjects with 'Before the t'other masquers come –' (5.2.24), Vindice cuts him off, 'We're gone, all done and past' (5.2.25). Yet again Vindice's cunning plans for revenge contain within them an escape route, so that after the revenge is complete he is once more the clearest man. Before the scene ends, there is another peculiar importation of a revenge tragedy convention, with no background given for its presence. This is Hippolito's casual mention of a standing army of gentlemen waiting to lend them their support: 'There are five hundred gentlemen in the action/ That will apply themselves and not stand idle' (5.2.28). The inexplicable presence of five hundred supporters may be believable, considering the 'villainous dukedom vexed with sin' (5.2.6), but there has been absolutely no indication of a disgruntled populace or wider discontent up until this

moment.[67] Vindice's revenge has been so intensely personal, unconnected with wider political concerns, that the integration of his cause with the needs of the people at this late stage seems awkward and forced. Throughout the play the audience's attention has been directed at the Duke and his corrupt family, without a hint of life beyond the walls of the court. In trying to broaden the social relevance of the final revenge, Middleton only succeeds in drawing attention to how very narrow the focus has been until now.

The final scene opens with the appearance of an ominous 'blazing star', which Lussurioso in his power-mad state accuses of treason (5.3.15). The new duke's arrogance is the cue for the entry of the masque, accompanied by the celestial sign that Vindice has been waiting on for some five acts: 'Dost know thy cue, thou big-voiced crier?/ Dukes' groans are thunder's watchwords' (5.3.43). The combination of comet and thunder would certainly seem to suggest that Lussurioso's assassination is divinely ordained, but it is a valid question as to how seriously we can take this moment in the context of the play as a whole: 'When Vindice calls for thunder to accompany his deeds, he knows he is operating within a fictional genre and has no identity outside it'.[68] Lussurioso is stabbed by the masquers in short order, along with his courtiers whose greatest crime was flattery. And there will be more innocent victims sent to their deaths before the scene is out. As justification for the four deaths, Vindice cites the recently heard thunder while making his getaway: 'No power is angry when the lustful die./ When thunder claps heaven likes the tragedy' (5.3.47). The affinity between revenge and theatre is here complete, which has been implicit from the first scene: 'Vengeance, thou

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[67] Confirmation that the 'five hundred gentlemen' are more of a generic convention than thematic necessity would seem to come from the fact that they are never mentioned again. This has much in common with Laertes' miraculous collection of a rabble of supporters at a moment's notice (*Hamlet*, 4.5.102).

[68] Emma Smith, ed., *Five Revenge Tragedies: Kyd, Shakespeare, Marston, Chettle, Middleton* (Oxford: Penguin, 2012), p. xxiii. Cf. Dollimore says that 'the traditional invocation to heaven becomes a kind of public stage-prompt', p. 140.

murder's quit-rent, and whereby/ Thou show'st thyself tenant to tragedy' (1.1.39).[69] To claim that Vindice's revenge is theatrical is by no means original.[70] What concerns me here is the fact that he performs only for the entertainment of the paying public in the early modern theatre, and not for the edification of the characters within the play. In *The Spanish Tragedy*, Hieronimo's final revenge is also theatrical in the extreme, but it is accompanied by a lengthy exposition of why he felt forced to do as he did (*The Spanish Tragedy*, 4.4.76). In Vindice's case no such explanation is forthcoming. No sooner has the masque of revengers stabbed home their discontents (5.2.4) than Vindice tells them to disperse before anyone arrives, 'Come, let's away, no ling'ring' (5.3.46), making good his promise from the previous scene (5.2.25). Vindice's main concern throughout has been to hide his actions, apparent in the stress on privacy since they murdered the first Duke in 3.5, and in his swift exit after killing the second. For this reason I take issue with Brucher's assessment of the scene: 'In an extraordinary elaboration of the revenge play conventions, Vindice manages to kill his enemy, the head of state, a second time and in public'.[71] Surely the point is that the killing happens on stage for us to see, but not in the public domain of the play-world.

As Vindice and his followers slip out unobserved, the second murderous masque enters with the intention of killing the newly installed Lussurioso. It is no coincidence that the second set of revengers is indistinguishable from Vindice and his followers, making a point about their close relation as well as providing the desired alibi.[72] When Ambitioso finds

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[69] It is also apparent in such lines as 'When the bad bleeds, then is the tragedy good' (3.5.202); 'and in catastrophe slain him over his father's breast' (5.1.20); 'Dost know thy cue, thou big-voiced crier?/ Duke's groans are thunder's watchwords' (5.3.43).

[70] See pp. 302-4, above.

[71] Brucher, p. 263.

[72] 'In their carefully costumed similarity, the two ranks of masquers are substitutes for each other', McMillin, p. 288.

Lussurioso dead already, his line 'Here's a labour saved;/ I thought to have sped him' (5.3.51) has a ring of Vindice about it.[73] Now the various brothers, half-brothers and bastards fall to infighting, effectively killing each other off to make way for the denouement. At this point Vindice and Hippolito re-enter, and their conduct in the aftermath of the bloodbath which they themselves created is bizarre in the extreme. Firstly Vindice calls for 'Pistols, treason, murder, help, guards! My lord/ The Duke!' (5.3.56), while his brother, speaking of the fourth noble who has survived the killing spree, gives the order, 'Lay hold upon this traitor' (5.3.57). Vindice continues to express his disingenuous concern for the Duke that he murdered some thirty lines previous: 'Alas, the Duke is murdered' (5.3.58); 'Surgeons, surgeons!' (5.3.59); 'Look to my lord the Duke' (5.3.63). Whether or not his sentiments are loaded with dramatic irony, all that the surviving characters see is a subject's wish for his sovereign's well-being. Again, a comparison with revengers such as Titus or Antonio at this point is instructive: ''Tis true, 'tis true, witness my knife's sharp point' (*Titus Andronicus*, 5.3.65); 'I will not lose the glory of the deed' (*Antonio's Revenge*, 5.6.3). If anything, Vindice's hypocritical 'How fares my lord the Duke?' (5.3.74) aligns him with Lussurioso's flattering courtiers who lie dead at his feet.

In fact, the brothers' false show of concern for their sovereign here leads to a crime worse than any perpetrated by the Duke and his sons. Vindice is directly responsible for the torture and death of a man, for a crime he himself has committed. He calls on the fourth noble to confess to '[c]onfess, thou murd'rous and unhallowed man,/ Didst thou kill all these?' (5.3.64), and continues his aggressive line of questioning: 'How came the Duke slain, then?' (5.3.66); 'O, marble impudence! Will you confess now?' (5.3.69). A rare moment of forensic interrogation is used not to access the truth, but to conceal it, as Vindice has concealed his

[73] Vindice earlier wishes that Lussurioso had killed the Duke for him: 'Would he had killed him; 'twould have eased our swords' (2.3.33).

crimes all along.[74] When Lussurioso regains consciousness enough to say 'Those in the masque did murder us' (5.3.67), the fourth noble's death sentence is assured: 'Let him have bitter execution' (5.3.72).[75]

With Lussurioso on the point of death, Vindice takes the opportunity to whisper in his ear: 'Now thou'lt not prate on't, 'twas Vindice murdered thee –' (5.3.77). His superfluous 'Tell nobody' (5.3.80) only reiterates what we already know, that Vindice prefers to keep his revenge private. Just as earlier he tells the Duke, "Tis I, 'tis Vindice, 'tis I' (3.5.167) in his dying moments, Vindice only declares his identity when no-one else can hear: 'Now thou'lt not prate on't'.[76] With Lussurioso dead, this leaves the stage clear for the good lord Antonio to take upon him the dukedom. Vindice is fulsome in his praise of Antonio: 'Your hair will make the silver age again,/ When there was fewer but more honest men' (5.3.86). Of Antonio's predecessor Lussurioso, all Vindice says on the matter is 'My lord was unlikely' (5.3.84), deferring to Antonio as the fitter candidate. This is hardly an indictment of all we have witnessed over the last five acts. His further argument that 'The rape of your good lady has been 'quited/ With death on death' (5.3.90) also seems strangely misplaced, considering that both the perpetrator of the rape, Junior brother, and the Duke who postponed his punishment have been dead for some two acts. Thus Antonio's response, 'Just is the law above' (5.3.91) is a questionable summation of events onstage.

Antonio continues, 'But of all things it puts me most to wonder/ How the old Duke came murdered' (5.3.92). It is at this point that Vindice famously reveals himself, which would appear to disprove the penchant for concealment that I have been arguing for:

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[74] This is even worse than Vindice's earlier complicity in Lussurioso's execution of the gentleman for not revealing the whereabouts of the former Duke (5.1.132).

[75] It should be noted that the noble does admit to having killed Spurio (5.3.65), but this was done only because Spurio himself was a murderer.

[76] Hamlet's iconic 'This is I,/ Hamlet the Dane' (5.1.246) provides a useful counterpoint.

We may be bold

To speak it now. 'Twas somewhat witty-carried,

Though we say it. 'Twas we two murdered him.

5.3.96

Hirschfeld labels this 'Vindice's compulsive self-revelations', which seems a fair summation.[77] I would only add that his reasons are again firmly rooted in the theatre. As he earlier described his plans for revenge as sweet and quaint (5.1.16ff), here their wittiness takes precedence. This is reinforced by his next line, 'Nay, 'twas well managed' (5.3.99).[78] What are not mentioned are Vindice's long-standing reasons for killing the old Duke in the first place. Not only does he neglect to recount the crimes of both father and son, he in fact never even admits to the slaying of Lussurioso, leaving the fourth noble to bear the brunt of that particular crime.[79] For his frank confession, Vindice receives the death sentence from Duke Antonio with the rationale 'You that would murder him would murder me' (5.3.104).

It would seem that Vindice's purpose has run its course, as he himself admits:

are we not revenged?

Is there one enemy left alive amongst those?

'Tis time to die when we are ourselves our foes

When murd'rers shut deeds close, this curse does seal 'em:

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[77] Hirschfeld, p. 207.

[78] Cf. Lussurioso's description of hiring Hippolito to find a bawd for his sister: "Twas finely managed' (1.3.146).

[79] For this reason I would have to disagree with Clare's claim that Vindice's 'sense of the moral rectitude of his role is, of course, his undoing, as, not satisfied with ensuring that his victims identify him, he incriminates himself in disclosing the part he has played in the murderous havoc of the final scene', p. 69.

If none disclose 'em they themselves reveal 'em.

5.3.107

Considering that so much of Vindice's identity was wrapped up in his personified name of 'a revenger' (4.2.173), the fact that he has no enemies left to kill means that he quite literally has no reason to live, giving an added poignancy to his question, 'are we not revenged?'. At the same time, much of what the audience have been privy to is lost on characters such as Antonio. He has no knowledge of Lussurioso's attempt to seduce Castiza, nor of Vindice's replica masque, the other members of which are still at liberty.[80] Middleton, it would seem, is happy for the full workings of the plot to be available only to his audience, with no Horatio-type figure left behind 'in this harsh world [to] draw thy breath in pain/ To tell my story' (*Hamlet*, 5.2.332). This underlines the lack of concern in the play as a whole to dwell on the righteousness of the revengers' actions as opposed to their quaintness. Vindice's line 'This work was ours, which else might have been slipped' (5.3.120), sounds more like an epilogue than a revenger's final speech. Titus' final words are used to expose the heinous crimes of Chiron and Demetrius (*Titus Andronicus*, 5.3.55), Hieronimo cries 'Behold the reason urging me to this' (*The Spanish Tragedy*, 4.4.88), even Hoffman's death speech is used to recount his numerous revenges (5.3.156), but while Vindice is given a full twenty-line speech, nowhere does he mention Gloriana or his discontented father, nor does he share the details of Lussurioso's crimes with the newly elected Antonio. As the culminating action of a revenge tragedy, it is exceptional that Vindice shows no desire to proclaim to the world why his enemies were so deserving of death.

[80] Vindice hints at as much when he says 'And, if we list, we could have nobles clipped/ And go for less than beggars' (5.3.121).

I do not want to labour the point, but the change of focus from a just revenge in an unjust world, to a revenge steeped in the language of theatre, shrouded in secrecy, and with little or no reference point in the external world is unrecognisable from earlier revenge tragedies. Structurally speaking, *The Revenger's Tragedy* may be comparable to what has gone before; socio-politically, it is not. I have made very little reference to the wider social milieu of this play, and this is because so little of what is contained within the play seems to engage directly with real world politics or society: 'This is a court not much given to history'.[81] The exception here is the infamous clash between King James and his Chief Justice Sir Edward Coke, and even this has been shown to be as much generic convention as social commentary. Vindice is no people's champion, nor does he decry the justice system that has failed him. In *Titus Andronicus* we see the protagonist on his knees in the dirt appeal to the judges to no avail (3.1), while Hieronimo tears to pieces the legal documents he is supposed to uphold (*The Spanish Tragedy*, 3.13). An oppositional attitude runs right through these revenge tragedies, summed up by Hieronimo's heart-felt plea to the heavens: 'How should we term your dealings just,/ If you unjustly deal with those that in your justice trust?' (*The Spanish Tragedy*, 3.2.3). Yet when it comes to *The Revenger's Tragedy*, such a sentiment is never given expression.

By keeping his revenge private, and even feigning concern for his victim to allay suspicion, Vindice is the least politically-aware revenger to be encountered in this study. This penchant for secrecy may allow him to operate successfully in the Duke's corrupted court, but it also has the crucial effect of dissociating his actions from a wider political cause. The implications of this for the genre of revenge tragedy are immense, considering how integral socio-legal and political issues have been in the plays of Kyd, Shakespeare, Marston and Chettle. In Shakespeare's *Hamlet* I noted a similar move away from the intertwining of revenge

[81] McMillin, pp. 277-8.

and politics, but the socio-political roots of the genre were displaced to the subplots of Fortinbras and Laertes. Furthermore, although the reasons for Hamlet's revenge remain relatively private, the killing of Claudius is an extremely public act. Even in *Hoffman* the eponymous protagonist may have been eager to conceal his crimes, but the communal nature of his public execution at the play's climax acts as a corrective to this. In the case of *The Revenger's Tragedy*, privacy is primary. The basic premise of the revenge play is that legal avenues are blocked to the protagonist, but my point here is that this blockage is no longer under scrutiny: the law has become ossified within the genre of revenge tragedy.

In a certain sense, Middleton's play is the quintessential revenge tragedy, untrammelled by partisan politics. Social issues are simply excised in this play, leaving behind generic set-pieces like the corrupt trial in the first act, and the absent presence of five hundred supporters for Vindice – whose existence is neither explained nor confirmed – in the last. Such fragments are no longer as vital and compelling as Hieronimo's resistance to the powers that be, or Antonio's sacred oath of vengeance sworn against a menacing tyrant. Similarly, the forensic mode identified as a key component of the revenge genre by Hutson is all but absent in this play. This thesis has endeavoured to show how the revenge genre constituted a space for the expression of anxieties affecting the population at large. From its inception, early modern revenge tragedy offered its audience a subtle and meaningful critique of contemporary socio-legal issues, from evidence-gathering and its veracity, to social protest at times of extreme dearth, to the liminal legal status accorded to piracy, and even extending to the deadly themes of insurrection and treason. *The Revenger's Tragedy* is lacking the same sense of engagement, and this leads me to describe it as post-participatory: early modern law is still imbricated in the fabric of this play, but it is not subjected to the same interrogation as it is elsewhere. To put it another way, Vindice may be the embodiment of revenge, but revenge can be an embodiment of so much more than this on the early modern stage.

Conclusion

But tell me

Why you proceed not against these feats

So criminal and so capital in nature.

Hamlet, 4.7.5

Laertes' question to Claudius – why he has not had Hamlet charged with the slaying of Polonius – is at once the most reasonable response to violent crime, while at the same time seeming strangely out of place within the context of Shakespeare's play. In effect, he is asking why revenge tragedy is necessary when there exists a fully-functioning legal system. The simple answer is that we are dealing with a world where law may be operative, but where that law is also severely flawed. The pages of this thesis have endeavoured to offer a more comprehensive answer, by elucidating revenge tragedy's precise engagements with the legal system of its time. That these plays are filled with scenes of judgement, unreliable witness testimony, and evidence both genuine and false, should alert us to the fact that the genre of revenge tragedy is putting law to the test as much as it is condemning revenge.

What is more, early modern revenge tragedy seems intent on reminding its audience of the absent presence of the law at its core: *'Terras Astraea reliquit*: be you remembered, Marcus,/ She's gone, she's fled' (*Titus Andronicus*, 4.3.4).[1] The revengers that populate these tragedies no doubt have their personal grievances against their enemies, yet time and again we see those same enemies make a mockery of the law and trample over their citizens' rights in the course of the action. From the rash verdicts delivered by the various sovereigns in *The Spanish Tragedy*, to the more insidious manipulation of courtroom procedure by Duke Piero in *Antonio's Revenge*, revenge tragedy regularly depicts crimes against the law itself. And these miscarriages of justice are perpetrated not by the revenger, but by the antagonist of the piece. Read in this way, it is hard to see the genre in anything other than socio-legal terms. For the most part, however, critics of the genre have eschewed such a perspective. Admittedly this has begun to change, with isolated instances where social tensions within particular plays have been noted; but these contributions have hitherto not been brought into communion with one another to form a coherent whole.[2]

I have sought to make a case for socio-political engagement in general – and legal critique in particular – as integral facets of revenge tragedy's generic identity. Effectively, I am urging that legal critique too amounts to a convention of the genre, but one that reaches beyond the wooden O of the early modern playhouse, and embraces the people and

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[1] 'Justice has left the earth', from Ovid, *Metamorphoses* 1.150.

