

**“SEDITIONOUS BILLES”:
TREACHEROUS CORRESPONDENCE ON
THE RENAISSANCE STAGE**

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ABSTRACT

This study has two primary purposes; to examine the evolution of the concepts and statutes of Tudor treason legislation as reactions to unprecedented political, religious and social changes, and to develop the relationship between this thesis of treason and the Renaissance stage. An analysis of a broad and relatively un-researched body of historical and legal material accounts for the conditions in which writing, particularly the personal letter, aroused anxiety and suspicion. It is argued that this political and religious tension inspired the inclusion of writing as treason in the 1534 treason act, a statute drawing upon the concept of imagining the king's death of the Great Statute of Treason of Edward III. The letter is identified as the primary document of proof of "imagination" or intent in Tudor judicial opinion.

A close study of treason trials of the period, in which the generic significance is the use of letters as evidence of intent against the alleged traitors, presages a substantive and novel reading of the chosen plays of this study, which foregrounds the discernable political and cultural anxieties of these judicial events. Differing, both in substance and approach, from traditional analyses, the treatment of each play (and other primary texts) evaluates and locates dramatic representations of treacherous correspondence within Tudor concepts of treason, while incorporating gender theory and post-structural reassessments of spoken and written language.

In resituating Renaissance plays in the debate on treason, this study addresses the regulation of language, not merely within the Tudor law of treason by words, but also the playtext, both complex, and, yet, mutable expressions of containment. It is, perhaps, the deliberate ambiguity of both statute and stage that allows continuing critique, such as that undertaken here.

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Introduction

On February 13th, 2008, five Muslim men, convicted of terrorism, were released by the Court of Appeal. Although they had been imprisoned for two years, their conviction was ruled to be unsound and the sentence was quashed on the basis that there was no proof of intent. The five appellants had downloaded Islamist ideological material from the internet and had communicated with each other by email and instant messaging. Their crime had originally been prosecuted under Section 57 of the 2001 Terrorism Act, which makes it an offence to possess books or items pertaining to acts of terrorism. The judgement was that:

While [...] the appellants had formed a plan to go to Pakistan to train and then go to Afghanistan to fight, there was nothing that evidenced expressly the use, or intention to use, the extremist literature to incite each other to do this.

Later in the year, on July 15th, the three British men accused of the 2006 plot to cause explosions on aeroplanes admitted to the plot, but not the intent to kill.

The crucial element in these two cases is the establishment of “intent”. Never has one concept of crime caused so much controversy as proof of the offence of intent. The government was much embarrassed by a proposed amendment to the 2005 Terrorism Bill when an oppositional proposal aimed to make the encouragement and “glorification” of terrorism an offence, only if intent could be proved. The amendment was defeated by a single vote. The question of intent was the subject of further controversy in the drawing up of the 2006, and current, Terrorism Act. The legal concept of intent is not new. Under common law, criminal liability needs to be proved by two distinctions: *actus reus*, the crime committed; and *mens rea*, the guilty mind. Traditionally, both elements of the crime must be proved *actus non facit reum nisi mens sit rea* (“the act does not make a person guilty unless the mind is also guilty”). Conversely, no conviction can be made if the *actus reus* is absent despite the presence of *mens rea*.

It is this pursuance of what Mike Shea calls “thoughtcrime” that draws attention to the similarities between the present laws regarding terrorism and the Tudor Treason Laws which are the focus of this study.¹ The establishment of intent was as crucial, judicially, in the sixteenth century as it is in the twenty-first. It might be considered that the distinction of *mens rea* would be the relevant criterion in establishing culpability. However, it is the changing concept of the crimes of both modern terrorism and sixteenth-century treason that presents a political and legal problem. As Oliverio and Lauderdale suggest:

A number of theoretical premises underlie an examination of the state's symbiotic relationship to terrorism. First, inherent in the definitions of terrorism is a latent structure of politicality that allows for practices that maintain, create, and change its definition; second, the definition of terrorism is a critical part of the production of hegemony, including specific conceptions of ideological and political boundaries and dominant historical narratives; [...] terrorism as an analytical concept is most heuristic when it is examined as a relative rhetoric intrinsic to the process or art of statecraft, essential to the constitution of states and their continued sovereign stability [...].²

Replacing the word “terrorism” with “treason” in this passage may lead us toward the examination of government policies behind the frequent changes in the legal definitions and the extended scope of treasonable offences in the Tudor period. Anxieties concerning the succession, rebellion, and the break with Rome impacted upon the concept of this crime. These political events, together with the emergence of certain social changes, meant that treason became a variable that could not be addressed within the existing fourteenth-century legislature. Therefore, a change in the treason policy of both state and crown was required. A number of laws and statutes were introduced to define and re-legitimise concepts of treason in the sixteenth century.

¹ Mike Shea, Thoughtcrime-Guilty of Intent 10 Oct. 2008 <<http://mikeshea.net/-Guilty-of-In.html>>. The title of this thesis quotes Geoffrey Bullough, Narrative and Dramatic Sources of Shakespeare's Plays Vol. 5 The Roman Plays (London: Routledge and Kegan Paul, 1964), 82-3.

² Annamarie Oliverio, and Pat Lauderdale, “Terrorism as Deviance or Social Control: Suggestions for Future Research” in Terrorism: A New Testament, ed. Annamarie Oliverio and Pat Lauderdale (Whitby ON: de Sitter, 2005), 187-204.

The focus of this study is the examination of the thesis of intent within Tudor treason laws, as it stands within the remit of imagining the king's death.³ It is proposed that, by the introduction of writing into the Treason by Words Act of 1534 (26 Hen. VIII, c. 13), the sixteenth-century judiciary established the concurrence of *mens rea* and *actus reus* through the acceptance of written documents, particularly letters, as overt deeds. This claim will be substantiated by close study of sixteenth and early seventeenth-century treason trials in which letters are used as evidence.

The hypothesis will be tested against the entailment of a polemic, concerning the spoken and written word, in products of the Renaissance stage as represented by the prominent linguistic motif of the letter. The project will encompass forms of writing, other than the letter, and open up important questions to do with the public and the private. The main argument is structured around three plays, King Lear, Macbeth, and The Spanish Tragedy. Close reading of the letters of these plays will reveal a fictive exploitation of a contemporary political and social culture of suspicion, regarding epistolary interchange. The letters of these plays will be presented as expressions of interiority and intent, overt representations of the “imagination” which underpinned the expansion of treason laws throughout the Tudor period.

Tudor treason laws have attracted the attention of several modern historians, whose differing critical opinions serve to emphasise the legislative complexities of these statutory augmentations. Tanner maintains that Henry VIII's treason legislation: “abandons any logical legal principle and converts treason into a crime which has no character except heinousness”. Penry Williams describes the king as a “masterful and unscrupulous political giant”. Elton identifies the dynastic difficulties of Tudor monarchs, together with the break from Rome, as

³ The evolution of this concept of treason and the complexity of the offence is fully discussed by John Barrell, Imagining the King's Death: Figurative Treason: Fantasies of Regicide 1793-1796 (New York NY: Oxford UP, 2000).

the inspiration for the extension of treason legislature, pointing out that Tudor reaction was statutory rather than constructive. (Tanner agrees with the latter of Elton's statements.)

Similarly, Baran sees successive interpretations of the law of treason as: "a sort of barometer illustrative of the political tensions between the crown and its opponents." Bellamy states that: "[...] concepts of treason never flourish in a vacuum. They depend greatly upon the prevailing thesis of government."⁴

I am indebted to these authors, from whom I have taken much constitutional and institutional knowledge. John Bellamy's seminal analysis of the theory of treason and its historical and political background, has been the inspiration for my own research into the evolution of treason laws that have relevance to the premise pursued here. Tanner's commentaries upon, and transcripts of, Tudor constitutional documents were invaluable as a starting point for this complex investigation, as was Elton's scholarly revision and expansion of Tanner's work.⁵ The above authors have generally been held to be the standard authorities on this subject, although I have consulted other commentators.⁶

Since I began this study two books have been published which also explore this, hitherto, somewhat neglected area. Neither covers exactly the same ground and there are substantial

⁴ J. R. Tanner, Tudor Constitutional Documents. A. D. 1485-1603 2nd ed. (Cambridge: Cambridge UP, 1930) 376-9. Penry Williams, The Late Tudors: England 1547-1603 (Oxford: Oxford UP, 1995), 31. G.R. Elton, The Tudor Constitution 2nd ed. (New York NY: Cambridge UP, 1982), 60 (hereafter, Elton, Constitution). Kazimierz Baran, "High Treason in England Until the End of the Stuart Era," Prace Prawnicze 610 (1982): 7-65. John Bellamy, The Law of Treason in the Later Middle Ages (Cambridge: Cambridge UP, 1970), 9 (hereafter, Bellamy, Middle Ages).

⁵ Bellamy, Middle Ages. John Bellamy, The Tudor Law of Treason (London: Routledge, 1979), (hereafter, Bellamy, Tudor). Tanner. Elton, Constitution.

⁶ John Michael Archer, Sovereignty and Intelligence: Spying and Court Culture in the English Renaissance (Stanford CA: Stanford UP, 1993). Eric Carlton, Treason, Meanings and Motive (Brookfield VT: Ashgate, 1998). Alan Haynes, The Elizabethan Secret Services (1992; Stroud: Sutton, 2000). Samuel Reznick, "Constructive Treason by Words in the Fifteenth Century," American History Review 33 (1928): 544-52. Lacey Baldwin Smith, "English Treason Trials and Confessions," Journal of the History of Ideas 15 (1954): 471-98 (hereafter, Baldwin Smith, "Confessions"). Treason in Tudor England: Politics and Paranoia (London: Pimlico, 2006), (hereafter, Baldwin Smith, Politics). Isobel D. Thornley, "Treason by Words in the Fifteenth Century," Historical Review 32 (1917): 556-8.

differences in treatment. The analysis of incidences of treason, prosecutions and trials by these authors is incisive and detailed. Both set the investigation of their texts against contemporary instances of treason, rather than against the legal and judicial developments of the period. The aim, here, is the presentation of a broader view of the judicial procedure of the period, and a contextualization of legality and literature. As the reciprocity of law and literature is examined in both books, however, there is bound to be some overlap. Hopefully, the works will complement, rather than contradict, each other.

Expanding a previous study of the trial of Sir Walter Raleigh, in Imaginary Betrayals, Karen Cunningham uses the three individual trials that she studies as the investigation of subjective and national identities. She recognises imaginary treason as an imagined, alternative form of subjectivity and nationhood.⁷ In this book, as with the article on the trial of Raleigh, where epistolary evidence is given some attention, there is no direct association of letters and the overt act of treason. Her treatment of the prosecutorial procedure in the indictment and conviction of the subjects chosen seems to suggest that prosecutions throughout the Tudor period were constructive and that fictions of interiority were created in legal discourse. This is at odds with the statutory nature of Tudor treason prosecutions. The 1534 Treason Statute (26 Hen. VIII, c. 13), popularly known as Treason by Words, established a new and distinctive category of treason. Three years in the making, the act was drawn up to bring certain novel treasons within the compass of the law.⁸ Burden of proof was the requirement of the court: there was no need to construct or invent, merely to expose the intent of the crime. It will be shown, later, that courts were at pains to act within the (not necessarily current) provisions of statutory law or common law precedents. Although there is no study of the letter as a site of treason or intent in this book, in her treatment of The Spanish Tragedy, Cunningham explores

⁷ Karen Cunningham, " 'A Spanish Heart in an English Body': The Raleigh treason trial and the poetics of proof," Journal of Medieval Renaissance Studies 22 (1992): 327-51 (hereafter, Cunningham, "Raleigh"). Imaginary Betrayals: Subjectivity and the Discourses of Treason in Early Modern England (Philadelphia PA: U of Pennsylvania P, 2002) (hereafter, Cunningham, Betrayals).

⁸ See Elton for a study of the protracted drawing up of this statute. G. R. Elton, Policy and Police. The Enforcement of the Reformation in the Age of Thomas Cromwell (Cambridge: Cambridge UP, 1972), 264-92 (hereafter, Elton, PP).

the reliability of epistolary evidence, setting her reading of the play against the trials of Mary Queen of Scots in the 1580s.

Despite its title, Rebecca Lemon's book also seems to fail properly to analyse the concept of the law of Treason by Words, again suggesting construction in the prosecution of the crime.⁹ The statute is situated within imaginative texts, rather than within the treasonous intent of the traitor. In Chapter One, Lemon interprets the 1534 Treason Statute as responding to a fear that writing or words might encourage violent action. She writes:

Treason, I contend, is thus doubly linguistic. It is an event created by texts circulating after a plot, [...]. The crime is also, as the treason by words statute insists, a form of speech that anticipates or functions as, violence to the monarch.¹⁰

This makes no reference to writing as an act of treason, the outward show of intent, an overt act, earning the same degree of guilt as the actual execution of the act. As Baldwin Smith explains: "In the sixteenth century, the intent to do treason was regarded as being just as heinous as the act itself," adding:

Tudor monarchs were usually scrupulously careful to conform to the letter of the law and to go through a form of trial, but justice and fairness rarely entered into their considerations

and, later: "[...] it was the law which transmuted the royal will from tyranny into legality, from personal whim into justice".¹¹

⁹ Rebecca Lemon, Treason by Words. Literature, Law and Rebellion in Shakespeare's England (Ithaca NY: Cornell UP, 2007).

¹⁰ Lemon 3.

¹¹ Baldwin Smith, "Confessions" 473, 490. Also Elton: "Although the criminal law of the early sixteenth century was in many ways primitive and under developed, it followed a known and quite rigorous procedure - those laws and customs of the realm under which, as the act of 1534 demanded, a lawful conviction must be obtained." Elton, PP 293. He also states that lawyers and judges were consulted to establish that the offence was actually treasonable, despite the statute's definition of words and deeds. Elton, PP 301.

While the present study reads the chosen plays as a reflection of the complexities of Tudor treason laws, Lemon contends that it was the articulation of treason in literary and polemical texts that contributed to diverse concepts of the crime. Concentrating on texts at the turn of the seventeenth century, Lemon also studies one of the dramatic episodes included here. Her treatment of Macbeth is set within the historical context of the Essex Rebellion of 1601 and the Gunpowder Plot of 1605. The play, along with her other chosen texts, is seen as part of the legal and political debate concerning absolutism, sovereignty, tyranny and treason that was engendered by these two events. Literary products are seen as cultural expressions of public opinion.

Unlike Cunningham, Lemon does not analyse the contingency of female literacy. Inevitably, as this study investigates three plays in which the female characters engage with letters, there will be some coincidence between my comments and those of Cunningham. There may also be some common ground with the work of Eve Rachelle Sanders, whose book presents the dramatic representation of literate women as paradigmatic characterisations based on patriarchal attitudes towards feminine literacy.¹² Emphasis on the cultural subversion of the “scripting” women of Renaissance drama is the intention of the present study.

Initially, the argument of this study was to be simple. Its focus was to be the chief judicial contribution of the Tudors the supplementation of the Treason Act of 1352, and the dramatic use of the implications of this extended calculus of treason. The insertion point was to be the Treason Act of 1534 (26 Hen. VIII, c. 13). However, a neophytic approach identified the need for a wider view of the shift from non-specific definitions of early law codes to the explicit crime of High Treason in the sixteenth century. The first chapter of this study investigates earlier concepts of the crime and the ways in which the Tudor judiciary extended these notions to accommodate the particular issues of Succession and Supremacy, throughout the Tudor period. Similarly, it was to be proposed that the social principle of literacy and the

¹² Eve Rachelle Sanders, Gender and Literacy on the Stage in Early Modern England (Cambridge: Cambridge UP, 1998).

advent of print impacted upon Tudor treason laws, but an overview of texts relating to direct indicators of literacy in this period did not lead to a meaningful explanation of the judicial reaction to this social phenomenon.¹³ It was not possible to investigate as widely as Febvre and Martin or Clanchy, but it became apparent that it would be necessary to investigate a number of religious, social and political factors concerning access to literacy and its place in the hegemonic society of Tudor England.¹⁴

It is useful, here, to return to the commutative association of terrorism and treason, concerning the production of hegemony, by quoting Oliveria and Lauderdale's comments on the role of hegemony in the definition of terrorism:

Hegemony [...] as a social process, includes those who dominate modes of production, imposing and promoting crucial world views by cultural means. These world views are expressed through central information sources and societal institutions such as the media, education, church [...], and even academics in producing meaning for the social world. [...]. Hegemony is an order in which a certain way of life and thought dominates, in which one world view permeates customs, politics and religion, especially their intellectual and moral connotations.¹⁵

Chapters Two and Four of this study are, therefore, committed to the investigation of the influence of the societal institutions of church, state, schooling, press and stage censorship upon the practices of reading and writing in the Tudor period. Recognition of political and patristic intervention into the Early Modern experience of literacy highlighted the same desire

¹³ J. W. Adamson, "The Extent of Literacy in England in the Fifteenth and Sixteenth Centuries: Notes and Conjectures," *The Library* 4 (1929): 163-93. David Cressy, *Literacy and the Social Order: Reading and Writing in Tudor and Stuart England* (Cambridge: Cambridge UP, 1980), (hereafter, Cressy, *Social Order*). "Levels of Illiteracy in England 1530-1730," *The Historical Journal* 20 (1977): 1-23 (hereafter, Cressy, "Levels"). Jack Goody and Ian Watt, "The Consequences of Literacy" in *Literacy in Traditional Societies*, ed. Jack Goody (Cambridge: Cambridge UP, 1968), 27-68. R. A. Houston, *Literacy in Early Modern Europe* (New York NY: Longman, 1988). R. S. Schofield, "The Measurement of Literacy in Pre-Industrial England" in *Literacy in Traditional Societies*, ed. Jack Goody 311-25. Keith Thomas, "The Meaning of Literacy in Early Modern England" in *The Written Word: Literacy in Transmission*, ed. Gerd Baumann (New York NY: Clarendon, 1986), 97-125.

¹⁴ Lucien Febvre, and Henri-Jean Martin, *The Coming of the Book: The Impact of Printing 1450-1800*, trans. David Gerard (London: Verso, 1984). Henri-Jean Martin, *The History and Power of Writing*, trans. Lydia C. Cochrane (Chicago IL: U of Chicago P, 1994). M. T. Clanchy, *From Memory to Written Record: 1066-1307* (Oxford: Blackwell, 1994).

¹⁵ Oliveria and Lauderdale 192.

for perceptual control as was apparent in the treason laws of the period. The narrow and normative nature of Early Modern political and religious attitudes toward literacy practices may be recognised as what Brian Street calls the “autonomous model”, a restrictive and hegemonic “programme” of social control. Street's concentration on the reality of the social practices of reading and writing, the “ideological model”, is reflected in de Certeau's “poetics” or Chartier's “appropriation” of official hermeneutics.¹⁶ Anxiety concerning this cultural subversion seems to have encouraged many of the censorial laws and proclamations passed during this period, which are given some attention here, as a means of highlighting the anxieties of the authorities concerning unregulated literacy, and the obvious resistance to sanctioned interpretation. Attention to the question of female literacy will interpose Chapters Two and Four, not through empirical enquiry, but by a reading of Twelfth Night, as a case study of contemporaneous, institutionalised notions of female literacy and decorum.¹⁷

While reductive and prescriptive access to literacy was concerned with the education of women and the lower classes, a more subtle discipline was imposed upon men of higher estate. The discipline of rhetoric was the major preoccupation of the notion of humanism, as it stood in sixteenth-century England. Although the discovery of Cicero's letters to Atticus, his familiar letters, in the fourteenth century, led rhetoricians away from dictominal instruction, the familiar letter was absorbed into the humanist curricula and was subject to literary conventions and crucial to social relations. The rhetoric of letter writing in Early Modern Europe has attracted the attention of Frank Whigham, Katherine Hornbeak, Seth Lerer and Ronald Witt. Chapters Two and Three of Thomas O. Beebee's extensive poststructuralist study of the fictional use of letters surveys letter manuals from medieval *Ars dictaminis* to the nineteenth century, as an important influence upon the crystallization of social relationships. The social function of the familiar letter is explored by Goldberg, Chartier and Schneider,

¹⁶ Brian V. Street, Literacy in Theory and Practice (Cambridge: Cambridge UP, 1995), 1-65. Michel de Certeau, The Practice of Everyday Life, trans. Steven F. Rendall (Berkeley CA: U of California P, 1984). Roger Chartier, “Culture as Appropriation: Popular Cultural Uses in Early Modern France” in Understanding Popular Culture, ed. Steven L. Kaplan (New York NY: Mouton, 1984), 229-53 (hereafter, Chartier, “Appropriation”).

¹⁷ William Shakespeare, Twelfth Night, ed. Roger Warren and Stanley Wells Oxford World's Classics (Oxford: Oxford UP, 1994).

although Goldberg also studies Renaissance writing manuals and the “technology” of handwriting. James Daybell's bibliographical essay provides an interdisciplinary overview of sixteenth-century letters.¹⁸ The sixteenth-century verse epistle will be analysed within this study of the letter. Although this may appear as a distraction, the comments of several critics, identifying elements of the private letter within the exchange of coterie verse, have determined an investigation of the similarities and differences of these two communicative systems.¹⁹

The prescriptive form of the familiar letter has encouraged some modern critics to site Early Modern letter writing within linguistic theory. Analysing the speeches of some of the characters in Shakespeare's plays against theories of discourse analysis and pragmatics, Lynne Magnusson sites Shakespeare's language within the rhetoric of Elizabethan letters. Drawing ideas from Brown and Levinson's “politeness theory”, Magnusson recognises in Shakespearian dialogue the maintenance of social and power relations found in letters of the period. Choosing a variety of letter types from a later date (the late seventeenth and early eighteenth centuries), Susan Fitzmaurice also reads the familiar letter within modern theories of conversational implicature, speech act, “politeness” and pragmatics.²⁰ It will be seen, later,

¹⁸ Frank Whigham, “The Rhetoric of Elizabethan Suitor's Letters,” *PMLA* 96 (1981): 864-82 (hereafter, Whigham, “Rhetoric”). Katherine Gee Hornbeak, “The Complete Letter Writer in English 1568-1800,” *Smith College Studies in Modern Languages* 14 (1934): 1-150. Seth Lerer, *Courtly Letters in the Age of Henry VIII: Literary Culture and the Arts of Deceit* (Cambridge: Cambridge UP, 1997). Ronald Witt, “Medieval “Ars Dictaminis” and the Beginnings of Humanism: A New Construction of the Problem,” *Renaissance Quarterly* 35 (1982): 1-35. Thomas O. Beebee, *Epistolary Fiction in Europe: 1500-1850* (Cambridge: Cambridge UP, 1999), (hereafter, Beebee, *Epistolary Fiction*). Jonathan Goldberg, “Hamlet's Hand,” *Shakespeare Quarterly* 39 1 (1988): 307-27 (hereafter, Goldberg, “HH”). *Writing Matter: From the Hands of the Renaissance* (Stanford CA: Stanford UP, 1990) (hereafter, Goldberg, *Writing Matter*). Roger Chartier et al., *Correspondence: Models of Letter-Writing from the Middle Ages to the Nineteenth Century*, trans. Christopher Woodall (Oxford: Polity, 1997), (hereafter, Chartier, *Correspondence*). Gary Schneider, *The Culture of Epistolarity: Vernacular Letters and Letter Writing in Early Modern England 1500-1700* (Newark DE: U of Delaware P, 2005). James Daybell, “Recent Studies in Sixteenth Century Letters,” *English Literary Renaissance* 33 (2005): 331-62.

¹⁹ Lerer 31, 131. Annabel Patterson, *Censorship and Interpretation* (Madison WI: U of Wisconsin P, 1984), 212 (hereafter, Patterson, *Censorship*). Claudio Guillén, “Notes Toward the Study of the Renaissance Letter” in *Renaissance Genres: Essays on Theory and Interpretation*, ed. Barbara Kiefer Lewalski (Cambridge MA: Harvard UP, 1986), 70-101. Whigham, “Rhetoric” 864-82. See also Arthur F. Marotti, *Manuscript, Print and the Renaissance Lyric* (Ithaca NY: Cornell UP, 1995), 39 (hereafter, Marotti, *Manuscript*).

²⁰ Lynne Magnusson, *Shakespeare and Social Dialogue. Dramatic Language and Elizabethan Letters* (Cambridge: Cambridge UP, 1999). Susan M. Fitzmaurice, *The Familiar Letter in Early Modern English: A Pragmatic Approach* (Amsterdam and Philadelphia: Benjamin's, 2002).

that the present study is not without reference to some linguistic theory, but it is the private letter's fracture, rather than repair, of social and power relations, that is to be identified here.²¹ That subversion will be examined, not by attention to the formal properties of the letter, but by examination of private letters and the increasing official anxiety concerning this unmediated linguistic behaviour.

Contemporary notions concerning the public and the private encouraged a definitional confusion between privacy and secrecy in the sixteenth century, and the private environment of letter writing provoked official suspicion. It was not so much the physical act of letter writing, however, that church and state wished to control - although, as Goldberg reminds us, that, too, was subject to prescription - but the thought that might be intrinsic to the act.²² The need to police and interrogate all areas of life accounts, in part, for the distinct sense of suspicion attached to the letter and the cultural and political interposition of private correspondence. Speech and writing were not, in themselves, criminal, they only became so if they were an expression of intent. Intent, however, is a state of mind and difficult to prove, but the private letter was perceived as an expression of interiority and its reading, therefore, an interrogation of the mind.

Chapter Five of this study acknowledges this perception in paying close attention to transcripts of trials involving the charge of Treason By Word, in which letters were used as evidence of the crime.²³ Again, the 1534 Act proved to be an ineffective starting point and it was necessary to investigate trials of earlier periods which appeared to evidence instances of Treason by Word. Largely, however, it is the trials of the Tudor and early Stuart periods that have been studied. Although an immediate change in prosecutions was not discovered, it

²¹ Magnusson, 92-3.

²² Goldberg, *Writing Matter passim*.

²³ I realise that this is modern usage, for, as I will shortly point out, the accuracy of the texts used is somewhat suspect. I therefore use the term in the manner of a "compromise" as suggested by Annabel Patterson in her treatment of the trial of Nicholas Throckmorton. Annabel Patterson, *The Trial of Nicholas Throckmorton* (Victoria University in the University of Toronto: Centre for Reformation and Renaissance Studies, 1998), 11 (hereafter, Patterson, *Throckmorton*).

became evident that letters became crucial to the prosecutorial procedure of a trial for treason. A letter could be accepted as a witness, confession, accusation, but, most of all, the expression of interiority, intent, concurrence of *mens rea* and *actus reus*, the overt offence required by statute. Renaissance drama will be treated as a reflection of this pursuit of mind crime and a commentary upon the Tudor Law of Treason By Words. The reading of the plays will serve to investigate the relationships between legal definitions of treason, their impact on literacy, and the dramatic representation of the letter.

Until recently, the dramatic use of the letter has been relatively unresearched. Although there have been articles that examine letters in several of Shakespeare's plays, these are largely concerned with letters as functions of dramaturgy or characterization. Bergeron has explored the use of reading and writing in Shakespeare, while in Chapter Five of her collection of essays, Reading Shakespeare Historically, Lisa Jardine sets up oppositions between the theory and practice of the familiar letter, effecting an Erasmian “technology” of the genre to analyse the writers, readers, and bearers of letters in King Lear. Keifer makes a general study of writing on the Renaissance stage.²⁴

However, Alan Stewart's monograph, Shakespeare's Letters, published, like the work of Cunningham and Lemon, in the course of this study, takes an incisive view of epistolary interchange in Shakespearean drama.²⁵ Seeking, as here, to combine the “historical and theatrical”, Stewart dedicates the early chapters of his book to a review of much of the work of the critics above, with regard to the protocols and social action of Early Modern letter writing culture and its influence upon literature.²⁶ His readings of individual plays include

²⁴ David Bergeron, “Deadly Letters in *King Lear*,” Philological Quarterly 72 (1993): 157-76 (hereafter, Bergeron, “Deadly Letters”). Reading and Writing in Shakespeare (Delaware DE: U of Delaware P, 1996) (hereafter, Bergeron, Reading). Mark Taylor, “Letters and Readers in *Macbeth*, *King Lear* and *Twelfth Night*,” Philological Quarterly 69 (1990): 31-53. Francis Teague, “Letters and Portents in *Julius Caesar* and *King Lear*,” Shakespeare Year Book 3 (1992): 87-101. Lisa Jardine, Reading Shakespeare Historically (New York NY: Routledge, 1996), 78-97 (hereafter, Jardine, Historically). Frederick Kiefer, Writing on the Renaissance Stage: Written Words, Printed Pages, Metaphoric Books (Newark DE: U Delaware P, 1996), (hereafter, Kiefer, Stage).

