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Theatres of the Book: Covering, Flaunting, Marketing, Author and Text

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Abstract
The printing of theatre — theatrum imprimatur, just to flaunt a little — was accompanied by a theatricalisation of print. The new technology of the production of books brought with it not only an exponentially greater quantity, but also an increased visibility, of scholarly works and religious and legal texts particularly. Pamphlets, typescripts, books flooded the markets and were everywhere on view. Early print also had a striking dimension of performance and play. Aviaries of angels and other devotional and instructional figures adorned the religious manuals and modelled the proper persona, the ontic self, that the subject should play. Early law texts had coloured graphics, emblems, 'devises', as well as schemata, charts, portraits and mottos. Legal being too had its visible and printed figures, the image of the apposite propositus that accompanied the ceremonies of the norm and their demands for honour and role.

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Theatres of the Book: Covering, Flaunting, Marketing, Author and Text

Peter Goodrich[1]

> What was required of me was the skill to play my role and not compromise myself (Seignalt 1797/1978: vol 3 108).

The printing of theatre — *theatrum imprimatur*, just to flaunt a little — was accompanied by a theatricalisation of print. The new technology of the production of books brought with it not only an exponentially greater quantity, but also an increased visibility, of scholarly works and religious and legal texts particularly. Pamphlets, typescripts, books flooded the markets and were everywhere on view. Early print also had a striking dimension of performance and play. Aviaries of angels and other devotional and instructional figures adorned the religious manuals and modelled the proper *persona*, the ontic self, that the subject should play. Early law texts had coloured graphics, emblems, 'devises', as well as schemata, charts, portraits and mottos. Legal being too had its visible and printed figures, the image of the apposite *propositus* that accompanied the ceremonies of the norm and their demands for honour and role. The lectoral 'contentment of sight' made the book into a species of theatre, and law itself had its tradition of drama, as also of justice, both seen and unseeing. To these relatively well known dimensions of visibility and theatricality I will here add a footnote concerning the book as cover and covering, as expression and occlusion

of the drama of the juristic self. My specific topic and illustration will be the cover of a singular book on *Covering* by the lawyer poet Kenji Yoshino (2006). The analysis offered will address the jacket picture(s), title and blurbs, the cover viewed as text become figure and thus as the first and emblematic image — in filmic terms the opening credits — which catch the eye, attract or repel, but seldom gain the analysis that such crucial clothing, such flagrant flaunting, merits.

Covers

Interestingly enough, the cover is a relatively recent phenomenon. Historically books were bound, frequently by the purchaser, in vellum and then board. Originally likely to be wrapped in lawyer's whethers (sheepskin), and sometimes pigskin, they were later most often simply encased between plain panels. There might be some pattern engraved along the edges of the leather or stamped in the centre of the board, larger books would have metal clasps or leather ties, but from the Gutenberg Bible to the earliest legal incunabula, from Shakespeare's various folio editions to Blackstone's *Commentaries*, the colours and curlicues, images, emblems and other illuminations were kept for the inside of the work. The earliest cover in the modern sense of the dust jacket or exterior image dates to 1825 and was used for the collected works of Voltaire, or so we are informed by Gerard Genette in his curious study of *Paratexts*, meaning the marginalia of publication (Genette 2004: 22-4). The 'blank leather' of the classical binding gave way in the nineteenth century to a plethora of printed covers which included anything from the author's signature to their portrait, dedications, mottos, emblems, title, subtitles, names, numbers, date and price (Genette 2004: 24).

The cover then is one feature of the marginalia of book production, one of the miscellaneous thresholds to publication and, although it is not generally remarked in scholarly discourse, it does form a genre of sorts, a body of statements both visual and graphic that have their own rhetoric and significance. The cover in fact replaced the frontispiece image which in early printed texts was most often some species of

emblem or heraldic device on the opening page. The title page would often be in part in coloured ink, with multiple typefaces, and Latin mottos. Thus the 1610 edition of John Selden's *Jani Anglorum facies altera* has an image of the juridical deity Janus (a two-faced figure) with a Latin motto on the title page (Selden 1610).[2] It is a significant emblem of the work and, although it might seem an incidental feature, accurately depicts, in image and motto, the radical character of the book. *Jani Anglorum* is an account of the feminine sources of common law, a work that uncovers hidden dimensions of Anglican law's interior and affective roots in a gynococratic past and in Druidic rites and communities. The image that acts as the face of the tract also implies the importance of the image as face. It is the frontispiece and so it is the first sign, a flaunting which announces the visible themes of the book which it fronts. The cover plays a comparable but more ambivalent role in that the mystery of the frontispiece, of the emblem veiled by boards, hidden inside the bindings, protected by *fascia* is now demoted and placed outside as a disposable and sometimes dispensable image, a mere cover.[3]

The most famous example of the frontispiece engraving, however, is the emblem of Leviathan at the opening of Thomas Hobbes' eponymous treatise (1651). The image is that of the crowned sovereign, sword in one hand, staff in the other, looming over a landscape, in the foreground of which are a cathedral and a city. In the printed edition, the sovereign's torso, except for the hands, as is well known, is composed entirely of his subjects, all turned away from the viewer and obediently looking towards the sovereign's face. Many are kneeling. The image is both striking and somewhat opaque. The sovereign rises up and dominates the landscape, his body populous and vast, whereas the kingdom, the realm surveyed, consists only of neatly placed villages, prominent churches and then, at the front, the well-ordered, indeed thoroughly regimented, geometrically proportioned city. The significant point, visually, is that there are only buildings: the landscape and walled, castellated city are strikingly empty of people. Deserted. Blank.[4] For the author of the image, humanity is definitively elsewhere. The people are not even on the ground but rather swept up, aloft, in the air, as

the constituent parts and members of the sovereign body, Behemoth, Juggernaut and, here, Leviathan. It is a powerful and lasting image of sovereignty as governance that stands over us, watches and threatens an absolute judgment. The sovereign is the embodiment of law, the *corpus iuris*, father and judge, guide and arbiter of the social. Indeed much more can be said about this emblematic image, but it will have to wait.