[2] Marie Honda, '*The Tragedy of Hoffman* and Elizabethan Military Affairs', 演劇研究センター紀要 [*Bulletin for the Centre of Theatre Research*, Waseda University Japan], 6 (2006) , 197-207 <http://dspace.wul.waseda.ac.jp/dspace/bitstream/2065/26864/1/019.pdf> [accessed 3 August 2011]; Christopher Crosbie, '*Oeconomia* and the Vegetative Soul: Rethinking Revenge in *The Spanish Tragedy*', *English Literary Renaissance*, 38 (2008), 3-33; Paul Raffield, '*Terras Astraea reliquit*': *Titus Andronicus* and the Loss of Justice', in *Shakespeare and the Law*, ed. by Paul Raffield and Gary Watt (Oxford: Hart Publishing, 2008), pp. 203-20. It goes without saying that Lorna Hutson's legal approach has also re-engaged the genre with its historical moment, *The Invention of Suspicion: Law and Mimesis in Shakespeare and Renaissance Drama* (Oxford: Oxford University Press, 2007).

institutions that populate early modern London. For too long the dominant themes of revenge tragedy criticism have been an Elizabethan inheritance of private revenge, metatheatricality, the burden of memory in post-Reformation England, and the 'aesthetics of mutilation', in Tricomi's memorable phrase.[3] By focusing on the way these plays shed light on the tensions and changes within their own unique socio-historical moment, my approach has the advantage of making sense of elements that are often overlooked because they are un-conventional. In terms of individual plays I believe this has brought new and important thematic concerns to light, such as sensory deprivation in *Titus Andronicus*, or the communal nature of the climax in *Antonio's Revenge*. It allows Hieronimo's play-within-a-play to be viewed as judicious as well as metatheatrical, and asks why Shakespeare puts Laertes at the head of a rabble of citizens, or what effect the piratical career of Hoffman's father has on the ensuing action. Such an approach also has major implications for the genre more generally, as it reveals a current of social critique running through these plays that has hitherto gone largely untapped.

I have been most concerned to draw out the participatory structures embedded in the delivery of vindictive justice in these plays. This work was begun by Hutson's identification of forensic rhetoric in the plotting of these plays, as murder scenes become crime scenes.[4] Building on Hutson's work, it has been my intention to show how the revenge genre interrogates the legal system at a more fundamental level. This becomes most immediately apparent in the way that revenge in these plays is rarely a solitary, personal activity, and instead tends to represent a collection of citizens coming together to wreak vengeance on their enemies, who are more often than not the arbiters of justice within the fictional world of

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[3] Fredson Bowers, *Elizabethan Revenge Tragedy, 1587-1642* (Princeton: Princeton University Press, 1940); John Kerrigan, *Revenge Tragedy: Aeschylus to Armageddon* (Oxford: Clarendon Press, 1996); Thomas Rist, *Revenge Tragedy and the Drama of Commemoration in Reforming England*, Studies in Performance and Early Modern Drama (Surrey: Ashgate, 2008); Albert H. Tricomi, 'The Aesthetics of Mutilation in *Titus Andronicus*', *Shakespeare Survey*, 27 (1974), 11-19.

[4] Lorna Hutson, *The Invention of Suspicion*.

the play. *Antonio's Revenge* is practically a misnomer, considering the action is carried out with the help of Pandulpho, Balurdo, Alberto, and Martha, not to mention the support of the citizens of Venice and the neighbouring state of Florence (5.5.6). Laertes' failed insurrection in *Hamlet* is adapted and transformed into another abortive rising by Jerome in *Hoffman*, but with the important distinction that in Chettle's play the prince does not abandon his followers at a moment's notice. The counter-revenge in *Hoffman* is similarly marked by inclusivity: 'All the land will help,/ And each man be a justice in this act' (5.1.246). Even *The Revenger's Tragedy*, which for the most part avoids populist politics, inserts into the final act 'five hundred gentlemen in the action/ That will apply themselves and not stand idle' (5.2.28). One of the most significant discoveries to emerge from this study is the fact that the lone Elizabethan revenger is no more a reality than the Elizabethan inheritance of private vengeance.[5]

The collective action that lies at the heart of so many of these plays is a bold political statement, one that requires recognition before it can be properly deciphered. It is my contention that revenge on the early modern stage becomes a locus for communal social tensions, a participatory act at a time when participation was key to people's conception of justice. The fact that the genre flowers in a period when citizens were intimately connected to their legal system turns on its head the traditional narrative of revenge tragedy as a reaction to widespread resistance to legal remedies.[6] If anything, with the increased professionalisation, centralisation and bureaucratisation of the law, citizens were beginning to be excluded from the production of justice[7] – a process that in some ways has continued to the present day. This was a long way from the hue and cry that had characterised an earlier phase of England's

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[5] As argued in Chapter Four, *Hamlet* is the exception here that proves the rule.

[6] Such an approach is typified by Bowers, but has persisted long after it should have.

[7] With more business than ever going through the courts, innovations such as multiple arraignments and plea-bargaining were limiting people's interactions with their law, as I argued at the beginning of Chapter Two.

justice system, where every citizen was expected to take an active part in the delivery of justice. Furthermore, the power of the jury was a major point of contention throughout this period, as the balance of power shifted in the early modern courtroom.[8] Many legal professionals felt the law to be unsafe in the hands of the uninitiated, preferring less involvement by lay people in the workings of their legal system. And so while participatory justice is in some senses a watchword for the early modern legal system, there was also a real sense that this level of participation was under threat; in Barbara Shapiro's phrase, '[d]iminishing the jury meant diminishing the "rights of Englishmen"'.[9]

In such a context of legal transformation and flux, the contemporaneous representation of revenge in the public theatres as a form of participatory justice would have been all the more provocative. Tales of collective action in the face of an unwieldy and unworkable legal system do not make sense as a response to fears over the people taking the law into their own hands; rather, they speak to anxieties surrounding what might happen if the law is taken out of the hands of the people, and the dangers of prerogative power more generally. In addition, the stage revenger's middling social status would have struck a chord with many in the audience, as England's middling sort grew in power and influence throughout the period. With the flourishing of revenge tragedy, citizens could now go to the theatre and witness those in a similar marginalised position literally mounting an assault on the ruling elite; to borrow a line from Beaumont's 'Citizen' in *The Knight of the Burning Pestle*, 'I will have a

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[8] See for example James I's 'A Proclamation for Jurors' from 1607 aimed at restoring the 'ancient integrity and credit' of trial by jury: 'So that the service oftentimes resteth vpon such as are either simple and ignorant, and almost at a gaze in any cause of difficultie, or else vpon those that are so accustomed and inured to passe and serve vpon Juries, as they haue almost lost that tendernesse, which in such cases is to bee wished', p. 1 (available on EEBO, STC no. 8406). See Chapter Two for the precarious position of the early modern trial jury at the time.

[9] Barbara Shapiro, 'The Beyond a Reasonable Doubt doctrine: "Moral Comfort" or Standard of Proof?', *Law and Humanities*, 2 (2008), 149-73 (pp. 156-7).

grocer, and he shall do admirable things' (Induction.33).[10] It is no coincidence that the turn of the century simultaneously witnessed an ongoing process of legal professionalisation, and the popularity of a genre dedicated to representing collective extra-legal justice. I hope to have shown how such congruence, once highlighted, can illuminate both legal and literary discourses. My focus has been to draw out the socio-legal underpinnings of a popular dramatic genre; however, the traffic is never one-way. An understanding of food riots in 1590s London can help to make sense of Balurdo's belly-aching in *Antonio's Revenge*,[11] but equally the exchange between Piero and the stoical Pandulpho on the nature of a citizen's duty to a tyrannical sovereign gives us a surprisingly candid glimpse of popular discourse surrounding tyranny.[12]

In this thesis, I have tried as far as possible not to put revenge in opposition to the law. Such binaries can serve to over-simplify more complex interactions between discourses. Instead of positing a subversive relationship, I would suggest that revenge tragedy acts as a kind of warped mirror for magistrates – reflecting on judicial procedure even as it distorts it. Having begun with Hieronimo's vindictive yet judicious play-within-a-play, I ended with another masque of revenge in *The Revenger's Tragedy*, but one which no longer adheres to the principles of open and participatory justice.[13] This is not to say that revenge tragedy no longer engages with the legal system of its time. One need only think of the deeply

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[10] Francis Beaumont, *The Knight of the Burning Pestle*, ed. by Michael Hattaway, New Mermaids series (London: A. & C. Black, 1991) (first printed 1613, available on EEBO, STC no. 1674).

[11] 'Nay, and you talk of revenge, my stomach's up, for I/ am most tyrannically hungry' (*Antonio's Revenge*, 5.3.52).

[12] 'Where more than noble deeds to kings are free/ It is no empire, but a tyranny' (*Antonio's Revenge*, 2.2.58).

[13] As discussed in Chapter Six, Vindice admits only to the killing of the old Duke, and goes to elaborate lengths to avoid detection for the killing of Lussurioso in the masque, see p. 334.

problematic rhetorical displays at the arraignment of Vittoria Corombona in *The White Devil*,[14] or the tension between providential justice and the workings of the legal system in *The Atheist's Tragedy*.[15] Legal issues continue to be interrogated within the genre, most notably the relation between a sovereign and his law. We see this in operation in plays like *The Revenge of Bussy d'Ambois*, *The Maid's Tragedy*, and *The Tragedy of Valentinian*, whose eponymous emperor encapsulates the dilemma in a single line: 'Justice shall never hear ye: I am justice' (3.1.34). Whether this focus on the line between prerogative power and tyranny can be attributed directly to King James is beyond the scope of this study.[16] But an individual response to tyrannical monarchy is in marked contrast to the collective action noted here as the hallmark of earlier revenge tragedies. Tourneur's Charlemont or Fletcher's Maximus may make a stand in the face of tyrannical power, but they do not have an army waiting to second their attempt (*Antonio's Revenge*, 5.5.5). This marks them out as post-participatory in the same vein as *The Revenger's Tragedy*.

For over two centuries critics have gone over the well-trodden ground of *Hamlet*'s graveyard looking for law in the dust, because of an offhand comment by a minor character in the final act.[17] Meanwhile the legal intricacies of the rest of the genre are only beginning to be

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[14] Vittoria: 'If you be my accuser/ Pray cease to be my judge' (3.2.225).

[15] D'Amville: 'Thou didst want discretion for/ The sentence, but yond power that struck me knew/ The judgement I deserved, and gave it' (5.2.262).

[16] Eileen Allman's *Jacobean Revenge Tragedy and the Politics of Virtue* (Associated University Presses, 1999) makes some headway in this direction. See also Linda Woodbridge's chapter on 'Revenge and Regicide: the Civil War era', in *English Revenge Drama: Money, Resistance, Equality* (Cambridge: Cambridge University Press, 2010), pp. 189-222.

[17] Shakespeare's reference to the case of Hales v. Petit in 5.1 was first recorded by Sir John Hawkins in the edition of Samuel Johnson and George Steevens, *The Plays of William Shakespeare* (London, 1765) Vol 8, p. 278. For a more modern take on this connection see Luke Wilson, '*Hamlet*, Hales v. Petit, and the Hysteresis of Action', *English Literary History*, 60 (1993), 17-55; Carolyn Sale, 'The "Amending Hand": Hales v. Petit, Eyston v. Studd, and Equitable Action in *Hamlet*', *The Law in Shakespeare*, ed. by Constance Jordan and Karen Cunningham (Basingstoke: Palgrave Macmillan, 2007), pp. 189-207.

understood and appreciated. The sheer volume of trial scenes – from Portugal, Spain, ancient Rome, Venice, Luningberg, France, and Hades – offers rich interpretive ground from a legal-literary perspective, demonstrating at a most basic level how the law pervades the revenge genre. We do these playwrights a disservice by dealing with their revenge tragedies in isolation; they deserve to be read as living engagements with their cultural moment, whether in terms of evidential uncertainty, social protest, or piracy. As a major force in the lives of early modern citizens, the law is inseparable from such interactions: from Kyd's earliest depiction of monarchs as prejudicial judges, to the clash between King James I and Sir Edward Coke that serves to illuminate *The Revenger's Tragedy*.

The methodology of this thesis could be extended either chronologically – from Inns of Court drama like *Horestes* and *Gorboduc*, to Shirley's *The Cardinal* – or thematically – to encompass city comedy, domestic tragedy and closet drama. But in order to plumb the depth of these revenge tragedies' specific engagement with the law it has been necessary to focus on a select group of plays, at a particularly pivotal moment in early modern legal history. The law is not the only available lens with which to view these plays, nor is it always the best.[18] But by viewing the genre collectively known as revenge tragedy through the rich context provided by early modern law, a fresh critical approach becomes possible. Just as today the law is a tool to arrive at conclusions from a given set of facts, I have endeavoured to use early modern law as a tool to uncover the revenge genre's deep-seated engagement with the legal system of its time. I do not claim that my findings are the truth, the whole truth, and nothing but the truth. For that we would need to put Kyd, Shakespeare, Marston, Chettle, and Middleton in the dock for cross-examination under oath, and even then who could be sure?

[18] As I argue in relation to *Hamlet*, the legal-literary perspective is one of many available when discussing revenge tragedy, see Chapter Four, p. 203.

Bibliography

Primary

Dramatic Works:

Aeschylus, *The Oresteia*, trans. by Robert Fagles (Harmondsworth: Penguin, 1977)

Anonymous, *A Warning for Fair Women*, ed. by Charles Dale Cannon (The Hague: Mouton, 1975) (first printed 1599, available on EEBO, STC no. 25089)

Anonymous, *Arden of Faversham*, in A Woman Killed with Kindness *and other Domestic Plays*, ed. by Martin Wiggins (Oxford: Clarendon Press, 2008)

Anonymous, *Everyman and Mankind*, ed. by Douglas Bruster and Eric Rasmussen, Arden early modern drama series (London: Methuen, 2009)

Baldwin, William, *A myrroure for magistrates* (London, 1559) (available on EEBO, STC no. 1247)

----------, *The last parte of the Mirour for magistrates* (London, 1574) (available on EEBO, STC no. 1250)

Beaumont, Francis, *The Knight of the Burning Pestle*, ed. by Michael Hattaway, New Mermaids series (London: A. & C. Black, 1991) (first printed 1613, available on EEBO, STC no. 1674)

Blenerhassett, Thomas, *The seconde part of the Mirrour for magistrates* (London, 1578) (available on EEBO, STC no. 3131)

Chapman, George, *Revenge of Bussy D'Ambois*, in *Four Revenge Tragedies*, ed. by Katharine Eisaman Maus (Oxford: Oxford University Press, 1995) (first printed 1613, available on EEBO, STC no. 4989)

Chettle, Henry, *The Tragedy of Hoffman*, ed. by John Jowett (Nottingham: Nottingham Dramatic Texts, 1983) (first printed 1631, available on EEBO, STC no. 5125)

----------, *The Tragedy of Hoffman,* or *A Revenge For A Father*, ed. by Harold Jenkins and Charles Sisson, Malone Society Reprints series (Oxford: Oxford University Press, 1951)

----------, *The Tragedy of Hoffman,* or *A Reuenge For A Father*, in *Five Revenge Tragedies: Kyd, Shakespeare, Marston, Chettle, Middleton*, ed. by Emma Smith (Oxford: Penguin, 2012)

Fletcher, John, *Valentinian, a tragedy*, in *Four Jacobean Sex Tragedies*, ed. by Martin Wiggin, Oxford World's Classics series (Oxford: Oxford university Press, 1998) (first printed 1685, available on EEBO, Wing F1354)

Gascoigne, George, *The glasse of gouernement* (London, 1575) (available on EEBO, STC no. 11643)

Gollancz, Israel, ed., *The Sources of* Hamlet (London: Oxford University Press, 1926)

Hughes, Thomas, *Certaine deu[is]es and shewes presented to her Maiestie by the gentlemen of Grayes-Inne at her Highnesse court in Greenewich, the twenty eighth day of Februarie in the thirtieth yeare of her Maiesties most happy raigne* [including *The Misfortunes of Arthur*] (London, 1587) (available on EEBO, STC no. 13921)

Jonson, Ben, The Alchemist *and other plays*, ed. by Gordon Campbell (Oxford: Oxford University Press, 1995)

Kyd, Thomas, *The Spanish Tragedie*, ed. by Emma Smith (Harmondsworth: Penguin, 1998) (first printed 1592, available on EEBO, STC no. 15086)

----------, *The Spanish Tragedy*, in *Five Revenge Tragedies: Kyd, Shakespeare, Marston, Chettle, Middleton*, ed. by Emma Smith (Oxford: Penguin, 2012)

----------, *The Spanish Tragedy*, ed. by Philip Edwards (London: Methuen, 1959)

Marston, John, *Antonio's Revenge*, ed. by W. Reavley Gair (Manchester: Manchester University Press, 1978) (first printed 1602, available on EEBO, STC no. 17474)

----------, *Antonio's Revenge*, in *Five Revenge Tragedies: Kyd, Shakespeare, Marston, Chettle, Middleton*, ed. by Emma Smith (Oxford: Penguin, 2012)

----------, *The history of Antonio and Mellida* (London, 1602) (available on EEBO, STC no. 17473)

----------, *The Malcontent*, ed. by George K. Hunter, Revels Plays series (London: Methuen, 1975) (first printed 1604, available on EEBO, STC no. 17479)

Massinger, Philip, *The fatall dovvry a tragedy* (London, 1632) (available on EEBO, STC no. 17646)

Middleton, Thomas, *Michaelmas Term*, in *Thomas Middleton: The Collected Works*, ed. by Gary Taylor and John Lavagnino (Oxford: Clarendon Press, 2007), pp. 334-72 (first printed 1607, available on EEBO, STC no. 17890)

----------, *The Phoenix*, in *Thomas Middleton: The Collected Works*, ed. by Gary Taylor and John Lavagnino (Oxford: Clarendon Press, 2007), pp. 91-127 (first printed 1607, available on EEBO, STC no. 17892)

----------, *The Revenger's Tragedy*, ed. by Brian Gibbons (London: Benn, 1967)

----------, *The Revenger's Tragedy*, ed. by MacDonald P. Jackson, in *Thomas Middleton: The Collected Works*, ed. by Gary Taylor and John Lavagnino (Oxford: Clarendon Press, 2007) (first printed 1607, available on EEBO, STC no. 24149 [attributed to Cyril Tourneur])

----------, *The Revenger's Tragedy*, in *Five Revenge Tragedies: Kyd, Shakespeare, Marston, Chettle, Middleton*, ed. by Emma Smith (Oxford: Penguin, 2012)