²⁵ Alan Stewart, Shakespeare's Letters (New York: Oxford UP, 2008), (hereafter, Stewart, Letters).

²⁶ Stewart, Letters Introduction and 39-114.

King Lear, where stress is laid upon the role of the messenger, both in the contemporary mechanics of letter bearing, and the messengers in the play. Stewart traces the letters of this play as the negotiation and reconceptualization of relationships. The reading, offered here, emphasises the treasonous nature of these relationships, and the letters of the play as evidence of treachery. As with the work of Cunningham and Lemon, there is no correlation between the letter and legal definitions of treason, and it is here that my argument intends to depart from more traditional critical readings of the four plays that follow.

The expansion of the laws of treason in the Tudor period was encouraged by a set of unique circumstances that was beyond the competence of the Great Act of Treasons of 1352; dynastic uncertainty, the validity of the marriages of Henry VIII, the break with Rome, the rise of literacy and the introduction of print. Every statutory extension or confirmation of treason made during this period was a reaction to one of these novel conditions, inspiring the most radical change in statute law since the reign of Edward III and an unprecedented amount of legislation (there were sixty-eight treason laws passed between 1485 and 1603). From 1534 onwards, such laws had to be linguistically creative in order to accommodate these cultural and social shifts and narrate a quasi-fictional crime which cannot be extricated from hegemonic, hierarchal or patriarchal controls. This study's concentration upon the perceived threat of literacy in this period has been encouraged by the novel inclusion of writing among the definitive list of treasonous acts in the statutes drawn up during the sixteenth century. The acquisition of this linguistic skill will be shown to be crucial to the imposition of a cultural hegemony, the disturbance of which could arouse theological and political anxiety.

Treason statutes were part of that hegemony, strategies drawn up not merely to protect religious supremacy and the continuance of the succession, but to secure law, order, and a general compliance in a country beset by inflation, enclosure, rebellions and foreign wars. Treason was seen as the disturbance of order, divine and earthly. The deliberately dispositional and dramatic language of these new statutes identified the crime as a discursive

practice which threatened not only the throne, but the security and moral and spiritual fabric of the nation itself. As a domestic, rather than foreign threat, the law's representation of treason was meant to encourage a collective emotion amongst the populace. The law of treason was, therefore, wide reaching and might be seen to be at the very heart of Tudor ideology.

Also at the heart of Tudor ideology was the politicising of domestic issues and the increasing importance of the family and domestic identity. In patriarchal and political theory the family was a microcosmic model of the state, and domestic order was perceived as crucial to state harmony. At the centre of this policy of the domestic was the woman, her purity and piety the mainstay of not only the family unit, but the moral fabric and order of the state. For women, the family was a confining space of social regulation within Protestant marriage ideology, the limits of which included restricted literacy.

Female linguistic behaviour and expression was expected to be passive and was restricted by statute and cultural perception and part of the institutionalised subordination of women. Restricted literacy was an integral constituent of class, as well as gender, politics, for the same boundaries of literate behaviour were imposed upon non-élite sections of society, the literacy of this social group also seen as the possible subversion of order. The plays chosen for study here make comment upon these common themes of disorder and literacy in the representation of literate characters who, by their literate practices, challenge these gender and status norms, and who do, indeed, bring about the destruction of both family and state. These characters include not only the subversively literate women of the plays, whose “scripting” serves to evince a recognition of the socially acceptable linguistic behaviour of the female characters of Twelfth Night, but also malcontents and ambitious subordinates.

In King Lear we observe the machinations of Edmund in an attempt to oust his legitimate brother and claim an aristocratic position. In The Spanish Tragedy the ghostly Don Andrea

mourns the more for his lost position than for his lost love, while Lorenzo mocks the ambition of Horatio:

Although his life were still ambitious-
Proud,
Yet is he at the highest now he is dead. (2. 4. 61-2)²⁷

In the same play, two lesser characters, Pedringano and Villuppo, lie, betray and murder in the quest for social advancement. Thwarted ambition encourages the murderers in Macbeth. In the comedy of Twelfth Night, the officious steward, Malvolio, has ideas above his station. In one way or another, these characters receive their come-uppance, as does Macbeth who is, of course, the most conspicuous over-reacher in committing the ultimate crime of king-killing. It is the exposition of this crime that identifies a meaningful relationship of the three plays given most attention here. As most of the traitors in these plays use the written word in the furtherance of their crime and as the manifestation of their treasonous intent, we may look upon the dramas as the interrogation of the crime of Treason by Words. The actions of these men and women, empowered by literacy, can be recognized as imaginative treason, because they cause the same ideological disturbance and destruction as more overt acts of the crime. The shared distinction of the chosen plays is the stage motif of the letter; this study seeks to present the dramatic use of this written document as the embodiment of a conscious understanding of these political and cultural preoccupations of the Tudor period.

The constraint of language as the centrepiece of Tudor treason statutes has been influential upon the choice of literary form studied here. The ambivalent censorship of the theatre (a point discussed more fully later) allowed the public stage a certain dislocation from the dominance of the rhetorical and political values observed in other cultural artifacts. Popular drama confronts ideology with the conditions of life to give meaning to the political and, in this case legal, system, and can confirm or criticise state politics in a manner denied to the

²⁷ Thomas Kyd, The Spanish Tragedy, (?1585-92) ed. B. L. Joseph The New Mermaids (London: Benn, 1964).

poetry or prose of the period. The dramas studied here give form to the linguistic behaviour that was recognized as a threat by the new treason statutes - writing as an overt deed that could bring about the destruction of religious, dynastic and monarchic security.

The setting of The Spanish Tragedy in a Spanish court and the allegorical masque displaying England's power over pan-European monarchies (1. 4. 140-71), introduces anti-Catholic overtones, somewhat strangely, into a play that examines the predestination of Calvinism. The superstition and magic associated with the Catholic Calendar promotes the association of the witches of Macbeth with the Roman church. Both plays dwell upon the consequences of the interruption of the succession, a theme that is revisited in King Lear, where Lear's unnatural division of the country leads to civil unrest, regicide and the collapse of a dynasty.

We will observe a series of trials of, not only the readers and writers of letters, but also of the written word itself. In King Lear, the circulation of seemingly arbitrary letters reflects the suspicion of espionage, intrigue, adultery, double dealing, betrayal, and confused loyalty apparent in topical concepts of treason and its enactment. In this play we will observe shifting concepts of the crime, as predicated by the complexities of Tudor treason acts. In Macbeth, a letter which evades interception and successfully arrives at its destination can be seen as a cipher, the ellipses decoded by its recipient. This letter serves to contaminate the written word and promotes, not only treason, but a polemic concerning the relationship between the written and spoken word, truth and treachery. The Spanish Tragedy presents a series of judicial situations in which the letter is counter-balanced by official documents, as natural justice is counterbalanced by official justice. Fittingly, in all three plays, the final judgement is delivered by the complex mediation of language. Fittingly, because it was the regulation of language which became crucial to the prosecution of Tudor treason laws.

The political and cultural production of treason as a means of social control might be seen to prevail in the representation of terror in the present day as a similar relational process. legal

activism reacting to unprecedented circumstances and events. A discourse of national security has replaced a discourse of treason. The definition of terrorism has been widened to include political, religious and ideological threats, while a narrative of terrorism, projected in much the same way as that of treason in the sixteenth century, has enabled a similar culture of justified surveillance and law-making (there have been five terrorism acts since the year 2000 and 45 criminal justice acts which have created three thousand new criminal offences since the government came to power in 1997). This has provided the means to exert a certain power over social behaviour by the employment of new laws to legitimize the policing of activities unrelated to terrorism (“stop and search”, for instance). There is anxiety concerning a different kind of literacy - computer literacy - and its implications for secret transmission and conspiracy. Certain kinds of reading and writing (or texting) have again become criminal acts. The policing of conversation - whether by telephone tapping or surveillance - may be seen to relate to earlier concepts of treason by the spoken word. Terrorism, like treason, has become a domestic threat.

Narratives of terrorism, disseminated by the media, are intended to create the same compliance and collective emotion that was encouraged by the strategies of Tudor treason laws. The amnesiac representation of Tudor spectacle and its theatrical use by the state has been replaced by the confusion of spin and state covert action. Similarly, there has been a recent tendency to dwell upon the importance of the family as the foundation of the social wellbeing of the state, the decline of this institution held to be responsible for “broken Britain”. The behaviour of young women has also given cause for concern. Significantly, these issues are at the forefront of legislative change at the same time as the law of treason and its definition is under debate.

It is the timely comparison of the restriction of civil liberties, particularly those pertaining to reading and writing, of present criminal law and Tudor treason statute that has directed this study toward the sixteenth century. It would seem that the political and social anxieties of the

Tudor period are rehearsed in the present day, with language and communication at the heart of terrorism laws, as they were at the heart of Tudor treason laws, laws on which Elton insists much ink has been wasted.²⁸ On the contrary, however, as this study sets out to demonstrate, there is far more to be said.

²⁸ G. R. Elton, England Under the Tudors 3rd ed. (London and New York: Routledge, 1991), 136 (hereafter, Elton, England).

Chapter 1

A Brief History of the Law of Treason

Treason laws have always been subject to relativism. They change according to concepts of monarchy, and, therefore, to the binary opposition between the phenomenon called absolute kingship and the crimes against it. My treatment of this subject attempts an identification of a Tudor legislative reaction that went beyond these changing concepts and beyond the dynastic and religious uncertainties of that era. I will analyse a response to certain social principles which, I believe, changed the concept of the crime of treason. Treason will be shown to have evolved from the betrayal of feudal loyalty to a terrible crime, engendering a culture of suspicion of the written word within which, as Lerer states:

the interception of personal correspondence had become a tool of government [...] together with a string of Parliamentary Acts concerned with the properties of writing and the dangers of textual interpretation [...] a condition of official life that sort to look in the products of the writing desk, [...].¹

The letter can then be seen to be a contextualization of the political and social issues confronting Henry VIII and his children - the rise of literacy, privacy and interiority, and the political anxiety this aroused. Such issues had not been the concern of earlier transformations of laws regarding the crime of treason. These novel concerns were absorbed into public consciousness and continually addressed by popular culture. Perhaps we can, then, view Tudor treason legislation in the light of reactions to religious, social, moral and political changes that had influenced the transformation of legal

¹ Lerer 123.

practices from earliest times.

Ancient precepts, like those of the Tudors, amended, rather than perpetuated, antecedent codes. Common Law expectations, on which much legislation officially rested, were also determined by political environments, their origins influenced by the inadequacies of existent customary laws. Common Law was a codification and elucidation of custom and oral tradition, which was incorporated into earlier dooms, which were, in themselves, amendments of custom and oral tradition. Dooms were put into writing for the first time in the seventh century, when Ethelbert of Kent's Augustinian conversion prompted the drawing up of laws based on Roman religious and civic models. (c. 568-616 A. D.) Foundations of features, which were to become familiar in later treason laws, were inherent in the concepts of treason in ancient Roman law. Although the principles of Roman law were incorporated into the dooms of Ethelbert, their interpretation was essentially Germanic and Frankish, with deference to the Christian Church. Generally, the laws of Ethelbert, and subsequent Anglo-Saxon rulers, were concerned with customary concepts of kinship, land and property ownership, with special status awarded to the church. Punitive measures were based upon these concepts and early dooms largely consist of tables of fines and monetary compensations. However, Holdsworth maintains:

The Common law has been romantically and inaccurately described as the law of the common people of England. In fact, the common law emerged as the product of a particular struggle for political power. Prior to the Norman Conquest of England in 1066, there was no unitary, national legal system. The emergence of common law represents the imposition of such a unitary system under the auspices and control of a centralised power in the form of a sovereign king, and, in that respect, it represented the assertion and affirmation of that central sovereign power.²

² Sir John Holdsworth, *A History of English Law* Vol. 1, ed. A. L. Goodhart, and H. G. Hanbury (London: Methuen, 1903), 17. Despite the later reliance upon the 1352 statute, Common Law was still promoted as an authoritative procedure, throughout later treason trials, but usually only when it was politically expedient to do so.

In turn, the feudal limitations of Common Law were overcome by a system of supplements and precedents from the thirteenth century onwards. As Maine suggests: “English law, from its first to its latest phase, has never possessed an authoritative, constructive, systematic, or approximately exhaustive statement.”³ This appears to be particularly so in the case of the law of treason, the history of which is addressed here in support of the theory of reactionary, rather than constructive, legislation.

The course of treason laws was generally directed by changes in the concept of kingship. High Treason, as such, does not feature in early English laws, when the position of the king was little more than that of any other lord, and the king stood within the law and not above it.⁴ As invaders, Norman and Angevin rulers needed to strengthen the royal prerogative. This was enabled by the employment of a feudal system based on vassalage relationships and maintained by preconceptions of contractual loyalty and sacred oaths of fealty.⁵ A diagrammatic governing and policing mechanism, within which the king now stood at the apex, was administered by royal common law. Betrayal of a lord now became a bootless crime, beyond compensation, punishable, as later, by death and confiscation of property.

By the fourteenth century, canonist acceptance of the sovereignty of monarchs within their own kingdoms led to novel identifications of treason, with increasingly severe punishment

³ Henry Maine, Ancient Law (1861) Avalon Project Yale Law School 16 Aug 2001 <<http://www.yale.edu/lawweb/avalon/econ/mainea01.htm>>.

⁴ There seems to have been no significant sanction against crimes towards the king until the laws of Alfred (c. 890 A. D.), Ethelred II (c. 978-1016. A. D.), and Cnut (c. 1016-1035 A. D.), when slaying or plotting against the king became a separate, unamendable, crime. Before this, capital crimes could be amended by the payment of *wer*, the monetary value of a man's life. A king's *wer* was high, indicating a certain sense of the enormity of the crime, but was usually less than that of a bishop.

⁵ Tanner attests that the common law crime of treason rested on the principle of allegiance. Tanner 375. Neillands describes oaths of fealty as central political acts. Robin Neillands, The Hundred Years War (London: Routledge, 1990), 16-18.

for any crime against the king.⁶ By 1349 the theory of capacities (the difference between the person of the king and his office) was recognised, when killing a royal official was also accounted treason. The incidence of “betrayal” and “plotting”, amongst these early laws, might indicate an early identification of the crime of intent, perhaps precedent to the later crime of imagining the king’s death. However, when combined with the concern for the preservation of Common Law in early legal treatises, such as Glanville, Fleta, Britton, and Bracton’s De Legibus et Consuetudinibus Angliae, these novel treasons led to vague assumptions of the crime.⁷ There appears to have been little clarification of the nature of treasonable offences, which allowed the judiciary to construct upon existing definitions of the crime. Construction was particularly evident in the interpretation of a previously unknown form of treason, the offence of accroaching royal power.⁸

The lack of clarity, concerning the offence of treason, has been taken, by many commentators, to be the reason for the request for a definitive document in the years leading up to 1352.⁹ Qualifications of treason and felony were sought, particularly the interpretation of the crime of accroachment. It is more likely, however, that the

⁶ Following the Magna Carta, English sovereignty did not assume the theocratic proportions of other European states, remaining as a feudal monarchy, with Pope Innocent III as England’s feudal lord. Various kings, notably Edward I, however, acknowledged treason as offences against the king’s person, rather than the crown. Therefore, offences of treason, defined by the Roman law concept of *lèse majesty*, were largely resisted by English common lawyers.

⁷ These twelfth-and-thirteenth-century law books were usually the work of more than writer. *Henricus de Bractona* is known to have been judge in the thirteenth century, but even his work is thought to be an edited and updated version of earlier treatises.

⁸ The crime of usurpation could be constructed to cover numerous offences, from highway robbery and rape, to selling corn at an unofficial price. There is no evidence to suggest that there were convictions resting solely upon the crime of accroachment. It was usually used in conjunction with, or judged to be cognate to, accepted treasonable offences defined by Common Law or previous statute. Strangely, the crime was ignored by the 1352 Act, but may have been inherent in the enforcement of sanctions against coin counterfeiting or clipping, or unauthorised use of the royal seal. Bellamy refers to the use of this charge against the royal favourites, Piers Gaveston and the DeSpensers, in the reign of Edward II. Bellamy, Middle Ages 64. Surprisingly, despite his part in the rebellion against Edward II, and setting himself up as the *de facto* ruler of England, the primary charge against Roger Mortimer was not accroachment. It was only one of a list of crimes against him. Although charges of accroachment were discontinued for some time, the usefulness of this crime, as a means of eliminating troublesome prelates and ministers, led to its resurrection in the seventeenth century. It was a charge which under-pinned the acts of attainder and impeachment against William Stafford and William Laud in the reign of Charles I.

⁹ The identities of these historians and their theories are well documented in Bellamy. Bellamy, Middle Ages 59-101.

preservation of internal law and order, in the absence of the monarch, was the motive, of both magnates and king, for the extension of Common Law regarding treason.¹⁰ Less altruistically, the barons were concerned for the conditions of forfeiture for treasonable offences, especially when it might concern them. Edward's attention to parliamentary opinion was driven by the need to gain financial support for his wars with France. The necessary extension and contravention of Common Law could only be achieved by statute, resulting in the drawing up of the Great Statute of Treasons in 1352 (25 Ed. III, 5. c. 2).

The 1352 Treason Statute was one of the many important law reforms of Edward III's long reign, and was not a novel enactment, but drew upon Common Law, which, officially, it could not supersede, in which Edward's lawyers were well versed. Some of the concepts identified in the new treason act had been implicit in earlier treatises, such as Fleta, which states:

Should a man rashly attempt to devise the king's death or procure or incite or give aid or assent to the king's betrayal or the betrayal of the king's army, although he should not have carried out his intention into effect, [...], the defamed or accused shall be attached by his body and remain under arrest until he has lawfully acquitted himself in the matter. And if he is found guilty he shall suffer the extreme penalty, with the intensification of bodily pain, the loss of all his goods and the perpetual disherison of his heirs, and hardly indeed shall his heirs be permitted to live. [...], and the accused, on the other hand, denying the charge, word for word, the matter shall be decided by battle, nor will there be any opportunity for a settlement unless the king's assent be forthcoming.¹¹

Although this crime of *lèse majesty* had been previously resisted, this *primo loco* instance of an intent crime gave the credence of Common Law to the three main treasons specified in the 1352 statute.¹² These were, compassing or imagining the king's death, or that of his

¹⁰ Elton maintains that Common Law was often negligent of the real meaning of treason. Elton, Constitution 60.

¹¹ Fleta, (1290) Book 1 ed. and trans. H. G. Richardson and George Sales (London: Seldon Society, 1953), 56. Much of this work is based upon treatises of Bracton.

¹² For an extensive study of this statute see Bellamy, Middle Ages 59-101.

heir or wife; levying war against the king; and adhering to the enemy.¹³ These crimes were to feature in most accusations of treason in the late fourteenth, and throughout the fifteenth century. They were the major indictments used during the period of civil strife and rebellion from 1381 to 1485. Imagining or compassing the king's death proved to be an unspecific and particularly useful category of treason. It allowed certain crimes to be prosecuted under the 1352 Statute. The inclusion of this treason in the Edwardian act would seem to refer to the earlier crime of intent, inherent in feudal betrayal.

The Great Statute of Treasons was recognised as the significant statement until the revival of an interest in Common Law by lawyers of the sixteenth century. In the years following 1352 there were further treason statutes and parliamentary declarations, all encouraged by exceptional circumstances. Few, except those statutes promulgated by Richard II, which were mainly levelled against a perceived erosion of the royal prerogative, made significant amendments to the 1352 act.

Owing to the fact that Statute and Common Law existed side by side, with the latter often given precedence, the 1352 Statute was frequently described by later monarchs as declaratory, rather than definitive. It was perceived to contain inadequacies, which led to augmentation and construction in the centuries that followed, with many common law treasons still acknowledged. This was enabled by a proviso within the act:

And because that many other like cases of treason may happen in time to come, which a man cannot think nor declare at the present time, it is accorded, That if any other case supposed treason which is not above specified should happen [...] the

¹³ Before the 1352 Statute, levying war against the king could be interpreted as any instance of bearing arms, wearing armour, or carrying a drawn sword. Many instances of this kind of martial display were merely connected with robbery, abduction or the numerous private wars of the period. After the 1352 act, riding armed to slay, rob, or capture and ransom, was deemed to be a felony. Bellamy, *Middle Ages* 95. As with earlier baronial insurrection, however, if war had been openly declared, or if such incidences occurred during a rebellion or uprising, the charge of treason did not always apply.

Justices shall tarry [...] till the cause be shewed and declared before the King and his Parliament, whether it ought to be judged treason or any other felony.¹⁴

This statement, together with the imprecise nature of the crime of imagining and compassing the king's death, allowed the novel enactments that were necessary to deal with the problems confronting the Tudors, a dynasty whose initial claim to the throne was *de facto*, rather than *de jure*.¹⁵

The Tudor family's claim to the throne was subject to question throughout the successive reigns of its monarchs, from its tenuous assertion in 1485, until beyond Tudor rule. Bacon considered Henry VII a parvenu. During the trial of Sir Walter Raleigh in 1603, Edward Coke presented a revision of the royal succession, promoting lineal descent from Edward IV, rather than Henry VII: "Would you have deposed so good a King lineally descended of Elizabeth, eldest Daughter of Edward IV?" The Tudors were, as Cunningham points out, thereby identified as interlopers.¹⁶ Such incidents served to emphasise the transitory nature of title to the crown. Legitimacy, lack of heirs and religious controversy, together with the extraordinary circumstances of a king who left his church and entered into serial marriages, a sickly boy unlikely to reach adulthood, a queen married to a foreign king, and the person of the monarch as a woman, made political, religious and social impact upon Tudor legislation.

¹⁴ Holdsworth 877.

¹⁵ Henry VII could claim descent from the fourth son of Edward III, but the pronouncement of Richard II (and the Pope) excluding this line of succession, made problematic the important principle of hereditary right in a claim to the throne. Furthermore, after the death of Henry VI's son in 1471, any Lancastrian claim to the throne was through the female line and, therefore, untenable on the grounds of Salic Law. Henry's main claim was his own declaration following the Lancastrian victory at Bosworth and an unspecified parliamentary proceeding confirming his kingship in 1485. The Tudor right to the throne was continually threatened by the challenges of claimants or their factions. Some of these claimants' connections to the crown were too distant to pose a threat, while others, notably the Yorkist, Stuart and Suffolk lines, were potentially valid, although the same questions of lineal descent, female line and legitimacy were present.

¹⁶ J. Walthoe, Sen., et al. ed., A Complete Collection of State Trials and Proceedings for High Treason, and Other Misdemeanours: From the Reign of King Richard II to the End of King George I 6 Vols. Vols. 1 and 2 (London: n. p., 1730), 208 (hereafter, State Trials). Cunningham, "Raleigh" 339.

Dynastic anxiety prompted the introduction of a series of expedient succession and treason acts, the legal and political dimensions of which were far reaching. The first of these was the 1495 Treason Act (11 Hen. VII, c. 1), sometimes referred to as the *de facto* act, a short document drawn up ten years after Henry came to the throne. It was designed to resolve lingering issues of the civil wars, while examining common law notions of *de jure* and *de facto* kingship, although neither phrase appears in the act.¹⁷ It defines “a prince and sovereign lord for the time being” and, as Elton points out:

It does not make a distinction between a king who was so by right and one who has held the position in fact only, [...], it speaks of only one kind of king who is so “for a time being”, a common Tudor phrase which means no more than “at the time in question.” Allegiance to any such king is protected from later charges of treason.

Despite Elton’s insistence that the temporary quality often read into the phrasing of this act does not exist, this wording could not have given satisfaction to a king who was intent on establishing dynastic credibility.¹⁸ This uncertainty seems to have been observed, much later, by John Ford, whose sources were Gainsford’s True and Wonderful History of Perkin Warbeck, 1633, and Bacon’s History of the Reign of King Henry VII:

KING HENRY Still to be haunted, still to be pursued
Still to be frightened with false apparitions
Of pageant majesty and new coin’d greatness,
As if we were a mockery king in state
Only ordain’d to lavish sweat and blood
In scorn and laughter to the ghosts of York,
Is all below our merits; yet, my lords,

¹⁷ The act protected those who had adhered to Richard III, but admits the possibility of a challenge from a pretender - in this case, Perkin Warbeck. A seemingly unenforceable clause excused from treason those who might support Henry, should such a challenge prove successful. For a discussion of this act see A. M. Honoré, “Allegiance and the Usurper,” Cambridge Law Journal November (1967): 214-23. Also, A. F. Pollard, “The *de facto* Act of Henry VII,” Bulletin of the Institute of Historical Research 7 (1930): 1-13. Elton maintains that this act has been “over-ingeniously explained.” Elton, Constitution 2. The continuance of the Tudor line was still uncertain during Henry’s lifetime, when Buckingham and Edward de la Pole were seriously considered as heirs, in the event of the king’s untimely death, rather than the young prince, Arthur. The exactitude of *de jure* and *de facto* status was pursued until after the English Civil War.

¹⁸ Elton, Constitution 2.

My friends and counsellors, yet we sit fast
In our own royal birthright. [...]. (1. 1. 1-9)¹⁹

This later history play was, of course, written within a period when the monarchy and succession was seemingly secure.

Although he was, indisputably, the rightful heir to the throne by lineage and gender, Henry VIII's matrimonial entanglements and questionable procreativity gave rise to three Acts of Succession in 1534, 1536 and 1544. The First Succession Act (25 Hen. VIII, c. 22), annulled the king's marriage to Catherine of Aragon and legalised that with Anne Boleyn. It also protected the rights of any heirs of that marriage against the claims of Mary, now bastardised as the product of an "unlawful" union. This act goes beyond the legitimisation of Elizabeth as heir, outlining a perpetual inheritance of both male and female line. It contains the first recognition, by Act of Parliament, of writing as High Treason.²⁰ The use of "writing or imprinting" to cause, or to procure to be caused, the interruption of the devolution of the crown was defined as such, upon the first offence. Written prejudice against the marriage was also High Treason upon the first offence. Slander against the marriage, or the use of words, without writing, to question the limitation of the crown, was adjudged as the more passive crime of misprision becoming High Treason upon the third offence.²¹

The second Succession Act of 1536 (28 Hen. VIII, c.7), drawn up before the birth of

¹⁹ John Ford, *The Chronicle Historie of Perkin Warbeck: A Strange Truth* (1634) in *John Ford: Three Plays*, ed. Keith Sturgess (London: Penguin, 1970), 249-354.

²⁰ Although, as we shall note later, not the first time that writing had been identified as treason.

²¹ Like accroachment, the crime of Misprision had acquired a liberal interpretation over the centuries, but by the sixteenth century, due to a misinterpretation of its source, it was understood as the concealment of treason. The punishment was imprisonment and forfeiture of land and possessions. Those who refused to take the Oath of Succession were also guilty of this crime.