The significance of Hobbes' frontispiece is initially to be found in its theoretical insignificance. It is, relatively speaking, a popular emblem but it has not gained much in the way of jurisprudential or substantive doctrinal elaboration. It is mentioned, it may even be viewed as aesthetically interesting, but it is not treatise, norm, polity or law. To this we can add that it is also and frequently now used, in whole or more usually in part, as the cover or dust flap image of contemporary editions of *Leviathan* (Hobbes 1978 edn).[5] Here is an oddity or visual bagatelle that may help publishers sell the work and so it makes the passage, quite literally from interior to exterior, from title page to dust jacket, from frontispiece of the work to disposable cover or, in the case of a paperback, to the incidental marking of the soft jacket. Here though, and already, we can note the other significance of this passage and trajectory. The movement of the image, and of the iconographic message it portrays, from title page to cover already marks an exteriorisation of the interior, a 'coming out' as it were, that fits well with the dual thematic of covering as both exposing and concealing, adorning and draping.

It is maybe because the shift from the interior image to the outside cover seems obvious, a merely technological achievement, that it gains little recognition. The interior image is somehow treated as if it is dismissed to the cover, and so expressly moved out of the work. It is somehow too trivial to be remarked, too evident to be addressed directly, too marginal to be taken seriously. And so it is already something of a lost genre. If I analyse it here, it is in part for fear that the image on the dust jacket gets lost in the passage to the library and the processing that leads to the shelving of books according to one or other of the numerical systems of classification that archivists use and electronic filing mimics.[6]

There is a start, an effort of preservation that counters the discarding of the dust jacket in the public repositories of books, presumably because the cover is simply a cover, a protection, a way of fending off external threats to the integrity of the text, which is now safely embedded and likely vegetating in the stacks. The cover, in this dismissive modern interpretation, is simply part of the detritus of publicity, a symptom of advertising, a piece of trivia to be discarded like wrapping paper in favour of the seriousness of the gift and missive within. Something like that, but this general and not particularly conscious discounting of the cover image is deeply ironic if one recalls that the cover image is in fact an interior image that has been placed on the exterior, the first or original sign of the inside moved inadvertently and precariously to the outside. It is an emblem of the work, its face, its effigy and so in many respects its exemplary sign, and yet it is a sign that ironically gets mislaid, discarded or itself concealed.

To this can be added that covering itself suggests something obscured, the intrusive rather than the obtrusive or as Robert Burton has it in the Preface to the *Anatomy of Melancholy*: 'when you see the cover, why ask about the thing hidden? It was covered, because he should not know what was in it' (Burton 1628: 11). Here we can revert to the first of the historical significances of covering, a root meaning according to which it is a corpse that is covered with a mantle (*corpus pallio*), and in our case the *corpus* is the work, what Walter Benjamin appropriately enough viewed as being itself the death mask of its author's intention. The cover is occlusive. It shrouds and veils. It is a mantle and serves primarily to cloak. And not in the swaddling clothes of nascence but in the wrapping of the desiccated body. Indeed, in Egyptian practices of mummification, preservation of the soul through careful embalming of the body was not completed until the corpse was wrapped elaborately in linen. We inherit this sense of a link between covering and mortification in the specifically juridical concept of the permanence of the legal text, in its addressing not the contemporary but posterity. Law lives on through its unchanging black letters, fixed in Gothic script, collected in gargantuan folds, covered and embalmed in the library. The plea rolls and the tables of fines, the

cases and other books of the law, collectively still termed the *corpus iuris*, make reference, if suitably veiled, to a body, a corpse and hence also something shrouded, covered, mute and awaiting resurrection. *Lex est mutus magistratus* we are told by the early lawyers, it is a silent judge, it is inanimate, without breath, a dead letter until it finds its tongue, its poet, its majesty. This, of course, is where the poet lawyer, historically speaking the gay scientist, Professor Yoshino and his recent enough work on *Covering* reluctantly enters the stage.[7]

Covering

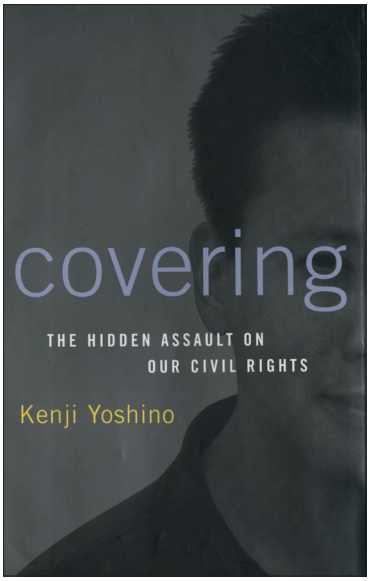


Figure 1 The front cover of Kenji Yoshino's *Covering: The Hidden Assault on Our Civil Rights.* Copyright © 2006 by Random House Inc. Used by permission of Random House Limited.

Start with the cover of *Covering*. A simple nominal choice not only because books uncover, which is to say they provide a space to unleash

in a displaced form a self that likely cannot appear in everyday speech, but also because they have a cover. So if we turn, and why not play the literalist for a moment, to the cover of *Covering*, the inside on the outside, we can immediately note the sepulchral half tones, the monochrome of the image. [See Figure 1.] The front cover picture is in the form of a black and white photograph in which half of the author's face is shown in a sepia style portrait, folding out of the cover, while the rest is blank, bare tablet, a palimpsest grey — fusion of black and white, paper and text. Over this ambiguous space the title of the book is printed in lower case letters in lavender. The subtitle is in white lettering, small caps. The author's name is in mellow yellow, mainly lower case, pacific rim. If we spare the modern commercial publisher the aspersion of too great a degree of subtlety, the grey on grey is the Hegelian mark of indefinition, of things hidden, of identity covered or obscured, shadow at dusk. In the heraldic law of colour, suitably updated, the lavender is an ironic index of invention, the purple thread of sovereignty or emendation of law to which the gay identity that is covered by the word 'covering' undoubtedly refers. And the yellow is the mark of the orient, of the sensei or teacher. To this, another initial indicator of the image can be added, namely that the letters and the colours cover the figure, the face of the author himself. His visage is partially obscured, driven into the background by the lettering — the branding one might reasonably opine — by the purple prose, by the assault on law to which the subtitle refers. The cover as shroud upon a corpse gives way to the mantle or cloak of the traveller, of the being that subsists and moves behind the cover. This is Milton's mantle from the last line of *Lycidas* (Milton 1891: 74):

> At last he rose, and twitch'd his mantle blue:
> To-morrow to fresh woods and pastures new.

