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# Semper Venalis: Gower's Avaricious Lawyers

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## Semper Venalis: Gower's Avaricious Lawyers

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## *Semper Venalis: Gower's Avaricious Lawyers*

Robert J. Meindl

*Nulla avaritia sine poena est.*

--Seneca, *Ep.* 115.16

Because I think the primary obstacle to the study of the *Vox clamantis* beyond its first book is the lack of a reliable and readable English verse translation to accompany close investigation of its Latin text, my first goal in this article is to offer such a translation for the first three chapters of the poem's sixth book (VI. 1–248).<sup>1</sup> This translation will then provide the foundation for an explication of Gower's attack upon the avarice of those in his day who practice the law, in violation of scriptural and societal injunctions, to their own selfish ends. The goal of this commentary is to demonstrate the depth and extent of Gower's knowledge of the law and the way in which that knowledge deepens his text. It is not my intent to open anew the discussion of whether or not Gower was himself a lawyer or simply an experienced litigant. The evidence as it is currently at hand does not lend itself to a definitive conclusion and strong arguments have

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1. Latin text in volume 4 of G. C. Macaulay, ed. *The Complete Works of John Gower*, 4 vols. (Oxford: Clarendon, 1899–1902); English prose translation by Eric Stockton, *The Major Latin Works of John Gower* (Seattle, WA: University of Washington Press, 1962); English verse translation of the whole of Book VI by Robert J. Meindl in The Gower Project Translations at <https://gowertranslation.pbworks.com/w/page/53715438/Vox%20Clamantis%20Translations>. The model for all efforts such as mine is *John Gower: Poems on Contemporary Events: the Visio Anglie (1381) and Cronica tripertita (1400)*, ed. David R. Carlson and trans. A. G. Rigg (Toronto: PIMS, 2011). Stockton's prose version, an indispensable tool for *Vox* scholars which I have consulted at every turn, needs to be replaced by a text that refines the poem's ideas and allows access to Gower's poetry in the manner of Rigg's work. Unlike Rigg, I have opted for unrhymed alternating iambic hexameter and pentameter to suggest something like the nature and movement of the original's alternating dactylic hexameter and pentameter, which often gives a sense of action and reaction, proposal and disposal, frequently disrupted by run-on lines to prevent rhythmic monotony.

been made on both sides of the issue, although it seems to me scholars are increasingly assuming the poet was a lawyer.<sup>2</sup> It is abundantly clear to even the most casual reader, however, that Gower possesses an extensive, even extraordinary, knowledge of legal matters and the law in its several late fourteenth-century expressions—civil, canon, common, and customary—and is eager to use that knowledge in a wide variety of literary contexts, whether first-person commentary as in the *Mirour de l'Omme* and *Vox clamantis*, or exemplary narrative as in the *Confessio amantis*. How he came by that knowledge we may never know exactly, and in any case, as Anthony Musson reminds us,

the term "legal" should not be so narrowly defined as to encompass only those men who had formal legal qualifications or who had a recognized position in the upper levels of royal judicial administration ....

There was a broad culture to the legal profession: it included not only those who possessed a formal legal education or a recognized position in the upper levels of royal judicial administration, but also men whose legal training was gained from a variety of sources, both formal and informal, and whose experience and consequent expertise might be the product of a number of different areas of legal employment. Such a

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2. Conrad van Dijk provides a full account of the arguments pro and con in *John Gower and the Limits of the Law* (Cambridge: Brewer, 2013), 1–5. For what is known of Gower's life, see John Hines, Nathalie Cohen and Simon Roffey, "Johannes Gower, Armiger, Poeta: Records and Memorials of his Life and Death," in *A Companion to Gower*, ed. Siân Echard, (Cambridge: Brewer, 2004), 23–42.

definition results in a considerable overlap between those traditionally labeled as "gentry" or as "lawyers."<sup>3</sup>

Book VI of the *Vox* is a comprehensive survey of the justice system in England that begins with the “men of law” who have emerged as a vibrant force in the developing system of the common law and, after working its way through the judiciary and such legal mainstays as viscounts, bailiffs and jurors, concludes with an analysis of the royal court, the king’s advisors, and the king himself as the fountainhead of justice.<sup>4</sup> The poet presents a dark vision of false legal practitioners— driven by greed and ambition and indifferent to the needs of clients, justice, or the local and national communities— who have threatened morality itself. His attack, while directed for the most part against practitioners in the common law courts, draws nevertheless upon an eclectic mix of legal standards and concepts from both the common law and Roman-canon systems, sometimes critiqued against a customary legal backdrop still remembered and revered even if to a considerable extent replaced, and condemns not all but only those who have

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3. Anthony Musson, *Medieval Law in Context: The Growth of Legal Consciousness from Magna Carta to the Peasants’ Revolt* (Manchester: Manchester University Press, 2001), 191.

4. Maria Wickert, *Studies in John Gower*, trans. Robert J. Meindl (Washington, D.C.: University Press of America, 1982), 135 says “the central problem of the *Mirror for a Prince*, as well as of the entire sixth book, is the question of law and justice in the state. In the transition to the *Mirror* [Gower] defines the function of the laws in the following manner: *Pro transgressore fuerant leges situate, /Quilibet vt merita posset habere sua* [Laws were established for the transgressor, so that each man might receive his due rewards] (VI.469–70). Here law is understood primarily as criminal law. It conforms to the usual medieval view of statute law as an arrangement of force which became necessary through man’s moral degeneration in the Fall.”

fallen off from the standard of conduct prescribed by the teachings of Scripture, the foundation of all law. While true and honest lawyers may be scarce, Gower does not deny that they exist.<sup>5</sup>

My methodology in what follows will be straightforward, consisting simply in the presentation of the Latin text and my translation stanza by stanza, followed by a close reading intended to clarify the content of Gower's verse. Such a procedure will enable the reader to move continually back and forth from the Latin text to the English translation to the interpretation. I hope to convince the reader by my handling of this one relatively brief component of the poem that the *Vox* will reward the detailed textual attention necessary to its interpretation and appreciation. The modern editing of Gower's Latin poetry occurred, much to its detriment, at the very end of a naïve western classicism that had little respect for medieval Latin and drummed insistently on the inferiority of the language and the tediousness of the content. Gower's poem is not simply, as the standard accounts typically present it, a random file of conventional themes, but in fact a densely argued and widely allusive work of art in the great tradition of western poetry, no longer regarded with the same respect it must once have commanded because the present world, beyond a small circle of dedicated scholars, has lost the language facility and the knowledge of contemporary issues necessary to read it adequately. The surface of Gower's text rests everywhere upon a foundation of subsidiary materials that need to be recovered, analyzed, and related to the whole of the poem and its themes. The task is

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5. At the same time, however, absolving a few good men from the charges levied against the many smacks of a *topos*. In his *Speculum Vitae*, William of Nassington's discussion of legal officials who practice avarice, the author insists that he speaks "anely of fals men ... And noight of þam þat trewely dothe." Cited in Kathleen E. Kennedy, *Maintenance, Meed, and Marriage in Medieval English Literature* (New York: Palgrave MacMillan, 2009), 90. Chaucer's Miller humorously reverses the cliché when he claims a thousand good wives against the one bad.

immensely difficult and will perhaps prove impossible in passages and ways yet to be determined, but the time has come to reclaim, to the extent possible, the fullness of this remarkable poem, without doubt the greatest sustained poetic achievement of the Latin chapter in the history of English literature. I offer this translation and interpretation as an exercise in the hermeneutics of such historical reclamation.

### Chapter 1

*Exquo de errore in singulis temporalium gradibus existente tractatum est, iam quia vnumquemque sub legis iusticia gubernari oportet, tractare vltius intendit de illis qui iuris ministri dicuntur, quamuis tamen ipsi omnem suis cautelis iusticiam confundunt, et propter mundi lucrum multipliciter eneruant.*

[Since he has discussed the error existing in all the degrees of the temporal world, now, because it is necessary that everyone be governed under the justice of the Law, he intends to talk further about those who are called the ministers of the *ius*, however much they nevertheless confound all justice with their deceits and repeatedly enervate it for worldly profit.]

### Stanza 1

*Sunt modo quam plures nomen de lege gerentes,  
 Qui tamen in parte nomen habent sine re.  
 Hii sine lege dei sub lege viri quasi fictum  
 Vsurpant nomen legis habere suum.  
 Est quibus omnis amor extraneus, omnis et error  
 Proximus et proprii causa creata lucri.  
 Hic labor, hoc opus est primo cum munere iungi,  
 Est sine quo lingue muta loquela sue.  
 Qui tamen ad veras leges vacat, et sine fraude  
 Iusticiam querule proximitatis agit,  
 Vt psalmista canit, est vir magis ille beatus;  
 Paucos set tales iam sibi tempus habet.  
 Aurea pugna nouo sic conterit vlcere leges,  
 Lesa quod vltius iura salute carent.*

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[There are many these days taking their name from law,  
 That have it for their own sake groundlessly.  
 Without God's Law and beneath man's, just as if feigned,  
 They falsely claim to have their name from law.  
 To them all love's a stranger, all sin related,  
 And every case created for their gain.]

This task and that use must first be joined with tribute,  
 Without which mutes the discourse of their tongue.  
 Who's open to true laws, however, without guile  
 Urges justice for his neighbor's complaint, **10**  
 The psalmist has sung, is a very blessed man;  
 But there are few such men in these our times.  
 The war for gold erodes the laws with open sore,  
 That *iura* injured has its health no more.]

The standard for proper conduct on the part of legal practitioners, the “ministers of justice” noted in the prose headnote, is the biblical model referenced at lines 9–11 in this opening stanza. It is the point at which we must begin, for the problem with the false lawyers is presented as a case of inheritance that has been fraudulently manipulated by those who claim to be, but are not, the heirs of that ideal of the good man presented in the Law that the Old Testament comprises. They claim that ideal *in parte* and *sine re* (on their own behalf—in contrast to *ex parte*, on someone else's behalf—and without actual possession), terminology that, as we shall see, unequivocally establishes the legal and testamentary footing for the matter to follow. Gower's mention of the psalmist references specifically the Vulgate's Psalm 14, which asks and answers the questions “Lord, who shall dwell in thy tabernacle? Or who shall rest in thy holy hill?” The response comprises the remnant of the Psalm, verses 2–5:

He that walketh without blemish, and worketh justice: He that speaketh  
 truth in his heart, who hath not used deceit in his tongue: Nor hath  
 done evil to his neighbor: nor taken up a reproach against his  
 neighbors. In his sight the malignant is brought to nothing: but he  
 glorifieth them that fear the Lord. He that sweareth to his neighbor,



and deceiveth not; he that hath not put out his money to usury, nor  
 taken bribes against the innocent. He that doth these things shall  
 not be moved for ever.

These remarks comprise both a standard of professional conduct against which Gower will judge contemporary legal practitioners and a biblical authority that establishes the foundation for ecclesiastical charges of *avaritia* against them. Although the poet does not actually name the name (which he plays with twice in the opening four lines), he charges that false lawyers have made a false claim upon the title of *homo de lege*, the reputable legal practitioner and good man whose behavior has been specified by the Psalmist.<sup>6</sup>

*Homo de lege* / *Gent du loy* / Man of Law has become in the fourteenth century a fashionable name largely but not exclusively (at least for Gower) for those engaging in the practice of the common law that has to a considerable extent replaced the old customary system of oral trothplight and folklaw and likewise become in the process the source of much common and uncommon chafing and complaint. Musson identifies the term with “a distinct generic group” that arose during the fourteenth century “and comprised many generalist practitioners, but had a clear apex of experts in the serjeants and judges of the central courts at Westminster.”<sup>7</sup>

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6. In the *Mirour de l’Omme*, ll. 24181–24816, Gower goes through a similar catalogue of accusations against the *gens du loy*, beginning with the same charge that they don’t deserve the name. The earlier French poem is closely paralleled by the later Latin work in its account of the law and lawyers. See Kennedy, *Maintenance, Meed, and Marriage*, 94–101.

7. An account of this changeover is Richard Firth Green’s *A Crisis of Truth: Literature and Law in Ricardian England* (Philadelphia: University of Pennsylvania Press, 1999). Although Green’s study has been widely accepted by students of medieval literature and many legal historians, it has not been received with the same degree of enthusiasm by all. See, for instance, Paul Brand’s review in *The Ricardian: Journal of the Richard III Society*, 12 (2002):

It is not a technical term like *apprenticius*, *narrator* / pleader / counter / serjeant-at-law, *attornatus*, *advocatus*, *procurator*, *essoiner*, or others of the array of words used to designate legal practitioners who perform various services at various times before various courts. It is a respectful designation that acknowledges the social and economic standing of those who have been successful in various ways within the legal community.

The poet begins with the accusation that many are wearing this name without having inherited the right to it. They claim their *nomen de lege* (as *homines de lege*) but have it only incompletely and on their own behalf (*in parte*) and without their actual possession having been certified by the law (*sine re*). Completely apart from the accusation that their motivation is selfishly improper, Gower charges that they do not actually possess the title they have claimed. They are not true *homines de lege* in the sense of the Law's *virī boni* and their claim is likewise unsubstantiated in human law. The underlying text is a principle from Roman law concerning *bonorum possessio sine re* and *cum re*, a distinction concerning claims to an inheritance by those who lacked the standing of proper heirs but who were mentioned in a will or made a claim nevertheless.<sup>8</sup> That claim would be declared *sine re* (without the award of the inheritance) in the

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526–28. The quoted material is from Anthony Musson, *Medieval Law in Context: The Growth of Legal Consciousness from Magna Carta to the Peasants' Revolt* (Manchester: Manchester University Press, 2001), 75. Standard histories are Paul Brand, *The Making of the Common Law* (London: Blackwell, 1992); J. H. Baker, *An Introduction to English Legal History*, 4<sup>th</sup> ed. (Oxford: Oxford University Press, 2008); and Theodore F. T. Plucknett, *A Concise History of the Common Law*, 5<sup>th</sup> ed. (New York: Little, Brown and Co.: 1956; rpt. Indianapolis: Liberty Fund, 2010).

