

Ridicule, Censorship, and the Regulation of Public Speech: The Case of Shaftesbury¹

Abstract: The Third Earl of Shaftesbury has been celebrated for his commitment to free public discourse regulated only by standards of politeness, a commitment exemplified by his defense of the freedom to ridicule. This article complicates this picture by tracing Shaftesbury's response to the early eighteenth-century crisis of public speech precipitated by the demise of pre-publication censorship and growing uncertainty about intellectual property in the print trade. Shaftesbury, the article shows, was a determined opponent of pre-publication censorship through licensing, but he was also aware of the dangers posed to religious liberty by, in particular, clerical attacks on toleration, and sought ways to curb them that included corrective action by the state. When the Whigs opted to impeach the High-Church cleric Henry Sacheverell, whose supporters had capitalized on an unregulated print market to disseminate his sermons ridiculing Whig principles, Shaftesbury expressed satisfaction with their choice. But he did not stop there. The article reads Shaftesbury's 1710 *Soliloquy, or Advice to an Author* against the backdrop of the Sacheverell controversy, and shows how the earl used it to undercut Sacheverell's claim that clerical speech enjoyed special status.

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Few historical moments have seen more fraught debate over the regulation of public speech than early eighteenth-century England. The explosion of print publication from 1695 onwards, mounting insecurity among Whigs that the political gains of 1688 could still be reversed, and Tory worries that dissenters were defaming the Church, all led to heated exchanges over the scope of permissible speech and the most effective means of suppressing the impermissible. It was a crisis of authorization that found echoes at the level of the book trade itself, where authors, printers, and booksellers vied with one another over how copyright and intellectual property should be divided up following the demise of official licensing. Complaints about piracy, unauthorized printing, and the baleful effects of print monopolies abounded, as did calls for the state to step in and restore order.¹

It was during this moment that Anthony Ashley Cooper, the Third Earl of Shaftesbury, won notoriety for seeming to deny that public speech needed to be regulated much at all, recommending that even ridicule and raillery be freed from restraint.² Englishmen granted such liberty, Shaftesbury insisted in his *Essay on the Freedom of Wit and Humor*, would in time learn to regulate their conduct in accordance with emerging standards of politeness. Unfavorably comparing the stewardship of public discourse to the stifling of commerce through trade restrictions, he assured his readers that “laying an embargo” would prove a poor substitute for the polite refinement that naturally

¹ Many of these complaints are to be found in John How, *Some Thoughts on the Present State of Printing and Bookselling* (London, 1709).

² For the sake of consistency I refer throughout to Anthony Ashley Cooper as “Shaftesbury” even though for some of the period I cover he had not yet assumed the title of earl and so would have been known as Lord Ashley.

accompanied “freedom of conversation.”³ According to some interpreters, Shaftesbury’s considered position was that ridicule set free could “replace censorship” altogether and that a “complete liberty of expression” could be “granted without danger.”⁴

I argue here that Shaftesbury’s position on the regulation of public speech was far less straightforward than these lines from the *Essay* suggest and that previous commentators have supposed. Shaftesbury was a determined opponent of pre-publication censorship through licensing, but he was also acutely aware of the dangers posed to political liberty by unrestrained public speech and sought ways to regulate it that went beyond politeness to include corrective action by the state. The kind of speech he singled out for such correction changed over time, but as the campaign by High-Church clerics to narrow the scope of religious toleration and assert their independence from the state gathered steam in the early 1700’s, his pleas for state intervention were increasingly directed towards them. By 1710, the year of the impeachment trial of the High-Church cleric Henry Sacheverell, Shaftesbury was clear that the greatest threat to religious liberty came from that quarter alone. This prompted him, in his *Soliloquy, or Advice to an Author* of that year, to undercut Sacheverell’s claim that clerics enjoyed special authority to address the public. In doing so, however, Shaftesbury also summoned a new breed of authors and critics who, by obtaining self-knowledge, could make more legitimate claims to speak authoritatively to the public on moral and political matters.

³ Shaftesbury, *Characteristics of Men, Manners, Opinions, Times* [1711], ed. Lawrence E. Klein (Cambridge, 1999), 31. On the importance of politeness to Shaftesbury’s Whig politics see Lawrence Klein, *Shaftesbury and the Culture of Politeness: Moral Discourse and Cultural Politics in Early Eighteenth-Century England* (Cambridge, 1994).

⁴ Mogens Laerke, “G.W. Leibniz: Moderation and Censorship” in Mogens Laerke ed. *The Use of Censorship in the Enlightenment* (Leiden, 2009), 155-178, at 171. Lydia Amir similarly argues that Shaftesbury defended the freedom to ridicule “unconditionally” and trusted in its “auto-regulation.” Lydia B. Amir, *Humour and the Good Life in Modern Philosophy: Shaftesbury, Hamann, Kierkegaard* (Albany, 2014), 40 and 43.

The article unfolds in three phases. The first section documents Shaftesbury's early interest in censorship and the regulation of print. From the final lapsing of the Printing Act in 1695 onward, books, pamphlets and newspapers could be published in England without the prior consent of licensers, meaning that the onus of censorship shifted towards the scanning of already published writings for libels of Church or state.⁵ I show just how comfortable Shaftesbury was with recourse to such *post-hoc* censorship even as he seemed to chafe against legal constraints on public speech in his writings. The second section reveals how, despite his insistence on the value of ridicule as a remedy for religious extremism, by 1710 Shaftesbury had recognized its limits as a political response to opponents of toleration and was broadly supportive of the decision of the Whig Lords to silence Sacheverell, the most vocal critic of toleration at the time, by law rather than by the press. Finally, I turn to Shaftesbury's *Soliloquy*, a text often celebrated as foundational document in the history of aesthetics, but rarely read with an eye to its immediate political context. I offer grounds for seeing *Soliloquy* as a timely intervention into Sacheverell-era debates over authorized and unauthorized public speech. For Shaftesbury, I show, establishing truly authoritative discourse on moral and political matters had to begin with self-cultivation on the part of the author, and the training of critics capable of seeing past bogus claims to authority. But it could not end there. Even in *Soliloquy*, a text putatively dedicated to the individual quest for self-knowledge and the cultivation of taste, Shaftesbury made the case that magistrates must be on hand to correct public speech that threatens political and religious freedom.

⁵ As Roger Lund points out, the demise of licensing effectively transformed the common law courts of England into "textual interpreters" charged with judging whether seemingly innocuous publications harbored seditious intent. Roger Lund, *Ridicule, Religion and the Politics of Wit in Augustan England* (Burlington, 2012), 196.

I. The Changing Face of Censorship: From Licensing to Post-hoc Sanctions

Shaftesbury began his political career at a moment of intense discussion on the merits of pre-publication censorship and the best way to bring order to a chaotic print industry. When he entered Parliament in 1695 as MP for Poole he would have known that his political associates had expended considerable effort to prevent the renewal of the 1662 Printing Act (and the pre-publication licensing that went with it) earlier that year and why they did so. His former tutor John Locke had experienced the discomfort of having a work that he co-authored with the First Earl of Shaftesbury burned as a “dangerous Book” by the House of Lords in 1675 and had papers seized during the Exclusion Crisis of 1681.⁶ Unsurprisingly then in 1695 Locke campaigned against renewal of the Printing Act, circulating a critical commentary on several of its clauses to members of his ‘College’ and to Shaftesbury (then Lord Ashley) himself.⁷ Portraying the Act as the regrettable product of Restoration deference to Church demands for control over the press, Locke scorned its allowance for wardens of the Company of Stationers to search premises for unlicensed books as a “mark of slavery.”⁸ Such searches were, to Locke’s mind, not only unjust but also unnecessary because anyone publishing material deemed “seditious or against law” could always be made “answerable” after the fact.⁹

⁶ The burned publication was *A Letter from a Person of Quality, to his Friend in the Country*. Geoff Kemp ed., *Censorship and the Press*, vol. 3 (London, 2009), 151.

⁷ The Printing Act is sometimes referred to the Licensing Act owing to its stipulation that texts be pre-approved by a licenser before going to print. The licenser responsible varied in accordance with the subject matter. Religious texts, for instance, usually had to be licensed by the Bishop of London or the Archbishop of Canterbury.

⁸ John Locke, “Liberty of the Press” in *Political Essays*, ed. Mark Goldie (Cambridge, 1997), 336.

⁹ *Ibid.*, 331.

