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Libelous Letters in Elizabethan and Early Stuart England

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Outside of legal history, studies of early modern libel have focused on libelous verse and are concerned with the literary and politico-historical features of the material.¹ I hope to both add to and diverge

I would like to thank R. H. Helmholz and my anonymous readers at *Modern Philology* for their helpful feedback on this essay. I have adjusted the dates of law cases in Hilary Term (January and February) as if the year began on January 1.

1. Among the most recent and relevant are Alastair Bellany, “‘Rayling Rymes and Vaunting Verse’: Libellous Politics in Early Stuart England, 1603–1628,” in *Culture and Politics in Early Stuart England*, ed. Kevin Sharpe and Peter Lake (New York: Macmillan, 1994), 285–310, “A Poem on the Archbishop’s Hearse: Puritanism, Libel, and Sedition after the Hampton Court Conference,” *Journal of British Studies* 34 (1995): 137–64, “Libels in Action: Ritual, Subversion, and the English Literary Underground, 1603–1642,” in *The Politics of the Excluded, c. 1500–1850*, ed. Tim Harris (Basingstoke: Palgrave, 2001), 99–124, and *The Politics of Court Scandal in Early Modern England: News Culture and the Overbury Affair, 1603–1660* (Cambridge University Press, 2002), 97–111; Thomas Cogswell, “Underground Verse and the Transformation of Early Stuart Political Culture,” in *Political Culture and Cultural Politics in Early Modern England: Essays Presented to David Underdown*, ed. Susan D. Amussen and Mark A. Kishlansky (Manchester University Press, 1995), 277–300; David Colclough, *Freedom of Speech in Early Stuart England* (Cambridge University Press, 2005), chap. 4; Pauline Croft, “The Reputation of Robert Cecil: Libels, Political Opinion and Popular Awareness in the Early Seventeenth Century,” *Transactions of the Royal Historical Society*, 6th ser., 1 (1991): 43–69, and “Libels, Popular Literacy and Public Opinion in Early Modern England,” *Historical Research* 68 (1995): 266–85; Adam Fox, “Ballads, Libels and Popular Ridicule in Jacobean England,” *Past and Present* 145 (1994): 47–83, and *Oral and Literate Culture in England, 1500–1700* (Oxford: Clarendon, 2000), chap. 6; Martin Ingram, “Ridings, Rough Music and Mocking Rhymes in Early Modern England,” in *Popular Culture in Seventeenth-Century England*, ed. Barry Reay (New York: St. Martin’s, 1985), 166–97; M. Lindsay Kaplan, *The Culture of Slander in Early Modern England* (Cambridge University Press, 1997), chap. 1; Andrew McRae, “The Verse Libel: Popular Satire in Early Modern England,” in *Subversion and Scurrility: Popular Discourse in Europe from 1500 to the Present*, ed. Dermot Cavanagh and Tim Kirk (Aldershot: Ashgate, 2000), 58–73, “The Literary Culture of Early Stuart Libeling,” *Modern Philology* 97 (2000): 364–92, as well as his book *Literature, Satire and the Early Stuart State* (Cambridge University Press, 2004), chaps. 1 and 2.

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from this body of scholarship by exploring libelous letters, tying the legal ramifications of letters deemed libelous to a more extensive perception of their cultural meanings. Drawing my evidence from court cases, printed and unprinted alike, I explore defamation lawsuits with an eye to the form, function, and meaning of libelous letters in early modern English culture: the relationship between material libel and spoken slander, between public dissemination and private circulation, between defamation and reformation, and between criminal libel and cultural critique. Most broadly, I argue that in letters deemed libelous, the personal and the social—and, in other circumstances, the personal and the political—converge. Letters—typically private, personal documents—were distinctly and deeply informed by sociopolitical processes, especially when certain letters were prosecuted as libelous. A dynamic interrelationship developed among the intention, composition, delivery, reception, interpretation, and prosecution of such letters.² More specifically, I argue that letters, as a species of written discourse distinct from oral verbalization, were often exploited expressly for their textual properties, among them a documentary character and (compared to oral verbalization) relative permanence. In addition, the conventional paratextual and nontextual elements of letters, such as signature, sealing, and delivery, were purposefully managed by letter writers. The increased use of letters to articulate complaint, compose satire, and inscribe emotion led to a proliferation of libelous letter cases and, in turn, led to complications in determining what, legally speaking, constituted a libelous letter—especially considering letters forged in another’s name, anonymous letters, letters that intended reformation instead of defamation, and letters that aimed at religious, social, or political critique rather than at seditious libel.

The increase in the number of libelous letter cases in both common law and criminal proceedings was a function of the general proliferation of defamation suits after the mid-sixteenth century.³ Distinctions between cases tried in the common-law courts and those tried in the Star Chamber developed throughout the following decades. In the common law, publication of the defamation to a third person had to

2. During this period, since letters commonly circulated freely among groups of people within specifically designated coteries, a broad definition of privacy is generally warranted. However, in this essay I define private letters somewhat more strictly as those circulating between two people only, since typically any sharing of a libelous letter to a third party constituted publication, which was indictable in common law.

3. R. H. Helmholz, *Select Cases of Defamation to 1600* (London: Selden Society, 1985), xlv; Van Vechten Veeder, “The History of the Law of Defamation,” in *Select Essays in Anglo-American Legal History*, 3 vols. (Boston: Little, Brown, 1909), 3:457–58.

be proved, and the truth of the defamatory statement was a defense. For criminal cases tried in the Star Chamber, however, the truth of the defamatory statement was not a defense, and publication to a third party did not have to be demonstrated, principally because even privately sent libelous letters were increasingly prosecuted in this venue as breaches of peace.⁴ The number of libelous letter cases became so great that in his treatise on the Star Chamber (1621), William Hudson was compelled to take explicit and relatively extensive notice of libelous letters:

And for scandalous letters, the precedents are infinite. One of the first sent to the person himself was Lloide, register of the bishop of St. Asaph, against Peter Breverton, clerk, sentenced M. 2. Jac. and yet the defendant would have undertaken to have proved the contents of the letter to have been true, he thereby charging him with bribery and extortion in his place. Then was Sir William Hall's Case against Ellis, a scoffing letter, and severely punished. A scurrilous letter from one mean man to another, was M. 12. Jac. sentenced at the suit of *Barrows v. Luelling*, and the same only sent to the party himself. Nay, *Norton v. Roper*, 1 Jac. was sentenced for writing a scoffing letter by one rival to another.

But if the letter be written to a man in authority, as in Trin. 32. Eliz. *Hide v. Smalley* for writing a letter to the mayor of the borough of Wallingford, charging him with injustice, that was severely punished; and a letter written by Booth to Sir Edward Coke, charging him with some cautious courses in prosecuting a forgery, was sentenced to the pillory.⁵

Recognition of the differences between letters and oral communication in defamation cases came much earlier, however.⁶ Around the

4. W. S. Holdsworth, *A History of English Law*, 2nd ed., 12 vols. (London: Methuen, 1914–26), 5:205–12, but see 8:361–78 for a more extensive background.

5. William Hudson, *A Treatise of the Court of the Star Chamber by William Hudson as Taken from Collectanea Juridica*, 3 vols., ed. Francis Hargrave (Birmingham: Legal Classics Library, 1986), 2:101–2.

6. Defamation by way of letter was of course charged long before the early modern period. *Swindon v. Stalker* (1294) serves as an example: “Henry of Swindon complains of John Stalker for that he . . . sent a letter to Sir Roger of Ashridge, clerk of our lord the king and rector of the church of King's Ripton, in which he violently defamed him [Henry of Swindon] by the said words and other enormities written in the said letter (*violenter defamavit per verba predicta et alia enormia in predicta littera scripta*), adding that he was not fit to dwell in the vill of King's Ripton nor in any other vill because he is a manslayer and slew his son Nicholas, who in fact is alive” (quoted in C. H. S. Fifoot, *History and Sources of the Common Law: Tort and Contract* [London: Stevens & Sons, 1949], 138). Coke also refers to *The King v. Northampton* (1344), where John de Northampton was found guilty of writing a libelous letter to John de Ferrers (Edward Coke, *The Third Part of the Institutes of the Laws of England* [London, 1644], 174).

middle of the sixteenth century, Chief Justice Robert Brooke wrote in *A Case of Slander* “that if a man speak many slanderous words of another, he who is slandred may have an action on the case for any one of these words, and may omit the others: but if a man write many slanderous things of another in a letter to a friend, an action upon the case will not lye, for it shall not be intended that it is done to the intent to have it published.”⁷ Enough libelous letters had evidently found their way into the common-law courts to require Brooke to detail defamation more precisely in stating this formula. Besides highlighting the crucial differences between written and oral defamation, Brooke emphasizes the private nature of the letter, where privacy is preserved within the trust and secrecy of friendship. Hence, private letter exchange is not, in Brooke’s estimation, third-party publication, even though a friend of the letter writer is, strictly speaking, a third party. Furthermore, Brooke emphasizes intention: there is no aim to publish at large—thus publicly shame—the individual. Brooke shows a recognition that epistolary defamation, if not distinct from spoken defamation, at least requires a different standard of assessment. His formulation, however, would not endure, and a potentially libelous letter shared with or sent to any third party was typically charged as publication in both common and criminal law.⁸

In *Anon.* (1562), a defamation case from the Common Pleas, a similar explanation for the “not guilty” judgment is given. As Chief Justice James Dyer puts it,

The words were in writing, and that cannot be a declaration by words: neither *dixit* [spoken] or *propalavit* [published]. And there was a case here between the Lord Stourton and another, and a demurrer in law thereon . . . because he [Lord Stourton] wrote a letter to the plaintiff

7. *A Case of Slander* is located in *The English Reports* (Edinburgh: Green & Sons/London: Stevens & Sons, 1900–1930), a 178-volume collection of early modern cases (henceforth designated *ER*), which I will cite by original nominate case report and page, as well as by *ER* volume and page number: Owen 30; 74 *ER* 877. The case is undated, but Brooke was Chief Justice of the Common Pleas from 1554 until his death in 1558.

