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**Reading Satire in *The Lawes Resolutions of Womens Rights* (1632)**

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*Herin Han Norris  
Doctoral Candidate (English), Magdalen College, Oxford*





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The Bernard and Audre Rapoport Center for Human Rights and Justice  
at The University of Texas School of Law  
727 E. Dean Keeton St.  
Austin, TX 78705  
<https://law.utexas.edu/humanrights/>

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## **ABSTRACT**

*The Lawes Resolutions of Womens Rights* (1632) is the first English treatise dedicated to expounding the legal concerns of women. In scholarship on early modern women's legal status and property rights it is routinely cited as an authority and interpreted either as a guide for female litigants or resource for students at the Inns. This essay departs from these readings by offering a literary analysis of the treatise attentive to its formal ambiguities, stylistic idiosyncrasies and generic affinities with Erasmus's *Encomium matrimonii* (1518), its defence (1519) and the *Praise of Folly* (1551). It argues that *The Lawes Resolutions* is best understood as a work of humanist satire written in *serio ludere*, belonging to the Renaissance tradition of mock-encomiastic prose. Rather than undermining the treatise's informative value, it argues that its contents are more fully appreciated and properly understood within a literary humanist context where style is integral to argument.

## **BIOGRAPHY**

Herin Han Norris is a doctoral candidate in the English Faculty at Magdalen College, Oxford, writing about the interrelation of literary form and legal thought. Her thesis considers how an emerging conception of women's chastity as personal property in sixteenth century England stylistically transformed poetic and dramatic fictions of the 'female voice' in Renaissance verse and drama. It is supported by the AHRC, Clarendon Fund and Magdalen College. Before beginning this research, she read for a BA in English at UCL and an M.St. in English (1550-1700) at Merton College, Oxford.

## Reading Satire in *The Lawes Resolutions of Womens Rights* (1632)

*The Lawes Resolutions of Womens Rights: Or, The Lawes Provision for Woemen* (1632) is the first English treatise dedicated to expounding the legal concerns of women.<sup>1</sup> It contains, as its subtitle states, a ‘Methodicall Collection of Such Statutes and Customes, ... Cases, Opinions, Arguments and points of Learning in the Law, as doe properly concerne Women’, indexed by a ‘compendious table’ for ease of use. It is ubiquitously cited as an authority in historical and literary scholarship on the legal rights and experiences of women in early modern England. The book’s reception as an authority has, however, been divided in regard to its intended readership and purpose. Some scholars, taking its running title of ‘The Womans Lawyer’ more seriously, have suggested that it served as a handbook for female litigants navigating the common law; it appears on Suzanne Hull’s ‘Basic List of Books for Women, 1475-1640’ and is elsewhere discussed by comparison to courtesy books for women.<sup>2</sup> Others, noting its inclusion of obsolete statutes and points of legal scholarship, its unglossed references to Latin terms and maxims, as well as its omission of a discussion of suits in Chancery and the Common Pleas, have persuasively argued that it was more likely compiled for circulation among students at the Inns of Court.<sup>3</sup> Whether didactic or pedagogical, the reception of *The Lawes Resolutions* as a legal authority stands to reason: its unnamed author promises and certainly provides an extensive review of women’s common law concerns. However, this is also not the full picture. This essay proposes an alternative reading of this widely cited but generically misunderstood treatise. Specifically, I argue that a literary reading attentive to its stylistic ambiguities reveals that something else is fundamentally at play, which has thus far been overlooked in historical and literary scholarship: that *The Lawes Resolutions* is essentially a work of humanist satire written in *serio ludere* and belonging to the Renaissance tradition of mock-encomiastic prose.

In a postscript to his argument that the most likely readers of *The Lawes Resolutions* were students at the Inns of Court, Wilfrid Prest observed, but left unexamined, the ‘surprisingly lively, even

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<sup>1</sup> I am grateful to my doctoral supervisor, Professor Lorna Hutson, for her illuminating comments on an earlier version of this essay. I would also like to thank the AHRC, Clarendon Fund and Magdalen College for supporting the thesis from which this essay is drawn.

<sup>2</sup> Suzanne Hull, *Chaste, Silent & Obedient: English Books for Women, 1475-1640* (Huntington Library, 1982), 166. See also Joan Larsen Klein, *Daughters, Wives and Widows: Writings by Men about Women and Marriage in England, 1500-1640* (University of Illinois Press, 1992), 28.; and Mary Polito in “Wit, Will and Governance in Early Modern Legal Literature: Literature and Law,” *Mosaic (Winnipeg)* 27, no. 4 (1994): 16. Klein compares the *The Lawes Resolutions* to courtesy books for women, referring to its author as an ‘advocate for women’, while Polito contends that it addressed the daughters, wives and widows of propertied men, furnishing them with ‘knowledge about their own position in the law so that they might ... protect themselves and their estates’, and compares the treatise to conduct books for women.

<sup>3</sup> Wilfrid Prest, “Law and Women’s Rights in Early Modern England,” *The Seventeenth Century* 6, no. 2 (1991): 176-181. For a discussion of the scale of female litigation in the Westminster courts see Tim Stretton, *Women Waging Law* (Cambridge University Press, 1998), 39-40. Stretton notes that the court of Chancery is the most frequently associated with female litigation, and that they were involved in a greater proportion of suits in the Common Pleas than previously estimated. Cf. Christopher Brooks, *Pettyfoggers and Vipers of the Commonwealth: The “Lower Branch” of the Legal Profession in Early Modern England* (Cambridge University Press, 1986), 281-3.

entertaining' tone of the book, resulting from 'asides, anecdotes, jokes and picturesque illustrations' that 'enliven the technical legal exposition'.<sup>4</sup> More recently, his detection of the author's playful style was taken up by Helen Barker who warned against relying on *The Lawes Resolutions* as a legal authority, arguing instead for its publication as an opportunistic trade book.<sup>5</sup> Prest and Barker rightly interrogate assumptions about the scope and readership of *The Lawes Resolutions*, but their analyses of its formal peculiarities do not go far enough. For in addition to clarifying doubts about its readership and scope, reading the treatise within its literary humanist context where *style is integral to argument* has the potential to illuminate its underlying meaning and subtle effects, which in many cases prove wholly antithetical to critical claims about the author's proto-feminist leanings.

