Seabourne, G. (2017). 'Et Subridet etc.': smiles, laughter and levity in the medieval Year Books. In T. Baker (Ed.), *Law and Society in Later Medieval England and Ireland: Essays in honour of Paul Brand* (pp. 201-224). Routledge. <https://doi.org/10.4324/9781315591520>

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Chapter 11

‘Et Subridet etc.’: smiles, laughter and levity in the medieval Year Books

Gwen Seabourne

According to a report of *W v Robert*, a 1440 Common Pleas debt case,¹ during discussion of procedural issues, one of the judges, William Paston, smiled or laughed: *et subridet etc.* This is far from being the only reference to smiling, laughing or joking in the medieval Year Books.² Such inclusions raise several questions. Perhaps most obviously, we could ask why a judge might have laughed (or smiled) in court. In addition, it is worth considering why such behaviour might have been deemed worthy of mention in a law report. As this paper will seek to demonstrate, such references to smiling and laughter, along with the wider body of apparently ‘light’ or humorous verbal content found in these reports - wordplay, whimsy and jokes - have much to contribute to a variety of areas of scholarship. For the legal historian, they have particular value in illuminating medieval common lawyers’ perceptions of themselves, each other, and their world, while they are also clearly relevant to those working in medieval history and literature, and, more widely in philosophy, psychology and literature, who are engaged in debate about the nature and meanings of smiles, laughter and humour, and their portrayal.

¹ *Seipp* 1440.012; YB Pasch. 18 Hen. VI pl.9 f.10a-11b.

² A number of Year Book reports mention that a judge laughed or smiled, or, less frequently, that a lawyer pleading in court did so. See, e.g., *Seipp* 1306.191rs; YB Mich. 34 Edw. I pl 24, YB 33-5 Edw. I, RS 31 part A vol. 5, 324-7. *Seipp* 1440.012, YB 14 Hen. VI pl. 51, f. 15a-b. *Seipp* 1443.021, CP Hil. 21 Hen. VI pl. 21 f 33b-34a; *Seipp* 1411.003, 12 Hen. IV pl.3 f.12b-13b; *Seipp* 1462.024, YB Trin. 2 Edw. IV pl. 1, f. 10a-10b, *Seipp* 1481.051, YB 21 Edw. IV pl. 20. f. 26a-b; *Seipp* 1443.021, YB Hil. 21 Hen. VI pl. 21 f 33b-34a; Paul Brand, *Observing and Recording the Medieval Bar and Bench at Work; the origins of law reporting in England* (London: Selden Society, 1999), 6-8.

The Year Books, which are to be considered here, include reports of some of the cases argued in the central courts of common law at Westminster, and in other sessions, from the thirteenth to the sixteenth century.³ They do contain inaccuracies, as legal historians are aware.⁴ In addition, even where the reports' text has not become distorted, it is not possible to know whether what appears in the reports represents what was actually said or done in court. While some earlier commentators took the written words more or less at face value,⁵ it is clear that they cannot be taken to represent 'the truth, the whole truth, and nothing but the truth'. Those who made the reports picked and chose between cases, to decide which were worthy of a report at all, and they were at least selective in what they reported in any given case. They may have tidied up or altered for effect what was actually said and done, as we can see from the fact that, in some instances, there are different versions of the same case.⁶ Reporters did not see or present themselves as objective, comprehensive, neutral recorders of cases unfolding before them, feeling free to insert their own queries, criticism and comments.⁷ The implication of all this for this investigation is that, while there is no evidence to suggest that the Year Books comprise deliberate or

³ See, e.g., *EELR I*, introduction; F. W. Maitland, 'Of the Year Books in general', in *Year Books of 1 and 2 Edward II*, SS 17, ix-xx; J.H. Baker, *Introduction to English Legal History*, 4th ed. (London: Butterworths, 2002), 178-82 and 192-3; E.W. Ives, 'The purpose and making of the later Year Books', *LQR* 89 (1972): 64-86, at 64; David J. Seipp, 'The law's many bodies and the manuscript tradition in English legal history', *JLH* 25 (2004): 74-83; Paul Brand, 'Inside the courtroom: lawyers, litigants and justices in England in the later Middle Ages', in *The Moral World of the Law*, ed., Peter Coss (Cambridge: Cambridge University Press, 2000), 91-112, at 92-3.

⁴ This is particularly true of the printed 'black-letter' Year Books: see, e.g., Maitland, 'Of the Year Books', xxi; E.W. Ives, *The Common Lawyers of Pre-Reformation England: Thomas Kebell: A Case Study* (Cambridge: Cambridge University Press, 1983), ch. 7; *EELR I*, cxix-cxx.

⁵ Bolland was confident that 'The words ... come to us straight from life, true to life, true to sound'. W.C. Bolland, *The Year Books* (Cambridge: Cambridge University Press, 1921), 24; Maitland, 'Of the Year Books', xv-xvii; Edward Manson, 'Scenes in court from the Year Books', *LQR* 10 (1894): 63-7, Thomas Lund, *The Creation of the Common Law: The Medieval Year Books Deciphered* (Clark, NJ: The LawBook Exchange, 2015).

⁶ See, e.g., varying versions of the *Waltham Carrier's Case* (1321): two reports have a pithy remark that 'for a cartload of hay, we will not [change the law]', while another has the equivalent speech in more general words: Helen M. Cam, ed., *Eyre of London 1321*, SS 86, 286. See also *EELR I*, 128, 171-2.

⁷ One reporter likens brothers who had settled their dispute to Herod and Pilate: *Seipp* 1284.050ss; *EELR III*, 141-2.

thoroughgoing fiction, we cannot be sure that Paston did smile in a particular case in 1440, or that, if he did, he, or others, did not do so elsewhere without the fact being noted. Nevertheless, it is still worth asking why a judge *might* have done so in such a situation, and also why reporters chose to include such material, alongside the drier aspects of legal rule and procedure.⁸ A point is being made when ‘light’ material is included. This paper will make suggestions as to what the point might have been.

Interpretation of smiles, laughter and levity

The words used for smiles and laughter are the Latin *ridet* and *subridet*, *ridendo* and *subridendo*, and there is occasional use of the related but more loaded *derisus*. There is room for debate on the meaning to be ascribed to the laughter/smiling words: when we read that a judge *ridet* or *subridet*, are we to imagine smiling (of a natural ‘Duchenne’ type, or the ‘non-Duchenne’ aggressive smile), chuckling, laughing, guffawing or something else, and what mood or emotion is to be understood as having prompted this behaviour? It is generally agreed that feelings behind smiles and laughter may range from nervousness to merriment to aggression.⁹ It is important to be alive to the very different ways in which these words can be read.

⁸ See Brand, *Observing and Recording*, 9-21; *EELR I*, introduction. Note also that this article will proceed on the basis of the spirited case for using the printed Year Books in legal historical research made in Seipp, ‘The law’s many bodies’, 74-83.

⁹ See Brand, ‘Inside the courtroom’, 105. Interpretations of smiles and laughter, medieval and modern, have been offered by those working in several different areas. See, e.g., Jacques Le Goff, ‘Rire au moyen age’, *Cahiers de centre de recherches historiques [En ligne]* 3 (1989), <http://ccrh.revues.org/2918> at 12; Colin Jones, *The Smile Revolution in Eighteenth Century Paris* (Oxford: Oxford University Press, 2014), 3; Lucy Perry and Alexander Schwarz, eds., *Behaving Like Fools: voice, gesture and laughter in texts, manuscripts and early books* (Turnhout: Brepols, 2012); D-R Moser, ‘Lachkultur des Mittelalters?’: Michael Bachtin und die Folgen seiner Theorie’, *Euphorion: Zeitschrift für Literaturgeschichte* 84 (1990): 89-111; Albrecht Classen, ed., *Laughter in the Middle Ages and Early Modern Times: epistemology of a fundamental human behavior, its meaning and consequences* (Berlin: De Gruyter, 2010); Siegrid Schmidt, ‘Sebastian Brant’s Ship of Fools and its woodcuts’, in Perry et al., *Behaving like fools*, 91; Paul Ekman and Wallace V. Friesen, ‘Felt, false and miserable smiles’, *Journal of nonverbal behavior* 6 (1982): 238-52; Jon E. Roenneklein, *The psychology of humor: a reference guide and annotated bibliography* (Westport, CT: Greenwood Press, 2002); Joseph Polimeni and Jeffrey P. Reiss, ‘The first joke: exploring the evolutionary origins of humor’, *Evolutionary Psychology* 4 (2006): 347-66; Jerry Palmer, *Taking Humour Seriously* (London:

These laughter/smiling terms are set down in Latin, in contrast to the usual Anglo-Norman French of the rest of the report. Although this linguistic change is not peculiar to comments on smiles and laughter, since other ‘stage directions’ and summarised speech, as well as queries and comments by the reporter are also rendered in Latin,¹⁰ it is significant. Movement between languages in a variety of medieval texts has been the subject of considerable interest in recent years, and a deliberate design behind this ‘code switching’ has often been suggested. In the context of the Year Book reports, this linguistic change both draws attention to the content after the ‘switch’, and also emphasises the participation, the selection of the reporter, separating the report into two distinct (sets of) voices: the participating lawyers and judges (who are reported speaking in French) and the Latin-writing reporter.¹¹

As well as the ‘stage directions’ for smiling or laughter, the reports contain a number of apparently humorous remarks said to have been made, usually by judges, during the course of a case: an array of witticisms, word-play, jokes and sarcastic put-downs.¹² Although this ‘verbal humour’ category is more difficult to delineate than

Routledge, 1994); Lothar Fietz, Joerg O. Fichte and Hans-Werner Ludwig, eds., *Semiotik, Rhetorik und Soziologie des Lachens* (Tübingen: Max Niemeyer, 1996); John Morreall, *Comic Relief* (Oxford: Wiley-Blackwell, 2009); R.L. Coser, ‘Laughter among colleagues’, *Psychiatry* 23 (1960): 81-95; N. Butler, ‘Joking Aside: Theorizing laughter in organizations’, *Culture and Organization* 21 (2015): 42-58. On the history of emotions, see, e.g. Barbara H. Rosenwein, ‘Thinking historically about medieval emotions’, *History Compass* 8 (2010): 828-42; Michael Champion and Andrew Lynch, eds., *Understanding Emotions in Early Europe* (Turnhout: Brepols, 2015); Peter King, ‘Emotions in Medieval Thought’, in *The Oxford Handbook of Philosophy of Emotions*, ed., Peter Gildie (Oxford: Oxford University Press, 2010), 167-188; Jutta Eming, ‘The discussion of emotion in the study of medieval literature’, *Journal of Literary Theory* 1 (2007): 251-73; Simo Knuuttila, *Emotions in Ancient and Medieval Philosophy* (Oxford: Oxford University Press, 2004), chs. 3 and 4; Peter N. Stearns and Carol Z. Stearns, ‘Emotionology: clarifying the history of emotions and emotional standards’, *AHR* 90 (1985): 813-36.