Edward, repeals the first act and recites the unlawfulness of the marriages with both Catherine and Anne.²² The crown is entailed to the possible issue of the marriage with Jane Seymour, which is legitimised by this act. The possibility of heirs with future wives is also considered, while the lack of a legitimate heir is contemplated in a clause enabling the king to name his successor in a will.²³ The act contained new treasons relevant to the premise pursued here. Spoken and written words against the Seymour marriage, or expressing belief in the lawfulness of the Aragon and Boleyn marriages, by spoken or written word or printing, was identified as High Treason. Refusal to take an oath to validate the act was also seen as a treasonable offence. Henry's Third Act of Succession in 1544 (35 Hen. VIII, c.1) placed Mary and Elizabeth as successors, in the event of Edward's death or lack of (male or female) issue. The act also allowed the devolution of the crown by will. Any attempt to disrupt the succession, as laid down in this act, by word, writing, printing or any exterior act or deed, was deemed to be High Treason. It also requires an oath of allegiance to the king, rather than the Pope, thereby asserting the royal supremacy.²⁴ The third Succession Act seems to have been recognised as the definitive document by succeeding Tudor monarchs, although protection of the succession is apparent in subsequent treason laws.

Towards the end of Edward's brief reign, the Duke of Northumberland persuaded the ailing king to set aside the 1544 act and draw up a will, or "devise", for the Suffolk succession. As with Henry's will, the "devise" continued to ignore the Stuart line, but also

²² Each of the king's marriages had to be declared unlawful, in order to validate the issue of the succeeding union.

²³ Henry did draw up such a will, which legitimised Mary and Elizabeth, admitting them as possible successors in the event of Edward's death or lack of issue. Should none of his children survive, the devolution of the crown within the Tudor dynasty was protected by a clause which entailed the crown to the Suffolk line, ignoring the Stuart line of his elder sister, Margaret.

²⁴ The dissolving of the "pretensed" marriage to Anne of Cleves in 1540 (32 Hen. VIII, c. 25) could be seen as another Henrician Act of Succession in its reference to the surety of the succession. The act identifies any spoken, written or printed declaration of the marriage as lawful, as High Treason, as was any attempt to impede the annulment.

excluded both of Edward's sisters. The document originally devolved the crown to the male heirs of Jane, Catherine, or Mary Grey, and was signed by twenty four members of the council.²⁵ It was ratified by Letters Patent in 1555, but, following a rapid decline in the king's health, Jane Grey was declared as heir. However, after some initial hesitation, the third Succession Act was accepted by lawyers as giving Mary just title to the crown. Parliament eventually took a strong line in accepting Henry's limitation of the crown, and the Tudor lineage, as a degree of legality. This action heralded an increasing trend for a strengthening of parliamentary authority during Mary's reign, brought about by the need to institute a programme of repeals of Edwardian statutes concerning religion. The constitutionality of the 1544 act continued to be recognised as the official answer to the question of the succession during Mary's reign and was cited in the parliamentary recognition of Elizabeth's title to the crown.

Although there was no Act of Succession during Mary's reign, the 1554 Treason Act (1 & 2 Philip and Mary, c. 10) makes some deference to the limitation of the crown by referring to the rights of the "heirs of her body begotten" to enjoy the crown. Confiscation of goods, chattels and lands was the punishment of those who maintained otherwise, upon the first offence, the second offence to be adjudged High Treason with the ultimate penalty. The act frequently refers to the marriage between Mary and Philip and their joint regal privilege, and may be interpreted as a validation of their union, although in a less overt manner than the Henrician Succession Acts.

²⁵ The Grey family had a strong claim as the wholly English great-granddaughters of Henry VII, as opposed to the half-Spanish, Catholic, sometime illegitimate, Mary Tudor. Honoré argues that Northumberland's action was lawful under the 1485 *de facto* act, as Jane was in possession of the crown. Honoré 214-5. Mary's statutes were mainly those dealing with hostilities towards her marriage, the return to the Roman church and war with France.

There was no precise definition of the Tudor dynasty during Elizabeth's reign, despite requests for an authoritative role for Parliament. Succeeding her childless sister, in accordance with the 1544 Act, Elizabeth's accession was not without potential threat. The strongest claims came from the Suffolk line, promoting Catherine Grey, the sister of Jane, and the previously discounted Stuart line, in the person of Mary Stuart. There were also counter claims from the Yorkist and Lennox-Stuart families. It was not so much the matter of a substitute monarch (although this was always a threat), but who should accede after Elizabeth's death. As it became apparent that the queen would not marry, and was enjoying a relatively healthy and long life, it was felt that Parliament should settle the matter. The fear was that civil war, in the manner dramatised in Gorboduc, would ensue, if Elizabeth should die with no named successor. Elizabeth, however, wished to reserve authority over the succession, refusing to consult parliament or draw up a definitive document of limitation.²⁶ Eventually Elizabeth's longevity proved to be the solution. By outliving all the chief claimants, the queen enabled Mary Stuart's son, James VI of Scotland, to accede to the throne. On her death, the clause of the 1544 act, allowing the monarch to will the crown, was again invoked, though never officially validated, and the throne passed to the Stuart line.

Definitions of treason were consistently inherent in the Henrician Acts of Succession both in wording and intention. Despite various acts of abrogation, the same pursuance of writing as treason is to be observed in later Tudor treason laws. Sixteenth-century lawyers accepted that Common Law should be the defining statement of constitutional legislation and that Tudor treason laws should acknowledge the codification of Common Law

²⁶ Parliament was often prorogued to silence this debate and, in 1593, several members of parliament were suspended, some, like Peter Wentworth, even imprisoned. Despite these actions, several tracts on the subject were circulated, making the question of the succession a public issue. Levine suggests that Gorboduc was the first of these tracts. Mortimer Levine, The Early Elizabethan Succession Question: 1558-1568 (Stanford CA: Stanford UP, 1966), 30.

implicit in the Treason Statute of Edward III. It was also realised, however, that Common Law was limiting, if not handicapping, the application of this statute to changes that had taken place in Tudor society. A sweeping series of legislative amendments was introduced from the 1530s onwards. It was not that the extension of existing treason laws by statute was new, novel offences of treason were often given statutory authorisation as reaction to political events.²⁷ Concepts of treason were likely to change, any way, as the tendency towards absolutism increased and feudal power decayed. Before examining the motive for this unprecedented extension of statutory treason under Tudor rule, I wish to attend to the explicit and implicit inclusion of writing and printing as treasonable offences in Tudor treason laws. I hope to identify the accommodation of these treasons within the crime of compassing the king's death.

The principle of treason by word had been acknowledged long before the Treason Law of 1534, as we shall observe later. The [...]Act whereby divers offences be made high treason (26 Hen. VIII, c. 13) was remarkable in its legitimate enforcement of treason by word as an offence that stood alone. By identifying words and writing as evidence of the intention of bodily harm against the sovereign, or his queen or heirs, it established a proper relationship with the 1352 Statute. Such offences could be contained within the existing treason of imagining the king's death. Clause One of the statute states:

[...] if any person or persons, after the first day of February next coming, do maliciously wish, will or desire by words or writing, or by craft imagine, invent, practise or attempt any bodily harm to be done or committed to the King's most royal person, the Queen's or their heirs apparent, or to deprive them or any of them of the dignity, title or name of their royal estates, or slanderously and maliciously publish and pronounce by express writing or words, that the king our sovereign lord, should be heretic, schismatic, tyrant, infidel or usurper of the crown [...] then that every such person or persons so offending in any the premises [...], their

²⁷ As in the act of 1381 (5 Rich. II, c. 6) which, following the Peasants' Revolt, defined incitement to riot as treason.

aiders, counsellors consenters and abettors, being thereof lawfully convict according to the laws and customs of this realm shall be adjudged traitors; [...] And [...] shall have and suffer such pains of death and other penalties as is limited and accustomed in cases of high treason.²⁸

The statute does not refer to printing and the term “publish” in this clause does not necessarily refer to print publication, but may refer to spoken words in the manner of a proclamation. In King Lear Edgar is “proclaimed” in Act Two (2. 172), but in Act Four, Gloucester is described as a “published” traitor (6. 228).

The statute of repeal in 1547, at the beginning of the reign of Edward VI, also known as the First Treasons Act (1 Edw. VI, c. 12), advertises a return to the 1352 Statute, while commenting upon the harshness of previous legislation. Interestingly, this statute refers to “ciphering”, which is not in the 1534 act, indicating a suspicion of the secrecy of writing. Almost immediately, a clause (vi) was inserted, reinstating the use of writing against the king’s supremacy as High Treason at the first offence. A spoken denial became treason at the third. In 1552, a return to the principles of the 1534 act was signalled in the Second Treason Act of this reign when, “writing, printing, painting, carving or graving” against the king’s supremacy or succession became High Treason. An element of the crime of conspiracy is introduced by the mention of “abettors, procurers and counsellors” and “aiders and comforters” as equally guilty of High Treason.

All treasons, petty treasons or felonies of previous acts were repealed by Mary in the 1553 Treason Act (1 Mary I, c. 1). A year later, the Second Treason Act of Mary (1&2 Philip & Mary, c. 10), brought about by the need to protect the royal marriage, returns to the idea of

²⁸ Elton, Constitution 62. A reference to printing might be implicit in the phrase “by words writing or craft”, although this may allude to the “painting”, “carving” and “graving” of the subsequent Second Treason Act on Edward VI.

treason by word, with the same statutory protection extended to the “king”. This act frequently refers to the marriage between Philip and Mary and their joint regal privilege, the written denial of which was treason upon the first offence. Clause Three of this act appears not only to connect imagining the death of the king with treason by word, but mentions printing and writing in conjunction with overt deed:

And be it further enacted by the said authority, that if any person or persons [...] encompass or imagine the death of the King’s Majesty that now is and the same maliciously advisedly and directly shall utter and attempt by writing, printing, overt deed or act; or if any person or persons [...] shall maliciously, advisedly and by writing, printing, overt deed or act deny the title of the King or Queen or their issue [they shall be guilty of High Treason].²⁹

Conspiracy is also included in the same manner as the Edwardian act of 1552. The punishment of forfeiture and life imprisonment for spoken words indicates a lesser crime. The second treason act also required two witnesses to “write, declare or confess” against the person arraigned. The allowance of written depositions would, therefore, enable the use of the letter as accuser or witness in subsequent treason trials.

The 1555 Act against Traitorous Words (1&2 Philip & Mary, c. 9), does not specify the mode of the use of words, and is largely concerned with religion. However, praying for the queen to turn from Catholicism, or “to shorten her days or take her quickly out of the way” was deemed to be High Treason. This would seem to accommodate words within the crime of imagining the king’s death. In this instance the spoken word seems to have been regarded to be as treacherous as the written.

²⁹ Elton, *Constitution* 72-3.

There was no document of repeal at the beginning of Elizabeth's reign, but the provision of Mary's treason legislation was not considered to be sufficient for the protection of her sister:

[Whereas 1&2 Philip and Mary extends only to the late] Queen Mary and the heirs of her body. therefore if any such like offences as be mentioned and contained within the said Statute should hereafter happen to be committed against our said Sovereign Lady that now is, there were no due remedy or condign punishment provided for the same.³⁰

and a new treason act was passed in 1559 (1 Eliz., c. 5). Words become misprision of treason, indicated by the nature of the punishment, becoming treason (though not here specified as High Treason) on the second offence. Writing and printing against the queen's right to the crown are again adjudged High Treason.³¹ Clause Ten of the 1559 act lays out the legal procedure for the indictment of this crime. It calls for proof by "the testimony, deposition and oath of two lawful and sufficient witnesses or confession without violence".

The Second Treasons Act of Elizabeth, in 1571 (13 Eliz. 1, c. 1) revisits the statutory crime of imagining the king's death. Clause One immediately transfers the concept of the "imaginary" treasons of "inventions, devices or intentions" to "printing, writing, ciphering, speech, words or sayings" against the rights to the crown. Clause Five of the act expressly identifies as seditious, (wanting an overt act) rather than treasonous, the publishing of any "book or work, printed or written" concerning the succession It

³⁰ Tanner 411.

³¹ Susan Clegg states that eleven statutes defining writing, preaching, express words or sayings, as treason, were passed during the Elizabethan period. Susan Clegg, Press Censorship in Caroline England (Cambridge: Cambridge UP, 2008), 114 (hereafter, Clegg, Caroline).

proscribes a punishment of one year's imprisonment and forfeiture of half one's goods to any who might:

[...] wilfully set up in an open place, publish, or spread any books or scrolls to that effect, or shall print or bind or put to sale or utter, or cause to be printed, bound or uttered any such book or writing wittingly [...].

For those who might offend "efftsoons," (a second time) the punishment was described as: "the pains and forfeitures which in the Statutes of Provision for Praemunire are appointed and limited."³²

The 1571 Treasons Act also imposed severe penalties for writing tracts concerning the succession. It included, among its treasonable offences, pretensions to, or representations on behalf of, title to the crown, before and after the queen's death.³³ This conveniently disabled the cause of Mary Queen of Scots. The Bill suffered many revisions and amendments, but it finally earned the approval of parliament and queen.³⁴

Thirty seven years passed between the introduction of treason by word in the 1534 Treason Act and the obvious allusion to the book trade in the Second Treasons Act of Elizabeth in 1571. We can observe the increasing maximisation of the intension of the overt deed, required by the 1352 statute, in the definition of the printed word as treason. Elton identifies these laws as responses to what he calls: "technological progress, [...] treason rendered overt in print;"³⁵ It is my presumption that they were also reactions to

³² Elton, Constitution 76.

³³ It only became treason, however, if Elizabeth denounced the person by proclamation.

³⁴ J. E. Neale, Elizabeth I and her Parliaments 1559-1581 (London: Jonathan Cape, 1935), 225-34. The 1585 Act for the Provision to be made for the surety of the Queen's most royal person (27 Eliz. 1, c. 1) imposed the same restrictions regarding the succession.

³⁵ Elton, Constitution 60.

a wider culture of the written word. From first to last, Tudor statutes consistently refer to writing as a treasonable offence. This anxiety indicates a concern regarding the acquisition of literacy among the populace, and a need for regulation of reading and writing. Before examining the methods adopted to impose that regulation, I wish to discuss another concern discernable in a linguistic shift apparent in the Tudor treason statutes.

The usefulness of the Edwardian treason of compassing the king's death has been mentioned above, and, apart from the two treason statutes of Edward VI, there is allusion to this crime throughout Tudor treason legislation. The 1534 act extends the concept beyond the "compass" of the 1352 Act to "imagine, invent, practise, and attempt". The Second Treasons Act of Philip and Mary revisits the "compass" of the original crime and includes "imaginations" concerning the death or destruction of the king's majesty among its list of misdemeanours. By the time the Second Elizabethan Treason Act was passed, the crime had now been extended beyond "compass" and "imagine" to "invent, devise, or intend" the destruction or death of the queen. It may be supposed that these exercises in semantics were introduced to redefine the wording of the 1352 statute and to promote the legality of the acts. I am thinking here, however, of a conceptual, rather than a legal, crime, which, arguably, can be recognised by returning to the language in which these acts are articulated.

The first Henrician treason act of 1534 not only extends the linguistic boundaries of the crime of intent, but also refers to "cankered and traitorous hearts", and "willers". The same words appear in the Second Treasons Act of Edward VI. In Philip and Mary 1&2, these "cankered and traitorous hearts" are the sites of the "imaginations, practises and attempts" of disobedience and rebellion. The Act against Traitorous words of 1555 identifies praying

as a possible treason. The contention here is that, although seeking to define writing and printing as overt acts of treason, these statutes also display a concern about what people were thinking. The use of the legally sanctioning “malicious” in all the Tudor Succession and Treason Statutes presupposes a mindset. In fact Thomas More was to question the linguistic and legal significance of malice as an offence at his trial in 1535:

I cannot think so many [...] learned Men, of whom the Parliament consisted in the enacting of that law ever meant to have a man punish'd with death in whom no malice could be found, taking the Word *Malitia* for *Malevolentia*; for if *Malitia* be taken in a general Signification for any Crime, there is no Man can be free; Wherefore Maliciously is so far significant in this Statute [...].³⁶

Rebecca Lemon has suggested that the treason by words law was a major statutory plank in administering the Reformation, a consideration that sits well with the present premise of perceptual intervention.³⁷

Formerly, control of the “imagination” had been achieved by the collective subsuming experience of the medieval church. A collectivism of intent had been established through a “world of images and intercessors” but, now, problems with the Supremacy, and the move away from Rome, called for statutory intervention.³⁸ Therefore, the need to interrogate and regulate the “imagination” of the treason statutes was the crucial determinant of this particular use of language in the above acts. The wording of these statutes indicates anxieties culminating in what Archer describes as: “a culture of paranoia and surveillance”. He continues: “The cognitive response of paranoia is not simple suspicion,

³⁶ State Trials 60.

³⁷ Lemon 10.

³⁸ David Loades, Politics, Censorship and the English Reformation (London: Continuum International, 1991), 1.

it is the feeling that there is a generally more sinister reality that exists behind the scenes.”³⁹

The disturbance of hegemonic relations and social decorum was the sinister reality recognised by authorities in the Tudor era. This anxiety is manifest in, not only the shifting concepts of treason of Tudor legislation, but sumptuary laws and proclamations concerning the disturbance of social order, such as the regulation of dress. Also seen as challenging to sumptuary order was the greater access to secularised education, personal exegesis of vernacularised literature, and the increase of domestic privacy. Political and ecclesiastical authorities recognised the difficulty of policing such social phenomena by legislation. A controlling system of education was introduced which, with censorship of the textual products made increasingly available to a literate populace, was meant to undermine interior, individual realisations. Political and religious authorities sought to establish regulated religious and moral conduct and a universal public consciousness. The control of reading and writing became a political and religious issue.

³⁹ Archer 6, 36. Baldwin Smith also discerns the “neurosis” of paranoia as characteristic of the response of Tudor authorities towards religious and social changes. Baldwin Smith, *Politics* 36-58. Haynes regards accusations of treason, particularly in the reign of Elizabeth, as “feeding the politics of calculated paranoia”. Haynes xii.

Chapter 2

Reading and Control in Tudor England

“Nothing shall be taught or maintained contrary to the King's instructions”.¹

“Literacy: What a deceptive term that is if it is taken to imply a beginning when no one can read and write and an end when everyone can!”²

Until the end of the twelfth century, literacy was mostly appropriated by religious agencies, while a king would have an army of clerics, lay advisors and scribes to produce legal and social documents. Church and “State” were able to transmit their dominance through a powerful scribal and bureaucratic culture. Hegemonic relationships were reinforced by written laws which, from the seventh century onwards, replaced the collective knowledge of oral and ceremonial acts. However, the assumptions of recent scholarship have put forward conflicting notions of the effect of the bureaucratic devices of government. Where Goody and Martin see politico-legal control and victimisation in such a system, Clanchy, Cavello and Chartier suggest that literacy was aided by the use of documents.³ Clanchy insists that scribal ideology depended upon the establishment of a “literate mentality”, a socially diversified understanding of the significance of writing. He maintains that: “emphasising the growth of bureaucracy can obscure a parallel development in the history of medieval literacy.”⁴ We must assume a gradual progress towards a literate society over the next two hundred years.

¹ Act for the Advancement of True Religion 1543 (34 & 35 Hen. VIII, c. 1).

² François Furet, and Jaques Ozuof, Reading and Writing: Literacy in France From Calvin to Jules Ferry (Cambridge: Cambridge UP, 1982), 305.

³ Jack Goody, and Ian Watt, “The Consequence of Literacy” in Literacy in Traditional Societies, ed. Jack Goody (Cambridge: Cambridge UP, 1968), 27-68. Martin 171. Clanchy 1-21. Guglielmo Cavallo, and Roger Chartier, The History of Reading in the West (Cambridge: Polity, 1999), 16. For a further discussion of Goody and Clanchy’s theories see Street 41, 110-21.

⁴ Clanchy 185-334. Clanchy’s argument is not negated by Williams’ declaration that bureaucracy scrutinises and influences every field of human endeavour, as Clanchy assigns a similar role to literacy. Raymond Williams, Writing in Society (London: Verso, 1991), 121 (hereafter, Williams, Writing).

The establishment of norms for the measurement of literacy is problematic due to several factors, including the lack of a precise definition of the term. We might, however, accept Street's suggestion of "a shorthand for the social practices of reading and writing", as a simple description of the rather complex phenomenon of literacy in the Tudor period.⁵ Estimating the extent of literacy in the sixteenth century is made all the more complex by the imprecise nature of various indicators which have been used in the approximation of its incidence. The most prevalent of these indicators are book ownership, signatories, and schooling.

The fact that the book trade was undergoing several changes may have influenced estimates of literacy in the sixteenth century based on book ownership. Book production became more centralised, the separate workshops of the manuscript era combining under one roof, as printers, translators, editors and illustrators were all actively engaged in a necessarily interactive process. It was now essential for most of those engaged in the printing trade to be literate, certainly printers and journeymen, but eventually most of the craftsmen involved. Early printers may have called upon the services of a scribal scholar, but many were men of learning themselves, and the sixteenth century saw the rise of the scholar printer. This increase in book production, however, may have been speculative, rather than in response to demand. Gradually the format of the book was changed, one particularly enabling factor being an extension of earlier changes in the aesthetic spacing of the printed work. By the beginning of the sixteenth century, the more frequent use of the octavo format provided a portable book. The greater legibility of the folio, preferred by students and scholars, identified a need for changes in the smaller format, changes brought about by economic as well as aesthetic requirements.

The expense of producing different fonts, to simulate the cursive scripts of manuscript, led to the limited use of styles. Most popular was the more legible, Gothic black letter type, although those of scholarly pursuit preferred Roman and Italic fonts. The influence of the

⁵ Street 1.

scholar printer was seen in the increasing availability of works of Latinity, contemporary and classical, as well as greater access to Hebraic, Arabic and Greek texts. Those whose lack of interest, or linguistic disability, indicated a different need, were well served by the increase of vernacular literature. This section of society was also served by the devotional, auto-didactic, and technical manuals, mainly produced in black letter type, that proliferated alongside those books which had enjoyed a conservative popularity in the Middle Ages. These changes, however, were for the benefit of an élite whose demarcator was a skill that remained inaccessible to a large proportion of the population in the Tudor period.

The claim that changes in book production led to a fall in the price of books, (the cost of production of a printed book was about 20% of an equivalent manuscript) thereby enabling greater accessibility, must also be questioned.⁶ Despite the decreased use of expensive bindings and decoration, a book was still quite an expensive item which, even in its simplest, unbound form, was beyond the reach of the poorest section of the population. As Tessa Watt points out: “price was the major constraining factor in book buying, after literacy”, which suggests that literacy cannot be estimated by the volume of book ownership.⁷ Many books, especially copies of the bible, might be owned by those unable to read, while the existence of an impoverished literate public (poor clerics, for example, though many clerics were barely literate) would contribute little to statistical evidence of literacy based on book proprietorship.⁸ It would be at least one hundred years after the introduction of print before

⁶ Richard W. Clement “Medieval and Renaissance Book Production,” *O. R. B. Online Encyclopedia* 1-118. 07 Feb. 2002 <<http://orb.rhodes.edu/encycllop/culture/books/medbook2.html>>.

⁷ Tessa Watt, *Cheap Print and Popular Piety* (1991; Cambridge: Cambridge UP, 1996), 1.

⁸ Books may also have been purchased as a status symbol. In *The Malcontent* Bilioso avers:

I have some books which have been dedicated to my honour, and I ne'er read'em, and yet they have very fine names: *Physic for Fortune*, *Lozenges of Sanctified Sincerity*, very pretty works of curates, scriveners, and schoolmasters. (3. 1) John Marston, *The Malcontent*, (1603) ed. Peter Thomson (London: Nick Hern, 2002). This also parodies the homiletic literature of the day.

Books were also seen as part of family wealth as may be seen to be evident in the inclusion of books in wills.

the production of chapbook and broadside literature, much of it resembling earlier block print material, began to offer affordable printed material to the commonality and another one hundred years before cheap print became readily available. The initial impact of the new technology was upon the book producing industry itself and what Eisenstein calls the “already literate sectors”.⁹

Recent study, notably that of David Cressy, tends to emphasise the importance of the autograph signature as an indication of literacy.¹⁰ The ability to sign one's name may denote a mere token literacy, just as the use of a seal, dry stamp, or mark admits no evidence of illiteracy. It is known that clerks and secretaries quite often legitimately signed documents in the name of another, which also casts doubt on this method of measurement. It must be acknowledged that, elsewhere, Cressy admits that this method of computation is possibly the “least significant” and establishes “an unsatisfactory criteria”.¹¹ The apparent increase in the number of schools throughout the sixteenth century, as shown by the findings of the 1548 Chantry Commission, for instance, may also be misleading evidence of growing literacy. Many grammar schools endowed during this period merely replaced the monastic schools, which had disappeared with the dissolution of the monasteries during the reign of Henry VIII, and the dispersed colleges of the protectoral period of Edward's reign.

A review of these abstractions has led to the conclusion that there were differing degrees of competence, which might be identified as “literacies” rather than “literacy”.¹² These “literacies”, which were not necessarily determined by social grouping, ranged from knowledge of Latin, which Thomas describes as “higher literacy”, to an experience of print

⁹ Elizabeth Eisenstein, The printing press as an agent of change 2 Vols. (1979; Cambridge: Cambridge UP, 1980), 1, 71, and *passim*.

¹⁰ Cressy, Social Order 65-8, 71-8. Houston also accepts subscription to documents, such as marriage registers and depositions, as a direct measure of literacy. Houston 120-9. Graff considers the use of the signature as a rough measure of literacy. Harvey J. Graff, The Legacies of Literacy: Continuities and Contradictions in Western Culture and Society (Bloomington IN: Indiana UP, 1987), 34.

¹¹ Cressy, “Levels” 2.

¹² Thomas ed. Baumann, 97-127. He also suggests a “hierarchy of literacy skills”. See also Street 8.

which was predominantly aural, or restricted to the printed image.¹³ In between these parameters might be the basic ability to read black letter type, and decoding with the assistance of illustration. It is proposed, here, that the varying degrees of literacy in this period motivated a wide range of attitudes, often prejudicial, towards its acquisition, from literate and illiterate alike. Access to literacy encouraged an intensification of the Renaissance preoccupation with language and its cultural and social implications. There was much of what Parkes describes as “pragmatic literacy”. Latin, for instance, usually thought to be the sole prerogative of an aristocratic and clerical élite, was known, to a functional degree at least, to many doctors, surgeons and lawyers. Latin texts were often found in the inventories and wills of the “bourgeoisie”.¹⁴ A certain literacy was essential to the skills of a number of crafts and trades, particularly in urban areas. In A Midsummer Night's Dream the “mechanicals” appear to be able to read. (1. 2. 1-102)¹⁵

Evidence of quite a wide range of reading skills can be obtained by looking at Henry VIII's Act for the Advancement of True Religion, passed in 1543 (34 & 35 Hen. VIII, c. 1). Despite the distribution of the vernacular “Great Bible” to every church in 1539, the 1543 act placed a prohibition upon its reading, in English, by certain classes.¹⁶ The exclusion of artificers, apprentices, labourers, journeymen, yeomen and husbandmen suggests that literacy may not have been confined to the upper echelons of society. Those below the rank of noblemen, a

¹³ Often, literacy was accepted as the ability to read Latin. In Dr Faustus the clown, Robin, struggling himself with the Latin of Faustus' Conjuring book, calls Dick illiterate and unlearned (6. 6-7). Christopher Marlowe, Dr Faustus, (1604) ed. Roma Gill The New Mermaids (London: A & C Black, 1989).

¹⁴ M. B. Parkes, Scribes, Scripts and Readers: Studies in Communication, Presentation and Dissemination of Medieval Texts (London: Hamilton, 1991), 275-97 and *passim*. For further discussion of the knowledge of Latin among the laity, see Suzanne Reynolds, Medieval Reading (Cambridge: Cambridge UP, 1996), 61-72, and Clanchy 234-40. The books of the Paston family in the fifteenth century include religious works and romances by Chaucer and Lydgate. The inventories also include classical works such as *de Amicitia*, histories and books of statutes. H. S. Bennett, The Pastons and Their England (Cambridge: Cambridge UP, 1995), 261-2. Richard Barber The Pastons (Harmondsworth: Penguin, 1984), 119, 202-3. For a brief outline of literacy across social boundaries see Roger Chartier ed., The Culture of Print: Power and the Uses of Print in Early Modern Europe, trans. Lydia C. Cochrane (Cambridge: Polity, 1989), 1-10 (hereafter, Chartier, Culture). I acknowledge, here, Elton's warning against the imposition of a class structure. He states that: “it is not the age of the rising of a middle class, let alone a bourgeoisie, both meaningless terms in the context”. Elton, England 252.

