CHAPTER 7

The tongue and the eye: eloquence and office in renaissance emblems

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Introduction: from dignity to eloquence

A symposium on legal emblematics, particularly in the context of renaissance humanism, provides an opportunity to examine the manner in which western institutions and their relevant offices are constituted. This is all the more pertinent since the very production and transmission of emblems performs what was essential to the renaissance re-evaluation of institutional life, namely the category of *decorum*. In rhetorical terms, decorum designated a platform best suited to achieving the goals of a public orator. This meant a concern for the physical and temporal localities within which public arguments, addresses or perorations took place. Decorum provided the conditions of service and ceremony within which dignitaries and their attendant cohorts of officials existed. It also determined the appropriate response from those who were granted audience. What applied in the courtroom, in the theatre or in the council chamber, also applied to the pages of *emblemata*. Each element of an emblem, like each functional aspect of the public institution, relied on a code of stylistic propriety. In this slightly extended sense, decorum might be regarded as providing an environment for the most appropriate style to bind both the composite relations between text and image into meaning, so as to cultivate the relationship between emblem and readership and to condition the appropriate method of viewing, reading and deciphering an emblem.

In short, decorum provided a space for a heavily regulated style of language considered by the humanists to be eloquent. It almost goes without saying that, for such humanists, the term ‘eloquence’ which, via Cicero,
insinuated itself into the new methodological style of the *studia humanitatis*, carried more than the expressive qualities of speech. Certainly, eloquence signified the terms of address best suited to civic and public office but it combined a range of functions. Often, perhaps as a result of a heavy anti-Aristotelianism, the term linked forensic rhetoric with its ceremonial or epideictic counterpart. Persuasion and norm, argument and ceremony, past and present, mixed together without concerns for the niceties of taxonomy. What mattered more was that the term distinguished between licit and illicit forms of speech; it distinguished between formal speech and the everyday grammar of table talk.² It also entailed an appreciation of the topological and intellectual sites of enunciation. In other words, eloquence was a matter of what gave the institution its sense of propriety and its place within the public sphere and among the intellectual disciplines.

Part of the argument pursued here is that training in the art of eloquence bestowed upon those who took up institutional responsibility something more than the mere living atmosphere of the physical incumbent of office by performing a function similar to that of the notion of dignity. Indeed, eloquence, and the decorum of office, came to replace the function of dignity. The mediaeval *dignitas* was a term that referred to the sacral space of institutional office holders and carried the transcendental and immortal qualities of the *corpus mysticum*. According to one derivation, provided by Ernst Kantorowicz, the principle of dignity had been extrapolated from ‘the profound seriousness, the worthiness, the aura of holiness’ of the opening titles to Justinian’s *Digest*.³ In consequence, this juridical value provided the Christianised office (particularly that of the Emperor as *iuris religiosissimus*) with a potentiality that required the mortal *persona* of an office holder to activate it.⁴ However, where dignity was justified by justice, by the very status of office and by its goals, eloquence required of the office holder a process of preparation. The renaissance re-evaluation of training meant that over a long period, eloquence would supplement and replace dignity as the characteristic of dignitaries and their office. One might have thought that categories concomitant to dignity, such as *honestum*, *illustris*, or *conscience* would be transposed on to the humanist scheme of things. However, we ought to note at the outset, that the values attached to the office had little to do with the humanist triumph of free will and of free speech. Of course, for

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⁴ Kantorowicz, *The King’s Two Bodies*, 437.
Dante, Machiavelli, Petrarch, Montaigne and others, the category of dignity remained essential to the matter of man. The term was applied, however, to the individual members of a more general idea of the human population. The dignity of man involved a philosophical and cultural expression of the emancipated individual somehow abstracted and set free from the description of institutional force-fields, although it ought to be noted that this general account of personhood was never far removed from the office of parson. As Peter Goodrich argues of the common law tradition, ‘the person was originally a parson, a priest and so a representative of a parish.’ And, as Blackstone pointed out in his commentaries on the rights of persons, the dignity of the person rested on his parochial representation of the invisible body of the church. Nevertheless, while the two terms share etymological links, the ‘dignity’ of man was distinguishable from the ‘decorum’ of the office. For some of the humanists examined here, to take up office meant an institutional existence removed from the glorious ‘halo of perpetuity’.

Once it is recognized that the function of eloquence replaces that of the medieval dignitas, a number of further points follow and need emphasising. First, to take up office meant existing within the order of eloquence itself. It meant being trained into a pre-existing theoretical vocabulary and style that could then be applied through practice. It was not so much that training for office enabled a mastery of eloquence but that eloquence, to varying degrees, possessed the neophyte, the student, and ultimately the officer. Those who inhabited office underwent a process of moral regeneration. In other words, the attempt was to constrain free will and to delimit the personhood of the office (beyond those limits already proscribed by nature and experience) through the very language of the institution. Second, this order of public existence meant being inserted, inlaid like ornamental emblemata, into a signifying regime in which what was spoken was not simply the empirical fact of a command but the truth of a legal order, its values and its techniques. A range of profound ethical values emphasized the ability of those who held institutional positions to persuade others to lead the good life. If eloquence determined office, it did so in order to transmit a range of values. So that, in a broader sense, eloquence was cardinal to the very functioning of civilized society and to the maintenance of social relations. What applied to questions of office applied to the matter of the emblem. In the terms set out by Cicero, eloquence was what enabled the emblem to teach, to delight and to

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7 Ernst Kantorowicz, The King’s Two Bodies, 78–87.
move (docere, delectare, movere). The eloquence of an official and the eloquence of an emblem required an appreciation of normative values that attached to institutional life.

My concern here is to engage with the work of Shaunnagh Dorsett and Shaun McVeigh. Briefly reduced, their overall task to rehabilitate a civil jurisprudence is pitched against the hegemony of a metaphysical corruption of what it means to hold office. Drawing on traditions that rival Kantian and post-Kantian philosophy, Dorsett and McVeigh seek to rehabilitate an account of civil jurisprudence by directing questions of the state office holders away from the theological/humanist notion of a persona endowed with conscience towards questions of conduct that do not fall into the trap of technical administrative positivity. For them, the conduct of office, becomes a matter of external manners and comportment far removed from any Christian, transcendental or Kantian internal court of morals. Such a project might be situated in terms of the northern European inheritance of civil jurisprudence bequeathed by those such as Pufendorf and Thomasius. It identifies, within the very history and structure of western institutions themselves, points of almost forgotten alternatives.