8. There were a few situations in which the communication of a letter, while still technically third-party publication, was not deemed published. In *Atty. Gen. v. Bishop of Lincoln and Osbaldeston* (1639), for instance, the Lord Keeper Thomas Coventry claims that “if a Man delivers a Letter to his Secretary, and commands him to keep it secret, that is no publishing” (John Rushworth, *Mr. Rushworth’s Historical Collections Abridg’d and Improv’d*, 6 vols. [London, 1703–8], 3:19). Another circumstance is privilege, whereby “what was said in the course of prosecutions and judicial proceedings [was] excusable . . . in the interests of justice” (J. H. Baker, *An Introduction to English Legal History*, 4th ed. [London: Butterworth, 2002], 445).

saying that he was a traitor; and it was agreed that no action on the case lay upon this matter, because the letter (which was written between the defendant and the plaintiff) was neither published nor made known to others, and if the plaintiff had not declared what the letter was[,] others could not [have known], and therefore it was no slander to the plaintiff except by his wish.⁹

As in Brooke's definition, publication was not manifested in this case insofar as the letter sent was deemed private, exchanged between two persons only. Furthermore, *Anon.* (1562) demonstrates the phenomenon of "self-libeling," whereby if the plaintiff himself shows the letter, or expresses its contents to another, he is responsible for the publication, and in essence libels himself.¹⁰ *Barrow v. Lewellin* (1615) indicates likewise: "It was resolved, that . . . the plaintiff in this case could not have an action of the case [at common law], because it [the letter] was not published, and therefore could not be to his defamation, without his own fault of divulging it." However, as more and more libelous letter cases were brought to the Star Chamber for prosecution, such letters privately sent to a third party began to be prosecuted as breaches of peace, as *Barrow v. Lewellin* was ("the Star-Chamber . . . doth take knowledge of such cases and punish them, whereof the reason is, that such quarrellous letters tend to the breach of the peace").¹¹

Another common law case that attracted the attention of many reporters during the sixteenth century, *Boughton v. Bishop of Coventry and Lichfield* (ca. 1583), determined the significance and effect of the writing much differently and was likewise concerned with spoken

9. *Sources of English Legal History: Private Law to 1750*, ed. J. H. Baker and S. F. C. Milsom (London: Butterworths, 1986), 647 (last set of brackets in original). Demurrer: A defendant's denial "that in law the facts as agreed amounted to a case against him" (Baker, *Introduction to Legal History*, 77).

10. In *Darcy v. Markham* (1616) the case reporter indicates generally that "if the party to whom the letter is written publishes it, it is his folly, and he defames himself" (si le partie a que le letter est escrire ceo publishe, il est son follie, et il defame son mesme) (Folger Library MS. V.a. 133, fol. 67v). The phenomenon of self-libeling is in fact given explicit verbalization by Edward Coke in *Edwards v. Wooton* (1607): "Note, that by the civil law, if any person hath (to disable himself to bear any office, or for any other purpose), made a libel against himself, he shall be punished for it. And so it seems to me, he should be in the Star-Chamber, for this is an offence to the King and the commonwealth" (12 Coke Reports 35; 77 ER 1317). (I have expanded contractions in quoted manuscript material, normalized orthography [v/u, i/j, ff] and italics, but have otherwise retained the original spellings. All translations from the law French are my own.)

11. Hobart 62; 80 ER 211.

versus material defamation. In this case, the bishop wrote a letter to the Earl of Leicester stating that Boughton, a justice of the peace in Warwick county, “is a vermin in the commonwealth, a false and corrupt man, a hypocrite in the Church of God, a dissembler. He has used many corrupt practices to work his will. He procured my registrar to be indicted for extortion. He willingly and wilfully has bolstered one Greenwood, a lewd man convicted of many offences, and knowing him to be an evil man, maintained him against me without love, conscience and honesty.”¹² The plaintiff cited precedents, including two defamation cases in which letters were at issue—*Lumley v. Ford* (1568) and *The Bishop of Norwich v. Brickhill* (1582).¹³ The jury found for the plaintiff in the amount of £400 since the words, published and judged false, constituted a libelous assault on Boughton.¹⁴ When the case was put before the justices on a motion of arrest of judgment, one of the arguments advanced for the plaintiff was that “the words were written, not simply spoken, so that they had a more permanently damaging character.”¹⁵ As the initial verdict in this case was ultimately sustained, the suit demonstrates that the medium of the defamation in part determined the judgment. Unlike a slander action from the same time, *Palmer v. Thorpe* (1583), upon which Edward Coke concluded that words “are but wind,” the verdict of *Boughton v. Bishop of Coventry and Lichfield* underlines the more damaging and enduring nature of defamation when words are more than simply “wind.”¹⁶ Unlike Brooke’s differentiation between private letter exchange and public verbalization, the formulations regarding spoken and written defamation in *Boughton v. Bishop of Coventry and Lichfield* would also be manifest in criminal law cases. As T. F. T. Plucknett puts it, from Coke’s *De Libellis Famosis* (1605) until the abolition of the Star Chamber in 1641, legal theory seemed to “regard writing as so deliberate an act that writing defamatory matter was criminal; [spoken] words, on the other

12. Helmholz, *Select Cases*, 86; see also ci–cii. See also D. J. Ibbetson, *A Historical Introduction to the Law of Obligations* (Oxford University Press, 1999), 119, on this case. *Boughton v. Bishop of Coventry and Lichfield*, denominated as *Broughton’s Case*, is in Moore K.B. 141 (72 ER 493).

13. See Ibbetson, *Law of Obligations*, 117, n. 128, for *Lumley v. Ford*; *Bishop of Norwich v. Brickhill* is in Croke Eliz. 1 (78 ER 268) sub nom. *The Bishop of Norwich v. Pricket*.

14. Helmholz, *Select Cases*, cii.

15. Ibid. Arrest of judgment: “Made by the defendant after a verdict for the plaintiff, on the ground that, even though the facts alleged by the plaintiff had been conclusively found to be true, they disclosed no cause of action on which the plaintiff could succeed” (Baker, *Introduction to Legal History*, 83).

16. 4 Coke Reports 20b; 76 ER 911.

hand, were felt to be more spontaneous and irresponsible, and so justification could be pleaded.”¹⁷

Material defamation also differed from spoken defamation in that a libelous writing could be forged in another’s name. In *Gobert et al. v. Brewster* (1606), for instance, it was claimed that Thomas Brewster composed a libelous letter in the name of John Gobert, as follows: “I John Gobrene alias Gobert . . . beinge a cuckouldly clowne have gyven the use of my wief (meaning the said Luce [Gobert]) unto the gowne, (meaning the said [cleric] Edward Astill) . . . [I] am a lord in London of the blackfriars, and also the veriest cuckold in Northampton or leicestersheres, if I . . . be a cuckould it is no matter for that is horned luck, because others my wief (meaninge the said Luce) do fucke.”¹⁸ The letter was unsigned but endorsed “to all the gent of the blackfriars deliver these” (Gobert owned several houses in the Blackfriars area). In an interrogatory on behalf of Gobert, a deponent swears that “the libell or writinge and the letter nowe shewed . . . is of the proper hand writinge making contryvinge or devisinge of the defendaunt.”¹⁹ Brewster himself denied authorship, and a deponent for Brewster admits “that it seemed to his deponent to be like the handewritinge of the said Thomas Brewster,” but also that “anie man might write like another counterfeite the handewritinge of another.”²⁰ *Glemham v. Browne and Bardwell* (1616) is similar, except that in this case the forgery of libelous letters led to the writing of other libelous letters. Armingier Browne was charged with libel by Justice Henry Glemham for “complayninge unto him and shewing how hardly or maliciously without cause hee had dealt against him [Browne] in a matter.”²¹ But it turned out that Browne had written his letter in a “discontented manner” only after a letter written in the name of Browne had been sent to the justices.²² It happened that Browne had written first to the justices about deposing some witnesses in a suspected murder, William Richard being among them. To discredit Browne, Richard did “devise, invent, & forge certeine letters or writings in this defendants name”

17. T. F. T. Plucknett, *A Concise History of the Common Law* (Boston: Little, Brown, 1956), 490. *De Libellis Famosis* (5 Coke Reports 125a; 77 ER 250) is based on *Atty. Gen. v. Pickering* (1605), which is located in *Les Reportes del Cases in Camera Stellata, 1593 to 1609*, ed. William Paley Baildon (London: privately printed [Spottiswoode], 1894), 222–30.

18. PRO, STAR CHAMBER (STAC) 8/150/4, m. 23.

19. *Ibid.*, m. 17.

20. *Ibid.*, mm. 22, 2.

21. PRO, STAC 8/160/28, m. 1.

22. *Ibid.*, m. 3.

by either his own hand or another's, and published the same openly, saying that Browne had sent them to himself, Richard.²³ After discovering that letters had been forged in his name, Browne claims that he "hadd noe hand in certayne scandalous letters which were formerly forged by the said William Richard and others in the name of this defendant," and admits that he wrote to Glemham "rashly and unadvisedly for which he is nowe hartily sowrye, and would not do the same if it weare undonne, [that is] write a private letter unto the said complaintant," he and Glemham having made amends during the assizes.²⁴

The various ways that material libels could be manifested are underlined in these two cases, and this fact in turn meant that more complex forensic procedures were required in assessing the evidence.²⁵ The confusion arising from the intricate epistolary machinations in *Glemham v. Browne and Bardwell*, for instance, required a substantial amount of investigation; subsequent inquiry revealed Richard's diversionary tactic. The libelous letter in *Gobert et al. v. Brewster*, in the form of a self-pitying, self-mocking confession in verse, manipulates a persona by putting Gobert's "self-proclaimed" words on paper—as a sort of self-libeling. Of course, it is difficult to believe that anyone coming across this letter would credit it as actually written by Gobert, yet the use of Gobert's persona by Brewster increases the humor of the ridicule by purporting that Gobert himself recorded his woes for all to read. Furthermore, in *Gobert et al. v. Brewster* an evaluation of the defendant's handwriting, known as comparison of hands, was applied. The various witnesses for both plaintiff and defendant spent some time in the interrogatories giving their assessments of the handwriting. A similar sort of comparison is made in *Atty. Gen. v. Moody* (1627),

23. *Ibid.*

24. *Ibid.*, mm. 2, 3.

25. A copy of the libel was typically required at trial. In *Atty. Gen. v. Blanchard et al.* (1629), no judgment was given on the libelous letter charge since it was not submitted in the information (Harvard Law School MS. 1101, fol. 23v), but in *Finche v. Annate et al.* (1598), a sentence was given despite the fact that "the letter itself could not be viewed" (Baillon, *Les Reportes del Cases*, 97). William Prynne, however, showed that there was at least one way to get rid of the evidence if faced with it. As William Laud records, "Mr. Prynne sent me a very Libellous Letter, about his Censure in the Star-Chamber for his *Histriomastix*, and what I said at that Censure; in which he hath many ways mistaken me, and spoken untruth of me. . . . I shewed this Letter to the King; and by his command sent it to Mr. Attorney Noye. . . . Mr. Attorney sent for Mr. Prynne to his Chamber; shewed him the Letter, and asked him whether it were his hand. Mr. Prynne said; he could not tell, unless he might read it. The Letter being given into his hand, he tore it into small pieces, threw it out at the Window, and said, that should never rise in Judgment against him" (*The History of the Troubles and Tryal of . . . William Laud . . . to Which Is Prefixed the Diary of His Own Life* [London, 1695], 50).

where by style and content an unsigned libelous letter criticizing the ecclesiastical court was identified by judging it against “another letter to which Moodye putt his hand that hee called those courtes cruell courts so the style agreed.”²⁶ These cases of forged libelous letters, then, demonstrate that writers could manipulate written words and the material artifact in elaborate ways. In other cases, such as *Finche v. Annate et al.* (1598) and *Monk v. Blackburn et al.* (1631), the stakes of the forged letter were even higher: in *Monk v. Blackburn et al.*, by inserting “Scandalous matter” into an already existing letter, the allegations became conspiracy charges, while in *Finche v. Annate et al.* the defendants, by forging a letter in the name of the plaintiff, attempted to frame him and were charged with conspiracy for misprision of treason.²⁷

Other customary characteristics of letter composition and exchange also bore on libel cases. That letters were signed, sealed, and delivered was not relevant to criminal defamation trials (because publication need not be proved), yet they were nevertheless frequently recorded in cases tried in the Star Chamber. For instance, in *Edwards v. Wootton* (1607), a case involving two physicians, “Doctor wootton wrytes a letter & begins ‘M^r Docturdo & fartado,’ &c., more then 2 sides of paper full of vilde matter, ribaldrie & defamacyon, & enclosethe yt as a letter, & subscribes it, & sendes yt to M^r Edwardes, & keepes a Copie thereof, & afterwards publyshethe the same, & delyuers Copies to dyuerse whoe lykewyse reade & publishe the same to dyuerse.”²⁸ In other cases, these epistolary acts of signing, sealing, and delivery are also recognized. In *Barrow v. Lewellin* (1615), “Paul Barrow preferred a bill in the Star-Chamber against Maurice Lewellin, for writing unto him a despiteful and reproachful letter, which, for ought appeared to the Court, was sealed and delivered to his own hands, and never otherwise published”; in *Atty. Gen. v. Apsley* (1634), the defendant wrote a “Letter . . . subscribed with his Name, sealed it up, and sent it to the Earl [of Northumberland] without making any one acquainted with the Contents thereof”; and in *Hall v. Ellis* (ca. 1608), the “Defendent

26. Folger MS. V.b. 70, fol. 71v. See *Nicholas v. Hichecocke* (1605) for another example from a forgery case (Baillon, *Les Reportes del Cases*, 244).