This was an early indication that for some in Shaftesbury's circle compulsory imprints of an author's or printer's name could serve as a viable substitute for pre-publication censorship, allowing crimes committed in print to be easily traced back to those responsible. Indeed, the bill Edward Clarke introduced to replace the Printing Act (and that Locke welcomed) stipulated that books must contain the name of the publisher so that they may be "answerable at law as if they were the author."¹⁰

Crucially, however, censorship was not Locke's only or even primary concern in opposing renewal of the Printing Act. He was especially animated by a desire to tilt the balance of power in the print industry away from printers and towards readers and authors. Writing to Clarke in January 1693 he urged that any law renewing Licensing must consider the fate of "book buyers" whose access to "fairer and more correct Editions" of particularly Latin and Greek works had been blocked by "ignorant and lazy stationers" determined to suppress competition, maintain their copyright privileges, and keep prices high.¹¹ He also determined, in a series of proposed amendments to Clarke's replacement bill, that every author be guaranteed a "property in his copy," a swipe at a system that allowed printers to obtain intellectual property by getting hold of a manuscript and being the first to print it.¹² Taken as a whole, then, Locke's commentary gestured towards a system in which authors assumed greater ownership over their works while remaining responsible for any illegalities those works may contain, a system that was coming close to realization when Shaftesbury composed *Soliloquy* in 1710.

¹⁰ A summary of Clarke's "Bill for the Better Regulating of Printing" is reproduced in Goldie ed., *Political Essays*, 337-8.

¹¹ John Locke to Edward Clarke, January 2nd 1693 in *Correspondence of John Locke*, ed. E.S. de Beer, 8 vols. (Oxford, 1978), 4: Letter No. 1586.

¹² Locke, "Liberty of the Press," 338. As William St Clair explains, "the act of printing by itself created a private intellectual property [...] Although an author could own a manuscript [...] until 1710 no author could, under English law or customary practice, own a text." William St Clair, *The Reading Nation in the Romantic Period* (Cambridge, 2004), 51.

It is likely Shaftesbury imbibed some of Locke's hostility towards the licensing regime because he appears to have devoted some of his brief time in the House of Commons to preventing its return, much as Locke had pressed Clarke to do. On previous occasions when the Printing Act had expired it had been successfully renewed by MPs either worried about excessive press freedom or swayed by the lobbying efforts of the Stationers Company. After 1695, however, attempts at reviving the Act were frustrated by Parliamentary committees, one of which Shaftesbury joined in April of 1697. The historian Geoff Kemp finds this particular committee's decision to block the Press Regulation Bill (the only legislation drafted between 1695 and 1710 that we know for certain tried to reinstate a form of licensing) "unsurprising" because its membership "pitted tory MPs with a frequent interest in press regulation... against an imposing set of Whig counter-parts in Robert Molesworth, Walter Moyle and Anthony Ashley Cooper, the future 3rd Earl of Shaftesbury."¹³ We cannot know for certain how Shaftesbury voted, and according to Parliamentary rules of the time members could not be named to committee on a bill they had opposed outright. However, as David Hayton has noted, Shaftesbury and his Whig colleagues likely made a tactical decision to keep their opposition to the bill concealed initially and so thereby preserve the opportunity to "sabotage" it in committee.¹⁴

If Shaftesbury opposed licensing he by no means favored the removal of all restraints on publishing. The lapsing of the Printing Act resulted not so much in the end of censorship as in a renewed emphasis on the use of libel laws to punish the authors and

¹³ Geoff Kemp, "The 'End of Censorship' and the Politics of Toleration, from Locke to Sacheverell," *Parliamentary History* 31/1 (2012), 47-68, at 58. Kemp makes clear that many supposed attempts to reinstate licensing were nothing of the sort.

¹⁴ David Hayton, "Moral Reform and Country Politics in the Late Seventeenth-Century House of Commons," *Past & Present*, 128 (1990), 48-91, at 70.

printers of already published works and so deter seditious writing.¹⁵ Whigs during Anne's reign increasingly looked to such laws as their preferred way of stemming the growing tide of High-Church polemics against key Whig causes like toleration.¹⁶ Daniel Defoe, in his *Essay on the Freedom of the Press* combined, as Locke had done, criticism of licensing with a demand that booksellers be obliged to imprint the name of the author and printer on each item sold so that if the book's contents were found libelous there would "be somebody found to answer for it."¹⁷ Soon after, in 1705, Whigs in the House of Lords succeeded in passing a resolution declaring any insinuation that the Church was in danger to be seditious, signaling that even if claims that toleration imperiled established religion could legally find their way into print, their authors could still face punishment.¹⁸ What little we know of Shaftesbury's time in the House of Lords suggests that he approved of this strategy and that his distaste for licensing was matched by an enthusiasm for these post-hoc methods of press regulation.

Having assumed his father's title of earl in 1699 and entered the Lords in 1700, Shaftesbury retained an interest in press regulation and was present at the defeat of yet another Press bill in January 1702. His eagerness to involve himself in the issue is apparent by the fact that he was among only twenty members of the House present to debate the legislation, the only item up for discussion that day.¹⁹ A closer look, however,

¹⁵ St Clair, *The Reading Nation in the Romantic Period*, 85.

¹⁶ Alex W. Barber, "Censorship, Salvation and the Preaching of Francis Higgins: A Reconsideration of High Church Politics and Theology in the Early 18th Century," *Parliamentary History* 33/1 (2014), 114-139, at 115.

¹⁷ Daniel Defoe, *Essay on the Regulation of the Press* (London, 1704), 22.

¹⁸ Shaftesbury did not participate in this debate. His declining health forced him to leave London and he was at his home in St. Giles on 9 November 1705. Robert Voitle, *The Third Earl of Shaftesbury: 1671-1713* (Baton Rouge, 1984), 242. The 'Church in Danger' debate took place on 6 December.

¹⁹ "House of Lords Journal 17: 24 January 1702" in *Journal of the House of Lords: Volume 17, 1701-1705* (London, 1767-1830), 23; Mark Goldie and Geoff Kemp, "Silencing Jacobitism" in eds. Mark Goldie

shows that his ardor for an end to censorship was qualified by his insistence that seditious writings still be punished. In particular, the earl had few qualms about punishing those who challenged in print the Whig interpretation of the 1688 revolution as a legitimate act of resistance. A clause added to the 1702 bill, found among Shaftesbury's papers and written in his hand, aimed at "further prevention of Printing Seditious Books and pamphlets and for surpressing all falce [*sic*] and pernicious opinions tending to weaken or oppose the severall acts of Parliament lately made for the security of his Majesty's Person and Governm't."²⁰ (The clause appears alongside Shaftesbury's copy of Locke's commentary on the Printing Act discussed above). The acts of Parliament "lately made" were laws confirming the validity of Anne's succession against the claims of the Jacobites. Significantly, Shaftesbury's clause, had it been adopted, would have extended the scope of government oversight beyond printing to include all forms of political speech ("printing writing Preaching or other speaking").²¹

To argue in 1702 for the suppression of writings denying the legitimacy of the forthcoming Hanoverian succession was not in itself that controversial. Nevertheless, Shaftesbury's zeal for preventing publications of this kind in the above clause provides an early indication that there were certain forms of public speech he was not prepared to countenance. At the very least, it suggests that the range of speech he considered the

and Geoff Kemp, *Censorship and the Press, 1580-1720* Vol. 4 1696-1720 (London, 2009), 280; Kemp, "The End of Censorship," 61.

²⁰ Goldie and Kemp, "Silencing Jacobitism," 283. The clause is reproduced in full in Michael G. Pooritz, *The Third Earl of Shaftesbury and his Unpublished Correspondence, 1671-1713* (unpublished Ph.D thesis, University of Oxford, 1926). Manuel Luis P.G.B de Miranda concludes from this "two page manuscript in legalese" that Shaftesbury was "keen to establish a framework for controlling the press in order to prevent libelous publications." Manuel Luis P.G.B de Miranda, *The Moral, Social and Political Thought of the Third Earl of Shaftesbury, 1671-1713: Unbelief and Whig Republicanism in the Early Enlightenment*, (unpublished Ph.D thesis, University of Cambridge, 1994), 276. Kemp notes that this clause was "out of keeping" with the "unspecific spirit" of the Bill. Kemp, "The End of Censorship," 61n.

²¹ Goldie and Kemp, "Silencing Jacobitism," 283.

government entitled to correct was broad enough to include criticism of the Revolution and its principles. And it could get broader still; the early 1700's were years in which England's involvement in the Spanish War of Succession became an increasingly fraught issue, and Whigs began tentatively expanding the range of activities considered seditious to include agitations for peace. Again, the hand that Shaftesbury played in this move is visible. Between December 1701 and January 1702 he co-authored a tract with John Toland entitled *Paradoxes of State* which bluntly equated domestic war opposition to sympathy with foreign enemies: "There is no *Faction* but a *Foren* one."²² Most tellingly, it also declared that the "Spirit of those who, in the present circumstances of the nation and of Europe, wou'd declare for *Peace* and against a *War*, is in reality a Spirit of Sedition."²³ The pamphlet was silent as to what should be done about those animated by such a "Spirit" but the use of the language of sedition suggests that all options, including legal sanctions, were on the table.

If Shaftesbury was at ease with the use of state power to quell opposition to a cause he deemed vital to the progress of liberty, he also carved out a role for it in protecting the public from a different sort of threat, namely the corruptive influence of libertines and deists. Shaftesbury's own later reputation as a deist and his association with radical anti-clericals can cause us to lose sight of his concern that publicizing flagrantly irreligious sentiment could undermine public support for religious freedoms. In his private notebooks he disavowed "*free talking* about matters of Religion" lest the devout

²² Shaftesbury and John Toland, *Paradoxes of State, Relating to the Present Juncture of Affairs in England and the rest of Europe; Chiefly grounded on his Majesty's Princely, Pious, and most Gracious Speech.* (London, 1702), 4.