Any attempt to refresh jurisprudence and to revivify legal institutional existence, however, needs an account of eloquence as the fundamental shape of office. So that the third introductory point attends to what eloquence transmits and discloses in the name of civic ethics. This becomes more pertinent if it is considered that eloquence is as much about what cannot be said as what can be said. In this sense, the language of office hides as much as it reveals. Those aspects that breach decorum, whether illicit, profane or unspeakably sacred, take place off-stage. No democratically orientated requirement for transparency would be able to rid the modern office of such mystical obscenity or obscurity. Any account of eloquence as the language of office has to take into consideration the persistence of this obscure point of

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10 For an insight into how critical legal studies, both in the United States and in the UK, has failed to consider the internal alternatives within the history of the western state, see David Saunders ‘The Critical Jurist and the Moment of Theory’ in *Postcolonial Studies* 10/1 (2007), 77–92.
reference. In different terms, the problem may be posed as follows. Humanism sought to replace the divine as the organizing social principle. A study of eloquence, however, reveals that it replaces the divine cause with an equally, if not more, obscure source of civic illumination and civic organization. It is not that eloquence itself was necessarily obscure. In the most general terms, the style of renaissance humanists can be situated anywhere between the ornate and formal eloquence of Ciceronianism and the plain Attic style of the non-Ciceronians. Even among the emblematicists, as Denis Drysdall maintains, a contrast exists between Aristotelian and neo-Platonist influences. According to the former, meaning was to be rooted in the natural quality of the thing being portrayed. In this sense, emblems were considered to be accessible to anyone willing to learn. For the latter, emblems were allegories often pre-figured by a divine intellect before existing in the real world. In spite of these differences in style, what remained obscure was the ultimate reference itself, the source of civic relations and organization. All emblematic depictions point to such obscure sources, hidden above clouds or behind veils. The enargeia or clearness of emblematic representation belies what the reader is compelled to do, namely to pierce these clouds of unknowing, to actively decipher what ought not to be made too obvious. In the words of one contemporary poet, ‘Rich minerals are digged out of the bowels of the earth, not found in the superficies and dust of it.’ The obvious engenders complacency. Only by solving the riddle at the heart of the emblem can the honestum be made to see the obscure majesty of institution and what is required of him. Both senses and intellect have to be excited in the devotion to duty.

A further point therefore ought to be introduced. If, as Dorsett and McVeigh rightly claim, office is about conduct then such conduct had to be visually apparent, appreciable and regulated by codes of decorum. The language of office was a visual language. Vision here must be understood as being more than the empirical apprehension of a mere artefact. It involved a process by which those subject to the jurisdiction of any particular institution had to participate in the staging of office through a process of decoding and revealing the obscure source of civic organization. It is here

that the specific emblems I want to examine might be regarded as having revealed and, indeed, enacted, an emerging idea of institutional roles. Emblems enacted precisely what was required of the eloquent official. They staged a visual performance of the institutional function. They represented eloquence as that which had been divorced from the personality of the office holder. It is for this reason that eloquence was invariably depicted as an autonomous tongue, separated from the persona of a speaking subject. Emblems as ‘transposable ornaments’ or badges that could be placed on a variety of platforms and inserted into other devices, performed the automated activity of office. They functioned according to the predetermined requirements of decorum. Moreover, these emblems were visible ciphers of an invisible source and, as such, they were intended to elicit an ethical reaction based on the complex process of active decryption and passive contemplation. Both emblems and officials ‘spoke in pictures’. The required response was to comprehend what was latent with the mind’s eye.

Elocution and renaissance legal humanism

One way into a more thorough account of eloquence is to link it more forcefully to the range of legal offices that constituted the juristic and juridical sphere. The relationship between eloquence and law does not immediately raise concern about the hieratic nature of office. It does, however, situate the institution within the parameters of decorum and eloquence. If the trope of decorum provided a platform on which to stage the proper relationship between subjects and institution, a question arose among humanists, and particularly for Andrea Alciato, as to which institution was the more appropriate. For some, eloquence could only emerge from the decorum provided by lawyers.

The problem was compound. Unlike the concept of dignity, nothing about eloquence was specifically juridical. The term was used indiscriminately across the range of public offices. In the most general terms, Lorenzo Valla and Guillaume Budé pleaded for eloquence in all areas of learning and among all public officials, whether they were gentlemen scholars, philosophers, poets or miserable little pleaders such as lawyers. For the humanist civil lawyer, snatching the *corpus iuris civilis* out of the inventive and ‘unwashed’ hands of

14 Alciato explains that emblems could be used by artisans to fashion badges to be pinned to hats. They could also function as trademarks ‘like Aldus’s anchor, Froben’s dove or Calvo’s elephant’, in Gian Luigi Barni, ed., *Le lettere di Andrea Alciato giureconsulto* (Florence: Le Monnier, 1953) no. 24, at 46, ii 28–35, cited in Denis Drysdall *Hieroglyphs, Speaking Pictures and the Law*, 2.
medieval scholars was more than a matter of ‘method’ (as we understand the term today). It was a matter of style and the triumph of eloquence as the proper language of legal office and as the proper form of the _mos gallicus_ ( _iura docendi_ ). This idea of eloquence, however, necessitated a broader study of law than hitherto recommended by the medieval jurists. The humanization of law required the study of _all_ the good arts of discourse. Thus, the various exegetical techniques more peculiar to poetry, the various methods of reason more peculiar to philosophy and techniques of revelation more peculiar to the arts (conceived of as _belles lettres_ ) were hitched to the study of universal history and philology all subsumed under the French way. Similarly, and particularly for Guillaume Budé, understanding the _Corpus_ entailed understanding both its juristic and non-juristic sources. For common lawyers, too, the decorum of the office was founded in reason that was common not only throughout the island history, but across the sciences. To paraphrase Sir Henry Finch, it derived from the bowels of divinity, grammar, logic. ‘Ye Gods what monsters’ was Gentili’s response to the size of the legal appetite.