¹⁰ *Seipp* 1311.072ss, YB Hil. 4 Ed. II pl. 58 (winking).

¹¹ See, e.g. J.H. Baker, ‘The three languages of the common law’, *McGill Law Journal* 43 (1998): 5-24, at 5. Paul Brand, ‘The languages of the law in later medieval England’, in *Multilingualism in Later Medieval Britain*, ed., D.A. Trotter (Woodbridge: Boydell and Brewer Press, 2000), 63-76; Herbert Schendl, ‘Linguistic aspects of code-switching in medieval English texts’, in *idem*, 77-92, at 79; Jocelyn Wogan-Browne et al., eds., *Language and Culture in Medieval Britain: The French of England c.1100-c.1500* (Woodbridge: Boydell and Brewer, 2009).

¹² See Brand, ‘Inside the courtroom’, 111.

the laughter/smiling material, since what was meant to be humorous or light may be elusive,¹³ uncertainty as to identification of all instances of humour or levity should not prevent analysis of instances which are relatively uncontroversial.

How is this reported smiling, laughter and levity to be read? Scholarly work from several areas puts forward a number of theories as to why people may find material humorous, and why they laugh, and on the connected issue of the consequence or functions of smiles, laughter and humour. Theoretical explanations are often divided into ‘the superiority theory, the incongruity theory and the relief theory’, explaining humour, laughter and smiling as expressions of perceived superiority to some other person or defined group of others (superiority theory) as a release of formerly suppressed energy (relief theory), or as a response to a perceived incongruity between what is expected and what we are actually told (incongruity theory).¹⁴ There have also been attempts to formulate a single over-arching theory of humour, perhaps the best known being that of Bergson, which suggests laughter to be behaviour ‘directed by some against others in order to rectify the overly rigid behaviour that has temporarily disrupted the natural elasticity of life’.¹⁵ Work which has taken as its focus the consequence or function of smiles, laughter and humour, may stress their role in improving social relations, reducing tension and promoting group cohesion,¹⁶ in marking or reinforcing divisions between an in-group and

¹³ *Mirror of Justices*, xlviii; Classen, *Laughter*; Schmidt, ‘Sebastian Brant’s Ship of Fools’, 93.

¹⁴ See, e.g., John Morreall, ed., *The Philosophy of Laughter and Humour* (Albany, NY: SUNY Press, 1987); John Morreall, *Taking Laughter Seriously* (Albany, NY: SUNY Press, 1983); Simon Critchley, *On Humour* (London: Routledge, 2002), 2-3; Herbert Spencer, ‘On The Physiology of Laughter’, *Macmillan’s Magazine* (1860): 395-402; Sigmund Freud, *Jokes and their relation to the Unconscious* (London: Penguin Books, 1976).

¹⁵ Nick Butler, ‘Theorizing laughter in organizations’, at 43; Henri Bergson, *Laughter: An Essay on the Meaning of the Comic*, trans. Cloudesley Brereton and Fred Rothwell (*Le Rire*, Paris: F. Alcan, 1900; reprint, Rockville, MD: Arc Manor, 2008).

¹⁶ Alan W. Gray, Brian Parkinson, Robin I. Dunbar, ‘Laughter’s influence on the intimacy of self-disclosure’, *Human Nature* 26 (2015): 28-43; A.J. Chapman, ‘Social aspects of humorous laughter’, in *Humour and Laughter: theory, research and applications*, eds. A.J. Chapman and H.C. Foot (London: Wiley, 1976), 155-185.

outsiders, in subverting hierarchies, or in defending against a perceived threat.¹⁷ It may also argue for the conscious and deliberate use of smiles, laughter and humour as matters of display or performance of emotion for political ends and the creation of a particular image.¹⁸ Such work clearly has something to contribute to the study of

¹⁷ See, e.g., Jones, *The Smile Revolution*, 7; Ekman and Friesen, 'Felt, false and miserable smiles'; E. Hatfield, J.L. Cacioppo and R.L. Rapson, 'Emotional contagion', *Current directions in Psychological Sciences* 2 (1993): 96-99; J.E. Roenneklein, *The Psychology of Humor: a reference guide and annotated bibliography* (Westport CT: Greenwood Press, 2002). There are disagreements as to the evolutionary purposes of such behaviour: Joseph Polimeni and J.P. Reiss, 'The first joke: exploring the evolutionary origins of humor', *Evolutionary Psychology* 4 (2006): 347-66; J. Carty and Y. Musharbash, eds., 'You've got to be joking: anthropological perspectives on humor and laughter', special issue of *Anthropological Forum* 18 (2008); Jerry Palmer, *Taking Humour Seriously* (London: Routledge, 1994); John Morreall, *Comic Relief* (Oxford: Wiley-Blackwell, 2009); Robin Tapley, 'On Morreall: a failure to distinguish between play and humour', *Journal of Value Inquiry* 47 (2013): 147-162. Those looking at humour within stratified societies or organisations have stressed the 'subversive' use of humour against hierarchical superiors. See, e.g. Mary Douglas, *Implicit Meanings: Essays in Anthropology* (London: Routledge, 1975), 98; Sharon Bolton, 'A bit of a laugh: nurses' use of humour as a mode of resistance', in *Questioning the New Public Management*, eds. Mike Dent, John Chandler and Jim Barry (Aldershot: Ashgate, 2004), 177-89.

¹⁸ See, e.g. Rosenwein, 'Worrying about emotions in history', 823; Jacques Le Goff, 'Une enquête sur le rire', *Annales* 52 (1997): 449-455. Gerd Althoff, 'Ira Regis: prologomena to a history of royal anger', in *Anger's Past*, ch.5.; Penelope Nash, 'Reality and ritual in the medieval king's emotions of ira and clementia', in *Understanding Emotions in Early Europe*, eds. Michael Champion and Andrew Lynch (Turnhout: Brepols, 2015), 251-71. Michael Clanchy, 'Law and love in the Middle Ages', in *Disputes and Settlements: Law and Human Relations in the West*, ed. John Bossy (Cambridge: Cambridge University Press, 1983), 47-67; P. Jones, 'The Sublime and the Ridiculous: Laughter, Sovereignty and Sanctity at the Court of Henry II', PhD dissertation, New York University, 2014, ch.1; Jennifer Carpenter, 'Positive emotion in the 13th C: the emotional world of Goswin of Bossut', in *Understanding Emotions in Early Europe*, 171-90; Peter Jones, 'Preaching laughter in the thirteenth century: the exempla of Arnold of Liège (d. c. 1308) and his Dominican milieu', *Journal of Medieval History* 41 (2015): 169-83; Jeannine Horowitz and Sophia Menache, *L'Humour en chaire: le rire dans l'Eglise médiévale* (Geneva: Labor et Fides, 1994); idem, 'Le rire au quotidien dans la société médiévale au miroir de la prédication', paper given at the Tenth International Congress of Humour, Paris, University of Paris VIII, July 1992; Palmer, *Taking Humour Seriously*, 44; Laurence Moulinier, 'Quand le Malin fait l'esprit: le rire au Moyen Age vu depuis l'hagiographie', *Annales* 52 (1997): 457-475; L.E. Felsen, 'Medieval monks: funnier than you thought', in *Misconceptions about the Middle Ages*, eds. S.J. Harris and B.L. Grisby (New York: Routledge, 2008), 70-75; Sandra M. Hordis and Paul Hardwick, eds., *Medieval English Comedy* (Turnhout: Brepols, 2007); Paul Ruggiers, ed., *Versions of Medieval Comedy* (Norman: University of Oklahoma Press, 1977); H. Braet, G. Latré and W. Verbeke, eds., *Risus Mediaevalis: laughter in medieval literature and art* (Leuven: Leuven University Press, 2003); L.R. Perfetti, *Women and Laughter in Medieval Comic Literature* (Ann Arbor: University of Michigan Press, 2003); A.P. Tudor and A. Hindley, eds., *Grant risee? The Medieval Comic Presence: Essays in Memory of Brian J Levy* (Turnhout: Brepols, 2006); Philippe Menard, *Le Rire et le Sourire dans le Roman Courtois en France au Moyen Age 1150-1250* (Paris: Université, 1969); T.D. Arner, 'No joke: transcendent laughter in the "Teseida" and the "Miller's Tale"', *Studies in Philology* 102 (2005): 143-158. Note the contrast with former ideas of the 'emotionally childlike' Middle Ages, with its 'violent, public, unashamed' display of emotions: Johan Huizinga, *The Waning of the Middle Ages*, trans. F.J. Hopman (New York: E. Arnold, 1924). An important, though disputed, idea of medieval laughter is that of Bakhtin, who saw it as linked to the carnivalesque, undermining or suspending hierarchy: Mikhail Bakhtin, *Rabelais and his World*, trans. Hélène Iswolsky (Cambridge, MA: MIT Press, 1968; Bloomington: Indiana University Press, 1984), 10; Chris Humphrey, *The Politics of Carnival: festive misrule in medieval England* (Manchester: Manchester University Press, 2001).

levity in legal records, and vice versa. As will become apparent, a number of these theories and interpretations are helpful to our understanding of the Year Book reports of smiles, laughter and humour.

