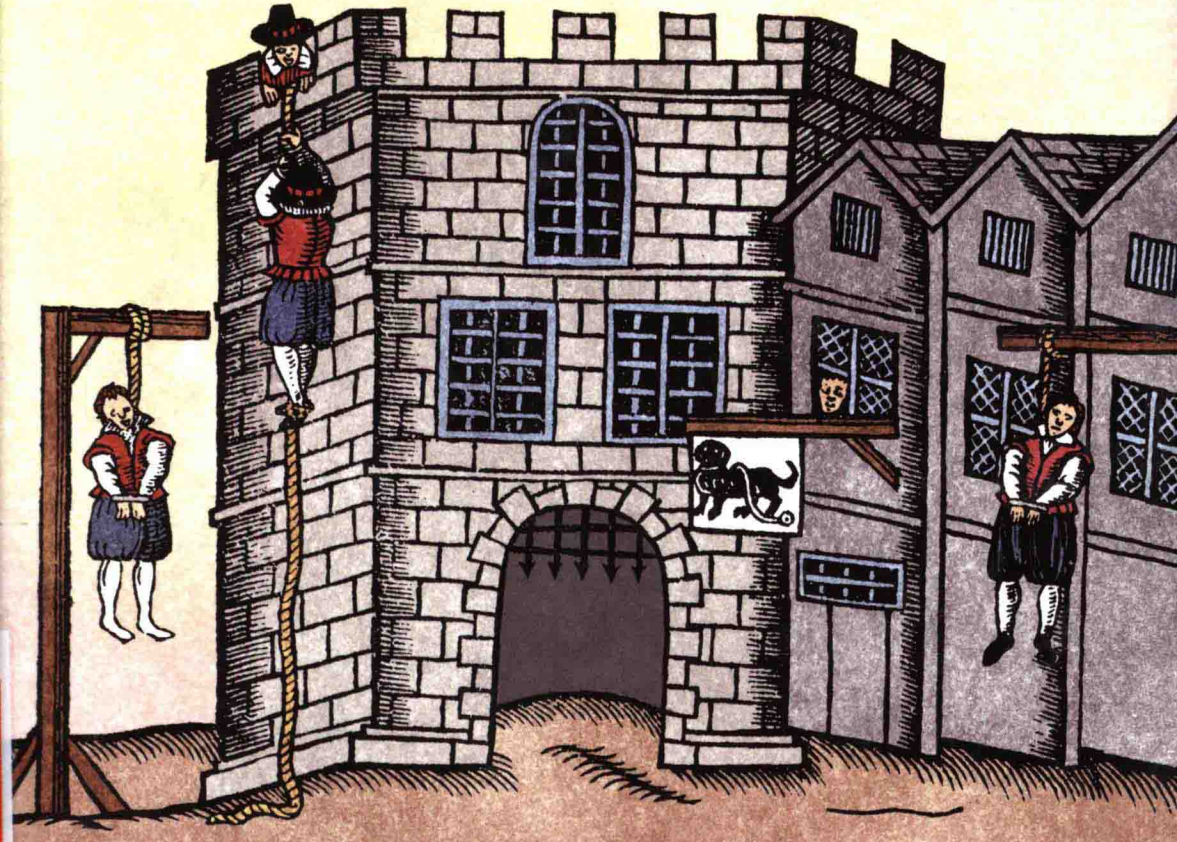
TAKING EXCEPTION TO THE LAW

MATERIALIZING INJUSTICE IN EARLY MODERN ENGLISH LITERATURE



EDITED BY
DONALD BEECHER, TRAVIS DECOOK,
ANDREW WALLACE, AND GRANT WILLIAMS

"Organized around an elegantly theorized vision of literature as positioned to 'take exception to' the law and legal institutions to which it nevertheless remains immanent, this volume presents a collection of essays by several of the foremost scholars working in the field of literature and law in the early modern period. Hardly merely another collection, this volume presents original, advanced recent work in early modern law, literature, and culture, together with a fine introduction by Grant Williams that at once summarizes and advances the state of the field. Necessary reading for those interested in the field and, indeed, for those interested in early modern English literature and culture generally."