That we should question the reception of *The Lawes Resolutions* as a legal authority is immediately implied by its unusual biographical structure. While adhering to certain conventions of contemporary law books in print (for instance, through the inclusion of a 'compendious Table' of subjects in alphabetical order, common to abridgements and reports for pedagogical ease of use), the author arranges its contents according to the chronological progression of a stock woman's life from childhood to widowhood, addressing her most salient legal concerns along the way. Book I, for instance, discusses legal procedures concerning inheritance and the end of wardship; Book II details the process of her betrothal, sponsion, marriage as well as the handling of her dower; Book III outlines the implications of her status as *feme covert*; while Books IV and V conclude with the legal considerations of widowhood and remarriage. Notes on rape and ravishment laws are appended latterly, as events with the potential to disrupt the legal trajectory of this stock woman's life.<sup>6</sup> Connecting the various legal phases of her life are colourful vignettes that tie the books together into an extended plot. Book IV, for instance, transitions into Book V by describing the woman's experiences after the death of her first husband, with the author explaining that not long after

The widdow married againe to her owne great liking, though not with applause of most friends and acquaintances. But alas what would they have her to have done, she was faire, young, rich, gracious in her carriage, and so well became her mourning apparrell, that when shee went to Church on Sundays, the casements opened of their owne accord on both sides the streets, that bachelours and

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<sup>4</sup> Prest, "Law and Women's Rights in Early Modern England," 181.

<sup>5</sup> Helen Barker, *Rape in Early Modern England: Law, History and Criticism* (Palgrave, 2021), 91; 101-116.

<sup>6</sup> Stretton suggests that the structure of *The Lawes Resolutions* reflects the particular importance of women's legal status as either maids, wives or widows; see *Women Waging Law in Elizabethan England*, 103. Cf. Lotte Fikkers, 'The Self-Portrayal of Widows in the Early Modern English Courts of Law' in *The Oxford Handbook of Early Modern Women's Writing in English, 1540-1700*, eds. Danielle Clarke, Sarah C. E. Ross, Elizabeth Scott-Baumann, 305-7. Fikkers notes the inappropriate rigidity of this tripartite model in practice, pointing to evidence of women's legal status being determined not just by marital status, but a variety of factors that enabled female litigants to rely on different legal personas depending on the case.

widdowers might behold her. ... Her late husbands Physitian, came and visited her often; The lawyer to whom shee went for councell, tooke opportunity to advise for himself. ... To set mens harts and her owne at rest, shee chuse amongst them, one not of the long robe, not a man macerate and dried up with study, but a gallant gulburd lad.<sup>7</sup>

The treatise is interspersed with similarly ludic vignettes that produce a tone of gentle mockery throughout. Here, irony partly unfolds at the expense of the book's most likely readership of students and legal professionals through emphasis on the widow's disdain for men of the 'long robe' and those 'macerate and dried up with study'.<sup>8</sup> But by mocking the lawyer's duplicitous intentions in counselling the widow himself, the author also gestures to the ambiguity of *The Lawes Resolutions* itself, which under its running title of 'The Womans Lawyer' similarly mingles advice in respect of widows' property rights with undercurrents of lewd insinuation. In this respect, the brevity of the woman's status as *feme sole* is a further point of amusement that draws on stereotypes of widows as highly litigious and prone to swift remarriage—a commonplace exemplified.<sup>9</sup> As Tim Stretton has shown, widows were the most common type of female litigant in Elizabethan England, having frequent cause to go to court to secure their interests of dower, jointure and estate, and as their late husbands' executrixes and administratrixes, or active litigants in their own right; in 1560 they constituted nearly half of all female plainants and over five per cent of total litigants in the Court of Requests, Common Pleas and Queen's Bench.<sup>10</sup> The common conception of widows as 'loud, immodest and sexually incontinent' or as 'bad mothers guilty of shaming the memories of their late husbands' was often invoked on the early modern stage, as exemplified in the Cardinal's response to the Duchess of Malfi's promise to remain unwed: 'So most widows say, | But commonly that motion lasts no longer | than the turning of an hourglass: the funeral sermon, | And it, end both together' (1.1.294-7).<sup>11</sup> Sententia or such 'commonly' used expressions recur in Webster's plays; rather than diminishing their 'tragic intensity' as it has sometimes been suggested, they contribute to a 'poetry of everyday, domestic utterance' and, as Erasmus argues in the eleventh method of *De Copia*, are a means of rhetorical

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<sup>7</sup> *The Lawes Resolutions*, 331-2. 'Gulburd' is unglossed in the OED, but likely refers to his fraudulence, from 'gull' in the sense of 'A trick, deception, fraud; a false report', OED "gull (n.3), sense 2."

<sup>8</sup> OED, "long robe (n.)."

<sup>9</sup> As Stretton has argued, widows were the most common female litigants in Elizabethan England who by 1560 represented nearly half of female plainants, or over five per cent of all total litigants, in the Court of Requests, Common Pleas and Queen's Bench. See "Widows at law in Tudor and Stuart England" in *Widowhood in Medieval and Early Modern Europe* (Taylor & Francis: 1999), 251.; *Women Waging Law in Elizabethan England*, 109.

<sup>10</sup> Stretton, *Women Waging Law in Elizabethan England*, 109.