8. The distinction has been associated with Justinian's *Digest*, but it is derived from the *Commentaries* of Gaius 2. 148, as follows: *Qui autem secundum tabulas testamenti, quae aut statim ab initio non iurae factae sint, aut iure factae postea ruptae vel inritae erunt, bonorum possessionem accipiunt, si modo possunt hereditatem optinere, habebunt bonorum possessionem*

event legitimate heirs came forward but could for various reasons lead eventually to a *cum re* (with the award) resolution if the claimant persisted and the claim was upheld as legitimate.

Those pretending to be the *homines de lege* have falsely taken upon themselves the title outside the sanction of the *lex dei* (Scripture, in this case Psalm 14) and below the proper threshold of the *lex viri* (human law, specifically the Roman law concerning inheritance). They have falsely claimed the title as if they have faked or even forged (*quasi fictum*) it. Gower's charge is founded in a principle of Roman law that he interprets in concert with a biblical behavioral prescription read against a commonplace theological backdrop that holds the testaments of sacred Scripture literally to be a two-fold document bequeathing an inheritance of salvation to the true believers who comprise their Lord's family and obey his commands. In the various

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*cum re: si vero ab iis avocari hereditas potest, habebunt bonorum possessionem sine re.* [“Now those who receive possession of the goods in accordance with a testament, which either was illegally made from the very beginning, or though legally made, afterward became ineffectual or invalidated, if only they can obtain the inheritance, will have the possession of the goods with benefit (*cum re*): but if the inheritance can be wrested from them, they will have the possession of the goods without benefit (*sine re*).”] *The Commentaries of Gaius*, ed. and trans. J. T. Abdy and Bryan Walker (Cambridge: Cambridge University Press, 1870), 117–18. See T. Lambert Mears, *Analysis of M. Ortolan's Institutes of Justinian, including the History and Generalization of Roman Law* (London: Stevens and Sons, 1876), 252: “A distinction in the *bonorum possessio* existed, which is mentioned by Gaius (*Inst.*, ii, 148, 149), but not noticed by Justinian, viz.:1. *Cum re* (*id est cum effectu*), when the possessor was protected from eviction by the civil law heir. 2. *Sine re* (*sine effectu*), when the possessor was not guaranteed from the *petitio hereditatis* of the civil law heir. This could only occur when the rights under the *civil* and *Praetorian* law were not united in the same person, as where, *e.g.*, the heir validly instituted by testament accepted the inheritance, but had not demanded *possessio bonorum*, the latter passed to those called *ab intestato*, but *sine re*.” Without using the terminology from Roman law, *Bracton* covers the same issue of possession without inherited ownership in an *Addicio* to the *Introductio*. See Samuel E. Thorne, *Bracton on the Laws and Customs of England* (Cambridge, MA: Harvard University Press, 1968–77), 2: 24–25.

senses of διαθήκη, the Greek designation of the New Testament, the Bible is a contract, a covenant, a will and testament.

Gower's prosecution of the men he will consistently call *causidici* has common, civil, and canon law components (the latter two having become a blended form now often called Roman-canon), since he is charging them with misrepresenting themselves in a matter of inheritance, a canonical or secular concern,<sup>9</sup> and at the same time with avarice, a canonical issue, initially because their *loquela* (talk, discourse) is not forthcoming without payment but ultimately for a wide-ranging variety of grasping misbehaviors.<sup>10</sup> Both charges, whether founded in common or Roman-canon law, are based upon scriptural considerations, a perfectly normal state of affairs given the medieval insistence upon the Bible, the expression of the *lex dei* which is aligned with divine law, as the foundation of all law. In the works of medieval poets, John Alford remarks, "canon and secular law jostle together ... as they never did in any

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9. Inheritance matters concerning both land and chattel, understood from the perspective of their impact on the family and therefore considered by the Church an aspect of the sacrament of marriage, can be handled in ecclesiastical courts in Gower's time, although with the decline of the Church's authority they gradually find their way exclusively to the common law and thence to Chancery. Because oaths and vows are a matter for ecclesiastical courts, the probate of wills can also come under their jurisdiction. Even issues involving intestate circumstances can be claimed by the ecclesiastical courts as violations of the doctrine of charity. Various aspects of inheritance develop gradually and tortuously as English inheritance law takes, largely due to the problem of primogeniture, a vastly more complicated developmental route than that followed by the civil law on the continent. At issue in *Curia regis* is the matter of the Crown's lands and the "traverses of offices" occasioned upon the death of a tenant-in-chief. See Plucknett, *A Concise History of the Common Law*, 521–746 for an account of the history of inheritance.

10. *Loquela* is also a legal term, as in a writ *recordari facias loquelam*, an order requiring a finding in a shire court to be sent to the Court of Common Pleas for examination and in effect a writ of false judgment. Gower may accordingly mean something like "legal opinion" by the word. See Plucknett, *A Concise History of the Common Law*, 104.

courtroom.”<sup>11</sup> And while only the ecclesiastical, admiralty, and university courts in Gower’s England actually administer the civil law as it has developed on the continent, we should note at the same time the preoccupation in English universities with Roman civil law and its canonical extension to the complete exclusion of the common law, which accordingly had to develop its own institution, the Inns of Court, for teaching its precepts to those who would enter the emerging profession. Civil law is a vigorous contemporary presence in fourteenth-century England even if its future is in doubt.

Who are these men who have laid a false claim to their title? They are those to whom all love (*omnis amor*) is an outsider (specifically *extraneus* as opposed to, say, *alienus*) and all sin (*error*) is a relative (*proximus*, someone very close).<sup>12</sup> Legally it would follow that they could not have inherited from love since it is *extraneus* to them. Conversely, they would have inherited from sin, the *proximus / parentela* whose heirs they are. Of course, the reverse of this also holds true and so these men are *extranei* to all love and *proximi* to every sin, for the reason that they believe *omnis causa* (every lawsuit) has been created for their profit. An *extraneus* in Roman law is someone from outside a family who has been named in a will but is no longer under the jurisdiction of the person who has made the will. *Amor, omnis* or otherwise, is a familiar designation for Christ, who is an outsider to *omnis error* and so to the family of the false lawyers who are *proximi erroris*. At the same time, they are *extranei amoris* and outsiders to

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11. John A. Alford, “Literature and Law in Medieval England,” *PMLA* 92 (1977): 947.

12. *Proximitas* is used shortly afterwards (l. 10) for neighbor, helping to clarify Gower’s sense of *proximus* at this point. *Amor* perhaps also suggests a reference to the customary manner of conflict resolution still in use in the household and manorial courts. See Elliott Kendall, *Lordship and Literature: John Gower and the Politics of the Great Household* (Oxford: Clarendon Press, 2008), 180–81.

Christ's family and would be so designated in his will and testament, which is the Gospels, the hermeneutic filter and spiritual restatement of the Law found in the Old Testament. Such a reading clarifies why the false lawyers have their name, which they claim to have inherited, *sine re* rather than *cum re*.<sup>13</sup> They are not members of Christ's true family even if they are mentioned in his will—as unrepentant prodigals, sinners gone astray. If they are not members of Christ's family, then to whose do they belong? The devil's (*error*). How do we know that? Because they tie the task of the good Christian—to seek justice for the legitimate complaint of one's neighbor without guile and to always have time for the true laws—to recompense, without which their advice will not be forthcoming.<sup>14</sup> They have abandoned the higher law, the law of charity, and committed themselves to avarice, the law of cupidity, with the result that their constant struggle to enrich themselves at the expense of their neighbors has caused an open sore, of a sort all too familiar to a world very much aware of the plague, upon the body of ordinance law (*leges*). It has thereby endangered the health of the entire body of human law as well as the higher law / justice (*iura*) coming from God that equates with morality. That would be the *veras leges* (true laws) mentioned in l. 9 to which the good man is always open.

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13. For a discussion of heritable estates as fee simple or fee tail, see Alford, "Literature and Law in Medieval England," 947. An estate in fee tail could only be inherited by natural children.

14. For a discussion of the ethics of legal fees, see James A. Brundage, *The Medieval Origins of the Legal Profession: Canonists, Civilians, and Courts* (Chicago, IL: University of Chicago Press, 2008), esp. 191–203. Line 8 is from Ovid, *Ars Amatoria* 1.453 with a crucial change: *Hic opus, hoc labor est, primo sine munere iungi*. Seduction for Ovid is to be accomplished without giving a gift, but Gower's lawyers are professionals and the money must be given up front before service is rendered. *Opus* in Gower's line perhaps has the legal value of *usus* (use or benefit).

The terminology Gower uses to reference law and justice requires some attention. *Iusticia* is the philosophical idea of justice, an ideal that exists in the abstract and which it is the task of law to embody. Modern legal positivism, which holds that justice and law are coterminous, will not find expression until the writings of Hugo Grotius and Thomas Hobbes in the seventeenth century. To understand Gower's use of *lex* and *ius*, one need go no farther than the opening Distinction of Gratian's *Decretum*, the beginning of *The Treatise on Laws*. "The human race is ruled by ... natural law [*naturali iure*] and usages [*moribus*]. Natural law [*ius naturae*] is what is contained in the Law [i.e. the Old Testament] and the Gospel [*lege et evangelio*]." Citing Isidore, Gratian establishes that divine ordinance (*lex divina*) is morality / righteousness (*fas*) and human ordinance (*lex humana*) is the legal embodiment of justice (*ius*).<sup>15</sup> The *lex dei* consists of specific divine ordinances of the *ius naturae*—which is the same as the morality taught by the Old Law and the Gospels—and the *lex humana* is human ordinances, drawn from *mores* (subsequently refined to *consuetudines*) that comprise the *ius*, so called because it is just (*iustum*). Although God's law and man's are two distinct orders of law, *ius* in both instances is the larger overriding term representing an ideal whole that finds its expression in specific enactments. Gratian's distinctions are fundamentally aligned with Aquinas' with the exception that the latter distinguishes natural from divine law, taking natural law to be man's understanding of divine law as it pertains to him, and characterizes human

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15. *Decretum D. 1. Dicta Gratiani ante c. 1, D. 1 c. 1, D. 1 c. 2*. The quote is from Gratian, *The Treatise on Laws (Decretum DD. 1–20) with the Ordinary Gloss*, trans. Augustine Thompson, O.P. and James Gordley (Washington, DC: Catholic University of America Press, 1993), 3. The text of the *Decretum* is online at the Bayerische Staatsbibliothek (2009), <http://geschichte.digitale-sammlungen.de/decretum-gratiani/online/angebot>.

ordinances as positive law.<sup>16</sup> Gower's use of terms and his argument about the dangers to *ius* occasioned by the misuse of *lex* are completely attuned to Gratian's presentation.

There is little in Gower's discussion, however, that addresses very specifically the issues surrounding inheritance as they occur in the legal context of the poet's time. He is much more concerned with law and justice in the theological context of sin and redemption. It is enough that the good man / good lawyer inherits from the *parentela* of the Father through the Son (*amor*) and the bad man / wicked lawyer from that of the devil (*error*).

Gower's *iura* is thus the justice of the ideal law, the law derived ultimately from sacred Scripture, but it is tempting to see in it sometimes a nostalgia for the customary law, which Gower perhaps associates with the kind of *amor* / *caritas* that derived from the bottom-up oral folklaw that had been commemorated on lovedays, when opposing parties were brought together to reconcile differences with the help of the community.<sup>17</sup> The opposing value to this love would then be the cupidity of the *causidici* operating within the confines of the common law, written, imposed by authority, often considered neglectful of communal values and frequently resulting in confrontation by trial rather than resolution through mediation. But Gower does not present the newer system as the problem and the older one as the solution, since both are, or were, plagued by the malfeasance of sinful humans (see ll.75–6 for instance). We should not expect to

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16. See Alford, "Literature and Law in Medieval England," 942–43. Book III, Chapter 4 of the *Vox* (a discussion of ecclesiastical positive law) shows that Gower is aware of positive law (that is, law established by human authority as opposed to natural law) as a category. *Bracton* presents much the same material as Gratian, with essentially the same determinations, in its *Introductio*, although the approach seems more concerned with working definitions as opposed to theological distinctions. Moreover, *Bracton* is aware of Aquinas' distinction concerning natural law. See Thorne, *Bracton on the Laws and Customs of England*, 2: 22–28.

17. Green, *A Crisis of Truth*, 176–81; Musson, *Medieval Law in Context*, 231.



find, nor do we, the idealized community of Sherwood Forest pitted against the Sheriff of Nottingham as the agent of a wicked king's tyrannical judicial system. Elliot Kendall astutely warns us that, although there is clearly an opposition between the idea of love in customary conflict resolution and the strictures of the emergent common law, "the habits of consumers of justice to view conciliation and litigation as interlacing paths to justice ... stand as caution against binary approaches to the subject."<sup>18</sup>

A thirteenth-century poem entitled *Vulneratur karitas* presents a useful instance of the terminological milieu in which Gower participates. A perfectly ordinary macaronic lament over the decline of the times that repeats in Anglo-Norman what the Latin text expresses, it begins:

*Vulneratur karitas, amor aegrotatur,  
Regnat et perfidia, livor generatur.  
Fraus primatum optinet, pax subpediatur;  
Fides vincta carcere nimis desolatur.*

*In presenti tempore non valet scriptura;  
Sed sopita veluti latent legis jura.*

[Charity is wounded, love is ill, and faithlessness, that delivered the injury, reigns. Guile has the first place, peace is trampled under; faith conquered is totally forsaken in prison. At the present time Scripture is powerless, and indeed the justice of the Law {the *iura* of the *lex*, i.e. Scripture} is hidden as if asleep.]