It should also be borne in mind that, while those coming to the Year Books from a background in modern legal practice or academia may see incongruity in the inclusion of judicial or lawyerly smiles, laughter and levity in a law report, scholars of the medieval period, familiar with the ludic images in the margins of even the most sacred texts,¹⁹ (and having left behind the idea of the medieval period as one of unremitting solemnity)²⁰, are less likely to be surprised by the fact that legal texts should include such material, though they might not have appreciated the interest of the light content in legal sources, and its relevance to their work.²¹

Levity, humour and the developing legal profession

Some of the reported smiling, laughter and humour of lawyers directed towards their opponents in court might be seen as an attempt to gain superiority,²² but the most obvious manifestations of superiority-based levity and humour is that directed by

¹⁹ See, e.g., Michael Camille, *Image on the Edge: the margins of medieval art* (London: Reaktion Books, 1992; 2004)

²⁰ See, e.g. Le Goff, 'Une enquête sur le rire', 449-455; Horowitz and Menache, *L'humour en chaire*; Felsen, 'Medieval monks'; M.W. George, 'An austere age without laughter' in *Misconceptions About the Middle Ages*, 183-7; H. Braet, G. Latré and W. Verbeke, eds., *Risus medievalis*; J.S.P. Tatlock, 'Medieval Laughter', *Speculum* 21 (1946): 289-94; Helen Adolf, 'On Medieval Laughter' *Speculum* 22 (1947): 251-3.

²¹ Scholars of medieval literature have drawn upon legal sources in their interpretation of literature, but literary analysis of those legal sources has been less common: see, e.g. R.F. Green, 'Medieval Law and Literature', in *The Cambridge History of Medieval English Literature*, ed. David Wallace (Cambridge; Cambridge University Press, 1999), 407-31; Emily Steiner and Candace Barrington, *The Letter of the Law: Legal Practice and Literary Production in Medieval England* (Ithaca: Cornell University Press, 2002); V.C. Hunt Thomas, 'Piers Plowman, Legal Authority and the Law of Subject Status', Ph.D. dissertation, Washington University, 2012. For the effective use of legal texts in connection with the study of other emotions, see, in particular, Rebecca McNamara, 'The sorrow of soreness: infirmity and suicide in medieval England', *Parergon* 31 (2014): 11-34, Rebecca McNamara, 'The law on feeling: finding emotions in medieval English legal texts', paper from the *Sourcing Emotions in the Medieval and Early Modern World Conference*, University of Western Australia, Perth, June 2013.

²² See, e.g., *Seipp* 1481.051, YB Pasch. 21 Edw. IV pl. 20 f. 26a-b; *Seipp* 1481.047, YB Pasch 21 Edw. IV pl. 16 f. 25b. *Seipp* 1430.083, YB Mich. 9 Hen. VI pl. 37 f. 53b.

judges against the lawyers pleading before them. At times, pleaders who have displeased the judges are simply reported to have been told off, without detectable humour.²³ At other times, however, wittier judicial criticisms are reported. Sarcasm and a proverbial expression can be seen in *Michael de Meldoun's Case* (1305): Howard J asks Serjeant Scrope, who is making a plea which the judge regards as contradicting itself, whether he will 'have the egg and the halfpenny too'.²⁴ Staunton JCP engages in gentler mocking in a report from 1311 when he tells Serjeant Miggele that, if Miggele should find a case in the rolls supporting his assertion, Staunton would give him his hood.²⁵ In *Edmund of Reynham's Case* (1345) Stonor CJCP tells Serjeant Greene: 'you are as hot on this as if you were right' and 'you would have to be more learned than God to prove that', both rather creative put-downs.²⁶ In the same year, the same judge reportedly expressed amazement that the same serjeant, appearing before him, made out that he knew everything in the world 'and he was only a young man'.²⁷ Several decades later, Martin J reportedly made a rather elegant metaphorical put-down, saying 'I see well that Serjeant Rolf has breakfasted well today, for it seems to me he has dined on (or swallowed) an error'.²⁸

Professor Brand noted an interesting late-thirteenth century put-down, in which a judge, John of Mettingham, reportedly compares a man pleading before him with a stupid and/or disreputable woman in a fabliau-like story which was, no doubt, regarded as humorous. The situation in court was that a party had accepted the

²³ See, e.g., Weyland snapping at a lawyer before him that 'On my faith, what you say is neither well said nor true', in *EELR I*, case 1287.5; YB 21 & 22 Edw. I RS 31.2, p 224; *Seipp* 1312.017ss; YB Hil. 5 Edw. II pl. 17.

²⁴ *Seipp* 1305.017rs; YB Hil. 33 Edw I pl. 17; Maitland, 'Of the Year Books', ix-xx, xv; *Seipp* 1311.269ss, YB Mich. 5 Edw. II pl. 22.

²⁵ *Seipp* 1311.106ss, YB Pasch. 4 Edw. II pl. 16.

²⁶ *Seipp* 1345.015rs YB Hil. 19 Edw. III pl. 15; and 1344.271 YB 18 Edw III Lib. Ass pl. 16.

²⁷ *Seipp* 1345.018rs, YB Hil. 19 Edw III pl. 18.

²⁸ *Seipp* 1426.027; YB Pasch. 4 Hen. VI pl. 11 f. 23b-24b. See also earlier cases, in which a judge suggests that a party or serjeant is 'having a laugh' or making fun of the court: *Seipp* 1346.122 rs, YB Trin. 20 Edw. III pl.1; *Seipp* 1384.020am, YB Pasch. 7 Ric. II pl. 4.

homage of another party, but was trying to avoid the implications of this acceptance. Mettingham told this lawyer that, in doing this, he was similar to ‘the young lady who took money to be fucked (*fotu*) and then repented and went back to the young man who had fucked her’, asking him to take back his money and ‘unfuck’ her, because she regretted what had happened.²⁹ This bawdy comparison of a male lawyer to the foolish woman of the tale clearly served to heap layers of ridicule upon the man being criticised.

In another interesting early instance, we read of general derision and laughter at the poor pleading of a serjeant. In *Simon of Berton v Walter* (1306), it is noted that one of the lawyers, Serjeant Nicholas Laufare, was laughed at (*derisus*) by the court for an answer given during the pleading process: he made a plea, the judges thought it unsuitable, and mocking laughter ensued.³⁰

It can be argued that there was a change in the Year Books’ portrayal of the atmosphere in court over the course of the fourteenth century. This was the contention of Plucknett, who contrasted the early reports, and particularly those of the reign of Edward II (‘the gayest of lawbooks’), with the more stolid versions of Richard II’s day. In his view, a change in reporting style came about in the third quarter of the fourteenth century.³¹ Some of the judges’ remarks in the earlier law reports, noted above, may be taken as suggestive of a degree of ill-temper rather than simple ‘gaiety’ in judge-lawyer relations, but a change of tone over time can certainly be detected. This could be explained by developments within the legal profession. The early Year Book period was also a formative period for the legal profession, and specifically for

²⁹ Brand, ‘Inside the courtroom’, 111 (his translation), BL MS Add 35116 f.186v. See below note 96 for parallels in fabliaux.

³⁰ *Seipp* 1306.191rs, YB Mich. 34 Edw. I pl 24. *Derisus* is also seen in *Seipp* 1413.014, YB Hil. 14 Hen. IV pl. 14 f. 17a-b, in relation to Serjeant Skrene’s strained pleading. Some early non-legal writing suggests that courts could be places for mocking laughter: *Lawsuits*, 1: 174.

³¹ T.F.T. Plucknett, ed., *Year Books of Richard II: 13 Ric II, 1389-1390* (London: Spottiswoode, Ballantyne and Co., 1929), xiv-xvi.

the beginning of the judiciary being drawn from the ranks of those who had formerly pleaded cases in the courts of common law, the forging of a path from serjeant to judge, rather than these two branches remaining separate.³² It is not inconceivable that such restructuring, and the new structure in itself, with somewhat blurred lines between judges and the serjeants who might one day join them on the bench, precipitated assertive judicial behaviour, reinforcing superiority of status through ridicule of those pleading in court. The use of laughter and humour to bolster the position of those in authority has been studied in particular in relation to medieval kings, with discussions of the trope of the *rex facetus*, present in chronicle and narrative images of kings from several Western realms, in which royal power was emphasised through the king's wit, laughter and joking.³³ Might one see in remarks from the Year Books such as those mentioned above either the reality or the image of the *judex facetus*, an office-holder asserting himself through levity, in a developing professional world?

The incidence of humour, laughter and smiles in the Year Books is in some ways similar to results seen in modern work on the dynamics of organisations. In a

³² See, e.g. Paul Brand, 'The serjeants of the common bench in the reign of Edward I: an emerging professional elite', in *Thirteenth Century England VII*, eds. Michael Prestwich, Richard Britnell and Robin Frame (Woodbridge: Boydell and Brewer, 1999), 81-102; Paul Brand, 'Edward I and the judges: the state trials of 1289-93', in *Thirteenth Century England I*, eds. P.R. Coss and S.D. Lloyd (Woodbridge: Boydell and Brewer, 1986), 31-40, reprinted in Brand, *MCL*, 103-112; Paul Brand, 'The Origins of the English Legal Profession', *LHR* 5 (1987): 31-50, reprinted in Brand, *MCL*, 1-20; Brand, 'Observing and Recording', 12; Bereford was an early example of a pleader in the courts of common law rising to be a judge, in the 1290s: A. Harding, Bereford [Barford], Sir William, d. 1326, justice', *ODNB*.