¹⁵ William Shakespeare, A Midsummer Night's Dream, ed. Stanley Wells (Harmondsworth: Penguin, 1967).

¹⁶ Levy maintains that there were no restrictions of readership when the vernacular bible was introduced and that the 1543 act was brought about by the fear of uninformed reading. Fritz Levy, “The Decorum of News” in News, Newspapers and Society in Early Modern Britain, ed. Joad Raymond (London: Frank Cass, 1999), 12-38.

class not included in the groups above, were forbidden to read the bible “not to others any”. This prohibition was extended to upper class women, who were not allowed to read the bible in public, implying the literacy of some women, at least in this sector of society. It also hints at contemporary attitudes towards feminine literacy. The penalties were severe:

There shall be no annotations or preambles in Bibles or New Testaments in English. The Bible shall not be read in English in any church. No women or artificers, prentices, journeymen, servingmen of the degree of yeomen or under, husbandmen, nor labourers, shall read the New Testament in English [...]. If any spiritual person preach, teach, or maintain anything contrary to the King's instructions or determinations, made or to be made, and shall be thereof convict, he shall for his first offense recant, for his second abjure and bear a fagot, and for his third shall be adjudged an heretick, and be burned.

The 1543 act rehearses the language of the treason acts in its reference to “malicious minds”. It may have been inspired by a return to religious conservatism, but it seems to signal a certain anxiety regarding the rise of literacy, in its determination to “purge [the] realm of all such books, ballads, rhymes, and songs as be pestiferous and noisome”. Books printed before 1540, including “Statutes, Chronicles, Canterbury Tales, Chaucer's books, Gower's books and stories of men's lives” were excepted.

However, the incidence of literacy has been well attended elsewhere and is not my primary concern here. I wish, instead, to place emphasis upon a number of political and social issues predicated upon suspicions of literacy.¹⁷ The encouragement of a text based, or “reading only”, literacy by Tudor authorities directs the examination of this discrete skill here.¹⁸ Approved literature for the literate was reductive; the official view of literacy was poietic, systematically motivated for the dissemination of political as well as religious propaganda. It is the tension between the determination of the authorities to regulate access to literacy, and

¹⁷ Adamson 163-93. Cressy, *Social Order*, “Levels”. R. A. Houston. Schofield, ed. Goody, 311-25. Thomas, ed. Baumann, 97-125.

¹⁸ Sanders 89, 143, 169-71. Sanders uses this term in relation to the education of women, but it is applicable to both sexes in the context of social control to be discussed here.

the actual literary practices of the social groups that they wished to control, that will be examined here. Analysing this tension, I adopt a synthesis of the theories of Street's "autonomous" and "ideological" models of literacy and the "poetics" and "appropriation" models of de Certeau and Chartier.¹⁹ This synthesis is best expressed by turning to de Certeau:

Reading is thus situated at the point where social stratification (class relationships) and poetic operations (the practitioner's constructions of a text) intersect; a social hierarchization seeks to make a reader conform to the "information" distributed by an élite (or semi-élite); reading operations manipulate the reader by insinuating their inventiveness into the cracks in a cultural orthodoxy [...]. They thus collaborate in making reading into an unknown out of which emerges, on the one hand, only the experience of literate readers (theatricalized and dominating) and, on the other, [...] the indices of a common poetics.²⁰

The tension between poiesis and poetics directed the acts and proclamations drawn up to regulate the print trade and the circulation of books.²¹

Before attending to this legislature, however, a more complex form of censorship is of special significance. The concern with sedition, rather than heresy, within statutory and judicial censorship procedures, suggests the same need to interrogate the "imagination" displayed in treason statutes. A return to the language rehearsed in the Treason Laws is discernable in the proclamations and statutes drawn up to control press and stage. Sedition, like maliciousness, can be considered as a concept, rather than an enmity, in this context. The regulation of reading, the interpretation of texts, can be seen as a conceptual as well as legal issue. The possible encouragement of seditious thought and talk places the unregulated, unmonitored, reader in the place of a conspirator. The products of the printing press became the tangible,

¹⁹ Street, 8, 95-125. De Certeau 165-76. Chartier ed., *Culture* 1-10.

²⁰ De Certeau 172. De Certeau suggests that subversion can be achieved by the ways in which "consumers" make use of the "products" of the dominant elite.

²¹ Proclamations did not possess the legal validity of statutes, but since Henry VIII's act of 1539 declared that all proclamations made by the king should be obeyed (31 Hen. VIII, c. 8), they had been treated as such, despite later repeals of this act. Often a proclamation would enforce a previous statute or offer an explanation of some state action. They could not be used to promulgate treason. There was a marked increase in proclamations during the reign of Elizabeth, mainly concerned with behaviour.

overt acts required by the Tudor Treason Laws, their reading the possible “imagination” and “intent” of treason.

The authorities were not the only sector of society to view literacy with suspicion. While there were those who viewed the written word as a means to preferment and social, political and economic success, there were others to whom it posed a threat. The linguistically disadvantaged regarded the possession of literacy as part of a power, class and gender hierarchy, and a reification of authority and legislation. The illiterate were aware of their linguistic disability. In *Dr Faustus*, Envy, whose lowly parentage places him among the socially disadvantaged, complains: “I cannot read, and therefore wish all books were burnt” (5. 304-5), no doubt the attitude of many of his class. These variant perceptions of literacy were the foreground of a perpetuating polemic concerning the efficacy of oral or written representation. The antithetical attitudes provide the context for the legal and cultural interventions examined here and the dramatic exploration of this argument in the plays studied later.

Nowhere was the polemic regarding literacy more apparent than in religion. Anxiety over the act of interpretation was shared by Protestant and Roman religious and political authorities alike. Both Catholic and Protestant churches advertised themselves as religions of the Word, but held differing views regarding the definition of the Word of God. Rome held the belief that the traditions of the church and scripture were co-equal and that interpretation was the prerogative of its agency. Post-Reformation opinion recognised the bible as antecedent to the traditions of the church and the only true Word.

The Latin Vulgate was the accepted version of the bible in the Roman church, the Council of Trent permitting the use of translations, *biblia Vatabli*, solely for the elucidation of “learned and pious men”.²² Vernacularised scripture, combined with literacy, occasioned pre-

²² Ten Rules Concerning Prohibited Books Drawn Up By The Fathers Chosen By The Council Of Trent And Approved By Pope Pius V (1564). This was a confirmation of decrees of the Council during its sessions between 1545 and 1563.

Reformation doctrinal anxiety. There was concern that the literate might gain proprietary access to the “secret knowledge” contained in books. This would promote an understanding of the power that had underpinned much religious and political ideology.²³ Silent reading had been suspect since the shift from the vocalised reading practices in the early Middle Ages. Theological and political agencies regarded the privacy of the act of reading, previously the privilege of the élite, as a symptom of increasing, morally suspect, unmediated, enclosed behaviour.²⁴ Whereas the use of approved glosses and summas, mentioned above, ensured a patristic interpretation of texts among clerics and scholars, such an engagement could not be guaranteed within other sectors of society.

The Reformed Church appeared to value access to the written word, seeing a literate interpretation of the bible as an engagement with the true Word of God. This does not mean that post-Reformation religious and political authorities advocated universal personal literacy or embarked upon a literacy campaign. Rather, access to the written word became part of the discourse of the Tudor body politic. Keith Thomas writes of the sixteenth-century illiterate: “So long as they had access to someone who could read, therefore, there was no reason why others needed to be cut off from the culture of the written word”. Later, quoting Schofield, he refers to this circumstance as:

a bridge to be thrown across any supposed divide between the exclusively literate and illiterate groups within society [...] there was effective participation in the literate culture by essentially illiterate people.²⁵

²³ The Roman Church, supported by secular authority, had pursued a policy of censorship towards both oral and written deviations from church doctrine since Christianity was established in the Roman Empire. A list of banned books was published in the fifth century and single works were prohibited by papal edict. The threat of the printed book might be recognised in the growing number of works listed in the *Index of Forbidden Books* and the prohibitions of various Tridentine assemblies, in the fifteenth and sixteenth centuries. From 1487, there was rigorous pre-publication inspection. Severe punishment, including death, was awarded for evasion of regulation. The *Index* was issued periodically until 1948 and the position of censor was not abolished until 1965. However, in the manner of papal edicts, certain books are still advertised as unsuitable. A certain censorship might be recognised in the strict controls imposed upon university workshops in the thirteenth and fourteenth centuries.

²⁴ However, Gilmont suggests that a number of reading styles continued to be practised, especially in the reading of liturgical texts. Jean François Gilmont, “Protestant Reformations and Reading” in *The History of Reading in the West*, ed. Cavallo and Chartier (Cambridge: Polity, 1999), 213-37. Manguel writes of St. Augustine’s surprise at St. Ambrose’s silent reading in the fourth century. He suggests that, despite isolated early instances, silent reading did not become usual until the tenth century. Alberto Manguel, *A History of Reading* (London: Harper Collins-Flamingo, 1997), 41-53. See also J. W. Binns, “Printing and Paratext in the Sixteenth Century: The Oxford and Cambridge Press,” *Cahiers Élisabéthains* 50 (1988): 4.

²⁵ Thomas 107. Schofield, qtd. in Thomas, 312-13.

Schofield seems to be misplacing the site of “effective participation” to the illiterate, rather than to those in authority. This regulated participation is not quite the same as encouraging literacy, or giving the illiterate a proper place in that “literate culture”. It seems that Schofield's “bridge” was designed for one way traffic. The introduction of approved interpreters for official publications and scriptures is an indication of authoritarian control over what the illiterate could hear, and how they could hear it. Here we can discern an echo of the hegemony-enabling medieval “literate mentality”. Thomas later writes: “They lived in a world which was to a great extent governed by texts, even though they could not read themselves.”²⁶ The fact that he uses the word “governed” illustrates the plight of the illiterate - they were governed by text, and allowed access to a carefully scrutinised “literature”, not literacy, an access which was influenced by official interpretation.

The provision of schooling followed a complex and erratic pattern. Children of the nobility were generally tutored at home. Those children from classes below aristocratic rank, whose parents had the means to pay, attended the long-established elementary and “petty” schools. Here, basic reading, writing and arithmetic was taught as a preparation for the grammar school which offered Latin grammar, dialectic, rhetoric and arithmetic. Pupils from “petty” schools might not progress beyond this stage, but prosperous merchants and craftsmen would have the means to send their sons to a grammar school, or, as in the case of John Colet, establish one themselves.²⁷ Charitable endowment often offered poor, but gifted, children access to both elementary and grammar schools. The demand for education by aspirant social groups led to the establishment of many parish, alphabet and dame schools. Some of these were presided over by a schoolmaster, whose salary was frequently aided by the benefaction of a local dignitary who wished to encourage the education of the poor. Others were often instructed by persons with little literate skill. Standards of education differed greatly at these schools, some providing little more than a mnemonic relationship with the hornbook, while others might enable progress to the elementary and grammar school, the latter accepting only

²⁶ Thomas 107.

²⁷ St. Paul's School, 1508.

pupils who could read and write. Those with the necessary wealth, if not class, might even gain access to university.²⁸ Literacy was still the prerogative of the privileged and wealthy.

Attempts were made to introduce rigorous moral and political control by encouraging the publication of self-help guides towards the duties and responsibilities of the individual, within a carefully constructed social dynamic. A new form of collectivism was instituted, not promoting the subsuming experience of the Catholic church, but a consciousness of an ideal model of religious, domestic and national identity. Religious authorities were, however, faced with the realisation that the literate faithful were not just using their skills in a prescribed way. Adamson refers to the complaints of Bishop Nix of Norwich, in 1530 and 1534, concerning the keeping and reading, particularly among merchants, of “erroneous books in English”, and the difficulty of stamping out such practices.²⁹ The suppression of less edifying literature and potentially subversive works was not the only concern of religious and secular authorities. There was a perceived need for the regulation of devotional works, which may be discerned in the introduction of a model exegete in the reign of Elizabeth. At this time, the enduringly popular Geneva Bible was identified as undesirable by church authorities, who introduced, somewhat unsuccessfully, a more controlled version, the Bishops' Bible, in 1568.³⁰

Michel de Certeau draws our attention to that which most disturbed post-Reformation political and theological agencies - the “reciprocity between the text and its readers” and the “indefinite plurality of the 'writings' produced by readings” to which it had allowed subscription. Examined against this premise, the encouragement of a partial literacy by Tudor

²⁸ A brief outline of educational provision from the late fifteenth to the early seventeenth century can be found in John Guy, *Tudor England* (Oxford: Oxford UP, 1990), 17, 420-3 (hereafter, Guy, *Tudor*). Guy suggests that school attendance fluctuated according to the economic climate, which would effect a similar fluctuation in literacy rates. See also Jonathan Barry, “Literacy and Literature in Popular Culture: Reading and Writing in Historical Perspective” in *Popular Culture in England c.1500-1850*, ed. Tim Harris (London: Macmillan, 1995), 69-94. Also Cressy, “Levels” 18-23 and Houston 10-40.

²⁹ Adamson 169.

³⁰ The Geneva Bible was the product of Protestant refugees in Switzerland during the reign of Mary. Published in 1560, the version had no need for the imprimatur of either English or Roman church, a fact which, together with extensive and provocative marginalia, led to the disapproval of the Elizabethan establishment. A number of bishops, under the direction of Archbishop Matthew Parker, were given the task of compiling a revised, official version. Despite the publication of nineteen editions between 1568 and 1606, the Bishops' Bible never equalled the popularity of the Geneva version, which continued as the popular choice, even beyond the 1611 “King James” Bible.

authorities can be seen as an attempt to stratify the social structure. There was a linguistic demarcation of certain social groups, who, despite their literacy skills, could still be described as “the unlearned” or “the lower sort”. Williams suggests that the effect of this stratification was the further cultural and social decline of the “oral majority”.³¹ His premise suggests that the manipulation of this sector by the means discussed above was likely to be successful.

Reading was perceived as a means of extending social control and discipline, preserving hegemony and substantiating religious and political ideology. True literacy (knowledge of Latin, reading and writing) remained the preserve of the dominant group. The post-Reformation authoritarian concept of literacy was, then, socially structured and normative. It imagined a “literal” rather than a “literary” or “critical” (poetic) approach to the limited texts to which it approved access.³² However, it became apparent that the “indices of a common poetics”, while perhaps not exactly liberating, were being brought to bear upon the literature available to the reading public. There was a fear that this would encourage diagnostic and critical practices that might also serve to investigate religious and political power.

We might examine the logos of political and theological encouragement of literacy in the sixteenth century by pursuing de Certeau's notion of élite activities as productionist (or perhaps, in this case, reproductionist) practices.³³ The dominated group was expected to become one of mere consumerism. Trimbur, continuing the theory, suggests: “a direct correspondence between production (the message encoded) and consumption (the message decoded) [...], “preferred readings”.³⁴ However, de Certeau posits that consumption is in itself

³¹ Raymond Williams, *Culture* (London: Fontana, 1981), 109 (hereafter, Williams, *Culture*).

³² Comparisons might be made with Street's reference to national literacy campaigns in nineteenth-century Canada. Street 104-10. Using Graff's analysis of these campaigns, Street makes many comments on the use of an “ideological model of literacy” as a means of social control in nineteenth-century Canada. Harvey J. Graff, *The Literacy Myth: Literacy and Social Structure in the 19th Century City* (New York NY: Academic P, 1979), qtd. in Street 104-10. These maxims might be applied to the situation in sixteenth-century England. See also Graff on nineteenth-century North American literacy campaigns. Graff 260-1, 340-72. We might also compare Graff's attention to the ways in which oral, visual and literate practices were successfully integrated by nineteenth-century “illiterates” with similar practices in the sixteenth century.

³³ De Certeau xii-xxii.

³⁴ John Trimbur ed., *Popular Literacy* (Pittsburgh PA: U of Pittsburgh P, 2001), 6.

another kind of production, (or, perhaps counter-production) which is:

devious, it is dispersed, but it insinuates itself everywhere, silently and almost invisibly, because it does not manifest itself through its own products but rather through its ways of using the products imposed by a dominant economic order.³⁵

Evidence of an awareness of this “counter-productive” activity and the need for the correct use of its “products” can be observed in the increasing emphasis by the Reformed church upon a policy of intervention. Educated preachers and ministers were employed in the interpretation of the bible and other approved works. Erasmus, who had previously promoted private reading, effected a “*volt-face*” in the 1520's. He now preferred guidance by pastors. The ministers were not like the mystical interpreters of the Roman church, but formed a kind of *cadre* to persuade the general public toward orthodox readings of the approved canon. Often appointed by magistrates, strictly regulated and licensed, they represented an interlocutory device that was part of the state and church hierarchical apparatus.

The Protestant minister and homilistic literature invaded the space of the reader in the same way that the Catholic icon had invaded the space of the illiterate. Despite this intervention, theological authorities were still aware of the possibility of personal “unauthorised” readings. This was not the only cause of official anxiety. It was also recognised that the spiritual containment of the “product” of literacy (or, more precisely, reading) was not sufficient to ensure the dissemination of ideological precepts. The material “products,” the texts

³⁵ De Certeau xii-iii. De Certeau's theories might be compared to those of Alan Sinfield's “cultural production” - intellectual activities. Sinfield writes:

Protestant conviction conferred the personal and institutional confidence for a part of this work. It all marks a decisive change in the conditions of cultural production; one occurring at a point where fundamental matters of economic, social, cultural and political organisation were in question. Alan Sinfield, Faultlines: Cultural Materialism and the Politics of Dissident Reading (Oxford: Clarendon, 1992), 143-80 (hereafter, Sinfield, Faultlines).

Perhaps Protestant-inspired literacy was situated at the same point. See also Greenblatt's “submission” and “negation” in Renaissance Self-Fashioning: From More to Shakespeare (Chicago IL: U of Chicago P 1980), 123-8 (hereafter, Greenblatt, Self-Fashioning). Also, Williams' “asymmetry”, Williams, Culture 99-108. De Certeau's use of “insinuates” might also remind us of Eco's empty spaces and gaps that must be actualised in the reception of messages. Eco, like de Certeau, suggests that these gaps can be exploited to resist the ideological message. A summary of Eco's propositions can be found in Michael Caesar, Umberto Eco: Philosophy, Semiotics and the Work of Fiction (Oxford: Polity, 1999), 28-53.

themselves, must also be controlled.³⁶ The book ownership of the “unlearned” was largely confined, by basic literacy skills and lack of financial power, to the Bible and a few religious, exegetical and didactic texts. However, there was a sector (rather than a class) of the public whose sophisticated literacy skills and, or, wealth concerned the authorities.³⁷ This social group had access to the wide range of literature made available by the printing press. It was here that the authorities recognised the need for an increase of censorship and a number of control mechanisms were introduced which were intended to regulate the circulation of books.³⁸ I say “intended” because, even here, we can find evidence of de Certeau's devious insinuation in Annabel Patterson's theory concerning censorship:

the historical condition of censorship united writers and readers in a common interest as to how interpretation worked, not just the interpretation of the texts but the interpretation of censorship laws.³⁹

This premise is reflected in Janet Clare's suggestion of “codes of reference, familiar to both writer and reader”, that enabled the circumvention of prohibitions.⁴⁰

³⁶ Protestant opinion did not share the Roman church's disapproval of vernacular works and can be seen as instituting a kind of “positive censorship” in the recognition of appropriate vernacular texts. It was inappropriate works, disseminated by a potentially subversive medium, that led to the introduction of more stringent licensing conditions for the print trade. A regulating strategy was introduced by the granting of monopolies and licences which effectively restricted print shops to urban areas (mainly London). Initially successful, this regulatory process did not prove to be a sufficient safeguard, leading to the restrictive acts which will be discussed here.

³⁷ Sinfield refers to this group as “intellectuals”, not necessarily confined to one class of society. Sinfield, Faultlines 172.

³⁸ Clegg suggests that the study of the censorship laws of any culture: “can locate not only where power resides, but what instabilities exist in the grounding of that authority”. Susan Cyndia Clegg, Press Censorship in Elizabethan England (Cambridge: Cambridge UP, 1997), xiii (hereafter, Clegg, Elizabethan). David Loades adds: “Censorship was thus an inevitable consequence, not only of an insecure regime but also of the responsibility which had rested upon the monarchy time out of mind to protect society from its own destructive instincts, [...]”. Loades 7.

³⁹ Annabel Patterson, Censorship and Interpretation (Madison WI: U of Wisconsin P, 1984), 44-45 (hereafter, Patterson, Censorship).

⁴⁰ Janet Clare, “‘Art Made Tongue-tied by Authority’: Elizabethan and Jacobean Dramatic Censorship 2nd ed. (Manchester: Manchester UP, 1999), 41-2 (hereafter, Clare, Art). Patterson and Clare give attention to certain anomalies in the implementation of censorship laws. Along with Clegg, they refer to many instances where censorship was relaxed or even non-existent. This may have indicated the difficulty of enforcement or perhaps a political stratagem. Recognising the power of the press, the authorities may have found it more effective to allow publication of certain books, beneficial to their purposes, that might otherwise have contravened censorship laws. Burke also suggests the concept of compromise, even collusion, in the maintenance of cultural hegemony. Peter Burke, Popular Culture in Early Modern Europe (1978; Aldershot: Ashgate, 2001), xvi-xxii. Houston also writes: “Propaganda was probably more important in shaping public opinion than proscription of certain literature”. Houston 166. The theories of these critics appear to take a slightly different stance to that of the “appropriation” theories of de Certeau and Chartier.

A proper regard for the power and influence of the press, and the increasing access to its publication may be observed in the institution of Henry VIII's caesaropapist licensing system in his Proclamation for Seditious Books issued in 1534. It may be significant that this was the same year in which the Treason Act recognised certain writings as treason. The sanctions against seditious books were extended in another proclamation in 1538. Printers were required to present all books to the Archbishop of Canterbury or the Bishop of London, as agents of the supreme head of the English Catholic Church. In 1539, treasonable writing and printing was further defined as heresy, along with preaching and teaching contrarily to the Articles of Faith, by the Act for abolishing diversity in opinions (1539: 31 Hen. VIII, c.14).

The Henrician pre-print licensing system continued throughout the reign of Edward VI. Following the introduction of the Prayer Book of the Church of England, the first Act of Uniformity in 1549 (2&3 Ed. VI, c. 1) prohibited the use of all Catholic prayer books and books of instruction. All old service books were to be destroyed (3&4 Ed. VI, c.10). Echoes of treason acts are found in the use of the words "intent or devise" in the proclamation of 1551 (5&6 Ed. VI, c. 12), and the association of printed matter and sedition in the same document.⁴¹

Though repealing most Henrician and Edwardian laws concerning the Church, and returning to predefinitions of heresy, Mary I retained the licensing laws of her father, and Marian censorship laws were extended to include all books and printed matter. A charter was issued to the Stationers' Company in 1556 with injunctions concerning the registration of all books printed in England and banning the importation of all foreign books. This benefited the Stationers' Company by granting an unofficial monopoly to its guild members, while it effectively provided Mary with a policing agency. The company's copyright was seen, not so much as the protection of intellectual property, but as a further censorship device. Mary's fear of the written word is reflected in the numerous proclamations against anti-papist books and authors, one, in 1555, including, in papal manner, a list of forbidden books:

⁴¹ Paul L. Hughes, and James F. Larkin ed., Tudor Royal Proclamations 3 Vols. Vol. 2 The Late Tudors (New Haven CT: Yale UP, 1969), 517.

That is to saye, any boke or bookes, wrytinges, or workes made or set forth, by, or in the name of MARTYN LUTHER, [...], ERASMUS SARCERIUS, PETER MATYR, HUGHE LATYMER, ROBERT BARNES, otherwyse called freere BARNES, JOHN BALE, otherwise called freer BALE, JUSTUS JONAS, JOHN HO[O]PER, MYLES COUERDALE, WYLLYAM TYNDALE, THOMAS CRANMER [...], and the boke commonly called HALLEs Cronycles or any of them, in the latyne tongue, Duche (German) tongue, Italyan tongue or Frenche tongue or any other lyke boke, paper, wrytyng or worke made, printed or set forth [...], conteynyng false doctryne, contrarye, and agaynste the catholique faythe, and the doctrine of the catholyque Church.⁴²

Powers to search and destroy were extended by a proclamation of 1558 (4 & 5 Philip and Mary) and those found to be in possession of seditious material were subject to execution under martial law.⁴³

The failure of these draconian measures can be estimated by the opening lines of the Proclamation of 1558, which echoed the sentiments of the Stationers' Charter, issued two years earlier. Here, civil and religious disobedience are given equal weight:

Wheras dyuers bokes filled bothe with heresy, sedityon and treason, haue of late, and be dayly broughte into thys Realme, oute of forreine countries and places beyond the seas, and some also couertly printed in within this Realme, and cast abroad in sondrye partes thereof, whereby not onley God is dishonored, but also encoragemonte giuen to disobey laweful princes and gouernors.⁴⁴

Testament to the success of the Protestant press in exile can be observed in the words of the Bishop of Winchester at Mary's funeral, when he referred to the books coming from Geneva and Germany as the vanguard of the expected return to English Catholicism. This seems to suggest that, despite all preventative measures, books were successfully smuggled into the country.

⁴² Edward Arber, A Transcript of the Stationers' Registers: 1554-1640 A. D. Vol. 1 (1875; Gloucester MA: Peter Smith, 1967), 52.

⁴³ Martial law was used to prosecute acts of rebellion, as in the Pilgrimage of Grace in 1537, when the Duke of Norfolk used a commission of oyer and terminer to prosecute the ringleaders, fearing that they might go free under Common Law. It did not require indictment or trial. The 1558 document actually defines the owners or readers of these "wicked and seditious books" as rebels. Hughes and Larkin 90-1.

⁴⁴ Arber 92.

The return to Protestantism upon Elizabeth's accession in 1558 did little to temper the existing censorship laws. The Confirmation of the Stationers' Company Charter was issued in 1559, with no change to Mary's injunctions. The previous licensing laws continued, but now the print trade was mainly restricted to London. Oxford and Cambridge were allowed one press, each press able to employ no more than one apprentice. The combination of political and religious elements in Elizabethan censorship policy can be observed in the addition of privy councillors to those authorities allowed to grant licence to publish.⁴⁵ The clandestine Roman Catholic press seems to have been as successful as the previously outlawed Protestant trade and was met with the same measure of proscriptiveness. No less reluctant than her predecessors to use prerogative laws, Elizabeth issued a number of proclamations that were designed to increase efforts to suppress undesirable literature. As well as an increase in pre-publication censorship, the powers of search and seizure were extended.⁴⁶ The threat of papist presses abroad may be recognised in the identification of unauthorised printed imports as contraband. These prohibitory acts were augmented by a network of policing and espionage agencies, existing solely for the investigation of the press and its products, with rewards offered to informers.

The illiterate were not excused, for even to see such a book could earn punishment. Those unable to read were advised to hand over any book they came across, in case it might prove to be seditious. In 1569, a proclamation declared a twenty-eight day "amnesty" for handing in forbidden books to local authorities:⁴⁷

[...]: So her majesty (meaning of her clemency neither to have any advantage taken for things herein already past, nor any her honest and quiet subjects to be entangled with the like hereafter for lack of admonition in due time) willeth and earnestly chargeth all manner of persons to forbear utterly from the use or dealing with any such seditious books: [...]; and that such as already have any of the said books shall present

⁴⁵ Arber xxxii.