27. *Monk v. Blackburn et al.* is in John Rushworth, *Historical Collections, the Second Part, Containing the Principal Matters Which Happened from . . . March, 4. Car. I. 1628/9. until . . . April 13. 1640* (1686), app., 34; *Finche v. Annate et al.* is in Baillon, *Les Reportes del Cases*, 97.

28. Baillon, *Les Reportes del Cases*, 343–44. See also 12 Coke Reports 35 (77 ER 1316) for another report of the case.

pleaded that it [his letter] was private and sealed up, and not *published*.”²⁹ All of these cases deal with a libelous letter that was sealed and, in the last three instances, not published; yet not publishing a libelous letter to a third party was not a defense in these cases, since all were tried in the Star Chamber. So why were these epistolary acts so often introduced into argument?

The cultural presuppositions underlying signing, sealing, and delivery help to answer this question. Sealing did not of course guarantee privacy, but it gave a letter a certain degree of confidentiality, since a sealed letter was generally not intended to be opened by anyone except the addressee. Delivery is also meaningful insofar as letters deemed libelous were commonly (although certainly not exclusively) directed at single individuals. Sealing and delivery were presumed consequential in these cases, as the defense in *Hall v. Ellis* seems to make plain, because a clearly private letter could not possibly be considered publicly scandalous. In *Glemham v. Browne and Bardwell*, likewise, Browne wonders how a private letter that “came in soe private a cariag [could] be complayned of and examinable . . . as a Lybell.”³⁰ The criminal court, however, did not envision these circumstances as such: even privately sent libelous letters constituted breaches of peace, as Edward Coke and William Hudson make clear in their writings on libel.

What appeared to be a popular misconception of criminal libel laws stemmed from the fact that such laws were undergoing transformations during this time.³¹ This is especially evident in how the act of signing a libelous letter was treated, since early in the seventeenth century the Star Chamber, by way of Coke and for political expediency, added the principle that both signed and unsigned libels could be punished as breach of peace.³² This was emphasized by Hudson,

29. In, respectively, Hobart 62 (80 ER 211); Rushworth, *Historical Collections*, pt. 2, app., 67; *The Star Chamber: Notices of the Court and Its Proceedings*, ed. John Southerden Burn (London: J. Russell Smith, 1870), 73.

30. PRO, STAC 8/160/28, m. 1.

31. Plucknett, *A Concise History*, 489–90; Veeder, “Law of Defamation,” 3:447–48.

32. Roger B. Manning, “The Origins of the Doctrine of Sedition,” *Albion* 12 (1980): 113–17. Manning contends against the supposition of Holdsworth (and others) that Coke adopted Roman civil law regarding libels, but not the limitations Roman law put on punishment of signed libels; anonymous libels were punished much more severely in Roman civil law, whereas the Star Chamber treated signed and unsigned libels the same. See Holdsworth, *History of English Law*, 5:208, as well as R. C. Donnelly, “History of Defamation,” *Wisconsin Law Review*, 1949, 118; and Veeder, “Law of Defamation,” 3:464–65, 468–69. These rules for criminal libel law were laid down by Coke in *De Libellis Famosis* (1605).

who, in the words of S. F. C. Milsom, “thought it necessary expressly to deny that the essence of a star chamber libel lay in anonymity, so that the author who signed his work was not punishable.” As Hudson himself puts it, “Two gross errors [have] crept into the world concerning libels: 1. That it is no libel if the party put his hand unto it; and the other, that it is not a libel if it be true.”³³ In popular culture, indeed, the assumption or stereotype prevailed that a libel was necessarily anonymous, as evidenced by an exchange in John Webster’s *The Duchess of Malfi* (1623; performed 1613–14), where after a cutting remark by Bosola, Antonio responds, “You libel well, sir,” to which Bosola replies, “No, sir. Copy it out, / And I will set my hand to’t.”³⁴ Bosola implies that it is not a libel once signed, since the author is then identified. Ferdinando Pulton in his *De Pace Regnis et Regni* (1609), commenting generally on offenses against the state, emphasizes that the danger in libel lies principally in its anonymity: “This secret canker the libeller, concealeth his name, hideth himselfe in a corner, & privily stingeth him in fame, reputation, & credit.”³⁵ Anonymity was suspicious; as Marcy North points out, anonymity “was sometimes imagined to facilitate crimes (especially heresy and libel), but it maintained only a tenuous status as a crime in itself.”³⁶

Since signing or not signing a letter was a culturally significant act, signing or not signing a libelous letter would seem to be no less critical.³⁷ *Edwards v. Wootton* and *Atty. Gen. v. Apsley* both clearly indicate that the letters were signed. In *Peacock v. Reynal* (1612), the defendant also “subscribed his name [to his letter], and this ensealed and directed to the said R. Peacock: and it was agreed that this was a libel.”³⁸ In *Atty. Gen. v. Moody*, “Moody framed two libellous Letters, one in the name of his Wife, whereto she set her hand after it was transcribed by a servant, and directed and sent it to Mrs. Adyn, and another in his own name directed and sent to the said Mrs. Adyn.”³⁹ The letter signed and “authored” by Mrs. Moody was inscribed in

33. S. F. C. Milsom, *Historical Foundations of the Common Law*, 2nd ed. (London: Butterworths, 1981), 390; Hudson, *Court of the Star Chamber*, 2:102.

34. John Webster, *The Duchess of Malfi*, in *English Renaissance Drama: A Norton Anthology*, ed. David Bevington (New York: Norton, 2002), 2.3.42–43.

35. Ferdinando Pulton, *De Pace Regnis et Regni*, fol. 1v.

36. Marcy North, *The Anonymous Renaissance: Cultures of Discretion in Tudor-Stuart England* (University of Chicago Press, 2003), 120.

37. Gary Schneider, *The Culture of Epistolarity: Vernacular Letters and Letter Writing in Early Modern England, 1500–1700* (Newark: University of Delaware Press, 2005), 121–22, 159–60.

38. 2 Brownlow & Goldesborough 152; 123 ER 868.

39. Rushworth, *Historical Collections*, pt. 2, app., 7.

another's hand. In *Darcy v. Markham* (1616), a libelous letter was also signed. After a disagreement between Lord Darcy and Gervase Markham, "Markham wrote five or six letters to the Lord Darcy, and subscribed them with his name, but sent them not, but dispersed them unsealed in the fields."⁴⁰ Despite having chosen a rather novel mode of delivery for a letter, the defendant signed the letters, intentionally indicating authorship. In fact, Markham signed the letter twice, clearly confirming his identity and specifically bearing witness to his own letter when he writes "for testimony whereof I subscribe Jer: Markham" in the middle of the letter.⁴¹

In each of these cases the letter was signed, although undoubtedly the letter could have been sent anonymously; indeed, unlike spoken defamation, which is transmitted face to face so that either the initial defamer or someone who repeats the slander is always identifiable, written libel can be circulated without divulging the author's identity. In the difference between signing and not signing lies a considerable distinction in purpose in these cases. Signed letters need to be considered somewhat differently from libelous verse. Andrew McRae states that "anonymity should . . . be considered as a condition which contributed to the character of libellous verse," and Alastair Bellany notes that verse libels were "too stigmatised a form of expression for anyone to advertise their authorship."⁴² The intent of many so-called libelous signed letters might have simply been the author's desire to communicate with another individual, and such letters often intended personal emotional expression. This might include personal complaint, protest, criticism, or grievance; in the articulation of anger, distress, or apprehension, self-identification by way of the signature was vital, since letters were customarily understood as vehicles of individual and personal, and sometimes intimate and confidential, communication. Such personal intentions were probable in cases in which letters were signed, but perhaps *Darcy v. Markham* is the best example here. In this case, Markham no doubt intended both communication and publication with his tactic of scattering in a field signed letters addressed to Darcy: he wanted to communicate with Darcy and perhaps come to some sort of accord, since he writes, "yf you be desirous that I should heare from you sende only your footman with your Letter and

40. Hobart 120; 80 *ER* 270. Gervase Markham is not the well-known author, but rather a sheriff of Nottingham (*Oxford Dictionary of National Biography*).

41. Folger MS. V.a. 133, fol. 64v.

42. McRae, *Literature, Satire*, 32; Bellany, *Court Scandal*, 101.

hee shalbe received without prejudice, lett myne in the like manner be free from you and yours, It is all I desire.”⁴³ He clearly also wished to express his emotion, his wounded pride, as a sort of face-saving measure to others who also might come across the letters; since Darcy reportedly told others his servant Beckwith nearly beat Markham to rags, such a statement was “derogatory al reputacion de Markham esteant soldier.”⁴⁴

Despite low literacy rates among women, there are cases in which women were charged in libelous letter suits. Although not always inscribers of letters, they were often the composers or else aided in contriving and/or disseminating the content. *Alabaster v. Peyton et al.* (1618) and *Warburton v. Barlowe et al.* (1615) serve as two examples of the latter situation, where women acted as confederates in the composition and publication of libelous letters and were named in the indictments.⁴⁵ As with men in the cases we have already examined, women used letters in various private or social environments to communicate, comment, criticize, protest, satirize, and express emotion. Yet, in contrast to libelous letters written by men, a certain gendering seems to be evident both in how cases of libelous letters by women were treated and in how the offender’s sentence was determined.

In *Monk v. Blackburn et al.* (1631) either protest or revenge is a possible motive for the plaintiff:

Defendant Dorothy Blackburn, out of malice to the Plaintiff, for that he had caused her Husband to be Arrested for Debt, Intercepted two of his Letters, and one Letter from his Attorney to him, and in his two Letters procured the other Defendants [Skellet and Betson] to insert Treasonable words, and Scandalous matter against the Lord Gray, and cunningly drop’d one of those Letters in a Market-Town, so as it might come to her hands again, and then carried them to the said Lord Gray (to the end to take away the Plaintiff’s Life) who thereupon sent his Warrant for him [Monk], and committed him (after Examination) to Prison, and after sent him to the Lords of the Council, who committed him first to the Gatehouse, and then to the Tower to be Rack’d.⁴⁶

In this case letters were doctored so that they became libelous, and the crime, in whole, was a conspiracy involving all sorts of epistolary and postal malfeasance—called, in another report of the case, “un

43. Folger MS. V.a. 133, fol. 65.

44. *Ibid.*, fol. 65v.