Ironically, the application of eloquence to public offices that existed outside law was expressed largely by lawyers, albeit as part of a general ‘defence of poetry’. Here, eloquence, more often than not, was illustrated with reference to legal examples (what Quintilian terms _emblemata_ ). Proper homage to any text, even for someone as antipathetic to lawyers as Lorenzo Valla, was exemplified by turning to the textual authority of the _corpus iuris civilis_. Eloquence meant a return to the very source itself, ‘elegantly’ dismissing the barbarism of Accursius’s methodology of organizing the glosses and the further commentaries that had accreted on the _corpus_. Finch, just to prove that the point was not lost on the common lawyers, remarked that ‘the sparkes of all Sciences in the World are raked up in the Ashes of the Law’. Such a methodology, we might note, also established these other non-juristic disciplines and their relevant offices (those of the poet, the philosopher, the artist) in the image of law itself.

15 Andreas Alciato, ‘No doubt the young person correctly trained in the art of eloquence would handle civil law with greater proficiency and not with “unwashed hands”’, _Parergrón Iuris libri duodecim_ in _Omnia opera_ (Basle: Officina Isingriniana, 1558). 4:15, cited in Denis L. Drysdale, _Hieroglyphs, Speaking Pictures and the Law_, 232.


20 Sir Henry Finch, _Law or a Discourse Thereof_, 6.
This cross disciplinary application of eloquence may well be no more than something akin to the ‘mental habit’ that Erwin Panofsky alludes to in his account of Gothic architecture as a solid expression of scholastic principles.21 It may well be no more than a concurrence of a way of thinking peculiar to all discourses (particularly those discourses whose subject matter interested the lawyers of the time). It may be no more than the transposition of a term across a shared habitus that might be termed humanism.22 Nevertheless, the idea that eloquence formed some sort of mental habit shared by poets, lawyers, philologists, philosophers and monarchs, did not go uncontested. Eloquence depended on proper place. The idea that eloquence flowed freely across the full range of courses meant that it escaped the parameters of decorum. For Alciato, in particular, eloquence had to be appropriated by lawyers as a style proper only to the offices of jurists and magistrates since following Cicero’s remarks in De Officiis, decorum was what controlled the law.23 For Cicero, eloquence was what gave the individual jurist their character, their conscience and their abhorrence of moral turpitude. For Alciato, without the decorum of eloquence, law could only exercise itself with a harsh and strong arm amputated from the rest of the community. The general argument was illustrated in his disagreements with other humanist scholars such as Lorenzo Valla and Guillaume Budé. In 1439, Lorenzo Valla published his treatise questioning the authenticity of the transfer of Imperial authority from Constantine I to the papacy in the fourth century.24 Valla’s argument was that the original instrument gifting authority could not have been drafted at the time of purported donation. Based on philological methodology (focusing on the use and changing definition of terms found in the document), Valla claimed that the instrument itself could only have been drafted in the eighth century, some four centuries after the Papal claim. Alciato’s criticism of Valla was entirely based on the question of style. What hinged on Valla’s philological techniques amounted to no more than pure theoretical speculation, since nothing in Valla’s work shed any light on the contemporary legality of the Papacy. For the distinction between theory and practice to disappear, the matter had to be treated in a certain style and according to the standards and decorum of eloquence that were better suited

21 Erwin Panofsky, Gothic Architecture and Scholasticism (LaTrobe, PA: Archabbey, 2005).
22 The universal appeal of eloquence is emblematised by Andreas Alciato, Emblemata 182; eloquence is difficult, like the herb with strong black roots that Mercury pulls out, but its flowers attract everyone in Emblemata (Lyons; 1550 edn)
to lawyers than poets, philosophers and mere philologists. This was not to deny the value of those other disciplines. Rather it was the case, that for Alciato, the technique of eloquence properly belonged to the lawyers.25

‘When Eloquence is not joined to justice’ he claimed in the Avignon Oration ‘it is the cause of disaster in the commonwealth’.26 This is why jurists should be accorded the highest offices since they alone have the requisite eloquence combined with knowledge to fulfil the humanist task of eradicating the distinction between theory and practice. Again, in the Bologna Oration, Alciato argued that the practice of eloquence must be joined with legal studies since eloquence ‘cannot in any way exist properly without them’.27 Alciato was not alone, and similar points had been made by Zasius. For both, eloquence within law alone was what made law superior to moral philosophy.28 The danger is not simply the fear of law being forced to renounce its position as arbiter of social questions and orchestrator of social bonds. Throughout his writings, lectures, notebooks and recorded orations, Alciato continually claimed that eloquence practised by non-jurists, by pure Ciceronians, was eloquence practised by elementary pedagogues, by grammatici and by those who mangled texts for the sake of glory. The danger of eloquence spilling over to non-juristic sources was a danger that eloquence and office would be corrupted by the very values that humanism sought to renounce. Such notions of intellectual glory and dignity would do nothing to stem an individual office holder from exercising their power of invention. The office holder, in other words, simply had to inhabit and obey the parameters of the new methodology. Are poets, as Percy Bysche Shelley suggested, really the unacknowledged legislators of the world? From the perspective of an Alciato, or Zasius, it is more the case that lawyers ought to be the true poets of the world.

**Emblems of eloquence**

Peter Goodrich’s claim that emblems are *obiter depicta*, ‘making visible [and] bringing the dead letters of the law to life … as a form of legislation’ is enough to render them a mode of eloquence specific to the concerns of

27 Andrea Alciato, ‘Bologna Oration’ (1546) *Opera Omnia* (Basle, 1557 edn) 3:1, 155.
juristic and judicial office. Apart from this, it is worth stressing that these emblems, particularly those depicting eloquence, perform the efficacy required of office. In so doing, emblems give further emphasis to Alciato’s aim to dissolve the distinction between theory and practice. That is to say, emblems, as well as presenting a theoretical meaning, provided a space in which meaning is brought to light. Consider then Alciato’s emblem of the Gallic Hercules as an image of the divine provenance and character of eloquence and as an image portraying models of virtue and regulation that determine the language of office (Figure 7.1).