<sup>11</sup> John Webster, *The Duchess of Malfi*, ed. Gibbons (London: Bloomsbury, 2014), 24.

amplification that allows the audience to more vividly imagine the cultural mores and ‘common talk’ of the crowd through which they gained proverbial currency.<sup>12</sup>

The commonplace was also invoked by the legal opponents of widows in the courtroom, prompting writers of advice literature to warn against the potentially ruinous publicity of the law.<sup>13</sup> As Laura Gowing has revealed through analyses of church court records, the credibility of female plainants was closely tied to their reputed chastity—to sexual ‘honesty’ in the sense of an ‘honest woman’ (*OED* 3.b)—so that widows and their lawyers were alert to the threat that such stereotypes of intemperance could pose. For although there were numerous factors that contributed to a woman’s good name, accusations of impropriety could undermine it altogether.<sup>14</sup> Complicating the historical theorisation of women’s legal status according to the strict tripartite structure of maid, wife and widow, Lotte Fikkers has shown how female litigants leaned on different legal personas to achieve their interests, and that stereotypes undermining the credibility of widows in particular necessitated their reliance on alternative strategies of self-representation, prompting them to draw from literary models of the ‘biblical widow’ and ‘eternal wife’.<sup>15</sup> That *The Lawes Resolutions* was not intended as a handbook for female litigants, nearly half of whom were widows in the later sixteenth century, is thus implied by these narrative vignettes in which the very stereotypes that relicts were careful to keep at arm’s length are foregrounded to comic effect. The resulting combination of light mockery and legal instruction is perceptible at other transitional moments in the book. The narrative of the stock woman’s life is often abruptly redirected to meet the treatise’s pedagogical demands. For instance, to introduce some of the ways in which a widow might bring an appeal following the death of her husband, the author tells us that ‘Within lesse than a yeere’ of her marriage to the ‘gulburd lad’,

the bags were all empty, the plate was all at pawne all to keep the square bones in their amble, to relieue Companions; One of which notwithstanding, that had cost him many a pound, for none other quarrell, but *vous metes* challenged him one day into the field, which was appointed, and there my new married man was slaine; Now his wife will bring her Appeale.<sup>16</sup>

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<sup>12</sup> Webster, *The Devil’s Law-Case*, ed. Brennan, xxiii.; Ibid, *The Duchess of Malfi and Other Plays*, ed. René Weis, (Oxford: Oxford University Press, 1996), xxiv.; Desiderius Erasmus, *On Copia of Words and Ideas*, eds. King and Rix (Milwaukee: Marquette University Press, 1963), 67-8.

<sup>13</sup> Stretton, ‘Widows at law in Tudor and Stuart England’, 197; 205.; Juan Luis Vives’s *A Very Fruteful and Pleasant Boke Callyd the Instruction of a Christen Woman*, trans. Richard Hyrde (London: 1541), ff. 140r-v [*sic* 138r-v].

<sup>14</sup> Gowing, *Common Bodies: Women, Touch and Power in Seventeenth-century England* (Yale University Press: 2003) 82-110.; Martin Ingram, *Church Courts, Sex and Marriage in England, 1570-1640* (Cambridge University Press, 1988), 300-302.

<sup>15</sup> Fikkers, ‘The Self-Portrayal of Widows in the Early Modern English Courts of Law’, 309-16.

<sup>16</sup> *The Lawes Resolutions of Womens Rights*, 332.

The narrative materials of *The Lawes Resolutions* are, in other words, callously corralled and brusquely rearranged to satisfy its instructional purpose, and it is at these junctures that the peculiar combination of learning and jest is most apparent. An interesting parallel also emerges between the subdual of the author's narrative to the requirements of legal scholarship, and what Gordon Teskey has described as the 'textualizing violence' of allegorical writing. 'The more powerful the allegory', Teskey writes, 'the more openly violent the moments in which the materials of narrative are shown being actively subdued for the purpose of raising a structure of meaning'.<sup>17</sup> In *The Lawes Resolutions*, this ultimate structure of meaning is not allegorical, but instructional; and the subjection of its narrative conceit to that end conveys, at such crucial moments, a sense of the imagined woman's signifiatory 'capture'. Her sudden narrative redirection, as with the murder of her second husband giving her cause to appeal, recalls Teskey's description of allegory's power 'to seize and tear'. For although she is not quite 'captured in order to mean' in a symbolic sense, as he argues that Dante's Francesca Da Rimini and Beatrice are, she is repeatedly seized and reoriented to advance the author's promise of legal learning.<sup>18</sup> Nowhere is this capture or ravishment more clearly pronounced than in the transition from Book I to II where the author writes

Now that I haue brought vp a Woman, and made her an Inheritrix, taken her out of Ward, helped her to make partition, &c. me thinks she should long to be married: *Foemina appetit virum, sicut materia formam*, And I did not meane when I begun, to produce any Vestall Virgin, Nunne, or new Saint *Bridget*. Following therefore my first intention, I will begin to instruct Women growne first such as are, or shortly shall be Wiues, and then Widdowes.<sup>19</sup>

The allusion to Aristotle's hypothetical opposition between matter as feminine and form as masculine is truncated to simply mean 'matter desires form, as the female desires the male'.<sup>20</sup> In addition to invoking a symbolic system in which a masculine formal order is impressed upon feminine narrative matter to meet the treatise's pedagogical aims, the imposition of that very order literalises the analogy by requiring the woman to 'long to be married'. There is, in other words, a process of double seizure at play—firstly in terms of her narrative subjection, and secondly in the diegetic outcome of that subjection as the imposition of a sexual requirement, which then enables the author to expound the laws, customs and statutes pertaining to the subject of marriage.

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<sup>17</sup> Gordon Teskey, *Allegory and Violence* (Cornell University Press: 1996), 23-4.