45. *Warburton v. Barlowe et al.* is in PRO, STAC 8/297/8; *Alabaster v. Peyton et al.* is in PRO, STAC 8/42/22.

46. Rushworth, *Historical Collections*, pt. 2, app., 34.

notable plott et divellish prosecucion.”⁴⁷ The inserted portions of the letter were not actually inscribed by Blackburn but by Betson, while Skellet intercepted the original letters. Even though Blackburn did not herself inscribe the text, she probably composed the content and almost certainly contrived the mechanics of the operation. She was given the harshest punishment: besides whipping, wearing papers, and imprisonment, she was branded with “FA” on her forehead for “false accuser.”⁴⁸ Blackburn’s conspiracy succeeded to a large extent, since Monk suffered on the rack for the doctored letter. Whether Blackburn orchestrated this rather complex conspiracy as a way to avenge her husband or to express her opposition to what she believed was an injustice, the material letter allowed her to do so to a remarkable degree.

Riman v. Bickley et al. (1617) demonstrates that a letter might serve as evidence of such injustice in the courtroom—in this case injustice purported in a grievance between husband and wife. Anne Bickley, former wife to Devenish Riman, was charged by her late husband’s father in a case in which, after complaining of Devenish’s beatings to one Doctor Thorn, Mr. Goulding, and others, she encouraged Goulding to “give him [Devenish] a medicine for his malady, and within two days after he [Goulding] came in the night in womans apparel with a weapon under his cloak, and with a rod, and went into the house and chamber of the said Devenish, and would have whipped him, and in striving together, there was some hurt done on either side, but Goulding not being able to effect his purpose, fled.”⁴⁹ Devenish fell sick and died shortly thereafter. The case report continues:

To aggravate this matter, a letter was shewn which Devenish Riman wrote to his wife, in which he called her whoor, and told her somewhat roundly of her faults, and she wrote back to him in the margin, that he lyed, and wished him to get a better scribe for his next letter, for he was a fool that wrote that, wherein she called him fool by craft: and Goulding’s offence was accounted the greater, because he was a minister, so that he was fined 500l. [while Anne Bickley was likewise fined £500]. . . . And as to Doctor Thorn, he was acquitted by all: and the Bishop of London said, that they had thought to have troad upon a Thorn, and they gat a Thorn in their foot: and by Coke, if Devenish Riman had died upon it, it had been capital in the wife who procured it, for it was an unlawful act.⁵⁰

47. Harvard Law School MS. 1101, fol. 49v.

48. Rushworth, *Historical Collections*, pt. 2, app., 34.

49. Popham 129; 79 *ER* 1232.

50. Popham 130; 79 *ER* 1233.

Although only a small, rather peripheral component of the case involves the letter exchanged between the couple, how it plays into the larger series of events is instructive. Evidently, the same letter Devenish sent was returned with Anne's response in the margins, a letter in which the couple continued to argue as well as communicate (albeit perversely). The letter exchanged between Devenish and Anne is introduced rather extraneously "to aggravate this matter," likely by the defendant, as evidence to demonstrate the malice of Devenish in lieu of other evidence—of physical abuse, for example. The case also underlines how private animosity (the physical abuse, the letter exchange) becomes a public concern (Anne relating to others her private affairs, the court case), particularly in how Goulding, dressing in women's clothes to administer the beating, rehearses elements of skimmington: a form of community-based reprimand enacted to demonstrate disordered domestic conditions. As Martin Ingram has pointed out in his analysis of such social rituals, "in the last resort relations between husbands and wives were a social, not just a personal matter."⁵¹ This case also accords well with how Laura Gowing sees the relationship between defamation and gender in that "cruelty was a women's complaint as adultery was a men's" (Anne indicated Devenish "did beat and abuse" her while Devenish called Anne "whoor"); yet at the same time the case also diverges from Gowing's general observation that "it was women who engaged with the question of the legitimacy of men's household violence, not, for the most part, other men," since it was men to whom Anne seems to have verbalized her complaints.⁵² Finally, despite the seriousness of the case—spousal abuse, assault, breach of peace—the rather puerile jokes verbalized by Coke and the Bishop of London (John King) that conclude the report seem to trivialize these issues—in somewhat the same way that the culture seemed to envision the idea of violence among women as comical.⁵³

Other libelous letter cases demonstrate women using the letter form to communicate with other women. Mrs. Philips wrote to the plaintiff in *Tayler v. Philips* (ca. 1627–29),

Mrs. Tayler, I have often heard of your clamorous tongue, whereas if you want matter against your enemies, you exclaim of your friends, and give out, that I am jealous of my husband with Mrs. Anne: he was never

51. Ingram, "Ridings, Rough Music," 178. See 167–71 for skimmington and 177 for transvestism.

52. Laura Gowing, *Domestic Dangers: Women, Words, and Sex in Early Modern London* (Oxford: Clarendon, 1996), 207, 218.

53. *Ibid.*, 229.

so precise to take on him to be ashamed how he liked the border of a womans pettycoat; and you being not able to throw the first stone at him, need not to have been one of his accusers; neither know I what he can be accused of, unless it were, for being in your chamber before you were up: which I never heard was prohibited to any, neither know I why it should be to him. You may challenge me for a coward, that I meet you not at the Crosse, as you have challenged others, having been a pupil in the school of scoulding, and a rare artist therein, but I durst not have done it, lest I should have been so hoarse, that it might have been said, I had the pox.⁵⁴

Evidently, Margaret Tayler had accused Mr. Philips of philandering and was rumoring that Mrs. Philips was jealous. The language of a (typically male) challenge and duel is expressed by both Tayler and Philips, but jokingly transformed into a screaming contest by Mrs. Philips with her comment that Margaret is a shrill scold—a point indicated earlier with Mrs. Philips’s observation, “I have often heard of your clamorous tongue.” Perhaps this is the result of a stereotype that only males could or would duel. Still, there is no doubt that Mrs. Philips herself expresses her feelings in stereotypes, remarking that Margaret “having been a pupil in the school of scoulding . . . [is] a rare artist therein.” There is nothing especially libelous about the letter; indeed, during subsequent discussion of the letter in the Star Chamber, Sergeant Edward Hendon claims that the words were not actionable at common law despite the fact that another court (the Council of Marches) found the letter libelous. This private letter (there is no evidence it was published) seems yet again to be perceived as principally a threat to the peace.

In *Webster v. Lucas* (1633), Lucas “procured a Libellous and Scolding Letter to be written to the Plaintiff, and then to be written over by a Scrivener’s Boy, and sent him by a Porter, the Letter being subscribed Joan Tell-Troth; and published this Letter in several Taverns and Ale-houses, and to several persons in disgrace of the Plaintiff, whom in the Letter she often termed Scoggin, with other disgraceful Names, and the Plaintiffs Wife Jezabel, and the Daughter of Lucifer, with other Invective terms; and also caused another like Scandalous and Invective Letter; subscribed Tom Tell-Troth, to be written, and sent to the Plaintiff.” As punishment “she was committed, fined 40 *l.* bound to her good Behaviour, to be Duck’d in a Cucking-stool at Holborn-Dike, make an acknowledgment of her offence at the Vestry, and pay the

54. Hetley 10; 124 *ER* 300. The court “sentenced the defendant to be imprisoned; and fined 40*l.* to the King, and 40*l.* dammages to the party.”

Plaintiff 20 *l.* damage.”⁵⁵ What I want to focus on here is the characterization of the letter, the specifically gendered pseudonym, and the punishment given. Unlike any other libelous letters I have come across, Lucas’s letter is explicitly designated in the case report as a “Scolding Letter.” The content itself is similar to other libelous material, but since the author is female and has employed the Joan Tell-Troth pseudonym, the image of the letter is transformed. Indeed, Lucas’s use of that pseudonym is the result of an intention to make gender a meaningful element of the letter. As North puts it, women writing anonymously “allowed authors to test the limits of voice and authenticity, to delineate transgressive and socially acceptable acts of authorship, and to explore and construct relationships between gender and authorship.”⁵⁶ In addition, an element of Lucas’s punishment is clearly gendered. Unlike typical corporal punishments given for libel, Lucas is cuckolded, a punishment more often meted out to witches, prostitutes, and scolds rather than to libelers. Most likely, since her letter was characterized as “Scolding,” the punishment reflects the perception that a woman’s sharp tongue may also be manifested on paper.

If, as Gowing claims, “the language of slander offered particular linguistic powers to women, through which they asserted their verbal, physical, and legal agency,” these examples of women’s involvement with libelous letters demonstrate a similar sort of agency in the use of the written word.⁵⁷ Women used letters to express emotion and to negotiate social conflict in many different circumstances, and, as seen in these cases, these actions sometimes led them to prosecution. In cases similar to *Riman v. Bickley et al.*, a letter or other writing might specifically have been used by women as a (possibly safer) response to male violence or power, in that if they could not talk back or were unable to fight back, they could write back. The gendering Gowing sees in women’s oral expression of insult is also quite evident in

55. Rushworth, *Historical Collections*, pt. 2, app., 57. “Scoggin” refers to Edward IV’s court fool John Scoggin (or Scogan), and so characterized one as “a coarse jester, buffoon” (*OED*). Fox recognizes that “many libellers . . . were illiterate in some sense” (“Ballads, Libels,” 58). Indeed, it is quite possible that Lucas was illiterate since she “procured a Libellous and Scolding Letter to be written” and had another actually commit the words to paper, then perhaps had the scrivener’s boy write a “fair copy” of the libel. In *Atty. Gen. v. Moody*, likewise, although Mrs. Moody signed a libelous letter her husband wrote, the court concluded “it appears that the letter was not read by her”—most likely because she was unable to read it (Folger MS. V.b. 70, fol. 72). Fox nevertheless admits that, ultimately, literacy “was relied upon in order to help get the message across” (“Ballads, Libels,” 63).

56. North, *Anonymous Renaissance*, 212.

57. Gowing, *Domestic Dangers*, 109.

analyses of written defamation; the difference between slander and libel here is principally one of quantity: more women appeared to have resorted to spoken words than to written ones.⁵⁸

While the issue of anonymity (or pseudonymity, as in *Webster v. Lucas*) is crucial for understanding the intent of many letters deemed libelous, the issue of malice was equally vital. Malice was a pivotal concept around which discussions of written defamation revolved. Yet the determination of malice often hinged on what is largely an interpretive act. As legal historian D. J. Ibbetson puts it, in the law “‘malice’ was fairly clearly spiteful intent, but its outer boundaries are obscured by the fact that in most situations it would be impossible to discover this intent so that it had to be inferred or presumed from the circumstances, and considerable latitude was given to judges in doing this.”⁵⁹ Many libelous letter cases demonstrate precisely how it was “impossible to discover this intent”—an intent that might not be malicious but instead solicitous.