In establishing eloquence as divine property the choice of Hercules, rather than Hermes or Mercury, might seem curious. Hercules, after all, was characterized in terms of his actions rather than his words. In this depiction, Alciato drew from Lucian’s account of the Gallic God Ogmios. As far back as antiquity, Lucian had identified Ogmios (from a painting he had seen in Gaul) as

**Figure 7.1** Eloquence est plus excellente que force [eloquence is better than force]; Andrea Alciato, *Toutes Les Emblemes* (Lyons, Guillaume Rouillé, 1558) (by permission of University of Glasgow Library, Special Collections)

the Gallic version of Hercules. According to Lucian, Hercules was not used by the Gauls as a symbol of force. To be sure, the figure shown in Alciato’s emblem (and in all the other variations of this particular emblem published in other editions of his *emblemata*) shares similar features to a gnarled pagan warrior; he is old and grizzled, his clothes barely fit, he carries the club and wears a lionskin. Certainly, all these features are associated with Hercules. However, unlike any classical depiction, this particular figure of Hercules is depicted with light and graceful chains running from his tongue and attached to the ears of his followers. These links are nothing other than a metaphorical representation of persuasion. They represent the leading of a crowd through the sweetness of words. It is through persuasion alone that Ogmios leads these men away from Hades seen portrayed in the middle ground. In Lucian’s words:

That old Hercules of theirs drags after him a great crowd of men who are all tethered by the ears. His leashes are delicate chains fashioned of gold and amber, resembling the prettiest of necklaces. Yet, though led by bonds so weak, the men do not think of escaping as they easily could … in fact they follow cheerfully and joyously … Since the painter had no place to which he could attach the ends of the chains, he pierced the tip of his tongue and represented him drawing the men by that means.30

The basic point of the emblem is simply that eloquence has the power to mould the hardest of hearts (in the words of Alciato’s *lemma*).31 Ogmios asserts his power not through action or conduct but through eloquence. In Ciceronian terms, eloquence moves the soul and, in more Augustinian terms, it moves the soul to a state of holiness. Ogmios then is not simply a rhetor but a psychopomp guiding souls away from the underworld and from the collection of barbarous monsters (medieval scholastics, the free flow of imagination, the irrational crowd, etc.) that haunted the humanists. He guides his audience towards truth, towards an obscure point outside the frame and off the page. In so doing, he maintains their social bonds, fastening and uniting a disparate crowd of soldiers, priests, lawyers, perhaps even women.32

31 I am aware that, while emblems are tripartite in structure, I have chosen in most instances to concentrate on the picture and the *lemma*. Where appropriate, the epigram will also be discussed.
32 Thanks to Peter Goodrich for pointing out the marked diversity of the crowd depicted in Alciato’s emblem.
It is unsurprising that the Gallic Hercules was used as an emblem for those who wished to fashion themselves as civic minded heroes. Henry IV (of Navarre and France), for example, depicted himself in precisely these terms, as one who had descended to slay the monsters of war and restore imperial peace and justice in which civilization might flourish. The point is repeatedly underscored by Guillaume Budé in the preface to his *Institute du Prince* and throughout his *Annotationes Pandectarum*. For Budé, Ogmios was a Christ figure, a citizen of Corinth, a pre-cursor of the French monarchy of Francois I. It is equally unsurprising that the Gallic Hercules seems to have been adopted as a symbol by many of the humanists themselves. Erasmus uses the image to glorify the ideal of eloquence and philological reconstruction as well as the triumph of persuasion over the various monsters and enemies of the humanists. While eloquence established social bonds as divine in provenance, the civilian reception of the image differs from the English. In Lucian's account, the movement towards divinity is a gentle, sweet motion and, while chained, the crowd of men following Hercules do so cheerfully and joyously (which conforms to one of the Ciceronian aims of poetry). In the English vernacular tradition, however, eloquence was not simply better than force. It *was* force. Thomas Wilson makes the point in his *Arte of Rhetoric*: ‘Such force hath the tongue, and such is the power of eloquence and reason that most men are forced even to yield in what most standeth against their will’. On Hercules, Wilson adds ‘His witte was so great, his tongue so eloquent, and his experience such, that no man was able to withstand his reason’. In this apology, Wilson praises eloquence for the very features that the Lutherans would attack. What is exposed here is the


relationship between language and violence. In *The Arte of English Poesie*, George Puttenham notes that the Gallic Hercules (this ‘lusty old man from Marseille’ as he calls him) was often depicted as standing some distance from his audience who are drawn to him by the force of his persuasions. Indeed, for Puttenham, the energy and *enargeia* (vividness) of eloquence cannot be taken lightly. It is a violent weapon that can only be handled with the wisdom of age, by ‘those with hoary hairs than beardless boys’. It is for this reason that Alciato purposefully presents Ogmios not as a nimble and graceful tempter of souls but as grizzled and aged. Further, illustrating that eloquence was a matter of high danger, Puttenham narrates the story of Hegesias, who spent so much energy inveighing against a transitory life and who so highly recommended death as a cure that ‘a great number of hearers destroyed themselves’. His advice was an attack on those ‘common despisers of good utterance’. In far stronger terms, Puttenham regarded puritan invectives against eloquence such as those by Richard Mulcaster, Roger Ascham (who associated eloquence with republicanism) and Agrippa von Nettesheim as resolutely anti-intellectual. Knowledge, claimed Puttenham, has no enemy but the ignorant; *scientia non habet inimicum nisi ignorantem*.

Whether by force or by gentle persuasion, eloquence leads man to another place, towards a divine or, in more secular (and therefore more mysterious) terms, a more obscure province. The idea that eloquence was a measure of, and a contract with, God is clear in Alciato’s emblem. In this sense, the chains depicted in Alciato’s emblem are not simply to be regarded as functional, an illustrator’s only device for showing the power of eloquence. They are, as the art historian Edgar Wind pointed out, a deliberate reference to the hermetic symbol of the golden mercurial chain. They provided for the illustrator, the emblematist and the lawyer, a necessary mediation that enabled transmission from office to audience, from the one to the many, and so too, from the many to the one. Alciato’s chain was a symbol borrowed from the mystical

37 ‘with a long chain tied by one end of his tongue, the other end at the peoples ears, who stood far off and seemed to be drawn to him by the force of that chain fastened to his tongue, as who would say, by the force of his persuasions.’ George Puttenham, *The Arte of English Poesie*, 226.