The second line of the couplet varies and repeats the thought of the first, just as do the ensuing Anglo-Norman lines, which translate *jura* as *dreiture* (mod. F. *droiture*).<sup>19</sup> The poet deplors the

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18. Kendall, *Lordship and Literature*, 180.

19. Thomas Wright, ed. *Political Songs of England: From the Reign of John to that of Edward II* (London: Longman, Green, 1839), 133. This passage has been read to give *scriptura* a secular meaning that doesn't stand close scrutiny. Wright translates it as "a writing," apparently unable to fathom a medieval world that could be neglectful of Scripture. Indeed, Wright's translation makes little sense in places. See, too, Green, *A Crisis of Truth*, 241, where

consequences of what he sees as the contemporary rejection of the teachings of the Church, including Scripture as the ultimate moral and ethical authority. Both Gower and the author of *Vulneratur karitas* would agree that the idea of law and justice that should be embedded in the pronouncements of rulers and parliaments in the case of secular law and in those of popes and church councils in the case of canon law is derived ultimately from sacred Scripture, from the Old and New Laws, the former seen through the latter (the Gospels) to bring the two into concordance. The scriptural ideal of justice is inherent in all law, which should consequently be one.<sup>20</sup> When ordinance law is in violation of the precepts of Scripture, the sacred text in all cases takes precedence.

Gower's *lex* in general represents the ordinance law that is being twisted and manipulated by the *causidici*, perhaps primarily but not exclusively the statutory and common law system that has already by the reign of Richard II dominated the customary procedures and become foundational to our law and legal system. This is the value of *lex* we see most clearly throughout Book VI although the plural nominative and accusative (*leges*) can be used favorably as its

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*scriptura* is given classical value and translated as "written documents" (and *legis jura* becomes "legal rights").

20. Alford, "*Literature and Law in Medieval England*," 942. Alford tells the story of Sir John Fortescue, chief justice of the king's bench and advisor to Henry VI, who claimed that his fellow justices heard cases in the morning and read Scripture in the afternoon in order to understand the principles they presumed underlay English law. Ecclesiastical law, contrarily, declines from the time of Gratian to adopt biblical texts as *auctoritates* and builds instead upon conclusions reached by such sources as the church fathers, councils, and papal decretals. See Peter Landau, "Gratian and the *Decretum Gratiani*," in *The History of Medieval Canon Law in the Classical Period, 1140–1234: From Gratian to the Decretals of Pope Gregory IX*, ed. Wilfried Hartmann and Kenneth Pennington (Washington, DC: Catholic University of America Press, 2008), 29. The *Decretum* does, of course, reference the New Testament frequently in its commentaries (*dicta*) and relate it allegorically to the Old.

specifically enacted, detailed outgrowth and something like the human equivalent of *iura*. We must always keep in mind, too, that *lex* (often *lex dei* for clarification) can be the Law of the Old Testament, not the same *lex* that Gower criticizes, and a component of the *iura* that is the higher law.<sup>21</sup> Only after we sort out the terminology can we understand one of Gower's persistent themes: *lex* overwhelmed by learned chicanery conquers *iura* (see ll.21–22 and 39–40 but present in many places throughout Book VI), a corollary of which is the idea that *leges* are no longer the embodiment of *ius* and a component of *iura* (l.71). The poet contends that bad law is conquering good law and England is experiencing a legal crisis that, as Gower makes clear by the end of Book VI, needs to be solved from the very top. Unfortunately, the king, who is supposedly the head of law and justice, is proving incapable of being the solution, due initially to his immaturity but ultimately to his inadequacy.

The abuse of ordinance law is central to Gower's critique of the *causidici*, who are actively engaged in using it to violate the very essence of justice both human and divine. When they use human *leges* corruptly for their own profit, Gower's *causidici* not only threaten human *ius* but also disrupt the *ius naturae* by violating the canons of Scripture and opposing morality. The main divergence from Gratian's terminology in Gower is his penchant for *iura*, the plural nominative / accusative of *ius* that is typically used in Latin as an equivalent. It is the sum of all the enactments and all the rights deriving from the idea of *ius*.

From the perspective of canon law, the opening of Book VI would be a poetic *libellus litis introductorius*, the bill of complaint introduced by an *actor* (a plaintiff or his representative)

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21. The Roman practice of referencing the Twelve Tablets as the *lex* is the obvious parallel to and perhaps model for the Christian terminology.

that set in motion a law suit against a defendant (*reus*) in an ecclesiastical court by specifying the plaintiff's demand, the nature of his action, and the grounds of his claim. However, even though Gower charges the false lawyers with ecclesiastical as well as secular crimes, the tenor of the accusations in Book VI is overwhelmingly secular and the poet more likely wishes us to see his accusation from the perspective of the common law, according to which it would be considered either an indictment or a petition seeking redress of wrongs. An indictment was already a standard manner of making legal accusations in the poet's day and in the present case his charges could conceivably be considered as a presentment issued by the *vox plebis* as a jury of accusation, essentially the equivalent of a modern grand jury.<sup>22</sup> However, before the press of events led the poet to reconsider his strategy for counselling the king and he revised his text over the course of time in ways we will never be able to identify satisfactorily, I think that Gower intended the whole of Book VI as an extensive literary petition addressed to the king, pursuing a legal stratagem that had become by the fourteenth century a standard device in the search for equity in the law. There is a verbal clue to the nature of the presentation in line 9, where we are told that the good man takes action on behalf of his neighbor's *querula* (complaint), a word that hints at the people's outcry as a *querela*, the term typically employed for a legal grievance. In presenting his poetic petition in response to the voice of the people, the poet is being just such a good man by taking up legal and poetic cudgels on his fellow Christian's behalf, perhaps even

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22. See the discussion of indictment in Langbein, Lerner, and Smith, *History of the Common Law: The Development of Anglo-American Legal Institutions*, 215–17. See also Baker, *An Introduction to English Legal History*, 505–7. The history of complaint as a legal and literary form is the subject of Wendy Scase, *Literature and Complaint in England 1272–1553* (Oxford: Oxford University Press, 2007).

tacitly admitting he is a man of law.<sup>23</sup> Of course, his action lacks a salutation appropriate to a legal petition, but that can be easily imagined: “To our lord the king and his council the poet John Gower for himself and for the commonality of the kingdom shows that there are many these days taking their name from law, that have it for their own sake groundlessly.” In the material that follows in the lines under immediate consideration (1–248) the poet then presents his charge that the *causidici* have misappropriated their title, within the context of a narrative that clarifies his representation of the offenses committed subsequent to that misappropriation.<sup>24</sup> The remedy the poet seeks for the misconduct of the lawyers is the same one he will seek for the misconduct of all the other components of the court system that will be considered in the remainder of Book VI, including the king himself: Richard must amend the manner of his rule, recognize that as the head of the law he is responsible for everything that goes awry when he listens to the wrong

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23. Instigation by *querela* and petition is discussed in John H. Langbein, Renée Lettow Lerner, and Bruce P. Smith, *History of the Common Law: The Development of Anglo-American Legal Institutions* (New York: Aspen, 2009), 105–117. I adapt the salutation in the following sentence from the beginning of the Prior of Bridlington’s 1305 complaint to parliament about an eroded coastal road, cited in Langbein, Lerner, and Smith, 114. For the history of petitions, see W. Mark Ormrod, Gwilym Dodd and Anthony Musson, ed. *Medieval Petitions: Grace and Grievance* (York: York Medieval Press, 2009), especially Paul Brand, “Understanding Early Petitions: An Analysis of the Content of Petitions to Parliament in the Reign of Edward I,” 99–119 and W. Mark Ormrod, “Murmur, Clamour and Noise: Voicing Complaint and Remedy in Petitions to the English Crown, c. 1300–c. 1460,” 135–155.

24. In terms of legal terminology, he could be said to “draw the count.” French *conte* (Latin *narratio*, story) becomes count in legal usage and *conteur* (Latin *narrator*, storyteller) becomes counter, the pleader who represents the client before the court and tells his story. In the beginning that’s all the counter does, but subsequently he remains to “produce the issue” for the jury, that is, help it to see the question in a way most favorable to his client. By 1310 the title serjeant-at-law replaces counter (an intermediate form serjeant-counter is used in the Statute of Westminster I in 1285). See Baker, *An Introduction to English Legal History*, 76–77 and Plucknett, *A Concise History of the Common Law*, 221.

advisors and fails to fulfill his role properly. This remedy, presented with all the characteristics of direct address associated with medieval petitions, is the subject of the *speculum principis* and developed at length in Chapters 8–18.

### Stanza 2

*Hoc ego quod plebis vox clamat clamo, nec vllos,  
Sint nisi quos crimen denotat, ipse noto.  
Talibus in specie, quos deuiat error auare,  
Non aliis ideo scripta sequenter ago.  
Legis sub clamide latet ars, qua lex sine iure  
Vertit vt est velle quolibet acta die; 20  
Causidici talem poterunt dum plectere legem,  
Transformant verbis iura creata suis.  
Iuris in effigie sunt omnia picta colore,  
Quo magis occultum fert sibi lucra forum.  
Iusta vel iniusta non curant quomodo causa  
Stat, set vt illa lucris fertilis astet eis.  
Nunc cum causidicus aduerse ius fore partis  
Scit, tunc cautelas provocat ipse suas.  
Quod nequit ex lege, cautelis derogat ipse,  
Cum nequeat causam vincere, vexat eam. 30  
Si tamen hanc vincat, mos exigit et modo prestat  
Legis sensati nomen habere sibi.  
Nam nisi cautelis laruare sciat sibi leges,  
Tunc dicent alii, deficit actus ei.  
Sic actus falsi leges confundere veri  
Preualet, et lucro plus capit inde suo.  
Sic cum causidicus fuerit sapiencior, auctis  
Legem cautelis opprimit ipse suis.  
Sic lex pro forma patet, et cautela perita  
Stat pro materia iuraque vincit ea. 40*

[I cry out what the people's voice cries out, none do  
I charge but those the accusation fits.  
To the sort sin leads greedily astray, none else,  
Address I consequently what I write.  
Beneath law's cloak lurks craft, by which *lex* without *ius*  
Turns out what's wished on any given day. 20  
When they can twist such a *lex* around, the shysters  
Can change created *iura* by their words.  
All is adorned in the tinted likeness of *ius*,  
So that an arcane assize brings more gains.  
They do not care how just or unjust is a case,

But that it be to them abundant gains.  
 Now when a shyster knows the *ius* is against him,  
 Then will he summon all his sly tricks up.  
 What he can't do by *lex*, he cancels out with tricks,  
 When he can't win a case he picks at it. 30  
 If he should win, custom these days demands and grants  
 That he be called a learned legal man.  
 For lest he can by trickery disguise the laws,  
 The others say his pleading has defects.  
 The pleading of a lie prevails thus to obscure  
 The laws of truth, so that it brings more gain.  
 When thus a shyster becomes more learned, the *lex*  
 With ruses multiplied he overwhelms.  
*Lex* is thus clear as to its form, then skilled deceit  
 Becomes its essence and defeats *iura*.]

Who specifically the plaintiff and defendants will be is the subject matter of the second stanza.<sup>25</sup> The plaintiff is the poet speaking in his own voice. However, he professes to be but the spokesperson of the *communis opinio*, the *vox plebis*, whereby despite the fact that he writes learnedly to a gentrified audience in Latin Gower positions himself firmly in the mainstream of what Anne Middleton has called public poetry, by which she means not so much poetry about “contemporary events and abuses, whether viewed concretely or at a distance, from the vantage point of a universal scheme of ideal order,” but

poetry defined by a constant relation of speaker to audience  
 within an ideally conceived worldly community, a relation  
 which has become the poetic subject. In describing their mode

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25. Candace Barrington, “John Gower’s Legal Advocacy and ‘In Praise of Peace,’” in *John Gower, Trilingual Poet: Language, Translation, and Tradition*, ed. Elisabeth Dutton with John Hines and R.F. Yeager (Cambridge: Brewer, 2010), 112–25, sees the short English verse structured according to the give-and-take of a courtroom proceeding. In the present instance, however, Gower does not allow *exceptiones* to his charges, which are irrefutable, and thus no *replicationes* are forthcoming to provide the give and take of a *litis contestatio*.

of address, the poets most often refer to the general or common voice, and the ideal of human nature that sustains this voice assigns new importance to secular life, the civic virtues, and communal service.<sup>26</sup>

It is the expression of a middle way between aristocratic and religious orthodoxies, “practical, worldly, plain, public-spirited and peace-loving—in a word, ‘common,’ rather than courtly or clerical, in its professed values and social allegiances.” It is addressed to a complex society comprised of many contending components in the hope that it can mediate among and lead them to common understanding.