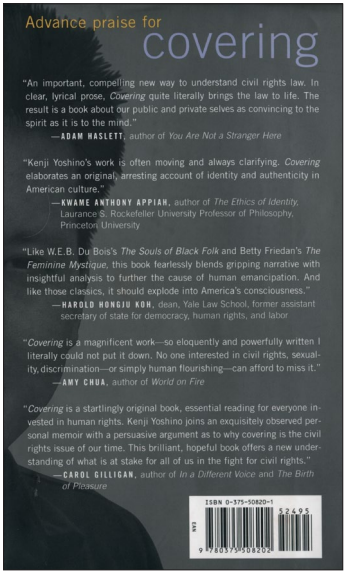
The mantle blue, in this case a lavender blue, both signifies and hides a melancholic body, a covered soul. The melancholia of law has to be twitched and moved along. The work of which this is the title page, the cover, may be marked initially by a certain quietude, soft tones, and a partial invisibility or at least obscurity that accurately reflects

the narrative in the pages ahead where colour will dawn and law will be rewritten slowly yet in a more diverse hue.

Recto and verso, front cover and reverse cover. And so, moving on, consider first, recto, *oratio recto*, direct speech, frontal visage, the shroud. The background, the non-verbal is what is both torn and hidden, but look closer, look behind the text and there is a stylised effigy or imprint of the mask, the legal body, the persona or face. Not any face and not a whole face. Half a face and if, as lawyers have long dictated, the face is the mirror of the soul, *vultus est index animi*, then this is a split visage, an image rent in two (Head 1656: 53).[8] One eye, one nostril, one ear, one corner of the mouth, one cheek all suggest what used to be termed a broken face. It is a collapsed face, one that has lost its form, it is colourless and, by extension, covered or veiled. It is classically a feminine face and signals at first viewing a downcast, obedient, reverent image, one that does not look directly into the eye of the auditor, judge or reader. It is a face that does not confront authority, one which neither attracts nor incites desire. But the half face on the cover is not looking with downcast eyes.

The paradox of this effaced face is caught in the placement of the 'g' of 'covering' directly over the eye, as if a monocle or, less poetically, half of a spectacle through which the eye stares out. The spectacle is perhaps too obviously the 'g' of gayness, the subject here staring with one eye through the partial lens of sexual orientation. So too it is a pirate's gaze — fixed, defiant almost — smiling out. The top half of the 'g' in minion (*mignon*) typeface forms a circle with a suitably bent curlicue extending from the top right corner. The sign of masculinity but with the arrow of virility shortened, softened, in lavender and literally bent. To this, note finally the more antique visual archive to which this image perhaps inadvertently refers: the emblem of the Anglican Church — the sign of its constitution and presence was an eye enclosed in a triangular or even pyramidal shape. That image of Anglican foundation, which was also highly controversial at the time of its original inscription, when greater attention was paid to images, is taken up and reformulated here as a partial image of a homosexual

constitution. The eye staring out of the 'g' is a symbol of a different masculinity, a lavender virility, a taking back of civic space.



Advance praise for

covering

"An important, compelling new way to understand civil rights law. In clear, lyrical prose, *Covering* quite literally brings the law to life. The result is a book about our public and private selves as convincing to the spirit as it is to the mind."
—ADAM HASLETT, author of *You Are Not a Stranger Here*

"Kenji Yoshino's work is often moving and always clarifying. *Covering* elaborates an original, arresting account of identity and authenticity in American culture."
—KWAME ANTHONY APPIAH, author of *The Ethics of Identity*, Laurance S. Rockefeller University Professor of Philosophy, Princeton University

"Like W.E.B. Du Bois's *The Souls of Black Folk* and Betty Friedan's *The Feminine Mystique*, this book fearlessly blends gripping narrative with insightful analysis to further the cause of human emancipation. And like those classics, it should explode into America's consciousness."
—HAROLD HONGJU KOH, dean, Yale Law School, former assistant secretary of state for democracy, human rights, and labor

"*Covering* is a magnificent work—so eloquently and powerfully written I literally could not put it down. No one interested in civil rights, sexuality, discrimination—or simply human flourishing—can afford to miss it."
—AMY CHUA, author of *World on Fire*

"*Covering* is a startlingly original book, essential reading for everyone invested in human rights. Kenji Yoshino joins an exquisitely observed personal memoir with a persuasive argument as to why covering is the civil rights issue of our time. This brilliant, hopeful book offers a new understanding of what is at stake for all of us in the fight for civil rights."
—CAROL GILLIGAN, author of *In a Different Voice* and *The Birth of Pleasure*

ISBN 0-375-50820-1

Figure 2 The back outside cover of Kenji Yoshino's *Covering: The Hidden Assault on Our Civil Rights.* Copyright © 2006 by Random House Inc. Used by permission of Random House Limited.

The image is of a partial concealment, it covers but is also a moment of reverse covering, of coming out. Indeed, turn to the reverse cover, the back-face of this Janus and the most immediately noticeable feature is that the face, the other half of the image from the front cover, is here tilted forward, more positive and persuasive, pressing to come out of the background and announce itself. Again, however, we must note that the face is covered. There are words printed over the image, but here they are snippets of laudation, 'advance praise for covering' [See Figure 2]. Praise of something before covering perhaps? Maybe advanced praise — high calibre, well educated laudation — the hyperbole of hierophants pasted to the back leaf. Hype. Encomia. White on grey. And final

irony, it suggests that covering should be praised, that we should flaunt it and, in flaunting we affirm, so much so that we could almost expect the opus to be a latter-day version of Fortescue's foundational fifteenth century treatise *In Praise of the Laws of England,* adapted now — same tradition but new object of veneration — to the title *De Laudibus legum tegumentae — In Praise of the Laws of Covering* (Fortescue circa 1463).