³³ See, e.g., Jacques Le Goff, 'Rire au moyen age', <http://ccrh.revues.org/2918>; R.J.W. Evans, *The Humour of History and the History of Humour*, Dacre Lecture, 2011 (Oxford: Dacre Trust, 2012), 10; A. M. Frutos, 'La palabra en la ocasión: Alfonso V como rex facetus a través del Panormita', *e-Spania* 4 (2007); J.M. Pujol, 'Jaume I: rex facetus: notes de filologia humorística', *Estudis Romanics* 25 (2003): 215-36; Theresa Hamilton, *Humorous Structures of English Narratives, 1200-1600* (Newcastle: Cambridge Scholars Publishing, 2013), 56; David Carpenter, 'The sense of humour of king Henry III', <http://www.finerollshenry3.org.uk/content/month/fm-11-2011.html>; Palmer, *Taking Humour Seriously*, 25. The considered use of displays or performances of emotion for political ends has been discussed, generally with regard to kings, and often with regard to anger or sorrow rather than smiles and laughter: see, e.g., Althoff, 'Ira Regis', in *Anger's Past*, ch.5.; Nash, 'Reality and ritual', in *Understanding Emotions*, 251-71. Clanchy, 'Law and love'.

classic study of senior and junior members of staff at an American psychiatric institution, by R.L. Coser, for example, senior staff make jokes about the juniors who will one day replace them, but the reverse is not true (or at least juniors do not make jokes about their superiors whilst in their presence).³⁴ Similarly, there is little evidence in the Year Books of ‘subversive’ use of humour, in court, against hierarchical superiors:³⁵ pleaders do not ridicule judges, though some trace of the slightly inferior teasing or joking about the slightly superior may, perhaps, be seen in remarks between serjeants at different levels of seniority,³⁶ and between judges of different ranks.³⁷ Tension between individuals and between groups, and attempts to assert superiority, do not ever seem to have been the whole story relating to reports of laughter, smiles and humour, however. A playful mood in the early fourteenth century courtroom is hinted at by the use of a nickname for a judge.³⁸ There is also a ‘clubby’ light-heartedness in the reported use of serjeants or judges in hypotheticals, seen from the earliest reports onwards, as when we read of a serjeant imagining vouching William of Bereford, judges imagining conducting land deals with other judges, and judges joking about serjeants refusing money or being involved in an assault.³⁹ Reports of laughter and levity might indicate cross-generational solidarity within the legal

³⁴ R.L. Coser. ‘Laughter among colleagues’, *Psychiatry* 23 (1960): 81-95; Butler, ‘Theorizing laughter’.

³⁵ See above, note 17.

³⁶ See, e.g., *Seipp* 1488.036; YB Mich. 4 Hen. VII pl. 1, f. 15b-17a: Serjeant Kebell, not yet a King’s Serjeant himself, joshes Serjeant Vavasour, who has reached that rank, about what king’s serjeants have to do to earn their fee.

³⁷ *Seipp* 1443.021, YB Hil. 21 Hen. VI pl. 21 f. 33b-34a, which reports a mocking attitude in Hankford (JCP 1398-1413) towards his superior, Thirning (CJCP 1396-1413). Hankford is also reported smiling or laughing as he states (*ridendo dixit*) that the King’s Bench judges cannot or do not make mistakes. The smile/laugh here indicates the judge’s doubt that his words are literally true, although they acknowledge a ‘legal truth’ about the position of the King’s Bench in relation to the Common Pleas: *Seipp* 1409.049, YB Mich 11 H IV pl 38 f 16b-17a.

³⁸ Hervey de Stanton was, apparently known as ‘Hervy le Hasty’: *Seipp* 1309.222ss; SS 19, 200.

³⁹ *EELR I*, 1284.2, 1284.9; *RS 31.2* 598; 1284.12, 1284.15, 1286.1, 1287.9, 1289.7; *Seipp* 1440.090, YB Mich. 19 Hen VI pl. 72 f. 34b-35a; *Seipp* 1441.007, YB Hil. 19 Hen. VI pl. 7 f. 50 a-b; *Seipp* 1294.083rs, YB Mich. 22 Edw I pl. 83.

profession, with the humour of previous judges recalled.⁴⁰ Later case reports also featured non-confrontational humour: the size and age of serjeants, or their names, is reported as a subject for mild joshing in *Abbot of Tore's Case* (1443), there was a certain self-mocking in mentioning money and lawyers, and status-based humour, emphasising the lofty position of common law judges, is evident in a tongue-in-cheek suggestion that the Chief Justice of Common Pleas is a 'servant'.⁴¹

A particularly friendly atmosphere is suggested in some of the examples of smiling involving Thomas Littleton (d. 1481), a serjeant who would go on to become a judge and famous (though not notably humorous) legal writer.⁴² He was reported smiling or laughing on more than one occasion, and also raising smiles from the judges. These may be seen as showing the friendly nature of judges' banter with a distinguished serjeant, or, more generally, as showing a collegial, relatively relaxed atmosphere between those with different roles and ranks.⁴³

It would appear that both benign and aggressive meanings can be understood from the smiles, laughter and humour reported to have been seen and heard in court. If, as I suggest, we can see a trend of less aggressive, superiority-bolstering, uses of humour, laughter and sarcasm from judges towards pleaders, that may be taken to

⁴⁰ *Seipp* 1330.665ss, YB Hil. 4 Edw. III pl. 21.

⁴¹ *Seipp* 1443.045; YB Pasch. 21 Hen. VI pl. 23 f 46a-48a. See also *Seipp* 1443.101, YB Mich 22 Hen. VI pl. 42 f. 23b-24a; *Seipp* 1456.060, YB Mich. 35 Hen. VI pl. 6 f. 5a-b; *Seipp* 1456.003, YB Hil. 34 Hen. VI pl.3 f. 25b-26b; *Seipp* 1425.021. YB Hil. 3 Hen. VI pl. 21 f.31b.

⁴² See, e.g., J.H. Baker, 'Sir Thomas Littleton, d. 1481, justice and legal writer', *ODNB*; Baker, *Men of Court*, 1021.

⁴³ *Seipp* 1462.026; YB Trin. 2 Edw. IV pl. 3 f. 11b; *Seipp* 1462.059, YB Mich. 2 Edw. IV pl. 32 f. 27a-28b. See also *Seipp* 1462.024, YB Trin. 2 Edw. IV pl. 1 f. 10a-b. Creative pleading on the part of a serjeant might be greeted with a judicial smile or laughter, as in another case of 1462 which featured a smile or laughter by Moyle JCP, apparently showing appreciation of creative pleading: *Seipp* 1462.027, YB Trin. 2 Edw. 4 pl. 4 f. 11b-13a. Clearly, the argument being made was unusual, as Moyle said he had not seen it outside moots. *Seipp* notes the 'light, humorous tone' and courtesy of the whole report and wonders whether this is because the claimant was Serjeant Littleton's mother. In *Seipp* 1462.036, YB Mich. 2 Edw. IV pl. 9, Littleton is reported smiling when, after a break in the case, he produces a statute which he thinks will help his client. Littleton's argument was dismissed by the court – so the smiling here might indicate an attempt to bolster a weak argument, in this case an argument based on a statute which did not apply in the circumstances. Possibly similar is the smiling in the same year by Serjeant Laken, whose client had lost a debt case, as he asked Danby CJCP not to arrest his client: *Seipp* 1462.045, YB Mich. 2 Edw. IV pl. 18 f. 21b.

suggest a period of some anxiety, or uncertainty as to how to behave within the new professional structure, in the late thirteenth- and earlier-fourteenth centuries, followed by a period of greater collegiality, particularly in the fifteenth century.⁴⁴ The portrayal of Paston's smiling or laughing behaviour in *W v Robert* fits into this more relaxed atmosphere. He is commenting on the pleas made in the case, noting an apparent oddity,⁴⁵ but there is no aggression or insult directed towards counsel. The case was a long-running dispute, with areas of real difficulty, and the atmosphere portrayed is one of relaxed and pleasant debate, some distance from the scene of the early Year Books.

Play and display

Some of the light material demonstrates a particular playful atmosphere in court. Ludic imagery can be seen in some case reports. In *Bank v Maulevere* (1378), for example, Serjeant Hanmer is shown likening a case to a game of chess.⁴⁶ The pleasure of argument is mentioned in a case of 1522.⁴⁷ Lawyers might be shown taking a literary turn, as can be seen in Serjeant Laufare's possible poem in a case of 1304, rhyming couplets about the consequences of adultery and elopement (1309), on confiscation of property (1441), and on hunting (1520).⁴⁸ Judges are seen joking about parties and legal proceedings themselves, as in the case of one judge's tale of a knight

⁴⁴ There might be some distortion due to the tastes and influence of the reporters, but since these men were also members of the legal profession, we would not expect their tastes to be significantly out of line with the views and ideals of the profession as a whole.

⁴⁵ He makes the point that there appear to be two 'first deliveries'.

⁴⁶ *Seipp* 1378.007am, YB Trin 2 Ric II pl 7; a metaphor echoed by Maitland's invocation of the Ruy Lopez opening: Maitland, 'Of the Year Books', xv.

⁴⁷ *Gervys v Cooke* (1522); SS 119, 122. *Seipp* 1522.014ss.

⁴⁸ *Seipp* 1304.160rs, YB Mich. 32 Edw. I pl. 14; *Seipp* 1309.193ss, YB Mich. 3 Edw. II pl. 43; *Seipp* 1441.028, YB Pasch 19 Hen. VI pl. 1 f. 62a-65a.; SS 119, 16, *Filloll v Assheleygh* (1520).

who won a case despite being asleep and not a party, and another judge's description of the way in which champions for trial by battle used to be treated.⁴⁹

A playful tone can be seen even in relation to death and execution. A parable concerning execution is told by Bereford in a replevin case,⁵⁰ and Scot alluded to execution in an apparently humorous tale of mishaps in another case.⁵¹ In discussing a suicide, use was made of a rhyming couplet.⁵² Spigurnel JKB, when told an accused thief was dead, is reported to have said 'It's as well for him that he is!'.⁵³ Wychyngham JCP, in *Anon* (1365), is noted to have said that if the defendant in the case had waited until he had been beheaded (as threatened) he would have been too late to make a deed.⁵⁴ The funny side of beheading was also seen in a report of a case of 1457 which noted, with comic understatement, that the plaintiff would have suffered 'mischief and inconvenience' if his head had been cut off by the rebels in the Cade rebellion.⁵⁵ Reports of such 'gallows humour', although it may seem crude to the modern reader, were in tune with contemporary literary sources, which have a number of examples of hanging or beheading games and humour relating to corpses.⁵⁶

⁴⁹ *Seipp* 1330.665ss, YB Hil. 4 Edw. III pl. 216; *EELR III*, SS 122, 118-19. Brand, SS 123, xxix doubts the reality of this case.

⁵⁰ J.M. Kaye, ed., *Placita Corone*, SS Supplementary Series vol. 4, xxxviii; *Seipp* 1309.169ss, YB Mich. 3 Edw. II pl. 19, 19ss 116-118; *Seipp* 1310.152ss, YB Mich. 4 Edw. 2, pl. 11, 22 SS, 64-70.