The poet’s accusations are accordingly shielded by the idea of the *vox plebis* against the countercharge that they perhaps represent nothing but personal animus, the anger of an individual like Gower who has had unfortunate experiences at the hands of those he will now accuse of malfeasance. His petition is, moreover, not directed against all who practice the law but only those false claimants to the title of *homo de lege* whom *error deviat avarae* (l. 17), that is, those whom sin and the devil lead avariciously astray. The verb of indictment Gower uses is *noto*, meaning both to designate and to blame. The poet stresses that he brings charges against no

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26. Anne Middleton, “The Idea of Public Poetry in the Reign of Richard II,” *Speculum* 53 (1978): 94–114. The quoted material is on 95–96. Whose and what that voice might be have been since Middleton wrote the subject of productive commentary. See Andrew Galloway, “The Common Voice in Theory and Practice,” in *Law, Governance, and Justice: New Views on Medieval Constitutionalism*, ed. Richard W. Kaeuper (Leiden: Brill, 2013), 243–86. Gower’s *vox communis* would be a gentrified variant, perhaps that of the wealthy guilds that supported Nicholas Brembre in the London mayoral politics of the 1370s and 1380s as opposed to that of the “small people” that Usk designates as the followers of John Northampton. The various voices of the people, however, perhaps had more in common than not.



others in the text that follows but only *talibus in specie*, those of such a sort as this crime specifies (to those in the suit), those who have taken on the appearance of greedy misbehavior. If we can as well take *specie* here as legal shorthand for *species facti* (often translated as the appearance of the deed or crime), the particular character of the thing done, then the poet specifies as well that he intends only those individuals named in the first part of a judicial sentence in canonical procedure in which the details of a case and its narrative of events are organized by way of providing a framework for the ensuing judgment.<sup>27</sup> The *libellus* is to the lawsuit at its outset what the *species facti* is to the judgment that comes at its conclusion and one would expect their narratives to overlap if the charges are sustained. Gower clearly expects a conviction will ensue. Against these malefactors, he maintains, and no others, does he wish *scripta agere* (to bring his writings), a play upon *causam agere* (a classical idiom meaning to bring a case before a court). Gower summons public opinion, which has already concurred in the charges, as witness to the accuracy of his accusations.

The actual naming of the defendants occurs first in l. 21. Those who have falsely claimed to be *homines de lege* are now identified as *causidici*, a term that is known but not particularly common in England in Gower's day and requires clarification. The word, a combination of *causa* (case) and *dicere* (to speak), has its origins in ancient Rome, where it was contemptuously employed as the equivalent of *clamator*, an *orator* who bore comparison with the *praeco*, the herald, in his ability to shout rather than rhetorically outscore an opponent. That value does

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27. Cited in Gaines Post, *Studies in Medieval Legal Thought: Public Law and the State, 1100–1322* (Princeton: Princeton University Press, 1964), 92. Of course, *species* in Roman law is as well simply a synonym for *causa*, as shown by Accursius' gloss to the *Digest* C. 2, 12, 10, where *ad unam speciem* is explained as *ad causam, vel negotium*. It is the representation of a set of circumstances.

not seem to have translated into the medieval world, where the word's most common employment is apparently as a neutral term for a pleader, which is essentially what it translates into literally. Gower does distinguish it from *advocatus* (the common title for a pleader in an ecclesiastical court), but he provides little guidance other than the manner in which he employs the word.<sup>28</sup> Strictly speaking, a *causidicus* should be an apprentice or a serjeant, the two kinds of pleaders in the common law courts. In ecclesiastical usage the *causidicus* could be a special *assessor* (a particularly learned legal counselor) appointed to research a difficult case and brief the pope about it<sup>29</sup> and it may be that such counselors acquired a reputation for sharpness that allows for the distinctly negative sense that Gower imparts to the word.<sup>30</sup> Perhaps, too, for an Englishman it has a special Italian flavor that renders it a bit unsavory, or it could be that Gower simply decided to accept the classical meaning, for he imparts a great deal of negative energy to the word, giving it something like the sense Americans associate with "shyster" (from Scheuster, the name of a New York attorney notorious for pettifoggery in the mid-nineteenth century). By the time the poet is finished with the word it is no badge of honor, whatever use his

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28. See the headnotes to Book VI, Chapters 2 and 3 for instance.

29. Brundage, *The Medieval Origins of the Legal Profession*, 130.

30. Brundage, *The Medieval Origins of the Legal Profession*, 205, tells of Pope Innocent III's disgust with the legal maneuvers of a *procurator* (proctor) named Passaguerra who, handling a case for Archbishop Philip of Milan, took every opportunity to delay the proceedings. Complaining to Philip about his lawyer, the pope tells him to excommunicate "*tuus causidicus*." Because a proctor is definitely not a pleader but the ecclesiastical equivalent of an *attornatus*, the context suggests the term is intended as a disparagement.

contemporaries may make of it. To translate it simply as pleader misses, I think, the intensity of Gower's disdain for those he assigns the title.

In any case, Gower's accusations about the improper conduct of the *causidici* in dealing with their clients (see ll. 193–212) would seem to eliminate pleaders (exclusively apprentices and serjeants in common law and advocates in ecclesiastical courts) from sole consideration since they did not deal directly with clients, working generally through the *attornatus* (in the common law courts) or the *procuratorus* (in the ecclesiastical courts) who spoke with and for the client. Even though the distinction between solicitor and barrister is not yet in place, and will not be for several centuries, an *attornatus* or *procuratorus* would communicate with the client and then with the pleader or advocate who would actually address the court. Pleadings, moreover, did not exist in the numbers Gower finds so dangerous to England (see ll. 152–170). His *causidici* are clearly present in greater quantities than the historical record sustains in the case of serjeants and apprentices as well as advocates (see n. 44). *Causidici* cannot be merely pleaders in Gower's use of the word.

Gower's *causidici*—his term for false men of law from pleaders and advocates down to attorneys, proctors, and essoiners, perhaps extending even to summoners (the latter descended from the criers who were the *clamatores* of earlier generations) and the notaries and scribes that were often a commoner's first point of contact with the law—are all the legal tricksters of whatsoever stripe who rely on their ability to twist the law to their own ends in order to make money. Beneath the cloak of the *lex* (l. 19), under the cover of positive law without and within the Church, they employ a craft by which they make *lex sine iure* (literally law without justice, but also positive law without the higher law that is morality) mean whatever they require it to mean on a given day. In their hands is transformed the law that arose upon a scriptural

foundation presumably to resolve whatever communal issues required the formal mechanisms of legal intervention and clarification. When they twist such positive law, then they transform with their clever words the created law (*iura creata*, l. 22), by which from the context I think Gower means the natural law, which began with the creation. In doing so they use *lex* to paint what they do in the likeness of *ius*, that is they deceive the court and / or the client, within the setting of the *occultum forum* (the arcane court or assize) in which they seek the profits that are their motivation regardless of the just or unjust circumstances of the case itself. When Gower's *causidici* "tint" the law (l. 23), they are "giving color" to a lawsuit, suppressing information inconvenient to a plaintiff's case or managing the presentation of a claim to put the best possible interpretation on it. According to Donald Sutherland, the practice came into being about 1330 and rapidly became a commonplace abuse. Kendall calls it the "process of inventing and revising legal fictions in the common law courts," a "technical, procedural expertise rooted in the conception of law as a given form to be left materially unaltered but mediated by the organs of the king's law."<sup>31</sup> It is the practice of using *lex* to subvert *ius*.

The brushes, so to speak, with which they paint their false images of the *ius* are their *cautelae*, their tricky quibbles by which they throw a situation into doubt when they find the higher law is actually on the other side of the case. Their successful manipulation of the positive law earns the *causidici* the reputation of being legal scholars but all they have really learned to do is mask the true law. Indeed, if they can't do that, then their colleagues say their *actus*, their

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31. Donald W. Sutherland, "Legal Reasoning in the Fourteenth Century: The Invention of 'Color' in Pleading," in *On the Laws and Customs of England: Essays in Honor of Samuel E. Thorne*, ed. Morris S. Arnold, et al. (Chapel Hill, NC: University of North Carolina Press, 1981), 187. See also Green, *A Crisis of Truth*, 147 and Kendall, *Lordship and Literature*, 184–85. The quoted materials are on page 185.

legal conduct, is defective. If, however, they know their craft well, then they can prevail with their presentation of a falsehood over the just laws brought forward by the good man on the other side. This is how they earn their fees and the more learned they get the more efficiently they undercut the *ius* by their practice. The more they become adept, the more they abuse their profession in order to acquire ever greater gains. The final couplet of the second stanza (ll. 39–40) sums up the present state of legal affairs as it has been brought about by the abusive misbehavior of the false lawyers:

*Sic lex pro forma patet, et cautela perita  
Stat pro materia iuraque vincit ea.*  
[*Lex* is thus clear as to its form, then skilled deceit  
Becomes its essence and defeats *iura*.]<sup>32</sup>

### Stanza 3

*Hec est linguosa gens, que vult litigiosa  
In falsis causis vociferare magis.  
Vult sibi causidicus seruare modum meretricis,  
Que nisi sit donum nescit amare virum,  
Est et, vt ipse vides, semper venalis ad omnes;  
Aurum si sibi des, corpus habere potes.  
Cuius enim generis aut ordinis est homo nusquam  
Curat, dum poterit quicquid habere lucri.  
Vt via communis astat Rome peregrinis,  
Qui veniunt sanctis reddere vota locis;*

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32. A couplet similarly concerned with form and matter occurs in the *Confessio Amantis* Book V, 1872–73, where Genius laments the decline of clerical standards: “The forme is kept, bot the matiere / Transformed is in other wise.” Both passages superficially suggest Aristotelian distinctions between formal and material causes as a vehicle for concern about disparities between a correct appearance and a corrupt reality. For a discussion of the passage from the *Confessio*, see Matthew Irvin, “Genius and Sensual Reading in the *Vox Clamantis*,” in John Gower, *Trilingual Poet: Language, Translation, and Tradition*, ed. Elisabeth Dutton, with John Hines and R. F. Yeager, (Cambridge: Brewer, 2010), 196–99 and James Simpson, *Sciences and the Self in Medieval Poetry: Alan of Lille’s Anticlaudianus and John Gower’s Confessio amantis* (Cambridge: Cambridge University Press, 1995), 3.

*Est ita vulgaris domibus via causicorum,  
 Qua graditur populus donaque reddit eis.  
 Nam velut antiqui iustos strinxere tiranni,  
 Qui renuerunt diis reddere thura suis,  
 Sic modo causicus vicinos stringit auarus,  
 Qui sunt inviti ferre tributa sibi,  
 Sic video populos modo sacrificare coactos  
 Causidico legis, ne male fiat eis.  
 Diuerse gentes, vt sufficit ipsa facultas,  
 Munera diuersa dant sibi sepe noua.  
 Conuenit immo tibi, donum si deficit auri,  
 Munus vt argenti des reuerenter ei;  
 Si tamen argentum non est, exennia prebe  
 Illi, quem saciat est quod in orbe nichil.  
 Singula que terra bona gignit, et ether in alto,  
 Seu mare, de dono querit habere tuo;  
 Ex omni parte, sic post, sic congregat ante;  
 Dum tamen omne capit, nil tibi retro dabit.*

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[This is the talky litigious tribe that prefers  
 To clamor loudly in trumped-up suits.  
 The shyster wishes to walk in the whore's footsteps,  
 And cannot love a man without a gift,  
 As you can see, he is always for sale to all;  
 Give him gold and you can have his *corpus*.  
 He never cares what a man's clan or order is,  
 Whenever he can have a bit of cash.  
 Just as the way to Rome for pilgrims open stands  
 Who come to render prayers at holy sites,  
 So is the path to the shysters' vulgar houses  
 On which the people go and bring them gifts.  
 For just as ancient tyrants chained up righteous men  
 Who wouldn't offer incense to their gods,  
 So now the greedy shyster ties his neighbors up  
 Who are reluctant to fetch him tribute.  
 Thus now I see the people forced to sacrifice  
 To shysters, or it goes not well for them.  
 According as their means suffice, diverse peoples  
 Often offer them diverse new tributes.  
 Indeed, if you lack gold it is enough for you  
 Respectfully to give them silver gifts.  
 If you have no silver, play the good host to him  
 Whom nothing in the world can satiate.  
 Everything the good earth bears, the air above,  
 The sea below, he wants to have for gifts.

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He gathers in on every side and front and rear,  
Takes everything, gives nothing back to you.]

The prominence and power achieved by this garrulous, quarrelsome, and avaricious presence in society had almost from the outset of its appearance reminded critics of another flashy, cash-driven phenomenon in human society: the whore. In the third stanza Gower charges (l. 43) that the *causidicus* has chosen *servare modum meretricis* (to observe the manner of a courtesan) who *nescit amare virum nisi sit donum* (doesn't know how to love a man unless a gift is involved) and is *semper venalis ad omnes* (always for sale to everyone). The prostitute's idea of a professional transaction is simple: *aurum si sibi des, corpus habere potes* (if you give her gold, you can have her body). The lawyer's demand for a fee struck many medieval theorists as uncomfortably close to being founded in the same sort of exchange.<sup>33</sup> Gower's false lawyer certainly operates according to the same principle as the prostitute. Of course, the *corpus* forthcoming from one type of *causidicus* (specifically an *advocatus*) could be his *Corpus iuris civilis* or *canonici*, that is, the body of knowledge that he exchanges for his fee, depending on the nature of the case or the court. (Canon lawyers came in for the same critical assault as the lay

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33. Brundage, *The Medieval Origins of the Legal Profession*, 165. In a world that theorized all knowledge came from God and was accordingly free, lawyers were criticized constantly for requiring fees for using their knowledge to help their clients secure the justice that was after all their due. *Omnia dat gratis dominus, set legis auarus / Sermonem nullum dat nisi vendat eum*, says Gower at ll. 181–2. Although a lawyer certainly wasn't obligated to defend anyone at his own expense, to profit from another's misfortune was the same as charging interest on a loan given a neighbor to help him out of a bind, that is, usury. Gower's wording suggests, moreover, that he is playing with the relationship of *dominus* (client) and attorney as it is expressed in the formula for the proctor's *plena potestas/libera et generalis administratio* in canon law: *possit facere omnia que ipse dominus [i.e. the principal in the lawsuit] possit*. See Post, *Studies in Medieval Legal Thought*, 91–162 for a discussion of *plena potestas* and its implications for representation in government as a corollary development of representation before a court.

lawyers, those in holy orders—itself an issue— as well as those not.) In addition, Gower’s use of the phrase *corpus habere* (l. 46) suggests that he has in mind another concept from Roman law that has become an important component of the common law, the right of *corpus habere*, the ability of certain groups to enjoy legal status in the eyes of the law and be represented before it by designated individuals.<sup>34</sup> The *Digest* specifies (3. 4. 1. pr. 1): “Those permitted to form a corporate body consisting of a *collegium* or partnership . . . have the right on the pattern of the state to have common property, a common treasury, and an attorney or syndic through whom, as in a state, what should be transacted and done in common is transacted and done.” The medieval interest in communal entities is rooted in the biblical experience of Christ and the apostles but receives legal impetus and clarification in Roman law. Given the corporate nature of medieval governance at various levels, the idea of legal bodies was very much a part of the political discussion in the Middle Ages. Janet Coleman notes that “the Church was seen as a corporation just as were the new universities, the trades guilds in towns and the very ‘state’ itself, made up as it was of corporations with limited rights of self-direction and abilities to delegate powers to a

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34. See the discussion of medieval corporations in Janet Coleman, *A History of Political Thought: From the Middle Ages to the Renaissance* (Oxford: Blackwell, 2000), 37–46. The concept of the legal *corpus* and the right of *corpus habere* is present at various places in the *Digest*. For a recent discussion of this right in Roman law, see Jinyu Liu, *Collegia Centonariorum: The Guilds of Textile Dealers in the Roman West* (Leiden: Brill, 2009), 104–7. Gower’s wording in l. 46, *corpus habere potes*, seems to me phrased precisely to avoid confusion with but at the same time to suggest its subjunctive (jussive vice volitive) “partner,” *habeas corpus*, which has of course a quite different meaning in the common law from at least the time of Magna Carta. Since in Roman law the *princeps* is not only the *caput* of the state but also its *corpus*, Gower’s remark conceivably has implications for the national *patria*. Everything is for sale in the *status causidici* (l. 236) and the corrupt lawyer is the vendor. See Post, *Studies in Medieval Legal Thought*, 344 n. 30.



representative in their name.”<sup>35</sup> Gower suggests that if you give the *causidici* money you can have not only their whorish selves and professional knowledge, but also free access to the corporate bodies whose interests they represent and supposedly safeguard, extending even to a parliament that in the public mind has become to a considerable extent a haven for lawyers.