²³ *Ibid.*, 8. There are some scattered references to war against France in the *Soliloquy* itself. The English are there described as the "happy nation who not only enjoy" liberty "at home" but who "give life and vigor to it abroad" as "head and chief of the European league." Shaftesbury, *Soliloquy, or Advice to an Author* (London, 1710), 69.

be offended, and in his letters to Toland he implored the Irishman to “preserve a character such as becomes a man who supports the cause of religion.”²⁴ Easier still to miss, however, is that Shaftesbury toyed with the idea that libertine writers should be surrendered to the magistrate if they took undue advantage of print freedoms. A 1706 letter of his to Jean Le Clerc blended optimism that political and religious liberty was on the rise (at least in England and Holland) with an un-blinkered assessment of the necessity to curb religious profanity through magisterial intervention. Having declared himself in favor of an “entire philosophical liberty” Shaftesbury conceded to Le Clerc that the “profane mocking and scurrilous language” of some irreligious writers posed the kind of danger to the public good that informal censure was powerless to prevent. In this case “only,” therefore, he would allow “the magistrate to interpose on our side” categorically dismissing any further appeals to the state beyond this exception as exhibiting “cowardice and a kind of mistrust of our cause.”²⁵

Shaftesbury echoed the argument of his letter to Le Clerc in the very same published works that have earned him his reputation as a proponent of free expression. In the *Letter Concerning Enthusiasm* of 1708 he affirmed the need for some continued government oversight of public discourse even as he celebrated the post-licensing freedom to ridicule, adding the weighty qualifier that “if men are vicious, petulant or abusive, the magistrate may correct them.”²⁶ But if the argument remained similar, the

²⁴ Shaftesbury, “Askēmata” in *Standard Edition: Complete Works, Correspondence and Posthumous Writings*, eds. Wolfram Benda, Christine Jackson-Holzberg, Patrick Müller & Friedrich A. Uehlein, vol. II, 6 (Stuttgart, 2011), 108; Shaftesbury to Toland, 21 July 1701. TNA: PRO 30/24/21 Part 2. As Philip Connell puts it, Shaftesbury was keen to “dissociate” the Whig commonwealth tradition from its “intellectual filiations” to libertine philosophy. Philip Connell, *Secular Chains: Whig Poetics and the Church in Danger* (Oxford, 2016), 158-9.

²⁵ Shaftesbury to Jean Le Clerc, 6 March 1705 in *The Life, Unpublished Letters, and Philosophical Regimen of Anthony, Earl of Shaftesbury*, ed. Benjamin Rand, (New York, 1900), 353.

²⁶ Shaftesbury, *Characteristics*, 7.

group identified as that most likely to deserve correction from the state shifted from “scurrilous” free thinkers to High-Church clerics abusing the privileges of the pulpit. Shaftesbury’s 1709 *Essay on the Freedom of Wit and Humour* thus applauded corrective actions recently directed against insubordinate Churchmen whose “talons” the magistrate had needed to “pare.”²⁷ As Shaftesbury presented matters, it was precisely *because* the magistrate had put these clerics in their place that the earl now felt sufficiently secure to be “laugh’d at” or even “rail’d” at by his High-Church enemies.²⁸

By the spring of 1710 Shaftesbury would want the government to take action once again against unruly clerics, this time in the formidable form of Henry Sacheverell and his supporters. Parliament’s impeachment of Sacheverell, culminating in the burning of his published sermons, coincided almost exactly with its attempt to bring order to the print industry by enacting the 1710 Copyright Act, the first law to vest authors with intellectual property in their texts. These two interventions by Parliament, each a response to problems of unregulated public speech that had lingered unresolved since the end of licensing, formed the immediate backdrop to the 1710 *Soliloquy*. Mapping the debates within Whig circles about how to respond to an author like Sacheverell, therefore, will be integral to our understanding of Shaftesbury’s purpose in that text.

II. The Sacheverell Controversy and the Limits of Ridicule

If the end of licensing curtailed the Church’s ability to regulate the press (the Archbishop of Canterbury and the Bishop of London had been the chief licensers of

²⁷ Ibid., 68.

²⁸ Ibid., 68

religious publications) it had also made it easier for High-Church pamphleteers to publicize their disenchantment with toleration and win adherents to their cause. On 5 November 1709 Henry Sacheverell did exactly this in a sermon delivered at St Paul's Cathedral entitled *The Perils of False Brethren both in Church and State*. Sacheverell took his title from Corinthians, chapter 11, verse 26, where Paul relates his encounter in Corinth with pretenders to the true faith who, on Sacheverell's telling, began "ridiculing" him.²⁹ Sacheverell's avowed purpose in the sermon was to weed out the equivalent "False Brethren" of his own time by exposing a grand political conspiracy that had been "*Hatch'd in the Cabinet-Council of Hell.*"³⁰ Implicated in this conspiracy were not only religious dissenters or "self-conceited Enthusiast[s]" but also anyone who declared even the mildest sympathy for the "*Principles of Forty One,*" a reference to the doctrines justifying the Parliamentary revolt against Charles I in the early 1640's.³¹ The majority of Sacheverell's sermon consisted of him pouring scorn on these principles, and those who abided by them, one by one: the doctrine of "*Resistance*" was not only "illegal" but had been already "redicul'd out of Countenance;"³² "toleration" served no other purpose than to indulge "monsters" and "vipers" in the "bosom" of the Church.³³ Most invidious of all, however, were those "Occasional Conformists," the false brethren of the sermon's title, who feigned conformity to the established religion and loyalty to the state, but who will "*Betray* either whenever it is within their *Power.*"³⁴

²⁹ Henry Sacheverell, *The Perils of False Brethren both in Church and State: Set forth in a Sermon Preach'd before The Right Honourable, The Lord Mayor, Alderman, and Citizens of London, at the Cathedral Church of St Paul, on the 5th of November, 1709* (London, 1709), 6.

³⁰ *Ibid.*, 2.

³¹ *Ibid.*, 2 and 21.

³² *Ibid.*, 19.

³³ *Ibid.*, 25.

³⁴ *Ibid.*, 33.

For all its bluster and seeming lack of self-restraint, Sacheverell's sermon was carefully calibrated to inflict maximum discomfort on his political foes. Parliament, dominated at the time by Whigs sympathetic to the very doctrines Sacheverell had denounced, had consistently opposed High-Church attempts to ban occasional conformists from holding political office.³⁵ On Sacheverell's conspiratorial logic, this made its members guilty of harboring "vipers." But his timing was still more impeccably chosen. November 5th was a date doubly significant to Whig political mythology, coincidentally marking both the foiling of Guy Fawkes' Gun Powder plot in 1605, and the landing of William of Orange's army at the culmination of the 1688 revolution. Even Sacheverell's language and turns of phrase, dismissed by one contemporary observer as resulting in an "incoherent jumble" were precisely chosen so as to be maximally goading without being defamatory.³⁶ Apart from a single oblique reference to Godolphin ("Wiley Volpones") the sermon avoided directly accusing any individual of conspiring against the state, and Sacheverell cleared it for traces of libel with three different lawyers in advance of going to print.³⁷

Once published, the sermon quickly became a sensation, with six pirated editions entering circulation (five in the remainder of 1709 alone) and over 100,000 copies sold. Its success caught the Whig political elite off guard and prompted an urgent debate on how best to respond. The contours of this debate have been sketched before, but what

³⁵ An occasional conformist was anyone who received communion in the established Anglican Church in order to gain eligibility for office but who nevertheless continued to worship as a dissenter. Mark Knights, *The Devil in Disguise: Deception, Delusion and Fanaticism in the Early English Enlightenment* (Oxford, 2011), 144.

³⁶ Alexander Cunningham, *The History of Great Britain: From the Revolution in 1688, to the Accession of George the First*, 2 vols. (London, 1787), II: 276. Cunningham was a contemporary observer whose Latin history of the period was translated and published in 1787.

³⁷ Sacheverell, *Perils of False Brethren*, 40; Geoffrey Holmes, *The Trial of Doctor Sacheverell* (London, 1973), 73.

interests me here is how it broadened into a more general exchange over the efficacy of ridicule as a response to Sacheverell's polemics. Troublesome for the Whigs was not so much the content of Sacheverell's accusation (which advanced little beyond what earlier defenders of High-Church Anglicanism had offered) but rather his extraordinary rhetorical success in delivering it. Consistently among the reactions to his sermon we find a reluctant concession that what Sacheverell lacked in argumentative finesse, he more than made up for with his "Talent" at "railing."³⁸ Even though Sacheverell had been mindful to avoid libeling any individuals, he had, in the eyes of the Whigs, brazenly ridiculed the Constitution itself and gotten away with it: "will not the world think that we do not value as we ought our happy constitution," Toland asked indignantly, "if they see its greatest enemies permitted twice a week to banter, ridicule, libel and insult it."³⁹ Up for urgent deliberation was whether defenders of toleration and liberty of conscience should respond in turn with ridicules of their own, or seek to silence Sacheverell using another instrument at their disposal, namely law. I will touch upon each of these proposed strategies in turn, before turning to Shaftesbury's own complex relation to the Sacheverell controversy.