⁵¹ *Seipp* 1337.101rs, YB Mich. 11 Edw. III pl. 38; *Seipp* 1429.003, YB Mich. 8 Hen. VI pl. 9 f. 3b-4b.

⁵² *Seipp* 1441.028, YB Pasch 19 Hen. VI pl. 1 f. 62a-65a. On the background to this phrase, see Ernst Kantorowicz, *The King's Two Bodies: a study in medieval political theology* (Princeton: Princeton University Press, 1957), 174-7. One version of the report of *Alice de S v Robert Fox*. SS, 19: 145, *Seipp* 1309.193ss, YB Mich. 3 Edw. II pl. 43 includes a Latin couplet on the consequences on dower of adulterous elopement.

⁵³ *Seipp* 1313.310ss, YB 6 Edw. II Corone 154.

⁵⁴ *Seipp* 1365.102, YB Mich. 39 Edw. III pl. 28 f. 28a-b.

⁵⁵ *Seipp* 1457.006, YB Hil. 35 Hen. VI pl. 6 f. 44b-45b. See also a joke about an infant's body not being severable - perhaps a reference to the judgement of Solomon (I Kings 3: 16-27): a Bible story likely to have appealed to medieval judges - *Seipp* 1411.055, YB Hil. 14 Hen. IV pl. 55 f. 37a.

⁵⁶ See, e.g., Derek Brewer, 'The comedy of corpses in medieval comic tales', in *Risus Mediaevalis*, 11-30; Walter Haug, 'Schwarzes Lachen: Überlegungen zum Lachen an der Grenze zwischen dem Komischen und dem Makabren', in *Semiotik, Rhetorik und Soziologie des Lachens*, 49-64; Guillemette Bolens, 'Traditions of simulated folly, in the *Canterbury Interlude* and *Tale of Beryn*', in *Behaving Like Fools*, 15-46, at 31; 'Mankind' in *Medieval Drama: an Anthology*, ed. Greg Walker (Oxford: Blackwell, 2000), 258-79, at 271-3; Lucy Perry, 'Don't make me laugh! Fooling around in *Sir Gawain and the Green Knight*', in *Behaving Like Fools*, 277-95.

In a legal world which focused intently on language and exploiting variance and ambiguity, it is not surprising that puns and plays on words are to be found in the Year Books. In 1306, for example, Serjeant Toutheby is shown making a play on the word ‘volee’.⁵⁷ We see Bereford playing with the several meanings of ‘gross’ in 1312,⁵⁸ and there are several other examples of puns or plays upon words in court in the fifteenth century.⁵⁹

Proverbs appear particularly in the speeches of judges. Those which might be classed as humorous include ‘Where you have a man you also have a lord’, and ‘Did you never see one hunt in a park and another had the deer?’.⁶⁰ Proverbs were familiar from the Bible, were prevalent in medieval literature and their use was a recommended rhetorical technique.⁶¹ Some proverbial sayings found in Year Books follow Biblical examples.⁶² There are also a number of examples of expressions amounting to ‘I would not give a fig for’, or ‘... is not worth a fig’, though the

⁵⁷ *Seipp* 1306.157rs, YB Trin. 34 Edw. I pl. 59.

⁵⁸ *John the Cooper of T v Isolde widow of Richard Ildok* (1312) *Seipp* 1312.017ss, YB Hil. 5 Edw. 2 pl.17, 31 SS 84-95. Bereford plays with the words ‘gros’ in the sense of fat (or pregnant?), in a numismatic sense and the legal idea of homage ‘in gross’, and ‘grille’, (thin).

⁵⁹ See, e.g., *Seipp* 1429.001, YB Hil. 7 Hen. VI pl. 1 f. 18b-19a; *Seipp* 1443.042, YB Pasch. 21 Hen. VI pl. 20 f. 43a-b; *Seipp* 1431.027, YB Pasch. 9 Hen. VI pl. 5 f. 2a-b; *Seipp* 1442.049, YB Pasch. 20 Hen. VI pl. 28 f. 30b; *Seipp* 1442.059, YB Trin. 20 Hen. VI pl. 7 f. 37a; *Seipp* 1456.036, YB Trin. 34 Hen. VI pl. 3 f. 43a-b; *Seipp* 1456.069, YB Mich. 35 Hen. VI pl. 15 f. 10a-b.

⁶⁰ *Seipp* 1286.010ss, YB Mich. 14 Edw. I pl.2; *Seipp* 1496.019, YB Pasch. 11 Hen. VII pl. 4 f. 19b-20b; Brand, *Observing and Recording*, 8. Additional proverbs or maxims: *Seipp* 1307.025rs, YB Hil. 35 Edw. I pl. 25; *EELR II*, p 251, 1286.7; *Seipp* 1463.009, YB Mich. 3 Edw. IV pl. 8 f. 12b-15a; *Seipp* 1454.045, YB Mich. 33 Hen. VI pl. 9 f. 32b-34a; *Seipp* 1309.129ss, YB 2 Edw. II pl. 129; *Seipp* 1344.226rs, YB Mich. 18 Edw. III pl. 64.

⁶¹ Grace Frank, ‘Proverbs in Medieval Literature’, *Modern Language Notes* 58 (1943): 508-15, at 508; W.A. Pantin, ‘A medieval collection of Latin and English proverbs and riddles from the Rylands Latin MS 394’ *Bulletin of the John Rylands Library* 14 (1930): 81-114; W.W. Skeat, *Early English Proverbs, chiefly of the thirteenth and fourteenth centuries, with illustrative quotations* (Oxford: Clarendon, 1910).

⁶² See the suggestion by a serjeant that someone has fallen into a pit which he himself has dug: *Seipp* 1294.088rs, YB Mich. 22 Edw. I pl. 88, YB 21 & 22 Edw. I RS 31.2, 448 S - an idea found at several points in the Bible: see, e.g. Ps. 7:16, Prov. 26:27, Sirach 27:29. See also a serjeant telling his opponent that he would not have judgment before Gabriel has blown his horn: *Seipp* 1406.087, YB Trin. 7 Hen. IV pl. 26 f. 19b. This allusion comes from wider tradition, as the Bible does not specify Gabriel as the musician in this context: see, e.g. David Keck, *Angels and Angelology in the Middle Ages* (Oxford: Oxford University Press, 1998), 65, 170-1; A. Angel, ‘Gabriel: Judaism’, in *Encyclopedia of the Bible and its Reception*, eds. Christine Helmer et al., vol. 9 (Berlin: De Gruyter, 2014), 859.

preferred hypothetical trifle is a strawberry.⁶³ A particular favourite proverb in the Year Books concerned the legal position of a child born within marriage: the presumption that the husband of the child's mother was the child's father was supported by the earthy expression 'whoso bulleth my cow, the calf is always mine'.⁶⁴ Others are more-or-less recognisable ancestors of surviving proverbs, such as the impossibility of having one's cake and eating it, and the observation that some people, given an inch, take a mile, and that one ought not to put the 'cart before the oxen'.⁶⁵

Display of knowledge can also be seen in the inclusion of Bible references, which often appear to be used with an interestingly light tone. The church organisations in York and Canterbury are likened to Jews and Samaritans who will have no dealing with one another, an allusion to John 4:9.⁶⁶ More than one judge alluded to Matthew 14:31, 'O thou of little faith, wherefore didst thou doubt', to tease serjeants not prepared to take the risk of making a particular plea.⁶⁷ It is unclear whether Serjeant Mutford's 'Blessed be the womb that bare thee', to Mettingham after a favourable judgment, is to be read as serious sycophancy or as humour.⁶⁸ Exaggerated horror is seen in the fairly frequent use of 'God forbid' by judges and

⁶³ See *Seipp* 1317.114ss, YB Mich. 11 Edw. II pl. 10; *Seipp* 1317.122ss, YB Mich. 11 Edw. II pl. 8; *Seipp* 1317.153ss, YB Mich. 11 Edw. II pl. 49; *Seipp* 1329.082, YB Trin. 3 Edw. III pl. 5 f. 22a-23a.

⁶⁴ *Seipp* 1304.027rs, YB Hil. 32 Edw. I pl. 27; *Seipp* 1307.020rs, YB Hil. 35 Edw. I pl. 20; *Seipp* 1406.013, YB Hil. 7 Hen. IV pl. 13 f. 9a-b; *Seipp* 1440.003, YB Hil. 18 Hen. VI pl. 3 f. 30b-34b; P&M, 1: 422; John Barton, 'Nullity of marriage and illegitimacy in the England of the Middle Ages', in *Legal History Studies*, ed. Dafydd Jenkins (Cardiff: University of Wales Press, 1975), 40; Paul Hyams, 'The action of naifty in the early common law', *LQR* 90 (1974): 326-50; *LHP*, 243, no. 77, 2a.

⁶⁵ *Seipp* 1305.017rs, YB Hil. 33 Edw. I pl. 17; *Seipp* 1310.045ss, YB Pasch. 3 Edw. II pl. 10; *Seipp* 1310.152ss, YB Mich. 4 Edw. II pl. 11; *Seipp* 1334.049, YB Pasch. 8 Edw. III pl. 9, f. 20b-23a. In one case, the reporter felt obliged to explain the relevance to the law of the proverb 'One does not know of what metal a bell is made until it has been hit', reportedly quoted by Hankford JCP: *Seipp* 1409.077, YB Mich. 11 Hen. IV pl. 66 f. 34b-37a.

⁶⁶ *Seipp* 1481.074, YB Mich. 21 Edw. IV. pl. 6 f. 44b-49b.

⁶⁷ *Seipp* 1333.016; YB Hil. 7 Edw. III pl. 16 f. 7b-8a; *Seipp* 1346.225rs, YB Mich. 20 Edw. III pl. 32; *Seipp* 1459.068, YB Mich. 38 H 6 f. 5 pl. 14 (CP). A.J. Horwood, ed., *Year Books 21 & 22 Edw. I*, xi. Note also the use of this phrase by a serjeant in *Seipp* 1390.023am, YB 13 Ric. II p. 154; Baker and Milsom, *Sources*, 267. Note the more respectful use of Biblical authority in *Seipp* 1520.003ss, YB Trin. 12 Hen. VIII pl. 3.