It is unusual, I know and will say it again, to take the cover seriously. It is browsed, not read. But keep going. What precisely do the encomiasts have to say? What about the book is to be flaunted? Whose choice these blurbs on the back cover? Perhaps a brief conspectus, for the shame and the delight of it. First off, Adam Haslett says that '*Covering* quite literally brings the law to life'. No covering, no law. So here, or so at least we may suspect, the life of the law is covering, not the *ars moriendi* or art of shrouding, of dying, but rather the rhetorical and highly figurative art of lawyering. So covering is necessary for law, indeed brings it to life, because without the theatre of covering, the life giving social art of playing the role of the lawyer, there would be no law. *Lex animata* or living law is only made possible by covering. There is a baroque coinage for this, *theatrum veritatis et iustitiae*, the theatre of justice and truth, and that is what Haslett offers as his advance praise following in an earlier if unknown juristic tradition (Baptista 1685). Which is at least curious because it makes covering sound essential and desirable. It is a good thing, we have no choice but to cover. Covering gives life to law and yet, for Yoshino, covering — as we know from the subtitle — is apparently a hidden assault on our civil rights, a bad thing, both painful and epistemically obstructive. Did Haslett get it wrong? Did he mean to? My suspicion is that Adam the novelist, and former classmate of Yoshino's, and for sure I shouldn't be mentioning such things, aimed at a productive misunderstanding of the lawyer. I suspect, worse still, that the novelist played the part of the lawyer and inadvertently suggested that Yoshino's experience at law school was precisely the cost of admission, the price of bringing the law to life. They were at Yale together. Note further the title of Haslett's book, cited on the back cover: *You Are Not a Stranger Here*. Grant that the citation gives the title a significance for Yoshino and for *Covering* and

we can conclude that Haslett is both praising *Covering* and noting in good novelistic style that covering, the art of creating fictional identities, is intrinsic to law, to the professions, and to the theatre of public life. That Yoshino is not a stranger here, indeed that he was Academic Dean at Yale Law School, the No.1 ranked legal academy in the US at the time of the book's publication, suggests that he is neither a stranger, *in alienam iuris* as we say, nor an outsider, but rather a similar and *sui iuris* as in his own law. Otherwise, why suffer? Go be a professor of literature, a poet, a radical.

Then there is Koh. The first lawyer and last man offering advance praise. He is the only blurber identified exclusively by institutional affiliations rather than books written. Dean Koh, Kenji's Dean, states with appropriate terseness that the book 'should explode into America's consciousness'. True it is tense and tautly written, precious prose, but I read it as softer and more melancholic than an explosion. In fact I suspect that the opposite is likely the case. *Covering* is not so much explosive, perhaps as Koh says it should be, but it is more gentle and insinuating than inflammatory or combustible. It offers tears not tinder, and more of a keg than a fuse. The question it poses at this point, in opposition to Koh's normative 'should', is how to give it effect, short-term and *longue durée*. How is the intimate public sphere, the interior of the institution, to be made existentially safe, congenial and accessible to the aesthetics of gay identity, to the flaunting of alternate and plural aesthetic tastes and quotidian erotic self-expressions? What is needed is a significant change in the conversation, a shift to greater eloquence, to affective candour in the variegated existential spaces of collegial interaction, career survival, institutional advancement, in sum public decision-making great and small. The answer, at this point in the institutional history of law, is wrapped up in the question of covering itself.

The term implies a mixing of genres, the confluence of law and literature, the enfolding of autobiography and jurisprudence, poetry and rule, erotic and normative. There is as yet little *eros* in *nomos*, no erudition *in eroticis* in contemporary schools of legal theory, short

change for libido in the market economics of law (Nietzsche 1916: 53).[9] That said, Yoshino is implicitly committed to rectifying the imbalance in conjoining the literary and the legal, poetry and law. The poets too should be legislators, and in his view there is room to treat biography as the equal of doctrine and, hence, to allow a degree of reversion to the older meaning of gay science and its amatory law (Goodrich 2006). In that context, in the era of the fourteenth century revival of the troubadour tradition, the laws of love were the rhetorical rules of poetic composition and the best orators were picked as members of the Gay Consistory and as the judges of poetic tournaments (Goodrich 2003). The gay lawyer, to cite Rabelais, was *sans culottes*, a bare assed advocate, a viscerally learned figure (Rabelais 1696: 34). All of which is to say that autobiography opens up a novel space and arguably a more honest form of dialogue as to the demands that are made for conformity and covering. To the extent that autobiography is the enactment of the self, the emergence of 'voice', the actor taking to the stage, the very fact of inscribing experience — both trauma and desire — in a juridical text, simultaneously challenges the demand to cover and the conventional boundaries of legal method. It is a form of being bad, *catachresis*, a solecism that becomes a way of saying something new.

Such is the cover in terms of what Genette terms publishing thresholds. Front and back. Two sides of the face. Silent and voluble, image and text, the covered and the flaunted. What is there left to be said? Isn't the topic of covering now covered by advance figures giving advanced praise? Time to drop the book and go out and do something about covering, blow the whistle, write the brief, call the lobbyist, contribute to the campaign fund, protest, rally, and rail against the exclusion of the light. But not quite so fast. Note if you will that pride of place in the flaunted encomia on the verso cover goes not to an academic, not to a law school dean, but to someone who is known principally as a novelist, even if he is undoubtedly teaching creative writing, the craft of fiction, literary self-organization, flower poetry or something similar at a college – Columbia University last I looked – to help pass the line. The figure of literature (and of the *lex amicitia* that comes with it) precedes the intonations of the scholarly, of the political and the legal. Pride of

place goes to questions of aesthetic discrimination, imagination and, by extension, the possibilities of alternative conversational styles, dialogue in different forms. To pursue this point of priority, to stick to the spirit if not the letter, the image and not simply the word of the cover, I will offer three additional commentaries, a triad of further connotations of covering and flaunting, a minor trinity, another scene.