Daniel Defoe, writing in his *Review of the State of the English Nation* in December of 1709, was among the first to propose ridicule as the best means of containing Sacheverell's influence: if the Whigs would just "laugh at him," he predicted, the "beast" would soon "vent his gall" and be "quiet."⁴⁰ Defoe's proposal was

³⁸ John Dunton, *The Bull-Baiting: or, Sacheverell Dress'd up in Fire-works* (London, 1709), 43.

³⁹ John Toland, *The Jacobitism, Perjury, and Popery of High Church Priests* (London, 1710), 14. I follow Justin Champion in attributing this text to Toland. See Justin Champion, *Republican Learning: John Toland and the Crisis of Christian Culture, 1696-1722* (Manchester, 2003), 142.

⁴⁰ Defoe cited in William Lee, *Daniel Defoe: His Life and Recently Discovered Writings: Extending from 1716 to 1729*, 3 vols. (Piccadilly, 1869), I:159. Defoe's own parody *The Shortest Way with Dissenters* was directed at an earlier sermon of Sacheverell's. W.A. Speck "The Current State of Sacheverell Scholarship"

enthusiastically taken up by a wide variety of aspiring satirists eager to present Sacheverell as unworthy of more earnest attention. Some opted for unsophisticated forms of character assassination, bluntly accusing Sacheverell of “drunkenness,” “lewdness,” “gaming,” “unfaithfulness,” “foul dealing” and “forgery.”⁴¹ Others concocted comic personas, dubbing him, in one instance, “Don Henrico Furioso de Sacheverillio,” a descendent of the hapless Don Quixote.⁴² Still others adopted a more indirect approach by presenting Sacheverell’s text as *already* approximating self-parody and so advertising its own ridiculousness.⁴³

Defoe’s suggestion that laughing at Sacheverell would suffice failed, however, to carry the day with the Whig junto. Somers, to whom Shaftesbury had privately dedicated his *Letter Concerning Enthusiasm*, recommended that Godolphin initiate legal action, but cautioned that if Sacheverell were to be tried it would be preferable to do so with minimum fuss behind the closed doors of a courtroom. It was a warning that would go unheeded: the Whig Members of Parliament had by this point, in Holmes’ words, been “goaded beyond endurance” and decided to publicly impeach Sacheverell before the House of Lords.⁴⁴ Wishing to make an example the Whigs subjected him to what in essence was a show-trial, designed to signal to the public that the state would brook no slander from critics of toleration. Ridicule or satire were deemed insufficient; the

in Mark Knights ed. *Faction Displayed: Reconsidering the Impeachment of Dr Henry Sacheverell* (Singapore, 2012), 16-27, at 19.

⁴¹ William Bisset, *The Modern Fanatic. With a Large and True Account of the Life, Actions, Endowments, etc of the famous Dr. Sacheverell* (London, 1710), 27-31.

⁴² J. Distaff (pseudo.) *A Character of Don Sacheverillio, Knight of the Firebrand; in a Letter to Isaac Bickerstaff Esq; Censor of Great Britain* (Dublin, 1710).

⁴³ The best such example was the anonymously authored poem *The Priest Turn’d Poet or, The Best Way of Answering Dr. Sacheverell’s Sermon [...] Being His Discourse paraphras’d in Burlesque Rhime* (London, 1709). For its author, to treat Sacheverell seriously would be futile, or possibly dangerous. John Dunton, likewise, asserted that there was “no way in the World to be serious” with Sacheverell, and that any attempt to “Gravely answer” his sermon would make the author “almost as ridiculous as he.” Dunton, *The Bull Baiting*, 43.

⁴⁴ Holmes, *The Trial of Doctor Sacheverell*, 85.

objective was now, in the words of one Whig Lord, to “[q]uash” Sacheverell and “damn him.”⁴⁵

How did Shaftesbury position himself in the debate on how best to respond to Sacheverell? In his anonymously published *Letter Concerning Enthusiasm* (composed two years before Sacheverell took to the pulpit at St Paul’s) Shaftesbury had expressed satisfaction with the rise of ridicule in public debate, linking it approvingly with the elevation of the public to a position of judgment.⁴⁶ This might lead us to expect him to have inclined towards Defoe’s proposal of answering Sacheverell with counter-ridicules in print rather than turning to the law. If, for Shaftesbury, ridicule was the best corrective to religious immoderation, then he may have chosen to view Sacheverell’s sermon as a test case for his proposition. Nevertheless there is considerable evidence that Shaftesbury was sympathetic to the Whig decision to use the law to hit back at anti-toleration opposition, even if his own relationship with the Whig leadership was tense at best.⁴⁷

Shaftesbury’s personal involvement in the impeachment was peripheral, his chronic ill health precluding him from attending the House of Lords during the proceedings. It is certain he kept a close eye on events, however, because there is a handwritten account of the 16 March debate on the first article of impeachment among the Shaftesbury papers that was prepared for the earl’s own private reading.⁴⁸ Friends and allies also kept him informed of events and of the urgent need to shape public perception

⁴⁵ Lord Wharton, cited in *Ibid.*, 97.

⁴⁶ “Never was there in our nation a time known when folly and extravagance of every kind were more sharply inspected or more wittily ridiculed.” For “[t]here can be no impartial or free censure of manners,” he continued, “where any particular custom or national opinion is set apart” or “exempted from criticism.” Shaftesbury, *Characteristics*, 7.

⁴⁷ On Shaftesbury’s ambivalence towards the “Whig politicians” see Voitle, *The Third Earl of Shaftesbury*, 307.

⁴⁸ Clyde Jones, “Debates in the House of Lords on ‘The Church in Danger,’ 1705 and on Dr Sacheverell’s Impeachment, 1710,” *Historical Journal* 19/3 (1976), 759-771, at 764. Jones reproduced the full text in this article.

of the proceedings against Sacheverell. In late December 1709 Toland sent him his *Lettre d'un Anglois à un Hollandois, au sujet du Docteur Sacheverell* explaining that he intended by it to remedy any misinterpretation of Sacheverell's "infamous libel" that "foreners" reading translations of his sermon might be prone to.⁴⁹ More importantly, we also can surmise from his correspondence what way Shaftesbury was leaning on the issue of how best to counter Sacheverell's influence. Writing to his protégé Michael Ainsworth, the earl expressed satisfaction that the Parliament "at this instant" was proceeding "against Sacheveril."⁵⁰ The letter is dated 30 December 1709, a little over two weeks after Parliament voted to initiate impeachment proceedings (the trial itself would not begin until late February 1710). Thus, although we cannot know whether Shaftesbury was fully apprised as to the set of options available to the Whig Parliamentarians, he seems to have been comfortable with their ultimate recourse to the unorthodox method of Parliamentary impeachment. In any case, it is clear that Shaftesbury believed Sacheverell's actions to be deserving of punishment of some sort. When explaining to Le Clerc why he had to flee "instantly" to his country estate at Wimborne St Giles in July of 1710, he blamed the "ferment which the seditious High Churchman (Sacheverell) has raised."⁵¹ There is nothing in this letter to suggest that the tumultuous fallout from the trial had anything to do with Whig overreach. Instead, Sacheverell's "seditious" (implying illegal) behavior was entirely to blame.

⁴⁹ John Toland to Shaftesbury, December 1709. Hampshire Record Office, Malmesbury Papers 9M73/G258/7.

⁵⁰ Shaftesbury, "The Ainsworth Correspondence" in *Standard Edition: Complete Works, Correspondence and Posthumous Writings*, eds. Wolfram Benda, Christine Jackson-Holzberg, Patrick Müller & Friedrich A. Uehlein, Vol. II,4 (Stuttgart, 2011), 411.

⁵¹ Shaftesbury to Benjamin Furly, July 19th 1710 in Rand ed., *The Life, Unpublished Letters and Philosophical Regimen of Anthony, Earl of Shaftesbury*, 424.