⁶⁸ *Seipp* 1294.083rs, YB Mich. 22 Edw. I pl. 83. Luke 11:27, Ave Maria.

serjeants,⁶⁹ and light is made of the word heresy.⁷⁰ In addition, lawyers and judges frequently swear by God, St James or St Nicholas.⁷¹

There are also some references to secular literature. I have noted the similarity between one judge's story and a fabliau.⁷² In addition, there are allusions to more famous literary traditions. In one report of *Frank Scoland's Case* (1313), in the Eyre of Kent, a serjeant described his opponent's argument as irrelevant, comparing it to a 'tale of Roland and Oliver',⁷³ and, in 1429, another serjeant used a line from a Robin Hood ballad, in order to ridicule as irrelevant the pleading of his opponent.⁷⁴ Also on display are a knowledge of logic terminology, and the rhetorical technique of *reductio ad absurdum*, the latter of which in particular injects a light note into Year Book discussions.⁷⁵

Educational function - memory enhancement and a wide concept of legal study

It is generally agreed that the Year Books had an educational function.⁷⁶ Some of the light material discussed in this paper might be classed as enhancing the learning of

⁶⁹ See, e.g., *Seipp* 1309. 212ss; 1310.099ss; 1400.007; 1429.090; 1436.043; 1436.072; 1440.100; 1440.107; 1442.059; 1456.058; 1456.087; 1478.033; 1481.060; 1481.069; 1481.087; 1489.034.

⁷⁰ *Seipp* 1302.103rs; YB 30 Edw. I pl. 58.

⁷¹ RS YB 20 Edw. III part I, 104; RS YB 15 Edw. III, p. 158 no 55; RS YB 20-21 Edw. I vol 31.1, 220. RS YB 21 & 22 Edw. I, p. xi, 211 also notes a lawyer swearing 'by his hood'.

⁷² See above, note 29.

⁷³ *Seipp* 1313.407ss, YB 6 Edw. II, Atteinte pl.5. SS 24, 182. See also *Seipp* 1310.009ss, YB Hil. 3 Edw. II pl. 9. For the song of Roland and the influence of French literature in England, see, e.g. Rosalind Field, 'Romance in England, 1066-1400', in *The Cambridge History of Medieval English Literature*, 152-78, 154, 165.

⁷⁴ *Seipp* 1429.051, YB Pasch. 7 Hen. VI pl. 45 f. 37b.

⁷⁵ *Somer v Sapurton* (1428), *Seipp* 1429.009; YB Mich. 7 Hen. VI pl. 9. f. 5a-7; SS 51, 38-44 (pl. 13). *Seipp* notes the presence of logic terminology. We see in reports the idea that someone might be enfeoffed to the use of Salisbury Plain or the moon': *Seipp* 1467.049, YB Mich. 7 Edw. IV pl. 11 f. 16a-18b. See also the example of an impossible contract - in which a man tries to bind himself to pay money if he is unable to make the Tower of London come to Westminster: *Seipp* 1310.229ss, YB Mich. 4 Edw. II pl. 88.

⁷⁶ Paul Brand, 'Courtroom and schoolroom: the education of lawyers in England prior to 1400', *Bulletin of the Institute of Historical Research* 60 (1987): 147-65, reprinted in Brand, *MCL*, 57-75; Brand, 'Inside the courtroom', 112.

legal rules and procedure, and it could also help with legal education in a much wider sense than this, including courtroom etiquette, tactics and ‘gamesmanship’.

Light content of the sort discussed might have been included for the reporter’s own amusement, or the entertainment of others. It has provided entertainment for lawyers of succeeding generations: famously, Serjeant Maynard is said to have ‘had such a relish of the old year-books that he carried one in his coach to divert him in travel, and said he chose it before any comedy’.⁷⁷ It could be argued that making the content entertaining would also have enhanced the likelihood of remembering a case. Medieval common law education included a large amount of memory-work, as can be seen from surviving manuscripts containing mnemonics to aid this process.⁷⁸

Laughter or amusement had been noted at least as far back as Horace as a good way of remembering things.⁷⁹ The use of levity in education was known elsewhere in the medieval world: one might cite the reported jokes of a lecturer in surgery, humour in the syllogisms of Peter Abelard, or the inclusion of humour in the work of those engaged in the broader educational task of preaching.⁸⁰ The Year Books’ reports of laughter and mockery may, therefore, have been included at strategic points, to give particular notice of what were understood to be bad pleading mistakes, much as a visual cue, such as a pointing finger, might be included in other medieval records, to highlight the most important matters. The Year Book reporters’ playful choice of

⁷⁷ Bolland, *The Year Books*, 2; title pages of Selden Society Year Books series.

⁷⁸ J.H. Baker, *Legal Education in London 1250-1850* (London: Selden Society, 2007), 7; J.H. Baker, *Catalogue of English Legal MSS in Cambridge University Library* (Woodbridge: Boydell and Brewer, 1996), xxvii-xxix.

⁷⁹ See, e.g. Horace, *Epistles*, Lib. II, Epist. I, lines 262-3; Jonathan Waterlow, ‘Sanctioning Laughter in Stalin’s Soviet Union’, *History Workshop Journal* 79 (2015): 198-214; *Educational Philosophy and Theory* vol. 46, no.2 (2014), special issue, *Humor, Laughter and Philosophy of Education*.

⁸⁰ L.M. Paterson, ‘Military surgery: knights, serjeants and Raimon of Avignon’s version of the *Chirurgia* of Roger of Salerno’, in *The Ideals and Practice of Medieval Knighthood II*, eds. Christopher Harper-Bill and Ruth Harvey (Woodbridge: Boydell and Brewer, 1988), 117-46, at 119; Paul Kershaw, ch. 8 in Halsall, *Humour, History and Politics.*; Robert of Basevorn, *Ars Praedicandi*, translated in James Murphy, *Three Medieval Rhetorical Arts* (Berkeley: University of California Press, 1971), 212.

fictitious names in some cases,⁸¹ like the practice in *Novae Narrationes* of naming several people with the names of animals,⁸² may also have been calculated to enhance memory.

It is not always obvious to the modern reader why certain mistakes or conduct might have been highlighted by noting that they gave rise to laughter or smiles. Why, for example, might Laufare's pleading in *Simon of Berton v Walter* (1306) have been worthy of the reported derision? It might be that the individual plea Laufare made was seen as inept,⁸³ but the strength of the (reported) response might also be explained by the accumulation of irritations presented to the court by this particular serjeant. There had already been heated exchanges with the judges, and the mocking laughter may be an instance of the judges combining in opposition to a serjeant who has annoyed them. This reported ridicule might make other pleaders think twice before attempting such a plea again, or before trying the patience of the judges.

In addition to acting as markers or reminders of important mistakes or innovations, some of the various quips and smiles might have been included as hints about the use of humour as a tactic for pleading in court, teaching etiquette or 'gamesmanship' as well as technically correct pleading. A pleader might be shown play-acting to feign confidence in his own case, when, in fact, he knew that he was on somewhat shaky ground.⁸⁴ As with the pedagogical use of humour, its tactical use goes far back in the rhetorical tradition, and it is not unlikely that there was some

⁸¹ For example, we find a series of Adams, and one Adam and Eve pairing in cases in one set of reports: *RS YB 20-21 Edw I, passim* and 392.

⁸² *SS* 80, 328.

⁸³ The case concerned a distraint against Simon, which was allegedly contrary to the Statute of Marlborough 1267, st. 52 H III, c 15. Walter's serjeant admitted that he had made a distraint, but pleaded that this had been done as bailiff, for arrears owed to his lord, so that it had not been contrary to the law. The pleading by Laufare, for Simon, which caused derision was that the distraint was not taken for the cause alleged by Walter's side but for another cause. The court was happier to have an issue concerned with whether sums of money were owed.

⁸⁴ See below, note 87.

influence, direct or mediated, from those classical sources which were accessible to medieval scholars.⁸⁵

As we have seen above, lawyers were sometimes portrayed taking the opportunity to show off their wit, literary knowledge, or familiarity with academic learning or techniques, perhaps to impress or gain favour with the court. More clearly falling under the heading of ‘gamesmanship’ appear to be those instances of serjeants shown smiling to suggest confidence in their own position. For example, Serjeant Catesby is reported to have smiled when telling his opponents that they should proceed with the plea they had signalled that they were planning to use.⁸⁶ At times, serjeants appear to be using smiles and humour when on difficult ground. Thus, Serjeant Rolf laughs at his opponent’s client as he mocks him in *Caunt’s Case* (1430). The case concerns sale of allegedly unwholesome wine, and Rolf, laughing, derides the opposing party as a mere ‘wine drawer’ who knows nothing about wine and its quality. He is attempting to argue that the plaintiff was not in a position to know whether or not the wine was wholesome, and the ridicule is an attempt to ‘put down’ the opposition, probably by suggesting his inferiority to the serjeants and judges, as well as the more arguably relevant suggestion that he cannot prove his case. Rolf’s laughter and put-down were strictly unnecessary, for the task in hand was to arrive at an issue, and the issue Rolf was feeling towards at this point was ‘The wine was wholesome at the time of sale’. His conduct appears to have been an attempt to bolster his (possibly shaky) case by belittling his opponent’s client.⁸⁷

⁸⁵ See, e.g., Stefan Seeber, ‘Medieval humour? Wolfram von Eschenbach’s Parzifal and the concept of the comic in middle High German romances’, *The Modern Language Review* 109 (2014): 417-30, at 421-422; Chris Holcomb, *Mirth-making the Rhetorical Discourse on Jest in Early Modern England* (Columbia, SC: University of South Carolina Press, 2001), 44-5; John Morreall, ‘Philosophy and religion’, in *The Primer of Humor Research*, ed. Victor Raskin (Berlin: De Gruyter, 2008), 211-43; J.M. Martin, ‘Cicero’s jokes at the court of Henry II of England’, *Modern Languages Quarterly* 51 (1990): 144-66.

⁸⁶ *Seipp* 1481.051, YB Pasch. 21 Edw. IV pl. 20 f. 26a-b.

⁸⁷ *Seipp* 1430.083, YB Mich. 9 Hen. VI pl. 37 f. 53b; Baker and Milsom, *Sources*, 56.