42 Wind, ‘Heracles and Orpheus’, 211.
deliberations of Marsilio Ficino. More than simply illustrating the persuasive effects of eloquence, the chains also draw man and God, earth and heaven, together in closer proximity. Eloquence enabled man, the one who inhabits office, to be more like God. In the common law tradition, both Thomas Wilson and John Rastell stressed this proximity in near contractual terms. Philip Sidney in his Apology for Poesie characterises eloquence as a contractual bond, a chain if you like, between between God and public orators. Such public offices, he argues, mimic the divine function of David in his psalms, Solomon in the Song of Songs, Orpheus and a host of others who through eloquence attempt to imitate the 'excellencies' of God. A further point often made is that justice is only achieved by recuperating a lost language that carries the force of divine pronouncements (eloquium) and inhabiting that language. The argument is given fuller treatment by Thomas Wilson, Keeper of the State Papers Office, for whom eloquence is given to man by God and lost by man after the fall 'when all things waxed savage'. So that he 'who is among the reasonable of all most reasonable, and among the wittie of all most wittie, and among the eloquent of all most eloquent is not onely a singular man but rather to be coumpted for halfe a god'.

This latter point by Wilson is interesting not simply because it illustrates the Christian flavour of eloquence but because it alludes to a more arcane, obscure and hermetically inspired provenance. That eloquence was a mystical pre-lapsarian language was a theme that runs through a number of contemporary tracts concerned with a prisca theologia. A return to eloquence was neither simply a return to the Latin sources nor to the language of the Christian and antinomian God. A return to eloquence meant a turning to Egypt and to the economy of pictorial hieroglyphics as containing the hidden secrets of Edenic language. Only by syncretising the anti-nomianism of Christianity with the emblematic language of Horapollo (together with a whole range of other influences, such as chivalry, Latin

43 ‘Non Esse ab uno ad infima sine mediis festinandum … non esse ab infinis ad unum absque debitis mediis redeundum.’ Marsilio Ficino, Opera (1576) vol. II, 1236, cited in Wind, ‘Heracles and Orpheus’.
46 Thomas Wilson, Arte of Rhetoric, preface.
47 The key figure in Elizabethan England is Giodarno Bruno. For further articulation see Frances Yates, Giodarno Bruno and the Hermetic Tradition (University of Chicago Press, 1964) at pp181-186.
literature and Justinian himself) and only by setting this syncretic structure within the parameters of decorum could an ideal legal state be built.

The tongue

The mystical provenance of eloquence gives rise to a further characteristic. Eloquence had a spiritual agency independent of those mortals who were trained into its ways. This was most economically illustrated and performed through the use of the severed and autonomous figure of the tongue as a symbol of eloquence. That the tongue should be used by Alciato to represent the eloquence of Ogmios is of little surprise. The tongue and the mouth already had a long history of symbolic association with public speech and office. The papal investiture of cardinals began with the opening of the candidates’ mouths (apertio oris) to renew and control speech required for public duty.48 Most obviously, the tongue (linga) puns on the Latin for speech/language (lingua). The image was to be used time and again by later emblematists, such as Claude Paradin, Gabriel Rollenhagen, George Wither and Hadranius Junius. Cesare Ripa, too, depicts persuasion with a tongue wrapped around her head. To them, eloquence was to become a matter requiring governance and the surrender of individual will to the independent voluntas of the tongue.

It is unclear whether or not the pierced tongue depicted in Alciato’s emblem of Ogmios influenced the use of the autonomous tongue by the later emblematists. It is more likely that such later references were to Petrarch’s essay on the problem of the garrulous speaker and to the numerous references to the tongue in the Adages of Erasmus. Erasmus explicitly compares the tongue to the metaphor of a gouvernal d’un navire (a ship’s rudder) ‘which though it make a small part of the vessel, yet upon its right or improper movement depends the safety and destruction of the whole’.49 It is an image rendered emblematically by Jean Jacques Boissard (‘the tongue is as a ships rudder’).50 In many ways richer and more

48 Peter Goodrich, Law in the Courts of Love: Literature and other Minor Jurisprudences (Routledge, 1996) at p84.
49 Desiderius Erasmus, ‘Lingua Quo Vadis’ in Robert Bland (ed) Proverbs chiefly taken from the Adagia of Erasmus, (London; T. Egerton, 1814) at p257. The adage continues “… Confine your tongue or it will bring you confinement.”
50 Jean Jacques Boissard, Emblemes Latins (Metz: Abraham Faber 1588), ‘La Langue est à l’homme ce que le gouvernal est au navire’; As a ship is safe with the control of a firm rudder when a storm has risen up and rages, with the sea lashed up; so any wise man who governs well the use of his tongue safely avoids the many dangers of life. n48 at p55.
provocative, however, is Gabrielle Rollenhagen’s emblem, *Quo Tendis Lingua* (Figure 7.2). Here, a winged tongue takes off over a landscape composed of mountains, hills, pathways. In the middle distance, on our right a couple are arguing. In the distant background are two towns separated from each other by a valley. The two towns, one more splendid than the other, echo Erasmus’s own gnomic citation of a Greek proverb: ‘O tongue where are you going, are you about to destroy a city and raise it up again’.\(^{51}\) Eloquence has its own energy and intention (*voluntas*). Without control, without training into its ways, the tongue has a tendency to fly of its own accord and commit whatever form of malediction it chooses, destroying cities, interrupting social bonds and civic peace.

Both the *lemma* and accompanying epigram support this immediate interpretation. The *lemma*, for instance, reads ‘*Garrula quo TENDIS? Quo te furor impia lingua Abripit? Ah presso, disce tacere, labro*’. It is often translated,
more or less literally as ‘Garrulity where are you going? Impious tongue where is madness carrying you away? Learn to be silent with closed lips’. Training into eloquence is a matter of learning to distinguish between what can and cannot be said.