----------, *The Revenger's Tragedy*, in *Four Revenge Tragedies*, ed. by Katharine Eisaman Maus (Oxford: Oxford University Press, 1995)

----------, *Women Beware Women*, in *Thomas Middleton: The Collected Works*, ed. by Gary Taylor and John Lavagnino (Oxford: Clarendon Press, 2007), pp. 1488-1541 (first printed 1657, available on EEBO, Wing M1989)

Thomas Middleton and Early Modern Textual Culture: A Companion to the Collected Works, ed. by Gary Taylor and John Lavagnino (Oxford: Clarendon Press, 2007)

Middleton, Thomas and William Rowley, *The Changeling*, in *Thomas Middleton: The Collected Works*, ed. by Gary Taylor and John Lavagnino (Oxford: Clarendon Press, 2007), pp. 1632-78 (first printed 1653, available on EEBO, Wing M1980)

Ovid, *Metamorphoses*, trans. by Arthur Golding, ed. By Madeleine Forey (Harmondsworth: Penguin, 2002) (first printed 1565, available on EEBO, STC no. 18955)

Peele, George, *The battell of Alcazar* (London, 1594) (available on EEBO, STC no. 19531)

Pikeryng, John, *Horestes*, in *Three Tudor Classical Interludes*, ed. by Marie Axton (Cambridge: Brewer, 1982) (first printed 1567, available on EEBO, STC no. 19917)

Sackville, Thomas, and Thomas Norton, *The tragedie of Gorboduc* (London, 1565) (available on EEBO, STC no. 18684)

Seneca, *Six Tragedies*, trans. by Emily Watson (Oxford: Oxford University press, 2010)

----------, *Thyestes*, in *Tragedies II*, trans. by Frank Justus Miller, 9 vols, Loeb Classical Library series, IX (London: William Heinemann, 1968)

----------, *Thyestes*, trans. by Jasper Heywood, ed. by Joost Daalder, New Mermaids series (London: Ernest Benn, 1982) (first printed in 1581, in *Seneca his tenne tragedies*, available on EEBO, STC no. 22221)

Shakespeare, William, *2 Henry IV*, ed. by A. R. Humphreys, Arden Shakespeare second series (London: Methuen, 1971)

----------, *2 Henry VI*, ed. by Ronald Knowles, Arden Shakespeare third series (London: Methuen, 1999)

----------, *A Midsummer Night's Dream*, ed. by Harold E. Brooks, Arden Shakespeare second series (London: Methuen, 1979)

----------, *The Arden Shakespeare*, ed. by Richard Proudfoot, Ann Thompson and David Scott Kastan, revised edn (London: Thomson Learning, 2001)

----------, *Coriolanus*, ed. by Philip Brockbank, Arden Shakespeare second series (London: Methuen, 1976)

----------, *Cymbeline*, ed. by J. M. Nosworthy, Arden Shakespeare second series (London: Methuen, 1955)

----------, *Hamlet*, ed. by Ann Thompson and Neil Taylor, Arden Shakespeare third series (London: Thomson Learning, 2006)

----------, *Hamlet (1603)*, in *Five Revenge Tragedies: Kyd, Shakespeare, Marston, Chettle, Middleton*, ed. by Emma Smith (Oxford: Penguin, 2012)

----------, *Hamlet: The Texts of 1603 and 1623*, ed. by Ann Thompson and Neil Taylor, Arden Shakespeare third series (London: Methuen, 2006)

----------, *Julius Caesar*, ed. by David Daniell, Arden Shakespeare third series (London: Methuen, 1998)

----------, *King Lear*, ed. by R. A. Foakes, Arden Shakespeare third series (London: Methuen, 1997)

----------, *Macbeth*, ed. by Kenneth Muir, Arden Shakespeare second series (London: Methuen, 2001) (first publ. 1951)

----------, *Measure for Measure*, ed. by J. W. Lever, Arden Shakespeare second series (London: Methuen, 1965)

----------, *The Merchant of Venice*, ed. by John Drakakis, Arden Shakespeare third series (London: Methuen, 2010)

----------, *The Merry Wives of Windsor*, ed. by Giorgio Melchiori, Arden Shakespeare third series (London: Thomson Learning, 2000)

----------, *Much Ado About Nothing*, ed. by Claire McEachern, Arden Shakespeare third series (London: Thomson Learning, 2006)

----------, *Othello*, ed. by E. A. J. Honigmann, Arden Shakespeare third series (London: Methuen, 1997)

----------, *The Plays of William Shakespeare*, ed. by Samuel Johnson and George Steevens (London, 1765)

----------, *Richard II*, ed. by Charles R. Forker, Arden Shakespeare third series (London: Thomson Learning, 2002)

----------, *Richard III*, ed. by James R. Siemon, Arden Shakespeare third series (London: Methuen, 2009)

----------, *Romeo and Juliet*, ed. by René Weis, Arden Shakespeare third series (London: Methuen, 2012)

----------, *The Taming of the Shrew*, ed. by Barbara Hodgdon, Arden Shakespeare third series (London: Methuen, 2010)

----------, *Titus Andronicus*, ed. by Jonathan Bate, Arden Shakespeare third series (London: Routledge, 1995)

----------, *The Winter's Tale*, ed. by John Pitcher, Arden Shakespeare third series (London: Methuen, 2010)

Tourneur, Cyril, *The Atheist's Tragedy*, in *Four Revenge Tragedies*, ed. by Katharine Eisaman Maus (Oxford: Oxford University Press, 1995) (first printed 1611, available on EEBO, STC no. 24147)

Webster, John, *The Duchess of Malfi*, ed. by John Russell Brown, Revels Plays series (Manchester: Manchester University Press, 1997) (first printed 1623, available on EEBO, STC no. 25176)

----------, *The White Devil*, ed. by John Russell Brown, Revels Plays series (Manchester: Manchester University Press, 1996) (first printed 1612, available on EEBO, STC no. 25178)

Wilmot, Robert, *The tragedie of Tancred and Gismund* (London, 1591) (available on EEBO, STC no. 25764)

Yarrington, Robert, *Two Lamentable Tragedies* (London, 1601) (available on EEBO, STC no. 26076)

Non-dramatic Works:

Anonymous, *A Discourse upon the Exposicion and Understandinge of statutes, with Sir Thomas Egerton's additions*, ed. by Samuel E. Thorne (Clark, NJ: Lawbook Exchange, 2003)

Anonymous, *Gesta Grayorum, or the History of the High and mighty Prince, Henry Prince of Purpoole... Who Reigned and Died, A. D. 1594* (London, 1688) (available on EEBO, Wing C444)

Aristotle, *Politics*, trans. by H. Rackham, 23 vols, Loeb Classical Library series, XXI (Cambridge: Harvard University Press, 1932)

Bacon, Francis, *The charge of Sir Francis Bacon Knight, his Maiesties Attourney generall, touching duells vpon an information in the Star-chamber against Priest and Wright. With the decree of the Star-chamber in the same cause* (London, 1614) (available on EEBO, STC no. 1125)

----------, *The elements of the common lavves of England branched into a double tract: the one contayning a collection of some principall rules and maximes of the common law...The other the vse of the common law* (London, 1630) (available on EEBO, STC no. 1134)

----------, *The Essays*, ed. by John Pitcher (Harmondsworth: Penguin, 1985)

----------, *Novum Organum*, trans. by M. D. (London, 1676) (available on EEBO, Wing B310) (first printed in Latin in 1620, available on EEBO, STC no. 1162)

----------, *The Works of Francis Bacon*, ed. by James Spedding, Robert Leslie Ellis and Douglas Denon Heath, 14 vols (London: Longman, 1861-1879)

Batman, Stephen, *The Doome Warning All Men to the Judgement* (London, 1581) (available on EEBO, STC no. 1582)

Bernard, Richard, *A guide to grand-iury men* (London, 1627) (available on EEBO, STC no. 1943)

Bilson, Thomas, *The true difference betweene Christian subiection and unchristian rebellion* (Oxford, 1585) (available on EEBO, STC no. 3071)

Bracton, Henry de, *On the Law and Customs of England*, ed. by G. E. Woodbine, trans. by S. E. Thorne, 4 vols (Cambridge, MA: Belknap Press, 1968)

Bradley, Thomas, *A sermon preached at the minster in Yorke at the assizes there holden, the thirtieth day of March, 1663* (York, 1663) (available on EEBO, Wing B4138)

Bright, Timothy, *Treatise of Melancholy* (London, 1586) (available on EEBO, STC no. 3748)

Bryskett, Lodowyck, *A discourse of ciuill life* (London, 1606) (available on EEBO, STC no. 3958)

Buchanan, George, *De Jure Regni apud Scotos* (Edinburgh, 1579) (available on EEBO, STC no. 3973) trans. by Charles Flinn Arrowood (Austin: University of Texas Press, 1949) <http://www.contra-mundum.org/books/jure/jure.html> [accessed 24 November 2010]

Buck, George, *The third universitie of England* (London, 1615) (available on EEBO, STC no. 23338)

Burton, Robert, *The Anatomy of Melancholy*, (London, 1621) (available on EEBO, STC no. 4159)

Care, Henry, *English Liberties, or The Free-Born Subjects Inheritance* (London, 1680) (available on EEBO, Wing C515)

Charron, Pierre, *Of Wisdome*, trans. by Samson Lennard (London, 1608) (available on EEBO, STC no. 5051)

Chettle, Henry, *Englands Mourning Garment* (London, 1603) (available on EEBO, STC no. 5122)

Cobbett's Complete Collection of State Trials and Proceedings for High Treason and Other Crimes and Misdemeanors, ed. by Thomas Bayly Howell, et al., 21 vols (London: Hansard, 1809)

Collectanea Juridica: consisting of tracts relative to the Law and Constitution of England, ed. by Francis Hargrave (London, 1791)

Coke, Edward, *Judges judged out of their own mouthes* (London, 1650) (available on EEBO, Wing C4938)

----------, *The first part of the Institutes of the laws of England, or, a commentary upon Littleton* (London, 1639) (available on EEBO, STC no. 15787)

----------, *The fourth part of the Institutes of the laws of England concerning the jurisdiction of courts* (London, 1644) (available on EEBO, Wing C4929)

----------, *The Lord Coke his speech and charge VVith a discouerie of the abuses and corruption of officers* (London, 1607) (available on EEBO, STC no. 5491)

----------, *The Reports of Sir Edward Coke*, 13 vols (Union, NJ: Lawbook Exchange, 2002)

----------, *The second part of the Institutes of the laws of England containing the exposition of many ancient and other statutes* (London, 1797) (available on Google Books)

----------, *The third part of the Institutes of the laws of England concerning High Treason, and other Pleas of the Crown, and Criminal Causes* (London, 1669) (available on Google Books)

Cooper, Thomas, *The Cry and Revenge of Blood. Expressing the Nature and haynousnesse of wilfull Murther. Exemplified in a most lamentable History thereof, committed at Halsworth in High Suffolk, and lately convicted at Bury Assize, 1620* (London, 1620) (available on EEBO, STC no. 5698)

Cox, Leonard, *The art or crafte of rhetoryke* (London, 1532) (available on EEBO, STC no. 5947)

Cranmer, Thomas, 'A Sermon Concerning the Time of the Rebellion', in *Miscellaneous Writing and Letters of Thomas Cranmer*, ed. by John Edmund Cox (Vancouver: Regent College Publishing, 2001)

Dalton, Michael, *The countrey iustice* (London, 1618) (available on EEBO, STC no. 6205)

De Chassanion, Jean, *The Theatre of Gods Judgements*, trans. by Thomas Beard (London, 1597) (available on EEBO, STC no. 1659)

De la Primaudaye, Pierre, *The French Acadamie*, trans. by Thomas Bowes (1586) (available on EEBO, STC no. 15233)

----------, *The second part of the French Acadamie* (London, 1594) (available on EEBO, STC no. 15238)

Doddridge, John, *The English lavvyer* (London, 1631) (available on EEBO, STC no. 6981)

Dugdale, Gilbert, *A true discourse of the practises of Elizabeth Caldwell* (London, 1604) (available on EEBO, STC no. 7293)

Eglisham, George, *The forerunner of reuenge Vpon the Duke of Buckingham, for the poysoning of the most potent King Iames* (London, 1626) (available on EEBO, STC no. 7548)

Elizabeth I, *Collected Works*, ed. by Leah S. Marcus, Janel Mueller and Mary Beth Rose (London: University of Chicago Press, 2000)

Elyot, Thomas, *The Book named 'The Governor'*, ed. by S. E. Lehmberg (London: Dent, 1962) (first printed 1531, available on EEBO, STC no. 7635)

F., G., *Duell-Ease A worde with. valiant spiritts shewing the abuse of duells, that valour, refuseth challenges and priuate combates. sett foorth by G.F. a defendour of Christian valoure* (London, 1635) (available on EEBO, STC no. 10637)

Fitzherbert, Thomas, *A Defence of the Catholyke Cause* (London, 1602) (available on EEBO, STC no. 11016)

Fortescue, John, *De Laudibus Legum Angliae: A Treatise in Commendation of the Laws of England* (Union, NJ: Lawbook Exchange, 1999)

----------, *In Praise of the Laws of England*, ed. by Shelley Lockwood (Cambridge: Cambridge University Press, 1997)

Fraunce, Abraham, *The lawiers logike* (London, 1588) (available on EEBO, STC no. 11343)

Fulbecke, William, *A direction or preparatiue to the study of the law* (London, 1600) (available on EEBO, STC no. 11410)

G., I., *A Refutation of the Apology for Actors* (London, 1615), (available on EEBO, STC no. 12214)

Gamon, Hannibal, *Gods Smiting to Amendment or Reuengement With preseruatiues against reuolting. In a sermon preached at the assises in Launceston, the 6. of August 1628* (London, 1629) (available on EEBO, STC no. 11547)

Goodman, Christopher, *How Superior Powers ought to be obeyd of their subiects and wherin they may lawfully by Gods Worde be disobeyed and resisted* (London, 1558) (available on EEBO, STC no. 12020)

Grosvenor, Richard, *Papers of Sir Richard Grosvenor*, ed. by Richard Cust (Chester: Record Society of Lancashire and Cheshire, 1996)

Hale, Matthew, *The History of the Common Law of England*, ed. by Charles M. Gray, Classics of British Historical Literature series (Chicago: University of Chicago Press, 1971)

----------, *The History of the Pleas of the Crown*, ed. by Thomas Dogherty, 2 vols (London. 1800) (available on Google Books)

Hall, Joseph, *The great impostor laid open in a sermon at Grayes Inne, Febr. 2.1623* (London, 1623) (available on EEBO, STC no. 12665)

Hobbes, Thomas, *Leviathan*, ed. by C. B. Macpherson (Harmondsworth: Penguin, 1985) (first printed 1651, available on EEBO, Wing H2246)

The Holy Bible: Quartercentenary edition [King James version], ed. by Gordon Campbell (Oxford: Oxford University Press, 2010) (first printed 1611, available on EEBO, STC no. 2216)

Homer, *The Iliad*, trans. by Martin Hammond (Harmondsworth: Penguin, 1987)

----------, *The Odyssey*, trans. by Walter Shewring (Clarendon: Oxford University Press, 1980)

Hooker, Richard, *Of the lavves of ecclesiasticall politie* (London, 1593) (available on EEBO, STC no. 13712)

Hudson, William, *A Treatise of the Court of the Star Chamber*, ed. by Francis Hargrave (Clark, NJ: Lawbook Exchange, 2008)

Hurault, Jacques, *Politike, Moral and Martial Discourses*, trans. by Arthur Golding (London, 1595) (available on EEBO, STC no. 14000)

James I, *Basilikon Doron* (Edinburgh, 1599) (available on EEBO, STC no. 14348)

----------, *Political Writings*, ed. by Johann P. Sommerville (Cambridge: Cambridge University Press, 1994)

----------, *A proclamation for iurors* (London, 1607) (available on EEBO, STC no. 8406)

----------, *A proclamation prohibiting the publishing of any reports or writings of duels* (London, 1613) (available on EEBO, STC no. 8490)

----------, *A publication of His Ma[jes]ties edict, and severe censure against priuate combats and combatants* (London, 1613) (available on EEBO, STC no. 8498.5)

----------, *The true lawe of free monarchies* (Edinburgh, 1598) (available on EEBO, STC no. 14409)

Kafka, Franz, *The Trial* (London: Hesperus, 2005) (first publ. 1925)

Lambarde, William, *Archieon or, A discourse upon the high courts of iustice in England* (London, 1635) (available on EEBO, STC no. 15144)

----------, *The courts of justice corrected and amended. Or the corrupt lawyer untrust, lasht and quasht* (London, 1642) (available on EEBO, Wing, 2nd edn L86)

----------, *Eiranarcha, or Of the Office of the Iustices of the Peace* (London, 1581) (available on EEBO, STC no. 15163)

----------, *Eiranarcha, or Of the Office of the Iustices of the Peace...Whereunto is added the newly reformed Commission of the peace* (London, 1591) (available on EEBO, STC no. 15166)

----------, *The just lavvyer his conscionable complaint against auricular or private informing and soliciting of judges* (London, 1631) (available on EEBO, STC no. 15332)

----------, *A Perambulation of Kent* (London, 1576) (available on EEBO, STC no. 15175.5)

----------, *William Lambarde and Local Government: His "Ephemeris" and Twenty-nine Charges to Juries and Commissions*, ed. by Conyers Read (New York: Cornell University Press for the Folger Shakespeare Library, 1962)

Lily, William, *Rudimenta Grammatices* (London, 1534) (available on EEBO, STC no. 5543)

Macey, George, *A Sermon Preached at Charde in the Countie of Somerset, the Second of March 1597 Being the First Day of the Assises There Holden* (Exeter, 1601) (available on EEBO, STC no. 17173.5)

Meres, Francis, *Palladis tamia Wits treasury being the second part of Wits common wealth* (London, 1598) (available on EEBO, STC no. 17834)

Norden, John, *The mirror of honor* (London, 1597) (available on EEBO, STC no. 18614)

Perkins, William, *A case of conscience* (London, 1592) (available on EEBO, STC no. 19666)