Theatre and Flaunting

First, the dimensions of the issue. Yoshino is clear that we all cover. On the inside flap of the recto cover, in lavender letters, this 'remarkable and elegant work' which 'fuses legal manifesto and poetic memoir' begins its self-description with two words: 'Everyone covers'. They hide disfavoured traits. Even angry straight white men have to cover (Yoshino 2006: 24). I cover. You cover. To this I will propose an additional and complementary thesis, an extension of the hypothesis, namely that all covering is erotic. This is especially so in common law terms. The word to cover comes from the Law French *covert,* meaning in a veiled or guarded manner, and refers legally to a *femme covert*, a married and so veiled woman. She loses her name, her capacity and personality. Her body becomes the usufruct of another, if I can put it like that, and who is going to stop me? Upon marriage, the husband covers the woman, but I am getting carried away. The doctrinal point is that she loses her law and is transferred *in alienam familiam*. She becomes the child of another. Why so covered? Why the veil? Why the lack of status that it signifies? According to Juan Luis Vives's (1523) *On the Instruction of Christian Women*, the veil is the mark of 'shamefastnes', and this covering of the face signifies virtue and specifically chastity, 'in so much that she can not be chaste, that is not ashamed: for that is as a cover and a vayle of her face' (Vives 1557: fol K i a). This text could be taken in many competing directions. For present purposes, the face is an image and images – and in that era of reformation and recusancy, with something of a vengeance -- incite desire. To veil the face is to cover the image and so mask desire. It is kept for the husband, for the man of whom the woman, the image, is a member. The covered face

signals purity and the counterposition of shame to love. What is for Christian doctrine shameful — the body, carnal lust, human desire — is veiled in favour of a purer passion, a spiritual love. The idol of the face, and the carnality it implies, is covered so as to hide the other scene of love, the body and its sexual functions.

Vives himself, as author of an instructional manual on early Christian forms of literal covering of the face and of desire, draws upon a much older patristic tradition. The most interesting and direct text expounding the Christian demand for covering is undoubtedly Tertullian *On the Veiling of Virgins* (1870). He argues that the face of the virgin threatens to fascinate, to magnetise, to lure to sin and for this reason she must veil it so as to block the pathway to temptation 'for who will have the audacity to intrude with eyes upon a shrouded face? A face without feeling? A face, so to say, morose?' It is the last phrase that is most directly relevant because it invokes a law of erotic melancholy, a *nomos* of visceral sorrow, a gesture of corporeal erasure. That is the subject of covering, and while it maybe marks the wound that generates desire, I would like to think of it as a symptom, it gives expression to a melancholia that needs release, that must be properly mourned.

The law of the morose face, of erotic melancholy is the code for entry of the body into the social, it marks the rituals that accompany desire and at its best — as the law of love, and of amity — it addresses the space of erotic erudition, the discourse upon how we come to know and, over time to, love. To cover in this original common law meaning is to marry and by extension to join, to take up a place and role within a genealogy and family. For the *femme covert* this meant losing her identity, her name and, historically at least, her free will. She became subject to another. Those connotations are not entirely alien to Yoshino's sense of taking up his place, his institutional role and pedagogic function in Law School. It is to that biographical path into the institution of law, together with the accompanying sense of existential loss of will and hiding of body and desire, that he devotes the better part of *Covering*.

Here then, in law school, in its affective and often wounded spaces of reproduction, the successful student learns to become a master, to take on a mask, to play a role, to perform an identity that initially at least will likely seem to belong to another. For Yoshino, conscious of his own vulnerability, desperate to succeed, keen to pass largely unnoticed, the process involved trauma and attachment, covering and object choice. Thus, notable amongst adaptive techniques mentioned early in the narrative, he engages with a favourite professor's text:

> I also took to sleeping with his book. I would read it before falling asleep each night, and settle with my arms around it. In this time when everything was changing, this text would not change. The print would stay fixed on the pages, the words would say tomorrow what they said today (Yoshino 2006: 14).

The legal text reverts to the antique meaning of text as skin, as entanglement, both terror and desire. The black letters became an anchor, an object of love, a figure of authority, Pythagoras or here Bill Rubenstein, possessed through his words, undressed through his book.[10] In embracing the text Yoshino provides an interesting and unwitting answer to the question posed by the psychoanalytic jurist Pierre Legendre: 'How does one cleave to the text, how does adhesion to the truth of a text occur, and by what subtle artifice can one amorously enjoy a text?'[11] By taking it under the covers, through a sensuous apprehension of object *and* content, image *and* word.

The anecdote provides one of many instances of eros and pain thrown together, here in a part object, a synecdoche for the figure of a jurist that the youthful Yoshino hoped to become. Richard de Bury opines that 'it is altogether befitting the decency of a scholar, that washing should without fail precede reading', and here the purification of sleep, the constancy of the letter, binds subject to book in an amorous way, through the attachment mode of object choice. It is a key moment, especially if one allows that, again according to de Bury, 'the master love of books' does not apply to legal texts: 'an appetite for the books of civilians took little hold of our affections'.[12] The law book is in general 'like the scorpion in treacle', and so not a fit bedfellow unless the treatise

is exceptional, and contains something more than law, a *plus ultra* or amicable purpose, in short a humanism beyond the limited measure of secular rules and human will.

In falling in love with a law book, the neophyte lawyer exposes both a wound and a longing that are more usually the stuff, as Yoshino constantly affirms, of poetry and literature. The jurist's bibliophilia is transitional and marks in the most dramatic of forms a symbolic permutation, by which I mean an unconscious scene of capture by law. The image of a literal bibliophilia offers at the very least a compelling figure of the paradox of juristic initiation, of coming to desire a wisdom that is supposedly without desire. Here, specifically, we witness a passion that is thrice covered. It is covered by night, hidden by the bedcovers, and then secreted again between the sheets, between the boards and the reams of the casebook. In this image of dormant book and dreaming reader, we can glimpse a passage through the maelstrom of law school and the painful rites of initiation into the sect. This was the point of entry, the visceral encounter with the institution, and there has to be a fissure, a fault, a line of flight, a yoke through which each of us passes in coming to terms with law.