Clearly, ‘performance’ came to be an essential part of being a lawyer. A profession in which one gained status through performance - where one became a serjeant by performing a count, a barrister by performing in a moot - is likely to have been one which paid attention to physical attitudes, to gestures, to how words were spoken, as well as to the essentials of legal doctrine.⁸⁸ In such a world, the inclusion of quips and ‘stage directions’ may have seemed natural, and instructive.⁸⁹ Inclusion in the reports of such material also fits in well with a world in which the written word was often intended as much for aural as for visual consumption.⁹⁰

As well as having a role in instructing lawyers in correct doctrine and advantageous conduct, we may also conclude that there was, in some of the inclusions of ‘light’ material, an element of promotion or reinforcement of particular images of the courts of common law and prominent individuals working there. Some of those present in court are, perhaps, emphasised as ‘characters’ - cantankerous, erudite, witty, urbane or hapless. Note, for example, the special emphasis in early fourteenth-century reports on the often cantankerous humour attributed to Sir William Bereford, Chief Justice of the Common Bench, (d. 1326),⁹¹ and the more playful smiling and wit of several fifteenth-century judges, noted above, all of which seems to be rather removed

⁸⁸ J.H. Baker, *The Third University of England* (London: Selden Society, 1990), 8, 9, 16-17.

⁸⁹ For the ‘dramatic’ side of law reporting, including mention of crying, sighing, smiling, laughter, use of props and gestures, see Brand, ‘Inside the courtroom’, 105-7. For Year Book references to anger and annoyance, see, e.g., *Seipp* 1311.106ss, YB Pasch. 4 Edw. II pl. 16; *Seipp* 1534.033, YB Trin. 26 Hen. VIII pl. 26 f. 5b; *Seipp* 1348.135, YB Mich 22 Edw. III pl 25 f. 13a; *Seipp* 1481.001, YB Hil. 20 Edw. IV pl. 1 f. 16a-17a; *Seipp* 1355.186ass, YB 29 Edw. III Lib. Ass. pl. 8 f 57a-b; *Seipp* 1384.037am, YB Mich. 8 Ric. II pl. 8.

⁹⁰ M.T. Clanchy, *From Memory to Written Record England 1066-1307*, 2nd ed. (Oxford: Blackwell, 1993), 216 and ch. 8; Alberto Manguel, *A History of Reading* (New York: HarperCollins, 1996) ch. 2; Brand, ‘Courtroom and Schoolroom’.

⁹¹ Note here Paul Brand, ‘Judges and judging 1176-1307’, in *Judges and Judging in the History of the Common Law and Civil Law from Antiquity to Modern Times*, eds. Paul Brand and Joshua Getzler (Cambridge: Cambridge University Press, 2012), at 19, 21, 25. See also Bereford’s digression, lamenting changes in legal procedure, and marital power, over time: *Seipp* 1312.017SS, YB Hil 5 Edw. II, pl.17.

from Fortescue's portrayal of judges as *viros graves*,⁹² and at odds with Bakhtin's view of 'serious' official or learned culture.⁹³ In addition, a possible explanation for the noting of derision in *Simon of Berton v Walter* (1306) is that Laufare was seen, or was being built up by the reporter as a particularly hapless pleader.⁹⁴ As we have seen, smiles are frequently noted in reports relating to serjeant Littleton. The 'character-construction' view of the reports is also supported by the well-known fact that some lawyers might be given a prominent role in reports of a particular case despite the fact that they were demonstrably absent from the event itself.⁹⁵

Whatever may have been the intention of those including levity and humorous remarks in the reports, they did in fact contribute to the collective memory of the profession, with regard to law, procedure and individual characters. The choices made in including this material in reports shaped ideas of the world of the medieval common law for many generations of lawyers, legal historians and historians.⁹⁶

⁹² Sir John Fortescue, *De Laudibus Legum Anglie*, ed. and trans. S.B. Chrimes (Cambridge: Cambridge University Press, 1942), 116; Brand, 'Courtroom and Schoolroom'.

⁹³ Johan Verbrerckmoes, 'What about medieval humour? Some historiography', in *Risus Mediaevalis*, 1-10, at 7; Bakhtin, *Rabelais*.

⁹⁴ On Laufare, see J.H. Baker, *The Order of Serjeants at Law* (London: Selden Society, 1984), 150, 522. This was not the only occasion on which this serjeant was criticised in reports for his poor pleading: elsewhere he was said to have 'pleaded badly' and 'pleaded too feintly'. *Seipp* 1305.075rs, YB Pasch. 33 Edw. I pl. 50; *Seipp* 1307.015rs YB Hil. 35 Edw. I pl. 15; *Seipp* 1309.177ss YB Mich. 3 Edw. II pl. 27, *Seipp* 1310.039ss, YB Pasch. 3 Edw. II pl. 4; *Seipp* 1310.171ss, YB Mich. 4 Edw. II pl. 30; *Seipp* 1311.305ss, YB Mich. 5 Edw. II pl. 58; *Seipp* 1312.002ss, YB YB Hil. 5 Edw. II pl. 2.

⁹⁵ See, e.g., Ives, *Common Lawyers*, 148.

⁹⁶ See, e.g. *Seipp* 1309.129ss, YB 2 Edw. II pl 129 (remembering a judicial *bon mot*) and *Seipp* 1443.021, YB Hil 21 H VI pl 21 f 33b-34a (recalling judicial laughter). Perhaps the most striking line of reference is that for the line 'Robin Hood in Barndale stood', which Professor Seipp has traced in varying forms from *Seipp* 1429.051, through *Witham v Barker* (1608) Yelverton 147, 148 80 ER 99 (reported as *Metham v Barker* (1608) 1 Brownlow and Goldesborough, 203; 123 ER 761; *Earl of Pembroke v Green and Bostocke* Littleton 223, 225 124 ER 218, 219 (CP 1629); *Read v Dawson* 2 Modern 139, 140, 86 ER 987 988 (CP 1676); *Stanhope v Dawson* 2 Lutwyche 1428, 1434 125 ER 788, 791 (1704), *Lambert v Stroother* Willes 218, 221 125 ER 1140, 1141 (CP 1740); *R v Cotton*, Parker 112, 133, 145 ER 729, 735 (KB 1751). See T.H. Ohlgren, *Robin Hood, the early Poems, 1465-1560: texts contexts and ideology* (Newark: University of Delaware Press, 2007), 212. Likewise, the 'good way to be rid of a shrew' humour of Juyn CJCP in *Seipp* 1436.047, YB 14 Hen. VI. pl. 47 f. 14a was recalled in *Seipp* 1478.026; YB Pasch. 18 Edw. IV pl. 20 f. 4a) and repeated in *Smith v Ash* 1 Croke 58, Hil. 2 Car (I), Hutton 86, 123 ER III9; in *Manby v Scott* 1 Mod. 136, 86 ER 788 Trin. 15 Car. II, Hyde J. See also YB 21 & 22 Edw I RS 31.2, xi.

‘Outgroup’ humour: women, foreigners, the lowly

Directing humour at ‘outgroups’ is one of the standard examples of the ‘superiority theory’ of humour, and having a shared ‘other’ as the butt of a joke in court might serve to bolster cohesion amongst the lawyers and judges. It will be no surprise that there is a certain amount of humour involving both foreigners and women, particularly the latter. We see also some instances of disdain for lower social orders and of negative attitudes towards the clergy. Nevertheless, some of the humour involving ‘outgroups’ is as suggestive of anxiety as it is of superiority.

It is not surprising to find misogynist humour, such as Cavendish CJ’s famous reported remark about women of thirty wanting to look eighteen, making it impossible for men to assess their age, references to ‘shrews’ getting their come-uppance, and Paston JCP’s reported smiling remarks in a case of 1441, when discussing the hypothetical case of a man about to rape one’s wife.⁹⁷ There are also more elaborate bawdy stories with misogynist elements. One, mentioned above, was told by Mettingham at the end of the thirteenth century.⁹⁸ Meant as a criticism of a male lawyer, this story, which bears more than a passing resemblance to well-known fabliau types,⁹⁹ also serves to criticise women as foolish and perhaps immoral.

Somewhat similarly, in the replevin case of *John the Cooper of T v Isolde widow of Richard Ildok* (1312), Bereford is reported as having told a story concerning a young

⁹⁷ *Seipp* 1376.012, YB Hil. 50 Edw. III pl. 12, f. 5b-6a. For criticisms of women’s use of cosmetics for deception of men, see, e.g. Georges Duby, *Women of the Twelfth Century: Eve and the Church*, trans. Jean Birrell, vol. 3 (Chicago: University of Chicago Press, 1998).

For ‘shrews’, see note 96 above. Paston J’s smile or laugh when saying, in a trespass case of 1441 that one would be justified in beating somebody attempting to defile one’s wife (to protect ‘one’s most dear companion’) is hard to link with the subject matter of the case: *Seipp* 1441.032, YB Pasch. 19 Hen. VI pl. 5 f. 65b-66a. There might also be humour in the common pleading technique of a serjeant identifying himself with the party he is representing (as noted in Brand, ‘Inside the courtroom’, 111), if that party was a female, as in YB 20 Edw. III part I, p. 280.

⁹⁸ BL MS Add 35116 f.186v, translated in Brand, ‘Inside the courtroom’, 111. See above, note 26.

⁹⁹ See, e.g. ‘Le héron’, in *Eighteen Anglo Norman Fabliaux*, Anglo-Norman Text Society, Plain Texts series, vol. 14, eds. Ian Short and Roy Peacey (London: Anglo-Norman Text Society, 2000), 31-33; Darren Hopkins, ‘The original tale of the sparrow-hawk’, *Monatshefte* 98 (2006): 505-23. In the fuller story, the varlet has sex with the woman again, to ‘unfuck’ her, and she returns the payment.

woman who was asked by a vallet whether she was a virgin, and, in response, said ‘make trial, make trial’. The judge used this during an attempt to encourage a party to try out a plea he was hesitating to make.¹⁰⁰ The tale suggests a negative attitude to women - again, on the grounds of foolishness and immorality. This story, and its inclusion, however, also raise interesting issues concerning gender and legal hierarchy, for Bereford, who intends to encourage boldness of pleading in the serjeant, is effectively cast as the (forward or foolish) young woman in the story, and the serjeant as the timid or uncertain male partner.¹⁰¹ What layers of complexity, misogyny and gender insecurity lie behind such an inclusion?