----------, *A discourse of conscience* (London, 1596) (available on EEBO, STC no. 19696)

----------, *The vvhole treatise of the cases of conscience* (London, 1608) (available on EEBO, STC no. 19670)

Plowden, Edmund, *The Commentaries or Reports of Edmund Plowden* (London, 1761) (available on ECCO, ESTC T144729) (first printed in French in 1571 as *Les Commentaries, ou les Reportes*, available on EEBO, STC no. 20040)

Powell, Thomas, *The attourneys academy* (London, 1623) (available on EEBO, STC no. 20163)

Pulton, Ferdinando, *De Pace Regis et Regni* (London, 1609) (available on EEBO, STC no. 20495)

Quintilian, *Institutio Oratoria*, trans. by Donald A. Russell, Loeb Classical Library series (Cambridge, MA: Harvard University Press, 2001)

Rainolde, Richard, *A booke called the Foundacion of rhetorike* (London, 1563) (available on EEBO, STC no. 20925a.5)

Reynold, John, *The triumphs of Gods revenege, against the crying, and execrable sinne of Murther* (London, 1621) (available on EEBO, STC no. 20942)

Robinson, Richard, *The Rewarde of Wickednesse* (London, 1574) (available on EEBO, STC no. 21121.7)

Romei, Annibale, *The Courtiers Academie*, trans. by I. Kepers (London, 1598) (available on EEBO, STC no. 21311)

Rudierd, Edmund, *The Thunderbolts of Gods Wrath* (London, 1618) (available on EEBO, STC no. 21437)

Saint German, Christopher, *The dyaloges in Englishe, between a Doctour of diuinitie, and a student in the lawes of Englande* (London, 1565) (available on EEBO, STC no. 21571.5)

Saviolo, Vincentio, *Vincentio Sauiolo his practise* (London, 1595) (available on EEBO, STC no. 21788)

Segar, William, *The booke of honor and armes* (London, 1588) (available on EEBO, STC no. 22163)

Smith, Thomas, *De Republica Anglorum*, ed. by Mary Dewar (Cambridge: Cambridge University Press, 1982) (first printed 1583, available on EEBO, STC no. 22857)

Sources and Debates in English history, 1485-1714, ed. by Newton Key and Robert Bucholz (Oxford: Blackwell, 2004)

Stuart Royal Proclamations, ed. by James Larkin and Paul Hughes, 2 vols (Oxford: Clarendon Press, 1973-1983)

Stow, John, *The Annales of London* (London, 1615) (available on EEBO, STC no. 23338)

Strong, James, *Justice Justified, or the Judges Commission Opened: in two assize sermons, preached before the judges of assize* (London, 1658) (available on EEBO, Wing 2nd edn S5992)

Stubbes, Philip, *The Anatomie of Abuses* (London, 1583) (available on EEBO, STC no. 23376)

Swinnock, George, *The Gods are Men: or The mortality of persons in places of magistracy. As it was explained and applied in a sermon preached at the assize holden at Hertford for that county on March 15. 1656/7* (London, 1657) (available on EEBO, Wing S6276)

Tilley, Morris, *A Dictionary of the Proverbs in England in the Sixteenth and Seventeenth Centuries* (Ann Arbor: University of Michigan Press, 1950)

Tudor Economic Documents, ed. by R. H. Tawney and Eileen Power, 3 vols (London: Longmans, 1924-1965)

Tyndale, William, *The obedyence of a Christian man* (London, 1548) (available on EEBO, STC no. 24448)

Vesalius, Andreas, *De Humani Corporis Fabrica* (Basil, 1543)

West, William, *The Second Part of Symboleography* (London, 1641) (available on EEBO, Wing W1394A)

Westerman, William, *Two Sermons of Assise the One Intituled A Prohibition of Revenge, the Other, A Sword of Maintenance* (London, 1600) (available on EEBO, STC no. 25282)

Williams, Thomas, *The Excellency and Praeheminence of the Law of England, above All other Humane* Lawes *in the World. Asserted In a Learned Reading upon the Statute of 35 H.*

8. Cap. 6. Concerning Tryals by Iury of Twelve Men, and Tales de Circumstantibus (printed London, 1680) (available on EEBO, Wing W2772)

Wilson, Thomas, *The arte of rhetorique* (London, 1553) (available on EEBO, STC no. 25799)

Wiseman, William, *The Christian knight* (London, 1619) (available on EEBO, STC no. 10926)

Secondary

Agnew, Jean-Christophe, *Worlds Apart: The Market and the Theater in Anglo-American Thought, 1550-1750* (Cambridge: Cambridge University Press, 1988)

Alexander, Mark, 'Shakespeare's Knowledge of Law: A Journey through the History of the Arguments', *Oxfordian*, 4 (2001), 59-102

Alexander, Nigel, *Poison, Play and Duel: a Study in* Hamlet (London: Routledge and K. Paul, 1971)

Allard, James Robert, and Matthew R. Martin, eds, *Staging Pain, 1580-1800: Violence and Trauma in British Theater* (Farnham: Ashgate, 2009)

Allman, Eileen, *Jacobean Revenge Tragedy and the Politics of Virtue* (London: Associated University Presses, 1999)

Altman, Joel B., *The Improbability of Othello: Rhetorical Anthropology and Shakespearean Selfhood*, (Chicago: University of Chicago Press, 2010)

----------, *The Tudor Play of Mind: Rhetorical Inquiry and the Development of Elizabethan Drama* (London: University of California Press, 1978)

Anderson, Thomas, *Performing Early Modern Trauma from Shakespeare to Milton* (Aldershot: Ashgate, 2006)

Andrews, Kenneth R., *Elizabethan Privateering: English Privateering during the Spanish War, 1585-1603* (Cambridge: Cambridge University Press, 1964)

Appleby, Andrew B., *Famine in Tudor and Stuart England* (Stanford: Stanford University Press, 1978)

Archer, Ian W., *The Pursuit of Stability: Social Relations in Elizabethan London* (Cambridge: Cambridge University Press, 1991)

Archer, Jayne Elisabeth, Elizabeth Goldring and Sarah Knight, eds, *The Intellectual and Cultural World of the Early Modern Inns of Court* (Manchester: Manchester University Press, 2010)

Armitage, David, Conal Condren and Andrew Fitzmaurice, eds, *Shakespeare and Early Modern Political Thought* (Cambridge: Cambridge University Press, 2009)

Armstrong, W. A., 'The Elizabethan Conception of the Tyrant', *Review of English Studies*, 22 (1946), 161-81

Aston, Trevor, ed., *Crisis in Europe, 1560-1660: Essays from* Past & Present (London: Routledge and K. Paul, 1969)

Axton, Marie, *The Queen's Two Bodies: Drama and the Elizabethan succession* (London: Royal Historical Society, 1977)

Ayres, Philip J., 'Degrees of Heresy: Justified Revenge and Elizabethan Narratives', *Studies in Philology*, 69 (1972), 461-74

----------, 'Marston's *Antonio's Revenge*: The Morality of the Revenging Hero', *Studies in English Literature, 1500-1900*, 12 (1972), 359-74

Baines, Barbara J., '*Antonio's Revenge*: Marston's Play on Revenge Plays', *Studies in English Literature, 1500-1900*, 23 (1983), 277-94

Baker, J. H., *The Common Law Tradition: Lawyers, Books, and the Law* (London: Hambledon Press, 2000)

----------, 'Criminal Courts and Procedure at Common Law 1550-1800', in *Crime in England, 1550-1800*, ed. by J. S. Cockburn (London: Methuen, 1977), pp. 15-48

----------, 'The Dark Age of English Legal History, 1500-1700', in *The Legal Profession and the Common Law: Historical Essays*, ed. by J. H. Baker (London: Hambledon Press, 1986), pp. 435-60

----------, 'English Law and the Renaissance', *Cambridge Law Journal*, 44 (1985), 46-61

----------, 'The Inns of Court and Legal Doctrine', in *Lawyers and Laymen: Studies in The History of Law*, ed. by T. M. Charles-Edwards, Morfydd E. Owen and D. B. Walters (Cardiff: University of Wales Press, 1986), pp. 247-86

----------, *An Introduction to Legal History* (London: Butterworths, 2002)

----------, *The Law's Two Bodies: Some Evidential Problems in English Legal History* (Oxford: Oxford University Press, 2001)

----------, *The Legal Profession and the Common Law: Historical Essays* (London: Hambledon Press, 1986)

----------, *The Oxford History of the Laws of England, 1483-1558*, 13 vols (Oxford: Oxford University Press, 2003-10), VI (2003)

----------, ed., *Readers and Readings in the Inns of Court and Chancery* (London: Seldon Society, 2000)

----------, 'The Refinement of English Criminal Jurisprudence, 1500-1848', in *The Legal Profession and the Common Law: Historical Essays*, ed. by J. H. Baker (London: Hambledon Press, 1986), pp. 302-24 (first publ. 1981)

Baker, J. H., and Samuel E. Thorne, eds, *Readings and Moots at the Inns of Court in the Fifteenth Century*, 2 vols (London: Seldon Society, 1952-1989), II (1989)

Barber, C. L., *Creating Elizabethan Tragedy: The Theater of Marlowe and Kyd* (London: University of Chicago Press, 1988)

----------, *Shakespeare's Festive Comedy: A Study of Dramatic Form and its relation to Social Custom* (Princeton: Princeton University Press, 1972)

Barker, Francis, *The Tremulous Private Body: Essays on Subjection* (London: Methuen, 1984

Barry, Jonathan and Christopher Brooks, eds, *The Middling Sort of People: Culture, Society and Politics in England, 1550-1800* (Basingstoke: Macmillan, 1994)

Bate, Jonathan, '"Lucius, the Severely Flawed Redeemer of *Titus Andronicus*": A Reply', *Connotations*, 6 (1996/7), 330-33

----------, 'The Performance of Revenge: *Titus Andronicus* and *The Spanish Tragedy*', in *The Show Within: Dramatic and Other Insets. English Renaissance Drama (1550-1642)* ed. by Francois Laroque, 2 vols (Montpellier: Paul-Valéry University Press, 1992), II, (1992), pp. 267-83

Batsaki, Yota, Subha Mukherji, and Jan-Melissa Schramm, eds, *Fictions of Knowledge: Fact, Evidence, Doubt* (Basingstoke: Palgrave, 2012)

Bawcutt, N. W., 'Was Thomas Middleton a Puritan Dramatist?', *Modern Language Review*, 94 (1999), 925-39

Beattie, J. M., 'Violence and Society in Early Modern England', in *Perspectives in Criminal Law: Essays in Honour of John Ll. J. Edwards*, ed. by Anthony N. Doob and Edward L. Greenspan (Ontario: Canada Law Book, 1985), pp. 36-60

Beattie, J. M., *Crime and the Courts in England, 1660-1800* (Oxford: Clarendon Press, 1986)

Bell, John, *Judiciaries within Europe: A Comparative Review* (Cambridge: Cambridge University Press, 2006)

Belsey, Catherine, 'The Case of Hamlet's Conscience', *Studies in Philology*, 76 (1979), 127-48

----------, 'Shakespeare's Sad Tale for Winter: Hamlet and the Tradition of Fireside Ghost Stories', *Shakespeare Quarterly*, 61 (2010), 1-27

----------, *The Subject of Tragedy* (London: Methuen, 1985)

Bently, Lionel and Leo Flynn, eds, *Law and the Senses: Sensational Jurisprudence* (London: Pluto Press, 1996)

Benton, Lauren, 'Oceans of Law: The Legal Geography of the Seventeenth-Century Seas', *Proceedings of the Seascapes, Littoral Cultures, and Trans-Oceanic Exchanges Conference* <http://www.historycooperative.org/proceedings/seascapes/benton.html> [accessed 16 August 2011]

Bernthal, Craig, *The Trial of Man: Christianity and Judgement in the World of Shakespeare* (Delaware: Intercollegiate Studies Institute, 2003)

Bevington, David, *Tudor Drama and Politics: A Critical Approach to Tompical Meaning* (Cambridge, MA: Harvard University Press, 1968)

Biet, Christian, '*Titus Andronicus* vs *Le More Cruel* and *Les Portugais Infortunés*: Humiliation, Punishment and Violence in the Shakespearean and French Theatre of the Late Sixteenth and Early Seventeenth Centuries', in *Shakespeare and the Law*, ed. by Paul Raffield and Gary Watt (Oxford: Hart Publishing, 2008), pp. 221-34

Bingham, Tom, *The Rule of Law* (London: Penguin, 2011)

Bloom, Harold, *Shakespeare and the Invention of the Human* (Harmondsworth: Penguin, 1998)

Borsay, Peter, *The English Urban Renaissance: Culture and Society in the Provincial Town, 1660-1770*, Oxford Studies in Social History series (Oxford: Oxford University Press, 1991)

Botelho, Keith M., *Renaissance Earwitnesses: Rumor and Early Modern Masculinity* (Basingstoke: Palgrave Macmillan, 2009)

Bourdieu, Pierre, 'The Force of Law: Towards a Sociology of the Juridical Field', trans. by Richard Terdiman, *Hastings Law Journal*, 38 (1986), 814-53 <http://cablemodem.fibertel.com.ar/seminario/bourdieu.pdf> [accessed 10 December 2009]

Bouwsma, William J., 'Lawyers and Early Modern Culture', *American Historical Review*, 78 (1973), 303-27

Bowers, Fredson, *Elizabethan Revenge Tragedy, 1587-1642* (Princeton: Princeton University Press, 1940)

----------, 'Hamlet as Minister and Scourge', *Publications of the Modern Language Association of America*, 70 (1955), 740-9

Boyd White, James, *The Legal Imagination* (Chicago: University of Chicago Press, 1985)

Braddick, Michael J., *State Formation in Early Modern England c. 1550-1700* (Cambridge: Cambridge University Press, 2000)

Braden, Gordon, *Renaissance Tragedy and the Senecan Tradition: Anger's Privilege* (New Haven: Yale University Press, 1985)

Brooke, Nicholas, *Horrid Laughter in Jacobean Tragedy* (London: Open Books, 1979)

Brooks, C. W., *Law, Politics and Society in Early Modern England* (Cambridge: Cambridge University Press, 2009)

----------, 'Litigants and Attorneys in the King's Bench and Common Pleas, 1560-1640', in *Legal Records and the Historian*, ed. by J. H. Baker (London: Royal Historical Society, 1978), pp. 41-59

----------, *Pettyfoggers and Vipers of the Commonwealth: The 'Lower Branch' of the Legal Profession in Early Modern England* (Cambridge: Cambridge University Press, 1986)

----------, 'The Place of Magna Carta and the Ancient Constitution in Sixteenth-Century English Legal Thought', in *The Roots of Liberty: Magna Carta, Ancient Constitution, and the Anglo-American Tradition of Rule of Law*, ed. by Ellis Sandoz (Columbia: University of Missouri Press, 1993), pp. 75-114

Brooks, Peter and Paul Gewirtz, eds, *Law's Stories: Narrative and Rhetoric in the Law* (New Haven: Yale University Press, 1996)

Broude, Ronald, 'Revenge and Revenge Tragedy in Renaissance England', *Renaissance Quarterly*, 28 (1975), 38-58

Browne, Paul, 'A source for the "burning crown" in Henry Chettle's *The Tragedy of Hoffman*', *Notes & Queries*, 51 (2004), 297-9

Brucher, Richard, 'Fantasies of Violence: *Hamlet* and *The Revenger's Tragedy*', *Studies in English Literature, 1500-1900*, 21 (1981), 257-70

----------, 'Piracy and Parody in Chettle's *Hoffman*', *Ben Jonson Journal*, 6 (1999), 209-22

Brustein, Robert, *The Tainted Muse: Prejudice and Presumption in Shakespeare and his Time* (New Haven: Yale University Press, 2009)

Burgess, Glenn, *Politics of the Ancient Constitution: An Introduction to English Political Thought, 1603-1642* (Basingstoke: Macmillan, 1992)

Burke, Peter, *Eyewitnessing: The Use of Images as Historical Evidence* (London: Reaktion Books, 2001)

----------, *Popular Culture in Early Modern Europe*, 3rd edn (Farnham: Ashgate, 2009)

Burton, J. Anthony, 'An Unrecognized Theme in *Hamlet*: Lost Inheritance and Claudius' Marriage to Gertrude [pt 1]', *The Shakespeare Newsletter*, 50 (2000), 71-82

----------, 'An Unrecognized Theme in *Hamlet*: Lost Inheritance and Claudius' Marriage to Gertrude [pt 2]', *The Shakespeare Newsletter*, 51 (2001), 103-6

Callaghan, Dympna and Chris R. Kyle, '"Wilde justice" in Early Modern England and *Titus Andronicus*', in *The Law in Shakespeare*, ed. by Jordan Constance and Karen Cunningham (Basingstoke: Palgrave Macmillan, 2007), pp. 38-57

Campbell, Lily B., 'Theories of Revenge in Renaissance England', *Modern Philology*, 28 (1930), 281-96

Carolyn Sale, 'The "Amending Hand": Hales v. Petit, Eyston v. Studd, and Equitable Action in *Hamlet*', in *The Law in Shakespeare*, ed. by Constance Jordan and Karen Cunningham (Basingstoke: Palgrave Macmillan, 2007), pp. 189-207

Carroll, James D., '*Gorboduc* and *Titus Andronicus*', *Notes & Queries*, 51 (2004), 267-9

Castaldo, Annalisa, '"These were spectacles to please my soul": Inventive Violence in the Renaissance Revenge Tragedy', in *Staging Pain, 1580-1800: Violence and Trauma in British Theater*, ed. by James Robert Allard and Mathew R. Martin (Farnham: Ashgate, 2009), pp. 49-56

Clanchy, M. T., *From Memory to Written Record: England 1066-1307* (Oxford: Blackwell, 1993)

Clare, Janet, *Revenge Tragedies of the Renaissance* (Devon: Northcote House, 2007)

Clark, Peter, 'Popular Protest and Disturbance in Kent, 1558-1640', *Economic History Review*, n.s., 29 (1976), 365-82

----------, ed., *The European Crisis of the 1590s: Essays in Comparative History* (London: Allen and Unwin, 1985)