For Yoshino — gay and Japanese-American, poetically inclined, reticent, uncertain of identity and place — law school, as a student and as a professor, was an unwilling *askesis*, a harsh displacement, a painful demand. To go to law school, to join the sect, he had to hide in the dark, to sleep with a book, to attend classes covertly, and then to cover, meaning not to flaunt his identity, not enact his persona too visibly or speak his name too loudly. 'You'll have a better chance of tenure', a colleague cautioned him in an off-hour and in a thoroughly Foucaultian fashion, 'if you're a homosexual professional than if you're a professional homosexual' (Yoshino 2006: 17). In other words, flaunt what you are not, cover who you are. The injunction repeats an antique maxim of legal covering that can be culled from Sir Edward Coke: *in hominis vitium non professionis*, it is never the law that fails but only men (Coke 1777: A6r-v). Against this curious effacement can be counter-posed an even more venerable *lex amatoria*, of which Coke was also

aware. It would challenge the maxim as anachronistic and misplaced, as too narrow because it is not in the end *lex* but rather *veritas* that is to be loved and for this, the poets, *auctoritates poetarum,* are the final adjudicators and, in the Greek, *nomikoi*. It is this fissure or point of historical separation that Yoshino traverses and explores.

Covering wields the poets and introduces the *lex amatoria* to the questions of erotic attachment and aesthetic practice that modern law has refused to acknowledge and address. Kenji mixes eros and law, enfolds poetry and norm. He does so in the form of making the case for a civil right, I would say a right to civility, in matters of love, or more precisely in all interactions in the intimate public sphere, in the affective space where we act out our institutional lives. It is in his terms a right to flaunt, meaning simply a liberty, freedom to escape the instituted mask, the imposed visage, and so to enact another self. It is a version, I think, of what the French feminist philosopher Luce Irigaray terms an objective right to subjectivity and she argues that as there are two sexes so there should be two aesthetic public spheres, and half of the space of representation should belong to women (Irigaray 1996). For Irigaray the primary legal issue was that of giving objective recognition to subjective, and so historically feminine, expressions of creed, taste, myth, desire, knowledge and relationship.[13] Now Kenji suggests a cross cutting but not intrinsically conflicting principle, that of an intimate public sphere which suffuses all institutional and political spaces and is open to the acting out of whatever erotic identities, sexual personae or everyday affective selves subjectivity can invent and invest. What was covered should be flaunted.

Adam Phillips (1996) points out that we only flirt with serious things — with death, disaster, love, for example — but he makes no mention of flaunting. If flirting is a mode of approach and inextricably ostensive — I flirt to you, flaunting is existential and habitative. In phenomenological terms, to flaunt is to nest in the world, to make a place, find a tone, *fiat iustitia et pereat mundus* as we used to say. Whatever its mode, it signals a relation to one's own being. Flirting is epistemological, flaunting is ontological. It is the mode of taking up a

social presence, inhabiting a role, an institution, a fate. To flaunt is to stage the self, to devise the person, to become an emblem, to demand a treatment of one's own invention, to risk an autonomous authorship of how one plays one's role. No one, to borrow from the Lacanians, escapes the institution. That is who we are. Our public selves. The self enshrined in the intimate theatre of the public sphere.

Thankfully, the drama of existence displaces law. We deal here not with law but with the primary appropriations of identity, name and persona, which the Greeks talk of in terms of *nomos* and which include naming, rhythm, poetry, narrative, image and the politics of representation as such. Before law, *nomos* was the discourse of the *nomikoi*, non-lawyers, the bards, the seers, the artists, poets and musicians (Crook 1995: 154-8). That is true historically and it is also true conceptually. There are better ways of talking, of relating, than through court and lawsuits. Kenji reminds us that common law, the *ipse dixit* of judge and jurist, the dreams and *fuits* of sergeants-at-law, are of limited interest when it is not a fee simple – a religious rite -- but a flaunting – an erotic undertaking -- that is at issue. There is something of a paradox here, in that Yoshino doesn't fully abandon the religious rites and languages of law. He still wants to talk about civil rights and egregious cases, the non-poetic but that discussion, and this is the signal achievement of Yoshino's *Covering*, namely that he drifts beyond the antagonism, desiccation and thorough incompetence of juristic attempts to address affective and erotic interactions. They will never get us very far and that is why the book is addressed beyond the legal academy, beyond the academic audience and engages a much more diverse set of disciplines. Kenji carves out a public intellectual sphere, a positive and yet precarious space of intimate dialogue within the margins of the academy and the border of the market forces that must in part have imposed the cover imagery and imaginations. The point is that to an impressive though certainly not over extensive degree, Yoshino embodies and enacts what he argues. The book does not, as a matter of style or aesthetic genre, cover so much as it flaunts. Here a lawyer, a scholar in charge of 'intellectual life' at Yale Law School, a jurist, addresses poetry and portraiture, sleepless nights, anxious

reveries, dark off-hours, phantasms, in a work that is also a tract on civil rights, normative arguments and legal cases. It is precisely in this mixture of modes, this mediation, that he uncovers, expresses and, so be it, *mirabile dictu*, he flaunts.

Lastly, third point, envoi in the trinity, the question of the uncovered itself, the matter of the wounds revealed, the tears shed. A certain caution is necessary. As Bury puts it in his amorous address to books all those years ago, and yet the lesson is perhaps not entirely absorbed:

> there must be a most mature decorum in the opening and closing of volumes, that they may neither be unclasped with precipitous haste, nor thrown aside after inspection without being duly closed; for it is necessary that a book should be much more carefully preserved than a shoe (Bury 1345/1832: 71).

Exactly so. The cover, as Burton reminded us, is there for a purpose. So too I imagine, and by extension, the person and *persona* or contemporary mask deserve a similar *caritas*, this same decorum and love. Who have we become? I dwelt at length upon the cover of *Covering* for the very reason that the cover and clothes, what used to be termed the 'lineaments of language', namely elocution, should be examined as carefully and cautiously as the face that utters the words. The apparently commercial representation of the book, with its colours and blurbs, image and title, belong within a genre that interfaces very directly with the normative argument that the book endeavours to make at multiple levels. The cover covers, it expresses, it hides, it is somewhat enigmatic, a little cryptic, a touch hyperbolic, and yet also revealing and indicative in showing the body, the partially covered and coloured face of the author. The visage as vestige, the face as damage, the subject of time's harrow. The cover of the book indeed marks, it veils and reveals, seduces and abandons, flirts and flaunts, which leads to the question of the cover as a wound, a scar that marks the imposition of the institution and the demands of the publisher.