Unbeknownst to him at the time of writing to Ainsworth, Shaftesbury was to play an indirect role in the trial itself. In order to demonstrate that Sacheverell's warnings of a conspiracy against the Church had a basis in fact, lawyers for his defense read aloud from a number of putatively blasphemous works, including no less than six passages from Shaftesbury's anonymously published *Letter Concerning Enthusiasm*.⁵² Sacheverell's lawyers could not expose Shaftesbury's authorship of the *Letter*, but they could, and did, exploit its contents to paint an image of a full frontal assault on the institution of the Church and revealed religion more generally. When Parliament ordered Sacheverell's sermons to be publicly burned as part of his sentence, it ordered the *Collections of passages referr'd to by Dr. Henry Sacheverell in his answer to the articles of his impeachment*, the volume containing the Shaftesbury excerpts, to be burned alongside them.⁵³

Although the Sacheverell trial concluded in March, it dominated political discussion for the remainder of the year. This means that Shaftesbury's *Soliloquy, or Advice to an Author*, completed towards the end of May 1710, was most likely written when the controversy was at its height, and there is evidence in his own and others' letters that the text was written with it squarely in mind. When Shaftesbury sent a copy of the newly completed work to Somers on 26 May he alluded to a "late Combustion in the literate World," a probable reference to the general commotion generated by the trial, but also conceivably a wry reference to the more literal combustion of the excerpts from his

⁵² *Collections of passages referr'd to by Dr. Henry Sacheverell in his answer to the articles of his impeachment* (London, 1710). The passages from Shaftesbury's *Letter* are cited on pages 23-24 and on 28.

⁵³ Leonard W. Levy, *Blasphemy: Verbal Offense Against the Sacred from Moses to Salmon Rushdie* (Charlotte, 1995), 286; Connell, *Secular Chains*, 169.

own writings.⁵⁴ Moreover, one of Shaftesbury's closest friends and parliamentary mouthpieces, Sir John Cropley, unhesitatingly interpreted the *Soliloquy* as a blow struck in defense of Whigs bruised by the post-trial backlash.⁵⁵ Writing in June 1710 to James Stanhope, a leading manager of the trial who was busy fending off Tory accusations of sodomy and religious profanity, Cropley reassured him that Shaftesbury, by publishing the *Soliloquy*, had already entered the fray on behalf of embattled Whigs like him.⁵⁶

What this all suggests is that when Shaftesbury wrote *Soliloquy* in the spring of 1710 he did so as a committed opponent of pre-publication censorship, but one who felt the itch to suppress the public voice of a despised High-Church cleric who had capitalized on a less regulated printing environment and who could not be silenced by ridicule. Set aside now were his earlier apprehensions about incautious deists and free thinkers. The commotions of 1710 had revealed the Sacheverellites to be the far greater concern and so they moved to the front and center of Shaftesbury's thinking. This must be born in mind in our interpretation of *Soliloquy*, to which we now turn.

III. Authorized and Unauthorized Speech: Shaftesbury's *Soliloquy*

⁵⁴ Shaftesbury to Lord Somers, 26 May, 1710 in Rand ed., *The Life, Unpublished Letters and Philosophical Regimen of Anthony, Earl of Shaftesbury*, 420. Connell finds it "very probable" that Shaftesbury is referring here to the condemnation of the *Letter Concerning Enthusiasm*. Connell, *Secular Chains*, 170.

⁵⁵ Cropley was Shaftesbury's "closest friend" from a young age. Voitle, *The Third Earl of Shaftesbury*, 18.

⁵⁶ Sir John Cropley to James Stanhope, June 17th 1710. Kent History and Library Centre U1590/C9/31. Cropley draws Stanhope's attention to a particular attack on the Sacheverellites contained on page 181 of the *Soliloquy* in which Stanhope himself supposedly makes "a pretty good figure." There can be no doubt about the edition referred to, and yet the page in question (which mostly deals with authors of travel memoirs) contains no reference to Stanhope that I can identify. On the Tory attacks on Stanhope see A. A. Hanham, "Stanhope, James," *Oxford Dictionary of National Biography*.

Sacheverell had gained celebrity at least in part because the chaos of the print trade made possible the rapid dissemination of his sermons through pirated editions. By enacting the Copyright Act in April 1710 Parliament had acted to restrict unauthorized publication activity of this sort. The Act had been due to come into effect in March but the House of Lords made a series of amendments, one of which bolstered the interest of authors by ensuring that intellectual property in their work would revert to them rather than to printers or booksellers upon expiration of copyright.⁵⁷ Readers of the 1710 edition of Shaftesbury's *Soliloquy* were greeted on the opening page by a note addressed from the "Printer to the Reader" containing a thinly veiled allusion to these developments:

*'Twould be in vain for me to protest to you, that it is I, myself (the true and lawful Printer of these Papers) who, by these Presents, address You, in my own proper Sense and Words. You will neither believe I write what I write, or think what I think. For 'tis the Misfortune of us Printers; that having so freely accommodated our Authors with our Name and Person, we have neither left to us for our private Use, nor are suppos'd to have any Speech or Utterance of our own.*⁵⁸

The "Misfortune" of the printer robbed of his voice was that the drive to concentrate ownership for a work in its author did away with a system in which printers could alternately profit or suffer from having some responsibility for it imputed to them. Defoe

⁵⁷ Harry Ransom, "The Date of the First Copyright Law," *Studies in English*, 20 (1940), 117-122, at 121.

⁵⁸ Shaftesbury, *Soliloquy*, iii.

had made a case for authorial copyright partly because the printer John How sold an edition of his works without his consent.⁵⁹ On the flip side, John Morphew, the printer of *Soliloquy* and so ostensive author of the above note, was himself arrested the previous year for his role in publishing the second volume of Delarivier Manley's *New Atlantis* and was only released when Manley took responsibility for the book as author.⁶⁰ The final irony of the printer's note is that, far from being voiceless, many printers had been quite vocal lobbyists for the restoration of some version of licensing in the years after 1695 and were involved in negotiations over the 1710 Act.⁶¹

The printer's note served only as a foretaste, however, of a more pointed commentary on the problems of unauthorized speech in the body of the *Soliloquy* itself. *Soliloquy*'s sub-title ("*Advice to an Author*") invites the reader to expect a kind of manual for aspiring writers eager to exercise their new rights and exploit the growing opportunities for committing their thoughts to print. In fact, Shaftesbury made clear at the outset that his aim was less to dispense advice than to comment on the "the way and manner of advising" itself.⁶² To advise, he explained, was to exercise a kind of "mastery" over the advisee, raising the question of who may legitimately lay claim to such power and to what end.⁶³ Part of Shaftesbury's purpose in *Soliloquy* was to expose many authors' pretensions to advise as spurious, his targets ranging from self-proclaimed advisers to Princes, to modern philosophers lecturing their readers on morals. My particular focus here, however, is on how Shaftesbury undercut the claim, advanced by

⁵⁹ Jody Greene, *The Trouble with Ownership: Literary Property and Authorial Liability in England, 1660-1730* (Philadelphia, 2005), 107.

⁶⁰ Knights, *The Devil in Disguise*, 140.

⁶¹ On the lobbying to revive the Printing Act see Randy Robertson, *Censorship and Conflict in Seventeenth-century England: the Subtle Art of Division* (Pennsylvania, 2009), 166. On the printers role in negotiating the Copyright Act see St Clair, *The Reading Nation in the Romantic Period*, 91.

⁶² Shaftesbury, *Soliloquy*, 3.

⁶³ *Ibid.*, 2.

Sacheverell during his defense, that clerics enjoyed special authorization to advise the public. In doing so, Shaftesbury also specified conditions under which authors could emerge with better entitlement to make such a claim. More specifically, the humbling of the clergy needed to be accompanied by (i) the rise of authors whose authority to address the public derived from their self-knowledge and self-command, (ii) critics capable of judging work on its worth while disregarding any special pleading by the author, and (iii) a state ready to nullify any speech that could harm the public but that could not be contained by less formal means.

(i) *Self-converse and the self-authorized author*

Shaftesbury's opening shot against clerical pretensions came early in *Soliloquy* when he mischievously suggested that the quality of public speech would increase if clerics could only be made to censor themselves through a rigorous form of what he termed "*Self-converse*."⁶⁴ Drawing on a story from Xenophon's *Anabasis*, Shaftesbury offered a mock-serious reflection on how a society may use self-converse to protect itself from clerical harangues. As Shaftesbury related it, a society called the Mossynoecians had been "much pestered with Orators and Preachers" (the parallel with Sacheverell's England is clear) before a "sage Legislator" decreed that everyone should "speak, laugh, use action, gesticulate and do all in the same manner by themselves as when they were in company."⁶⁵ Ensuring that everyone gave "vent" to their "loquacious humour" by

⁶⁴ Ibid., 14.

⁶⁵ Ibid., 7

speaking aloud in private, this legislator spared the public “the Torrent of Words” and “Flux of Speech” they had previously been subjected to.⁶⁶

Notice that what the Mossynoecians had established was effectively a censorship regime that prevented unwanted speech from reaching the ear of the public while replacing the magistrate’s monitoring with citizens “arguing with themselves, reproving, counselling, haranguing themselves... and accosting their own Persons.”⁶⁷ Defoe had argued his case against licensing by stressing that only “despotick governments” have “preventive laws” to stop crimes of speech before they are committed.⁶⁸ Locke had similarly maintained that the principle of “gaging [sic] a man for fear he should talk heresie or sedition” would, taken to its logical extreme, lead to the mass imprisonment of everyone the magistrate suspects “may be guilty of Treason or misdemeanour.”⁶⁹ As we have seen, all the indications are that Shaftesbury had a similar disdain for pre-publication censorship. In appropriating the story of the Mossynoecians, however, he playfully endorsed a different kind of preventative regime, one that displaces the burden of prevention onto the speakers themselves who “Discharge” privately in order that they might appear with “less froth and scum in public.”⁷⁰

Shaftesbury was under no illusions that the self-censoring of the Mossynoecians could ever become a “national practice” in England.⁷¹ But he did make clear the public benefit that would follow if clerics in particular could be made to resist the urge to rush their thoughts into print. Expressing disdain for the practice whereby authors publish

⁶⁶ Ibid., 8

⁶⁷ Ibid., 7

⁶⁸ Defoe, *Essay on the Regulation of the Press*, 8.