<sup>18</sup> *Ibid*, 18; 23-5.

<sup>19</sup> *Ibid*, 23.; *The Lawes Resolutions*, 51.

<sup>20</sup> 'If we are to regard matter as the female desiring the male or the foul desiring the fair, the desire must be attributed not to the foulness itself, as such, but to a subject that is foul or female incidentally.' Aristotle, *Physics*, trans. Cornford and Wicksteed (Harvard University Press: 1929), 192a23, 1.9, 21.

To properly contextualise the narrative structure and serio-ludic style of *The Lawes Resolutions* however, we must consider its prefatory materials. Pre-emptively excusing any inaccuracies contained in the text, one I.L. writes in the ‘Preface to the Reader’ that ‘The Act is crowned by the End, which was this, A publique advantage and peculiar Service to that Sexe generally beloved, and by the Author had in venerable estimation’.<sup>21</sup> We are told, in other words, that the primary ‘End’ of the author’s efforts in compiling and publishing the collection is to facilitate the study of women’s legal concerns. Yet, through his mingling of praise and gentle mockery of ‘that Sexe generally beloved’, the author gestures to the ambiguous duplicity at the heart of his endeavour and invites us to question how seriously we ought to take his professed objective as the advancement of learning alone. The doubling of courtesy and indecorous insinuation is registered in his description of women as held by the author in ‘venerable estimation’, which plays on the etymological conjunction of the Latin *veneror* (‘to revere, worship, or hold in high esteem’) and *Veneris* or *Venus*, associated with the female body, fertility and desire. This doubleness is further echoed by the author of the second preface, one T.E., who writes that

the subject, is, *The Lawes Resolutions of Womens Rights*; which comprehends all our Lawes concerning Women, either Children in government or nurture of their Parents or Gardians, Mayds, Wives, and Widows, and their goods, inheritances, and other estates. It is profitable and usefull Learning to be well knowne. I am sure it will please all them whose actions are guided *virtutis amore*, and offend none but those ill manners, who can have no other antidote made them, then *formidine poenae*. [Regarding] oversights or neglects that thou maist impose upon the Printer or mee ... thou shalt have thanks to supply or amend, which is all I expected ... and perhaps thou maist have a better reward; for the old Adage is true, *pretium non vile laboris*.<sup>22</sup>

This suggestion that the book will please those guided by the love of virtue and offend only those inhibited by the fear of punishment echoes Bracton’s preface to *On the Laws and Customs of England*, in which he asserts his ‘general intention’ to make ‘the expert more expert, the bad good and the good better,’ according to commonplace that ‘Good men hate to err from love of virtue; The wicked from fear of pain.’<sup>23</sup> Important to note is that in both Bracton and *The Lawes Resolutions*, these lines allude to Book I of Horace’s *Epistles*.<sup>24</sup> But where Bracton quotes the Roman poet to stress the moral aims of his undertaking, the author of this preface gestures to the treatise’s participation in the satirical tradition to which the *Epistles* also belong.

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<sup>21</sup> ‘Preface to the Reader,’ *The Lawes Resolutions*.

<sup>22</sup> ‘To the Reader,’ *The Lawes Resolutions*.

<sup>23</sup> Henry de Bracton, *On the Laws and Customs of England*, vol. 2, trans. Samuel E. Thorne, (Harvard University Press, 1968), 19.

<sup>24</sup> Horace, *Epistles*, trans. Rushton (Harvard University Press, 1926), I.XVI.52-3, 355.

The ‘old Adage’ that he subsequently recalls, ‘*pretium non vile laboris*’ (‘the reward is not unworthy of the labour’ or ‘no slight reward for your efforts’) further underscores this by alluding to Ovid’s ‘*Heroides XVIII*’ in which Leander describes his arduous journey across the Hellespont to Hero:

Saepe per adsiduos languent mea bracchia motus,  
vixque per immensas fessa trahuntur aquas.  
his ego cum dixi: “*pretium non vile laboris*,  
iam dominae vobis colla tenenda dabo.”

[Often my arms grow heavy from the unceasing motion, and I can scarcely drag myself through the vast waters. When I tell them: ‘No slight reward for toil shall be yours, for soon you will have your lady’s neck to hold. ]<sup>25</sup>

Equally plausible is the author’s allusion to Claudian’s ‘*Epithalamium De Nupis Honorii Augusti*,’ a poem in praise of the marriage of the emperor Honorius and Maria, daughter of Stilicho. Clearly imitating Ovid’s description of Leander’s journey across the strait, Claudian writes:

pelagi sub fluctibus ibat  
Carpathiis Triton obluctantemque petebat  
Cymothoën. timet illa ferum seseque sequenti  
subripit et duris elabatur uda lacertis.  
“heus,” inquit speculatus Amor, “non vestra sub imis  
furta tegi potuere vadis. accingere nostrum  
vecturus dominam: *pretium non vile laboris*  
Cymothoën facilem, quae nunc detrectat.”

[Triton was swimming beneath the Carpathian waves, chasing Cymothoë who struggled against him. He is fierce and she fears him, tearing herself away from her pursuer, slipping and gliding through his strong arms. Love, who was watching, said ‘Stop! You cannot hide your amours from the deep. Prepare yourself to carry our mistress. For this labour, you will have no small reward: Cymothoë who will be permissive, though she resists you now.’ ]<sup>26</sup>

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<sup>25</sup> Ovid, *Heroides*, trans. Showerman, (Harvard University Press, 1977), XVIII.161-4, 254. My emphasis.

<sup>26</sup> Claudian, ‘*Epithalamium De Nupis Honorii Augusti*,’ trans. Platnauer (William Heinemann, 1922), 136-143, 525. Translated with the help of Melina McClure. My emphasis.