Conclusion

How does the book end? Entry for content, exit for style. Nor can we assume the juristic priority of the former over the latter. Quite the contrary. Last things are end states, goals, achievements. So, I came to the epilogue. It starts with the poem 'Blue Star' by Philip Levine. 'Show me the place,' it begins, where a tiny blue star nestles above the heart. The star is unusual. It is examined by doctors. Surgery follows. The star is removed but under it we find 'another perfect star'. 'What does it mean?', this star that will not be excised, that replicates, that forms an indelible tattoo. The answer is as indexical and complex as the pronoun 'you'. Last line, ending and opening: 'It could mean this is who you are' (Yoshino 2006: 198).

The star transpires to be permanent. It is part of the human carapace, it is in the skin, part of the last and irreducible cover. So don't cut the star away, don't erase or mutilate the cover, respect the astral as sign, as face, as real. Professor Yoshino discusses the poem as an emblem of a particular relationship, as a marker of ambivalent passion, as hope against hope, and then shifts to reminisce about the wedding of a friend. She has a tattoo of a blue star at the tip of her left shoulder blade. He can see it now, above the wedding gown. In times past, as a graduate student, Kenji had fought her over the tattoo. It was in his view too indelible. Its unnecessary permanence bound her future to a younger and impermanent self. But it is still there on her wedding day, a beacon to her commitment to poetry, to writing and to writing on the body. Yoshino looks back on those youthful enthusiasms, that formative argument, and admits that he was wrong. Last words, closing of the book, exit for style: 'I still dislike tattoos. Except for this one, which I love out of mind.' Closing words, final remark, *exeunt omnes*. To which, for completion, and to get back to the cover, the reference to time out of mind is of course to common law, to time immemorial, beyond memory of man, out of mind. A lovely notion, little understood, and full of poetic significances. Here Yoshino takes it up and makes it literature, turns a little piece of argot, a maxim of law, into lyric.[14] That is the promise and the gift produced by challenging demands to cover.

As for me, the eccentric white commentator, the Anglican critic, the covered male, I put the book down, last words at the end of a long process of slow reading and my eyes welled with tears. I became a woman. Others have said the same, but privately. Generally they were women. So I will simply confess that law books have not on the whole touched me to tears. It was a surprise, an engagement, a moment of attachment, reflected no doubt also in my tendency occasionally to drift into sleep, to revert to dreaming, while reading. I was moved, the poetry bent me, it touched what might be termed my melancholic body. To borrow from Tertullian, I became gently morose. This has a juridical significance that can be traced initially to theological dogma and the rules that governed weeping. Christian doctrine prohibited tears. That expression of emotion was to be covered. Thus for Tertullian, for example, author of *De Spectaculis*, to laugh and to weep, both sources of tears, were alike impermissible in Christian worship. His text is an early condemnation of theatre, games, spectacles and 'public shows' more generally (Tertullian 1869 edn). Laughter, jesting, tears and dance were all deemed excessive in a religious tradition that demanded silent, and above all, serious worship, both quietude of the body and composure of the mind. The Church Fathers thus distinguished between actual and mystical tears and ordained that all weeping should be internal, that tears should be swallowed, covered over and turned into prayer. The *Decretals*, to take another key example, declares that 'To weep for the dead originates in meanness' and subsequent edicts banned weeping women from funerals for that reason.[15] Tears collapse the face and, to use a more contemporary and here topical idiom, they blow your cover. They release. They leak. They shift the interior to the exterior. Christianity refuses to let go of what is lost, it will not mourn, and in refusing to mourn remains in a state of melancholia, attentive and morose, waiting for the advent of another and better life (Allestree 1671). Hence the catharsis of tears and the benefit, the excitement and the transformation generated by reading the book. *Covering*, for me, did something that even Nietzsche deemed pretty much impossible. It was a book that did not lead directly to more books but rather led to tears.

Tears, within the doctrinal tradition inherited by law, are contrasted

to the purity of stoic dry eyes, and hence they are excessive, feminine, emotional and altogether too contagious and vivid. Theologically they suggest pagan passions, excess and enthusiasm, the latter being a term derived from the Greek for possession by a God, religious frenzy, and so illicit communion with the spirit world.[16] In sum, tears flaunt the fact of having covered, they expose the very moment of hiding the undesired identity and so offer the opportunity of bringing the alternate self to presence. Public tears enact a rite of commemoration, they are an instance of shedding, of displaying in an irreducibly physical and ambivalently fluid form a sense of loss that both galvanizes the face that weeps and offers a species of illocutionary act.

We have to believe that tears are not wasted. They are in and of the body, a property, a mark, a sign of the affect of presence and meaning. They have a place and function, a role in the ceremony of release, as also in the rite of interpretation. In positive terms I thus mourned a loss, I let go of a tear, I loosed a shard of memory. Here is a secret, a connection I finally made between Kenji's trauma and my own tears. It took me back to childhood and to my struggle to avoid returning to boarding school at the age of eleven. I feigned stomach ache and ended up having my appendix removed. The institution claimed an organ, although it also claimed, and this was back in the excision happy sixties, that the organ was not a necessary one. Now, years on, the story of the star and its removal dislodged a memory of my institutional trauma and my own scar, a thin line of skin that cannot feel, and which over forty years on I still carry. It is a mark, branded on my flesh, an indelible part of my cover, my carapace. An originary writing, an incision, a wound. And so the tear. I flaunted to myself and now more obviously to the world. In doing so, in repeating the experience in prose, I have uncovered a fragment of identity that would not normally be in view. In theory I should repress the memory, talk about something else, act a bit more like a jurist than a child, a weeper. There is a doctrine of tears that precisely dictates their repression, an epistemic of weeping that views crying as weakness or excess, as feminine and dissolute. In scholarly jargon, tears are external to juristic cognition and irrelevant to a critical reading of a normative text, however decorously and carefully

one seeks to treat it, however hidden in the conclusion the tears may be.