Clark, Peter and Paul Slack, eds, *Crisis and Order in English Towns, 1500-1700* (London: Routledge and K. Paul, 1972)

----------, eds, *English Towns in Transition, 1500-1700* (Oxford: Oxford University Press, 1976)

Clark, Sandra, *Renaissance Drama*, Cultural History of Literature series (Cambridge: Polity, 2007)

Cockburn, J. S., ed., *Calendar of Assize Records: Introduction, Home Circuit Indictments: Elizabeth I and James I* (London: Her Majesty's Stationery Office, 1985)

----------, 'Early Modern Assize Records as Historical Evidence', *Journal of the Society of Archivists*, 5 (1975), 215-31

----------, *A History of English Assizes, 1558-1714* (Cambridge: Cambridge University Press, 1972)

----------, 'Patterns of Violence in English Society: Homicide in Kent 1560-1985', *Past & Present*, 130 (1991), 70-106

----------, 'Trial By the Book? Fact and Theory in the Criminal Process, 1558-1625', in *Legal Records and the Historian*, ed. by J. H. Baker (London: Royal Historical Society, 1978), pp. 60-79

Cockburn, J. S., and Thomas A. Green, eds, *Twelve good men and True: the Criminal Trial Jury in England, 1200-1800* (Princeton: Princeton University Press, 1988)

Coddon, Karin S., '"For Show or Useless Property": Necrophilia and *The Revenger's Tragedy*', *English Literary History*, 61 (1994), 71-88

Colclough, David, *Freedom of Speech in early Stuart England* (Cambridge: Cambridge University Press, 2005)

Colie, Rosalie, *Shakespeare's Living Art* (Princeton: Princeton University Press, 1974)

Collinson, Patrick, 'The Monarchical Republic of Queen Elizabeth I', in *Elizabethan Essays* (London: Hambledon, 1994) (first publ. 1987)

Collum, Eric, '"Sinister shifts" and "secreat exceptions": Early Modern Legal Hermeneutics and John Day's *Law Tricks*', *Explorations in Renaissance Culture*, 28 (2002), 239-65

Constance, Jordan, and Karen Cunningham, eds, *The Law in Shakespeare* (Basingstoke: Palgrave Macmillan, 2007)

Cooper, Tarnya, 'Professional pride and personal agendas: portraits of judges, lawyers, and members of the Inns of Court, 1560-1630', in *The Intellectual and Cultural World of the Early Modern Inns of Court*, ed. by Jayne Elisabeth Archer, Elizabeth Goldring and Sarah Knight (Manchester: Manchester University Press, 2010), pp. 157-78

Cormack, Bradin, *A Power to Do Justice: Jurisdiction, English Literature and the Rise of the Common Law, 1509-1625* (Bristol: University of Chicago Press, 2007)

Corrigan, Brian J., 'Middleton, *The Revenger's Tragedy*, and Crisis Literature', *Studies in English Literature, 1500-1900*, 28 (1998), 281-95

----------, *Playhouse Law in Shakespeare's World* (Madison, NJ: Fairleigh Dickinson University Press, 2004)

----------, 'The Stagecraft of John Marston in *Antonio's Revenge*', *Discoveries: South-Central Renaissance Conference News and Notes*, 19 (2002), 5-8

Corteguera, Luis R., 'The Painter Who Lost His Hat: Artisans and Justice in Early Modern Barcelona', *Sixteenth Century Journal*, 29 (1998), 1023-42

Covington, Sarah, 'Cutting, Branding, Whipping, Burning: The Performance of Judicial Wounding in Early Modern England', in *Staging Pain, 1580–1800: Violence and Trauma in British Theater*, ed. by James Robert Allard, and Matthew R. Martin (Farnham: Ashgate, 2009), pp. 93-110

Croft, Ryan J., 'Sanctified Tyrannicide: Tyranny and Theology in John Ponet's *Short Treatise of Politike Power* and Edmund Spenser's *The Faerie Queene*', *Studies in Philology*, 108 (2011), 538-71

Cromartie, Alan, 'The Constitutional Revolution: The Transformation of Political Culture in early Stuart England', *Past & Present*, 163 (1999), 76-120

Crosbie, Christopher, '*Oeconomia* and the Vegetative Soul: Rethinking Revenge in *The Spanish Tragedy*', *English Literary Renaissance*, 38 (2008), 3-33

Cunliffe, John, *The Influence of Seneca on Elizabethan Tragedy* (London: Macmillan, 1893)

Cunningham, Karen, *Imaginary Betrayals: Subjectivity and the Discourses of Treason in Early Modern England* (Philadelphia: University of Pennsylvania Press, 2002)

----------, 'Opening Doubts upon the Law: *Measure for Measure*', in *A Companion to Shakespeare's Works*, ed. by Richard Dutton and Jean E. Howard, 4 vols (Oxford: Blackwell, 2003) IV, pp. 316-32

----------, '"So Many Books, So Many Rolls of Ancient Time": The Inns of Court and *Gorboduc*', in *Solon and Thespis: Law and Theater in the English Renaissance*, ed. by Dennis Kezar (London: University of Notre Dame Press, 2007), pp. 197-217

----------, 'A Spanish Heart in an English Body: The Raleigh Treason Trial and the Poetics of Proof', *Journal of Medieval and Renaissance Studies*, 22 (1992), 327-51

Curtis, Dennis E. and Judith Resnik, 'Images of Justice', *Yale Law Journal*, 96 (1987), 1727-72

----------, *Representing Justice: Invention, Controversy and Rights in City-states and Democratic Courtrooms* (New Haven and London: Yale University Press, 2011)

Cust, Richard, 'News and Politics in Early Seventeenth Century England', Past & Present, 112 (1986), 60-90

Daston, Lorraine, 'Marvellous Fact and Miraculous Evidence in Early Modern Europe', *Critical Inquiry*, 18 (1991), 93-124

Dawson, Anthony, 'Performance and Participation', in *The Culture of Playgoing in Shakespeare's England: A Collaborative Debate*, ed. by Anthony B. Dawson and Paul Yachnin (Cambridge: Cambridge University Press, 2001), pp. 11-37

De Grazia, Margreta, Hamlet *without Hamlet* (Cambridge: Cambridge University Press, 2007)

----------, 'When did *Hamlet* become modern?', *Textual Practice*, 17 (2003), 485-503

De Saussure, Ferdinand, *Course in General Linguistics*, ed. by Charles Bally and Albert Sechehaye, trans. by Roy Harris (London: Duckworth, 1983) (first publ. in French as *Cours de linguistique generale*, 1916)

Del Sapio Garbero, Maria, ed., *Identity, Otherness and Empire in Shakespeare's Rome* (Farnham: Ashgate, 2009)

Derrida, Jacques, 'Before the Law', in *Acts of Literature*, ed. by Derek Attridge (London: Routledge, 1992), pp. 181-220

----------, 'Force of Law: The "Mystical Foundation of Authority"', in *Deconstruction and the Possibility of Justice*, ed. by Drucilla Cornell, Michel Rosenfeld and David Gray Carlson (London: Routledge, 1992), pp. 3-67

----------, 'The Law of Genre', in *Acts of Literature*, ed. by Derek Attridge (London: Routledge, 1992), pp. 221-52

Dessen, Alan C., *Elizabethan Stage Conventions and Modern Interpreters* (Cambridge: Cambridge University Press, 1984)

----------, 'Hamlet's Poisoned Sword: A Study in Dramatic Imagery', *Shakespeare Studies*, 5 (1969), 53-69

Dickson, Vernon Guy, '"A pattern, precedent, and lively warrant": Emulation, Rhetoric, and Cruel Propriety in *Titus Andronicus*', *Renaissance Quarterly*, 62 (2009), 376-409

Diehl, Huston, 'Inversion, Parody, and Irony: The Visual Rhetoric of Renaissance English Tragedy', *Studies in English Literature, 1500-1900*, 22 (1982), 197-209

----------, *Staging Reform, Reforming the Stage: Protestantism and Popular Theater in Early Modern England* (London: Cornell University Press, 1997)

Dimmock, Matthew, and Andrew Hadfield, eds, *Literature and Popular Culture in Early Modern England* (Aldershot: Ashgate, 2009)

Dodsworth, Martin, *Hamlet Closely Observed* (London: Athlone Press, 1985)

Dolin, Kieran, *A Critical Introduction to Law and Literature* (Cambridge: Cambridge University Press, 2007)

Dollimore, Jonathan, *Radical Tragedy: Religion, Ideology, and Power in the Drama of Shakespeare and his Contemporaries*, 2nd edn (Hertfordshire: Harvester Wheatsheaf, 1989)

Draudt, Manfred, 'The Impact of *Titus Andronicus* on *The Revenger's Tragedy*', *Shakespeare Studies*, 40 (2002), 48-63

Drouet, Pascale, ed., *The Spectacular in and around Shakespeare* (Newcastle: Cambridge Scholars, 2009)

Duncan-Jones, Katherine, *Shakespeare from Upstart Crow to Sweet Swan: 1592-1623*, Arden Shakespeare series (London: Routledge, 2011)

Dunkel, Wilbur, *William Lambarde Elizabethan Jurist, 1536-1601* (New Brunswick, NJ: Rutgers University Press, 1965)

Dutton, Richard, *Mastering the Revels: The Regulation and Censorship of English Renaissance Drama* (London: Macmillan, 1991)

Dwyer Amussen, Susan, 'Punishment, Discipline and Power: The Social Meanings of Violence in Early Modern England', *Journal of British Studies*, 34 (1995), 1-34

Earle, Peter, *The Pirate Wars* (London: Methuen, 2003)

Eden, Kathy, *Poetic and Legal Fiction in the Aristotelian Tradition* (Princeton: Princeton University Press, 1986)

Ekeblad, Inga-Stina, 'An Approach to Tourneur's Imagery',*Modern Language Review*, 54 (1959), pp. 489-98

Eliot, T. S., 'Seneca in Elizabethan Translation', in *Selected Essays*, ed. by Valerie Eliot, 3rd edn (London: Faber and Faber, 1972) (first publ. 1951)

Enterline, Lynn, *The Tears of Narcissus: Melancholia and Masculinity in Early Modern Writing* (Stanford: Stanford University Press, 1995)

Erne, Lukas, *Beyond* The Spanish Tragedy*: A Study of the Works of Thomas Kyd* (Manchester: Manchester University Press, 2001)

Farley-Hills, David, *Shakespeare and the Rival Playwrights, 1600-1606* (London: Routledge, 1990)

Felman, Shoshana, *The Juridical Unconscious: Trials and Traumas in the Twentieth Century* (Cambridge, MA and London: Harvard University Press, 2002)

Felski, Rita, ed., *Rethinking Tragedy* (Baltimore: John Hopkins University Press, 2008)

Finkelpearl, Philip J., *John Marston of the Middle Temple: an Elizabethan Dramatist in his Social Setting* (Oxford: Oxford University Press, 1969)

Fish, Stanley, 'The Law Wishes to have a Formal Existence', in *Closure or Critique: New Directions in Legal Theory*, ed. by Alan Norrie (Edinburgh: Edinburgh University Press, 1993), pp. 157-74

Fisher, George, 'The Rise of the Jury as Lie Detector', *Yale Law Journal*, 107 (1997), <http://www.psy.tcu.edu/fisher.pdf> [accessed 10 June 2009] 575-714

Fletcher, Anthony and John Stevenson, eds, *Order and Disorder in Early Modern England* (Cambridge: Cambridge University Press, 1995)

Foakes, R. A., 'John Marston's Fantastical Plays: *Antonio's Revenge* and *Antonio and Mellida*', *Philological Quarterly*, 41 (1962), 229-39

Fortier, Mark, *The Culture of Equity in Early Modern England* (Aldershot: Ashgate, 2005)

Foucault, Michel, *Discipline and Punish: the Birth of the Prison*, trans. by Alan Sheridan (London: Penguin, 1979)

----------, 'Governmentality', trans. by Rosi Braidotti and revised by Colin Gordon, in *The Foucault Effect: Studies in Governmentality*, ed. by Graham Burchell, Colin Gordon and Peter Miller (Chicago: University of Chicago Press, 1991), pp. 87-104

Franklin, James, *The Science of Conjecture: Evidence and Probability before Pascal* (London: Johns Hopkins University Press, 2002)

Frevert, Ute, *Men of Honour: a Social and Cultural History of the Duel*, trans. by Anthony Williams (Cambridge: Polity, 1995)

Friedman, Lawrence M., *The Republic of Choice: Law, Authority, and Culture* (Cambridge, MA: Harvard University Press, 1990)

Frost, David L., *The School of Shakespeare: The Influence of Shakespeare on English Drama, 1600-42* (Cambridge: Cambridge University Press, 1968)

Frye, Roland Mushat, *The Renaissance* Hamlet*: Issues and Responses in 1600* (Princeton: Princeton University Press, 1984)

Gaakeer, Jeanne, 'The Legal Hermeneutics of Suffering', *Law and Humanities*, 3 (2009), 123-49

Gaskill, Malcolm, *Crime and Mentalities in Early Modern England*, Studies in Early Modern British History series (Cambridge: Cambridge University Press, 2000)

----------, 'The Displacement of Providence: Policing and Prosecution in Seventeenth- and Eighteenth-century England', *Continuity and Change*, 11 (1996), 341-79

----------, 'Reporting Murder: Fiction in the Archives in Early Modern England', *Social History*, 23 (1998), 1-30

Gatrell, V. A. C., *The Hanging Tree: Execution and the English People, 1770-1868* (Oxford: Oxford University Press, 1994)

Gatrell, V. A. C., Bruce Lenman and Geoffrey Parker, eds, *Crime and the Law: the Social History of Crime in Western Europe since 1500* (London: Europa, 1980)

George, C. H., and K. George, *The Protestant Mind of the English Reformation, 1570-1640* (Princeton: Princeton University Press, 1961)

Girard, René, *A Theater of Envy: William Shakespeare* (Oxford: Oxford University Press, 1991)

----------, *Violence and the Sacred*, trans. by Patrick Gregory (London: Athlone Press, 1988)

Glady, Sarah J., 'Revenge as Double Standard in *The Tragedy of Hoffman*', *Discoveries: South-Central Renaissance Conference News and Notes*, 18 (2001), pp. 3-4

Gleason, John H., *Justices of the Peace in England, 1558-1640: A Later* Eirenarcha (Oxford: Clarendon Press, 1969)

Glete, Jan, *Warfare at Sea, 1500-1650: Maritime Conflicts and the Transformation of Europe* (London: Routledge, 2000)

Goldberg, Jonathan, 'Calling Out the Law', in *Shakespeare's Hand*, ed. by Jonathan Goldberg (Minneapolis: University of Minnesota Press, 2007), pp. 79-102

----------, *James I and the Politics of Literature: Jonson, Shakespeare, Donne, and their Contemporaries* (London: John Hopkins University Press, 1983)

Goldberg, Sander M., 'Going for Baroque: Seneca and the English', in *Seneca in Performance*, ed. by George W. M. Harrison (London: Duckworth, 2000), pp. 209-31

Goodrich, Peter, '*Ars Bablativa*: Ramism, Rhetoric, and the Genealogy of English Jurisprudence', in Legal Hermeneutics*: History, Theory, and Practice*, ed. by Gregory Leyh (Berkeley: University of California Press, 1992) <http://publishing.cdlib.org/ucpressebooks/view?docId=ft4779n9h2&chunk.id=d0e1453&toc.depth=1&toc.id=d0e1453&brand=eschol> [accessed 16 September 2010]

----------, *Languages of Law: From Logics of Memory to Nomadic Masks* (London: Weidenfeld and Nicolson, 1991)

----------, entry on 'Law' in *The Encyclopedia of Rhetoric*, ed. by Thomas O. Sloane (Oxford: Oxford University Press, 2007), pp. 417-26

----------, *Law in the Courts of Love: Literature and other Minor Jurisprudences* (London: Routledge, 1996)

----------, *Reading the Law: A Critical Introduction to Legal Method and Techniques* (Oxford: Blackwell, 1986)

Gottschalk, Paul, '*Hamlet* and the Scanning of Revenge', *Shakespeare Quarterly*, 24 (1973), 155-70

Graham, Clare, *Ordering Law: the Architecture and Social History of the English Law Court to 1914* (Aldershot: Ashgate, 2003)

Grantley, Darryll, *English Dramatic Interludes, 1300-1580: A Reference Guide* (Cambridge: Cambridge University Press, 2004)

----------, *London in Early Modern English Drama: Representing the Built Environment* (Basingstoke: Palgrave Macmillan, 2008)

Green, Douglas E., 'Interpreting "Her Martyr'd Signs": Gender and Tragedy in *Titus Andronicus*', *Shakespeare Quarterly*, 40 (1989), 317-26

Green, Thomas, 'The Jury and the English Law of Homicide, 1200-1600', *Michigan Law Review*, 74 (1976), 413-99

----------, *Verdict According to Conscience: Perspectives on the English Criminal Trial Jury, 1200-1800* (London: University of Chicago Press, 1985)

Greenblatt, Stephen, *Hamlet in Purgatory* (Princeton: Princeton University Press, 2001)

----------, *Learning to Curse: Essays in Early Modern Cultures* (London: Routledge, 2007)

----------, *Shakespearean Negotiations: The Circulation of Social Energy in Renaissance England* (Oxford: Clarendon Press, 1988)

Griffiths, Paul, 'Overlapping circles: Imagining Criminal Communities in London, 1545-1645', in *Communities in Early Modern England: Networks, Place, Rhetoric*, ed. by Alexandra Shepard and Phil Withington (Manchester: Manchester University Press, 2000), pp. 115-33

Griffiths, Paul, Adam Fox and Steve Hindle, eds, *The Experience of Authority in Early Modern England*, (Basingstoke: Macmillan, 1996)

Griswold, Wendy, *Renaissance Revivals: City Comedy and Revenge Tragedy in the London Theatre, 1576-1980* (Chicago: University of Chicago Press, 1986)

Grogan, Jane, '"Headless Rome": *Titus Andronicus*, Herodotus and Ancient Persia', *English Literary Renaissance* (forthcoming late 2012/early 2013)