Luke Wilson, Department of English, Ohio State University

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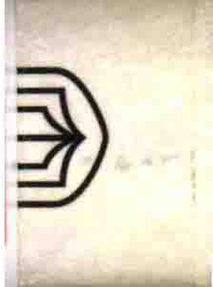

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Materializing Injustice in Early Modern English Literature

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Illustrations

TAKING EXCEPTION TO THE LAW

1 Law and the Production of Literature: An Introductory Perspective

GRANT WILLIAMS

Recent scholarly work on the interconnections between legal and literary matters has compelled Renaissance studies to view the subfield of early modern Law and Literature as much more than a boutique interdisciplinary jurisdiction, an academic niche of peculiar technical legalese interesting only to law experts and historians.[1] This volume of essays originates from the realization that English Renaissance studies must confront the profound relevance and broad appeal of legal questions to understanding early modern literary activity. Accordingly, the volume's contributors do not hail from law departments, but – with a single exception – belong to literature departments. This volume then is not so much a contribution to the subfield of early modern Law and Literature as a bellwether of the degree to which the entire field of English Renaissance literary studies is absorbing and profiting from the findings, insights, and issues raised by this exciting interdisciplinary inquiry.

In English Renaissance literary scholarship, an intellectual emphasis on the law seems long overdue, considering the proportional influence that the curriculum of the premodern university has exercised on scholarship's interrogation of literature's epistemological foundations and implications. The degrees at Oxford and Cambridge were organized around four faculties. Theology and the philosophically minded liberal arts, the first two faculties, have always been regarded as crucial intellectual spheres for studying literary production, and over the 1980s and 1990s the concentration of feminism and gender studies on textual bodies led to a surge in studying the four bodily humours, disease, and anatomy, all of which fall under the rubric of the third faculty, medicine.[2] Yet only now has the fourth faculty finally come into its own. I

don't mean to imply that the university monopolized society's legal machinery, since only the civil law, the Roman law tradition, was taught at Oxford and Cambridge, whereas the Inns of Court dealt primarily with the English law, the basis of the common law tradition; however, the fourth faculty, a quarter of the university's curricular disposition, helps us to sense the disciplinary weight that the law exerted on the period's conceptualizations of knowledge and vocational culture.

English Renaissance literary studies can no longer appeal to an ignorance of the law, because, on one level, the field of Law and Literature has brought to our attention just how engrossed the period's literary works are with legal questions. The scholarly mode of what Law and Literature calls "law in literature" has demonstrated the rich potential of mining from literary stores jurisprudential topics, discourses, and even types of legal thinking, in addition to mimetic and parodic representations of juridical apparatuses, such as statutes, trials, and punishments.[3] The "law in literature" mode does not merely recover forgotten allusions for interesting footnotes or unpack minor themes planted only for the scrutiny of lawyer-readers, but testifies to the law's explicit cultural and intellectual prominence in English Renaissance society. An exemplary work in this regard is R.S. White's study, which makes the case for the natural law's astonishing complexity and ubiquity. Foreign to modern and postmodern sensibilities, the natural law signified an "innate form of knowledge, imprinted on the human mind," deriving from God, nature, or reason, but easily compromised by the likes of sin, the emotions, and ignorance.[4] Interposed between the inaccessibility of the divine law and the fallibility of man-made rules, this all-encompassing category covers the endless intellectual work – if not rationalization – of separating the universality and justness of the natural order of things from society's flawed and corrupt renderings of this order. White's scholarship reveals the natural law forming the basis of Renaissance literary theory and literature, from More's *Utopia* and Sidney's *Arcadia* to Milton's *Paradise Lost*.[5] The period's incessant concern with poetic justice, towards which so many narratives pursue resolution, bespeaks the natural law's fundamental influence upon shaping literary content.[6] The mode of "law in literature," however, does not privilege only massive frames of cultural reference as evinced, say, by Brian C. Lockey's *Law and Empire in English Renaissance Literature*. Legal matters can interpenetrate literature in subtler, less apparent ways too. Exemplary in this regard is Charles Ross's *Elizabethan Literature and the Law of Fraudulent Conveyance*. Fraudulent conveyance