Legal Personhood and the Inquisitions of Insanity in Thomas Hoccleve’s *Series*

*Helen Hickey*

The legal concept of personhood is a hitherto unexplored area in critical readings of Thomas Hoccleve’s *Series*.1 This article explores medieval medico-juridical understandings of insanity in the descriptions of personal illness in these poems, and argues that the exposition of Hoccleve’s illness can be compared productively to the forensic design and sequence of the inquisitions of insanity and idiocy. My reading abuts, complements and pressures prior academic interpretive frames for the dysfunctional mental state that Hoccleve describes through the reports of the urban crowd, or “prees” (*Compleinte* l. 73), that he encounters after his illness is common knowledge. For in his attempts to recreate a reconciled self out of a self-in-pieces, Hoccleve has little to work with: ephemeral bits and pieces of eavesdropped gossip, snippets of information about his condition supplied by friends, and a jumble of thoughts about his hoped-for recovery and imagined social ostracism. He rewrites a ‘sane’ story out of these recalcitrant materials through discourses of penitence, medicine, and theology. Hoccleve includes a further narrative strand in his attempts at self-recreation by exploiting medieval legal discourse to strengthen a coherent sense of self; but this strategy is not entirely successful, as it is complicated by the inherent complexities of the law itself, as I will argue.

Concepts of legal personhood stem from the *Prerogativa Regis*, Items xi and xii, laid down during Edward I’s reign.2 Almost certainly an instantiation of customary practice, these semi-official declarations enshrined the idea that when it came to mental impairment, two categories of persons needed their land, goods and inheritance protected by the Crown. The *Prerogativa* differentiated between those who were born with a mental disability, “natural fools” (*fatuorum naturalis*), that interfered with their capacity to govern themselves. Second, were those who, although not born impaired, acquired mental impairment during their lifetime; medieval doctors and the law recognized that some

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1 All references and quotations from the *Series* poems are taken from *Thomas Hoccleve: My “Compleinte” and Other Poems*, ed. Roger Ellis (Exeter: University of Exeter Press, 2001).

2 *Prerogativa Regis (Of the King’s Prerogative) from The Statutes of the Realm* (London: Dawsons of Pall Mall, reprint 1963 of 1810 edition), vol. 1, Items xi and xii, section 226.
mental disorders resulted from physical, psychological, or unknown causes: fever, head injuries, sudden shock, or for no discernable reason. In general, insanity was classed as acquired mental impairment consequently lunatics were those whose memory and intellect were disrupted by insanity. Until their memory returned, per lucida interzalla, they and their property and goods required care and stewardship by the Crown, relatives, or the community. Section xii specifies and stresses the need for the protection of their property “sine vasto et destructione.” Such legal understandings of idiocy and insanity based on the Prerogative operated during Hoccleve’s lifetime; they are written into correspondence that circulated in the government administration.

More often than not, the stewardship and protection of property drove legal action. If the property of those with born or acquired mental deficiency was under dispute, the Crown implemented a series of steps to ascertain what type of mental impairment was present and what type of care was needed. First, a mentally impaired person was subjected to a verbal inquisition by interested parties to establish whether they either suffered natural or acquired mental impairment. From that knowledge, the jury decided what type of protection they required and who to appoint to regulate and care for the property and person under inquisition. This distinction was important as idiots and lunatics were treated separately under law. The monarch, who had a fiscal interest in cases of idiocy, ordered a commission of writ (de idiota inquirendo or de lunitico inquirendo), which signaled the purpose of the inquisition and what form it would take. An idiot was prohibited to transfer land without the assent of the Crown and its legally appointed guardian/s, which had repercussions for the realm as it collected and kept any profits made on an idiot’s holdings. In cases of lunacy, the crown acted as a trustee for the lunatic’s property and returned that property if and when the person recovered.

3 Simon Kemp, Medieval Psychology (New York: Greenwood, 1990), 112. Demonic possession was not indicated in most accounts of acquired impairment.
4 The explanatory paradigms of madness inscribed in Hoccleve’s poems change little until the nineteenth century, and, perhaps, well beyond.
5 Margaret McGlynn, “Idiots, Lunatics and the Royal Prerogative in Early Tudor England,” Journal of Legal History 26.1 (2005): 4; Prerogativa Regis, section 226. A lunatic was one who “habet prius memoriam et intellectam” but requires custody until the time “eis quando memoriam recuperaverint” (when they shall recover their memory). For example, Calendar of Patent Rolls Preserved in the Public Record Office (London: HMSO, 1901–86), 1447, Henry vi, v, 45, “Grant to Robert Potan, brother of Thomas Potan, an idiot, who was found by an inquisition taken before the escheator in Lincolnshire to be seised in his desmesne as of fee of divers lands…”.