Guernsey, R. A., *Ecclesiastical Law in* Hamlet*: The Burial of Ophelia* (New York: Brentano Bros, 1885)

Gurnham, David, *Memory, Imagination, Justice: Intersections of Law and Literature* (Farnham: Ashgate, 2009)

Gurr, Andrew, Hamlet *and the Distracted Globe* (Edinburgh: Scottish Academic Press for Sussex University Press, 1978)

----------, *Playgoing in Shakespeare's London* (Cambridge: Cambridge University Press, 1987)

----------, *The Shakespearean Stage: 1574-1642* (Cambridge: Cambridge University Press, 1992)

Guy, John, *The Court of Star Chamber and its Records to the Reign of Elizabeth I*, Public Record Office Handbooks 21 (London: Her Majesty's Stationery Office, 1985)

----------, ed., *The Reign of Elizabeth I: Court and Culture in the Last Decade* (Cambridge: Cambridge University Press, 1995)

Habermann, I., '"She has that in her belly will dry up your ink": Femininity as Challenge in the "equitable drama" of John Webster', in *Literature, Politics and Law in Renaissance England*, ed. by Erica Sheen and Lorna Hutson (Basingstoke: Palgrave Macmillan, 2005), pp. 100-20

Hadfield, Andrew, 'The Power and Rights of the Crown in *Hamlet* and *King Lear*: "The King – the King's to blame"', *Review of English Studies*, 54 (2003), 566-86

Hair, P., ed., *Before the Bawdy Court: Selections from church court and other records relating to the correction of moral offences in England, Scotland and New England, 1300-1800* (London: Elek, 1972)

Hallett, Charles A. and Elaine S. Hallett, '*Antonio's Revenge* and the Integrity of the Revenge Tragedy Motifs', *Studies in Philology*, 76 (1979), 366-86

----------, *The Revenger's Madness: A Study of Revenge Tragedy Motifs* (Lincoln: University of Nebraska Press, 1980)

Halpern, Richard, 'The King's Two Buckets: Kantorowicz, Richard II, and Fiscal Trauerspiel', *Representations*, 106 (2009) 67-76

Hanson, Elizabeth, *Discovering the Subject in Renaissance England* (Cambridge: Cambridge University Press, 1998)

Hart, James S., *The Rule of Law, 1603-1660: Crowns, Courts, and Judges* (Harlow: Pearson Longman, 2003)

Hartley, Andrew James, 'Social Consciousness: Spaces for Characters in *The Spanish Tragedy*', *Cahiers Élisabéthains: Late Medieval and Renaissance English Studies*, 58 (2000), 1-14

Haverkamp, Anselm, 'The Ghost of History: *Hamlet* and the Politics of Paternity', *Law and Literature*, 18 (2006), 171-97

Hawkins, Harriet, *Likenesses of Truth in Elizabethan and Restoration Drama* (Oxford: Clarendon Press, 1972)

Hawley, William M., *Shakespearean Tragedy and the Common Law: The Art of Punishment* (New York: Peter Lang Publishing, 1998)

Hay, Douglas, 'Property, Authority and the Criminal Law', in *Albion's Fatal Tree: Crime and Society in Eighteenth Century England*, ed. by Douglas Hay et al. (London: Allen Lane, 1975), pp. 17-63

Heinmann, Margot, *Puritanism and Theatre: Thomas Middleton and Opposition Drama under the Early Stuarts* (Cambridge: Cambridge University Press for Past & Present Society, 1980)

Helgerson, Richard, *Adulterous Alliances: Home, State, and History in Early Modern European Drama and Painting* (London: University of Chicago Press, 2000)

----------, *Forms of Nationhood: the Elizabethan Writing of England* (London: University of Chicago Press, 1992)

Herman, Peter C., 'Rastell's *Pastyme of People*: Monarchy and the Law in Early Modern Historiography', *Journal of Medieval and Early Modern Studies*, 30 (2000), 275-308

Herrup, Cynthia B., *The Common Peace: Participation and the Criminal Law in Seventeenth-Century England* (Cambridge: Cambridge University Press, 1987)

----------, '"To Pluck Bright Honour from the Pale-Faced Moon": Gender and Honour in the Castlehaven Story', *Transactions of the Royal Historical Society*, 6th series, 6 (1996), 137-59

Hill, Christopher, *The World Turned Upside Down: Radical Ideas during the English Revolution* (Harmondsworth: Penguin, 1975)

Hindle, Steve, 'Custom, Festival and Protest in Early Modern England: Little Budsworth Wakes, 1596', *Rural History*, 6 (1995), 155-78

----------, *The State and Social Change in Early Modern England, 1550-1640* (Basingstoke: Macmillan Press, 2000)

Hirschfeld, Heather, '*The Revenger's Tragedy*: Original Sin and the allures of vengeance', in *The Cambridge Companion to English Renaissance Tragedy*, ed. by Emma Smith and Garrett A. Sullivan Jr (Cambridge: Cambridge University Press, 2010), pp. 200-10

Hirsh, James, *Shakespeare and the History of Soliloquies* (Madison, NJ: Fairleigh Dickinson University Press, 2003)

Hobsbawm, E. J., *Bandits* (London: Abacus, 2001)

----------, 'Distinctions between Socio-political and other forms of Crime', *Society for the Study of Labour History Bulletin*, 25 (1972), 5-6

Holdsworth, Angela, ed., *A Portrait of Lincoln's Inn* (London: Third Millennium, 2007)

Holland, Peter, 'Feasting and Starving: Staging Food in Shakespeare', *Shakespeare Jahrbuch*, 145 (2009) 11-28

Holmes, Clive, 'The Legal Instruments of Power and the State in Early Modern England', in *Legislation and Justice*, ed. by Antonio Padoa-Schioppa (Oxford: Clarendon Press, 1977), pp. 269-89

Holmes, Oliver Wendell, *The Common Law* (Cambridge, MA: Harvard University Press, 2009) (first publ. 1881)

Honda, Marie, '*The Tragedy of Hoffman* and Elizabethan Military Affairs', 演劇研究センター紀要 [*Bulletin for the Centre of Theatre Research*, Waseda University Japan], 6 (2006) <http://dspace.wul.waseda.ac.jp/dspace/bitstream/2065/26864/1/019.pdf> [accessed 3 August 2011], 197-207

Houston, Robert, *Punishing the Dead? Suicide, Lordship, and Community in Britain, 1500-1830* (Oxford: Oxford University Press, 2010)

Hudson, John, *The Formation of the Common Law: Law and Society from the Norman Conquest to Magna Carta* (New York: Longman, 1996)

Hunt, Maurice, 'Compelling Art in *Titus Andronicus*', *Studies in English Literature, 1500-1900*, 28 (1988), 197-218

----------, 'Exonerating Lucius in *Titus Andronicus*: A Response to Anthony Brian Taylor', *Connotations*, 7 (1997/8), 87-93

Hunter, G. K., 'Ironies of Justice in *The Spanish Tragedy*', in *Dramatic Identities and Cultural Tradition: Studies in Shakespeare and his Contemporaries* (Liverpool: Liverpool University Press, 1978), pp. 214-29

----------, 'Seneca and the Elizabethans: A Case-Study in Influence', in *Dramatic Identities and Cultural Tradition: Studies in Shakespeare and his Contemporaries* (Liverpool: Liverpool University Press, 1978), pp. 159-73 (first publ. in *Shakespeare Survey*, 20 (1967), 17-26)

Hutson, Lorna, 'Forensic Aspects of Renaissance Mimesis', *Representations*, 94 (2006), 80-109

----------, 'Imagining Justice: Kantorowicz and Shakespeare', *Representations*, 106 (2009), 118-42

----------, *The Invention of Suspicion: Law and Mimesis in Shakespeare and Renaissance Drama* (Oxford: Oxford University Press, 2007)

----------, 'Noises Off: Participatory Justice in *2 Henry VI*', in *The Law in Shakespeare*, ed. by Constance Jordan and Karen Cunningham (Basingstoke: Palgrave Macmillan, 2007), pp. 143-66

----------, 'Rethinking the "Spectacle of the Scaffold": Juridical Epistemologies and English Revenge Tragedy', *Representations*, 89 (2005), 30-60

----------, *The Usurer's Daughter: Male Friendship and Fictions of Women in Sixteenth-Century England* (London: Routledge, 1994)

Ingram, Martin, 'Communities and Courts: Law and Disorder in Early-Seventeenth-Century Wiltshire', in *Crime in England, 1550-1800*, ed. by J. S. Cockburn (London: Methuen, 1977)

----------, 'Ridings, Rough Music, and the "Reform of Popular Culture" in Early Modern England', *Past & Present*, 105 (1984), 79-113

Irish, Bradley J., 'Vengeance, Variously: Revenge before Kyd in Early Elizabethan Drama', Early Theatre, 12 (2009), 117-34

Ives, E. W., *The Common Lawyers of Pre-Reformation England: Thomas Kebell, A Case-study* (Cambridge: Cambridge University Press, 1983)

Jacobs, Henry E., 'Shakespeare, Revenge Tragedy, and the Ideology of the *Memento Mori*', *Shakespeare Studies*, 21 (1993), 96-108

Jacoby, Susan, *Wild Justice: the Evolution of Revenge* (London: Collins, 1985)

James, Heather, *Shakespeare's Troy: Drama, Politics, and the Translation of Empire* (Cambridge: Cambridge University Press, 1997)

James, Henry and Greg Walker, 'The Politics of *Gorboduc*', *English Historical Review*, 110 (1995), 109-21

James, Mervyn, *Society, Politics and Culture: Studies in Early Modern England* (Cambridge: Cambridge University Press, 1986)

Jenkins, Harold, *The Life and Work of Henry Chettle* (London: Sidgwick and Jackson, 1934)

Jones, Anne Rosalind, 'Revenge Comedy: Writing, Law and the Punishing Heroine in *Twelfth Night*, *Merry Wives of Windsor*, and *Swetnam the Woman-Hater*', in *Shakespearean Power and Punishment: A Volume of Essays*, ed. by Gillian Murray Kendall (Madison, NJ: Fairleigh Dickinson University Press, 1998), pp. 23-38

Jones, Ann Rosalind and Peter Stallybrass, *Renaissance Clothing and the Materials of Memory* (Cambridge: Cambridge University Press, 2000)

Jones, Emrys, *The Origins of Shakespeare* (Oxford: Clarendon Press, 1977)

Jones, Ernest, *Hamlet and Oedipus* (London: Gollancz, 1949)

Jones, Robert C., *Engagement With Knavery: Point of View in* Richard III, The Jew of Malta, Volpone, *and* The Revenger's Tragedy (Durham: Duke University Press, 1986)

Jordan, Constance, *Shakespeare's Monarchies: Ruler and Subject in the Romances* (New York: Cornell University Press, 1997)

Jordan, Constance and Karen Cunningham, eds, *The Law in Shakespeare* (Basingstoke: Palgrave Macmillan, 2007)

Jowett, John, 'Notes on Henry Chettle [pt 1]', *The Review of English Studies*, 45 (1994), 384-8

----------, 'Notes on Henry Chettle [pt 2]', *The Review of English Studies*, 45 (1994), 517-22

Jowitt, Claire, *The Culture of Piracy, 1580-1630: English Literature and Seaborne Crime* (Farnham: Ashgate, 2010)

----------, ed., *Pirates? The Politics of Plunder, 1550-1650* (Basingstoke: Palgrave Macmillan, 2007)

Justice, Steven, 'Spain, Tragedy, and *The Spanish Tragedy*', *Studies in English Literature, 1500-1900*, 25 (1985), 271-88

Kahn, Coppélia, *Roman Shakespeare: Warriors, Wounds, and Women* (London: Routledge, 1997)

Kahn, Paul W., *Law and Love: the Trials of King Lear* (New Haven: Yale University Press, 2000)

Kahn, Victoria, *Wayward Contracts: The Crisis of Political Obligation in England, 1640-1674* (Princeton and Oxford: Princeton University Press, 2004)

Kahn, Victoria and Lorna Hutson, eds, *Rhetoric and Law in Early Modern Europe* (New Haven: Yale University Press, 2001)

Kane, Daniel, 'The Vertue of Spectacle in *Titus Andronicus*', *Connotations*, 10 (2000/1), 1-17

Kantorowicz, Ernst, *The King's Two Bodies: A Study in Medieval Political Theology* (Princeton: Princeton University Press, 1957)

Karstedt, Suzanne, ed., *Legal Institutions and Collective Memories*, Onati International Law and Society series (Oxford: Hart Publishing, 2009)

Keeton, George W., *Shakespeare's Legal and Political Background* (London: Pitman, 1967)

Kelsey, Harry, *Sir Francis Drake: The Queen's Pirate* (New Haven: Yale University Press, 1998)

Kent, Joan R., 'Folk Justice and Royal Justice in Early Seventeenth Century England: A "Charivari" in the Midlands', *Midlands History*, 8 (1983), 70-85

Kermode, Frank, *Shakespeare's Language* (London: Allen Lane, 2000)

Kermode, Lloyd Edward, Jason Scott-Warren and Martine van Elk, eds, *Tudor Drama before Shakespeare, 1485-1590: New Directions for Research, Criticism, and Pedagogy* (New York: Palgrave Macmillan, 2004)

Kernan, Alvin, *The Cankered Muse: Satire of the English Renaissance* (New Haven: Yale University Press, 1959)

----------, 'Tragical Satire and *The Revenger's Tragedy*', in *Shakespeare's Contemporaries: Modern Studies in English Renaissance Drama*, ed. by Max Bluestone and Norman Rabkin, 2nd edn (New Jersey: Prentice Hall, 1970), pp. 317-27

Kerrigan, John, *On Shakespeare and Early Modern Literature* (Oxford: Clarendon Press, 2001)

----------, *Revenge Tragedy: Aeschylus to Armageddon* (Oxford: Clarendon Press, 1996)

Keyishian, Harry, 'Punishment Theory in the Renaissance: the Law and the Drama', in *Shakespeare and the Law*, ed. by Paul Raffield and Gary Watt (Oxford: Hart Publishing, 2008), pp. 175-84

----------, *The Shapes of Revenge: Victimization, Vengeance and Vindictiveness in Shakespeare* (Atlantic Highlands, NJ: Humanities Press, 1995)

Kezar, Dennis, ed., *Solon and Thespis: Law and Theater in the English Renaissance* (London: University of Notre Dame Press, 2007)

Kiefer, Frederick, 'Creating a Christian revenger: *The Spanish Tragedy* and its progeny vs *Hamlet*', *Shakespeare Yearbook*, 13 (2002), 159-80

Klein, Bernhard, ed., *Fictions of the Sea: Critical Perspectives in British Literature and Culture* (Aldershot: Ashgate, 2002)

----------, ed., *Sea Changes: Historicizing the Ocean* (New York: Routledge, 2004)

----------, '"We are not pirates": Piracy and Navigation in *The Lusiads*', in *Pirates? The Politics of Plunder, 1550-1650*, ed. by Claire Jowitt (Basingstoke: Palgrave Macmillan, 2007), pp. 105-17

Klerman, Daniel, 'Was the jury ever self-informing?', in *Judicial Tribunals in England and Europe, 1200-1700*, ed. by Maureen Mulholland and Brian Pullan (Manchester: Manchester University Press, 2003), pp. 58-80

Klinck, Dennis, *Conscience, Equity, and the Court of Chancery in Early Modern England* (Farnham: Ashgate, 2010)

Knafla, Louis A., ed., '"John at Love Killed Her": The Assize and Criminal Law in Early Modern England', *University of Toronto Law Journal*, 35 (1985), 305-20

----------, *Law and Politics in Jacobean England: The tracts of Lord Chancellor Ellesmere*, Studies in Legal History series (Cambridge: Cambridge University Press, 1977)

Kolin, Philip C., '"Lucius, the Severely Flawed Redeemer of *Titus Andronicus*": A Reply', *Connotations*, 7 (1997/8), 94-6

Kornstein, Daniel J., *Kill All the Lawyers?: Shakespeare's Legal Appeal*, (Princeton: Princeton University Press, 1994)

Lagemann, Abby E., 'A Decade of Disorder? The Performance of Justice in Cheshire in the 1590s', *Journal of the Wooden O Symposium*, 10 (2010), 49-59

Lake, David J., *The Canon of Thomas Middleton's Plays: Internal Evidence for the Major Problems of Authorship* (Cambridge: Cambridge University Press, 1975)

Lake, Peter, 'Deeds against Nature: Cheap Print, Protestantism and Murder in early Seventeenth Century England', in *Culture and Politics in early Stuart England*, ed. by Kevin Sharpe and Peter Lake (Basingstoke: Macmillan, 1994), pp. 257-83

Lake, Peter with Michael Questier, *The Antichrist's Lewd Hat: Protestants, Papists and Players in Post-Reformation England* (New Haven and London: Yale University Press, 2002)

Langbein, John, 'The Criminal Trial before the Lawyers', *University of Chicago Law Review*, 45 (1978), 263-316

----------, *Prosecuting Crime in the Renaissance: England, Germany, France* (Cambridge, MA: Harvard University Press, 1974)

----------, *Torture and the Law of Proof: Europe and England in the Ancien Régime* (Chicago: University of Chicago Press, 1997)

Lange, Marjory E., *Telling Tears in the English Renaissance* (New York: Brill, 1996)

Laqueur, Thomas W., 'Crowds, Carnival and the State in English Execution, 1604-1868', in *The First Modern Society: Essays in English History in honour of Lawrence Stone*, ed. by A. L. Beier, David Cannadine and James M. Rosenheim (Cambridge: Cambridge University Press, 1989), pp. 305-56

Laughlin Fawcett, Mary, 'Arms/Words/Tears: Language and the Body in *Titus Andronicus*', *English Literary History*, 50 (1983), 261-77

Legrand, Pierre, ed., *Derrida and Law* (Aldershot: Ashgate, 2009)

Lemon, Rebecca, *Treason by Words: Literature, Law, and Rebellion in Shakespeare's England* (London: Cornell University Press, 2006)

Linebaugh, Peter, *The London Hanged: Crime and Civil Society in the Eighteenth Century* (London: Allen Lane, 1991)