Returning to my epigraph and the wit and wisdom of Giacomo Casanova, *flâneur* and flauntër par excellence, this essay has evidenced the pervasiveness of covering and the desire to flaunt that lurks, repressed or just occasionally, in legal contexts, expressed by poets such as Yoshino and satirists such as I. Flaunting, to be juridically admissible, must be acclamatory and institutional, a choral function of selling the legal life, the way of the institution, the path of the covered soul. From publisher's marketing departments to Law School Public Relations offices, institutional advancement and fundraising literature, there is a well-developed science of glossy brochures, satisfied smiles and all those other pretty signs — the contemporary inundation of photos, postcards, visual announcements, invitations, magazines, letters both actual and virtual. We have to learn to read these critically, along with all the other juridical and judicial symbols whose unwitting use might cause compromise of role and self. *Covering* makes a remarkable introduction to this process of aesthetic and affective apprehension of legality writ large and small, portrayed in the portraits on the classroom wall, the magazines in the mailboxes and the other more formal stagings of scholastic ceremony. Amidst all this glory, Yoshino traces the wounds, the imposed roles, the compromises against which Casanova had so lightly warned. What Kenji expresses is an intense and very acute sense of the intimate laws of the institution, the training in manners and examinations, in self-presentation and scholarly style, that are as much a part of what is learned at school, in the process of becoming a follower, a lawyer, as the explicit rules contained within the blank and imageless boards of the casebooks, hornbooks and treatises. The discipline also disciplines and that is peculiarly true of law.

Whatever the occasion of initiation, however, the lawbook will equally run the gauntlet between tears and laughter, frustration and insight, love and hate. For Casanova, the purpose of the history of his life, the intimate narrative of a public trajectory, was to amuse and bring laughter. On the inverse, *Nemo laeditur nisi a seipso* — we are the artisans of our own sorrows. This is the classical, emblematic choice, the

confrontation of Heraclitus and Democritus, their opposition and their enfolding, their antinomic jointure. Uncovering, the choice elaborated by Yoshino, the path traversed in this essay, is in the end a matter of mingling, of the flux between two species of tears, those of sorrow and laughter, memory and hope, *lachrymae iuris* and *hilaritas*, the latter representing a more dialogic and somewhat dissonant interior law. In Yoshino's epilogue, it is a symbol on the body, a mark in the mode of a tattoo that best represents this *hilaritas*. It frightened Kenji or at least invoked his youthful disapproval. But now, years on, a professor of law, the star on the back, and the poem about its permanence, duration and enfolding of youth in age, becomes his envoi. A book can have images on its cover, and a body can have figures, colours — *symbola heroica* — on its skin. These are in the end unavoidable incidents of being in the market, of living in a body. They are, in Casanova's terms, expressions of the uncompromised role, moments of authentic theatre in which the self plays out its own part, its phantasm, its proper mask. By the same token, a legal text has images enfolded in its prose, poetry mingled with its rules, meaning and rhyme mixed with method and rhythm.

Notes

1 Thanks diversely and severally to Joe Brooker, Marianne Constable, Simon Critchley, Anselm Haverkamp, Bill MacNeil, Mark Sanders, Kevin Stack, Julie Suk, Chuck Yablon, Peter Rush, and Kenji Yoshino variously for ideas, comments, opportunities, suggestions, and for silence when there was nothing to say. Especial thanks to Linda Mills for her inimitable *carte de tendre*.

2 Selden (1610) has a woodcut of Janus on the title page. The translation of the book in Selden (1683), also uses this image on the title page. The motto is *Haec facies Populum spectat; at illa larum*, which picks up on the treatment of Janus in the legal emblem books of that century which treat the deity as guardian of the law, looking inside and out, at the oeconomic and the providential.

3 The image of Janus is used, for example, on the cover of Goodrich (1995).

4 My thanks to Thanos Zartaloudis for originally pointing this out to me and for discussing its significance. In fact, for the sake of precision, it will here be noted that there are a few solitary figures in the city: a soldier guards the castle wall, some other soldiers are marching in the main square, but they are alone, the city is empty, they are guarding an idea. For additional discussion, see Lawler (2009).

5 As, for example, Hobbes (1968) edited by C B Macpherson and published by Penguin.

6 Classification and shelving of files and books is also a subject that lacks much analysis. Cornelia Vismann (2007) makes a start in filling that gap.

7 One of the readers for *Law Text Culture* politely suggested that the reference to 'gay science' be explained so as not to seem to flaunt an adverse connotation. The reference is Rabelesian and to the gay scientist 'sans culottes', an anarchistic and amorous figure, discussed in the fondly admired but little noted P Goodrich (2006).

8 The maxim, meaning the face is the index of the soul, is standard. See Richard Head (1675). He continues: 'The face is the index of the mind; yet experience tells us it is no infallible indicium of the nature or disposition of the person … [for] always to see, is not to know'.

9 The reference to erudition *in eroticis* is to Friedrich Neitzsche (1916) at 53.

10 Richard de Bury (1345/1832: 18) notes that 'if anything whatever, according to a degree of value deserves a degree of love' then it is the ineffable value of books that fills that role as object of desire. Much later, Emanuel Levinas (1969: 254) notes that 'a thing, an abstraction, a book can likewise be objects of love'.

11 Pierre Legendre (1982: 46). For commentary, see Stephanie Lysyk (2006).

12 Richard de Bury (1345/1832: 56-7)

13 These issues can be pursued further in Luce Irigary (1995). For discussion of this and other themes, see P Goodrich (1993:43).

14 The maxim is given, for example, in Sir Edward Coke (1629: 115a): *Longum tempus et longus usus, qui excedit memoriam hominum, sufficit pro jure* [Long time and long use, which exceeds the memory of men, is sufficient in law].

15 *Decretals* rubric of canon 26, cause 13, question 2.

16 The best discussion of this dimension of the doctrine of tears can be found in Edward Stillingfleete (1662) who lists seriousness in all matters of worship as the third law of nature covering all manner of government.

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