Bereford is reported to have made a joke about nuns and wives the same year, though this also has undertones about male inadequacy.¹⁰² Margery had married Roger, but, subsequently, he had allowed her to become a nun. Twenty years later, she had come back to the secular world and to her husband. The spouses brought novel disseisin concerning lands in Middlesex. Margery came in ordinary clothes rather than a nun’s habit. She was allowed to appoint an attorney to act for her. Then it was objected that she was a nun, so should not be involved in matters of temporal property, and should not be heard. The argument on her side, however, was that the court had accepted her as a litigant when they had let her appoint an attorney, so that this could not now be challenged. Bereford announced that in the (absurd) event that ‘all the nuns in England had come in that way, we should have let them appoint attornies’, by which he meant that the court could not be expected to check up on

¹⁰⁰ *Seipp* 1312.017ss, YB Hil. 5 Edw. II pl. 17, 31 SS 84-95. Note also Bereford’s reported gratuitous introduction of a tale involving a brothel in a trespass case: *Paris v Page*, *Seipp* 1308. 1308.003ss, YB Pasch. 1 Edw. II pl. 1.

¹⁰¹ This may seem a rather ill-fitting joke, since the main bone of contention is whether particular legal rights are whole and indivisible, or not. There is, perhaps, some further sexual humour in the mention of rights being ‘in gross’ or not, which might indicate pregnancy. It is all complicated by the fact that this is a case with multiple reports, and only one has Bereford’s joke in it.

¹⁰² *Seipp* 1312.140ss, YB Trin. 5 Edw. II pl. 21.

everyone, and that the fact that she had been allowed an attorney was not sufficient to defeat the defendant's challenge to her as a proper person to sue in the courts of common law. Eventually, Margery was excommunicated for having left the abbey, which brought things to an abrupt end. Bereford apparently said to Roger that if he had proved that she was his wife, then he had a nun for a wife, presumably mocking Roger's inability to fulfil the proper masculine role.

A degree of gender insecurity is evident in possibly humorous reported statements about women being less amenable to their husbands than in the past: and the suggestions that a woman may be the master of her husband.¹⁰³ Humour concerning women, and its combination of misogyny, insecurity and occasional admiration, is much discussed amongst literary scholars,¹⁰⁴ and the Year Books' are ripe for examination in this context.

Foreigners appear in a few reported remarks. The idea that 'a Frenchman' might get his land is reportedly used by Hertford J in *Adam v B* (1294) as a ridiculous idea.¹⁰⁵ There is a possible joke or pun involving the similarity between 'Scottish' and 'stockfish': *Copley v Anon* (1470).¹⁰⁶ There is no particular mocking of the Irish or

¹⁰³ *Seipp* 1336.045, YB Pasch Edw. III pl. 9 f.17b; *Seipp* 1345.104rs, YB Trin. 19 Edw. III pl. 5. See also *Seipp* 1506.017, YB Hil. 21 Hen. VII pl. 17 f. 13a-b for apparent humour concerning a woman riding behind a justice on a horse. See also the comment, in the context of alleged rape, that it is 'marvellous' that a child can be engendered without the consent of both parties': *Seipp* 1313.299ss; SS 24, p. 111; Thorne and Baker, eds., *Readings and Moots* (1490–99), 2: 275.

¹⁰⁴ See, e.g. Perfetti, *Women and Laughter*; Antònia Carré, 'The Mirror (1460) by Jaume Roig: misogyny, misogamy and laughter', *Studi medievali*, ser.3, 50 (2009): 203–229; S.M. Hordis, 'Gender anxiety and dialogic laughter in Malory's *Morte Darthur*', in *Medieval English Comedy*, 145–70.

¹⁰⁵ *Seipp* 1294.183rs, YB Mich. 22 Edw. I pl. 183, YB 21 & 22 Edw I RS 31.2, 618 For the poor state of Anglo-French relations at this time: see, e.g. Michael Prestwich, *Edward I* (London: Methuen, 1988), ch.15.

¹⁰⁶ *Seipp* 1470.006, YB Hil. 9 Edw. IV pl.5 f. 49a. This case seems to be *William Copley and Margaret or Margery his wife v. Henry Daubere recently mercer of London* (1470) CP 40/834 m. 23, concerning the goods of Margaret's late husband, John Grenefeld. If this identification is correct, a 'light' mood might be explained by the fact that the case involved people well known to the court: William Copley was chief prothonotary of the Common Pleas, and John Grenefeld was a serjeant at law: Ives, *Common Lawyers*, 464; Baker, *The Order of Serjeants at Law*, 45; Baker, *Men of Court*, 1: 519–20.

Welsh,¹⁰⁷ but the people of Norfolk are the object of Yorkshireman Fairfax J's amusement when he (reportedly) said, *ridendo*, that they were full of wiles and disinclined to lay out money.¹⁰⁸

Another matter for quip and humorous observation is social status, perhaps another area of insecurity in the social-climbing world of the legal professions,¹⁰⁹ and one which can be seen to have come to the fore in the late fourteenth and fifteenth century, prompting, or as a result of, sumptuary legislation of 1363 and 1413 legislation on the descriptive 'additions', included in writs.¹¹⁰ In *Caunt's Case* (1430), for example, Serjeant Rolf, *ridendo & protestando*, mocks his client's opponent as a mere 'wine drawer', ignorant about wine,¹¹¹ and, in *Anon* (1436), in a discussion of whether a cook is or is not a 'gentleman', Juyn JCP jokes that the masters of the royal kitchen would be aggrieved by being described as 'cooks'.¹¹²

Churchmen are another group treated with a certain levity, and even disrespect, in the reports. Some judges reportedly used sarcastic humour towards or about them. Bereford CJ alluded to the greed or craftiness of churchmen,¹¹³ a tardy Ordinary was asked by Friskenev J where he had been sleeping, and Mowbray JCP told a bishop to 'go to the devil without day'.¹¹⁴ Priests are treated as proverbially lecherous, and there is some joking relating to unchaste priests and women even in a

¹⁰⁷ See, e.g. Andrea Ruddick, *English Identity and Political Culture in the Fourteenth Century* (Cambridge: Cambridge University Press, 2013), ch. 3, especially at 142.

¹⁰⁸ *Frankessh v Bokenham* (1490), Baker and Milsom, *Sources*, 622-3; KB 27/915 m.27, SS, 115: 27. For regional antagonism, see H.M. Jewell, *The North-South Divide: the origins of Northern consciousness in England* (Manchester, Manchester University Press, 1994), especially chs.2 and 3. On medieval thought about Norfolk, see Naomi Riches, *The Agricultural Revolution in Norfolk*, 2nd ed. (London: Frank Cass, 1967), 36; *Anonymi Petroburgensis Descriptio Norfolciensium* and refutation by John of St Omer, in *Early mysteries and other Latin poems of the twelfth and thirteenth centuries*, ed. Thomas Wright (London, 1838), 93-8; 99-106.

¹⁰⁹ See, e.g., Ives, *Common Lawyers*, especially at 410.

¹¹⁰ Statute of Additions 1413; see, e.g., Peter Coss, *The Origins of the English Gentry* (Cambridge: Cambridge University Press, 2003), 4, 216-38.

¹¹¹ *Seipp* 1430.083, YB Mich. 9 Hen. VI pl. 37 f. 53b; CP Mich 9 H VI pl 37 f. 53b.

¹¹² *Seipp* 1425.021. YB Hil. 3 Hen. VI pl. 21 f.31b; *Seipp* 1436.051 YB 14 Hen. VI pl. 51 f. 15a-b.

¹¹³ *Seipp* 1310.152ss, YB Mich. 4 Edw. II pl. 11.

¹¹⁴ *Seipp* 1321.130ss, YB 14 Edw. II Corone pl. 15; *Seipp* 1369.116 YB Mich 43 Edw III pl. 43, f. 33b-34a.

replevin case which seems to have nothing to do with either.¹¹⁵ The church organisations in York and Canterbury are likened to Jews and Samaritans who will have no dealing with one another, an allusion to John 4:9.¹¹⁶ This light or disrespectful attitude has obvious parallels with literary depictions of venial, lecherous clergymen, but might also be read as owing something to the prickliness of a new profession, asserting itself against a more established one.

Conclusion

It has long been known to legal historians that the Year Books contain a number of reports of smiles, laughter and levity, though they have not generally done more than note the incidence of such inclusions, and enjoy them. Those from other fields of scholarship have not yet expended much energy on exploring this light or humorous content in legal texts. As has been outlined here, however, this material has much to offer both legal historians and other scholars. The fact that reporters took an active role in constructing events, personalities and the culture of the courts, rather than simply recording what happened, is evident from the inclusion of this material, and this paper has made some preliminary suggestions as to the reasons for including it. As humour, laughter and smiles are complex phenomena,¹¹⁷ and as the sources discussed cover a long period of time and produced by several different hands, the ‘light’ material under discussion cannot be reduced to having only one purpose or meaning, but this article has suggested some interpretations of what such inclusions show with regard to the world-view of medieval common lawyers, and to contemporary ideas of professional education, the image and self-image of judges and

¹¹⁵ *Richard Gervys's Case* (1522), 119 SS 108, at p. 115. See, e.g., Jerónimo Méndez, ‘The bad behaviour of friars and women in medieval Catalan fabliaux and Chaucer's Canterbury Tales’, *Skepsi* 3 (2010): 52-63.

¹¹⁶ *Seipp* 1481.074, YB Mich. 21 Edw IV. pl. 6 f. 44b-49b.

¹¹⁷ Classen, *Laughter*, 4.

lawyers. It is to be hoped that these preliminary explorations will encourage others to continue work on the Year Books as literary productions or texts, lying in the intriguing area of ‘interplay between medieval reading ... and orality’,¹¹⁸ and as evidence for history of humour and emotion, despite their sometimes forbidding subject matter and their acknowledged problems, the better to enrich both legal history and other areas of study.

¹¹⁸ D.H. Green, ‘Orality and reading: the state of research in medieval studies’, *Speculum* 65 (1990): 267-80, at 277; Brand, ‘Courtroom and Schoolroom’, 155, 158, 164.