Furthermore, the *causidicus* doesn't care what family or religious order his clients come from—thereby ignoring the traditional concern shown in customary law for the manner in which someone is embedded in the community—as long as they can pay his fees and he can make his profit. With his profits he builds a shrine to money and, in a parody of religious observance, reduces everyone in his view of reality to a pilgrim obligated to visit his vulgar estate and make appropriate offerings in the hopes of avoiding the legal trauma that can result from having a crooked lawyer ill-disposed toward one. Like an ancient tyrant who oppressed true believers, he chains his neighbors with the threat of legal actions until they give him the gifts he demands, preferably gold and silver but simple *xenia* (gifts of hospitality, especially food and drink) if more valuable materials are not available. Everything of value, however lowly, is attracted by this field of corrupt legal gravity and nothing ever comes back out of it.

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35. Coleman, *A History of Political Thought*, 43. Also, see Post, *Studies in Medieval Legal Thought*, 564. Post notes that “the Roman law, and also the Canon law of the Church, furnished the legal theory and practice of corporations and corporate agency. In the feudal system individualism and individual rights precluded a formal representation of communities, except insofar as the nobility pretended to represent them. When, therefore, the members of guilds, corporations, towns, and shires felt the need of defending their interests in courts and councils, it was the two laws which instructed them, as it instructed the authorities who decided that they should be summoned. First the Roman and then the Canon law offered the precedent of corporate representation by agents who were given full powers of attorney [i.e. *plena potestas*].”

## Stanza 4

*Non vno volucres laqueo set pluribus auceps*  
*Carpit, nec pisces vnicus hamus habet;* 70  
*Lex in non leges iam transmutata nec vnum*  
*Rethe, set in lucrum recia mille parat.*  
*Undique casus adest legis, quo pendulus hamus*  
*Aurea de burse gurgite dona capit;*  
*Non via talis erit qua non scrutabitur auri*  
*Arte vel ingenio, vi vel amore, lucrum.*  
*Contextat tenues subtilis aranea telas,*  
*Possit vt hiis predas illaqueare suas;*  
*Si veniat musca volutans, cadit ipsa retenta,*  
*Nisus et a medio transiet absque malo;* 80  
*Quod volat ex alis euadet fortibus illud,*  
*Voluitur et laqueis debile quicquid adest.*  
*Causidicus cupidus pauidos de lege propinquos*  
*Voluit et illaqueat condicione pari;*  
*Ignauum populum, cuius defensio nulla est,*  
*Opprimit, et legis rethe coartat eos;*  
*Plebs cadit in telas simplex, hominique potenti*  
*Recia causidici dant lacerata viam.*

[With not one snare but many traps the fowler birds,  
 A single hook will not catch plural fish. 70  
 The *lex*, no longer turned into *leges*, now brings  
 Its gains in not one but a thousand nets.  
 On all sides there's a case at law whose dangling hook  
 Takes gold gifts from the waters of a purse.  
 There's no such path that won't be probed for gain of gold  
 By wile or guile, by force or by *amor*.  
 The spider weaves its delicate and slender webs  
 So that it can entrap its prey in them.  
 And if a fly comes buzzing 'round, it falls detained,  
 The sparrow hawk unhurt goes from the midst. 80  
 Whatever flies on forceful wings escapes from it,  
 Whatever weak remains wrapped in the web.  
 A greedy shyster wraps his neighbors terrified  
 In law and traps them in like circumstance.  
 He persecutes faint-hearted folk with no defense,  
 The law's net packs them close together in.  
 The simple plebe falls in his webs, but to the rich  
 The shyster's lacerated nets give way.]

## Stanza 5

*Vespere pronus humi vespertilio volat, vti*  
*Pennis pro pedibus in gradiendo solet.* 90  
*Sic cuius mentem terrena sciencia ditem*  
*Efficit, huic volucris se facit esse parem;*  
*Iste velut circa terram volutat, quia veri*  
*Luminis ignarus terrea sola rapit.*  
*Dicitur in noctem subtilis noctua visu*  
*Esse, nitente die luce minore frui;*  
*Hanc imitantur auem legis qui sunt sapientes,*  
*Vt mala noctis agant, nec bona lucis habent.*  
*Sepius illa tamen quam preda rapit sibi mors est,*  
*Dum latet occulto finis habendus ei.* 100  
*Improuisus adest cum pullos tollere milvus,*  
*Esurit, et fraude fraus sua sepe cadit.*  
*Sic capiens capitur, sic qui vorat ipse voratur,*  
*Infelix hamum quo capietur amat.*

[The bat swoops in the evening to the ground, its wings  
 To use as feet, its custom when it walks. 90  
 Who makes his mind with earthly knowledge rich thus makes  
 Himself the equal of this winged creature,  
 Just as it reels along the ground, seizing only  
 Earthly things, ignorant of the true light.  
 By night the owl's said to be exact in vision,  
 In bright daylight with lesser to be blessed.  
 The sages of the law mimic this bird, since they  
 Do ill by night and get no good from light.  
 Yet oft that prey it seizes is its death, the end  
 Inevitable lies hidden in it. 100  
 The kite comes sudden when it hungers after birds,  
 And guile falls often by its own deceit.  
 The captor thus is seized, who eats is himself eaten,  
 Wretched, he loves the claw by which he's seized.]

The last two stanzas of the first chapter are something like imagistic addenda to the legal matters discussed in the first three, designed to add colorful and familiar frames of reference to the argumentative landscape. *Causidici* are like fishermen and fowlers who use multiple hooks and nets to trap their victims. Like fowlers (poaching?) they sets snares everywhere to trap

unwary birds and like greedy fishermen they bait many hooks and set multiple nets with which to take the poor fish that are their prey. Everywhere they dangle a hook in men's purses, fishing for what gold they have. There is no path by which they will not search out lucre in the course of exploiting the disconnect between *lex* and *leges* mentioned in l. 71, both by skill or craft and by force or love.<sup>36</sup>

*Causidici* are also like spiders who weave subtle webs to trap the unwary, legal snares from which the poor fly has little chance of escaping, although the sparrow hawk with his powerful wings has no trouble flying right through them. The man of means, of course, has the wherewithal to oppose the false lawyer and find recourse in the law. Money and power are likewise the weapons necessary to break out of the nets within which the poor fish, like the spider's flies in his webs, are packed tightly together by the false lawyer's stratagems. In the final stanza of this first chapter, the *causidici* also become familiar creatures of the darkness, bats and owls that are at a disadvantage in the clear light of broad daylight and so flee the light of truth and reason. The bat, as Gower accurately observes, sometimes moves along the ground using its wings for propulsion, scuttling along by means of a spur on the "thumb" joint of its wings (which are modified hands). Twisting and pivoting its way along the ground, the bat takes only the things of the earth—grubs, worms, insects, and the like—because it works in the dark and lacks the true light to see and appreciate the things of real value, just as *causidici* devote

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36. *Vi vel amore* (l. 76) hints of an ironic variation on *vi et armis* (by force and by arms), the formula used until the 1350s in writs of trespass to specify how an offending party had acted *contra pacem regis* (against the king's peace). See Baker, *An Introduction to English Legal History*, 60–64, for a discussion of the *vi et armis* restriction. *Vi vel amore* perhaps refers to the resolutions by power or by conciliation associated with the common and the customary laws respectively. The phrasing is unusual and eye-catching.

themselves to the *terrena scientia* (l. 91) that leads to the acquisition of worldly goods and, by implication, neglect the *aetherea scientia*, the knowledge of heavenly matters that leads to salvation. The owl, too, is an appropriate figure for those schooled in the tricks of the law because it commits violence stealthily, under the cloak of darkness, and prefers to operate in the absence of light, which actually makes its vision inexact. As a lesser raptor, the owl uses its talons to prey upon its victims, but in so doing calls attention to itself, whereby its natural enemy, the kite (a higher raptor that here perhaps represents the true *homo de lege* or at least the uncorrupted power of the law), delivers an appropriate end and kills the owl with his talons. Just as the owl receives an appropriate end by the same instrument it has used to persecute its own victims to its own gain, so will the false lawyer who misuses the law eventually (at least so Gower hopes) receive his just reward at its hands.

I can't help but wonder if at least some of these creatures used by the poet to characterize legal practitioners might also target public figures that have in his opinion specifically offended against the correct practice of the law. Could the Spider, Bat, Owl, and Kite in Gower have referential value in the same manner as the Eagle, Horse, Bear, and Swan in *Richard the Redeless*? Is there a back story to the brief account of the sparrow hawk (a common figure for a lesser member of the rural aristocracy or gentry) able to burst through the spider web that entraps the inquisitive fly (the *musca* of Roman comedy)? The spider energetically weaving its deadly traps, the bat scuttling along the ground with its peculiar manner of locomotion and "caped" in its wings like the *causidicus* in his corrupt version of the law, and the rapacious owl felled by the swooping kite all suggest, in the hands of a poet demonstrably interested elsewhere in the value of animal narrative, more than meets the eye, more than simple imagistic reference points. Even if these animal comparisons are not full-blown liveried emblems of specific individuals, they

suggest at the least something like Froissart's presentation of Richard de Vere as a common pond otter who devours (*deveure*) all the honors Richard II awards him (*Chroniques*, xii. 235).

The first sixty-eight lines of Book VI have levied serious and somber charges against a category of figures within the legal profession, the *causidici* who have hijacked the law for their personal profit and obscured by their conduct the presence of those few good lawyers who have pursued biblical injunctions to assist their neighbors in difficulty and thereby truly inherited the name *homines de lege* as well as the promise of salvation. These few good men, in contrast to the false lawyers, are *proximi* to *omnis amor* and *extranei* to *omnis error* and the true heirs to the kingdom of heaven promised in the Law and the Gospels. They shall dwell in the Lord's tabernacle and rest upon his holy hill. They shall inherit and the *causidici* shall not.

## Chapter 2

*Hic loquitur de causidicis et aduocatis illis, qui vicinum populum depredantes, ex bonisque alienis ditati, largissimas sibi possessiones adquirunt: de quibus tamen, vt dicitur, vix gaudet tercius heres.*

[He discusses here those shysters and advocates who, plundering those around them and having grown rich from the goods of others, accrue huge possessions for themselves, from which, however, as it is said, the third heir rarely takes joy.]

### Stanza 1

*Plusquam Cilla maris rapiens sibi deuorat vndas,  
Causidicus patriam deuorat ipse suam;  
Plus cane qui siluis predam sibi querit in amplis,  
Causidicus lucrum querit habere suum;  
Nec canis hic predam plus stringit, dum capit illam  
Dentibus, vt carnes deuoret ipse suas,  
Quin plus causidicus stringit de lege clientem,  
Munus vt argenti possit habere sibi.  
Vt solet ancipiter trepidas vrgere columbas,  
Causidicus gentes vrget et angit eas.  
Vt tremit agna pauens, nouiter que saucia canis  
Est euasa lupis, nec bene tuta manens;  
Vtque columba suo madefactis sanguine plumis*

110

*Horret adhuc vngues, heserat illa quibus;  
Sic pauet a laqueis oppressus causicorum  
Pauper, et inde sui clamat in aure dei.*

120

[More than ravening Scylla devours its sea's waves,  
The shyster devours his community.  
More than the hound who seeks his prey in deepest woods,  
The shyster seeks his profit to acquire.  
Nor grips the hound his prey more firmly by his teeth,  
In order that he may devour its flesh,  
Than the shyster seizes his client by the *lex*,  
In order that he have a silver gift.  
Just as the hawk is wont the trembling doves oppress,  
The shyster presses peoples and afflicts.  
Just as the frightened lamb, that newly injured fled  
The wolf and isn't yet completely safe,  
Just as the dove, its plumage smeared with its own blood,  
Fears yet the claws by which it had been clutched,  
So takes the poor man fright, caught in the shysters' snares,  
And thence cries out into the ear of God.]