It might be objected that by the time of the renaissance in legal humanism, this self-regulation of speech was already firmly embedded within a literary and pictorial tradition. The emblematists were not depicting any transcendent qualities associated with eloquence but, rather, the potential aberrancy of free speech. However, in the medieval tradition, the tongue pointed to its subject matter of speech rather than to the question of its style and form. A digression contrasting the renaissance tongue with this earlier medieval tradition allows us to address in more precise terms what is at stake in the emblematic depiction of the autonomous tongue. Take, as an example, the sins of blasphemy, envy, lying, obscenity ([turpiloquium]), back-biting or slander. These were sins that all involved the use of the tongue ([peccata linguæ]). In a range of traditions (artistic, pastoral and so on) extant during the late medieval period (thirteenth century), the sinner would inevitably be portrayed as possessing an uncanny serpent-like tongue. Such depictions as in the fresco of the Arena Chapel, Padua, by Giotto of [invidia] or in Alciato’s own depiction of [invidia] were invariably influenced by Ovid. The subscriptio to Alciato’s emblem reads: ‘A hideous woman eating the flesh of vipers,/Her eyes torment her and she gnaws her heart,/ Leanness and pallor hold her in thrall. In her hand/A thorny staff: thus is envy depicted’.

In another, more visceral, vein pastoral literature had its own visual protocols. The tale of the back-biting monk (by Robert Mannyng) even has the slandering monk eat the morsels of his own dismembered tongue. Dismembered tongues represented a body lacking in wholeness and therefore divinity. More than this, according to V. E. Langam, a tongue cut off from the body also represented man and his language cut off from the wholeness of God’s word. This aspect is not altogether unremoved from the

52 See, for example, Barbara C. Bowen, ‘Lingua Quo Tendis? Speech and Silence in French Renaissance Emblems’ French Forum, 4/3 (1979), 249–60. Bowen translates the lemma as ‘O garrulous tongue, where are you going? Whither, Oh Pious tongue, is madness carrying you away? Ah, learn to be silent, with compressed lips [or with a finger on your lips]’, at 249.

53 Andrea Alciato, ‘Invidia’, Emblemata (Lyon, 1550), n. 71.

54 V. E. Langum, ‘Sins of Tongues, Pain of Members; Speech and Sacrament in late Medieval Exempla’ Marginalia 6 (2006–2007), 1–12.
concerns of some of the emblematisists and is treated by Georgette de Montenay in her depiction of false worship (Figure 7.3). 55

The dismembered tongue, that is to say the false and dissembling tongue, is torn apart not simply from the body but from the heart (seen trailing behind). The accompanying text reads as follows: ‘with the mouth alone you will venerate god in vain. True religion is seated in the depths of the heart. Stop forming lies with a false heart but revere God with your mind.’ These themes took on further emphasis after Lateran IV. The requirement of

Figure 7.3 Georgette de Montenay, Emblèmes ou devises chrétiennes, Lyons, 1571, embl. 25, ‘Frustra me colunt’ (In vain they revere me)

55 Georgette de Montenay, Emblemata Christianorum Centuria (Zurich, 1584), 24. As the only woman, the theoretical and religious concerns of Georgette de Montenay might be differentiated from those of Alciato and others. Lady-in-waiting to Jeanne d’Albret (the mother of Henri IV of France), hers was a resolutely more Calvinist approach. It ought not to be taken as indicative of the more civic concerns of many of the male emblematisists.
confession and the receipt of the Holy Eucharist were oral techniques that touched the moral ambiguity of the tongue; ‘ex ipso/lingam ore procedit benedicito et maledicto’ [through the mouth/tongue man both praises God and curses men like Him]. A list of sins needed a special category, that of the peccata linguae, to distinguish evil from good. This ethic is given almost legal footing by Bishop George Webbe (1581–1641) in his Arraignment of the Unruly Tongue. To which, one might add, the particular place given by the mediaeval glossators to slander as that which was considered injurious to the reputation of the Emperor or princeps, as well as to the very jurisdiction of that to which the whole Corpus refers:

The Imperial Majesty must needs be not only decorated with arms, but also armed with laws that it be able to govern rightly in either time, in war and in peace, and that the Roman Prince may come off as victor not only in hostile battles, but also by the paths of law may expel the iniquities of slanderers, and become the most religious observer of law as well as the one triumphant over conquered foes.

The point is that what mattered, what was imprecated in the medieval context, was the content of speech rather than the style. The autonomous tongue in renaissance emblems, on the other hand (with the exception of Georgette de Montenay), was put to a different service. The tongue, by now far removed from any mortal body, carried its own energy far removed from any inherent energy or will. The practice of eloquence meant surrendering free will to a whole regime of spiritual self-management and regeneration not to avoid sin but to train for office. Paradoxically, what mattered for humanists such as Rollenhagen and Wither was the primacy of the tongue,

56 See article 21 of Lateran IV cited in V. E. Langum, ‘Sins of Tongues, Pain of Members’.
57 The classic text, according to V. E. Langam, ‘Sins of Tongues, Pain of Members’, is Peyraut, Summa de Vitiis.
the sovereignty of eloquence, rather than the primacy or sovereignty of human will.

In this sense, the translation of Rollenhagen’s *lemma* (as ‘garrulity, where are you going?’) is not so clear cut and further ambiguities arise. We ought to note that according to contemporary emblem theory, to which Rollenhagen would have subscribed, the picture would not have been so comprehensible without the rule. The emblem of the tongue (or, for that matter, any emblem) portrays a mystical puzzle ingeniously and wittily charged with different layers of meaning. Similarly, the rule or sentiment that was expressed textually either in the *lemma* or in the verse would not have been self-explanatory. Image and text, *pictura* and verse were body and soul, respectively. The emblem’s effect depended upon meditating upon the whole thing. The norms of these epigrammatical puzzles ought not to be so readily ignored and closer attention to the wit and ambivalence of the emblem reveals further layers than that which seems obvious. Thus, the word ‘*tendis*’, which is normally translated as ‘going’ could also mean, without any force in the translation process, ‘extension’, ‘stretching out’ and ‘erection’. The tongue, our feathered shaft, in other words, signified a phallus. This is not as untoward as it might seem. Throughout renaissance literature, the tongue does not simply represent the tongue as biological matter. The author of an ‘office’ manual on chirography suggests that the tongue is both pen and penis. Similarly ambiguous, in Rollenhagen’s emblem *Quo Tendis*, is the use of the word *labro* in the *lemma*. The usual translation of the sentence in which it appears is ‘learn to be silent with closed lips’. What is quite obvious, however, although surprisingly never commented on, is that *labro* means labia. The sentence ‘*Ah Presso, disce tacere, labro*’ can mean ‘discipline yourself to keep your labia closed’.