⁶⁹ Locke, “Liberty of the Press,” 331.

⁷⁰ Shaftesbury, *Soliloquy*, 10.

⁷¹ Ibid., 8.

their “*Meditations, occasional reflections, solitary Thoughts* or other such Exercises” he singled out “religious” versions of such publications as “undoubtedly the worst.”⁷² The compunction to make public what should be kept private was a pathology, Shaftesbury implied, one to which those “addicted to write after the manner of *holy Advisers*” were especially prone.⁷³

There is little indication Shaftesbury thought such “*holy Advisers*” could be induced to withhold inflicting the public with their “froth.” He did, however, more earnestly recommend self-converse to another kind of author that could counter-balance their influence. Much of *Soliloquy* was devoted to advancing the view that if Whig gentlemen could learn to regulate their passions then they will write (and advise) with greater authority on moral and political matters than any conferred upon clerics by the Church. Such authority must, Shaftesbury insisted, be developed *from within* by a Stoic practice of self-converse not unlike that the earl subjected himself to during his retreats from public life in Rotterdam. To preserve himself from the loss of self-control that accompanies false beliefs about nature or the good, the earl during those retreats had interrogated verbally whatever ideas passed before his mind: “Let me examine my Ideas, challeng & talk with them thus, before they be admitted to pass. *Idea! wait a little. Stay for me, till I am ready: till I have recollected myself: Come on. Let us see. What art Thou? & from whence?*”⁷⁴ In *Soliloquy* Shaftesbury exhorted his authors to adopt a

⁷² Ibid., 13

⁷³ Ibid., 14.

⁷⁴ Shaftesbury, “Askêmata,” 294. The italicized part is a rough translation from Epictetus, *Discourses* 2,18,24: “Impression, wait for me a little. Let me see what you are, and what you represent. Let me test you.”

similar “*Regimen or Discipline of the Fancys*” based on the same method of verbal self-interrogation and with a similar goal of self-mastery in view.⁷⁵

How, though, could *self*-mastery translate into the authority to advise *others* and write for their benefit? Answering this requires some background into how Shaftesbury interpreted the Stoic tradition. In a much-cited 1706 letter to his Huguenot correspondent Pierre Coste, Shaftesbury reduced the history of philosophy to a struggle between unsociable Epicureans and a “civil, social” Stoicism that emphasizes “concernment in civil affairs” all the while making clear his allegiance to the latter camp.⁷⁶ On Shaftesbury’s view, then, the student of Stoicism does not engage in self-converse with an eye to their own virtue and happiness alone but instead must keep the benefit of the community as a whole firmly in view. Or, rather, the writers that emerge from Stoic self-therapy, having attained control within themselves, should now also be prepared to act, speak, or remain silent as their civic station may require, minimizing any conflict between their public and private interest. The qualifications they have gained from knowledge of their own passions, Shaftesbury implied, better entitled them to the public’s ear than any credential conferred from without.

Shaftesbury never deigned to predict what kind of works his self-authorized authors practicing this technique would produce. But he did make clear that they would occasionally withhold writings they would otherwise submit to the public if motivated by non-Stoic considerations such as wealth or reputation.⁷⁷ In *Soliloquy* he was particularly

⁷⁵ Shaftesbury, *Soliloquy*, 35.

⁷⁶ Shaftesbury to Pierre Coste, 1 October, 1706 in Rand ed. *The Life, Unpublished Letters and Philosophical Regimen of Anthony, Earl of Shaftesbury*, 359.

⁷⁷ Sophia Rosenfeld similarly argues that the likes of Addison and Shaftesbury sought to encourage “a kind of self-censoring” among emerging elites. Sophia Rosenfeld, *Common Sense: A Political History* (Cambridge, MA, 2011), 33.

concerned to wean his new breed of authors away from the temptations offered by the rampant commercialism characteristic of the new print environment.⁷⁸ As Shaftesbury saw it English authors were constantly at risk of becoming debased by allowing themselves to be swayed the “Frowns or Favour” of grandee patrons or “the Applause or Censure of *the Criticks*.”⁷⁹ They were abetted in this, however, by a growing print industry eager to profit from literary controversies.⁸⁰ Writing later in the text as the anonymous author of *Soliloquy*, Shaftesbury denied that he had written for fame or monetary gain, having relinquished any rights he had over his text to his printer, whom he had allowed to make “as many [copies] as he pleases for his own benefit.”⁸¹ The vulgar “traffic” of selling books for a market flooded with new presses is something that *Soliloquy*’s author wants no part in, implying that prospective authors should likewise resist the temptation to exploit the plentiful new opportunities for quick publicity or profit.⁸² Shaftesbury’s wager in *Soliloquy* was that authors that have acquired self-knowledge before going to print could actively *reform* the reading public rather than being molded by its changing whims. Moral and political instruction, even if delivered through humor or raillery, required a kind of moral seriousness that only self-conversing authors could exhibit, and that certainly no religious affiliation could bestow.

(ii) *The critic as censure*

⁷⁸ On the increases in the annual output of the British press made possible by the end of licensing see Robertson, *Censorship and Conflict in Seventeenth-century England*, 11.

⁷⁹ Shaftesbury, *Soliloquy*, 104.

⁸⁰ If the “audience” now “makes the Poet,” he complained, it is the “Bookseller” that makes the author. *Ibid.*, 108.

⁸¹ *Ibid.*, 146-7. The term Shaftesbury uses is “amanuensis,” usually a literary assistant or scribe. He clarifies in *Miscellany I* that he means by this word a “bookseller or printer.” Shaftesbury, *Characteristics*, 345.

⁸² In *Miscellany I* Shaftesbury presents a mock dialogue between author and bookseller in which the latter urges the former to reply to his critics and so generate a literary tumult that would encourage sales. Shaftesbury, *Characteristics*, 345.

While Stoic self-converse was necessary to the development of an author it was not sufficient. An author's Stoic training would come to little without an audience of critics receptive to the unaffected style such preparation would produce. Shaftesbury was reticent about openly promoting popular engagement with ancient Stoic texts and there are remarkably few references to them in the *Characteristics* as compared with his private manuscripts.⁸³ But even if widespread familiarity with ancient Stoic method was out of the question, Shaftesbury was optimistic that modern norms of politeness could be made to serve as a viable standard against which critics could offer suitable judgments. Unsurprisingly, it was precisely these modern standards of decorum that clerics flouted most egregiously. The "Saint Author," he complained, refused to

regulate his Stile or Language by the Standard of good Company [...].
He is above the Consideration of that which in a narrow sense we call *Manners*. Nor is he apt to examine any other faults than those he calls *Sins*: Tho a Sinner against good Breeding, and the Laws of Decency, will no more be look'd on as a *good Author* than a Sinner against Grammar, good Argument, or good Sense.⁸⁴

As we have seen, Sacheverell's preaching raised hackles among the Whig elite less because of what he said than his manner of saying it. William Bisset remarked before Sacheverell's impeachment trial that he "did not know how the Lords would deal with him; but if he were to be tried by a jury of grammarians and critics he could hope for no

⁸³ Christopher Brooke, *Philosophic Pride: Stoicism and Political Thought From Lipsius to Rousseau* (Princeton, 2012), 112.

⁸⁴ Shaftesbury, *Soliloquy*, 13-14.

mercy.”⁸⁵ Shaftesbury here retrospectively subjected Sacheverell (unnamed in the text but a likely target) to such a trial, or rather, he invited his readers to do so, sensitizing them to “sins” of authorship that clerics were particularly prone to commit. Armed with rules of criticism, those readers should be ready to take Sacheverell to task not for his murky libeling but for his much more certain “sins” against “breeding,” “grammar,” and “good Argument.”

What kind of “sins” should Shaftesbury’s critics have looked out for? In *Soliloquy* Shaftesbury was particularly keen to place his readers on guard against the ways in which authors interposed their own personal or institutional authority between the reader and the text. Most troublesome in this regard, he warned, was modern authors’ use of “*Prefaces, Dedications and Introductions*” to plead forgiveness in advance for any infelicities or errors committed in the body of the work itself.⁸⁶ Even the word “preface,” the earl contemptuously remarked, had become “only another word to signify excuse.”⁸⁷ Allowing authors to defend or explain themselves via preface, Shaftesbury implied, was to afford them too much credit in advance. Dedicatory Epistles had similarly ill effects, allowing even anonymous authors to slyly draw attention to their social position, advertise their prestigious affiliations, or even have some “great Man’s Reputation” reflect positively upon them.⁸⁸ In effect, Shaftesbury claimed, prefaces and dedications allowed considerations extraneous to the text to impact the reader’s judgment before they had even turned over the first page.