110

The second chapter of Book VI investigates the sociological consequences of the avaricious misconduct of the *causicici*. Having gouged the community for profit, they now begin a life-long process of estate building with the intention of establishing a gentrified family to which they can bequeath their ill-gotten gains. In three brief stanzas Gower suggests the development of a typical shyster's career, from the greedy extraction of wealth from abused clients to the aggressive acquisition of properties that will give him the status and power of the landed rich. His efforts, however, will inevitably fail because they violate medieval notions about the gradual acquisition of wealth over time that teaches its proper use. His heir as a consequence will squander his father's bequest and sink back into the lesser commons. Stockton remarks that this chapter "is written with real feeling, [and] ironically places Gower on the same

side as the peasants, who hated lawyers and attacked them in the Great Revolt.” Or, as Musson gently puts it, “as a recognizable ‘class’ lawyers do not appear to have been *valued*.”<sup>37</sup>

The first stanza of this second chapter presents, in a rapid-fire succession of conventional images, the rapacious manner with which the *causidicus* pursues his profession in search of wealth, straining in the process the bounds of legitimate practice and suggesting the sort of abusive litigation that had led by Gower’s day to the low estimate of the law’s servants by the general populace. The excesses of lawyers as the class emerged led to periodic attempts at reform in order to curb not only barratry in general but also specifically unlawful dispossession, extortion, champerty, and maintenance-at-law.<sup>38</sup> That such efforts were not very successful, at least in the eyes of observers like Gower, is apparent from the volume of continuing complaint encountered throughout the Middle Ages. Like an insatiable open pit, a landed version of a whirlpool, the poet’s *causidicus* devours his community. Like a hound questing for prey throughout the deepest woods, he scours the county everywhere for financial gain and, when he finds an appropriate victim, he seizes his client with ordinance law, like the hound gripping its prey with its teeth, in order to have a piece of silver. As a hawk terrifies doves, the *causidicus*

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37. Stockton, *The Major Latin Works of John Gower*, 441; Musson, *Medieval Law in Context*, 253.

38. Jonathan Rose, “The Legal Profession in Medieval England: A History of Regulation,” *Syracuse Law Review* 48 (1998): 1–137 (esp. 49–107) sees these efforts occurring in two main phases, the first ending with the reign of Edward I in 1307 and the second with the end of the 15<sup>th</sup> century. The main enactments in the first period are the Statute of Westminster I, chapter 29 (1275), the London Ordinance of 1280, and the royal Ordinance of 1292, *de Attornatis et Apprenticiis*. Additional statutes were forthcoming in 1327, 1331, 1347, 1377, and 1383, but the main reforms of the second period centered on the development of the serjeant’s monopoly on pleading in the royal courts and the use of parliamentary petitions as a means of requesting royal relief for perceived wrongs.



oppresses and afflicts the people. Like a bloody dove that has barely escaped the hawk's onslaught and an injured lamb that has just managed to flee the ravening wolf, the poor man caught in the shyster's snares cries out into the ear of God. As we later learn, the Lord hears the poor man's pleas and sees to it that they have consequence (see VI. 723–24).

## Stanza 2

*Vulnera plebeia medicus desiderat, vt sic  
 Det dolor alterius munera leta sibi;  
 Gentes causicus discordes optat, vt ipse  
 Prospera de lite gentis habere queat.  
 Ex hoc quod perdis lucratur, sique lucreris,  
 Hinc tecum partem querit habere suam;  
 Cum plenam dextram teneat, tunc ipse sinistram  
 Tendit, que sibimet insaciata manet.  
 Sic quacumque via furit Eurus, semper in aura  
 Velum tranquillum gestat ad omne fretum. 130  
 Sic viget ex auro oculus pregnans alieno;  
 Quod male concepit, peius id ipse parit.  
 Nam modus est legis cito cum locuplex fore nummis  
 Possit, tunc terras appetit ipse nouas.*

[A doctor wants the people to be hurt, so that  
 Another's pain should bring him joyous gain.  
 The shyster wants unruly folk, that he may seek  
 Prosperity from litigious people.  
 From what you lose he gains, and if you should profit,  
 He seeks from this to have his share with you.  
 When he has his right hand full, he reaches out his  
 Left, which is never satisfied enough.  
 Wherever Eurus thus wild rages, on its blasts  
 It bears his tranquil sail to every strait. 130  
 Thus pregnant swells his cash box from another's gold,  
 And, wickedly conceived, it births yet worse.  
 It is the way of law, when one gets swiftly rich  
 In cash, to hunger after new estates.]

The second stanza continues to expose the *causicus* in action as he accumulates his piles of money and his properties. Like that other doctor (a *medicinae doctor* as opposed to a canonical *juris doctor*), delighted to earn from his patients' misfortune, he takes his profits from

his involvement whether he loses or wins. He prefers contentious people because he seeks to have *prospera* (good fortune) *de lite* (from a trial—*lis* or *litis contestatio* is an actual courtroom proceeding), getting at least his fee if he loses but also seeking, if his client wins, to have *partem suam tecum* (his part with you). Taking a share, what is today called a contingent fee, was frowned upon by the best authorities and specifically mentioned as a violation of ethics in some versions of the acceptance oath (based generally upon the calumny oath of Justinian's code) required of lawyers when they were accepted into the profession.<sup>39</sup> Brundage points out such fees were generally disallowed, that

authorities agreed that it was reprehensible for an advocate to demand as a fee a fraction of any award that his client might receive if he won the lawsuit for which his services were engaged. Constantine I prohibited this practice in 325 on the grounds that it was wicked and gravely damaging to clients and decreed that any advocate who contracted for ... a contingent fee should permanently forfeit his right to practice.<sup>40</sup>

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39. See Brundage, *The Medieval Origins of the Legal Profession*, 295–305 for discussion of ecclesiastical admission oaths. Gower's remarks may well be also a comment on the practice of champerty, a species of misconduct that involves participation in a suit by someone who is not a party in consideration of a share in the contested matter. Rose dates the effort to suppress champerty to the Statute of Westminster I, the first law to make it specifically a criminal offense. The Statute of Conspirators in 1292, the Ordinance of Conspirators in 1293 and the Ordinance of Conspirators in 1305 all prohibited false litigation and champerty although the *Articuli super Cartas* of 1300 permitted lawyers to be paid for their services. The Statute of Westminster II prohibited champerty by all royal officers. See Rose, "The Legal Profession in Medieval England: A History of Regulation," 81–2.

40. Brundage, *The Medieval Origins of the Legal Profession*, 198–99.

Constantine's ban was adopted by Gratian and included in the vulgate *Decretum* and, although some effort was made to counter the prohibition, "most legal writers, civilian and canonist alike, instead accepted the ban on contingent fees as a fundamental axiom of legal ethics."<sup>41</sup> Gower's greedy *causidicus* winds up with both hands full, simply cannot lose financially whichever way the wind carries his sail, to whatsoever strait (*fretum*, also one of Donne's memorable puns).<sup>42</sup> His money box becomes pregnant, in a variation on the theme of the pregnant purse, swells up with his wealth, and then gives birth to the property, subject of the next stanza, that lawyers hunger to acquire with their ill-gotten gains in their search for gentrified and even aristocratic status.

### Stanza 3

*Vt constricta fame lupa more suo catulorum  
 Querit habere suos lata per arua cibos,  
 Sic cum causidico sit proles aucta, per omnes  
 Machinat insidias, de quibus auget opes.  
 O sine tunc requie conspirans nocte dieque,  
 Vt capiat lucrum temptat vbique forum; 140  
 Tuncque domos domibus, campos iungit quoque campis,  
 Vellet vt hiis per se solus in orbe fore.  
 Sic rapiens oua fovet vt perdix aliena,  
 Set de fine patet quid sibi iuris habet.  
 Que pater in studio quesuiit vix sibi magno,  
 Dissipat in vicio filius ipse cito;  
 Et que fraude sua sapiens mundi cumulata  
 Strinxerat, hec stultus laxat abire vagus;  
 Sic male quesitis non gaudet tercius heres,  
 Set rapit hec mundus que dedit ipse prius. 150  
 Causidico fore ve patet ex dictis Ysaie,  
 Namque domum vidue dissipat ille male.*

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41. Brundage, *The Medieval Origins of the Legal Profession*, 199.

42. "Hymn to God My God, in My Sickness," l. 10, "*Per fretum febris*, by these straits to die."

[As the she-wolf racked with hunger by her whelps' ways  
 Seeks throughout the wide fields to find their food,  
 So when a shyster's offspring are increased he schemes  
 On all sides plots with which to swell his wealth.  
 O without rest conspiring night and day, to snatch  
 A profit everywhere he works the court. **140**  
 Then house to house he joins and field to field, because  
 He wants to be alone in his own world.  
 Thus seizing others' eggs he warms them partridge-like,  
 But by the end it's clear what he deserves.  
 What his father has obtained by zealous effort,  
 The son disperses quickly in his vice.  
 The bundles tied together by the sage one's fraud,  
 This drifty fool allows to come apart.  
 Thus third heirs won't enjoy what evil has obtained,  
 The world takes back those things that first it gave. **150**  
 Isaiah says that woe will befall the shyster,  
 For wickedly he wastes the widow's home.]

The motivation for the false lawyers' land hunger is the birth of the children they now seek to make secure in the world. Like a hungry she-wolf ranging the countryside for food to feed her litter, beating the bushes for clients to represent and gouge, the *causidicus* restlessly plots and carries out the wicked schemes that will swell his wealth. He buys one property after another with adjoining borders, putting together his own little world, the estate within which he sits on his ill-gained possessions like a partridge incubating other birds' eggs. In the end, however, it all proves to have been in vain, for the greedy lawyer's son will be the proverbial wastrel who dissipates his father's holdings when they come into his hands, validating the proverb that third heirs rarely get to enjoy the gains of the upstart rich. Referencing Isaiah (either 1:23 or 10:1–2), Gower concludes that the fiscal fall of the *causidici* is only just, for they notoriously despoil the households of widows and orphans. One wonders if Gower is calling attention to opportunities for misbehavior offered unscrupulous lawyers upon the deaths of landowners whose property has descended without proper record through the traditions of

customary law, leaving their widows and children vulnerable to those adept in the ways of the new written law and its insistence upon paper trails. In general, the death of a man who owned land or held it from another would have left his widow and heirs vulnerable to legal action at the hands of claimants from within and without his family if there existed any ambiguities in the manner of his possession. In any case, the Church repeatedly maintained that justice for the disadvantaged should be a primary social focus, and from Augustine and the Council of Chalcedon in the fifth century to the Council of Compostella in the twelfth, it decreed that legal aid for widows, orphans, and the poor should be a main concern.<sup>43</sup> The Church claimed that the

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43. Brundage, *The Medieval Origins of the Legal Profession*, 190. The non-literary activity of Gower's we know the most about is his own acquisition of estates and, in at least one instance, some have suggested unethical behavior on his part concerning the property of an underage tenant who was counseled to misrepresent his age in order to sell his holdings and satisfy his indebtedness to the purchasers, one of whom was the poet. For a discussion of the "Septvauns affair," see Conrad van Dyke, *John Gower and the Limits of the Law*, 1–2; Matthew Giancarlo, *Parliament and Literature in Late Medieval England* (Cambridge: Cambridge University Press, 2007), 94–105; and Andrew Galloway, "The Common Voice in Theory and Practice," 268–69. Giancarlo concludes, after a very thorough discussion of the affair, that no definite conclusions about Gower's role can be derived from the available evidence although he locates several passages in the *Mirour* that could be referential. Galloway provides a valuable corrective to Fisher's reading of the affair. W. Mark Ormrod considers the Septvans (a variant spelling) affair from the perspective of the involvement of Sir John atte Lee in "Parliamentary Scrutiny of Royal Ministers and Courtiers," in *Law, Governance, and Justice: New Views on Medieval Constitutionalism*, ed. Richard W. Kaeuper with the assistance of Paul Dingman and Peter Sposato (Leiden: Brill, 2013), 161–88. The temptation to speculate about how Gower might have included the matter in his writings is difficult to suppress, and with his wealth, connections, and legal capability, Gower himself could conceivably be the sparrow hawk that successfully breaks through the webs woven by the legal spiders to entrap unwary flies (VI.77–82). Was one of the opposing legal counsels a man who walked with a lurching gait, the consequence of childhood disease or wounds suffered in the French wars, who clad in his robes seemed to the poet a loathsome eater of grubs and insects? The mind reels alongside the bat (VI. 89–92).

care and protection of the poor, as a function of the doctrine of Charity, came under ecclesiastical government and was therefore regulated by canon law. Regardless, the poor crofter who found himself sharing a property line with a greedy *causidicus* was already in Gower's day an endangered species confronted by his own personal version of an enclosure movement.

### Chapter 3

*Hic loquitur de causidicis et aduocatis illis, qui quanto plures sunt in numero, tanto magis lucra sicientes patriam deuorant, et iuris colore subtilia plectentes, suis cautelis innocentem populum formidantem illaqueant.*

[He discusses here those pleaders and advocates who, the more of them there are, the more they gulp down their community thirsting for more profit, and, weaving under color of law their subtleties, snare with their tricks the fearful innocent people.]

#### Stanza 1

*Cum fuerint tribuli summe maioris aborti,  
Sunt blada depresso facta minora solo;  
Cum magis atque suis Sus fuderit vbera natis,  
Est macies lateris macrior acta Suis.  
Cum magis et numerum lex auget causidicorum,  
Tum gemit in patriis plebs spoliata magis.  
Vt blada que mersa torrens supervndat aquarum,  
Vellit et extirpat quicquid adheret humo, 160  
Concio lege rapax sic multiplicata virorum  
Lucra, superficies que tenet orbis, habet.  
Non valet esse salus, medicus dum vulnerat egros,  
Addit et ad dampnum dampna furore suo;  
Sic, vbi causidici causas sine iure revoluunt,  
Esse quies longo tempore certa nequit.  
Sunt ita continua presentibus ista diebus,  
Vix vt ab hoc morbo sanus abibit homo.  
Aurea dum leges lanx ponderat, equa statera  
Non erit, hoc et opus iura moderna docent. 170*

[When thistles in large number spring untimely forth,  
Depleted soil produces lesser grain.  
When the sow pours out her dugs to more and more young,  
Her scrawny side becomes yet leaner still.  
And when the law increases the shysters' numbers,  
Then plundered plebes groan in their counties more.

