

Literary Play at the Inns of Court and Early Modern Legal Professionalization

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Jessica Winston, [Lawyers at Play: Literature, Law, and Politics at the Early Modern Inns of Court](#), 1558-1581 (2016).

The [Inns of Court](#) have long interested legal historians, particularly those who study the history of the legal profession. The fact that the Inns were sites of tremendous literary activity is not something that receives a lot of attention in the older legal histories of the Inns (e.g., those written by legal historians such as John Baker and Wilfred Prest). Scholars who do focus on the literary aspects of the Inns tend to be interested in those literary dimensions rather than the law, a tendency that [Jessica Winston](#) avoids by focusing squarely on legal professionalization and its link to literary activity. Winston's book argues that the interconnections among literature, law, and politics at the Inns of Court are best explained by the increase in law-related positions in the growing administrative state in early modern England and the connection contemporaries made between literary skills and fitness for these jobs. *Lawyers at Play* elegantly traces the way that a group of individual men at the Inns in the 1550s and 1560s used the skills they learned at grammar school in poetry-writing and in translating plays and other works to recommend themselves for those new positions. Rather than focusing on the literary stars of the Inns from the 1590s and 1600s such as William Shakespeare, Winston shifts the focus to an earlier time period. These relatively unknown individuals, unknown at least to those who are not literary scholars of Renaissance England, set the stage, as it were.

When explaining why lawyers-in-training lived cheek by jowl with those pursuing drama and poetry, other scholars have tended to satisfy themselves with ideas about what London generally was like during the height of the Inns. So, for instance, Phillip Finkelpearl, author of an excellent book on the important playwright John Marston who lived at Middle Temple in the 1590s, focuses on the fact that a severe housing shortage in London led poets like John Donne and playwrights like Marston to live alongside those pursuing a legal education at the Inns.¹ The lusty and lively environment of Elizabethan London, it is conjectured, led/misled many of those would-be lawyers into literary pastimes, for example, attending and participating in elaborate revels and masques—some written by Shakespeare.

However, no one, until Winston, has pushed beyond the general environmental/geographical point to explore what exactly the connection was between literary activity at the Inns and why it was so intense at some moments and less so at others. Yes, it was London and yes, it had a vibrant intellectual scene, but that was true before the 1550s and remained true after. The “playing,” or literary activity, was not at the Inns to any great extent before the mid-sixteenth century. It greatly diminished by the 1570s and disappeared by the mid-seventeenth century. “If the locality and intellectual climate of the Inns did not change dramatically over time, what accounts for these phases in literary activity? What else fostered the development of literary clusters at the Inns at particular moments?” (P. 45.) Winston's answer is legal professionalization, specifically, the wide array of legal positions that became available in the 1560s in the Elizabethan administrative state and a perceived connection between literary skills and fitness for those offices.

The first noteworthy feature of Winston's approach, which I must highlight because it is deployed so effectively, is her use of prosopography, or collective biography, working with a generational group from the 1550s and 1560s rather than a single individual such as Marston. (See p. 49.) Winston emphasizes that this was the first generation to have received a thoroughly humanistic education at grammar school, one that emphasized classics, rhetoric, and service to the commonweal. This fact turns out to be important, as these young men brought habits of mind from that earlier education to the Inns, where they created a new *habitus* (to use the phrase from Pierre Bourdieu that Winston borrows—see p. 32.) “[T]he daily drills and corporal punishments of grammar school education inculcated a set of

behaviors, preferences, and habits of comportment, experienced and re-enacted in the habits of mind, dispositions, and even the bodily carriage of the students themselves. The customs and tastes—the *habitus*—of the grammar school were engrained at a corporal and psychic level.” (P. 55.) These men were, Winston writes, “mainly twenty-something, non-aristocratic, university-educated, Protestant, junior members, who turned to literature as part of a career trajectory that aimed for positions in law, at court, or elsewhere in the bureaucratic infrastructure of the Elizabethan state.” (P. 7.)