⁸⁵ Bisset, *The Modern Fanatick*, 17.

⁸⁶ *Ibid.*, 78. In Shaftesbury’s notes for his *Second Characters* he again referred to prefaces as a form of “excuse.” Shaftesbury, *Second Characters of the Language of the Forms*, Benjamin Rand ed. (New York: 1969), 4.

⁸⁷ Shaftesbury, *Soliloquy*, 170.

⁸⁸ *Ibid.*, 146.

Again, what looked at first brush like a plea for a text to be judged on the merit of its content alone looks far less politically innocent when viewed in light of the Sacheverell trial and ensuing controversy. The question of how prefaces and dedicatory epistles were to be interpreted featured prominently in the impeachment proceedings at Westminster Hall, proving central to both the Whig prosecution's case and to Sacheverell's defense strategy. To begin with, the prosecution based their charges against Sacheverell not only on *The Perils of False Brethren* but also on the dedication he had affixed to an earlier sermon, *The Communication of Sin*, that Sacheverell had preached at Derby in August of 1709. The Whig prosecutors insisted that this dedication (though not the sermon itself) be read aloud to show how Sacheverell had used an apparently innocuous compliment to his dedicatee and "relation," George Sacheverell, High Sheriff of Derby, to insinuate that the Church was under threat with Anne on the throne.⁸⁹ Sacheverell's fawning praise for the sheriff's service to the Queen at a time of crisis, the Whigs argued, harbored the seditious suggestion that a crisis had indeed been allowed to arise under the Queen's watch.

In his speech from the dock Sacheverell complained that this reading of his "sermons and prefaces" was an interpretive leap too far.⁹⁰ But if Sacheverell wished to deflect attention away from one of his dedications, he and his defense team leaned heavily in their own arguments upon another, namely the dedication to Samuel Gerrard, Lord Mayor of London that accompanied *The Perils of False Brethren*. In his initial answer to the articles of impeachment Sacheverell pleaded that Gerrard had "induced" him to publish the sermon and that this should mitigate his responsibility for the unrest

⁸⁹ *A Complete Collection of State Trials*, T.B Howell ed., XV (London, 1816), 69.

⁹⁰ *Ibid.*, 366.

caused by its wide circulation.⁹¹ His defense team later reiterated this same argument at greater length. The lawyer Humphrey Henchman, speaking for Sacheverell on the eighth day of the trial, objected to the Whig managers' accusation that Sacheverell had been deliberately provocative in the timing and location of his sermon on the grounds that the dedication to Gerrard revealed him to have had no say in selecting either. Sacheverell, Henchman argued, had been merely performing a "duty" at the behest of a "public magistrate."⁹²

It was precisely this tactic whereby an author covers his tracks by associating himself with an authority the reader is likely to respect that spurred Shaftesbury's hostility to "the anticipating Manner of prefatory Discourse" in *Soliloquy*.⁹³ By alerting his new critics to the insidious power of the preface and dedication, Shaftesbury encouraged them to "censure" publications freely without allowing whatever authorization the author might boast of, or whatever respect they might command in other realms, to impinge upon their judgment.⁹⁴ This applied to clerical publications as much (if not more so) than to lay authors. High-Church clerics might plead, as Sacheverell did during his trial, that the "dignity" of their "office" entitled them to "rebuke with authority" from the pulpit.⁹⁵ But in Shaftesbury's view they could never exercise comparable authority once they entered the "commonwealth of letters" and should expect little mercy there from Shaftesbury's new critics.⁹⁶

⁹¹ Ibid., 40. Gerrard would deny during the trial that he had commanded Sacheverell to publish the sermon.

⁹² Ibid., 358.

⁹³ Shaftesbury, *Soliloquy*, 170.

⁹⁴ Ibid., 41.

⁹⁵ *State Trials*, XV, 376

⁹⁶ Shaftesbury, *Soliloquy*, 40.

(iii) *The Corrective Role of the Magistrate*

For all his efforts to reform authors and critics, Shaftesbury still retained a role for the state to step in and correct, on an *ad hoc* basis, harmful speech that informal censoring failed to regulate. This is particularly evident from part II, section 2 of *Soliloquy* where the earl inserted a surprising endorsement of the use of law by the ancient Greeks and Romans to regulate offensive speech. Earlier commentators on ancient attitudes towards censorship, such as Shaftesbury's philosophical nemesis Thomas Hobbes, had insisted that ancient societies were notable for their *lack* of any such laws. On Hobbes' interpretation, if the harm caused by what he termed "contumely" did not extend beyond personal offense of the victim then ancient societies had little interest in criminalizing it.⁹⁷ Shaftesbury, by contrast, claimed not only that the ancients *did* enact such laws but also commented approvingly on their efficacy in keeping public deliberations free of harmful speech.

Taking, as his first example, Athenian laws regulating comedy, Shaftesbury set out to address two misperceptions about what the Athenians were trying to achieve by them.⁹⁸ First, he placed his readers on guard against the "great Error" of supposing that "restraining" the more "licentious manner of Wit, *by Law*" was a "Violation of the

⁹⁷ Thomas Hobbes, *Leviathan*, ed. Richard Tuck (Cambridge, 1997), 213.

⁹⁸ The existence of such a law has long been the subject of controversy. Stephen Halliwell maintains that, far from being tightly regulated by law, comedy enjoyed an exceptional degree of cultural freedom in Athens. Stephen Halliwell, "Comic Satire and Freedom of Speech in Classical Athens" *The Journal of Hellenistic Studies*, 111 (1991), 48-70. Robert Wallace suggests that the Athenians may have introduced legal restrictions on ridicule in 440 BCE in response to the war with Sparta but that they likely lifted them three years later. Robert Wallace, "Law, Attic Comedy, and the Regulation of Comic Speech" in Michael Gagarin and David Cohen eds. *The Cambridge Companion to Ancient Greek Law* (Cambridge, 2005), 357-373, at 364. Shaftesbury's own sources for the law are Horace's epistle on *The Art of Poetry* and Marcus Aurelius' *Meditations* 11.6.

Liberty of the Athenian State.”⁹⁹ To counter this misunderstanding, Shaftesbury affirmed the wisdom of prescribing by law whatever is “injurious to the good name and reputation of every citizen” and argued that this contributed to “an increase of liberty” rather than a restriction.¹⁰⁰ The second misperception he targeted was that these laws were attributable to the influence of Sparta on Athenian politics in the aftermath of the Peloponnesian war. To counter this argument Shaftesbury pleaded that the Spartans would have been “little concern’d” about “what manner those citizens treated each other in their Comedys,” and reminded his readers that the Athenians had in any case seen fit to *retain* the measures after the Sparta-supported Thirty had fallen from power.¹⁰¹

To reinforce the point still further, Shaftesbury cited the example of another polite government of antiquity, Augustus’ Rome, where the Fescennine verses and the *fabulae Atellanae* were prohibited “for the public’s sake” because they had been found to be “contrary to the just *Liberty* of the people.”¹⁰² Contrary to liberty, that is, because even citizens who had yet to be targeted could perceive that to live under constant threat of defamation would be intolerable.¹⁰³ Note how in both of these examples Shaftesbury presented the law as a legitimate instrument that states had historically availed of in order to curb speech that menaced a free political life.¹⁰⁴

Even Shaftesbury’s followers felt obliged to gloss over this aspect of the *Soliloquy* because it seemed so plainly at odds with his earlier championing of the freedom to ridicule in the *Letter Concerning Enthusiasm* and *Sensus Communis, an Essay*

⁹⁹ Shaftesbury, *Soliloquy*, 93.

¹⁰⁰ *Ibid.*, 95.

¹⁰¹ *Ibid.*, 93-4.

¹⁰² *Ibid.*, 96.

¹⁰³ Shaftesbury’s source here is Horace, Epist. 1 lib. 2.

¹⁰⁴ As Klein rightly puts it, on Shaftesbury’s interpretation these legal curtailments “expressed not the limiting of freedom” but rather a “new and more sophisticated grasp of it.” Klein, *Shaftesbury and the Culture of Politeness*, 206.

on the *Freedom of Wit and Humour*. To take a prominent example, in 1729 Anthony Collins published *A Discourse Concerning Ridicule and Irony in Writing*, a text justifiably referred to by its editors as a “crude but powerful reworking of Shaftesbury’s *Sensus Communis*.” But while Collins echoed (and copiously cited) Shaftesbury, he was obliged to depart from the earl’s line of argument when it came to the topic of ancient censorship.¹⁰⁵ Collins’ target was the supposition, widely circulated by defenders of the established Church, that a freer press environment and greater license to ridicule unduly favored dissenters. To undermine this claim, Collins catalogued instances whereby defenders of the Church had themselves enjoyed great success with ridicule, specifically against “enthusiasts” and Catholics.¹⁰⁶ But the central pillar of Collins’ argument was the historical claim that “all polite Governments” had refrained from legally regulating ridicule, permitting it instead as a means of employing “innocently and usefully the vacant hours of many, who know not how to employ their Time, or would employ it amiss by entering into factions and Cabals to disturb the state.”¹⁰⁷ The lesson to be drawn was that any “[a]ttempt to make a *Law* to restrain” such speech in a modern polite society would “prove abortive” and be popularly “deem’d the Effect of . . . present Anger at a poor Jest.”¹⁰⁸ This was a cogent historical argument against censorship, but it was not Shaftesbury’s. In looking to the earl for argumentative fodder, Collins was wise to consult *Sensus Communis* and avoid the *Soliloquy*.