Just as the water's torrent floods the sunken crops,  
 Plucks out what's in the ground and roots it up, 160  
 This greedy bunch by law gets all the many gains  
 Of men the surface of the earth contains.  
 No one can be well when doctors harm the sick, add  
 Damages to damage in their frenzy.  
 Thus when shysters spin their cases without justice,  
 The peace will not be certain very long.  
 Thus things have gone in these our present days, so that  
 A man will scarce escape this sickness sound.  
 When laws are weighed on golden pan, the balance won't  
 Be just, and *iura* now reveals such work.] 170

Chapter 3 continues the assault on the avaricious *causidicus* who preys upon his native region, beginning with the horde of practitioners presently afflicting England and moving on to their confusion of values, their relentless demand for fees in advance of service, and their penchant for distorting and complicating the law for the sake of profit. The swelling throngs of legal practitioners seemingly required to make the new European legal world function is already noted by the end of the twelfth century. Gower is likewise concerned that the present crush of numbers represents a very unhealthy state of affairs.<sup>44</sup> The more *causidici* there are, the more threatened the community. Just as thistles when they proliferate choke out the wheat and just as too many piglets deplete the sow's health, so do the hordes of false lawyers negatively afflict their community. Like the waters of a flood, they uproot everything for their profits, and like

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44. Brundage, *The Medieval Origins of the Legal Profession*, 171–73. In Gower's day pleader, the usual meaning of *causidicus*, is essentially a synonym for serjeant-at-law or apprentice, of which there are rarely more than several dozens (serjeants) or hundreds (apprentices) at any time. Even attorneys, the functionaries who represent the client in the preliminary actions leading up to actual trial, are numbered but in the hundreds. Only if all the various sorts of legal practitioners are lumped together would there seem to be numbers sufficient to sustain the poet's fears.

doctors who intentionally harm their patients to guarantee their fees, they generate lawsuits that make a shire insecure. That is England's present situation, where lawsuits are weighed with gold added to one of the pans of the scales of justice so that they no longer balance and render legal equity. The implication is that anyone who cares to look at the state of the law "in these modern times" can clearly see that such is the case and become accordingly perturbed just like the poet.

### Stanza 2

*Scribitur, os auri Crisostomus ipse gerebat;  
 Sub sermone latens illa figura fuit.  
 Aurea de facto gestant tamen ora potentes  
 Causidici, qui nunc aurea cuncta vorant.  
 Pondere subtili species venduntur, ut emptor  
 Circumventus eo nesciat inde forum;  
 Est tamen ecce modo pondus subtilius, in quo  
 Venduntur verba legis in arte sua.  
 Quicquid agant leges, hominis lex interioris  
 Gestat ab interius iudicis illud onus. 180  
 Omnia dat gratis dominus, set legis auarus  
 Sermonem nullum dat nisi vendat eum.  
 Si bene promittant, totidem promittere verbis  
 Ius foret, et pactis pacta referre suis.  
 Hii tamen ante manum, quicquid de fine sequetur,  
 Sepius inmerito premia ferre petunt.  
 Sic magis obliqua lanx nescit pondera iuris,  
 Quo ruit in tortam, que foret equa, viam;  
 Sic solet iniustum fieri sub nomine iusto,  
 Quod foret et fidum, fit magis absque fide; 190  
 Causidici legem proponunt esse beatam,  
 Concludunt set eam facta per ipsa malam.*

[Chrysostom, it is written, had a golden mouth,  
 That metaphor was latent in his speech.  
 Powerful shysters in fact have aureate mouths,  
 Who now devour all things made of gold.  
*Species* are sold by subtle weight, that buyers  
 Deceived may not understand the *forum*.  
 But now there is behold! a subtler weight in which  
 The law's words are sold in its profession.  
 Whatsoever the laws may urge, an inner man's

spices / lawsuits  
 marketplace / court



Law bears the judge's burden from within. 180  
 The *Dominus* gives all things free; misers of law Lord / client  
 Give out not a word unless they sell it.  
 If compacts make fair promises, the law should be  
 They guarantee each word, fulfill each deal.  
 They often ask for payments in advance unearned,  
 Whatsoever will happen in the end.  
 The slanted scale thus doesn't know justice's weights,  
 And what should equal be falls crookedly.  
 In justice's name is injustice wont to be,  
 What should be trustworthy becomes trustless. 190  
 Shysters will all maintain that the law is blessed,  
 But evil by their deeds they prove it is.]

The mention of gold corrupting the scales of justice at the end of stanza 1 is the springboard to the same topic more extensively developed in stanza 2, the content of which is, while familiar, extremely dense and complex. Gower's thought works with the imagistic overlaps occasioned by the location of Roman courts in the marketplace, with its constant buying and selling by the agency of scales and weights. The word *forum* accordingly means in Latin both marketplace and court. Those distributing justice equitably must from the first have had imagistically available to them the corollary activity of the merchants, whose distributions were popularly characterized by the employment of doctored scales and false weights, one set often used for buying and another for selling. The place where goods are bought and sold, often inequitably, becomes therefore the same place where justice can likewise be bought and sold if the guardians of the law become corrupt like the merchants. In addition, ecclesiastical law distinguishes inner and outer *fora*, one the outer world in general but also the canonical court system in particular and the other the conscience in general and the interior courtroom of the individual in particular, within which penitential trials are conducted with the aid of a confessor

in the sacrament of confession, the annual duty of which is mandated by the Fourth Lateran Council in 1215. Gower's stanza plays with these distinctions and more.<sup>45</sup>

Its point of departure is the figurative meaning of St. John Chrysostom's name in Greek (Golden Mouth) and its ironic contrast to the practice of *causidici*, who have golden mouths literally because they gulp down everything of value. The image alerts us to the play on terms and concepts that follows. Just as objects (*species*, probably here meaning specifically spices) are sold in the marketplace using subtle weights, so false lawyers, too, have subtle weights with which to weigh the words of law they sell. But *species* means much more than just spices or fine goods. The word's major value is "appearance," as in the canon law term *species facti*, which, as mentioned above, is the first part of the judgment that comes at the end of a canonical process. Just as goods and appearances are sold in the marketplace by subtle weights, so are judgments sold in the courts of law by even more subtle weights, by the manner in which the scales of justice can be weighted to the unfair advantage of one side. In both cases, the marketplace and the court, the subtle weights serve the purpose of deceiving the buyer *ut nesciat inde forum* (so that then he will not know the *forum*, so that then he will not know the marketplace and the true valuation of the object, so that then he will not know the court and the proper judgment that should be, but isn't, forthcoming). The words of the law are, moreover, not only sold by more subtle weights than those used by merchants, but they are sold in its profession, *in arte sua* (conceivably also meaning "craftily"). The sidewise reference is to the legal maxim *cuilibet in*

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45. See Joseph Goering, "The Internal Forum and the Literature of Penance and Confession," in *The History of Medieval Canon Law in the Classical Period, 1140–1234: From Gratian to the Decretals of Pope Gregory IX*, ed. Wilfried Hartmann and Kenneth Pennington (Washington, D.C.: Catholic University of America Press, 2008), 379–428.

*arte sua perito est credendum* (credence must be given to one expert in his craft, a principle concerning the use and valuation of expert witnesses but here an implied reproof of the *causidici*).

This more subtle weight of legal craftiness creates a burden for those who monitor and manage the law, the judges. Accordingly, whatsoever way these crafty words may urge the laws, there is a law of the inner man that bears that burden of the more subtle weights (*illud onus* of the *pondus subtilius*) from within the judge. The reference is to a passage in Romans in which Paul discusses the imprint of God's law on man's heart and conscience. At 2:14–15 the apostle says that even the Gentiles, who have no law, *ostendunt opus legis scriptum in cordibus suis, testimonium reddente illis conscientia ipsorum* (show the use of the Law written in their hearts. Their conscience bears witness to them.) Aquinas explains this passage, citing the *Glossa Ordinaria*, as follows: *in interiori homine per gratiam innovato, lex iustitiae inscribitur, quam deleverat culpa* (in the inner man, renewed by grace, is written the law of justice which sin had obliterated).<sup>46</sup> It is in the court of conscience, therefore, in the inner forum, where the responsibility of the individual to oppose evil must be acknowledged and accepted. Unfortunately, as Gower's subsequent critique of the judiciary (Chapters 4 and 5) will argue, that responsibility is rarely accepted by the judges.

The greedy ways of the *causidici*, who sell their words to their clients, are then contrasted not just to the words of the Lord, which are of course free, but to the *omnia* (all things) that come

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46. *Summa Theologiae prima pars secundae partis quest. 94 art. 6*, online at <http://www.corpusthomisticum.org/sth2094.html>. The passage occurs in a discussion of whether or not the law of justice can be destroyed in the hearts of men. In *quaestio* 106, Aquinas identifies the law inscribed in human hearts as the New Law, that is, the law of the Gospels, the preponderant component of which is the grace of the Holy Ghost.

to man from God without any price tag. The *dominus* of l. 181, moreover, designates not just the Lord, but at the same time in standard legal / social terminology the client, now the lord in his relationship to his lawyer and obligated by the terms of the relationship to give retainer fees and authority (*plena potestas*) up front in the expectation of prevailing, through the expertise for which he has contracted, in whatever legal action is involved. Gower both references, therefore, a general philosophical notion about the propriety of the lawyer's conduct and levies a specific criticism of the nature of the client / attorney relationship. Brundage remarks that

moralists were fond of scolding lawyers for their greed. Legal knowledge, critics declared, was a free gift from God. If a grateful client spontaneously rewarded his legal adviser with a modest gift, that was certainly appropriate, even admirable. But jurists who expected, or worse demanded, payment for legal advice sinned grievously. Lawyers who helped only those who were willing and able to pay engaged in the reprehensible business of selling justice. They could escape eternal perdition only by repenting their evil ways and making restitution to the clients they had victimized.<sup>47</sup>

Beyond the fact that the *causidicus* (now styled sarcastically the *legis auarus* [l. 181], the miser or even usurer of the law) charges for his words and the agreements they comprise (his *pacta*), Gower implies that he doesn't fulfill the bargains he makes, for the poet wants the law to require the false lawyer to live up to his promises and finish out the deal, whatever it is. In fact, there is a general principle of law, going back to the *Corpus iuris civilis* and argued by *Bracton*, that

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47. Brundage, *The Medieval Origins of the Legal Profession*, 192.

*pacta sunt servanda* (agreements should be kept). A considerable body of commentary attaches to the argument and it became commonplace to distinguish unenforceable naked agreements, so called because they were not clothed with any consideration of value tendered in return, from those that required fulfillment, which most certainly would include agreements for services made by lawyers in exchange for their fees.<sup>48</sup> As it often turns out, Gower charges, the *causidici* require their *premia* (rewards) beforehand, whatever happens in the end, whether they have earned them or not by fulfilling their word. Then, Gower charges, they have an unfortunate habit of not providing the services they've been paid for. He now turns to the image of the scales again (ll. 187–88), but in a slightly different sense. When the client puts his payment on one pan of a scale, but the *causidicus* fails to put his contracted-for knowledge of the law on the other, so that it doesn't know the weight of justice, the unbalanced scales fall *in tortam viam*, in a twisted way (with a pun on tort, a delict in civil law), so that injustice is done in the name of justice and an agreement that should be trustworthy is trustless. The redress available at law for such a breach of contract would be a writ of covenant, which a demandant could use to enforce a promise. Gower ends the stanza with the observation that *causidici* talk a good talk about the blessedness of the law but render it evil by their deeds.

### Stanza 3

*De ligno quicquid rectum si vir sibi sumat,  
Ad visum claris subdet et illud aquis,  
Apparet tortum sibi quod fuit ordine rectum;*

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48. Canon law, on the other hand, held that even simple promises were enforceable. See Plucknett, *A Concise History of the Common Law*, 304. Edward I's personal motto, *Pactum serva*, is often referenced in the context of the *pacta sunt servanda* principle. See, for instance, Frederick Pollock and Frederic William Maitland, *The History of English Law before the Time of Edward I*, 2<sup>nd</sup> ed., 2 vols. (Cambridge: Cambridge University Press, 1898), 2: 217.

*Sic ad propositum lex agit ecce meum.  
 Nam si causidico modo dicam ius manifestum,  
 Quod michi iusticia nulla negare potest,  
 Ipse suum lucrum conspirans quicquid ad ipsum  
 Dixero subvertet, multa pericla mouens; 200  
 Conficit ex mellis dulcedine fellis amarum,  
 Vrtice similem fingit et esse rosam,  
 Et velut ex flatu Basiliscus toxicat oris  
 Aera, quo peste proxima vita perit,  
 Est quod plus sanum, sic ius vir iuris ad aures  
 Inficit ex verbis, plenus in ore dolis.  
 Et sic vulpis ovem terret predoque viantem  
 Predat, sicque dolus cogit abire fidem.  
 Micius est lapso digitum supponere mento,  
 Mergere quam liquidis ora natantis aquis. 210  
 Miror eo, causas inopum qui lege tueri  
 Deberet, cicius aggrauat auctor opus.*

[If a man should pick up a straight wooden object,  
 And dip it in clear water to observe,  
 That which was straight in line appears crooked to him.  
 Lo! the law acts like my proposition.  
 For if I tell my shyster the law is quite plain,  
 That justice cannot be denied to me,  
 Scheming his fee, he subverts all that I said,  
 Putting forward many impediments. 200  
 From the sweetness of honey he makes bitter gall,  
 And shapes the rose to look like a thistle.  
 As the basilisk poisons the air with its snort,  
 From which plague all life perishes nearby,  
 The man of right, with his mouth full of tricky words,  
 Infects that which is sound law to the ears.  
 Thus the fox frightens and ravages wandering sheep,  
 Thus trickery compels good faith to flee.  
 More kind to put a finger 'neath his sinking chin  
 Than shove the swimmer's face in swift waters. 210  
 I marvel that he who by law ought to defend  
 The cases of the poor vexes their need.]