A seemingly decorous adage on the merits of hard work in advancing the study of women's legal causes, upon closer inspection, belies a teasing allusion to the Ovidian sea-chase. The reference to 'Heroides XVIII' in particular would have been recognisable to students trained in the rhetorical arts per grammar school curricula. As Lynn Enterline has discussed, one of the fourteen *progymnasmata* or preliminary exercises prescribed to schoolboys from Aphthonius's rhetorical textbook required the invention of 'ethopoeic' speeches in 'imitation of the character of a proposed speaker', which often drew from Ovid's verse epistles.<sup>27</sup> Similarly well-known were Claudian's poems, which as Victoria Moul has discussed, were not only a staple of the medieval classroom in the popular school reader, the *Liber Catonis*, but were also prevalent in early modern commonplace books and classical anthologies, becoming highly influential in the formal development of political panegyric verse in early modern England.<sup>28</sup>

The question remains, however, as to why the authors of *The Lawes Resolutions* would compose such an extensive treatise, replete with detailed examinations of statutes, customs, and cases from the thirteenth century onwards, claiming to take seriously the advancement of women's legal causes as an object of study, while mocking the subject at every turn. Simultaneously commending and finding humour in their stated objective, the authors create an ironic double voice that is, however, precisely the point: for the treatise belongs to the Renaissance tradition of mock-encomiastic satire, whereby a subject held in lower esteem is paradoxically commended at length. Written in *serio ludere*, paradoxical encomia were intended to entertain an audience sufficiently learned to understand and find humour in the work.<sup>29</sup> Particularly influential to *The Lawes Resolutions* seem to have been the mock-encomiastic writings of Erasmus, including the *Encomium matrimonii* (1518), the 'Defence of the Declamation on Marriage' (1519) and *The Praise of Folly* (1551). The preface to this latter work in which Erasmus addresses Sir Thomas More emphasises, for instance, the value of intellectual play, made all the more delightful by the author's skilful and seemingly effortless display of rhetorical learning. He writes

No one would think so well of this *jeu d'esprit* of mine as you, because you always take such delight in jokes of this kind, that is, if I don't flatter myself, those which aren't lacking in learning and wit. ... How unjust it is to allow every other walk of life its relaxations but none at all to learning, especially when trifling may lead to something more serious! Jokes can be handled in such a way

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<sup>27</sup> Lynn Enterline, *Shakespeare's Schoolroom: Rhetoric, Discipline, Emotion* (University of Pennsylvania Press, 2016), 115.

<sup>28</sup> Victoria Moul, "England's Stilicho: Claudian's Political Poetry in Early Modern England," *International Journal of the Classical Tradition* 28, no. 1 (2021): 25.

<sup>29</sup> Rosalie Colie, *Paradoxia Epidemica: The Renaissance Tradition of Paradox* (Princeton University Press, 1966), 5.

that any reader who is not altogether lacking in discernment can scent something far more rewarding in them.<sup>30</sup>

Paradoxical encomia are duplicitous and gesture to this at the outset. When positioned within a literary, rather than a primarily legal historical context, it becomes possible to notice a series of formal and stylistic echoes between the enormously popular satires of Erasmus, and the far less prominent but extraordinarily learned volume of legal scholarship on an unprecedented theme that was *The Lawes Resolutions*. Just as Folly begins her encomium in a mock-epic mode, declaring herself a descendent of ‘Plautus himself, god of riches’, the authors of *The Lawes Resolutions* introduce Book I in a similarly exalted and ultimately bathetic way.<sup>31</sup> In a much-cited passage from Section II, subtitled ‘The Creation of Man and Woman’, the author produces a retelling of Genesis 1 and 2, in which he summarises in merely twenty lines the first seven days of the creation story, introducing ‘Man, Male and Female’ and repeating God’s instruction to Adam and Eve to ‘multiply and replenish the Earth, & take the joynt soveraigntie over ... Beasts’.<sup>32</sup> He follows this by observing that in the second chapter

*Moses* declareth and expresseth the Creation of Women, which word in good sense, signifieth not the woe of Man as some affirme, but with Man: For so in our hasty pronouncing wée turne the preposition with to Woe. ... And so shée was ordained to bée with man as a helpe, & a companion, because God saw it was not good that Man should bée alone. Then when God brought Woman to Man to bée named by him, hée found straight way that shée was bone of his bones, flesh of his flesh.<sup>33</sup>

The immediate juxtaposition of high and low, of the sublimity of Genesis with an etymological disambiguation that plays with the idea of women as the woe of men, is jarring—but it is also typical of rhetorical paradoxes. What the author highlights through this yoking together of antithetical extremes is the self-conscious incongruity of the treatise as a whole—that is to say, of the task of producing extensive volumes of legal scholarship on the subject of women’s legal disputes. The logic of this incongruity requires familiarity with the tradition of paradoxical praise, or of the ‘world turned upside down’. For it is important to acknowledge that we are dealing with a symbolic system in which the aspirations of ‘man’ to spirituality and erudition are mocked and inverted through their association with what Mikhail Bakhtin described as ‘the lower bodily stratum’ (encompassing all that is connected to birth and death, or sex and becoming) so that within this inverted symbolic order, ‘woman’ comes to represent the carnivalesque mockery of the

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<sup>30</sup> Erasmus, *The Praise of Folly and Other Writings*, trans. Adams (Norton, 1989), 56-60.

<sup>31</sup> *Ibid.*, 10.

<sup>32</sup> *The Lawes Resolutions*, 3.