The complexity of determining malice was compounded by the prospect of reformation; there is clearly difficulty in distinguishing between a letter that intended defamation and a letter that intended reformation. The difference lay chiefly in the distinction between what George Puttenham calls “well deserved reproch”—associated with remedial practices of reprimand or satire—and what a 1574 court case terms “dishonest reproche”—associated with slander and libel.⁶⁰ Pulton, despite his indication that reformation is a possibility in the exchange or dissemination of written texts, indicates that the libeller “rather seeketh the discredit of the partie, then the reformation of his faults.”⁶¹ Libelous letters, in some cases, may be interpreted as salutary and intended to benefit rather than to insult. These may be signed, anonymous, or pseudonymous; may be serious, ironic, or satiric; or may be publicly disseminated or privately sent. As David Colclough remarks in the context of free speech and frank counsel, “Libels acted as unofficial means of counsel to which individuals

58. *Ibid.*, 111.

59. Ibbetson, *Law of Obligations*, 113–14. Helmholz states likewise: “The best way of rebutting malice was to show that the imputation had been made with a laudable motive” (*Select Cases*, xxxiv).

60. Puttenham, quoted in Kaplan, *Culture of Slander*, 30; the 1574 case concerns several individuals in Rye, Sussex, who were charged with affixing on doors “infamous libells and skrolls containing dishonest reproche” (quoted in Fox, “Ballads, Libels,” 52). For considerations of the relationship of satire and libel, see Kaplan, *Culture of Slander*, 29–33, and, esp., McRae’s *Literature, Satire*, in which he remarks that “libel was encoded as satire’s other” (27).

61. Pulton, *De Pace Regnis et Regni*, fol. 2.

might have recourse when more acknowledged fora . . . appeared to have failed.”⁶² The courts of law, however, were far more dubious about what might be considered reformatory; although official determinations allowed the possibility of reformation instead of defamation, the prospect was not often entertained in libelous letter cases. Perhaps for this reason the concept of reformation has not been much discussed in the scholarship on libel outside of legal history. There are, nevertheless, some cases in which letters otherwise deemed defamatory might in fact have been conceived as reformatory.

Cases like *Webster v. Lucas* and *Roper v. Martin* (1602) indeed revolved around such determinations. Lucas employed the pseudonyms “Joan Tell-Troth” and “Tom Tell-Troth” in her letters. Tom Tell-Troth is a character and pseudonym appearing in ballads, drama, and polemic literature throughout the sixteenth and seventeenth centuries.⁶³ North notes that “jests, satires, and antifeminist treatises often made anonymity part of their humor, employing pseudonyms such as Simon Smell-knave, Clunnyco de Curtanio Snuffe, and Thomas Tell-troth.”⁶⁴ We do not know precisely Lucas’s rationale for her attack on the Websters; the act of publishing the letter in taverns, however (evidently accomplished by the plaintiff herself), disseminated it to a wider audience, either to deride the Websters or to reform them. Lucas’s usage of “Joan Tell-Troth” and “Tom Tell-Troth” in these letters clearly demonstrates a knowledge of popular customs and of the implications of the convention: as a type of social or personal criticism, satire, or complaint.

A very similar use of a pseudonym occurs in *Roper v. Martin* in a letter that might also have intended a satirical (thus reformatory) purpose rather than a libelous (thus defamatory) one:

The Attorney informed on the relation of one [blank in MS] Roper, goldsmith, against [blank in MS] Martin, stationer, for an infamous libel. They both being rivals for a lady, Martin framed an infamous libel

62. Colclough, *Freedom of Speech*, 205.

63. See *An Analytical Index to the Ballad-Entries (1557–1709) in the Registers of the Company of Stationers of London*, comp. Hyder E. Rollins (Durham: University of North Carolina Press, 1924; repr., Hatboro, PA: Tradition, 1967), nos. 582 and 2662 (citations are to the Tradition edition); the play *The Conflict of Conscience*, in *A Select Collection of Old English Plays*, 4th ed., ed. Robert Dodesley, 15 vols. (London, 1874–76), 6:47; while Joseph Swetnam uses the pseudonym for his *Araignment of Lewde, Idle, Froward, and Unconstant Women* (London, 1615). It also served in titles of various controversial pamphlets such as *Tom-Tell-Troth, or a Free Discourse Touching the Murmurs of the Times* (London, 1642).

64. North, *Anonymous Renaissance*, 27. North does not mention “Joan Tell-Truth” in her book, however.

against [Roper] in fashion of a letter, and sent it to Roper, and put to it the name of “Tom tell trothe,” and in this disgraced him with purpose to defeat him with the lady, who had a large portion, and to whom Roper is now married. This libelling was much disliked by the community, and [is] a danger to it; otherwise this was ridiculous and foolish. But for the example of this, [Martin] was fined £100, pillory in Cheapside, and confession there.⁶⁵

Even though the libel had no apparent effect on the engagement (Roper married the woman), the libel was prosecuted and the defendant punished. The case reporter indicates that the letter was “ridiculous and foolish”; the intent indeed may have been to mock or ridicule Roper. The pseudonym, as a component of the text, is a conscious allusion to the older and well-known cultural meanings of the “tell-troth” name used to express either Martin’s protest or his jealousy. What might have been intended merely as an expression of discontent or as a sardonic attack was interpreted by the Star Chamber to be malicious—even though it is characterized as “ridiculous and foolish” and, thus, was likely meant to be humorous or have a satirical nature. In cases like *Webster v. Lucas* and *Roper v. Martin*, a letter might have in fact been broadly construed as a communication meant to criticize or right an apparent wrong. Of course, both libels and satires were often meant for widespread publication. In this regard, published libelous letters might have served as a sort of popular justice akin to charivari, skimmington, and other forms of public shaming.⁶⁶

Peacock v. Reynal (1612) also deals with the question of reformation versus defamation where the intention of the letter writer is the point of deliberation. In this case, William Peacock, heir to Richard Peacock, charged his cousin’s husband, George Reynal, with libel after Reynal had written a letter to Richard Peacock in order to “remove the affection of the said Richard from the plaintiff, and to settle that [the inheritance] in himself”—a letter suggesting William “was a haunter of taverns, and that divers women had followed him from London to the place of his dwelling, and that he had desire to hear of the death of the said Richard, and that all his inheritance would not be sufficient to satisfie his debts; and many other matters concerning his reputation

65. Baïldon, *Les Reportes del Cases*, 152 (last three sets of brackets in original).

66. Previous scholarship has located the relationship between libel and popular justice: see Bellany, “Rayling Rymes,” 288; Croft, “Libels, Popular Literacy,” 283; Ingram, “Ridings, Rough Music,” 178–86; and McRae, “Verse Libel,” 59–62. McRae observes that “the distinction between ‘literary’ satire and ‘popular’ libel breaks down under analysis” (*Literature, Satire*, 33).

and credit.”⁶⁷ After the defendant was found guilty and sentenced to imprisonment and a £200 fine, the judges explained the reason for the judgment:

If the letter had been directed to the plaintiff himself, and not to the third person, then it should not have been a libel, or if it had been directed to a father, for reformation of any acts made by his children, it should be no libel, for it is not but for reformation, and not for defamation; for if a letter contain scandalous matter, and be directed to a third person, if it be reformatory, and for no respect to himself, it shall not be intended to be a libel, for with what mind it was made is to be respected: as if a man write to a father, and his letter contain scandalous matter concerning his children, of which he gives notice to the father, and adviseth the father to have better regard to his children; this is only reformatory without any respect of profit to him which wrote it: but in the first case the defendant intended his profit, and his own benefit, and this was the difference.

Intention was held to be critical: “With what mind it [the letter] was made is to be respected.” The other part of the pronouncement is equally vital regarding potentially libelous letters in general: “For if a letter contain scandalous matter, and be directed to a third person, if it be reformatory . . . it shall not be intended to be a libel”—a crucial formulation for understanding how the law could assess certain written matter, even if it was published. A libel sent to a third party is normally publication, in common and criminal law, but a letter to a third party may yet be perceived as reformatory, as it could have been here, provided the aim of the letter writer’s remarks were “for no respect to himself.” Although the court saw that “the defendant intended his profit, and his own benefit” in *Peacock v. Reynal*, in other cases the intent might not be so clear—yet “this was the difference” in this case. As Ibbetson recognizes in referring to defamation, “It was . . . possible to defend oneself on the grounds that the words had been spoken out of charity to a friend of the plaintiff.”⁶⁸

Tanfield v. Hiron (1623) likewise deals with the differences between “well deserved reproch” and “dishonest reproche,” where the letter was

67. 2 Brownlow & Goldesborough 151; 123 ER 868. Hudson also refers to this case: “The writing of a letter to the nearest friend of a person, thereby to draw him into displeasure, and work him any disinheriton or prejudice, hath been held an offence deserving the sentence of this court. And so it was held in *Peacock’s Case* and *Reynolds’s Case*, and many others” (Hudson, *Court of the Star Chamber*, 2:103).

68. Ibbetson, *Law of Obligations*, 115; but see also 116, n. 125; Helmholz, *Select Cases*, cxi; and Gowing, *Domestic Dangers*, 119–21, 123–24.

also sent to a third party, in this case Prince Charles: “The plaintiff brought an action upon the case against the defendant, for delivering of a scandalous writing to the prince, and in his declaration he [Hiron] set forth what place he [Tanfield] held in the commonwealth, and that the defendant seeking to extenuate and draw the love and favour of the King, prince, and subjects from him, did complain that the plaintiff did much oppress the inhabitants of Michel Tue in the county of Oxford.” William Noy argued, “It is a grievous scandal to deliver this writing; for it is a scandalous writing, and no petition: for therein he doth not desire any reformation, but complains generally,” and maintained that Hiron “hath not demeaned himself as he ought; for he hath not desired in the letter any reformation, but only he complains of the oppression of Tanfield: he ought to have directed the writing unto the Parliament, and he directed the same unto the prince by name; in the letter he doth not shew that Tanfield the plaintiff did oppress, but [claims] that the plaintiff was an oppressor, but he doth not shew in what thing.”⁶⁹ As in *Peacock v. Reynal*, the letter was sent to a third party, thus publishing it, making the libelous letter indictable even in common law. In *Tanfield v. Hiron*, we see that such a reformatory letter may also be sent to a third party (thus publishing it), but Hiron did not send it to the appropriate third party—in this case, Parliament. The letter was therefore deemed libelous because it was judged to intend defamation not reformation.