This was a time of rising litigation rates and a growth in administrative roles across England that required at least some legal knowledge. Employment opportunities in other sectors such as the Church had diminished. Students at the Inns mobilized the literary skills they learned in their classical educations to demonstrate their fitness to enter into what Winston calls “the legal magistracy.” Positions were available and lawyers were needed, creating “an important exception to the otherwise timeless gripes about lawyers.” (P. 57.) Justices of the peace or magistrates, town recorders, and other civic office holders were in great demand. It was more important that these men be virtuous than that they have technical legal knowledge or skills. (See pp. 221-22.) Involvement with literary works that discussed virtue was taken as a demonstration of virtue, thereby closing the “gap between ideology and practice at the heart of humanist theory.” (P. 54.)

Being a justice of the peace did not involve much poetry writing, hence the gap. However, as Chapter 2 explains, writing poetry that rejected romantic love as dangerous and extolled the virtues of public service demonstrated that the author had at least thought about what kind of virtue made one fit for public office. Winston highlights concerns among some of the chief men in the government about the quality of those taking on England’s administrative positions. And so writers at the Inns took to producing a “literature of magistracy” “to train current magistrates and advise them about their responsibilities, to guide the thinking of magistrates-in-training at the Inns, and also to demonstrate the authors’ commitment to and ethical preparation for being legal magistrates themselves.” (P. 51.) As Winston puts it, “long term trends in humanist education met undersupply of legally trained men to meet England’s litigious and administrative needs.” (P. 50.)

One of the great strengths of Winston’s work is her broad understanding of what constitutes literature—not just a poem or a play but also a treatise or a translation. Consider Chapter 4, which emphasizes how creative the Innsmen’s translations were, taking liberties with the original texts and really making them into their own works. This activity was, Winston explains, a way to transfer “the former political and intellectual dominance of Greece and Rome to England.” (P. 100.) This was seen as particularly important due to the anxiety that existed about England’s lagging behind Continental Europe, especially Italy, which had much more material available in its vernacular culture. (Pp. 114-15.) By translating one of these texts, a member of this particular generational group helped to enrich English vernacular culture (e.g., translating a work in Latin by Cicero into English) and at the same time make himself into (and demonstrate to others that he would be) an ideal magistrate, putting himself in service to the state like Cicero himself. Winston calls this “a double translation: the transformation of the translators themselves and of the political and intellectual state of England.” (P. 100.)

Winston spends a number of later chapters in the book exploring the role of dissent and just how far Innsmen were able to take things “under the cover of fiction” (p. 188) before they would retreat, fearful of repercussions from an increasingly sensitive Elizabeth (at least on matters that touched her unmarried status and the national anxiety relating to the problem of her succession). “Counsel literature” with political content demonstrates that the Inns created what Winston calls “a semiautonomous political space.” (P. 51.) Giving advice to the monarch or her counsellors shows that the Inns were developing their own corporate or collective identity as a space separate from and independent of court and Crown. The Inns had their own jurisdictions with their own ways of doing things and understood themselves and were received in that way by audiences. (Pp. 197, 216.)

Winston concludes her book by stating that “[t]he full story of law and literature at the Early Modern Inns of Court remains to be told.” (P. 225.) However, she has amply demonstrated that “literary activity [at the Inns] intensified at crux moments in the transformation of the legal profession.” (*Id.*) Hence, there was a logic to why the activity appeared and receded which was previously unappreciated and unexplained. Winston’s book demonstrates what it set out to

prove, namely, that “at the Inns of Court literary play was the unacknowledged but ever-present associate to the common law in the history of early modern legal professionalization.” (*Id.*) It is a new must-read for those interested in the history of the common law and the Inns of Court.

1. See Philip J. Finkelpearl, **John Marston of the Middle Temple: An Elizabethan Dramatist in his Social Setting**, 17 (1969). [2]

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