Linebaugh, Peter and Marcus Rediker, *The Many-Headed Hydra: Sailors, Slaves, Commoners, and the Hidden History of the Revolutionary Atlantic* (London: Verso, 2000)

Lisca, Peter, '*The Revenger's Tragedy*: A Study in Irony', in *Shakespeare's Contemporaries: Modern Studies in English Renaissance Drama*, ed. by Max Bluestone and Norman Rabkin, 2nd edn (New Jersey: Prentice Hall, 1970), pp. 307-17

Little, David, *Religion, Order and Law: A Study in Pre-Revolutionary England* (New York: Harper and Row, 1969)

Lockey, Brian C., *Law and Empire in English Renaissance Literature* (Cambridge: Cambridge University Press, 2006)

Logan, Terence P. and Denzell S. Smith, eds, *The Later Jacobean and Caroline Dramatists: A Survey and Bibliography of Recent Studies in English Renaissance Drama* (Lincoln, NE: University of Nebraska Press, 1978)

Lopez, Jeremy, *Theatrical Convention and Audience Response in Early Modern Drama* (Cambridge: Cambridge University Press, 2003)

Loveland, Ian, *Constitutional Law, Administrative Law, and Human Rights: A Critical Introduction*, 5th edn (Oxford: Oxford University Press, 2009)

Luckyj, Christina, *"A Moving Rhetoricke": Gender and Silence in Early Modern England* (Manchester: Manchester University Press, 2002)

MacDonald, Michael, 'Ophelia's Maimed Rites', *Shakespeare Quarterly*, 37 (1986), 309-17

Macfarlane, Alan in collaboration with Sarah Harrison, *The Justice and the Mare's Ale: Law and Disorder in Seventeenth-Century England* (Oxford: Blackwell, 1981)

MacFaul, Tom, *Male Friendship in Shakespeare and his Contemporaries* (Cambridge: Cambridge University Press, 2007)

Maclean, Ian, *Interpretation and Meaning in the Renaissance: the Case of Law*, Ideas in Context series (Cambridge: Cambridge University Press, 1992)

Macnair, Michael, *The Law of Proof in Early Modern Equity* (Berlin: Duncker and Humblot, 1999)

Maitland, F. W., *Selected Historical Essays*, (Cambridge: Cambridge University Press in association with Selden Society, 1957)

Majeske, Andrew, *Equity in English Renaissance Literature: Thomas More and Edmund Spenser* (London: Routledge, 2006)

Malcolm, Joyce Lee, ed., *The Struggle for Sovereignty: Seventeenth-Century English Political Tracts*, 2 vols (Indianapolis: Liberty Fund, 1999)

Marshall, Cynthia, '"I Can Interpret All Her Martyr'd Signs": *Titus Andronicus*, Feminism, and the Limits of Interpretation', in *Sexuality and Politics in Renaissance Drama*, ed. by Carole Levin and Karen Robertson (Lewiston, NY: Mellen, 1991), pp. 193-213

Marshburn, Joseph H., *Murder and Witchcraft in England, 1550-1640 in Pamphlets, Ballads, Broadsides and Plays* (Norman: University of Oklahoma Press, 1971)

Masson, Antoine and Kevin O'Connor, eds, *Representations of Justice* (New York: Peter Lang, 2007)

Maus, Katharine Eisaman, *Inwardness and Theater in the English Renaissance* (London: University of Chicago Press, 1995)

Maxwell, J. C., 'Review of *The Tragedy of Hoffman*, ed. by Harold Jenkins', *Modern Language Review*, 47 (1952), 64-5

McBain, James, 'Early Tudor Drama and Legal Culture, c. 1485-1558' (unpublished doctoral thesis, Magdalen College, Oxford University, 2007)

McCune, Pat, 'Order and Justice in Early Tudor Drama', *Renaissance Drama*, 25 (1994), 171-96

McCutchan, J. Wilson, 'Justice and Equity in the English Morality Play', *Journal of the History of Ideas*, 19 (1958), 405-10

McDiarmid, John F., ed., *The Monarchical Republic of Early Modern England: essays in response to Patrick Collinson* (Aldershot: Ashgate, 2007)

McEvoy, Sebastian, 'The Function of "Shakespeare" in Present Adjudication' (presented at the Law, Literature and Translation conference in Trinity College Dublin, June 2012)

McGlynn, Margaret, *The Royal Prerogative and the Learning of the Inns of Court* (Cambridge: Cambridge University Press, 2003)

McLaren, A. N., *Political Culture in the Reign of Elizabeth I: Queen and Commonwealth, 1558-1585* (Cambridge: Cambridge University Press, 1999)

McMahon, Bryan, 'Plenary address' (presented at the Law, Literature and Translation conference in Trinity College Dublin, June 2012)

McMahon, Richard, ed., *Crime, Law and Popular Culture in Europe, 1500-1900* (Devon: Willan Publishing, 2008)

McMillin, Scott, 'Acting and Violence: *The Revenger's Tragedy* and its Departures from *Hamlet*', *Studies in English Literature*, 24 (1984), 275-91

Mercer, Peter, Hamlet *and the Acting of Revenge* (London: Macmillan, 1987)

Merchant, Moelwyn W., 'Lawyer and Actor: Process of Law in Elizabethan Drama', *English Studies Today*, 3 (1962), 107-24

Meyler, Bernadette A., 'Substitute Chancellors: The Role of the Jury in the Contest between Common Law and Equity', *Legal Studies Research Paper Series* (Cornell Law School, 2006) <http://scholarship.law.cornell.edu/cgi/viewcontent.cgi?article=1038&context=lsrp_papers> [accessed 13 July 2009] 1-39

Miller, William Ian, *Eye for an Eye* (Cambridge: Cambridge University Press, 2006)

Milsom, S. F. C., *Historical Foundations of the Common Law* (London: Butterworths, 1969)

Miola, Robert S., *Shakespeare and Classical Tragedy: The Influence of Seneca* (Oxford: Clarendon Press, 1992)

Montrose, Louis, *The Purpose of Playing: Shakespeare and the Cultural Politics of the Elizabethan Theatre* (London: University of Chicago Press, 1996)

----------, *The Subject of Elizabeth: Authority, Gender, and Representation* (London: University of Chicago Press, 2006)

Moran, Leslie, 'Visual Justice: a review essay', *International Journal of Law in Context* (forthcoming, 2012)

Moretti, Franco, '"A Huge Eclipse": Tragic Form and the Deconsecration of Sovereignty', in *The Power of Forms in the English Renaissance*, ed. by Stephen Greenblatt (Norman, OK: Pilgrim Books, 1982)

Morford, Mark P. O. and Robert J. Lenardon, eds, *Classical Mythology*, 6th edn (Oxford: Oxford University Press, 1999)

Mukherji, Subha, 'False Trials and the Impulse to Try in Shakespeare and his Contemporaries', in *Thinking With Shakespeare: Comparative and Interdisciplinary Essays*, ed. by William Poole and Richard Scholar (London: Legenda, 2007), pp. 53-72

----------, 'Jonson's *The New Inn* and a Revisiting of the "Amorous Jurisdiction"', *Law and Literature*, 18 (2006), 149-69

----------, *Law and Representation in Early Modern Drama* (Cambridge: Cambridge University Press, 2006)

----------, '"Understood Relations": Law and Literature in Early Modern Studies', *Literature Compass*, 6 (2009), 706-25

Mulcahy, Linda, *Legal Architecture: Justice, Due Process and the Place of Law* (London: Routledge, 2011)

Mullaney, Steven, 'Mourning and Misogyny: *Hamlet*, *The Revenger's Tragedy*, and the Final Progress of Elizabeth I, 1600-1607', *Shakespeare Quarterly*, 45 (1994), 139-62

----------, *The Place of the Stage: License, Play, and Power in Renaissance England* (Chicago and London: University of Chicago Press, 1988)

Murray Kendall, Gillian, '"Lend Me Thy Hand": Metaphor and Mayhem in *Titus Andronicus*', *Shakespeare Quarterly*, 40 (1989), 299-316

Neill, Michael, 'Bastardy, Counterfeiting, and Misogyny in *The Revenger's Tragedy*', *Studies in English Literature, 1500-1900*, 36 (1996), 397-416

----------, *Issues of Death: Mortality and Identity in English Renaissance Tragedy* (Oxford: Clarendon Press, 1997)

Neill, Michael and Macdonald P. Jackson, 'Morphew, Leprosy, and the Date Of Marston's *Antonio and Mellida*', *Notes & Queries*, 45 (1998), 358-60

Nelson, Alan H. and John R. Elliott Jr, eds, *Records of Early English Drama: Inns of Court*, (Cambridge: Brewer, 2010)

Nicholls, Mark and Penry Williams, entry on 'Walter Ralegh' in the *Oxford Dictionary of National Biography* (2004) <http://www.oxforddnb.com/view/article/23039> [accessed 30 September 2011]

Nussbaum, Martha C., *Poetic Justice: The Literary Imagination and Public Life* (Boston: Beacon Press, 1995)

O'Neill, Fionnuala, 'Seeking Vengeance: Revenge Tragedy, Coherence and Scepticism from Sophocles to Shakespeare', *Forum*, 13 (2011) <http://www.forumjournal.org/site/issue/13/fionnuala-oneill [accessed 2 February 2012]

Opensource Shakespeare < http://www.opensourceshakespeare.org>

Ornstein, Robert, 'The Ethical Design of *The Revenger's Tragedy*', *English Literary History*, 21 (1954), 81-93

Ost, Suzanne, '"But is this Law?": The Nature of Law, Sovereign Power and Justice in *Hamlet*', *Law and Humanities*, 1 (2007), 183-208

Outhwaite, R. B., *Dearth, Public Policy, and Social Distrubance in England, 1550-1800*, New Studies in Economic and Social History series (Cambridge: Cambridge University Press, 1991)

Owens, Margaret, *Stages of Dismemberment*: *The Fragmented Body in late Medieval and Early Modern Drama* (Newark: University of Delaware Press, 2005)

Owens, Rebekah, 'Parody and *The Spanish Tragedy*', *Cahiers Élisabéthains: Late Medieval and Renaissance English Studies*, 71 (2007), 27-36

Oxford Dictionary of National Biography <www.oxforddnb.com>

Oxford English Dictionary <www.oed.com>

Patterson, Annabel, *Shakespeare and the Popular Voice* (Oxford: Blackwell, 1989)

Pearl, Valerie, 'Change and Stability in Seventeenth-Century London', in *The Tudor and Stuart Towns: A Reader in English Urban History, 1530-1688*, ed. by Jonathan Barry (London: Longman, 1990), pp. 139-65 (first publ. in *London Journal*, 5 (1979), 3-34)

Peck, Linda Levy, 'Kingship, Counsel, and Law in early Stuart Britain', in *Varieties of British Political Thought, 1500-1800*, ed. by J. G. A. Pocock, Gordon J. Schochet and Lois G. Schwoerer (Cambridge: Cambridge University Press in association with Folger Institution, 1993), pp. 80-118

Pesta, Duke, 'Articulating Skeletons: *Hamlet*, *Hoffman*, and the Anatomical Graveyard', *Cahiers Élisabéthains: Late Medieval and Renaissance English Studies*, 69 (2006), 21-39

Phillips, O. Hood, *Shakespeare and the Lawyers* (London: Methuen, 1972)

Pincombe, Mike, 'Sackville Tragicus: A Case of Poetic Identity', in *Sixteenth Century Identities*, ed. by A. J. Piesse (Manchester: Manchester University Press, 2000), pp. 112-32

Pocock, J. G. A., *The Ancient Constitution and the Feudal Law: a Reissue with a Retrospect* (Cambridge: Cambridge University Press, 1987) (first publ. 1957)

Pollard, Tanya, 'Tragedy and Revenge', in *The Cambridge Companion to English Renaissance Tragedy*, ed. by Emma Smith and Garrett A. Sullivan Jr (Cambridge: Cambridge University Press, 2010), pp. 58-72

Posner, Richard A., *Law and Literature: A Misunderstood Relation*, 3rd edn (London: Harvard University Press, 2009) (first publ. 1988)

Power, Andrew J., 'What the hell is under the stage? Trapdoor use in the English Senecan Tradition', *English*, 60 (2011), 276-96

Prest, Wilfred, *The Inns of Court under Elizabeth I and the Early Stuarts, 1590-1640* (London: Longman, 1972)

----------, *The Rise of the Barristers: A Social History of the English Bar, 1590-1640* (Oxford: Clarendon Press, 1986)

Prosser, Eleanor, Hamlet *and Revenge*, 2nd edn (Stanford: Stanford University Press, 1971)

Pursglove, Glyn, biographical entry on Henry Chettle, *Literature Online* (2005) <http://gateway.proquest.com/openurl?ctx_ver=Z39.88-2003&xri:pqil:res_ver=0.2&res_id=xri:lion&rft_id=xri:lion:ft:ref:BIO000461:0> [accessed 13 August 2011]

Rae McDermott, Jennifer, 'Perceiving Shakespeare: A Study of Sight, Sound, and Stage', *Early Modern Literary Studies*, 19 (2009) <http://extra.shu.ac.uk/emls/si-19/mcdeshak.html> [accessed 20 July 2011] 1-38

Raffield, Paul, 'A Discredited Priesthood: The Failings of Common Lawyers and their Representation in Seventeenth Century Satirical Drama', *Law and Literature*, 17 (2005), 365-95

----------, '"*Terras Astraea reliquit*": *Titus Andronicus* and the Loss of Justice', in *Shakespeare and the Law*, ed. by Paul Raffield and Gary Watt (Oxford: Hart Publishing, 2008), pp. 203-20

Raffield, Paul, and Gary Watt, eds, *Shakespeare and the Law* (Oxford: Hart Publishing, 2008)

Rappaport, Steve, *Worlds Within Worlds: Structures of Life in Sixteenth Century London* (Cambridge: Cambridge University Press, 1989)

Reay, Barry, ed., *Popular Cultures in England, 1550-1750* (London: Longman, 1998)

Reed, Robert Rentoul, *Crime and God's Judgement in Shakespeare* (Lexington: University Press of Kentucky, 1984)

Reese, Jack E., 'The Formalization of Horror in *Titus Andronicus*', *Shakespeare Quarterly*, 21 (1970), 77-84

Rice, Raymond J., 'Cannibalism and the Act of Revenge in Tudor-Stuart Drama', *Studies in English Literature, 1500-1900*, 44 (2004), 297-316

Rist, Thomas, 'Memorial Revenge and the Reformation(s): Kyd's *The Spanish Tragedy*', *Cahiers Élisabéthains: Late Medieval and Renaissance English Studies*, 71 (2007), 15-25

----------, *Revenge Tragedy and the Drama of Commemoration in Reforming England*, Studies in Performance and Early Modern Drama series (Surrey: Ashgate, 2008)

Robertson, Karen, '*Antonio's Revenge*: The Tyrant, the Stoic, and the Passionate Man', *Medieval and Renaissance Drama in England*, 4 (1989), 91-106

Robson, Lynn, '"Now farewell to the lawe, too long have I been in thy subjection": Early Modern Murder, Calvinism, and Female Sexual Authority', *Literature and Theology: An Interdisciplinary Journal of Theory and Criticism*, 22 (2008), 295-312

Rosenblatt, Jason P., 'Aspects of the Incest Problem in *Hamlet*', *Shakespeare Quarterly*, 29 (1978), 349-64

Rowe, Katherine A., 'Dismembering and Forgetting in *Titus Andronicus*', *Shakespeare Quarterly*, 45 (1994), 279-303

Rozett, Martha, 'Aristotle, the Revenger, and the Elizabethan Audience', *Studies in Philology*, 76 (1979), 239-61

Sacks, Peter, 'Where Words Prevail Not: Grief, Revenge and Language in Kyd and Shakespeare', *English Literary History*, 49 (1982), 576-601

Sale, Carolyn, 'The "Amending Hand": Hales v. Petit, Eyston v. Studd, and Equitable Action in *Hamlet*', in *The Law in Shakespeare*, ed. by Constance Jordan and Karen Cunningham (Basingstoke: Palgrave Macmillan, 2007), pp. 189-207

----------, '"The King is a Thing": the King's Prerogative and the Treasure of the Realm in Plowden's Report of the *Case of Mines* and Shakespeare's *Hamlet*', in *Shakespeare and the Law*, ed. by Paul Raffield and Gary Watt (Oxford: Hart Publishing, 2008), pp. 137-57

Salingar, Leo, 'Jacobean Playwrights and "Judicious" Spectators', *Renaissance Drama*, n.s., 22 (1991) 209-34

----------, '*The Revenger's Tragedy* and The Morality Tradition', *Scrutiny*, 4 (1938), 402-24

Sanders, Leslie, '*The Revenger's Tragedy*: A Play on the Revenge Play', *Renaissance and Reformation*, 10 (1974), 25-36

Sarat, Austin, ed., *Law and Literature Reconsidered*, Studies in Law, Politics, and Society special issue [vol 43] (Bingley: JAI Press, 2008)

Sarat, Austin and Thomas R. Kearns, eds, *Law's Violence*, Law, Jurisprudence and Social Thought series (Ann Arbor: University of Michigan Press, 1992)

Sawday, Jonathan, *The Body Emblazoned: Dissection and the Human Body in Renaissance Culture* (London: Routledge, 1995)

Scarry, Elaine, *The Body in Pain: the making and unmaking of the world* (Oxford: Oxford University Press, 1985)

Semenza, Gregory M. Colón, '*The Spanish Tragedy* and Metatheatre', in *The Cambridge Companion to English Renaissance Tragedy*, ed. by Emma Smith and Garrett A. Sullivan Jr (Cambridge: Cambridge University Press, 2010), pp. 153-62

----------, '*The Spanish Tragedy* and Revenge', in *Early Modern English Drama: a Critical Companion*, ed. by Garrett A. Sullivan Jr, Patrick Cheney and Andrew Hadfield (Oxford: Oxford University Press, 2006), pp. 50-60

Semlar, L. E., 'A Proximate Prince: The Gooey Business of *Hamlet* Criticism', *Sydney Studies in English*, 32 (2006), 97-127

Senior, C. M., *A Nation of Pirates: English Piracy in its Heyday* (London: David & Charles, 1976)