Alabaster v. Peyton et al. (1618) and *Coren et al. v. Seed and Seed* (1608) also demonstrate a dynamic between reformation and defamation. In the former case, William Alabaster, doctor of divinity, charged that Thomas Peyton and the others wrote, “Sir it much concernes you speedilie to retire into the countrey wheare god hath made you a father of his church, there ever to bee resident as both in dewtie towards him and conscience to your soule you are bound, And the more to cleare those imputacions your absence hath procured, tis now growne a jest that the doctors trust loves a thrust, and that her sister keepes a baudye house which your selfe is reported to frequent and hoaste your meanes uppon[,] the more probable because you are noted of inconstancy.” The anonymous letter concludes: these things it is “fittinge you should knowe, but not by mee because I must bee blame less, yet in soe secrett manner as that you maye be privatlie admonished heareafter to be ware and redeeme a good opinion with the love of your best parishioners.” The letter “was underneathe att the one side thearof subscribed with these words vizt. (ab amito) as if

69. Godbolt 405; 78 *ER* 239.

the said libellous letter and libell had been sent . . . from some deere and lovinge freind.”⁷⁰ In *Coren et al. v. Seed and Seed*,

A letter or lybell was written or dyspersed abroade of the contents followinge. Vizt Mrs Coryn. if you respect your husbands credit and your wealth you must keepe him from the parson of Clavertons howse, he ys so beloved and so kyndely enterteined of the gentlewoman of the howse, that his desire is satisfyed in what he will . . . yf you suffer him to use it, his purse wilbe leane and his mare poore, he sayeth you do often chide him and that is the cause he goeth thether for comfote, now you know it, use your owne discretion, the countrie speakes of it already.

One of the defendants, however, claimed that “the letter or lybell . . . written to Mrs Coren could not be called a libell but a freendlie admonision and that wiser men than him selfe were of that opynion.”⁷¹

The use of the terms “ab amito” and “freendlie admonision” in these two cases indicates, if not charitable intentions, at least a sort of plausible deniability. Indeed, Seed told a townsman, “Tush, do you call that a Lybell, yt was a freendly admonysion.”⁷² Although the defendants in both cases were found guilty, we should recall here the previous cases where reformation was indicated as a potential motive, as well as Ibbetson’s comment that “it was . . . possible to defend oneself on the grounds that the words had been spoken out of charity to a friend of the plaintiff.” Although it was culturally viable, even legally possible, to show charity in letters in an attempt to reform another by criticizing his/her actions, the practice does not appear to have been countenanced by the courts in handwritten texts circulated at large or, indeed, even in the private exchange of letters between two people only. Part of the reason was the fact that public order was considered far more important than the legal definition of criminal defamation.⁷³

Other factors should also be recognized. First, the letters by Seed and Peyton were unsigned, whereas Reynal’s letter in *Peacock v. Reynal* was signed—hence the writer wanted to be known in the latter case. Even though Reynal was, like Peyton and Seed, still found guilty, the fact of signing a letter (as we have already seen) is still meaningful as to the intentions of the letter writer. If signing is not germane to legal inquiry, it may be valuable in determining such characteristics as the credit, candor, and integrity of the letter writer. Second, the fact of private circulation between only the writer and the recipient seems

70. PRO, STAC 8/42/22, m. 15.

71. PRO, STAC 8/98/20, m. 3.

72. *Ibid.*

73. Helmholz, *Select Cases*, xi.

even more noteworthy; it is easier to suggest that the writer's intentions were charitable rather than malicious when the letter was sent privately to the party and not published. Because the letters in both *Alabaster v. Peyton et al.* and *Coren et al. v. Seed and Seed* were found to be published, even though Peyton claimed that his letter was sent "in soe secrett manner as that you maye be privatlie admonished," both letters' statements of friendship and counsel were not found to be legally credible. A private complaint as in *Glemham v. Browne and Bardwell* appears to be more legitimate since it was "a private letter sealed up and sent unto a Justice of peace thereby complayninge unto him and shewing how hardly or maliciously without cause hee had dealt against him in a matter . . . [it coming] in soe private a cariag;" as defendant Browne claims in his demurrer.⁷⁴ The letter was never published; thus, as Browne insists, he never intended to confront Glemham publicly. Therefore, even though lack of publication was not a defense in the Star Chamber, this argument was regularly employed in the Star Chamber, perhaps to justify or substantiate one's ability to urge reform, articulate complaint, or voice objection.

In *Hicks v. Garret* (1618) the distinctions between reformation and defamation become even more blurry in that the libel revolved around "ironic" language. After Sir Baptist Hicks had "done divers pious and charitable acts, to wit, had founded at Camden in Glocestershire an hospital for twelve poor, and impotent men and women, and had made in the same town a new bell tunable to others, a new pulpit, and adorned it with a cushion and cloth, and had bestowed cost on the sessions-house in Middlesex, &c.," Austin Garret (or Jarret) "sent a letter closed and sealed up to Sir Baptist Hicks, which was so delivered to his hands, containing many despiteful scandals delivered ironice, as saying, 'You will not play the Jew nor the hypocrite, and in that sort taunting him for an alms-house, and certain good works that he had done, all which he charged him to do for vain-glory.'" ⁷⁵ It is easy to suggest that Garret's letter was motivated by jealousy. But it should also be acknowledged that Garret might have intended a check on vanity—of course, a common butt of satire—in his "ironic" letter. The same sort of irony is evident in other cases, for instance, in *Edwards v. Wooton*, where, before beginning the letter "M^r Docturdo

74. PRO, STAC 8/160/28, m. 1. "The requirement of malice was easier to establish," writes Ibbetson, "where the words had been spoken to somebody other than the plaintiff" (*Law of Obligations*, 116).

75. I have combined two different reports of the case: Popham 139 (79 *ER* 1240) and Hobart 215 (80 *ER* 362).

& fartado,” Wooton wrote in the direction superscribed on the letter, “To his loving friend Mr. Edward Speed this.”⁷⁶ This ironic usage was understood by Hudson when he wrote that libelous letters, besides being circulated or published at large, might also consist of “some scurvy love-letter” sent to the recipient himself and not otherwise published.⁷⁷ Hudson recognizes that, as judged in the libelous letters by Peyton, Seed, and Wooton, a libel often masqueraded as a “freendlie admonision” (“ab amito”). It was determined, therefore, that malice in letters worked frequently under the guise of charity, especially since letters were customarily associated with familiarity and confidentiality.

I have argued elsewhere that letters in the early modern era sometimes served, in an age of increasing concern with civility, as social “pressure valves” in the control and expression of emotion; letters might be exchanged in lieu of dueling or other violent actions, as some of the previous cases suggest.⁷⁸ A specific instance of this sort of exchange played out in the courts of law is *Edwards’s Case* (1608), where Thomas Edwards “of purpose to disgrace the said Dr. [John] Walton, and to blemish his reputation, learning, and skill, with infamy and reproach, did against the rules of charity write and send to the said Mr. Dr. Walton, a lewd and ungodly, and uncharitable letter . . . [in which] you told him therein in plain terms, ‘he may be crowned for an ass.’”⁷⁹ *Edwards’s Case* in fact concerns the same persons as *Edwards v. Wooton* (1607)—although Walton is spelled “Wooton”—which I have already examined, and where Wooton was found guilty of composing and publishing a libel against Edwards. In *Edwards’s Case*, however, plaintiff and defendant are reversed. Evidently, after Edwards won his libel suit against Wooton/Walton, Edwards in turn wrote some libelous letters and apparently feared no reprisal since it was claimed that Edwards, “having obtained a sentence against him [Walton] in the Star Chamber, for contriving and publishing a libel, did triumphantly say that you had gotten on the hip a [High] Commissioner.”⁸⁰

76. 12 Coke Reports 35; 77 *ER* 1316.

77. Hudson, *Court of the Star Chamber*, 2:100.

78. Schneider, *Culture of Epistolarity*, 137–40.

79. 13 Coke Reports 9; 77 *ER* 1421.

80. 13 Coke Reports 10; 77 *ER* 1422. Among other plaintiffs and defendants trading defamation charges in lawsuits are William Alabaster and Thomas Peyton (PRO, STAC 8/42/22 and 8/236/12), Edward Harrison and Henry Fiennes (PRO, STAC 8/29/6 and 8/176/10), John Frise and Richard Bennet (PRO, STAC 8/64/23 and 8/140/7), as well as Joshua Sherburne and Roger Johnson (PRO, STAC 8/185/23 and 8/263/15). See *List and Index to the Proceedings in Star Chamber for the Reign of James I (1603–1625) in the Public Record Office, London, Class STAC8*, 3 vols., ed. Thomas G. Barnes et al. (Chicago: American Bar Foundation, 1975), 1:351–61.

It is very difficult to see the exchange of libelous letters between Edwards and Wooton as reformatory in any way; yet, on the other hand, these individuals were not dueling—the rise of which King James’s government, in particular, attempted to halt.⁸¹ In *Edwards v. Wooton*, the letter was punished, as Coke puts it, because it “is a great motive to revenge.”⁸² The outcome of the case did not in fact stop Edwards from an epistolary “revenge”; but by “fighting” by way of letters, Edwards and Wooton/Walton in a way took a more civil, nonviolent approach to their conflicts (although the letter itself is called an “immoderate and uncivil letter”). Such letters might have served as substitutes for physical violence or as tools of verbal negotiation. The letters dispersed by Markham in *Darcy v. Markham*, for instance, do not contain any blatantly libelous language, even though the court stated that the “letter thus dispersed was in the nature of a libel, slanderous and defamatory to my Lord Darcy.”⁸³ The letter was primarily dangerous as an incitement to duel. The criminal law logic was that libelous letters led to breaches of peace and precipitated dueling, although in *Darcy v. Markham*, as Francis Bacon admitted, “it is not an

81. A decree of the Star Chamber against dueling was issued (on January 26, 1614) after settling *Atty. Gen. v. Priest and Wright* (1614), a case of a letter possibly precipitating a duel, which Francis Bacon said “should be a leading case.” See *The Works of Francis Bacon*, ed. James Spedding et al., 14 vols. (London, 1861–74; repr., Stuttgart: Friedrich Fromann, 1962–63), 10:409–16 (citations are to the Fromann edition). For the government’s desire to halt dueling, see Donnelly, “History of Defamation,” 116; Hudson, *Court of the Star Chamber*, 2:103; Veeder, “Law of Defamation,” 3:460; and, esp., Markku Peltonen, *The Duel in Early Modern England: Civility, Politeness and Honour* (Cambridge University Press, 2003), chap. 2.

82. 12 Coke Reports 35; 77 *ER* 1317.

83. Hobart 120; 80 *ER* 270. The letter in whole reads: “To the Lord John Darcye at Aston. / My lord Darcye understand that I well knowe you to be a Peere of the kingdome, yet have you noe priviledge to wronge any gentleman by Indignityes, a greater cannot be laid upon any man then that lyeinge speach, you did openly speake in Blithfielde which was that Beckwith your man had beaten me to ragge yf yt had not bene for your selfe, to which speach of yours then spoken, and soe often as you shall ever speake the same, I saye directly you lye, which I will ever maintaine against you with my life, for testimony whereof I subscribe Jer: Markham[.] There is a Rowland for your Oliver a lye to encounter the indignitye, And for that I want men of sufficiencie to send unto you with this message[.] I have therefore scattered theis papers purposelie in Aston feilde assuringe my selfe that some of them will come unto your hands, or att least some others findinge of them will make report, soe as yt may come to your knowledge leavinge it then to your will to proceede, yf you be desirous that I should heare from you sende only your footman with your Letter and hee shalbe received without prejudice, lett myne in the like manner be free from you and yours, It is all I desire soe I subscribe Jer Markham” (Folger MS. V.a. 133, fols. 64v–65).

express challenge yet is an implied challenge.”⁸⁴ *Atty. Gen. v. De La Barre et al.* (1637) offers another example of the ambiguity often attending such letters. De La Barre was charged with sending Sir Humphrey Foster a challenge by letter, but “The Letter was doubtfull and might bee accepted as a challenge, and sent to Sir Humfry Foster who allsoe might have taken it otherwise, It was for delabarre pend by the advise of divers of his freinds which made it the more suspitious, the Lords enclyned to accept it in the worse sence it tending to the vilest kinde of murder, but upon the whole evidence the defendants were therof acquitted.”⁸⁵ Like the letters written by Markham, De La Barre’s letter was variously interpretable; but, unlike the Markham letters, it was not judged as an incitement to a duel. The possibility of misinterpretation and ambiguity is, in fact, compounded in such cases since the personal interaction was mediated by letters, which lack the various comprehension cues present in face-to-face communication. Thus, even if Edwards “publish[ed] a copy of the said letter,” De La Barre’s letter might have been taken in “the worse sence,” and Markham’s scattered letter was an “implied challenge,” such letters constituted a mode of nonviolent personal expression in lieu of more aggressive face-to-face conflict.