<sup>33</sup> *Ibid.*, 4.

intellectual pretensions of humanity as ‘man’.<sup>34</sup> Thus, the premise of *The Lawes Resolutions* is implicitly ironised as a contradiction throughout, where humanist rhetoric and legal erudition meet matter that weighs down form. As in *The Praise of Folly*, women are symbolically associated with man’s carnivalesque in ways that undermine the idealising discourse and intellectual ambitions of humanist encomia. Returning for a moment to the title page of *The Lawes Resolutions*, it is worth observing that its subheading qualifies the work as the ‘Lawes Provision for Woemen’. In light of the author’s considerable efforts to differentiate between these spellings at the beginning of Book I, simultaneously eschewing and teasingly calling to mind the pseudo-etymology of women as the ‘woe of Man’, the inclusion of both forms on the cover stands out as a deliberate jest and indication of the satirically paradoxical contents within.

Erasmus’s *Encomium matrimonii* (1518), printed as part of *De conscribendis epistolis* in 1522 as an exemplary letter of persuasion, offers a further point of stylistic comparison that illuminates some of the generic and tonal ambiguities of *The Lawes Resolutions*. Written for the amusement of Erasmus’s pupil, Lord Mountjoy, the letter attempts to persuade a friend to ‘renounce the single state, a barren way of life’ and ‘surrender [himself] to holy wedlock’.<sup>35</sup> Among its opening arguments is a similarly bathetic evocation of Genesis, whereby Erasmus declares that ‘In the beginning, when he created man out of clay, God realized that man’s life would be thoroughly unhappy and unpleasant unless he joined Eve to him’, and that he brought woman ‘out of Adam’s ribs, so that we might clearly understand that nothing should be dearer to us, nothing more closely joined, nothing more tightly glued to us than a wife’.<sup>36</sup> Rather than highlighting the author’s belief in scripture as ‘the law’s ultimate authority’ or reflecting its generic alignment with courtesy books for women as some readers have argued, serio-ludic accounts of Genesis in *The Lawes Resolutions*, signal its participation in the paradoxical style of mock-encomiastic prose.<sup>37</sup>

Erasmus’s encomium was ill-received at Louvain where it was condemned by Jan Briart as an attack against clerical celibacy, prompting him to write his ‘Defence of the Declamation on Marriage’ or *Apologia pro declamatione matrimonii* (1519).<sup>38</sup> His response relied on the largely unassailable premise that the encomium was written, first and foremost, as an exercise in epistolary rhetoric, and that, as such, it should not be misconstrued as evidence of personal conviction, for its primary purpose was to contribute to the advancement of oratorical instruction. He asks

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<sup>34</sup> Bakhtin, *Rabelais and His World*, trans. Iswolsky, (Bloomington: Indiana University Press, 1984), 409-420.

<sup>35</sup> Desiderius Erasmus, “An example of a letter of persuasion,” in *De Conscribendis Epistolis*, in *Collected Works of Erasmus: Literary and Educational Writings 3*, vol. 25, ed. Sowards, trans. Fantazzi (Toronto: University of Toronto Press, 1985), 130.

<sup>36</sup> *Ibid*, 130.

<sup>37</sup> Klein, *Daughters, Wives and Widows*, 28.

<sup>38</sup> Erasmus, “An example of a letter of persuasion’, 528-9.

When I call it a declamation, for that is what it is, does not that very title sufficiently exempt me from all risk, even if throughout the whole book I had preferred marriage to celibacy? Who is not aware that declamations deal with imaginary subjects for the purposes of exercising one's ingenuity? ... Whoever professes to give a declamation disclaims all responsibility for the opinions stated; thus one's ability may be at stake but not one's credibility.<sup>39</sup>

Erasmus repeatedly returns to this argument that the encomium was written as an exemplary letter and not a *concio sacra*—a distinction he claims that ‘the prudent reader’, unlike Briart, should be able to recognise.<sup>40</sup> According to this exculpatory logic, impressions of sincere expression attest to the success of that rhetorical fiction in ways that also recall Quintilian's argument, later echoed by Erasmus in his discussion of the power of circumstances to produce vivid and credible speech, that truly persuasive oratory proceeds from simulating personal conviction: the orator must firstly assimilate himself to the emotions of those for whom he speaks in order to seem ‘not so much to be talking about something as exhibiting it’ (6.2.27).<sup>41</sup> Even when arguing that the *Encomium matrimonii* was written many years ago, and that it should not therefore be read as evidence of present opinion, Erasmus returns to this rhetorical defence of learning as requiring freedom of expression without danger of disrepute; for his intention in publishing the letter years later, he claims, is to ‘provide young men with a sample of [his] youthful writing’ so that in ‘treating similar arguments they might exercise their writing ability and their inventiveness’.<sup>42</sup> The apology thus adumbrates the arguments of I. L. and T. E. in the preface and letter to the reader of *The Lawes Resolutions* respectively, in which they pre-emptively defend the treatise on grounds of its pedagogical value. T. E., for instance, distances himself from its contents not just by denying all knowledge of its author and his intentions, but by defending its contents precisely for their instructional value. Before declaring its contents as offering ‘profitable and usefull Learning to be well knowne’, he writes that ‘if for no other consideration then to make this scattered part of Learning, in the great Volumes of the Common-Law-Bookes, and there darkly described, to be one entyre body, and more ready, and clearer to the view of the Reader, his love deserves thanks, and his endeavours kinde acceptance’.<sup>43</sup> This should not be read, however, as indicative of T. E.'s commitment to the dissemination of legal knowledge among lay readers, including women. For

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<sup>39</sup> Erasmus, ‘The Defence of the Declamation on Marriage’ in *Controversies*, 91-2.

<sup>40</sup> Ibid, 93-4. See also Fantazzi, “Notes to Pages 129-130” in the *Collected Works of Erasmus: Literary and Educational Writings 3*, 528-9.