Shapiro, Barbara, 'The Beyond Reasonable Doubt Doctrine: "Moral Comfort" or Standard of Proof?', *Law and Humanities*, 2 (2008), 149-73

----------, 'Classical Rhetoric and the English Law of Evidence', in *Rhetoric and Law in Early Modern Europe*, ed. by Victoria Kahn and Lorna Hutson (New Haven: Yale University Press, 2001), pp. 54-72

----------, *A Culture of Fact: England, 1550-1720* (Ithaca: Cornell University Press, 2000)

----------, 'Political Theology and the Courts: A Survey of Assize Sermons c. 1600-1688', *Law and Humanities*, 2 (2008), 1-28

----------, *Probability and Certainty in Seventeenth-Century England: A Study of the Relationships between Natural Science, Religion, History, Law, and Literature* (Princeton: Princeton University Press, 1983)

Shapiro, James, '"Tragedies Naturally Performed": Kyd's Representation of Violence', in *Staging the Renaissance: Re-interpretations of Elizabethan and Jacobean Drama*, ed. by David Scott Kastan and Peter Stallybrass (London: Routledge, 1991), pp. 99-113

Sharp, Buchanan, *In Contempt of All Authority: Rural Artisans and Riot in the West of England, 1586-1660* (Berkeley: University of California Press, 1980)

Sharpe, J. A., *Crime in Early Modern England, 1550-1750* (London: Longman, 1984)

----------, *Crime and the Law in English Satirical Prints, 1600-1832* (Cambridge: Chadwyck Healey, 1986)

----------, 'Domestic Homicide in Early Modern England', *Historical Journal*, 24 (1981), 29-48

----------, 'Enforcing the Law in the Seventeenth-Century English Village', in *Crime and the Law: the Social History of Crime in Western Europe since 1500*, ed. by V. A. C. Gatrell, Bruce Lenman and Geoffrey Parker (London: Europa, 1980), pp. 97-119

----------, 'The History of Violence: Some Observations', *Past & Present*, 108 (1985), 206-15

----------, *Judicial Punishment in England* (London: Faber and Faber, 1990)

----------, '"Last Dying Speeches": Religion, Ideology and Public Execution in Seventeenth-Century England', *Past & Present*, 107 (1985), 144-67

----------, 'The People and the Law', in *Popular Culture in Seventeenth-Century England*, ed. by Barry Reay (London: Croom Helm, 1985), pp. 244-70

----------, '"Such Disagreement betwixt Neighbours": Litigation and Human Relations in Early Modern England', in *Disputes and Settlements: Law and Human Relations in the West*, ed. by John Bossy (Cambridge: Cambridge University Press, 1983), pp. 167-88

Sharpe, Kevin, *Selling the Tudor Monarchy: Authority and Image in sixteenth-century England* (New Haven and London: Yale University Press, 2009)

Sharpe, Kevin and Chris Brooks, 'History, English Law and the Renaissance', *Past & Present*, 72 (1976), 133-42

Sheen, Erica and Lorna Hutson, eds, *Literature, Politics and Law in Renaissance England* (Basingstoke: Palgrave Macmillan, 2005)

Shoeck, Richard, 'The Borromeo Rings: Rhetoric, Law and Literature in the English Renaissance', *Rhetoric and Pedagogy: Its History, Philosophy, and Practice*, ed. by Winifred Brayan Horner and Micahel Leff (Mahwah, NJ: Lawrence Erlbaum, 1995), pp. 261-76

----------, 'Lawyers and Rhetoric in Sixteenth-Century England', in *Renaissance Eloquence: Studies in the Theory and Practice of Renaissance Rhetoric*, ed. by James J. Murphy (London: University of California Press, 1983), pp. 110-27

Shuger, Debora, *Censorship and Cultural Sensibility: The Regulation of Language in Tudor-Stuart England* (Philadelphia: University of Pennsylvania Press, 2006)

Sibly, John, 'The Duty of Revenge in Tudor and Stuart Drama', *Review of English Literature*, 8 (1967), 46-54

Simmons, J. L., 'The Tongue and its Office in *The Revenger's Tragedy*', *Publications of the Modern Language Association*, 92 (1977), 56-68

Skinner, Quentin, *The Foundations of Modern Political Thought*, 2 vols (Cambridge: Cambridge University Press, 1978)

Smith, David L., Richard Strier and David Bevington, eds, *The Theatrical City: Culture, Theatre and Politics in London, 1576-1649* (Cambridge: Cambridge University Press, 1995)

Smith, Emma, 'Author v. Character in Early Modern Dramatic Authorship: the example of Thomas Kyd and *The Spanish Tragedy*', *Medieval and Renaissance Drama in England*, 11 (1999), 129-42

----------, 'Ghost Writing: *Hamlet* and the Ur-Hamlet', in *The Renaissance Text*, ed. by Andrew Murphy (Manchester: Manchester University Press, 2000), pp. 177-90

----------, entry on 'Henry Chettle' in the *Oxford Dictionary of National Biography* (2004) <http://www.oxforddnb.com/view/article/5245> [accessed 10 August 2011]

----------, 'Prenzie Angelo: Making meanings from *Measure for Measure*', *Journal of Law, Philosophy and Culture*, 5 (2011), pp. 141-49

----------, 'Shakespeare and Early Modern Tragedy', in *The Cambridge Companion to English Renaissance Tragedy*, ed. by Emma Smith and Garrett A. Sullivan Jr (Cambridge: Cambridge University Press, 2010), pp. 132-49

----------, '"To buy, or not to buy": *Hamlet* and Consumer Culture', *Shakespeare Studies*, 39 (2011), 188-209

Smith, L. B., 'English Treason Trials and Confessions in the Sixteenth Century', *Journal of the History of Ideas*, 15 (1954), 471-98

Smith, Molly, 'Spectacles of Torment in *Titus Andronicus*', *Studies in English Literature, 1500-1900*, 36 (1996), 315-31

----------, 'The Theatre and the Scaffold: Death as Spectacle in *The Spanish Tragedy*', *Studies in English Literature, 1500-1900*, 32 (1992), 217-32

Sofer, Andrew, 'Absorbing Interests: Kyd's Bloody Handkerchief as Palimpsest', *Comparative Drama*, 34 (2000), 127-53

Sokol, B. J. and Mary Sokol, *Shakespeare, Law and Marriage* (Cambridge: Cambridge University Press, 2003)

----------, *Shakespeare's Legal Language: a Dictionary* (London: Athlone, 2000)

Solga, Kim, *Violence Against Women in Early Modern Performance: Invisible Acts* (Basingstoke: Palgrave Macmillan, 2009)

Somerville, J. P., *Politics and Ideology in England, 1603-1640* (London: Longman, 1986)

Spinrad, Phoebe, 'The Sacralization of Revenge in Antonio's Revenge', *Comparative Drama*, 39 (2005), 169-85

Spufford, Margaret, *Contrasting Communities: English Villagers in the Sixteenth and Seventeenth Centuries* (Cambridge: Cambridge University Press, 1974)

Spurr, John, '"The Strongest Bond of Conscience": Oaths and the Limits of Tolerance in Early Modern England', in *Contexts of Conscience in Early Modern Europe, 1500-1700*, ed. by Harold E. Braun and Edward Vallance (Basingstoke: Palgrave Macmillan, 2004), pp. 151-65

Stallybrass, Peter, 'Reading the Body and the Jacobean Theater of Consumption', *Renaissance Drama*, n.s., 18 (1987), 121-48

Stewart, Alan, *Shakespeare's Letters* (Oxford: Oxford University Press, 2008)

Stone Peters, Julie, 'Law, Literature, and the Vanishing Real: On the Future of an Interdisciplinary Illusion', *Publications of the Modern Language Association*, 120 (2005), 442-53

Stone, Lawrence, *The Crisis of the Aristocracy, 1558-1641* (Oxford: Clarendon Press, 1966)

----------, 'The History of Violence: Some Observations, A Rejoinder', *Past & Present*, 108 (1985), 216-24

----------, 'Interpersonal Violence in English Society, 1300-1800', *Past & Present*, 101 (1983), 22-33

Strain, Virginia Lee, '*The Winter's Tale* and the Oracle of the Law', *English Literary History*, 78 (2011), 557-84

Supiot, Alain, *Homo Juridicus: On the Anthropological Function of the Law*, trans. by Saskia Brown (London: Verso, 2007)

Sutherland, Sarah, *Masques in Jacobean Tragedy* (New York: AMS Press, 1983)

Syme, Holger Schott, '(Mis)representing Justice on the Early Modern Stage', *Studies in Philology*, 109 (2012), 63-85

----------, *Theatre and Testimony in Shakespeare's England: A Culture of Mediation* (Cambridge: Cambridge University Press, 2012)

Taylor, Anthony Brian, 'Lucius, Still Severely Flawed: A Response to Jonathan Bate, Maurice Hunt, and Philip Kolin', *Connotations*, 7 (1997/8), 97-103

----------, 'Lucius, the Severely Flawed Redeemer of *Titus Andronicus*', *Connotations*, 6 (1996/7), 138-57

Terry, Reta A., '"Vows to the Blackest Devil": *Hamlet* and the Evolving Code of Honor in Early Modern England', *Renaissance Quarterly*, 52 (1999), 1070-86

Thomas, Catherine, 'Toxic Encounters: Poisoning in Early Modern English Literature and Culture', *Literature Compass*, 9 (2012), 48-55

Thomas, Keith, *Religion and the Decline of Magbentonic: Studies in Popular Beliefs in sixteenth- and seventeenth-century England* (London: Penguin, 1991) (first publ. 1971)

Thompson, E. P., 'The Moral Economy of the Crowd in the Eighteenth Century', *Past & Present*, 50 (1971), 76-136

Thomson, Janice, *Mercenaries, Pirates, and Sovereigns* (Princeton: Princeton University Press, 1994)

Tricomi, Albert H., 'The Aesthetics of Mutilation in *Titus Andronicus*', *Shakespeare Survey*, 27 (1974), 11-19

Tubbs, J. W., *The Common Law Mind: Medieval and Early Modern Conceptions* (Baltimore: Johns Hopkins University Press, 2000)

Ure, Peter, *Elizabethan and Jacobean Drama: Critical Essays by Peter Ure*, ed. by J. C. Maxwell (Liverpool: Liverpool University Press, 1974)

Usher, Roland G., 'James I and Sir Edward Coke', *English Historical Review*, 18 (1903), 664-75

Vaught, Jennifer, *Masculinity and Emotion in Early Modern English Literature* (Aldershot: Ashgate, 2008)

Vickers, Brian, *Appropriating Shakespeare: Contemporary Critical Quarrels* (New Haven and London: Yale University Press, 1993)

Viktus, Daniel, ed., *Piracy, Slavery, and Redemption: Barbary Captivity Narratives from Early Modern England* (New York: Columbia University Press, 2001)

Waith, Eugene M., *The Herculean Hero: in Marlowe, Chapman, Shakespeare and Dryden* (London: Chatto & Windus, 1962)

----------, 'The Metamorphosis of Violence in *Titus Andronicus*', *Shakespeare Survey*, 10 (1957), 39-49

Walker, Greg, *The Politics of Performance in Early Renaissance Drama* (Cambridge: Cambridge University Press, 1998)

Walter, John, 'Grain Riots and Popular Attitudes to the Law: Maldon and the Crisis of 1629', in *An Ungovernable People?: The English and their Law in the Seventeenth and Eighteenth Centuries*, ed. by John Brewer and John Styles (London: Hutchinson, 1980), pp. 47-84

----------, 'A "Rising of the People"? The Oxfordshire Rising of 1596', *Past & Present*, 107 (1985), 90-143

Walter, John and Keith Wrightson, 'Dearth and the Social Order in Early Modern England', *Past & Present*, 71 (1976), 22-42

Ward, Ian, *Law and Literature: Possibilities and Perspectives* (Cambridge: Cambridge University Press, 1995)

----------, *Shakespeare and the Legal Imagination* (London: Butterworths, 1999)

Watkin, T., '*Hamlet* and the Law of Homicide', *Law Quarterly Review*, 100 (1984), 282-310

Watson, Curtis Brown, *Shakespeare and the Renaissance Concept of Honor* (Princeton: Princeton University Press, 1960)

Watson, Robert N., *'The Rest is Silence': Death as Annihilation in the English Renaissance* (California: University of California Press, 1994)

----------, 'Tragedies of Revenge and Ambition', in *The Cambridge Companion to Shakespearean Tragedy*, ed. by Claire McEachern (Cambridge: Cambridge University Press, 2002), 160-81

Watt, Tessa, *Cheap Print and Popular Piety, 1550-1640*, Studies in Early Modern British History series (Cambridge: Cambridge University Press, 1991)

Weimann, Robert, *Shakespeare and the Popular Tradition in the Theater: Studies in the Social Dimension of Dramatic Form and Function*, ed. by Robert Schwartz (Baltimore: Johns Hopkins University Press, 1979) (first publ. in German in 1967)

Weisberg, Richard, *Poethics: and other Strategies of Law and Literature* (New York: Columbia University Press, 1992)

Weitz, Morris, Hamlet *and the Philosophy of Literary Criticism* (London: Faber, 1965)

Welsh, Alexander, *Strong Representations: Narrative and Circumstantial Evidence in England* (London: Johns Hopkins University Press, 1992)

Wetmore, Kevin J. Jr, ed., *Revenge Drama in European Renaissance and Japanese Theater: from* Hamlet *to* Madame Butterfly (Basingstoke: Palgrave Macmillan, 2008)

Wharton, T. F., ed., *The Critical Fall and Rise of John Marston* (Columbia, SC: Camden House, 1994)

----------, *The Drama of John Marston: Critical Re-visions* (Cambridge: Cambridge University Press, 2001)

White, Edward J., *Commentaries on the Law in Shakespeare* (St. Louis, MO: The F. H. Thomas Law Book Co., 1911) <http://galenet.galegroup.com/servlet/MOML?dd=0&locID=tcd&d1=20000492100&srchtp=a&c=1&an=20000492100&d2=1&docNum=F3750323835&h2=1&af=RN&d6=1&ste=10&dc=tiPG&d4=0.33&stp=Author&d5=d6&ae=F150323835> [accessed 3 March 2011]

Whitman, James Q., *The Origins of Reasonable Doubt: Theological Roots of the Criminal Trial* (New Haven: Yale University Press, 2008)

----------, 'Response to Shapiro', *Law and Humanities*, 2 (2008), 175-89

Wiatt, William K., 'The Dramatic Function of the Alexandro-Villupo Episode in *The Spanish Tragedy*', *Notes & Queries*, 5 (1958), 327-9

Wigfall, Green A., *The Inns of Court and Early English Drama* (New Haven: Yale University Press, 1931)

Wiggins, Martin, *Journeymen in Murder: The Assassin in English Renaissance Drama* (Oxford: Clarendon Press, 1991)

Wilds, Lillian, 'The Revenger as Dramatist: A Study of the Character-as-Dramatist in *The Revenger's Tragedy*', *Rocky Mountain Review of Language and Literature*, 30 (1976), 113-22

Williams, Penry, *The Tudor Regime* (Oxford: Clarendon Press, 1979)

Wilson, Luke, '*Hamlet*, Hales v. Petit, and the Hysteresis of Action', *English Literary History*, 60 (1993), 17-55

----------, *Theaters of Intention: Drama and the Law in Early Modern England* (Stanford: Stanford University Press, 2000)

----------, '*The White Devil* and the Law', in *Early Modern English Drama: A Critical Companion*, ed. by Garrett A. Sullivan Jr, Patrick Cheney and Andrew Hadfield (Oxford: Oxford University Press, 2006), pp. 225-36

Wilson, Richard, *Secret Shakespeare: Studies in Theatre, Religion and Resistance* (Manchester: Manchester University Press, 2004)

Winstanley, Lilian, Hamlet *and the Scottish Succession* (Cambridge: Cambridge University Press, 1921)

Winston, Jessica, 'Expanding the Political Nation: *Gorboduc* at the Inns of Court and Succession Revisited', *Early Theatre*, 8 (2005), 11-34

----------, 'Seneca in Early Elizabethan England', *Renaissance Quarterly*, 59 (2006), 29-58

Womack, Peter, *English Renaissance Drama* (Oxford: Blackwell, 2006)

Woodbridge, Linda, *English Revenge Drama: Money, Resistance, Equality* (Cambridge: Cambridge University Press, 2010)

Wright, Nancy E., Margaret W. Ferguson and A. R. Buck, eds, *Women, Property, and the Letters of the Law in Early Modern England* (London: University of Toronto Press, 1994)

Wrightson, Keith, *English Society, 1580-1680* (London: Hutchinson, 1982)

----------, 'The Politics of the Parish in Early Modern England', in *The Experience of Authority in Early Modern England*, ed. by Paul Griffiths, Adam Fox and Steve Hindle (Basingstoke: Macmillan, 1996), pp. 10-46

----------, 'Two Concepts of Order: Justices, Constables and Jurymen in Seventeenth-Century England', in *An Ungovernable People?: The English and their Law in the Seventeenth and Eighteenth Centuries*, ed. by John Brewer and John Styles (London: Hutchinson, 1980), pp. 21-46

Yoshino, Kenji, *A Thousand Times More Fair: What Shakespeare's Plays Teach Us About Justice* (New York: HarperCollins, 2011)

Young, Alan R., Hamlet *and the Visual Arts, 1709-1900* (Newark: University of Delaware Press, 2002)

Young, Anthony, '"Ripen Justice in the Commonweal": Political Decay and Regeneration in *Titus Andronicus*', *Renaissance Papers* (Columbia, SC: Camden House, 1998), pp. 39-51

Ziolkowski, Theodore, *The Mirror of Justice: Literary Reflections of Legal Crises* (Princeton: Princeton University Press, 1997)

Zurcher, Andrew, 'Consideration, Contract and the End of *The Comedy of Errors*', in *Shakespeare and the Law*, ed. by Paul Raffield and Gary Watt (Oxford: Hart Publishing, 2008), pp. 19-37

----------, *Shakespeare and Law*, Arden Critical Companions (London: Methuen, 2010)