⁴⁶ As in the search for John Stowe's "great sorte of folishe fabulous bokes" in 1569. Arber 93-4. A list of the books is also given. See also Hughes and Larkin 312-13.

⁴⁷ Arber 430.

or cause to be presented, the said books, within twenty eight days of the publishing of this proclamation, to the bishop of the diocese or ordinary of the place, and to receive of him a testimonial of the time of the delivery thereof [...]. (1569 Elizabeth I, 11)⁴⁸

This seems to have met with little success, Archbishop Parker reporting that, despite the threat of harsh punishments for the ownership of, or failure to surrender, such publications, not one book had been brought in. Four years later a similar proclamation was issued, with the same lack of success, as the Bishop of London advised Lord Burghley:

I thought it my dutie to advertise your Lordship that althoughe the date of the late proclamation for bringinge in of the admonition to the parliament and other sedicious bokes, is alreedy expired, yet the whole Citie of London, where no dowt is greate plenty, hath not brought one to my handes and I can hardely think yat your Lordships of hir Majesties privey Counsell have received many, whearby it may easily appeare, what boldenesse and disobedience thes new writers have alreedy wrought in the myndes of the people: [...].⁴⁹

Here, we can discern, once more, the concern regarding the effect of such literature upon the minds of the readers, echoing the same concerns expressed in the contemporaneous treason laws.

Again, we can assess the success of these measures by attending to the various statutes and proclamations of the period. The Star Chamber decree concerning printers of 1586, the culmination of all previous statutes and proclamations, issued twenty years after the Privy Council's Order against seditious books, begins thus:

Whereas sundry decrees and ordinances have upon grave advice and deliberation been heretofore made and practised for the repressing of great enormities and abuses as of late (more than in times past) have been commonly used and practised by divers contemptuous and disorderly persons professing the art or mystery of printing and selling of books; and yet, notwithstanding, the said abuses and enormities are nothing

⁴⁸ Hughes and Larkin 312-13.

⁴⁹ Letter from the Bishop of London to Lord Burghley, then Treasurer, 2nd July 1573. Arber 217.

abated, but (as is found by experience) do rather more and more increase, by the wilful and manifest breach and contempt of the said ordinances, [...].⁵⁰

reflecting the sentiments of the Marian proclamation of 1558. Nearly thirty years of censorship, and a change of religious doctrine, seems to have had little effect upon the output of those who wished to challenge political and religious ideological precepts, through the print culture, or upon those who wished to read such challenges. As Sinfield observes: “the reiteration of a doctrine by authority probably indicates that it was widely ignored or mistrusted”.⁵¹

Though largely directed against papist literature, Elizabethan censorship was also concerned with the non-conformist publications of the Puritan and Separatist presses. The latter half of the sixteenth century saw an increase in the output of tendentious pamphlets and broadsheets by those who saw the need for further reform within the church. Such practices encouraged the passing of An Act to retain the Queen's subjects in obedience (1593: 35 Eliz. 1, c.1). This act, also known as the Act against Seditious Sectaries, specifically designed to combat sectarianism, recognises seditious printing and writing as felonies, overt acts impugning royal authority. With the rejection of various admonitions to Parliament, Puritan parties resorted to conversion as a means of effecting reform and used the press in hope of achieving their aims, a threat recognised in the wording of the 1593 act:

[...] if any persons or persons above the age of sixteen years[...]shall [...] by printing, writing or express words or speeches, advisedly and purposely practise or go about to move or persuade any of her Majesty's subjects [...] to deny, withstand and impugn her Majesty's power and authority in causes ecclesiastical [...] or [...] move or persuade any other person whatsoever to forebear or abstain from coming to church to hear divine service or to receive the communion [...]. That then every such person so offending as aforesaid, and being thereof lawfully convicted, shall be committed to prison, there to remain [...]until they shall conform and yield themselves to some church, chapel or usual place of common prayer and hear divine service. [...].⁵²

⁵⁰ J. Strype, The Life and Works of John Whitgift Vol. 1 (Oxford: n. p., 1822), 423-4 qtd. in Elton, Constitution 182-7.

⁵¹ Sinfield, Faultlines 152.

⁵² Elton, Tudors 458-61.

The Puritan practice of using “prophesyings” (gatherings dedicated to the study and interpretation of the scriptures) was also a cause for alarm. Perceived as an unwelcome intervention and a challenge to orthodox readings, these meetings were seen as the kind of “counter-productivity” that had prompted anxiety since Protestant encouragement of “passive literacy”. Part of the Puritan conversion strategy, these meetings were no more encouraging of a literate interaction with the scriptures than the practices of the Established Church had been. Literacy was viewed as a possible hindrance to the semantics of the dominant group. The exegetical success of these prophesyings may be assessed by the fact that many of the smaller, more radical, non-conformist groups were composed of illiterate or barely literate persons. Although the prophesyings were seen by many, like Edmund Grindal, as harmless, the queen advised that those taking part in such assemblies should suffer judicial prosecution and imprisonment.⁵³ Church and government were well aware of the effectiveness of the press, using it themselves for propaganda, publishing proclamations, posters, broadsheets and pamphlets, as did radical Puritan propagandists.⁵⁴ As Houston writes:

The other side of 'censorship' was to foster certain kinds of output in order positively to shape opinion rather than simply suppressing the unacceptable. Indeed, many of the developments in printed literature, notably in papers and broadsheets, came about through the political will of governments. Propaganda was probably more important in shaping public opinion than proscription of certain literature.⁵⁵

The use of print to disseminate official publications also sought to capitalise on popular

⁵³ Letter from Edmund Grindal to Queen Elizabeth, 20 December 1576. J. Strype, *The Life and Acts of Edmund Grindal* (Oxford: n. p., 1821), 566-9 qtd. in Elton, *Constitution* 452-3. The Queen's letter suppressing prophesyings, 1577. E. Cardwell *Documentary Annals of the Reformed Church of England 1546-1716* Vol. 1 (Oxford: n. p., 1839), 37 qtd. in Elton, *Constitution* 453-5. See also Annabel Patterson, “Re-opening the Green Cabinet: Clément Marot and Edmund Spenser,” *English Literary Renaissance* 16 (1986): 44-70 esp. 64 (hereafter, Patterson “Cabinet”).

⁵⁴ The pamphlet was an immensely popular tract that was used by government agencies and dissenters alike. The quality of these tracts varied between scholarly treatises and works resembling the tabloid press. The success of the pamphlet may be estimated by the extended pamphlet war of the Marprelate controversy of 1588-9. The church employed writers, such as Lyly and Nashe, to contradict radical Protestant criticism in the Marprelate pamphlets, before they were finally suppressed. There was employment of populist styles in pamphlets by both sides. Critics often parodied official discourses, while authorities adopted sensational styles for government propaganda. Dutton suggests that Lord Burghley was responsible for several anonymous pamphlets in the 1580s. Richard Dutton, *Licensing, Censorship and Authorship in Early Modern England* (New York NY: Palgrave, 2000), 190 (hereafter, Dutton, *Licensing*). Reliance upon the immediacy of print might be seen to point to an increase in readers. Elizabethan authorities were faced with, not just a rise in literacy, but an increase in the methods used to exploit the skills of literacy by various dissident agents.

⁵⁵ Houston 166.

preconceptions of the truthfulness of print. In The Winter's Tale, Mopsa articulates the contemporary credit given to print especially by those whose experience of it was scant or second hand: "I love a ballad in print, a life, for then we are sure they are true." (4. 4. 258-9) Autolycus's list of preposterous episodes given credence by their printed form (4. 4. 260-82), underlines the recognised effectiveness of print.⁵⁶ Although a large percentage of the population remained illiterate, the possibility of a greater access to print must be evident in the extraordinary lengths to which the authorities were prepared to go to regulate the production and circulation of writing.

In one area, however, censorship seems to have been puzzlingly erratic. This is the theatre. Trans-historic political and doctrinal arguments concerning mimesis, representation, didacticism, blasphemy and social hierarchy continued to dominate attitudes towards the public theatre in Renaissance England.⁵⁷ The same threat of social dislocation and ideological displacement, apparent in access to literacy, was present in both plays and playgoers. This last, very often, composed of the same social groups, whose reading tastes and habits had so concerned political and religious authorities. It was the possible social effect of the theatre upon such playgoers that provides the subtext of the diatribes of anti-theatrical polemicists such as Northbrooke, Gosson and Stubbes, Gosson likening both inappropriate dress and the theatre to the overflow of contaminating sewerage:

How often hath her majesty with the grave advice of her honourable councell, sette downe the limits of apparel to every degree, and how soone hath the pride of our harts overflowed the chanel? How many times hath access Theaters been restrained, and how badly againe have we reentered?⁵⁸

⁵⁶ William Shakespeare, The Winter's Tale, ed. Stephen Orgel (Oxford: Oxford UP, 1996).

⁵⁷ Barish reminds us that, even today: "terms borrowed from the theater - *theatrical, operatic, melodramatic, stagey*, etc. - tend to be hostile and belittling" adding: "The fact that the disapproval of the theater is capable of persisting through so many transformations of culture, so many dislocations of time and place, suggests a permanent kernel of mistrust." Jonas Barish, The Anti-Theatrical Prejudice (Berkeley CA: U of California P, 1981), 1, 4.

⁵⁸ John Northbrooke, A Treatise wherein Dauncing, Vaine Playes or Interluds [...] are reprov'd (1557) qtd. in Jean Howard, The Stage and Social Struggle in Early Modern England (London: Routledge, 1994), 23-31. See also Steven Mullaney, The Place of the Stage: License, Play, and Power in Renaissance England (1988; Michigan MI: U of Michigan P, 1998), 51-2, 72-3. Stephen Gosson, The Schoole of Abuse, Containing a plesaunt invective against Poets, Pipers, Plaiers, lesters, and such like Caterpillars of a Comonwelth (1579) Literary Theory Full-Text Database (Cambridge: Chadwyck-Healey, 1999), 19. 08 Mar. 2009 <<http://lion.chadwyck.co.uk>>.

What caused these critics most concern was the threat of immorality, social displacement and disobedience, particularly in women. It was idleness and the flouting of sumptuary laws, such as those pertaining to apparel, to be found at the theatre, rather than the content of plays, that seems to have invoked a kind of paranoia about playgoing, as a source of what Eccles calls “inflammatory social promiscuity”.⁵⁹ As Gosson protested:

[...] Overlashing in apparel is so common a fault that the very hyerlings of some of our players, which stand at reversion of vi.s, by the weeke, iet under Gentlemen's noses in sutes of silke, exercising themselves to prating on the stage, [...].

Another critic of the theatre, Philip Stubbes, was also sensitive to the social threat to be found in attire:

And therefore, when I speake generally of excesse of Apparell by my meaning is of the inferior sorte onely, who for the most parte do farre surpasse, either noble, honourable or worshipfull ruffling in Silks, Velvets, Satens, Damasks, Taffeties, Gold, Silver and what not, with their swords, daggers and rapiers guilte, and reguilte, burnished and costly and with all things els that any noble, honourable, or worshipfull Man doth or may weare as the one cannot be discerned from the other.⁶⁰

Complaints made by the city authorities to the Privy Council, which was often supportive of the commercial stage, were motivated more by the fear of rioting and public disorder that often broke out at theatres, than political or religious issues. Although, by 1600, the Privy Council was attempting, somewhat unsuccessfully, to limit the number of venues and performances in the city. But what lay beyond this moral and civil censure?

⁵⁹ Christine Eccles, *The Rose Theatre* (London: Nick Hern, 1990), 30.

⁶⁰ Phillip Stubbes, *Of Stage playes and Enterluds; Of music in Ailgna, and how it allureth to vanitie; and A fearfull lodgement of GOD, shewed at the Theatres [in] The Anatomie of Abuses [...]*. (1583) *Literary Theory Full-Text Database* (Cambridge: Chadwyck-Healey, 1999). 08 Mar. 2009 <<http://lion.chadwyck.co.uk>>. Stubbes obviously has the sumptuary laws of apparel in mind. As Howard states: “These edicts state who could wear certain colors (such as purple), certain fabrics (such as silk), and certain adornments (such as spurs, daggers, jewels). In myriad ways, clothes distinguished one social group from those both above and below; they were precise indicators of status and degree.” Howard 97.

It was not that there was no official censorship of the theatre in the Tudor period. Efforts had been made to eradicate liturgical drama since the outset of the Reformation, when such theatrical interludes had been seen as part of the iconography of the Roman Catholic church. Censorship was controlled, mostly through Injunctions and Proclamations, by the sovereign or the Privy Council. At the beginning of Elizabeth's reign a proclamation was issued which required licensing of plays. The inclusion of all royal officers as licensing agents placed censorship in the hands of local authorities. They were to permit:

[...] none to be played wherein either matters of religion or of the gouvernaunce of the estate of the common weale shalbe handled or treated, being no meete matters to be wrytten or treated upon but by menne of authoritie [...].⁶¹

This local influence ended when the responsibilities of the office of the Master of the Revels were extended from supervision of court entertainments to licensing and censorship of the commercial stage.⁶² Despite the power of the Revels' office to imprison playwrights or players, very few were imprisoned, nor were the draconian punishments of the book trade visited upon the authors or actors of stage plays.⁶³ The laws of libel could act as a form of censorship, as they enabled prosecution for sedition. The libel laws also allowed actions to be brought by offended prominent citizens or aristocrats.⁶⁴ What, then, accounted for this ambivalence and tension in censorship of the theatre?

Perhaps one explanation for this latitude of tolerance might be explained by Joel Altman's theory concerning the influence of the rhetorical skill of *in utramque partum*, debate, upon the

⁶¹ Hughes and Larkin 115-16.

⁶² Eccles suggests that the theatre was so popular that no control system lasted for long. Eccles 74-5.

⁶³ Ben Jonson was imprisoned, along with actors Robert Shaa and Gabriel Spencer, in 1597, for his part in The Isle of Dogs and again in 1605, with fellow writers of Eastward Ho!, Chapman and Marston. Ben Jonson, John Marston, and George Chapman, Eastward Ho! (1605) (London: Nick Hern, 2002). In both cases release was not long in coming and the threatened nose-splitting and ear-shaving for the 1605 offence was not carried out. Jonson was also summoned before the Privy Council and various courts between 1601 and 1632. Even the actors involved in Essex's staging of Richard II, in 1601, were interviewed and then allowed to go free.

⁶⁴ Dutton further suggests a measure of self-censorship, citing the interventions of the scrivener, Ralph Crane, in the Lansdowne Manuscript, of Middleton's A Game at Chess. Dutton, Licensing 155-61.

development of the Elizabethan theatre.⁶⁵ Altman's study is extensive, with many examples of the discontinuities in Renaissance drama which might be explained by this rhetorical element. Hattaway also subscribes to this theory. Reminding us of the enactment of dialogues and plays by students of rhetoric, he sums up the case for the influences of dialogue and dialectic thus:

This particular rhetorical skill, combined with traditions of school and academic playing, encouraged the flowering of drama. Drama grows from conflict or debate. This is important [...] because for a long time there was a tendency to present Renaissance drama as moral, if not moralistic, supportive of the 'order' [...]. If we remind ourselves of these kind of these rhetorical structures [...], we may more be able to see how Renaissance drama was deliberative or even interrogative of the causes and institutions of the period.⁶⁶

This might be reflected in the acceptance of "moral plays" in The Act for the Advancement of True Religion, and edicts of the Marian period which allowed the production of Latin plays within universities and Inns of Court, while plays in English were restricted.⁶⁷

The deliberative and interrogative stance of Renaissance drama has influenced the several New Historicist approaches towards the discursivity of theatrical censorship during this period. These theories of subversion, negotiation, consolidation, containment, production, marginality, geographic, cultural and state theatrical power, are not my concern here.⁶⁸ I see erratic censorship of the theatre as directed by the same apprehensions of royal power as the

⁶⁵ Joel B. Altman, *The Tudor Play of Mind* (Berkeley CA: U of California P, 1978).

⁶⁶ Michael Hattaway, *Renaissance and Reformations: An Introduction to Early Modern English Literature* (Oxford: Blackwell, 2005), 29-30 (hereafter, Hattaway, *Renaissance*). Shepherd, however, suggests that the audience might introduce a significant dichotomy into these two modes of drama: "The difference between didactic dialogues and playhouses is, that the former can exert a certain amount of control over the audience, in that the audience have to be the sort of people who are literate". Simon Shepherd, *Marlowe and the Politics of Elizabethan Theatre* (London: Harvester, 1981), 42.

⁶⁷ Dutton, *Licensing* 6.

⁶⁸ Sinfield, *Faultlines*. Jonathan Dollimore and Alan Sinfield ed., *Political Shakespeare: Essays in Cultural Materialism* 2nd ed. (Manchester: Manchester UP, 1996). Jonathan Dollimore, *Radical Tragedy: Religion, Ideology and Power in the Drama of Shakespeare and his Contemporaries* (Hemel Hempstead: Harvester Wheatsheaf, 1989). Greenblatt, *Self-Fashioning*. Howard. Mullaney. Louis Adrian Montrose, " 'Eliza, Queene of Shepheardes' and the Pastoral of Power" in *The New Historicism Reader*, ed. H. Aram Veesser, (New York: Routledge, 1994), 88-115. François Laroque, *Shakespeare's Festive World*, trans. Janet Lloyd (1988; 1991; Cambridge: Cambridge UP, 1993).

treason laws of the period, which were essentially centred upon the royal person. Theatrical performance was censored when it touched upon the monarch, particularly as notions of absolutism increased.⁶⁹ A case in point is the perceived sedition of Eastward Ho! in 1605. Not only was anti-royal racism, in the form of anti-Scottish dialogue, identified, but criticism of the king in references to the purchase of knighthoods:

1st GENT. [...] Farewell, farewell, we will not know you for the shaming of you. I ken the man weel, he's one of my thirty pound knights.

2nd GENT. No, no, this is he that stole his knighthood o' the grand day for four pound, giving to a page all the money in's purse I wot well.(4. 1)

We can also identify a veiled criticism of James' knights in the portrayal of the adulterous, drunken, profligate Sir Petronel Flash. Although aspirant merchant classes are satirised in this play, the insult to the monarch was the reason for its banning and imprisonment of its authors.⁷⁰

Royal and aristocratic patronage was extended to the commercial stage, but even this can be seen as a means of control - censorship does not always mean prohibition. However, mistrust of this cultural phenomena can be seen in the employment of informers and spies at both public and private performances when "watching" became surveillance.⁷¹ But we might see the theatre as another social and cultural device for filling the cracks and gaps in the ideological message, causing authorities the same concern as the acquisition of literacy. The

⁶⁹ References to previous incidences of treason also aroused the intervention of the Revels' office. Samuel Daniel (himself licenser to the Queen's Revels' Boys) fell foul of the authorities when his play, Philotas, was seen to be a comment on the Essex rebellion.

⁷⁰ Dutton suggests that this accusation of sedition was: "compounded by the failure to have the play licensed at all". Dutton, Licensing 9. Mullaney identifies: "a round of imprisonments" at the beginning of James' reign. Mullaney 135.

⁷¹ Two such spies were Robert Poley and Parrot, employed, not just in the theatre, but as general informers. Poley was instrumental in the surveillance and apprehension of Anthony Babington. Both were involved in the repression of the Isle Of Dogs.

public theatre was, however, just that, public, unlike private reading, the products of the theatre and its audience were always on show. Dangerous attempts to evade regulation could easily be exposed, censored and banned, scripts perused and appraised. There was one area, however, where the same kind of surveillance could not be assured, where regulation could more easily be subverted, the discreet literary skill of writing and its unmediated use.

Chapter 3

“A blank, my lord”: ¹ Virtuous Illiteracy in Twelfth Night

Although lightly touched upon in the previous chapter, the question of feminine literacy will be an intrinsic component of the investigation of the women of the plays to be considered in this study. In Chapter Two it was suggested that the control of reading instituted a demographic of literacy as an ideological agency. The social positioning of women within this demographic is crucial to the understanding of the present study's examination of the female actors of the plays. As Sanders writes:

Acts of reading and writing became sexualized, expressions of a woman's virtue (or shamelessness) or man's virility (or effeminacy), and they became sex-specific, indicators of the relative status of men and women, with different levels of literacy assigned to each.²

Whereas the “shamelessness” of female literacy will be examined in the three plays to be given major consideration later, the reading of Twelfth Night, here, will analyse the apparent literate virtue of Olivia and Viola within a wider culture of repression and restricted agency.

At first, the two major female actors of Twelfth Night may seem to be as subversive as the women of the three plays to be studied later in this thesis. Viola dons male garb, Olivia, in her independence and refusal to marry, poses what Jean Howard recognises as: “the

¹ William Shakespeare, Twelfth Night, ed. Roger Warren and Stanley Wells, Oxford World's Classics (1994; Oxford: Oxford UP, 1998), 2. 4. 110.

² Sanders 1-2.

political threat of female insurgency.”³ Both women might appear to be usurping the male role. However, this apparent appropriation of masculinity will be shown to be, here, not that which Catherine Belsey sees as a “gap” through which we are able: “to glimpse a possible meaning, an image of being which is not a - sexual, nor bisexual, but which disrupts the system of differences on which sexual stereotyping depends”, but that which is contained within patriarchal attitudes toward feminine literacy.⁴ We have seen, in the previous chapter, how the Act for the Advancement of True Religion placed restrictions upon women’s reading, as Eve Rachelle Sanders observes:

While the act was later repealed, the tenet behind it became institutionalised in sixteenth-century England. For the authors of the 1543 legislation, the principle that literacy needed to be regulated on the basis of gender was so critical that they were willing to override considerations of class to enforce it, to place a noble woman under the same restrictions that applied to a tradesman.⁵

Women’s writing was also restricted, not by statute, but by cultural perception. It was not that women were excluded from writing, but their scribal activity was, like their reading, to be directed towards piety and female decorum.⁶ This linguistic containment is crucial to the present reading of the play.

Associations with letters and writing will be shown to be a decisive factor in the dramatic identity of the women in King Lear, Macbeth and The Spanish Tragedy. Goneril’s, Bel-

³ Howard 112. Greenblatt suggests that Queen Elizabeth might serve as a model for such strong female characters. Stephen Greenblatt, Shakespearean Negotiations: The Circulation of Social Energy in Renaissance England (1988; Oxford: Clarendon, 1999), 69 (hereafter, Greenblatt, Negotiations).

⁴ Catherine Belsey, “Disrupting Sexual Difference: Meaning and Gender in the Comedies” in Alternative Shakespeares, ed. John Drakakis 2nd ed. New Accents (London: Methuen, 1985), 170-94.

⁵ Sanders 17.

⁶ There were, of course, notable exceptions. Apart from well-known examples, Janet Clare promotes Ann Askew, Margaret Tyler, Mary Sidney, and Isabel Whitney as “Going beyond culturally sanctioned writing practices”. Janet Clare, “Transgressing Boundaries: Women’s Writing in the Renaissance and Reformation,” Renaissance Forum 1 (1996), 30 Oct. 2001 http://www.hull.ac.uk/Hull/EL_Web/renforum/v1no1/clare.htm>. (Hereafter, Clare, “Boundaries”). Sanders gives other examples of women, who, despite restrictions, achieved scribal autonomy, in particular, Grace Mildmay and Anne Clifford, whose output was extensive and prodigious. Sanders 180-95.

Imperia's and, to a lesser extent, Regan's, linguistic empowerment is an important element in their portrayal as culturally subversive females. Lady Macbeth's exegesis of a single letter has been a determinant feature in the critical interpretation of her character as a murderous Medean figure. In Twelfth Night, distance from writing is constitutive to the identity of the two leading females, underlining the contemporary perceptions of textuality and sexuality, which anticipates key questions considered later in this study. Viola never writes or delivers letters on Orsino's behalf, and Sir Andrew's invitation to a duel is not delivered to her, so she is never seen to read. She is also presented as unwritten, as "a blank" with a "damask cheek" in her "sister's" description (2. 4. 110-12), denoting her virginal status. Viola, as Cesario, is, of course, not merely virginal, but an eunuch and, therefore, removed from all contaminating fluids. Her assumption of the male mode of courtly spoken language, while not acquiring the male access to literacy, is intrinsic to her androgynous role within the play.

Olivia, presented as the scripting woman of the Comedies, whose script will eventually be surrendered, sends tokens not letters, writes only through the surrogacy of Maria, has Lucrece as her seal, is not addressed in writing and has letters read to her.⁷ She is, in fact, veiled and incapable of reading in the earlier scenes, and Feste's line "My lady has a white hand" (2. 3. 26) might suggest it is unstained by ink. Significantly, it is only after she is married that Olivia has a slight acquaintance with reading, when she looks at the counterfeit letter, but even then it is to deny it. In this play, distance from the letter is crucial to the construction of virtue, unlike the works of eighteenth-century writers, like

⁷ However, this may suggest a slight taint of Olivia's virtue as the sending of tokens by a woman was thought to be an unchaste action. She seems to recognise this in Act Three:

Give me leave I beseech you. I did send,
After the last enchantment you did here,
A ring in chase of you. So did I abuse
Myself, my servant, and I fear me you. (3. 1. 109-12)

Richardson, where virtue is constructed through and by the letter. Richardson's heroines, however, construct and transmit their own virtue, while that of the women of this play is measured against a socially constructed femininity, partly sustained by contemporary perceptions of female literacy.

It is, therefore, relevant that, although moving between two apparently literate households, Viola should insist upon the efficiency of spoken language throughout the play. Apart from the reasons mentioned above, this foregrounding of the spoken word also gives Shakespeare opportunities to introduce dialogues which analyse language, so that linguistic, as well as physical, identity is questioned. Much of this analysis takes place in the scenes between Viola and Olivia, but it is through Feste, and his fool's special access to language, "There is no slander in an allowed fool" (1. 5. 98-9), that much of this investigation takes place. Feste, unlike the fool in King Lear, does not displace and dislocate language, but illuminates the deliberate linguistic catachresis of the text. We might see him as the poet and playwright, the "corrupter of words" (3. 1. 35), reducing words to commodities. Feste is a paid fool, entertaining both Orsino and Olivia, earning "bonuses" from other characters in the play by his verbal dexterity. Like the playwright, the more he corrupts language, the more he earns. Those critics who find a darker side to this comedy might consider Shakespeare's sceptical analysis of his own craft as a component in that reading, "autography and speech" shown as treason, not so much by word, but against the word.

Another advocate of the spoken word is Orsino who, although he speaks like a conventional Elizabethan love letter, sends Viola, in her guise as Cesario, the page, to Olivia to make verbal pleas of his love. He, too, is distanced from the possible taint of the

written word in its arbitral definition of virtue in this play. He might also be discredited as a wise man "folly-fall'n", his wit tainted by his sensuous language of desire, and is thus ambiguously defined by language.⁸ Viola, unwritten as previously suggested, then becomes the *facteur de la vérité*, the page who is the page, sustaining her own discourse and writing herself, like the page in Nashe's Unfortunate Traveller.⁹ Presenting Viola as a courtier moving between two courtly households, or, at least, households with courtly expectations, enables access to a convention of poetic language which can be set within the linguistic dialectic of this play. She fulfils the criterion of the "perfect Courtyer" set down by Castiglione in The Courtier, as advisor and confidant to Orsino, while that special friendship between men, as laid down in that manual, serves to cover her love for him.¹⁰ Barber suggests:

What enables Viola to bring off her role in her disguise is her perfect Courtesy, in the large, humanistic meaning of that term as the Renaissance used it, the *corteziana* of Castiglioni.¹¹

She is not like King Lear's Oswald, a "three-suited-hundred-pound, filthy, worsted-stocking knave" (2. 2. 14-16) nor, by her own admission, a "fee'd post" (1. 5. 274). She is removed from the role of messenger, which, in Touchstone's opinion in As You Like It, is a slightly dishonourable position.

⁸ Sinfield sees a lack of masculinity in Orsino in his courting role. Earlier he suggests that Orsino's attitude to women, as voiced in his comments of Act Two (4. 29-39), is unpleasant. Sinfield, Faultlines 68-9. Perhaps, like the parodied love letter, this emphasises the artifice and dissemblance of such courtly language.