The relationship between eloquence and the sacrifice of passion was made again and again by emblematists. Eloquence, in other words, subjects the

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61 Barbara Bowen, ‘*Lingua Quo Tendis*’.


63 See for example, Hadrianus Junius, ‘*Lingua Conspectio*, Emblemata (Antwerp, 1565) Emblem 41. *eoque symbolo innui, debere nos superare utrumque quidem et libidinem nimirem sen voluptatum seminarum et linguam petulanteiam. Sed hanc potissimum ... garrllum et effrenem ininitorum malorum esse causam.* [Why are you holding your slug-gish belly in your cupped hand, why your wet lips, Scythian, why your lustful genitals? Fight shy of a fondness for gratifying the senses and troublesome self indulgence. And above all put a check on your babbling tongue. We should hold our libido, the seedbed of our lusts and of the carelessness of our tongue. But most of all the latter…[since] a
office holder to a whole regime of self-governance. It takes over more than speech; it takes over life itself. Mortal passions surrender to codes of decorum. Only then can the office holder rise again, to float regenerated towards the clouds. The clouds, of course, refer to the task and honour of office which is to divine hidden knowledge from the formless mass that shadows the Earth. Sacrificing the body to eloquence and surrendering to the primacy of the tongue establishes the means to illuminate the Earth.

**The visual decorum of eloquence**

By virtue of sacrificing his passions to eloquence the official is steered towards a more general and appropriate comportment. It is here that the functions of office share with those of emblems since what matters is the visual apprehension and appreciation of comportment, elegance and style as ciphers of a hidden knowledge. In terms of textual eloquence, this meant that the page itself had to provide a suitable platform or *pegma* to stage the spectacle of the message. If Ernst Curtius regarded the physical book as a symbol in and of itself, it was because life relations were apprehended in their relationship to the book.64 The Bible, the Book of Hours or the Book of Nature were not dead artefacts but manifestations of the living word that bequeathed to their readers an interior writing – a record. For the humanists, particularly in the wake of the print revolution, the same was true of the page itself. The page was considered more than a unit of paper, more than simply a matter of verso or recto. The word *pegma* referred to the manner in which ceremonial tilts and processions (the coronation processions Elizabeth I or James I, in particular) involved an intricate and sometimes mechanical system of support. The ‘Arches of Triumph’ by Stephen Harrison, for example, were temporary structures, wooden machines, which supported an allegorical (usually) or tableaux vivants.65 The *pegma* and the page were not innocent structures that simply happened

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to supporting a political or ideological motif. What was required was an understanding of these material and visual structures. The visual eloquence of the page, in other words, was what gave meaning to the published emblem, as well as to legal documents, deeds of trust and so forth. Each page was turned into a unique visual medium through which the mysteries of antiquity were transmitted. Moreover, the page did not simply record what has been lost to memory but, in a fury of fastidiousness, curlicues and baroque detail, reminded that things have been forgotten. At stake was the eloquence and poetry of reception and re-birth at the heart of renaissance humanism. Although a late example, Scarlattini’s _Eloquentia Verax_ perfectly illustrates the visual economy at stake in both emblem and office. The baroque detail framing what lies latent within is not superfluous. The frame is itself an open orifice. It is the _labro_ and _labia_ that allow for meaning arrive into the world, re-born (Figure 7.4).

It is perhaps more difficult to argue that verbal eloquence surrenders to visual (rather than, as Walter Ong would have it, auditory) reception. However, it needs reminding that the very word _emblemata_ was one borrowed from Quintilian to mean speaking inlaid with examples, with emblems, common places, illustrations and pictures. The point was not lost on the common law tradition. For Sir Philip Sidney, eloquence was speaking in pictures.

In this sense, the emblem by Scarlatini, _Eloquentia Verax_, provides an illustration of what is at stake in the visual apprehension of both textual and verbal eloquence. Eloquence needs to be seen so as to be trusted; it is the eye that allows us to see what is being spoken and to discern the soul of the matter. Horapollo’s _Hieroglyphica_ itself refers to the hieroglyphical use of the bloodshot eye as more than the empirical observation of eloquent speech. Here, vision refers to a mystical phenomenon, to the ability to comprehend eloquence beyond mere expression. This mystical quality of apprehension is given neo-Platonic expression by Père Le Moine:

> I should say that there is in the Device something of those universal images given to the Higher Spirits which present in one moment and by means of a simple and detached notion what our minds can

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68 Philip Sidney, *An apology for Poesie*, op. cit., n 46

Figure 7.4 Ottavio Scarlattini, ‘Eloquentia verax’; in *Homo et Eius Partes Figuratus & Symbolicus...* Augsburg, Dillingen, 1695
only represent in succession and by means of a long sequence of expressions which form themselves one after the other and which more frequently get into each other’s way rather than help each other by their multitude.70

Something like the hermetic trances recommended by Giodarno Bruno is involved in the visual apprehension of office and emblem. Vision, in other words, involved a form of contemplation in which intellect temporarily abandons the body. Man becomes more like an Egyptian god whose knowledge of things is not through thought but simply through the materiality of the thing itself.71 The hermetic mysticism of Bruno and Ficino is not so far removed from the arguments expressed by Francis Bacon on emblems. For Bacon, the emblem is to be favoured over the rhetorical notions of invention, disposition, elocution and memory. Rhetoric involves the intellect. The preference for emblems on the other hand is that they are visual ‘images (such as) of a sportsman hunting the hare, of an apothecary ranging his boxes, an orator making a speech, a boy repeating verses, or a player acting his part’. It is as images that they drive deeper by bypassing the linear manner of the easy interpretation.72