Personal comment and political critique are discernible in other letters, but such letters were frequently charged as libel or even as sedition. Since complaints against a social superior were especially difficult to articulate safely, such protests were often composed in scattered sheets or posted pasquils; at other times criticism was conveyed in a more private fashion. In the case of *Atty. Gen. v. Reignolds* (1633), the defendant’s complaint is against the practices of John Bridgeman, Bishop of Chester, and his underlings and made by a semiprivate letter: “The Defendant framed, and wrote a witless, and malicious, Libellous Letter, directed to Mr. Brooks, a Proctor, at York, and Thomas Squire, a Clerk in the Office of Consistory at York, or to either of them,

84. Folger MS. V.a. 133, fol. 65v: “que ne soit challenge expresse uncore est challenge imple.” Many judgments indeed worked on this logic, including *Edwards v. Wootton*, *Hall v. Ellis*, *Atty. Gen. v. Apsley*, and *Barrow v. Lewellin*. Other letters, like that in *Atty. Gen. v. Kelly* (1632), seem more obviously antagonistic: “Theodore Kelly had written a letter to Sir Arthur Gorge, Knight, tending to a challenge, and [the Attorney General] produced the letter, which was read, vizt. that he was as good a gentleman as himselfe, and had learned soe much att Cambridge that Sir Arthur was to expect noe other from him then he promised to doe vnto him, which was to cudgell him, &c” (*Reports of Cases in the Courts of Star Chamber and High Commission*, ed. Samuel Rawson Gardiner [London, 1886; repr., New York: Johnson Reprints, 1965], 112).

85. Harvard Law School MS. 1101, fols. 103v–104.

wherein was contained, That the Bishop is so strong, that if Bribery will be taken, you must lie all along, (because the Bishop shifts Warrants at every door) meaning thereby the Bishop of Chester.”⁸⁶ The defendant indicts the practice of bribery, unlawful warrants, and fraudulent commutations—widespread practices affecting a large number of individuals, according to the letter. The letter was evidently part of a larger series of complaints against the bishop, as Christopher Haigh makes clear: “Bridgeman’s [tough] policies as bishop were matched by his conduct as rector of Wigan, where his relations with his parishioners became so bad that he had to be warned by the government to take care. As rector and lord of the manor, Bridgeman tried to overthrow tithe prescriptions, recover lost rents and impose tolls and fees for the market. . . . Such proceedings gained him a reputation for rapaciousness and legal subterfuge, and made him many enemies.”⁸⁷ Before Henry Reignolds (or Reynolds) composed the letter, Bridgeman had deprived two priests, James Martin and Henry Lewes, and these men, along with Reignolds (a disbarred lawyer), accused the bishop of misappropriation of fines along with bribery, for they alleged some local gentlemen “of having given great sums of money by way of commutation as bribes so that they might be tolerated or winked at in their sins”; in total, 110 charges of various offenses were laid against the bishop.⁸⁸ Although Bridgeman was in the end found innocent of the charges, several witnesses had stepped forward to complain of his actions, while Bridgeman himself, in light of the circumstantial evidence that had been gathered, attempted to silence the complainants as well as the investigators sent to examine the grievances.⁸⁹ Like the charges and the witness testimonies, the letter in this case ultimately constitutes a form of complaint—whether legitimate or not—against what were deemed questionable actions of a superior and evidently echoed the sentiments of many other individuals in the diocese. Similarly, Adam Fox refers to a dispute between a manorial lord and his tenants, in which a letter was incorporated into the strategy of protest, the tenants sending the lord “a pseudonymous letter of derision

86. Rushworth, *Historical Collections*, pt. 2, app., 58.

87. Christopher Haigh, “Finance and Administration in a New Diocese: Chester, 1541–1641,” in *Continuity and Change: Personnel and Administration of the Church in England, 1500–1642*, ed. Rosemary O’Day and Felicity Heal (Leicester University Press, 1976), 164.

88. S. J. Lander, “The Diocese of Chester,” in *A History of the County of Chester*, vol. 3, ed. B. E. Harris (Oxford University Press, 1980), 30; George T. O. Bridgeman, *The History of the Church & Manor of Wigan*, 4 vols. (Manchester, 1888–90), 2:340, 356.

89. Haigh, “Finance and Administration,” 164.

which was also read out at public meetings.”⁹⁰ Perhaps *Alabaster v. Peyton et al.* is a species of the same sort of complaint, where some of the parishioners of Alabaster lodged an objection against what they perceived as Alabaster’s improper behavior.

Religio-political protest is the purpose of the libelous letter in *Atty. Gen. v. Morgan* (1630):

The Defendant [Edward Morgan] being a Popish Recusant, and being Convented before Sir John Bridgeman, and Sir Marmaduke Lloyd Knights, Justices for the County Palatine of Chester, and County of Flint, and Accused to them to be a Popish Priest, was required to take the Oath of Allegiance, which he refusing in open Court, he was Indicted and Attainted in a Premunire, and committed to Gaol. And thereupon, in revenge, he wrote a Libellous and Scandalous Letter to the said Justices, taxing them with injustice; and after framed another Libellous Writing, which he intituled, The state of Flintshire, and therein Traiterously alleaged his Majesty to be deposed, the Authority of his Privy Council abrogated, the Bishop of Chalcedon made King, the Inhabitants of Flintshire his Slaves, and Sir John and Sir Marmaduke his Justices.⁹¹

Morgan was a Jesuit, who indeed urged reform of “prelates and princes,” and after spending time in Douay, Valladolid, and Rome, returned to England as a missionary.⁹² During his trial, Morgan claims that his protest against the justices was not seditious but, rather, prompted by benevolent impulses: “The justices having apprised and imprisoned me for a recusant of the oaths, to perform the act of parliament (by which they were directed thus to do), and by those means disabled and hindered me in my work and endeavor for the general good.”⁹³ To this end Morgan also recalled the case of Captain Thomas Fleming, who before the invasion of the Armada was to be convicted of piracy, but afterward was rewarded by the state for his patriotism. Morgan ultimately described his letters as legitimate protests against perceived injustices and as instruments to reform church government.

Atty. Gen. v. Traske (1618) also concerns libelous letters and religious protest, but letters that were far less likely to be conceived of

90. Fox, “Ballads, Libels,” 78.

91. Rushworth, *Historical Collections*, pt. 2, app., 33.

92. T. P. Ellis, *The Catholic Martyrs of Wales, 1535–1680* (London: Burns, Oates & Washbourne, 1933), 96–97.

93. Harvard Law School MS. 1101, fol. 45: “Les Justices ne devoyant daver apprise et imprison moy pur recusant del seremonts a performer lact de parliament (pur quel fueront direct issint a fayre) et per cel meanes disable et hinder moy en mon over et endeavor pur le generall bien.”

as patriotic. John Traske, a separatist minister, “very insolently and presumptuously wrott a most scandalous letter to the Kinges most excellent Maiestie with his owne hand, and therein conceyveinge as hee pretended his cruell handlinge by some of the prelates termest theire proceedinges against him to bee cruell and bloody tirranny and oppression.”⁹⁴ Traske also wrote a second letter to the king “not in the way of submission but in manner of a private challendge to right his pretended greivances. And therein vseth many disdaynfull phrases and scornfull detraction of the terme of hipocrisie, and thirtie two tymeas vseth the vncivill terme of Thow and Thee to the Kinges most excellent Maiestie.”⁹⁵ As with other cases we have seen, the report makes clear that the letters were composed “with his owne hand,” thus intentionally indicating authorship. Likewise, the letters’ language and style demonstrate that Traske indeed did not approach the King James “in the way of submission” but rather wrote “presumptuous lettres to the Kinge, wherein hee much slandered his Maiesty.”⁹⁶ Such a statement is reminiscent of *Tanfield v. Hiron*, where Hiron, writing to Prince Charles, “hath not demeaned himself as he ought.”⁹⁷ Yet, it is possible to see Traske’s letter as a species of dissent literature, as David R. Como recognizes: “James and his ministers recognized the threat inherent in Traske’s hubristic rhetoric and posturing, and it was precisely this irreverence that led to his prosecution. When they decided . . . to punish him, they chose not the court of High Commission, the venue reserved for the correction of doctrinal offenses, but the court of Star Chamber, more typically the site of prosecution for crimes against the state.”⁹⁸ Another report of the case makes clear that Traske was sentenced “not for holding those opinions, (for those were examinable in the Ecclesiastical Courts, and not here [in the Star Chamber]) but for making of conventicles and factions by that means, which may tend to sedition and commotion, and for scandalising the King, the bishops, and the clergy.”⁹⁹ Traske was punished for what amounts to libel and breach of peace, although it is apparent, as Como points out, that the content of Traske’s writings was oppositional and subversive.¹⁰⁰

94. “Trask in the Star-Chamber, 1619,” *Transactions of the Baptist Historical Society*, 5 (1916–17): 9. The date of 1619 is in error in this report.

95. *Ibid.*, 10.

96. *Ibid.*, 11.

97. Godbolt 407; 78 *ER* 240.

98. David R. Como, *Blown by the Spirit: Puritanism and the Emergence of an Antinomian Underground in Pre-Civil-War England* (Stanford University Press, 2004), 174.

99. Hobart 236; 80 *ER* 382.

100. See Como, *Blown by the Spirit*, 138–75.

A case of libelous letters intended as political protest is manifested in *Atty. Gen. v. Perkins* (1627):

The Defendant [Thomas Perkins] at such time as His Majesties Commissioners, for Collection of the Loan-mony, were to meet and sit at Nottingham, scattered in the High-way, as the Freeholders were to come to the Town, divers Libellous, Scandalous, and Seditious Letters, both against the King and State, directed to Freeholders and true hearted English men, with intent to dissuade all the Freeholders of the said County of Nottingham, from yielding to subscribe to the said Loans, or to furnish the King with any mony, but such as should be required in a Parliamentary course, and therein disloyally slandered His Majesty and Privy Council with injustice, oppression and cruelty.¹⁰¹

The report continues with the treasonous details of the letters, recounted at length to demonstrate the depth of the sedition. Defendant Perkins was groom for Theophilus Clinton, Earl of Lincoln, and it was probably Lincoln who composed the Nottingham letter, or at least an original manuscript pamphlet on which it was based.¹⁰² But the letter also produced political debate: “It . . . gave moderate councillors an opportunity to discuss the justification for the levy, on a very public stage,” as Richard Cust maintains.¹⁰³ Although its views were “radical and militant,” Cust states that they were “not beyond the pale of respectable political discourse.”¹⁰⁴ A contemporary opinion states that to “many that heard the cause the letter was very senciblye written and was not sleighted by any of the Lords.”¹⁰⁵ Perkins was nevertheless found guilty, jailed, and fined £3000, bishops William Laud and Richard Neile claiming that “this soweing of division and settinge of discention betweene the king and his people was treason in him that contrived that Letter”; they also condemned those who “must censure the power, not excuse themselves but to accuse the state, it is tyme to punish such: for the advise it is most contemptuous against the King and State.”¹⁰⁶ Like the defendants characterized in *Tanfield v. Hiron* and *Atty. Gen. v. Traske*, Perkins is described as having

101. Rushworth, *Historical Collections*, pt. 2, app., 8.

102. Richard Cust, *The Forced Loan and English Politics, 1626–1628* (Oxford: Clarendon, 1987), 68, 170–71.

103. *Ibid.*, 68.