¹⁰⁵ Edward. A. Bloom and Lillian D. Bloom, “Introduction” in Anthony Collins, *A Discourse Concerning ridicule and irony in writing* [1729], eds. Edward. A. Bloom and Lillian D. Bloom (Los Angeles, 1970), xiii.

¹⁰⁶ Collins, *A Discourse Concerning Ridicule and Irony in Writing*, 41.

¹⁰⁷ *Ibid.*, 18.

¹⁰⁸ *Ibid.*, 74.

It might be objected that Shaftesbury only defended these ancient laws as temporary measures to encourage more refined public speech, with official censorship gradually ceding place to the censoring of a polite public. But Shaftesbury's support for the impeachment of Sacheverell points to a different possibility. What the Sacheverell controversy revealed was that there will *always*, even in a polite commercial society free of pre-publication censorship, be speakers who prosper by flagrantly defying the norms of politeness and the critics who uphold them, and whose antics threaten religious and political freedom. It is in such instances that Shaftesbury's faith in the capacity of humor to "refine itself" became strained and recourse to law became necessary.

In carving out a role for the state, however, Shaftesbury was careful to rule out any return to a licensing system as incompatible with the freedom of thought he so ardently defended. This is especially evident from a passage in which the earl satirically portrayed agitators for print regulation as arbitrarily fixating upon one mechanism for inscribing words onto paper over others.

I am nowise more an *Author* for being *in Print*. I am conscious to my self of no additional *Virtue*, or dangerous *Quality*, from having lain at any time under the weight of that alphabetick Engine call'd *the Press*. [...] To allow *Benefit of Clergy* and *to restrain the press* seems to me to have something of a *Cross-purpose* in it. I can hardly think that the *Quality* of what is written can be altered by *the Manner* of Writing, or that there can be any harm in a quick way of copying fair and keeping Copys alike. Why a man

may not be permitted to write with *Iron* as well as *Quill*, I can't conceive; or how a writer changes his Capacity by his new Dress any more than by the wear of *Wove* Stockins, after having worn no other manufacture than *the Knit*.¹⁰⁹

Once the mystique of the printing press has been punctured then choosing its iron over a quill pen is suddenly as inconsequential as the choice of one kind of stocking over another, and would as senseless to restrain. The reference to the "*Benefit of Clergy*" in the passage suggests that for Shaftesbury the group most concerned to reinstate such restraints remained clerics and their supporters, eager to restore the small degree of Church control over publishing that licensing had afforded them. When read in light of the Sacheverell affair and its aftermath this might come across initially as politically naïve. That the High-Church alone stood to lose by the elimination of press restraints had, after all, already been rendered doubtful by Sacheverell's hugely successful exploitation of the print medium. Shaftesbury's considered position, however, was that so long as the Church remained subordinate to the state, and suitable mechanisms for punishing those who denied this arrangement remained in place, then there was little to be feared (and much to be gained) from a free press.

This was all to assume, however, that the subordination of the Church to the state was secure, something that in 1710 looked far from certain. Despite *Soliloquy*'s generally upbeat tone regarding the prospects of liberty in England, Shaftesbury ended it with a pungent reminder to his readers that preserving religious freedoms would require not just *ad hoc* corrective interventions but also *continual* state oversight of clerical activities. As

¹⁰⁹ Shaftesbury, *Soliloquy*, 147.

Philip Connell has recently observed, the closing pages of *Soliloquy* contained a trenchant attack on the Sacheverellites, and convey the urgent necessity of keeping Church authority within what Shaftesbury considered its proper bounds.¹¹⁰ To clarify what those bounds were, Shaftesbury sarcastically conceded that matters of theology and church history could only be “determined by the *initiated*, or *ordain’d*: to whom the State has assign’d the Guardianship and Promulgation of the Divine Oracles.”¹¹¹ But even on these matters within its remit, he slyly suggested, the Church’s authority could never be entirely trusted, noting that few accounts of sacred history were available to cross check the Church’s version of events other than those of the Church’s “own licensing and composing” (yet another reference to the clerical penchant for licensing). In affirming that the Church’s authority derived ultimately solely from “the State,” moreover, Shaftesbury gloried in its recent political humbling in the years following 1688. The Church, he approvingly noted, was now in a position of dependence analogous to knights who had been “reduc’d by Law [...] from the power they once enjoyed.”¹¹² Finally, by defining the Church’s remit as religious matters *alone*, Shaftesbury excluded it from offering “instruction and advice” on “manners” more generally, a task he reserved for his new authors.¹¹³ Should some member of the Church defy these limits, he implied, then the state, as the ultimate font of Church authority, could legitimately act against them.

Conclusion

¹¹⁰ Connell, *Secular Chains: Poetry and the Politics of Religion from Milton to Pope*, 169-170.

¹¹¹ Shaftesbury, *Soliloquy*, 191.

¹¹² *Ibid.*, 195

¹¹³ *Ibid.*, 193.

If Shaftesbury hoped for *Soliloquy* to have some immediate effect then he must have been disappointed. The months following its publication saw Sacheverell process triumphantly throughout England (having been banned from preaching and publishing for just three years) and a Tory general election victory. If its short-term impact proved negligible, however, the much larger *Characteristics of Men, Manner, Opinions, Times* into which it was eventually incorporated sealed Shaftesbury's reputation for much of the eighteenth century and was foundational to its debates on how criticism could inform moral and political debate. In closing, however, I want to suggest how restoring Shaftesbury's *Soliloquy* to its immediate context of political action, as I have done here, might still be instructive today.

In the first place, the case of Shaftesbury's *Soliloquy* should prompt us to be more circumspect in how we regard the consensus favoring free speech that supposedly emerged in early eighteenth-century England. Peter Lake and Stephen Pincus have argued that the public sphere of the late seventeenth and early eighteenth centuries was distinct from earlier, more sporadic, public spheres partly because uninhibited public communication had at last come to be seen as "normatively desirable" by nearly all political actors.¹¹⁴ But fixating on such a convergence of opinion can cause us to lose sight of crucial ambivalences about free communication even *within* the positions of those who ranked among its most ardent supporters. What Shaftesbury's case indicates is that one and the same author could argue a strong case for the freedom to ridicule, while pressing hard for the disciplining of speakers whose words threaten the political conditions they deemed crucial to a free public life (in this case toleration and the

¹¹⁴ Peter Lake and Stephen Pincus, "Rethinking the Public Sphere in Early Modern England," *Journal of British Studies* 45/2 (2006), 270-292, at 290.

subordination of the clergy to the state). However dearly he may have valued the free clash of argument, Shaftesbury was not nearly so naïve as many have assumed about the coercive forces that needed to be marshaled order to secure a public space in which “amicable collision” between authors, critics, and conversers more generally could occur.¹¹⁵ In 1710 such a space was, in his eyes, not yet fully secure, and he was willing to condone some aggressive curtailment of clerical speech to ensure that it would be.

Second, Shaftesbury’s case also places us on guard against treating the freedoms of thought and of expression as a seamless unit in the early modern period. Philosophical arguments for freedom of thought were not always accompanied by yearnings for unrestrained public expression. In Shaftesbury’s case such arguments were instead accompanied by some reconsideration of how restraint on public speech should be legitimately imposed and to what end. For Shaftesbury in 1710, authorizing new authors required curbing the speech of others, or at the very least checking the privilege of clerics who assumed special authority to speak on the proper scope of toleration and dissent. In a recent study, Ethan Shagan has argued that a pro-toleration politics of restraint was alive and well in the early 1700s, with the crucial difference that what calls “inward self-restraint” was increasingly privileged as the means of discipline ahead of overt regulation by the state.¹¹⁶ Shaftesbury played a part in ushering in that politics, doubling as a staunch opponent of licensing and a theorist of self-restraint who called on prospective authors to acquire self-command before presuming to command the public’s ear. But he also retained a role for the state as the ultimate guarantor of toleration, ready to step in and restrain speech that ridicule or the informal censuring of critics failed to.

¹¹⁵ Shaftesbury, *Characteristics*, 31.

¹¹⁶ Ethan Shagan, *The Rule of Moderation: Violence, Religion and the Politics of Restraint in Early Modern England* (Cambridge, 2011), 330.