⁹ Jacques Derrida, The Postcard, trans. Alan Bass (Chicago IL: U of Chicago P, 1987), 413-96. Thomas Nashe, The Unfortunate Traveller (1594) in The Unfortunate Traveller and Other Works, ed. J. B. Steane (1972; London: Penguin, 1985), 251-370.

¹⁰ Baldersar Castiglione, The Booke of the Courtyer, (1561) trans. Sir Robert Hoby, ed. Walter Rayleigh (London: David Nutt, 1900). Transcribed by Richard Bear, University of Oregon 1997. Renascence Editions 29 Apr. 1999 <<http://darkwing.uoregon.edu/~rbear/courtier/courtier2.html>>.

¹¹ Cesar Lombardi Barber, Shakespeare's Festive Comedy: A Study of Dramatic Form and its Relation to Social Custom (Princeton NJ: Princeton UP, 1959). 248.

CELIA Were you made the messenger?
TOUCHSTONE No, by mine honour; but I was
bid to come to you. (1. 2. 53-5)¹²

Removed from writing, yet set within an ambit of courtliness and courtly love, Viola is able to assume a sexual and linguistic identity that adds to the calibration of these issues throughout the text, especially in her scenes with Olivia and Orsino. Viola's masculine role allows her cross another literacy boundary, as it gives her access to romance and poetry, facets of literature considered too inflammatory and immodest for the female reader. As Vives instructed:

What shall I say of foolish and ignorant writers when Ovid counsels that the most sagacious and learned Greek and Latin poets who sang of love should be avoided by those who shun immorality? What can be imagined more pleasant, more charming, more clever, more cultivated and refined in every kind of learning than the poets Callimachus, Philitas, [etc.]. And yet Ovid teaches that they must be repudiated by the chaste [...].¹³

The most successful use of language in this play is the letter, sent by three characters who exhibit uncourtly behaviour, which devalues the written word from the outset. When Sir Toby welcomes the "little villain" in Act Two we are not sure if he addresses Maria or the letter. Sir Toby, Sir Andrew and Maria show none of the desired characteristics of the courtier or the Waiting Gentlewoman as laid down by Castiglione. Sir Toby is a crapulent "free-loader" and Sir Andrew, although affecting to be a gentleman, appears to be one of those "apes" who has had some access to a conduct book.¹⁴ Maria, whose household status is somewhat unclear, places her mistress's purity in jeopardy by writing a letter in her

¹² William Shakespeare, *As You Like It*, ed. Peter Alexander in *The Complete Works of William Shakespeare* (London: Collins, 1951), 254-82.

¹³ Juan Louis Vives, *The Education of a Christian Woman: A Sixteenth Century Manual*, (1524) ed. and trans. Charles Fantazzi (Chicago IL: U of Chicago P, 2000), 71-2 (hereafter, *Vives*, ed. Fantazzi).

¹⁴ Edmund Spenser, *Mother Hubbard's Tale: The Fox and the Ape go to Court* (1591) in *The New Oxford Book of Sixteenth Century Verse*, ed. Emrys Jones (1991; Oxford: Oxford UP, 1992), 239-45.

name. Since she is described as waiting-gentlewoman and chambermaid, Maria's literacy might seem puzzling; if she were indeed a waiting gentlewoman her education would, no doubt, take place alongside that of her mistress. This is her probable status, the lack of the expected usual intimacy in her relationship with Olivia serving both to identify writing as devalued, and to distance Olivia from the site of the letter.

Maria's claim to be able to forge her mistress's handwriting is supported by two contemporary practices concerning writing. Olivia appears to have no secretary, unless Malvolio, like Oswald in King Lear, fulfils that role as part of his stewardship, so Maria could have been entrusted with this duty, perhaps suggested by her first definition as a "handmaid" (1. 1. 24). Secretaries of this period were more than mere scribes, being, as we shall observe in King Lear, privileged to actually compose some letters themselves, use the personal seal of their employers and even to legitimately forge their signatures. This would mean that Maria normally wrote Olivia's letters and Malvolio would accept the letter as genuine. However, Maria says that their writing is very much alike and it is unlikely that Olivia would write in Secretary script, her position of wealth and privilege requiring her to acquire an Italic hand. Malvolio refers to a "sweet roman hand" (3. 4. 26), a derivation of Italic. The contemporary practice of copy writing as part of scribal education would account for the similarities in handwriting.¹⁵ Although this practice was encouraged in both sexes, women were not expected to be spontaneous in their dealings with literacy, their access to writing was through the passive activity of copying which, rather like needlework, was a domesticating, confining activity. Earlier humanist

¹⁵ Stewart argues: "[...]to the untrained male eye all women's handwriting might look similar". Stewart, Letters 59. This takes us back to the copy book once more.

educators, such as Juan Vives, recommended copying as a suitable skill for a woman to employ, maintaining the hierarchy of gendered literacy.

Olivia's acquaintance with literacy might be recognised in Act One, Scene Five, when she mistakes Viola's "copy" for a list, replying with a self-blazon:

[...] I will give out divers schedules of my beauty. It shall be inventoried and every particle and utensil labelled to my will, as *item*, two lips, indifferent red; *item*, two grey eyes, with lids to them; *item*, one neck, one chin, and so forth. (1. 5. 233-8)

This is acceptable, housewifely, calligraphic behaviour. Maria and Olivia might well have learned to write from the same copybook and Malvolio's reaction to the forged letter - "By my life, this is my lady's hand. These be her very c's, her u's, and her t's and thus makes she her great p's" (2. 5. 81-3) - might direct us away from bawdy and towards the copy book, within this premise.

Using the device of the letter to gull Malvolio does more than emphasise the ability of the written word to deceive; it also makes comment upon contemporary perceptions of writing and sexuality. Olivia's seal is that of Lucrece and Malvolio's breaking of that seal is like a violation, giving access to secret body parts, rather in the way suggested by Edgar in King Lear (4. 6. 254-6). Olivia's falling in love may validate the breaking of that seal, although her modesty is still intact. Her purity and distance from writing has been compromised by Maria's act and the seal emphasises that fact, as does the reference to "a Lucrece knife" (2. 5. 101). The letter is a "dish of poison" in more ways than one. Shakespeare shows, not only how writing can be manipulative but also, in Malvolio's crushing of the letter, to make the superscript spell his name, how it can be manipulated in its reading. The letter is

successful because it employs the motif of the Elizabethan love letter, affecting secrecy, shyness, disguised authorship and desire. It mimics the obscured recipient, “To the unknown belov’d” and authorship, “The Fortunate Unhappy” (2. 5. 87, 1-50), recurrent among the *curiosa* of this convention, and includes the sentimental poetry and classical references of the device, a conceit as deceit. The very seriousness with which Malvolio addresses the letter emphasises its parodic form, as R. S. White observes:

As romance is adapted to the stage we find the tide of fashion turning, and gradually letters become ripe for burlesque and for association with either old fashioned characters [...] or unsympathetic ones. (Malvolio)¹⁶

The letter also succeeds because it extends Malvolio’s fantasy of social advancement, being found at the very location of his practice of courtly behaviour.¹⁷ Karen Robertson sees this letter as a further festive inversion within the play, recognising Maria’s composition as another gender reversal, invading the male space of writing, disrupting the contemporary expectations of female literacy.¹⁸ Maria also assumes a suppliant male role in this feigned document, rather as Viola presents Orsino’s case to Olivia, but Viola’s surrogacy is protected by her courtly presentation and the spoken word. The letter becomes a further site among the *loci* of linguistic interpretation in this play and another possible “treason” against language.

The prerogative of male access to writing did not guarantee efficiency, as we see in the unsuccessful letter that Sir Andrew writes as a challenge to Viola in Act Three, Scene

¹⁶ R. S. White, “The Rise and Fall of an Elizabethan Fashion: Love Letters in Romance and Shakespearian Comedy,” *Cahiers Élisabéthains* 30 (1986): 35-47.

¹⁷ Stewart refutes the conclusions of the usual editorial glosses of quiet or calm contained in the lines “Soft! By your leave, wax. Soft!” (2. 5. 88-9) suggesting that it refers to the state of the seal, the soft wax indicating a recent and local delivery and, therefore, as lending more credence to the letter. Stewart, *Letters* 60. See also *Twelfth Night*, ed. Wells and Warren, 215, n. 89.

¹⁸ Karen Robertson, “A Revenging Feminine Hand in *Twelfth Night*” in *Reading and Writing in Shakespeare*, ed. David Bergeron (Delaware DE: U of Delaware P, 1996), 116-30.

Four. The knight of the carpet seems to have had as much experience of the epistolary manual as of the courtesy book and the French primer. His letter is full of awkwardly-mannered phrases, which are redolent of the model formulary letters of letter-writing manuals, which Shakespeare clearly disparages here. The reading of this letter by Sir Toby and comments by Fabian, accentuate its bathetic inefficiency as a written communication, and further implicates Sir Andrew as an uncourtly inhabitant of the festive in this play. Sir Toby's reluctance to deliver this letter is encouraged by the fact that Viola has exhibited the courtly virtue of perfect language, which would enable her to detect the ignorance of this challenge:

Now will I not deliver his letter, for the behaviour of the young gentleman gives him out to be of good capacity and breeding. His employment between his lord and my niece confirms no less. Therefore this letter, being so excellently ignorant, will breed no terror in the youth. He will find it comes from a clodpoll. But Sir, I will deliver his challenge by word of mouth [...]. (3. 4. 177-84)

Sir Toby seems more embarrassed by the style of the letter, than by his doubt of its ability to promote the duel. The one thing that Viola lacks as a male and a courtier is, of course, the requisite literacy, the gendered perceptions of literacy preserving her from an association with eroticised textuality, while satisfying contemporary patriarchal expectations of feminine linguistic passivity. She has "masculine usurped attire" (5. 1. 244), but not masculine usurped literacy. The non-delivery of this letter excuses Viola from the act of reading, preserving her unstained status, Sir Toby's "word of mouth" allowing her to remain safely within the margins of the spoken word.

Written language has so far been shown to be both confining and confined in this play, not only within the space of a letter, but also in the implication of the conventions of

epistolary, conduct, and duelling manuals. It has also been the main agent of darkness in both the cruel practical joke and the actual confinement of Malvolio in a dark room. The complexities and ambiguities of written language are amplified when its next association is with light and freedom, in Malvolio's request for "light, and paper, and ink" (4. 2. 81-119), in his efforts to gain release from his imprisonment. In this scene, indirect communication seems to be an open use of language, while spoken language becomes the deceiver, not only in Feste's assumed accent in his imposture as a priest, but when, in his own voice, he engages in verbal machinations between himself and Malvolio. A letter is now shown to be both a means of confinement and release, as a further contribution to the linguistic polemic of this play, with Feste initially promoting the advantages of illiteracy in defining "That that is, is" (4. 2. 13-14). Yet there is still a hint of darkness associated with Malvolio's letter, for his call for "a candle and pen, ink, and paper" (4. 2. 82) is reminiscent of bell, book and candle, foretelling his curse at the end of the play.

The brief authority of the written word is soon abrogated when Malvolio's letter becomes ultimately devalued, firstly, because Feste delays its delivery, thus highlighting the provident immediacy of spoken language, secondly, by the fool's spurious interpretation. Feste implies that it is not just madmen's epistles that are no gospels, but all letters, and demonstrates this by reading Malvolio's serious letter of complaint in the voice of madness, having already opined that words cannot prove reason: "words are grown so false I am loathe to prove reason with them" (3. 1. 24). This allows writing to condemn Malvolio for a second time and revisits the premise of the manipulative possibilities of reading, as evidenced in Malvolio's response to the forged letter. Fabian's mediatorial reading puts Malvolio's case, and reveals him as a wronged, but sane, man. Malvolio appears to put much faith in the written word as fulfilling a legal function. He uses his

own letter as both prosecutor and evidence, and cites “Olivia’s letter” as witness, in what might be seen as the trial of the festive. Feste, however, has earlier commented upon the disgracing of language when aligned with the writing of legality.

Indicatively, Olivia’s transaction with this letter is as an auditor, a further exposure to the written word that began with her marriage contract. She directly addresses writing for the first time when Malvolio confronts her with the forged letter, but it is a cursory encounter, a mere glance that ensures that she can deny its “character” on two counts. The letter assumes a legal status once again, for, not only does Olivia admit it as a kind of legal evidence in a trial, but it immediately prompts a confession from the least of the conspirators, Fabian. Again, the efficacy of written language and legality is foregrounded. Feste’s quotations from the forged letter, (incidentally the same as those that Malvolio addressed to Olivia) not only advance his own revenge but augur Malvolio’s, identifying writing as a site of violence, or possible violence, once again.

Viola’s distance from writing becomes, like Malvolio’s revenge, part of the deferred closure of this play. Soon, like Olivia, to be exposed to the marriage contract, Viola’s encounter with literacy is, like her sexual identity, protracted by her continued appearance in male attire. The non-fulfilment of the expectations of linguistic and sexual recognition is also highlighted in the language of the play, as Terence Cave suggests:

The conditions necessary for the recovery of coherence – the ‘jumping’ of the fragments into a recognizable pattern – are not yet fulfilled. Viola’s revelation of her identity is in a form of indirect speech (That I am Viola); it is still a hypothesis.[...] The tension between disguise and reality, between blindness and

insight is never wholly dissipated; the language of 'usurped attire' and pseudonyms continues until the end or perhaps beyond the end.¹⁹

Cave's grammatical reference is echoed in Michael Mangan's description of Viola's articulation of her love for Orsino as in the subjunctive mood of passivity: "That I am Viola" (5. 1. 247).²⁰ Significantly, both critics use definitions of language in their analysis of Viola's character, which is fitting for a play in which language is exposed and examined, in both its spoken and written modes. Passivity is an apt description for the fate of both heroines of Twelfth Night, for we can foretell their linguistic future. Viola has, in fact, been passive and subservient to the Duke all along, in fact, Lisa Jardine sees Orsino as "cashing in" on this servitude:

Orsino acknowledges an accumulated credit of dutiful service which can now be exchanged for an ideally dutiful (because ideally passive) bond of matrimony: 'Here is my hand.' In claiming Viola as his sexual partner he ratifies the terms of his original engagement with his 'young gentleman' – and consummates a relationship that was always available as promise of submission.²¹

The worst served in this comedy of travesties and resolutions seems to be, not Malvolio, but Olivia. As Jean Howard writes: "[...], the play seems to me to applaud a crossdressed woman who does not aspire to the positions of power assigned men and to discipline a non-crossdressed woman who does."²²

Olivia seems to have drawn the short straw in the marriage stakes, not married to the romantic, urbane courtier, full of exciting poetic speeches, but to a man who makes no

¹⁹ Terence Cave, Recognitions: A Study in Poetics (1988; Oxford: Clarendon, 1998), 279.

²⁰ Michael Mangan, A Preface to Shakespeare's Comedies 1594-1603 (London: Longman, 1996), 248.

²¹ Jardine, Historically 73-4.

²² Howard 112.

courtly overtures.²³ We imagine she will soon return to inventories and the copy book. As Lisa Jardine observes: this is “Olivia’s ‘come-uppance’ – patriarchy’s retribution for mistaking the conventions both of service and of marriage as a female head of household in an order explicitly designated male in its defining relationships.”²⁴

Olivia’s subordination has been desired by the male characters throughout the play. Orsino imagines the devotion showed to her brother as transferred to himself:

O she that hath a heart of that fine frame
To pay this debt of love but to a brother
How will she love when the rich golden shaft
Hath killed the flock of all affections else
That live in her – when liver, brain and heart,
Those sovereign thrones, are all supplied and filled
Her sweet perfections with one self king! (1. 1. 32-38)

Sir Toby looks forward to a controlling role through his protégé. Even Malvolio, in his fantasy of love and social advancement, seems to give Olivia a submissive role - “Calling my officers about me, in my branch’d velvet gown, having come from a day-bed where I have left Olivia sleeping.” (2. 5. 44-6) At the point of Olivia’s patriarchal marriage, as Sinfield observes, “she collapses as a character”, having earlier argued that: “Finally she proves not to be a continuous consciousness (let alone an autonomous essence) but a strand in a far wider cultural argument.”²⁵ The cultural argument, here, is that of female literacy. Viola, too, has nothing to say, as Viola, for she is still Cesario at the end of the play. As Belsey writes: “In the absolutist, dynastic meaning of marriage women were

²³ Sinfield says she should call for an annulment. Sinfield, *Faultlines* 72.

²⁴ Jardine, *Historically* 75.

²⁵ Sinfield, *Faultlines* 66, 71.

everything that men were not: silent, submissive, powerless.”²⁶

The women of the plays studied in this thesis are all eventually silenced, either by death, or by marriage. The two women in Twelfth Night succumb, at the end, to the linguistic containment that has been their lot throughout the play, each “dwindles into a wife”.²⁷

Sanders writes of the picture which prefaces Richard Braithwaite’s The English

Gentlewoman:

Half of the small pictures of her show a female figure sitting in a chair alone in a windowless room; the others, except for a view of heaven, and a garden, also depict indoor scenes. Her surroundings are characterised largely by the drapes and tapestries that hang from walls and ceiling.²⁸

The lady in the main picture holds one small book which, we may assume, is a prayer book. Legends, such as, “Grace my guide”, “Comely not gawdy”, “Inspiring modesty”, and “virgin decency”, emanate from her mouth. This is containment writ large. Maria, too, though seemingly elevated by marriage to Sir Toby, disappears with the rest of the festive characters. The ending of this play is “happy” for some, more than for others.

The well-recognised festive themes of misrule, inversion and disguise, associated with the festival of Twelfth Night, are found in this play. The crossdressed Viola is not the only character to assume a false identity. We might say, in fact, that she assumes more than one role, for she also becomes a lover and a courtier. In this she might be seen to cross gender boundaries twice, the male courtier adopting the plaintive feminine stance to plead, a reversal of the boy - girl - boy of the stage performance.

²⁶ Belsey 179.

²⁷ Belsey 192.

²⁸ Richard Braithwaite, The English Gentlewoman (London: n. p., 1631). Sanders 5-6, Fig. 2.



Fig. 1. The English Gentlewoman. Frontispiece. Richard Braithwaite The English Gentlewoman (London: 1633). Sanders 5

Orsino also effeminises himself as the suppliant courtier. Olivia adopts the veil of the cloistered nun, Aguecheek in his, and Sir Toby's, words, postures as the brave and cultured courtier that he is not: "He plays o'th' viol de gamboys and speaks three or four languages word for word without book, and hath all good gifts of nature." (1.3. 23-5)

Maria takes on the persona of Olivia in the letter, Malvolio adopts a garish costume that is at odds with his Puritan persuasion, Feste swaps his fool's "impeticos" (2. 3. 25) for a priest's beard and gown.²⁹ That which has adopted the most disguise, however, is language, and it is here that we must make the case for the inclusion of this play in this study of the letter.

Ilyria provides not just a fictional space for the story of Twelfth Night, but a frame in which the examination of language, in all its forms and codes, contributes to the tensions of the plot. We have witnessed spoken language as a true expression of feeling in the scenes between Olivia, Orsino and Viola, only to have that truth questioned in Feste's verbal dexterity. Poetic language has been validated in the speeches of Orsino, Olivia, Viola and Antonio, yet we have seen it parodied and devalued in the language of the forged love letter. Written language has been confined in "bonds", in the artifice of the copybook, duelling and epistolary manual, and the letter, yet, is given "licence of ink" (3.2.41) to deceive and, later, to gain freedom. Language becomes part of what Barbara Freedman sees as Freud's game of *forte-da* in this play, found and lost continually, not fully retrieved, despite the return to proper names at the end.³⁰ In Twelfth Night the use of language is shown to be, like its subtitle, What You Will. This reflects the humanist dialectic of the written and spoken word.

The most sinister use of language is, however, the letter. Although no act of treason occurs in this play, unless it is the "ideological treason" of Viola and Olivia, the letter fulfils all

²⁹ Although admitting the word as a burlesque for "impocket", the Oxford editors, Warren and Wells, suggests this may also refer to the long skirted robe of the fool. 124, n. 25. I adopt this meaning here.

³⁰ Barbara Freedman Staging the Gaze: Postmodernism, Psychoanalysis and Shakespearean Comedy (Ithaca NY: Cornell UP, 1991), 194-6.

the dark expectations of treacherous correspondence.³¹ It is a forgery, duplicitous, it is the result of a conspiracy, it entraps and misleads, it both manipulates and is manipulated, it becomes a legal document, witnessing and prosecuting the “crime”. The use of writing in Twelfth Night identifies it as a dark comedy, foregrounding the suspicions and anxieties of Early Modern England concerning access to secondary literacy, particularly that of women.

³¹ This is a point discussed by Whigham, of which I write later in my reading of The Spanish Tragedy. Frank Whigham, Seizures of the Will in Early Modern English Drama (Cambridge: Cambridge UP, 1996), 26 (hereafter, Whigham, Seizures).

Chapter 4

Writing and the letter

“Next to reading followeth writing, in some reasonable distance after because it requireth some strength of hand, which is not so soone staid nor so stiffe to write”.¹

In Chapter Two, I examined the qualified and manipulated access to reading that was allowed to certain classes of society. In attending to reading before writing, I follow the dictates of sixteenth-century educators. Reading and writing were taught as separate activities, with reading taught before writing. This division of the language modes fits well with the premise here. It is proposed that schooling and the dictatorialism of sixteenth-century educators were systematic exigencies employed by the religious and political establishment, to ensure ideological compliance and maintain social hierarchy. The moral disciplines imparted by the humanist curricula of the grammar school and university were seen to be providential to the cultivation of conformity and the maintenance of social structure. Grafton and Jardine view this “new” system of education as “made to order for the Europe of the counter-Reformation and of late Protestant orthodoxy.” They continue:

The new system, we would argue, fitted the needs of the new Europe that was taking shape, with its closed governing élites, hereditary offices and strenuous efforts to close off debate on vital political and social questions. It stamped the more prominent members of the new élite with the indelible seal of superiority, it equipped the lesser members with fluency and the learned habit of attention to textual detail and it offered everyone a model of true culture as something given,

¹ Richard Mulcaster, *Positions*, (1581) ed. William Barker, 1994. 22 May 2002 <http://www.ucs.mun.ca/~barker/positions-txt.html>.

absolute, not questioned - and thus fostered in all its initiates a properly docile attitude towards authority.²

It will be argued here that the maintenance of social boundaries through schooling was disturbed by increased access to education by certain socio-economic sectors of society. The rise of a subaltern group, whose high literacy encouraged critical examination of the very institutions they had been educated to serve, foregrounded a perpetuating polemic regarding the representation of the written word. This Early Modern linguistic controversy directs much of the association of writing with duplicity, fraudulence and treason in the three plays studied later. There will be a critical evaluation and examination of the letter as a key instance of the debate about writing, secrecy and treachery.

It will be proposed that, following the application of Ciceronian rhetoric to practical concerns, letter writing was subjected to the stylistic norms of humanist education.³ The letter became a subgenre of the processes of invention and eloquence central to humanist values and, thereby, implicated within the tensions that had surrounded the practice of rhetoric, and its relation to the truth, since its sophist introduction into civic life in the fifth century. It is suggested, here, that the writing of a private letter could be seen as a substantive act, beyond the precept of the rhetorical “technocracy”, and a challenge to its

² Anthony Grafton and Lisa Jardine, *From Humanism to Humanities* (Cambridge MA: Harvard UP, 1986), xiii-xiv. Grafton and Jardine consider that the replaced system of Scholasticism offered more socially diverse opportunities for education, especially in its encouragement of mass literacy. Gaggero refers to Humanism as a “virus”. Christopher Gaggero, “(W)ill you truly know his character?” Secretaries and their Letters in Shakespeare and Webster”. Unpublished paper from *unFamiliar Letters: Re-reading Early Modern Correspondence*, Conference at Birkbeck College, London, 20 Jul. 2002. Graff regards the humanist suppression of vernacular languages as an inhibition to the spread of literacy and also sees humanism as: “a powerful element in the predominant sixteenth century belief in a social hierarchy which it was the duty of the ruler and of the aristocracy to maintain and in which every man had his place, high or low”. Harvey J. Graff, *The Legacies of Literacy: Continuities and Contradictions in Western Culture and Society* (Bloomington IN: Indiana UP, 1987), 129. Sinfield, however, sees such judgements as: “too total, as if the effect were unitary, coherent and purposeful, not embedded in conflict and contradiction and subject to negotiation.” Goldberg makes similar comments. Sinfield, *Faultlines* 146-7. Goldberg, *Writing Matter* 117.

³ Patterson suggests: “Letters could not [...] have acquired their later power in fiction unless they had first been recognised as a genre with models and norms.” Patterson, *Censorship* 212.

paradigm. The letter is presented as a victim of the Renaissance preoccupation with language and its social and cultural implications. The crucial translation of the writing of letters, from public performance to private act, encouraged political and religious anxiety and led to the denotation of the private letter as a sign of secrecy and treason.

The physical abilities which Mulcaster requires, for learning to write, have little to do with the lack of instruction for the lower classes. Writing instruction took place within institutions that were beyond the practical and financial reach of many. Those children from lower social groups, who might attend a “petty”, parish, or alphabet school, were given instruction in reading only, and if they did not, as was highly likely, progress beyond this stage, were never formerly introduced to writing, which was taught at elementary schools.⁴ The ability to write was socially and politically exclusive, creating a wider gulf between classes than was the case with reading. Many who could decode the black letter type of the printed book were not only unable to write, but also not able to read, a manuscript document. As Thomas writes:

it was perfectly possible in the Tudor and Stuart period for someone to be able to read print fluently but to be quite incapable of deciphering a written document. For the only people who could easily read script were the privileged minority who had themselves learned to write it.⁵

That “privileged minority” was largely the product of humanist education. The concentration, within this system, upon the use of Latin, and the cultivation of prestigious

⁴ Grammar schools did not teach writing, as such, but expected entrants to have achieved a degree of competency in both literate modes. The standard of efficiency in reading and writing varied with the requirements of each school, some, like St. Paul’s, expecting a high standard, others, like St. Albans, asking that their pupils “write indifferently”, indicating a wide range of chirographic skills, even among the educated. The increase in membership of the Scriveners’ Society during the sixteenth century suggests that, while more business and private transactions were being processed by writing, there was a general lack of writing ability among merchant and professional classes, and, of course, women.

⁵ Thomas 100.

manuscript styles, echoed the linguistic alienation of the eleventh century, when, largely due to the Norman invasion, written procedures replaced oral and symbolic practices, encouraging similar suspicions and prejudices towards writing. Handwriting in the sixteenth century was not merely a means of communication or record, but a social currency.⁶

As with reading, there was a multiplicity of writing “literacies” which can be recognised by giving some attention to the various types of handwriting employed throughout the sixteenth century. (Goldberg suggests there were at least a dozen distinct hands at this time).⁷ The “higher literacy” of the Latin reader was reflected in the use of the Italic hand (with variations which were sometimes described as Roman, as in Twelfth Night, above), a style derived from the Caroline minuscule of the eighth century. Imported from the Continent in the fifteenth century, Italic script became increasingly popular among humanist scholars. Quite distinct from the Text hand, the usual medium of print and the vernacular, it was generally associated with the use of Latin and recognised as a “culturally prestigious hand”.⁸ The simplicity of its form, and the rounding of its letters, encouraged the contemporary opinion that it was also suitable for such women as were fortunate enough to be given instruction in writing.

⁶ Peter Lucas emphasises the hierarchy of script thus: “the script in which the manuscript is written corresponds to the hierarchical position in society of the patron to whom it is sent [...] one of the things the patron could get out of his patronage was a manuscript that even in its style of handwriting reflected something of the patron’s social position”. Peter Lucas, “The Growth and Development of English Literary Patronage in the Later Middle Ages and Early Renaissance,” The Library 6 (1982): 229-30. Qtd. in Marotti, Manuscript 27.