<sup>41</sup> ‘*Quare, in iis quae esse veri similia volumus, simus ipsi similes eorum qui vere patiuntur adfectibus, et a tali animo proficiscatur oratio qualem facere iudici volet. ... Primum est igitur ut apud nos valeant ea quae valere apud iudicem volumus, adficiamurque antequam adficere conemur*’ in Quintilian, *The Orator's Education*, 6.2.27-9 trans. Russell, 59.; Erasmus, *De Copia*, 57. On the importance of the orator feeling the emotions he wishes to impart, see also Aristotle, *Poetics* 17 (1455a29-34); Horace, *Ars Poetica* 101-7, Cicero, *De Oratore* 2.189.

<sup>42</sup> Erasmus, *Collected Works of Erasmus: Controversies*, vol. 71, 91.

<sup>43</sup> T. E., ‘To the Reader’, *Lawes Resolutions*.

although the publication of *The Lawes Resolutions* occurred during a period in which the printing of common law materials in English was on the rise, this did not necessarily reflect an ideological shift regarding the value of making legal learning ‘ready, and clearer’ to nonspecialists. As Ian Williams has argued, this change more plausibly stemmed from the growing use of English, rather than law-French, in the manuscripts of legal professionals, which printers and booksellers exploited in response to perceived demand. Responsible for that demand might have been the growing numbers of short-term students at the Inns without plans to pursue a legal career.<sup>44</sup> T. E.’s pedagogical defence of *The Lawes Resolutions* should not, therefore, be read as evidence of the author’s desire to make more accessible legal scholarship about women’s material concerns, but as simultaneously in line with a literary humanist tradition of intellectual satire, and attempting to appeal a demographic of nonspecialist customers with an interest in the law.

Similarly, I. L.’s preface to the reader echoes Erasmus’s defence of his encomium on grounds of universal human fallibility through which he redefines the issue as one of reading, rather than writing. The question of why *The Lawes Resolutions* should ‘blushe to shew it selfe’, when ‘To give it as absolute, or free from faults, were to make it more then the Worke of Man, whose incident is error’, recalls in particular Erasmus’s point that ‘just as we fallible human beings may fall into error in writing, so others can err in reproving, seeing that they are men also’, through which he foregrounds Briart’s hermeneutic blunder in failing to recognise and properly respond to his serio-ludic style and mitigating pedagogical aims.<sup>45</sup>

It is important to stress, however, that the pedagogical value of *The Lawes Resolutions* is not diminished by the fact of its satirical mode: mock-learning is still a form of learning, and the treatise certainly contains an impressive and useful display of legal erudition on the subject of women’s property rights.<sup>46</sup> The author of the second preface’s description of its contents as ‘profitable and usefull Learning to be well knowne’ is ironic not because the opposite is true, but because of the incongruity of its form and subject matter within a humanist symbolic order—an incongruity that forms the basis of the author’s stylistic adherence to the characteristically Erasmian combination of learning and jest. Revising the treatise within its proper humanist context can illuminate other elements of the text which have previously been read at face value, rather than as qualities that reflect its stylistic imitation of serio-ludic prose. For instance, the first author’s claim of having produced *The Lawes Resolutions* as the incidental result of ‘Having a Copie there of lying by [him] somtimes, within the Compasse of a Lent vacation,’ during which he ‘pluckt [his] intentions from [his] own course of Studies, and cast them upon this’ represents an attempt to convey

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<sup>44</sup> Ian Williams, ‘Law, Language and the Printing Press in the Reign of Charles I: Explaining the Printing of the Common Law in English’, 344-5.; Wilfrid Prest, *The Inns of Court under Elizabeth and the Early Stuarts, 1590-1640* (Cambridge: 2023), 3.

<sup>45</sup> I. L., ‘To the Reader’, *The Lawes Resolutions*.; Erasmus, *Collected Works of Erasmus: Controversies*, vol. 71, 89.

<sup>46</sup> Although not all of the materials, such as on ravishment laws, are relevant to a seventeenth century legal context and reflect older statutes. See Barker, *Rape in Early Modern England*, 112.

the *sprezzatura* typical of rhetorical paradoxy—that is, to wear his learning lightly, creating an impression of intellectual mastery as something natural and unaffected.<sup>47</sup> Paradoxy is an especially humanist venture in this respect, having naturally emerged through the rediscovery of rhetoric’s potential to achieve vivid and compelling impressions of ‘expressive integrity’ through aptness of style. Whether serio-ludic or casually learned, the paradoxical style of *The Lawes Resolutions* is informed, as Rosalie Colie has argued, by the Renaissance humanist principle that ‘what was said, to be properly understood, must be said in a particularly appropriate way’, or that style was becoming of argument.<sup>48</sup>

Colie’s emphasis on the importance of both ‘proper’ understanding and ‘appropriate’ speech is especially important, for the generic confusion surrounding *The Lawes Resolutions* is primarily due to oversights of style in its reception. The author’s poorly executed *sprezzatura* is worth pausing over in this respect: the implausibility of this detail conceals his efforts to revise, amend, augment and have printed in over four-hundred pages the contents of *The Lawes Resolutions*. The understatement of his efforts seems, in other words, to be almost deliberately unpersuasive—his nonchalance too mannered and heavily worn for readers to believe his ease. The reason for the author’s qualification of his minimal interest in, and attachment to, the subject of women’s legal claims—that is, as incidental to his other studies, or a chance result of a conveniently located collection of notes—is its discrediting effect within a humanist symbolic order where women are relegated to the metaphorical position of man’s carnivalesque. Competing aims of signalling legal erudition, while attempting to distance oneself from mastery of an embarrassing subject result in such an ambivalent preface that simultaneously highlights the author’s intellectual ease, while disavowing all effort. It is this tension at the core of the treatise, its perceived paradoxy, that requires the adoption of a serio-ludic style.