104. *Ibid.*, 174. McRae writes of political libels that their “political significance . . . lies not necessarily in a straightforward commitment to ‘a mode of oppositional rationality’, but rather in a more fundamental commitment to stretching the bounds of commentary and reflection” (*Literature, Satire*, 49).

105. Folger MS. V.b. 70, fol. 73.

106. *Ibid.*, fol. 73v; quoted in Cust, *Forced Loan*, 70.

demonstrated contempt in not demeaning himself properly to the monarch's power and the state's authority. McRae's claim that "the libel emerged as a pivotal textual site for the development of radical politics" is especially germane to such libelous letters charged as sedition.¹⁰⁷ Bellany's perceptions are equally compelling in explaining the legacy of *Atty. Gen. v. Pickering (De Libellis Famosis)* in this regard: "In theory, the extreme position taken by Star Chamber and by Coke's report could have limited the possibility of even constructive, loyal criticism of royal ministers. By focusing on the supposed effects of a critical statement rather than on its truth, justice, or intention, it became possible to depict any criticism as inherently libelous and seditious."¹⁰⁸ *Atty. Gen. v. Morgan*, *Atty. Gen. v. Traske*, and *Atty. Gen. v. Perkins* indeed demonstrate how even potentially legitimate complaint or criticism could be identified as seditious libel.

In *Atty. Gen. v. Bishop of Lincoln and Osbaldeston* (1639), Lambert Osbaldeston was charged with *scandalum magnatum*—the defamation of peers, magistrates, or spiritual dignitaries—for exchanging letters with John Williams, Bishop of Lincoln, that libeled William Laud, Archbishop of Canterbury. In his letters, Osbaldeston called Laud "the little Urchin" and "the little Vermin, the false Mediator, the Hocus Pocus."¹⁰⁹ The letters' intent, it was finally judged, was "to work the utter ruin and overthrow of the Archbishop" by way of libel and conspiracy.¹¹⁰ Osbaldeston's letters were written five years earlier, in 1634, and in 1639 an information led to the charges.¹¹¹ Chief Justice John Finch wonders why the letters were "not lost or burnt by the Bishop"—implying that the very fact that Williams preserved them speaks to a future intent—and further suggests that "concealing such a turbulent and scandalous Libel as the first Letter, shews that he

107. McRae, *Literature, Satire*, 52.

108. Bellany, "Puritanism, Libel," 163.

109. Rushworth, *Historical Collections Abridg'd and Improv'd*, 3:12, 16. See also Peter Heylyn, *Cyprianus Anglicus, or the History of the Life and Death of . . . William . . . Lord Archbishop of Canterbury* (London, 1668), 345–46.

110. Rushworth, *Historical Collections Abridg'd and Improv'd*, 3:15.

111. The statute of limitations was two years for slander, six years for *scandalum magnatum*. See also *Nurse v. Pounford* (1628), where the statute of limitations of a libelous letter is also debated (Hetley 161; 124 *ER* 421); and *Atty. Gen. v. Faunt* (1638), where William Faunt was accused of writing a libelous letter to the Earl of Huntingdon: "This lettre being writ in 2 Car. [1626] was by the Informacion of Mr Attor. charged to bee writt about 8 Car. [1632] to the damage of the Earle, [and] upon hearing it appeared soe & that the defendant writ the lettre but his counsell insisted that being so longe before the suit the Earle ought not to have damages in regard of the statute for Lymitacion of actions" (Harvard Law School MS. 1101, fol. 112v).

[Williams] had long a rancor and hatred towards the Archbishop.”¹¹² Finch’s comments also remind us that the durable nature of written defamation allows documents like letters (which contain evidentiary components such as dates and signatures) to be produced long after composition and reception in order to charge another, legitimately or not, with defamation or even treason—a reason why many burned potentially incriminating letters.¹¹³

Like the content of some of the other letters I have examined, the critique contained in the letters in *Atty. Gen. v. Bishop of Lincoln and Osbaldeston* is both political and personal. Osbaldeston writes in one letter “that the Sport was grown Tragical, and a sound and thorow Charge would confound the little Urchin. The Spaniards and Hollanders are join’d to effect it, if his Lordship effect his Assistance,” where some sort of widespread international intrigue against Laud is intimated. The root of the defamation, however, is personal, referring particularly to Laud’s character and physique. Charles Carlton helps us to understand why Laud might have reacted so furiously to remarks such as Osbaldeston’s. Referring to the Osbaldeston case specifically, he asserts that “insults drove the archbishop to a cruelty that was almost pathological”; Laud “had always seen politics in terms of great personal ties, of fights if not to the death at least to dismissal, ignominy, and perhaps the Tower. . . . As a junior bishop his erstwhile mentor, John Williams, became the *bête noire* who haunted him waking and sleeping.”¹¹⁴ More broadly, one may see the libelous content in this *scandalum magnatum* case as partly indicative of what McRae calls “the politics of the body,” in which the bodies of great figures were inscribed in libels with a “subversive and demotic form of stigmatization.”¹¹⁵

112. Rushworth, *Historical Collections Abridg’d and Improv’d*, 3:16.

113. Laud himself clearly recognized the damaging uses one’s old letters might be put to, as he writes to Thomas Wentworth in 1635, “The more I think of the business of our letters, the more I am still convinced in my own way of burning them so soon as their business is answered and ended; for though all public business be fair and most able to endure any light, yet some private drogeries, and some complaints about falsehood in friendship which perhaps both of us have had too much cause to make, would be kept more private. And I am most confident if either of us fail, our letters will be fingered” (*The Works of William Laud*, vols. 6 and 7, *Letters*, ed. James Bliss [Oxford, 1847–60; repr., Hildesheim: Olms, 1977], 7:211 [citations are to the Olms edition]). See also Schneider, *Culture of Epistolarity*, 107, 298, n. 67, and 309, n. 294, on burning letters.

114. Charles Carlton, *Archbishop William Laud* (London: Routledge & Kegan Paul, 1987), 112, 147.

115. McRae, *Literature, Satire*, 58, but see 58–68; see also Croft, “Reputation of Robert Cecil,” 54–62.

In considering critique contained in letters, then, content specifically attacking a person seemed to work dynamically with content expressing discontent, protest, or dissent of a more generally political or religious nature. In demonstrating such a dynamic, *Atty. Gen. v. Morgan*, *Atty. Gen. v. Traske*, *Atty. Gen. v. Perkins*, and *Atty. Gen. v. Bishop of Lincoln and Osbaldeston* all illustrate the equation of libel and sedition in letters (those in *Atty. Gen. v. Perkins* are explicitly characterized as “divers Libellous, Scandalous, and Seditious Letters”). Sedition was not, of course, a charge inevitably fixed to libel; but the Star Chamber never distinguished clearly between defamation and sedition.¹¹⁶ This lack of clarity is evident in these cases. The substantial punishments meted out for what in *Atty. Gen. v. Reignolds*, *Atty. Gen. v. Morgan*, *Atty. Gen. v. Traske*, and *Atty. Gen. v. Bishop of Lincoln and Osbaldeston* are essentially private letters manifest the fear that narrowly circulated letters, as well as widely disseminated ones, were dangerous, threatening documents.

In *scandalum magnatum* lawsuits during the sixteenth and seventeenth centuries, John C. Lassiter has shown that the words held actionable in such cases “were words impugning the honor and dignity of peers” even if “they were devoid of political or religious content” and did not “constitute a truly serious accusation or threat.”¹¹⁷ Many of the cases I have been examining reveal in the language of the report a conspicuous anxiety about honor, reputation, and credit. Pulton writes of the libeler as one who “privily stingeth [one] in fame, reputation, & credit” and “seeketh the discredite of the partie,” and William Peacock charged George Reynal for remarks in the letter “concerning his reputation and credit.” John Wooton/Walton charged Thomas Edwards with “blemish[ing] his reputation, learning, and skill,” and Markham felt that the perceived insult was “derogatory al reputacion de Markham esteant soldier.” Clearly such references indicate a deep concern with reputation in a culture where the foundation of libel law was based precisely upon perceptions of honor and shame, as Coke’s *De Libellis Famosis* makes clear.¹¹⁸ Libelous letters—including

116. Thomas G. Barnes, “The Making of English Criminal Law: (2) Star Chamber and the Sophistication of the Criminal Law,” *Criminal Law Review*, 1977, 323.

117. John C. Lassiter, “Defamation of Peers: The Rise and Decline of the Action for *Scandalum Magnatum*, 1497–1773,” *American Journal of Legal History* 22 (1978): 220.

118. Bellany, “Puritanism, Libel,” 156. Other commentary on honor culture includes Cust’s “Honour and Politics in Early Stuart England: The Case of *Beaumont v. Hastings*,” *Past and Present* 149 (1995): 57–94; see also his “Honour, Rhetoric and Political Culture: The Earl of Huntingdon and His Enemies,” in Amussen and Kishlansky, *Political Culture and Cultural Politics*, 84–111.

private letters never published—were prosecuted under Coke’s rules on the rationale that the reception of a letter deemed libelous led to a desire for revenge that in turn led to breach of peace.

Richard Cust, in discussing honor culture of the period, also sees public and private spheres as necessarily interconnected.¹¹⁹ Many personal, private letters were exposed and exploited for various purposes. The legal authorities often had other motivations besides determining the defamatory in identifying libelous material. The libel by Garret against Hicks, for instance, if unchecked, might have had other, farther-reaching consequences than simply its effect on Hicks alone: “Because it [the libelous letter] tends to the breach of the peace it is punishable in this Court, and the rather in this case, because it tends to a publick wrong, for if it should be unpunished, it would not only deter and discourage Sir Baptist from doing such good acts, but other men also who are well disposed in such cases; and therefore . . . this was a wrong.”¹²⁰ Breach of peace is defined in its greatest possible latitude—as a “publick wrong”—constituting not only public disruption but also the discouragement of beneficial public works. Even if a letter were private (“it were not proved that the defendant had any way published it”), it might have had an ill effect in the public sphere. The perception of “publick wrong” clearly trumped all other considerations.

119. Cust, “Honour and Politics,” 61.

120. Popham 139; 79 *ER* 1241.