⁷ Goldberg, Writing Matter 51. But Jenkinson suggests that, although Elizabethan writing masters were expected to be proficient in seven hands, a large number of derivative styles existed which developed into nine distinct forms, excluding Italic and Roman which were imported styles. Hilary Jenkinson, “Elizabethan Handwritings,” The Library 3 (1922): 1-8, 14, 27.

⁸ Goldberg, Writing Matter 51.

Duffinge (whose examinations your grace shall see)
the reverend Hieronimus Whiston upon the said Mr Wallop, said
that if he had thought himself, to have offended your ma-
je, he would rather come home and put himself in to your
Graces hands, than to live abroad wth Alexander to be
wth a false man, to your grace, although he were
never so much laid for, and also if he had knowne him-
self to offend your Graces in any thing, he had many
mouitions (by means) before his departure out of France

Sir this mat^r being of such weight and importance I
could full well have forbore his apprehension if my
instructions had not bene expresly to the contrary
which caused me to examine Robert Apraynolds before
him and in his presens to comit him to Ward / furd^r

Fig. 2. Secretary and Italic hands (Henry VIII). From State Papers Henry VIII, 165, f. I. Jenkinson Plate VI.

The most widely used hand at the beginning of the sixteenth century was the Secretary, the most popular of a number of business hands and used for both commercial and private purposes. Alongside the everyday Secretary and the élite Roman and Italic, several legal hands were in use. These professional styles had derived from the “court” and “book” hands of the Middle Ages.⁹ Woudhuysen suggests that the ability to write in a large number of hands was linked to practices of imitation and counterfeiting.¹⁰ It might be

⁹ Initially used for business purposes of all kinds, court hand and its derivative legal styles were formally associated with law and government, although Italic was replacing court hand as the style of administration.

¹⁰ H. R. Woudhuysen, *Sir Philip Sidney and the Circulation of Manuscripts: 1558-1640* (Oxford: Oxford UP, 1996), 30.

supposed, however, that, owing to their widespread use, Italic and Secretary hands were more likely to lend themselves to fraud. This may account for the ease with which Edmund is able to deceive his father in King Lear (1. 2. 44-67).

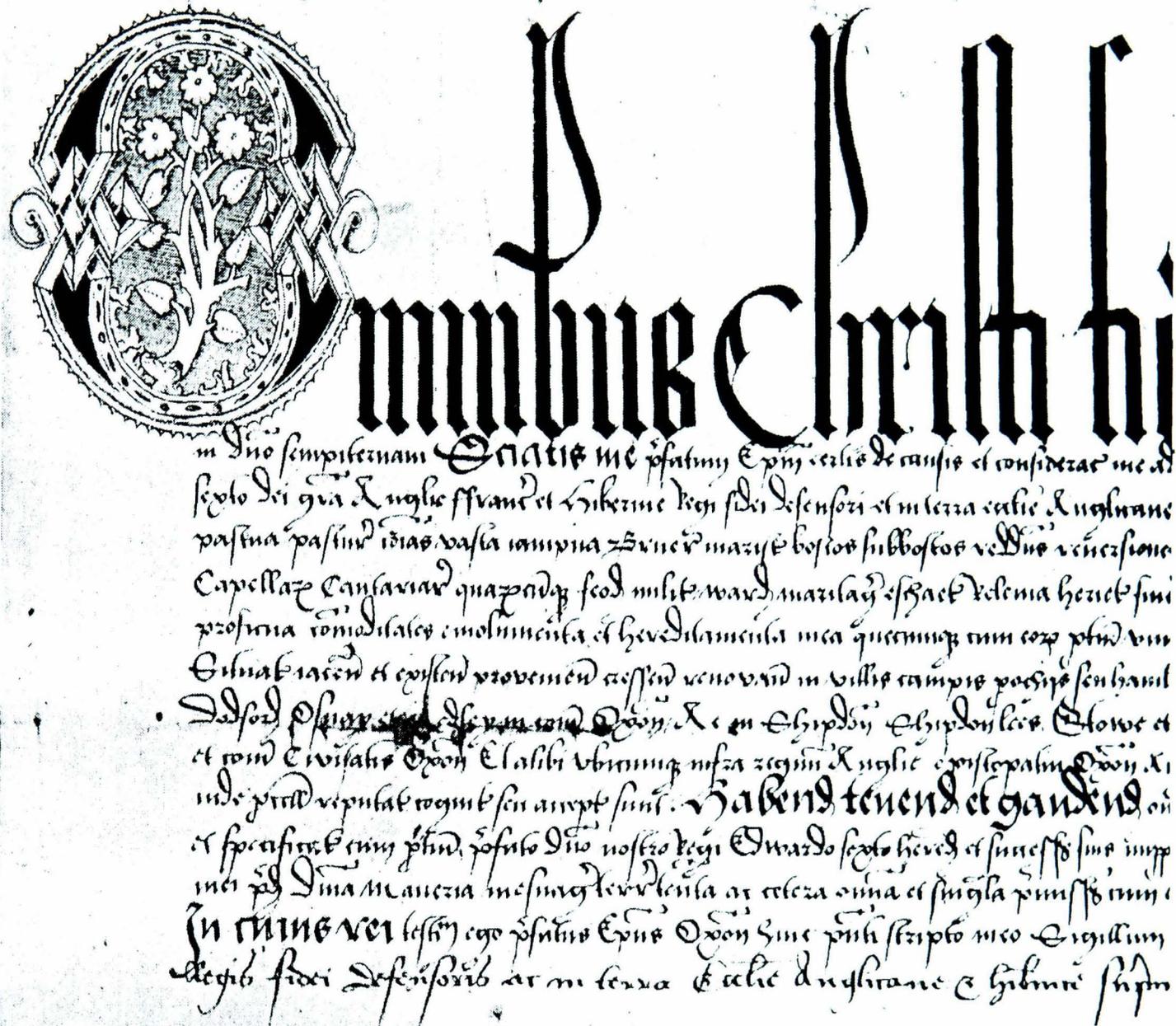


Fig. 3. Text hand and secretary (Edward VI). From P. R. O., Ancient Deeds, D.10440. Jenkinson Plate VII.

The association of law and government with manuscript created prejudices towards its use. The “reading only” literate, whose experience was confined to the abiding regularity of the black letter type of print, were often confounded by the use of cursive scripts, with their rounded shapes and absence of penlifts. The hands with which the illiterate were mostly acquainted, at least by sight, were legal hands. This generated hostility towards writing as being associated with authority, legislation, writs, and a perceived powerlessness.

We can observe this hostility in 2 Henry VI (4. 2. 87-105), where, in an inversion of the contemporary practice of “neck verse,” to which there is a reference in Act Four (7. 38-40), the Clerk of Chatham is sentenced to death by Jack Cade because he is able to read and write.¹¹ As his linguistic skills include the ability to write court hand, he is held not to be an honest man.¹² Later, in the same play, Lord Say is accused of corrupting “the youth of the realm in erecting a grammar school”, causing printing to be used, building a paper mill, and entertaining “men that usually talk of a noun and a verb” (4. 7. 18-76). These crimes seem to be more odious to the rebels than his heavy taxation and, therefore, deserving of capital punishment. Say only makes matters worse by citing more evidence of his literacy. As Kiefer points out: “Where the nobleman identifies the written word with the achievement of salvation, Jack Cade sees victimisation.”¹³ Earlier, Cade has made a direct reference to manuscript and its association with legality:

[...] is this no a lamentable thing, that of the skin of an innocent lamb should be made parchment? That parchment, being scribbl'd o'er should undo a man? (1. 2. 74-9)

That the Clerk of Chatham “confesses” to being able to write his name, is of course, no proof that he is a fully literate man, as I have indicated above.

Many of the truly literate achieved competence in two or more of the styles current in the Tudor period, at least Italic and Secretary, sometimes employing both of these styles in one document, significantly using Italic for Latin, Secretary for the vernacular. A hierarchy of writing skills seems to be apparent within styles of writing, seemingly

¹¹ William Shakespeare, 2 Henry VI, ed. Peter Alexander in The Complete Works of William Shakespeare, (London: Collins, 1951), 623-61.

¹² See Bergeron, Reading 179-80.

¹³ Keifer, Stage 79.

emphasising social distinctions even more implicitly than reading abilities, particularly in the privileging of the Italic and Roman hand. As Martin writes:

Thus each model had its public; each functioned as a “logo” to reflect the self-image of cultural micromilieus that remained relatively distinct from one another.”¹⁴

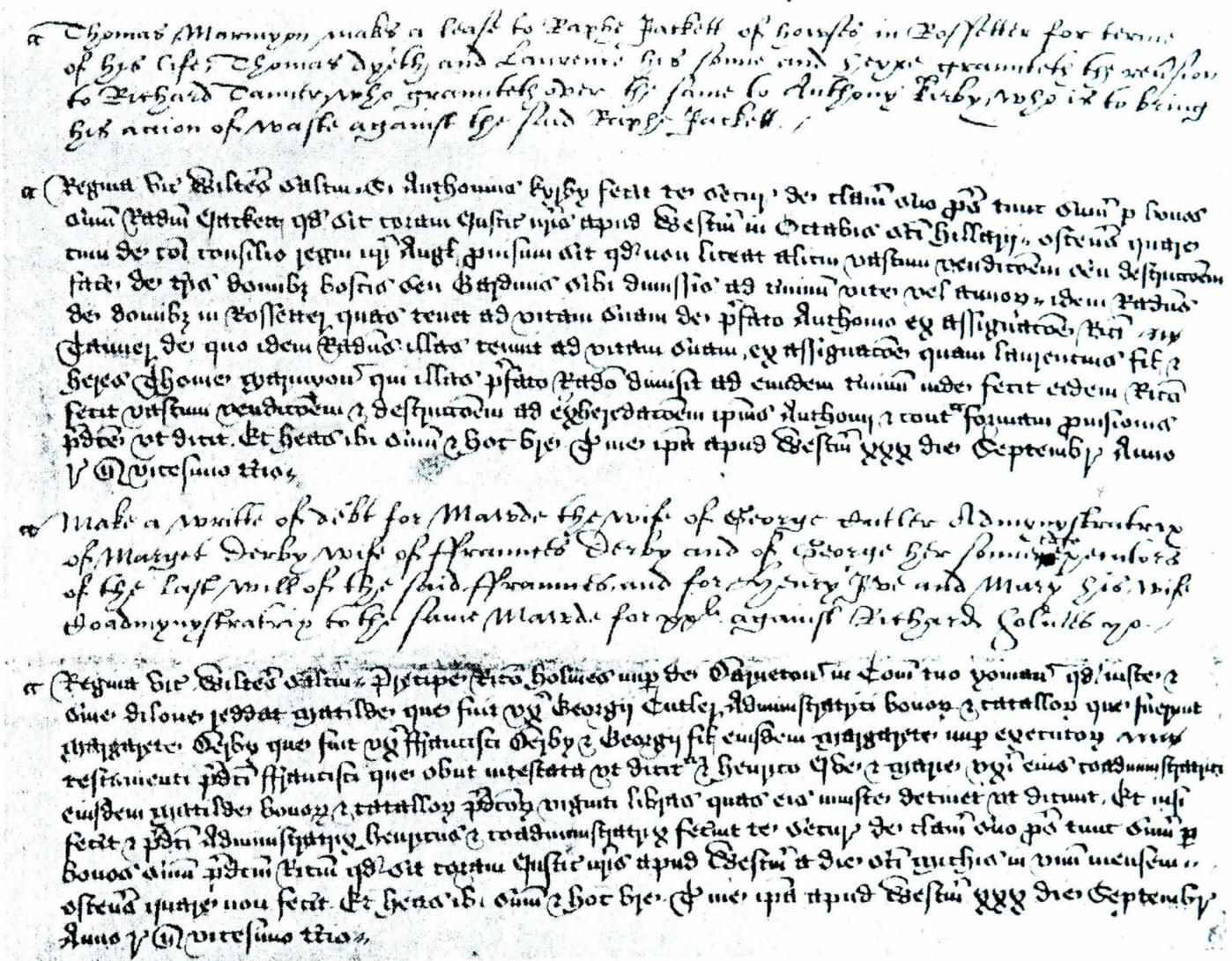


Fig. 4. Chancery hand and Secretary (Elizabethan). From Chancery, Petty bag, Books, Papers, &c., 15: Cursitor's Admission Roll, part 1 m. 5. Jenkinson Plate IV.

That handwriting was regarded as both politically and socially hierarchical may be recognised in the formality with which it was addressed in the period, and the dominant instructional mode that was employed in its teaching. This required the special attention of

¹⁴ Henri-Jean Martin, *The History and Power of Writing*, trans. Lydia C. Cochrane (Chicago IL: U of Chicago P, 1994), 168.

a writing master, who, while not one of the élite, was part of the state apparatus. There was also a proliferation of writing manuals published during this period. Partly manuals of discipline and social education, as well as writing instruction, imparting “character”, as well as character, these reductive and formulaic treatises supported social distinctions. Their copy plates applied a recursive function to the reproductionist practices of religious and state agencies, the subject “written”, socially and politically.

The teaching of writing within institutions of formal education was part of a regulated, (teachers at schools and universities had to be approved by bishops) regulating, and exclusive pedagogy which subjected writing to a kind of official diacritic. As Chartier observes:

[...] those who are in a position to dominate writing always conceive of it as something capable of imposing discipline on everyday life. The tight and rigorous rules entailed in learning to write constitute one of the severest constraints that can be exercised on bodies by experts.¹⁵

Returning to the scene of 2 Henry VI once more, it is interesting to note that the clerk is “arrested” while “setting of boys’ copies” (4. 2. 84), as if this were some anti-proletariat crime, which, of course, it was, in the eyes of the unlettered rebels. It also suggests that the pedagogical constraints of handwriting instruction were recognised, by both intellectual and unlearned sectors of society, as a means of social control.

The illiterate was not the only group to be apprehensive in its approach to cursive script.

While the use of manuscript within official and legal documents was associated with

¹⁵ Chartier, Correspondence 7. Sanders cites a letter by Richard Croke, tutor to the Duke of Richmond, to Cardinal Wolsey, concerning his pupil’s writing instruction. Sanders draws attention to the use of such verbs as “forme”, “frame”, “imprynte”, which, she concludes: “depict writing as an action of which the writer himself is on the receiving end. It is through the process of shaping a text, Croke implies, that the boy himself is formed framed and imprinted.” Sanders 114.

legality and legitimacy, its use outside this environment was viewed with suspicion by both religious and political authorities. The private environment of personal writing, together with the recognition of the futility of any form of censorship that might be employed outside the formality of educational institutions, led to an anxious ambivalence towards the acquisition of writing and a general distrust of the use of manuscript within a print culture.¹⁶ It was the personal control and self representation that might be enjoyed within the privacy of the writing environment, that caused such concern for Early Modern political and theological authorities. As Furet and Ozouf observe:

This transformation of the dominant mode of communication even modified the social fabric itself, breaking up the group in favour of the individual. Oral culture is public, collective; written culture is secretive and personal. It is a great silence, inside which the individual carves out a free private space for himself.¹⁷

A need for greater surveillance was perceived. The use of manuscript, even for scholarly writing, outside the confines of pedagogic control was viewed with suspicion, but most anxiety was caused by truly personal and private writing.

If we consider Sissela Bok's definition of privacy as the condition of being protected from unwanted access by others, we can conceive the anxiety that writing provoked in a political climate of total institutional spatial invasion, and the desire to police all areas of political, religious and social life.¹⁸ Any activity that was able to circumvent the strategies

¹⁶ Keifer suggests: " 'Ambivalence' is too mild a term for the amalgam of attitudes involving reading and writing that prevailed in the later sixteenth century". Keifer, *Stage* 76.

¹⁷ Furet and Ozouf 310.

¹⁸ Sissela Bok, *Secrecy: Concealment and Revelation* (Oxford: Oxford UP, 1984), 10-14. More control of the personal domain was being instituted by the introduction of privacy in housing, as Lerer explains: "there is an architecture to the intimate, [...], a housing of the writing, reading self in small rooms of mental concentration." Lerer 91. See also Orest Ranum, "The Refuges of Intimacy" in *A History of Private Life: Vol. 3: The Passions of the Renaissance*, ed. Roger Chartier, trans. Arthur Goldhammer (Cambridge MA: Harvard UP, 1989), 207-63. The division of previously open living space caused much anxiety among theological and political authorities, to whom such enclosed conditions were morally and politically suspect.

of public control was bound to be viewed with alarm and associated with deceit and treachery, this was the case with writing.

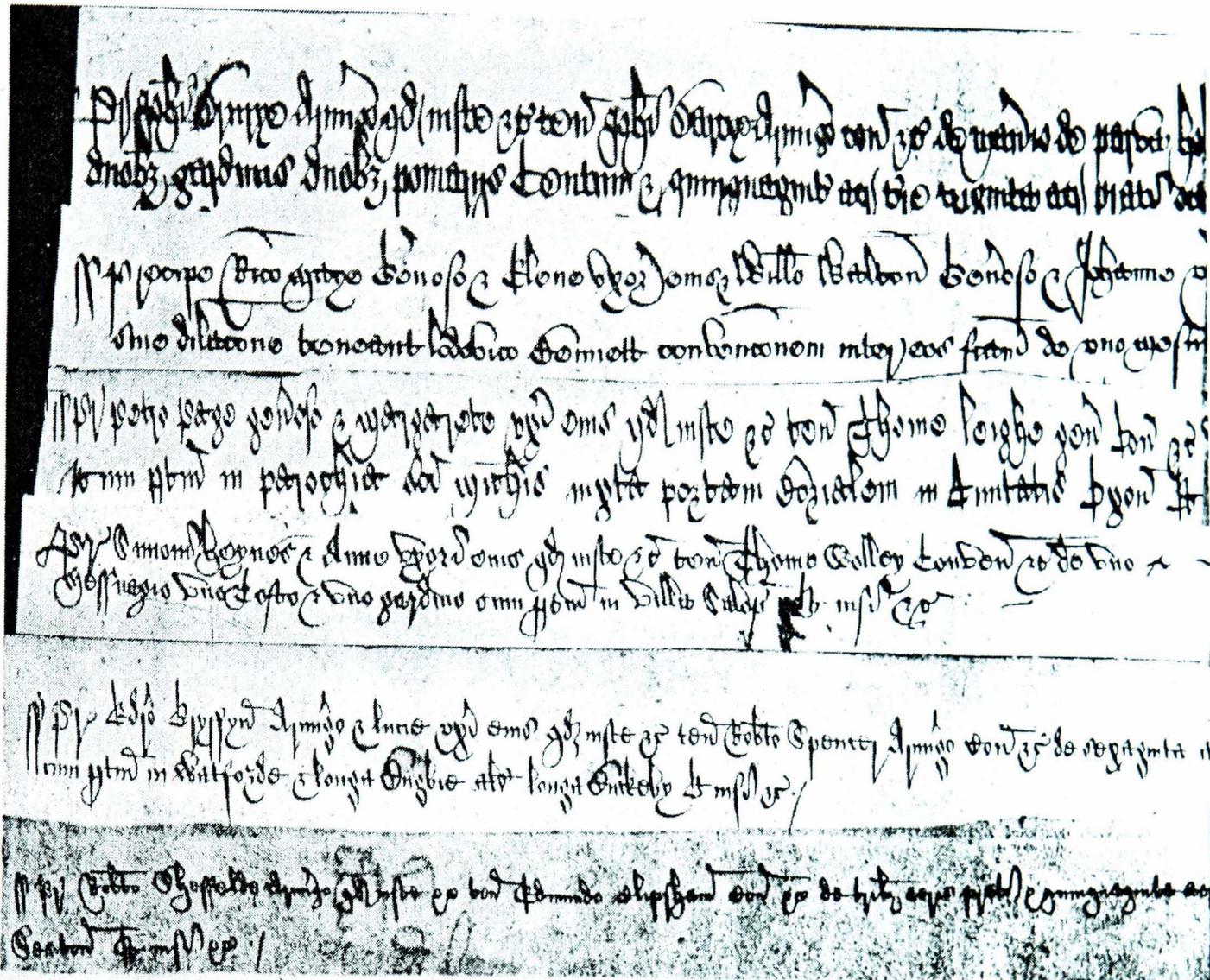


Fig. 5. Legal hands (Elizabethan). From C. P. 24 91 17. Jenkinson Plate 11.

The fact that the government often used manuscript for political scripts considered unfit for public consumption, added to its association with secrecy, Sherman suggests:

[...]many projects and position papers were submitted directly to the government under highly controlled conditions. These political manuscripts [...] were never intended for – indeed, would have been inappropriate for – a wider reading public.¹⁹

¹⁹ William H. Sherman, *John Dee: The Politics of Reading and Writing in the English Renaissance* (Amherst MA: U of Massachusetts P, 1995), 116-17.

Early Modern sensibilities seem to have been Heideggerean in regarding the hand as not being organic, as having a freedom and persuasion of its own.²⁰ These tensions are apparent in the removal of the hand as punishment, being not so much as to make repetition of the crime impossible, but to remove the offending instrument of the unlawful act. The same reasoning may also be evident in Cranmer's committal of his recanting hand to the flames at his execution in 1556. This view pervaded the instruction of writing, where the untutored hand was perceived as being dislocated, and potentially politically and socially disruptive.²¹ This is illustrated by the extreme neutralising formality of the writing manual and the writing lesson, both directed towards the "right writing" and approved collective consciousness.

The writing manual also emphasised the importance of the position of the hand during penhold, as part of a series of controlling instructions. Mulcaster writes of the necessity of the hand to be "staied and stiffened".²² This is also in accordance with certain physical disciplines incorporated in the humanist curriculum. A further threat from the untutored hand was perceived in the instruments used in the process of writing, instruments that were also used as weapons – knives, razors and scissors. Moreover, the keen edge of the quill, itself, presented the pen as a possible weapon so that hand, knife and pen could all be perceived as treacherous instruments, indicating the need for the containment that is apparent in writing instruction and the writing manual. This concept is demonstrated in

²⁰ Martin Heidegger, *What is Called Thinking*, trans. Fred Demburg Wieck and Jesse Glen Gray (New York NY: Harper and Row, 1968), 16.

²¹ Goldberg makes much of the depiction of the eerily disembodied hand in writing manuals and provides several illustrations of this. Goldberg, *Writing Matter passim*.

²² Mulcaster 1, 22.

The Spanish Tragedy, where we might say that Hieronimo has used his pen to commit murder, for it is his play that is the instrument of the revengeful death of Balthazar (4. 4. 1-67), literally brought to book. The special irony is, of course, that the Viceroy holds the instrument of his son's death. At the end of the play, under pretence of "mending" his pen, Hieronimo uses his penknife to commit both murder and suicide, pen and knife achieving the same end (4. 4.199-203). The commutability of writing and overt acts of treason addressed in *Treason, Succession and Censorship* acts may be seen as a reflection of this anxiety concerning the "violence" of writing.

That this perception passed into popular consciousness is apparent in the work of authors such as Thomas Nashe, where the pen (in the hands of Pietro Aretino) is represented as "sharp-pointed like a poniard" and a quill as charged with musket shot. The satire of the "flyting" pamphlet, in which Nashe was well versed, is also proof of the recognition of the wounding properties of the written word.²³ Later, in the early seventeenth century, in The Revenger's Tragedy, a letter, which is in effect a death warrant, comes "New bleeding from their pens". (3. 4. 56) Letters are also aligned with the narrative of lust and rape which pertains throughout the play. In Act One, Scene Three (91-99), we understand that Lussorioso, who is "past my depth in lust", intends his "waxed lines" to seduce as much as his jewels. Castiza remains virginal ("foolish-chaste") in her refusal to read his letters. Writing is also aligned with the real rape that has taken place earlier in the play. The act is said to have, "thrown ink upon the forehead of our state" and to "blot us in our tombs"

²³ Nashe, ed. Steane 309. See also Ferdinand's "paper bullets" in the Duchess of Malfi. John Webster. The Duchess of Malfi, (1613) ed. Elizabeth M. Brennan 2nd ed. (London: A & C Black, 1989), (3. 1. 49).

(1. 2. 5-7). The pen (penis) of the duke's bastard has written him cuckold (2. 2. 108).²⁴ In Dekker's The Whore of Babylon, Titania likens her signing of the death warrant to the surgeon letting blood and the pen to an axe (4. 2. 18-39).²⁵

Increase in secondary literacy in the sixteenth century made little impact upon the lower classes, excluded as they were from education. Marginal classes who could not avail themselves of higher education, but who recognised writing as a means to social and economic success, in a growing market economy, were able to access writing through craft or trade training. There were also lesser writing manuals designed for professional and business purposes.²⁶ The official attitude toward the acquisition of writing, by these sectors of society, was conservative, as it was toward the education of the lower orders in general, that is, that it should be reductive and concentrate on proper religious, moral and social conduct, and be supportive of hegemony.

The copying of religious tracts, scriptures and moral treatises was seen as a desirable use of writing. Within this context, scribal education could be accommodated within the official discourse of civic and state morality. The same qualified acceptance was extended to the writing of women, whose experience was expected to be passive. Even humanist educators, such as Vives, who approved the education of women, preferred that they use their hands for spinning, sewing or needlework:

²⁴ The Revenger's Tragedy, (?1607) ed. Brian Gibbons. (1967; London: A & C Black, 1991).

²⁵ Thomas Dekker, The Whore of Babylon (1607) in The Dramatic Works of Thomas Dekker, 5 Vols. ed. Fredson Bowers (London: Cambridge UP, 1964), 491–584. Dekker again recognises the violence of the pen when, in The Dead Tearme, he likens the invention of the pen to the invention of guns and gunpowder. Thomas Dekker, The Dead Tearme. Or Westminster's Complaint for a Long Vacation and a Short Term (n. p., 1608) 13 Dec. 2007 <<http://eebo.chadwyck.com>>. See also Sanders 176-7.

²⁶ For example William Panke, A Most breefe, easie and plaine receite for faire writing (London: n. p., 1591).

When she is taught to read, let her peruse books that impart instruction in morals; when she learns to write, do not have her imitate idle verses or vain and frivolous ditties, but rather some grave saying or a wise and holy sentiment from the holy Scriptures or the writings of philosophers which should be copied out many times so that they remain firmly fixed in the memory. [...]. I wish the woman to be totally given over to that part of philosophy that has assumed as its task the formation and improvement of morals.²⁷

While a gender hierarchy was the issue here, the linguistic practices of the marginal classes were also expected to be passive.

However, there was another marginal sector of society, whose passivity could not be assured. While most writing instruction was directed towards the élite, there was a potentially dissentious group, whose access to education had been eased by the venacularisation of learning, and whose wealth had gained access to the grammar school, university and “high” literacy. A new kind of socio-economic “class” was emerging. The authorities regarded this with some anxiety, seeing it as a possible flouting of statutes controlling social decorum, and there was a marked increase in the number of proclamations concerning sumptuary laws in the reign of Elizabeth.²⁸ Despite this, there was a qualified acceptance of the literacy of this class, as it was necessary to the burgeoning scribal economy, while further defining the aristocratic class above it.²⁹

Though many gained preferment through educational merit, the usual reward for such success was public service, which required deference to, and considerable investment in, the existing hierarchy.

²⁷ Vives, ed. Fantazzi 76-7.

²⁸ *Arber passim*. Many of these proclamations were concerned with dress and behaviour.

²⁹ Lisa Jardine writes: “A Humanistic literary training in the use of formal languages was of huge benefit to royal ministers, civil servants, secretaries, ambassadors and all those involved in the conduct of international diplomatic business.” Lisa Jardine, Worldly Goods: A New History of the Renaissance (London: Macmillan, 1996), 253 (hereafter, Jardine, Worldly Goods).