Stanza three criticizes the false lawyer's ability to complicate a situation and make things seem different than they are in order to justify his fee, which is behavior likewise expressly forbidden by the oath sworn by lawyers upon the occasion of their acceptance into the

profession. The earliest version of a series of ethical requirements such as lawyers both lay and canonical subscribed to was first required in the medieval world according to a constitution of Gregory X (r. 1271–76) known as *Properandum* (meaning something like “it should be hastened along”) because it opens with a complaint about the delays in legal proceedings caused by the crafty scheming of lawyers. According to Brundage, “the swearing of such an oath became part of the admissions ceremony during the fourteenth century” although the constituent elements of the oath are largely present already in the Statute of Westminster I.<sup>49</sup> Rose points out that the Statute of Westminster I in 1275 and II in 1285 as well as the Statute of Gloucester in 1278 all targeted the problem of delay caused by essoins. Westminster I also prohibited delay caused by false and wrongful vouching and Westminster II noted delay caused by false exceptions and complaints.<sup>50</sup> Gower’s *causidicus* is, accordingly, once again in violation of the standards that are supposed to govern his professional behavior.

Gower’s opening figure in stanza three is from physics, the bending of light rays entering water that causes an immersed object to appear distorted, “bent” at an angle at the point where it is submerged. The *causidicus* achieves a similar effect by dipping his client’s problem in his version of the law, the purpose of which is to distort reality and delay quick and obvious solutions so that he can exaggerate his fee. The play on *rectum* (straight and just) and *tortum* (twisted and unlawful) in the opening lines is obvious. Gower’s figure even suggests an ironic reference to Gratian’s definition of a canon / *regula* in Distinction 1 of the *Decretum*, cited from Isidore: “It is called a rule because it leads one aright and never takes one astray. But others say

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49. Brundage, *The Medieval Origins of the Legal Profession*, 304–5.

50. Rose, “The Legal Profession in Medieval England: A History of Regulation,” 82–3.

that it is called a rule because it rules ... or sets aright what is twisted or bent.”<sup>51</sup> The false lawyer reverses this process and subverts the logic of regulation, bending what would otherwise be already straight. Continuing his imagistic exposure of legal craftiness, Gower illustrates how, having immersed his client’s claim upon justice in his trickery, the *causidicus* turns honey into gall, roses into thistles, and clean air into poisonous vapors in order to convince the client that his problems are vastly more difficult and hazardous than they might at first appear. Once he has the harried client under his influence, the *causidicus* drives him like a fox frightening and dispersing sheep prior to their slaughter. Completing the stanza, the poet returns imagistically to water, presenting the client now as a swimmer in distress that urgently requires rescue but is instead pushed beneath the surface by the very person he has contracted with to save him. This person is specified as an *auctor* (in law a synonym for *actor*), the originator of a lawsuit, a plaintiff or, as here, a counselor who represents him.<sup>52</sup>

#### Stanza 4

*Sompnia perturbant quam sepe viros sine causa,  
Non res set sompno visa figura rei;  
Sic tibi causidicus fingens quam sepe pericla,  
Est vbi plus rectum, diuaricabit iter.  
Mente tibi loquitur dubia, nam nemo dolose  
Mentis secures vocibus esse potest;  
Questio preceedit, racionem fallere pergit,*

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51. *Decretum*, D.3.c.2. Gratian, *The Treatise on Laws (Decretum DD. 1–20) with the Ordinary Gloss*, trans. Augustine Thompson, 10.

52. As in the legal maxim, *Nemo potest esse simul actor et iudex*—No one can be at the same time judge and party. *Auctor* allows also a play on “seller.” Gower’s use of *vir iuris* in l. 205 is atypical, the only time in the verses (except for the obviously ironic *legis avarus* of l. 181) that he calls his false lawyer anything but *causidicus*. I can only guess that the constraints of meter took him to this choice or he is again being ironic. It is not a simple variation on *homo de lege*, which would be *vir legis*.



*De quo non dubitat te dubitare facit.* 220  
*Incutit ipse tibi ficta sic lege timorem,*  
*Vertat vt in brutum de racione virum.*  
*Ex oculis primum dabis vt retinere secundum*  
*Possis, dum causam lex regit ipsa tuam.*  
*Causidici nubes sunt ethera qui tenebrescunt,*  
*Lucem quo solis nemo videre potest.*  
*Obfuscant etenim legis clarissima iura,*  
*Et sua nox tetra vendicat esse diem;*  
*Istis inque viris perdit sua lumina splendor,*  
*Verum mentitur, fraus negat esse fidem.* 230  
*Lex furit et pietas dormit, sapiencia fallit,*  
*Pax gravat, et lites commoda queque ferunt.*  
*Et sic lex legis a ledo ledis in isto,*  
*Et ius a iurgo, tempore iura legit.*  
*Vnio set populi firmo si staret amore,*  
*Causidici vanus tunc foret ille status.*

[How often dreams alarm men without cause, with a  
 Figure of something glimpsed in sleep, not real.  
 How often thus the shyster, inventing hazards,  
 Will fork a road where it is really straight.  
 He speaks to you in a doubtful manner, for none  
 Of crafty mind can speak assuringly.  
 A question comes first, then he proceeds to deceive  
 Your reason, doesn't doubt he'll make you doubt. 220  
 Thus by a legal fiction he makes you afraid,  
 That he might turn a man to senseless brute.  
 You take your eyes from one to watch a second thing,  
 While the law itself dictates your case.  
 Shysters are clouds that darken the heavens, whereby  
 No one is able to see the sun's light.  
 For they obfuscate the clearest rights of the law,  
 And their foul night lays claim to be the day.  
 Splendor loses its brightness in such men, the truth  
 Tells lies and guile denies good faith exists. 230  
 Law raves, piety sleeps, wisdom fails, peace becomes  
 A burden, and all lawsuits yield profits.  
 And thus *lex, legis*, itself from *laedo, laedis*,  
 And *ius*, from *iurgo*, rule the law today.  
 But if the people stood bonded in constant love,  
 The shyster's station would be profitless.]

The fourth stanza continues to develop the charge that the false lawyer distorts his clients' legal problems in order to justify his fees. Like a dreamer immersed in a fantastic landscape who catches obscure glimpses of alarming figures that never quite come into view, so is the client frightened by the imaginary legal complications put forward by the duplicitous *causidicus*. His goal is to make straightforward procedural paths seem endlessly diverted and obvious legal issues infinitely complex, which he achieves by raising doubts and instilling fear in the client. Speaking in a hesitant voice, he begins with an innocuous question designed to disrupt the client's grasp on his own problem, after which he leads the poor man into irrational doubt designed to terrify him into accepting advice that works to the benefit of counsel rather than client. Unfortunately, such a shifty stratagem takes the client's eye off the ball and the case in the meantime proceeds to a resolution determined by the dictates of the law and not by the proposals of the *causidicus*, who is once again presented as a source of darkness—black clouds and night—that prevents the bright light of reason from dispelling the lies and guile that supplant truth and good faith. Ordinance law in such hands is on a rampage for profit in the absence of piety and wisdom, so that nowadays *lex* comes etymologically and logically from *laedo* (to injure) and *ius* from *iurgo* (to quarrel). However, the poet concludes, beneath this state of affairs lies the contentiousness of humankind, and if only people would remember the teaching of Christ and his eternal love, and perhaps remember as well the manner of the older law, they would not be drawn into the world of the *causidicus*, whose position and influence would be accordingly diminished.<sup>53</sup>

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53. Line 236 criticizes a *status causidici* that raises an eyebrow, echoing as it does the *status regis et status regni* that provides the *ratio* of medieval governance and the very idea of the state as both the national welfare and the administration of the kingdom (*status, id est*,

## Stanza 5

*Est bona lex in se fateor, tamen eius inique  
 Rectores video flectere iura modo.  
 Non licet, vt dicunt, quod conspiracio fiat,  
 Non tamen hoc faciunt quod sua iura docent. 240  
 Contra causidicum si quid michi lex det agendum,  
 Et peto consilium iuris habere meum,  
 Tunc dicunt alii, nolunt obstare sodali;  
 Sic ledunt, set eos ledere nemo potest.  
 Sic sibi causidicus mundi perquirat honores,  
 Subuertens lingue iura vigore sue.  
 Castiget reliquos lex quos vult, non tamen ipsos,  
 Quos deus aut mundus nescit habere probos.*

[The *lex* in itself is good I confess, but see  
 That now its masters bend *iura* unjust.  
 As they point out, it is illegal to hatch plots,  
 But they don't do what their own *iura* teaches. 240  
 If law requires me to act against a shyster,  
 And I seek to have my legal counsel,  
 The others say that they won't oppose their cronies.  
 So they offend, but none can them offend.  
 Thus the shyster seeks everywhere the world's honors,  
 Subverting *iura* with his lively tongue.  
 The law reproves the others whom it wills, not those  
 Neither God nor the world can keep honest.]

The critique of the *causidici* concludes with the fifth and final stanza of Chapter 3, which asserts in its opening lines the poet's belief in the goodness of *lex* in and of itself and renews his charge (with a pun) that the law's problems stem from its *rectores* (rulers), who nowadays neglect the implications of their name and bend and twist (*flectere*) *iura* to their own ends. But the main point of this final jab at the *causidici* is to charge them with a form of maintenance, in effect a professional bias and conspiracy (ll. 239–44) to deny legal counsel to any who would bring charges against them for whatever reason. Although the law forbids ordinary citizens to

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*magistratus*). See Post, *Studies in Medieval Legal Thought*, 562–70. Is this a very subtle jab at royal policy?

enter into agreements to inhibit the legal rights of others, Gower maintains that the *causidici* themselves commonly band together in mutual protection against the efforts of their victims to seek legal redress against their predatory behavior. Thus they subvert *iura*, offending with impunity while other citizens are held to the standards set by law. In a discussion of “The Literature of Livery,” Paul Strohm cites Parliament’s definition of conspiracy in the 1305 ordinance against trailbaston and it would seem to bear in part on Gower’s complaint:

“Conspirators ally themselves by oath, covenant, or other alliance, to aid and sustain each other in false indictments . . . and acquittals, or in maintaining false pleas.” Wendy Scase points out that conspiracy (Gower uses the term in l. 239) was considered “the organized abuse of legal procedure” and treated as trespass on the grand scale.<sup>54</sup>

Gower’s commentary here may have, however, another explanation worthy of a quick glance. What the poet says about the circumstances he criticizes is true enough as far as it goes, but there is another situation that is conceivably involved as well. When a lawyer has learned that a client’s suit is unmerited or fraudulently conceived, he has an obligation not only to distance himself from it but also to dissuade any other lawyer from taking it up on the former client’s behalf. Such a consideration was part of the calumny oath and reappeared in the admissions oaths by the end of the thirteenth century.<sup>55</sup> Whether Gower’s own legal issues are in play in this passage, of course, we have no way of knowing, but it is always possible that the poet was motivated by consideration of his own affairs and a legal resolution to them with which

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54. Paul Strohm, *Hochon’s Arrow: The Social Imagination of Fourteenth Century Texts* (Princeton: Princeton University Press, 1992), 179. Scase, *Literature and Complaint in England, 1272–1553*, 46.

55. See Brundage, *Medieval Origins of the Legal Profession*, 296–99.

he took issue. His differences with the legal profession are in all likelihood more than theoretical.

Gower's presentation of his criticisms about lawyers reveals the poet's deep-seated knowledge of the law and its ministers and, even if it is a work of complaint literature, certifies Book VI of the *Vox* as one of those texts Richard Kaeuper suggests we investigate for an "evidentiary conjuncture" of literary concerns and ideas of misgovernance and injustice in late fourteenth-century England.<sup>56</sup> Gower's complaint is obviously not directed at the concept underlying the legal profession, that a skilled and knowledgeable body of practitioners is an essential part of any reasonable justice system. Law, which comes from God, is the bedrock of human society and its equitable dispensation is required of the just society, which theoretically at least will not privilege any one group of petitioners over another. It is the safeguard of rich and poor, royal and common, noble and base. Gower sees the danger with the law originating in the sinful nature of the men who administer it and who through their avaricious misconduct seek to augment their worldly advantages by its improper appropriation and application. Those who undertake to guide their fellow Christians through the complications of the law in the search for justice will be the good men of Psalm 14 who have properly inherited the name of the *vir bonus* who is the *homo de lege*. However, many step forward to claim the title falsely and then behave unjustly and rapaciously by using their profession to claw after earthly profits by following the law of cupidity rather than seek for heavenly salvation for themselves and others through the law of charity. In the two chapters that follow (VI. 249–418), an account of the serjeants that attain

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56. Richard W. Kaeuper, "Debating Law, Justice and Constitutionalism," in *Law, Governance, and Justice: New Views on Medieval Constitutionalism*, ed. Richard W. Kaeuper with the assistance of Paul Dingman and Peter Sposato (Leiden: Brill, 2013), 1–14.

the post of justice of the central courts and assizes, the poet will make clear that legal practitioners who subvert the law to their own avaricious purposes forfeit its protections and condemn themselves before the bar of final judgment.

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