Recognising the treatise as a work of humanist satire is important, not just for identifying its intellectual influences, but for understanding its arguments. Scholars unreceptive to its serio-ludic form have, for instance, interpreted the author’s opening evocation of Genesis as indicative of his ‘feminist leanings’, and construed his speculation of women’s self-perception following coverture—whereby ‘a married Woman perhaps may either doubt whether shee bee either none or no more than halfe a person’—as denoting an interest in issues of gender inequity with ‘disarming frankness’.<sup>49</sup> Recognising style as integral to argument reveals the opposite to be true, however. Rather than presuming authorial sincerity, reading the treatise as a work of serio-ludic satire makes clear some of the way in which its authors appear to sympathise with female litigants while positioning the subject of women’s property rights beneath the

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<sup>47</sup> ‘To the Reader,’ *The Lawes Resolutions*.; Colie, *Paradoxia Epidemica: The Renaissance Tradition of Paradox*, 34.

<sup>48</sup> *Ibid*, 34-5.

<sup>49</sup> Barbara J. Baines, “Effacing Rape in Early Modern Representation,” *ELH* 65, no. 1 (April 1, 1998): 74.

dignity of intellectual pursuit. This is particularly evident in the treatise's discussion of rape and ravishment in the final book, which resumes the narrative conceit, inviting the reader to imagine that the woman

remaineth from henceforth a widdow, giuing her selfe to almes and deeds of charitie, and of this good minde are many of our widdowes, which purpose constantly to loue out the residue of their dayes in a deuout remembrance of their deare husbands departed, to whom perhaps they made vowes neuer to marrie againe after their deaths. But to what purpose is it for women to make vowes, when men haue so many millions of wayes to make them break them: And when sweet words, faire promises, tempting, flattering, swearing, lying will not serue to beguile the poore soule: then with rough handling, violence, and plaine strength of armes, they are ... made prisoners to lusts theeues, than wiues and companions to faithfull honest louers: So drunken are men with their owne lusts, and the poyson of *Ouids* false precept, *Vim licet appellat, vis est ea grata puellis* [Although they call it force, that force is pleasing to girls].<sup>50</sup>

This digression, with its untranslated reference to the claim in Ovid's *Art of Love* that women 'give unwillingly what they like to give' (1.672-4), enfolds the subject of rape and ravishment into a comic narrative which, as Barker notes, is typical of the *querelle de femmes*.<sup>51</sup> The serio-ludic combination of literary allusion and legal instruction characterises the author's subsequent differentiation of the various definitions implied by a charge of ravishment, including either an act of 'brutish concupiscence' that leaves a woman 'where she is found, as in her owne house or bed, as *Lucrece* was', or the removal of a woman—forcible or voluntary ('*volente vel nolente rapta*')—from her family or guardian 'as *Helen* by *Paris*, or as the Sabine women were by the Romans'.<sup>52</sup>

By challenging the critical reception of *The Lawes Resolutions* and arguing for its generic affiliation with the Renaissance tradition of mock-encomiastic prose, it has not been my intention to suggest that the treatise needs disregarding as a legal historical source. Rather, I have sought to show that a literary reading of this ostensibly legal tract is essential for perceiving its satirical representation of women within a humanist symbolic order. In so doing, I have sought to highlight the importance of style to argument, or as Kathy Eden has written in regard to the *familiaritas* achieved by classical and humanist writers, of the 'inseparability of rhetoric and hermeneutics—literary composition and literary interpretation'.<sup>53</sup> Attending to the serio-ludic style of *The Lawes Resolutions* illuminates its engagement with a literary tradition of

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<sup>50</sup> Ibid.

<sup>51</sup> Barker, *Rape in Early Modern England*, 108.

<sup>52</sup> *The Lawes Resolutions*, 377-8.

<sup>53</sup> Kathy Eden, *The Renaissance Rediscovery of Intimacy* (The University of Chicago Press, 2012), 4-5.; Hans-Georg Gadamer, *Philosophical Hermeneutics* (University of California Press, 2008), 25.

intellectual satire and challenges its anachronistic characterisation of its author as an ‘advocate for women’, as well as the claim that it represents one of the earliest efforts to advance the subject of ‘Womens Rights’ (the *OED*, for instance, cites *The Lawes Resolutions* as the first occurrence of the term ‘Women's Rights’ in the sense of ‘Rights possessed by women, esp. as considered to be equal with those of men’).<sup>54</sup> Interpretations of the treatise as precociously interested in the idea of natural rights, and the subjective rights of women in particular, are not only unhistorical but obfuscatory of the author’s mock-encomiastic treatment of women. As Justin Steinberg has observed in his recent discussion on the relationship between women and property in Boccaccio’s *Decameron*, the pervasive application of a ‘universalist and transhistorical conception of human rights’ to a premodern legal and cultural context has been deleterious. Responding to criticism that interprets *novelle* 2.10 and 6.7 as articulating a proto-feminist sensibilities about the importance of subjective natural rights, Steinberg rightly notes that the problem ‘is not that this presentism does violence *to* the text, but that it elides the violence *of* the text’ so that ‘in exchange for validating our progressive values, we are left with a cultural document purged of its problematic tensions and contradictions.’<sup>55</sup> Scholars and critics may find the treatise useful as a collection of legal learning, but it should be cited with caution, neither as a precursor to liberal feminist sensibilities, nor as straightforwardly instructive of the socio-legal status of women’s legal rights in early modern England.

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<sup>54</sup> Klein, *Daughters, Wives and Widows*, 28.; Barker, *Rape in Early Modern England*, 90. In her introduction to a volume of *Essential Works for the Study of Early Modern Women*, Lynne A. Greenberg also refers to it as ‘the first known treatise devoted to the legal rights of women.’ See Greenberg, ‘Introductory Note,’ *Legal Treatises* (Ashgate: 2005), xxiii-xxvii.

<sup>55</sup> Justin Steinberg, *Law and Mimesis in Boccaccio’s Decameron: Realism on Trial* (Cambridge: 2023), 153-4.

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