Conclusion

Returning to the question of office, the claim made here is that any current rearticulation of institutional structures cannot escape from what inheres in official language. Language carries with it an inheritance that ensures what is communicated is beyond simple message or rule. Emblems are emblematic insofar as they perform the very task of office. They do so within the non-ordinary parameters of decorum; they do so visually and they do so in order that the viewer engages in an active process, a personal odyssey of discovery. It was according to such a process that eloquence came to displace the mediaeval category of dignity as the cardinal characteristic of office. Moreover, while the style of eloquence might vary from Ciceronian to non-Ciceronian, what ought to be discovered remained obscured. Civic membership and duty did not come without effort and action. It is at this

71 Marsilio Ficino, ‘When Egyptians Priests wished to signify divine mysteries, they did not use the small characters of script, but the whole images of plants, trees or animals; for God has knowledge of things not by way of thought but like the pure and firm shape of the thing itself’, cited in Ernst Gombrich, Symbolic Images (London: Phaidon, 1978), 158–9.
72 Francis Bacon, De Augmentis Scientiarum, (Whitefish, MT: Kessinger, 2002), 17.
point that any attempt to refresh the institutional life of law from a strictly secular perspective becomes problematic, since any attempt to think about the institution and its role in social cohesion, interrelational bonds, subjectivity, peace or amity, necessarily refers us to some point that exists outside what is empirically posited. This transcendental space need not be Christian. Humanism was adulterated by broader non-Christian notions of the sacred and transcendent. This point might be more obvious in the more mystical emblems that borrowed from neo-Platonic philosophy which sought to redescribe eloquence as a cryptic and esoteric synthesis of pagan and Christian mysticism. The hieroglyph of the emblem, in other words, created a hieratic space of decorum through which a civic energy, in the spirit of an Egyptian ideal state of law, could be animated. This, however, is only one avatar of the mystical element that clouds the administrative apparatus. Even the more rational of the emblematists, such as Alciato, posited a transcendental and obscure source. Hidden beyond the clouds, outside the frame of emblematic representation, lay an obscure point of reference. Christian, mystical or secular, this point of reference was what determined the social order. It marked an absolute source of civic morals. It was that to which all things aspired. Moreover, borrowing from Christian theology, eloquence was the only means of accessing and expressing such principles.

The question of office can never rid itself of reference to a non-transparent organizing principle. Put differently, the bonding of social relations between subjects depends upon a religious inheritance; elements of a (syncretic) theology based on revelation and *mysterium* remain. No tradition of thinking about the law, either as an anti-lawyer or as a committed legist, can wholly free itself from the Christian/hermetic legacy of how the office is formed. The individual persona of a judge, a poet or a philosopher might hope to conduct herself in strict secular terms. She might hope to comport herself as an office based persona rather than as a metaphysical being. She might even hope to bracket her gender and conduct herself free of prejudice and with stern dis-interest. However, the problem of office is not the disavowal of private conscience and other such calibrations of transcendental humanity. The problem (for secular minded state legists) is that the concept of ‘office’ itself takes on all the attributes of ‘confessional man’. Conscience was never attached to the individual or to individual volition. It was only ever attached to dignity and to office. When the *persona* of the office holder inhabits eloquence, it is because eloquence has its own energy and volition independent of the mortal incumbent. Everything transfers to language. That is to say, it is the autonomous language of eloquence itself that governs the conduct of office and carries upon its tongue the conscience and volition of its relevant institution. In the emblems described, it is the
tongue, as synecdoche of both eloquence and office, and not the mortal office holder that bears the capacity to speak in good or bad faith. It is the tongue that carries an arcane mandate. This idea of an institutional hieratism troubles all manner of offices but it mattered and continues to matter more to lawyers and, particularly, to common lawyers. It permeates at every level and confuses any attempt to fully provide for a secular institutional office in more recent times.

The language of office and the mystical structure with which it imbues the institution can be addressed in relation to what occurs within the legal academy and among legal scholars. In an articulate chastisement of critical legal theorists, David Saunders urges us not to forget the space carved out within the history of western statism for a normative ethics based on non or anti-Christian foundations. Critical legal theorists, he suggests, have received and ingested social theory all too greedily. Such a reception of theory from outside the parameters of law and legal discourse blinds the legal academy to all that which might be considered beneficent within law. The history of law is replete with positive moments and allusions to the ideal structures best suited to the good governance of contemporary society. It provides an account for the ideal presentation of a well-ordered way of life. Furthermore, Saunders argues, critics of the law, particularly critical legal scholars, are anti-legists and, as such, are heirs to and partake of a specifically Christian inheritance (as the antinomian religion). As a corrective, Saunders turns his attention towards the question of the office, to the beneficence of its conduct and manners. The striking feature of the article, however, is exactly the feature that it shares with those critics and theorists of the law (whether anti-nomian or orthodox), namely that it cannot but avoid adopting a non secular and, in this case, specifically Christian, posture. First, the goals of state-centred law, its institutions and offices, are directed towards some salvific purpose. Whether it is the well-ordered state of civic life or peaceful relations within and among the international community, there is an *œconomia* of purpose, a household plan, a divined pattern that needs to be established for law to institute itself.

The second point revolves more specifically around the idea of eloquence. The very language used to account for a secular normative tradition is itself mystically imbued. The office of the legal scholar, both critic and apologist, involves a form of eloquence that is more than simply persuasive. It is an office filled by *magisters* and, whether they enjoy it or not, such *magisters* have their own attendant disciples who carry and care for the words and

structure and ethos of the magister. There is no escape from the hieratic nature of the institution. What determines our office is that we transmit, some more magisterially than others, an esoteric and, at times, obscene form of knowledge. More than this, however, the eloquence of the legal scholar is such that she or he is able is able to open up a vista or a vision. It matters little whether this vision is a totalising theory or a partial glimpse. What is involved in all forms of argumentation is the act of spitting on the ground, making mud out of saliva, to open the eyes of the blind. By creating worlds from dust and by inextricably imitating Christ’s own ministerial office, we are simply emblematic. And, in inhabiting a style of language that allows us to transmit and, it is hoped, to be received, we are no more than tongues. The task, critical or juridical, is to establish the terms of a public language that carries with it and reflects the ethical norms best suited to an active participation in civic life.