All members of this sector could not be gainfully employed, there was now what Gaggero calls “a redundancy of scholars”, whose hopes of the high public office and attendant social status, promised by their humanist education, had been disappointed. To quote Gaggero’s more concise terminology: “there were not enough jobs to go around.”³⁰ Apart from these parvenus and malcontents, there was also a group of “intellectuals”, whose high literacy might encourage the unwelcome critical examination of official doctrine and polity. Some, many already in public office, were ambitious self - made men. It was not merely these subaltern groups that posed a threat, but many of the upper class also. Discontented courtiers, *flaneurs* of the type deplored by Ascham, encouraged by the climate of patronage and factionalism in court circles, harboured grievances.³¹ A group of dangerous, educated, men existed whose education was encouraging an individual realisation that was not of the kind promoted by religious authorities. Such men, who were generally suspected of subversion and treason, in whose hands the pen was seen as a weapon, will appear as characters in the plays that will be considered in this study, as will some women whose very ability to write was seen as potentially subversive anyway. Educated, discontented and envious noblemen, self-seeking social climbers, “scripting” women, treacherous civil servants and their literate attendants, secretaries, messengers, go - betweens and confidants. All will be examined against contemporary antithetical

³⁰ Gaggero. Contemporaneously, Mulcaster observed:

Wherof I saye thus, that to many learned be to burdenous, that few be to bare, that wittes well sorted be most civill, that the same misplaced be most unquiet and seditious. To many burdens any state to farre: for want of provision. For the rowmes which are to be supplied by learning being within number, if they that are to supply them, grow beyound number, how can yt be but too great a burden for any state to beare? To have so many gaping for preferment, as no goulfe have stoore enough to surffise, and to let them rome helpeles, [...]. how can it be but that such shifters must needes shake the verie strongest piller in that state where they live, and loyter without living? which needles superfluitie fleeting without seat, what ill can it but breede? Mulcaster 74.

³¹ Roger Ascham, *The Scholemaster: Book 1*, (1570) ed. Judy Boss *Renaissance Editions* 1998, 22 May 2002 <<http://darkwing.uoregon.edu/~rbear/ascham1.htm>>.

attitudes towards literacy and the exploitation of these attitudes by the playwrights involved. Most of these characters will, in some way, be connected to the writing, reading, or circulation of letters.

The writing of letters was a linguistic practice lately made available to this ambitious, upwardly-mobile group, and which provided a possible means to advancement. As Lisa Jardine writes: “the exchange of familiar letters could come to stand for the efficiency with which humanist text skills could be used to alter an individual’s social position and prospects”.³²

The transmission of letters had been employed for the conduct of religious affairs for centuries and was adopted by legal, bureaucratic and judicial agencies from the twelfth century onwards.³³ The increase in written communication created a demand for notaries, clerks and scribes, exceeding the number of clerics usually employed in these areas of administration. Letter writing became part of a pedagogy that disseminated the values of an ideological system that sought to constrain linguistic, as well as social and political, practices. The writing of letters had, for some time, been constrained by the prescriptive practices of classical education and directed by the *artes dictandi* or *dictaminis*, letter

³² Jardine, *Historically* 79.

³³ The Early Modern “private” letter was a fairly recent innovation. Before the twelfth century most letters had been open documents such as royal letters patent, papal bulls and decretals, chirographs, testimonials and certificates, which, while often seemingly addressed to individuals, were really for general publication. Clanchy includes Charters among these public letters. Clanchy 89–91. However, Holinshed refers to blank charters (and other documents) which, during the reign of Richard II, were presented for signing and sealing. Raphael Holinshed, *Holinshed’s Chronicles*, ed. R. S. Wallace and Alma Hansen (1923; Westport CN: Greenwood, 1978), 12-14. Writs, which were usually addressed to individuals, seem to have been of a more personal nature, but Clanchy debates the status of the writ as a real missive between sender and addressee. Clanchy 90. The fact that common forms of standardized and blank writs were available for purchase, gives weight to this argument. Communications, such as battle front missives, which, again, appeared to be private documents, were also meant for public consumption. Although there are rare examples from earlier times, “letters close” became a common form of communication from the reign of Henry II onwards. These sealed and tied missives, usually in Latin or French, were originally employed by the king for confidential and administrative processes, becoming the preferred method of communication for the bureaucratic system, and part of the official discourse. We must therefore accept that most letters of Middle Ages were, like the verse epistle, removed from the personal domain.

writing manuals based on ancient traditions of rhetoric.³⁴ The employment of conventional phraseology, designed to emphasise the status of sender and recipient, was an essential feature of these cultural artefacts. Social and moral responsibility was promoted within epistolographic instruction, as Beebee points out:

Some *artes* [...] are intended to become part of a more general speculum (i. e. a general guide to good social practice); inversely others seek to comprehend the whole of social duty within the art of letter writing.³⁵

The observance of social duty was the aim of humanist rhetoricians who, in the fourteenth century, began to revise the study of a discipline that, due to its increasingly abstract and theoretical associations, had fallen into decline in all but legal and notarial institutions. Renaissance humanists sought to reclaim rhetoric as a practical and relevant discipline that would create urbane and responsible subjects. Like their scholastic predecessors, humanists transcribed the precepts of oratory to written discourses, one of which was the letter.

Letter writing was not initially recognised as one of the ancient generic traditions central to the disciplines of humanist education, owing to the superficial reference to epistolary styles in ancient treatises. For instance, Cicero had not included the letter amongst his rhetorical models and Demetrius had added letter writing as a kind of afterthought to his

³⁴ Conley refers to the inclusion of instruction on the writing of formal and informal letters in Julius Victor's fourth-century *Ars Rhetorica*. Thomas M. Conley, *Rhetoric in the European Tradition* (1990; Chicago IL: U of Chicago P, 1994), 94. See also John Hagge, "Ties that bind: Ancient Epistolary Theory and Modern Business Communication," *JAC* 9 (1989), 07 Sept. 2002 <<http://jac.gsu.edu/jac/9/Articles/3htm>>.

³⁵ Beebee, *Epistolary Fiction* 21-2. He lists seventeen types of salutation found in the medieval *Rationes dictandi*. In an earlier study, Beebee quotes Janet Altman: "the letter writing manual projected a code of representation and a political unconscious capable of exercising social control through the control of language". Janet Altman, "Pour une histoire culturelle de la lettre: L'Épistolier et l'État sous l'Ancien Régime," *L'Épistolarité à travers les siècles*, ed. Mireille Bossis and Charles A. Porter (Stuttgart: Steiner, 1990), 115. Qtd. in Thomas O. Beebee, *The Ideology of Genre: A Comparative Study of Generic Instability* (University Park PA: Pennsylvania State UP, 1994), 69 (hereafter, Beebee, *Genre*).

first-century treatise, *De Elecutione*. With the recovery of Cicero's letters in the fourteenth century, reverence for the disciplines of oratory, expressed in his *De inventione* and *De oratore*, was extended to his epistolary corpora, particularly the *Ad familiares*, letters to friends, familiar letters. As Cicero's roles as philosopher, moralist, lawyer, patriot and politician (positions to which scholars were expected to aspire) were still apparent in his letters to friends, it was recognised that principles of civic duty could be addressed even in the study of familiar letters.

Humanist scholars did not initially admit the familiar letter as a distinct form, recognising only three epistolary distinctions, deliberative, demonstrative and judicial. Seen by commentators, like Lipsius, as the most distanced from traditional, classical, constraints, the familiar letter was employed as a prescriptive exercise and Latin-teaching device, based on oratorical styles.³⁶ It would pursue a single didactic and moral theme, as prescribed by ancient tradition, while, as directed by Demetrius, the character of the writer would shine through. A consciousness of theory and classical knowledge would be exhibited and the characteristics of oral argument would be assumed.

The limitation of themes in letter writing was revised by Erasmus and Vives, both suggesting that any theme is allowable, as long as it is relevant to the situation. Erasmus considered that the letter could be adapted to any subject, if the principles of rhetoric were retained. Vives concentrated on audience, outlining divisions of class and gender. Erasmus revised pedagogic perceptions of the familiar letter, encouraging, in his 1522 treatise, *De conscribendis epistolis*, "The Writing of Letters", its addition to the study of the form.

³⁶ Catherine E. Dunn, "Lipsius and the Art of Letter Writing," *Studies in the Renaissance* 3 (1956): 145-56.

This textbook, together with Erasmus' own letters, was crucially influential upon pedagogic awareness of this particular form of epistolary expertise. The familiar letter became one of the phenomena included in the disciplines of English humanist education and was absorbed into ideals of efficient communication.

Although attention was paid to Erasmus' and Vives' revision of the limitation of themes, and more simple, elegant, styles were introduced to replace the rigid decorum of earlier treatises, the familiar letter still took its cue from speech. Part of the curricular repertoire of invention and eloquence, the letter was a "public" document. The principles of rhetorical categories were retained and it was subjected to the same inventory of tropes and forms. The processes of paraphrasing, translating and imitation of classical models of all other areas of the study of rhetoric, were applied to the letter.

Despite suggesting that subjects of letters should be those which are closer to real life and implying levels of intimacy, Erasmus' popular textbook is still didactic and pedagogic.

Though seemingly moving away from the prescription of both the *artes dictaminis* and the rigidity of humanist concentration on Ciceronian models, the treatise was still used as an aid to the teaching of Latin. Despite the qualified addition of Greek to humanist curricula, Latin continued to be considered the desirable language of learning. In no way did Erasmus' epistolary examples constitute familiar letters. As Lisa Jardine reminds us: "we cannot regard the Renaissance familiar letter as that which we would conceive as a "personal" communication; not meant for general publication, neither was it private".³⁷

³⁷ Jardine, *Historically* 79.

There is, however, another complication in this “richly complex rhetoric of social exchange”, the relationship of the verse epistle and the familiar letter.³⁸ The writing of poetry was as much part of the repertory of courtly, civic and political aspiration as the contrived familiar letter, enduring the same imposition of trope and rhetoric. The parameters of presentation of these two linguistic modes are difficult to determine, and a study of this might seem to be outside the topic of the argument here. However, as previously stated, critical attention has encouraged an analysis of these “missives”.

Lerer states that the controlling fiction of the commonplace book is that it is a collection of intercepted letters, having earlier referred to The Devonshire Manuscript as an “anthology of family surreptition.” The apparent self-definition within the lyric leads Annabel Patterson to establish a connection between this poetic form and the familiar letter. Guillén includes the neo-Latin and the vernacular verse epistle among styles of letter-writing stating that:

Any item of poetry or of prose can be identified, then, as an epistle, or as approximating an epistle insofar as it presents itself or declares itself or functions as writing and as correspondence.

The association between poetry and the letter is recognised by Whigham, when he writes of Elizabethan courtly letters as displaying the same: “self conscious artistry. Like poems, they derive their shape from traditional bodies of theory and practice; and since they are made of words, literary analysis is appropriate.”³⁹ Although it will be argued, later, that

³⁸ Magnusson 1.

³⁹ Lerer 31, 131. Patterson, Censorship 212. Guillén 81. Whigham, “Rhetoric” 864. Also Marotti: “The Devonshire Manuscript, then, becomes less like a collection of courtly love lyrics [...], and more like a sequence of letters”. Marotti, Manuscript 39.

these poems represent a series of *negotia*, employing epistolary styles, with no specific address, certain elements of the verse epistle will be analysed here in the light of these comparisons.

As with the writing of letters, poetry had been subject to precept since its inclusion in the teaching of grammar, and its direction by *Ars poetriae* in the twelfth century. It was one of the cultural, social and linguistic practices dominated by the ideological system of values imposed by despotic Tudor courts. As a utilitarian, as well as social, discourse, poetry could be employed in the dissemination of hegemony, identifying the poet as a political figure. Like the private letter, the verse epistle might be seen to circumvent ideological constraints, effecting both a linguistic and political stance. Within the practice of epistolary verse, which continued throughout the Tudor period and beyond, the use of manuscript, (the exclusivity of which has been previously discussed) rather than print, for the poems that were circulated, might signal that they were not intended for a popular or public audience. The authorship of these manuscripts was often hidden by the employment of scribes in their production.⁴⁰

The circulation of hand-written documents amongst a small élite, usually the court, navigated the potential risk of disturbing the mythos of an absolutist monarchy. The appropriation of the conventional “pretense” of courtly poetry to effect a political and

⁴⁰ The use of manuscript for such poetry continued long after the introduction of print, spreading to the Inns of Court and Universities. Manuscript poetry became even more explicitly political during the Jacobean and Caroline periods, particularly just before, and during, the English Civil War, and into the Interregnum. Woudhuysen refers to the increasing quantity of literature produced in manuscript in the last years of Elizabeth’s reign and throughout the reigns of James and Charles I. Woudhuysen 385. Croft draws attention to the fact that very little of the large amount of manuscript poetry produced after the introduction of print is in the handwriting of the authors. P. J. Croft, ed., *Autograph Poetry in the English Language* Vol. 1 (London: Cassell, 1973), xii and plate. Interestingly, Croft comments on the features of medieval cursive script with humanist Italic influences apparent in Wyatt’s hand in *The Egerton Manuscript* (supposedly a collection of Wyatt’s poems). This aptly reflects the period of change as outlined above.

social stance, instituted what Lerer describes as a “nexus of display and surreptition”.⁴¹ Manuscripts could be circulated and exposed to critique, which was largely manifest in marginalia, although the copying of poems was a positive criticism in itself. We might recognise a further element of conspiracy in the circulation among court circles of various centos, such as The Devonshire Manuscript, in which many of these poems were included. The audience for these collections added critique and commentary as marginalia, making them, perhaps, tactical correspondence, or, at least, shared textual experiences, almost plots, amongst the several (model) readers.⁴² The pre-occupation with audience of this genre empowered the communicative function of such utterances. Written in the knowledge of those that would hear and read them, these verses might be seen as employing a kind of code, almost a literary cryptology.⁴³ The employment of epistolary styles further identifies the communicative stance of these verses.

Poets, who occupied a position of centrality at the court of Henry VIII, created distance by using the epistolary form to present a voice that was at once safely sublimatory, while yet oppositional, to dominant court ideology. Complaint could be articulated under the guise of religious, erotic (in the form of *amour courtois*, the rhetoric of courtly love), or philosophical affectation, though many poems merely performed the ludic functions

⁴¹ Lerer 30.

⁴² Marotti suggests, however, that in the commonplace book: “one is just as likely to find recipes for brandy, household accounts, copies of correspondence, medical information and business calculations, as poetry of various kinds”. Marotti, Manuscript 19. Elizabeth Heale cautiously suggests that these collections were enabling to women, recognising some diffusion of patriarchal power in their amanuenses and commentary. Elizabeth Heale, Wyatt, Surrey and Early Tudor Poetry (London: Longman, 1998), 42-6. Clare also considers that translation was a medium which allowed women a co-existent authorship, Clare, “Boundaries” 2. See also Jonathon Goldberg Desiring Women Writing: English Renaissance Examples (Stanford CA: Stanford UP, 1997), 72-131 (hereafter, Goldberg, Desiring Women).

⁴³ However, Lois Potter (discussing the anonymous publications of the period between 1641 and 1660) writes: “If a literary work is meant to be genuinely unintelligible to such contemporaries as do not already share the author’s opinions, it is hard to see how it can be subversive”. Lois Potter, Secret Rites and Secret Writing: Royalist Literature 1641–1660 (Cambridge: Cambridge UP, 1989), 209-10.

necessary to courtly performance. Set within monarchic theatricality, calculated ceremony, performance and show, coterie verse was employed to circumvent the continuing oppressive patronage culture of the Tudor court, but could not entirely by-pass it.

Adapting the tropes and mores of courtly literary conventions, to effect a political stance within the “minion politics” of the Tudor courts, courtier verse was, of necessity, part of an encultured artifice, evasion, hypocrisy and dissimulation.⁴⁴ These were elements shared with the rhetorical familiar letter, which earned the same criticism. The centrality and dominance of the Tudor court, its impact on society in general, and its position as the site of most political action, substantiates the subversity of Tudor court poetry in a time when coterie verse could facilitate civic aspiration. As Waller writes: “any culture, even the most powerful, always contains the potential for opposition”.⁴⁵ The potential for opposition in the Tudor courts was the convention of courtly epistolary verse, employed by courtier poets to effect a political discourse. This discourse was, however, diffused by its circulation (or interception) and, therefore, never truly private. It is, in fact, the very strategy of circulation, to remove these texts from accusations of sedition, that removes them from the private.

Many poems of the Henrician period were further removed from the private by their inclusion in collections, quite different from the commonplace book, such as Tottel’s Miscellany.⁴⁶ Despite its presentation of the works as a single, biographical, voice, this collection depersonalises them beyond their mere translation into print. The addition of

⁴⁴ Lerer *passim*.

⁴⁵ Gary Waller, English Poetry of the Sixteenth Century (1986; London: Longman, 1993), 29.

⁴⁶ Richard Tottel, Songes and Sonettes, (1557) ed. Hyder Edward Rollins, in Tottel’s Miscellany: 1557-1587 2 Vols. (1928; Cambridge MA: Harvard UP, 1966).

moral, didactic, titles, not only satisfied Marian censorship, but also had the effect of de-ironizing and recoding the poetry of Surrey, Wyatt, and other poets whose works appear in the collection, removing much of the political stance.⁴⁷ This anthology was, of course, to become political as a kind of conduct book, a new *Ars poetriae*, presenting models and personae in the manner of the *Artes dictaminis*. For all its humanist, ethical themes, the miscellany provided a text book of courtliness. By presenting these poems to a popular audience, it made one of the habits of court conduct available to all who aspired to social and political mobility.

We must assume that letters of the Henrician court were written in the same knowledge of possible interception and intrusion, in other words, with a sense of audience, “coterie” correspondence, like the courtly lyrics and verse epistles. This, together with the constraints of conventions and formulary criteria (which in themselves might be seen as intrusions or interceptions), places such letters beyond the private and personal, even those which purport to be familiar letters. Courtly letters of the early sixteenth century, like the “inescapably epistolary” verse of the period, were: “texts read not just by the intended recipients but by intruders, [...] viewed over the shoulder, personal missives approached by invited and uninvited readers”.⁴⁸

They were, therefore, not of the controlled personal domain, communications rather than letters, open missives. The eloquence of these letters is seen to be motivated by the same

⁴⁷ Mason suggests that the verse anthology marked a: “downward turn to sterility, [...], it is in fact the grave of early Tudor poetry.” He also considers that fear of censorship was a limiting factor in the range of Tottel’s collection. H. A. Mason, *Humanism and Poetry in the Early Tudor Period* (1959; London: Routledge, 1980), 253. This seems to place these poems within Annabel Patterson’s “hermeneutics of censorship”. She writes: “authors who build ambiguity into their works have no control over what happens to them later”. Patterson, *Censorship* 18.

⁴⁸ Lerer 30.

climate of anxious patronage that had induced the courtly poetry of the Henrician court. Whether written by a supplicant for political preferment, or, as in Whigham's study, the aspiring courtier, the correctly prosecuted courtly letter is still that of performance and expected, almost invited, interception.

Poetry, then, was, essentially, a performative act, which places the verse epistle at some remove from the truly private communication. Exposed to a select audience, these verses cannot be seen as truly personal missives. Like rhetoricized familiar letters, these texts are removed from the personal and the private, and certainly cannot be compared to the private letters that are to be considered in this study.⁴⁹ If we accept that the lyric, or verse epistle, was often addressed to those in authority, then we could see the circulation of manuscripts as an orchestrated interception of letters. This is something quite different from the genuinely intercepted letter. The verse epistle was, to return to Patterson, once more:

[...]a system of communication ("literature") in which ambiguity becomes a creative and necessary instrument, while at the same time the art (and theory) of interpretation was reinvented, expanded, and honed.

She goes on to suggest that, in the "rediscovery of a classical system of rhetorical ingenuity" a certain censorship exists.⁵⁰ It is this very classical system and self-censorship that removes the verse epistle from the space of the private letter, despite the lyric's coded qualities. The distinction between the rhetorical familiar letter and the verse epistle might

⁴⁹ This sentiment is further encouraged by Heninger's description of these poems as "artefacts". S. K. Heninger, *The Subtext of Form in the English Renaissance* (University Park PA: Pennsylvania State UP, 1994), 19. Also, Greenblatt's argument for the comparison of the court lyric and diplomatic mission writing. Stephen Greenblatt, "The Resonance of Renaissance Poetry," *A. D. E. Bulletin* 64 (1980): 7-10 (hereafter, Greenblatt, "Resonance").

⁵⁰ Patterson, *Censorship* 18-19.

appear to be somewhat limited, as both were, in effect, literary fictions. Adopting the application of similar tropes and mores, the verse epistle can be compared to the familiar letter, but is, perhaps, that which Guillén describes as *contaminatio*, and beyond the “epistolary radical of presentation”.⁵¹ While admitting the application of similar tropes and morés to both modes of address, it is argued, here, that, despite the syncretization of the rhetorical conventions of both genres, the verse epistle is a political document, placed at some distance from the truly private letter and its escape from the maxims of humanist education.

A similar intervention removed the familiar letter from the private. The intrusion of the “poetics” and performance of rhetoric, the prescription of the dictaminal treatises and the perception of the letter as a social and cultural artefact, removed the familiar letter from the private sphere. The writer of the truly spontaneous, confidential letter, that which subverted rhetorical and dictaminal theory and practice was, however, concerned with a more serious intervention. As the letter became increasingly separated from oratory styles, epistolary exchange became a site of suspicion. Chartier identifies “the taken for granted link between letter writing and secrecy”, proposing that: “Secrecy, whether betrayed or closely guarded, was automatically assumed to be the letter’s main attribute.”⁵² This perception encouraged the interception of correspondence, a practice which had, for many years, been employed for official and diplomatic purposes. As Lerer writes:

Missives came and went by other’s hands, and the illicit reading, if not interception, of both personal and official correspondence, [...], became the

⁵¹ Guillén 87-9.

⁵² Chartier, *Correspondence* 14-15.

primary means of diplomatic leveraging in the English and European courts.⁵³

Elaborate systems of secrecy were employed by the increasingly literate “middle class” in the circulation of correspondence, much of which was concerned with litigation, property disputes and domestic affairs. As the practice of interception was extended beyond bureaucratic and governmental environs, a number of circumventive methods were engaged. Folding and pricking were two ways in which the recipient of a letter would be alerted to any unauthorised opening. If the carrier of the letter were a trusted courier, secret information might be conveyed orally, although this somewhat defeats the object of textual transmission.⁵⁴ The confidentiality surrounding the circulation of private correspondence aroused, not only anxiety among religious and political authorities, but also a general suspicion of handwritten communication. As Regan says in King Lear: “Why should she write to Edmund?/ Might not you Transport her purposes by word?” (4. 5. 21-22) These lines encapsulate the perception of a written message as suspect. That which cannot be spoken must be associated with secrecy, deceit and, in the eyes of the state, treachery.

The increasingly enclosed environments chosen by writers of private letters also aroused suspicion. The anxieties that had been aroused by the division of housing into separate

⁵³ Lerer 111.

⁵⁴ The practice of pricking holes into paper so that any disturbance of alignment would signal unauthorised opening. The same principle applied to folding. In Chaucer’s Troilus and Criseyde Troilus folds and seals his letter, while Pandarus promises to sew up Criseyde’s letter to ensure its secrecy. Geoffrey Chaucer, Troilus and Criseyde, (?1382-7) ed. W. W. Skeat, 5 Vols. Vol. 2 1085-1120, 2201. Online Medieval and Classical Library Release #5 ed. Douglas B. Killings (1900; 1995), 06 Feb. 1999. <<http://sunsite.berkeley.edu/OMACL/Troilus.html>>. Hamlet takes great care in the re-folding of Claudius’s letter so that: “The changeling never known”. (5. 2. 51-3) William Shakespeare, Hamlet, ed. Nigel Alexander The Macmillan Shakespeare (1973; London: Nelson, 1992). See also, Stewart, Letters 50-3. On the 10th of May, 1466, Margaret Paston wrote: “Pecock shall tell you by mouth of more things than I may write to you at this time.” The Paston Letters, ed Norman Davis, Oxford World’s Classics (Oxford: Oxford UP, 1999), 111. In A Lover’s Complaint, the “fickle maid” throws “folded schedules” into the river. Other letters are: “with sleided silk feat and affectedly Enswathed and sealed to curious secrecy.” William Shakespeare, The Sonnets and a Lover’s Complaint, ed. John Kerrigan (1986; London: Penguin, 1995), 5. 43-9.

chambers were intensified by further changes in the location and physical mechanics of writing. In the late Middle Ages, the writing desk had been introduced with drawers and lids that could be locked and writing could be hidden. The introduction, in some houses, of small private rooms, closets and cabinets, also caused alarm. Initially repositories for valuables, these rooms were increasingly used for storing correspondence. Closet and cabinet soon became synonymous with secrecy, including the secret business of state.⁵⁵ Whereas writing had always taken place in open rooms, where any passing member of the household could observe the activity, the increasing use of the closet for private reading or writing was taken as an indication of secret activity, as Angel Day reflected in 1592:

By this reason we doe call the most secrete place in the house appropriate unto our own private studies, and wherein wee repose and deliberate by deepe consideration of all our weighty affaires, a closet, [...]. To a closet, there belongeth properlie, a doore, a locke, and a key.

Day goes on to compound the function of the closet and the secretary: “a keeper and conserver of the secrets unto him committed” - both the closet and of the closet. “Honesty, Care, and Fidelitie” are the secretary’s locks and keys.⁵⁶

The office of secretary was one of the positions of preferment to which many of the educated, upwardly - mobile aspired. More than just a scribe – part spy, part retainer or courtier. Often a cryptographer, both encrypting and deciphering letters, a secretary was

⁵⁵ This alarm is reflected in the modifier for the private or secret that exists today. Annabel Patterson writes: “ ‘cabinet’ is a word by no means innocent or transparent. [...] One of its connotations was, certainly, a rustic summer house or bower [...]. Yet even here there is a trace of contamination by other meanings, senses in which artfulness, privacy or secrecy may be present, separately or together”. Annabel Patterson, “Re - opening the Green Cabinet: Clément Marot and Edmund Spenser” *English Literary Renaissance* 16 (1986): 44-70 qtd. 46 (hereafter, Patterson, “Cabinet”). We might be reminded of the bower in *The Spanish Tragedy*, the scene of illicit love and murder. Also Lerer: “The early sixteenth-century semantic shifts in such words as “study”, “chamber” and even “hand”, reveal a new preoccupation with enclosure and control.” Lerer 91.

⁵⁶ Angel Day, *The English Secretorie* (1592) (Cambridge: Chadwyck-Healey, 1999), 102-3. 11 Dec. 2006 <<http://lion.chadwyck.co.uk>>. See also Stewart. Alan Stewart, “The Early Modern Closet Discovered,” *Representations* 50 (1995): 76-100 (hereafter, Stewart, “Closet”).

entrusted with secrets, as his title implies. He was expected to maintain confidentiality and show complete loyalty to his employer, Mary Queen of Scots was devastated when she discovered that her secretaries, Naw and Curle, had betrayed their loyalty to her and exposed her correspondence. This requirement of the office will explain the dilemma of some of the secretaries involved in the treason trials which follow. We shall see how they shared in the blame of their masters, or, as in the case of Henry Cuffe, were vilified as instigators of the crime. Even the post of the Principal Secretary was not without its anxieties, as Robert Beale was to attest, having first warned against imparting unpleasant news to the queen whilst alone:

If anything be disliked, it will be said by the rest of the Council 'that it was the secretary's doing, that they signed for the company [or] that the letter was brought to them' by the Secretary himself. [...]. Be not too credulous lest you be deceived and be sure to have a special cabinet whereof you 'keep the key' for your 'secret intelligences, distinguishing the boxes or tills rather by letters' than by names.⁵⁷

Despite the difference in social position between secretary and master, this loyalty and confidentiality was interpreted as an intimate relationship within which Rambuss recognises an "erotics".⁵⁸ This intimacy was taken as constituent of a conspiratorial friendship ("two men behind a locked door").⁵⁹

⁵⁷ Robert Beale, *A Treatise of the Office of a Counsellor and Principal Secretary to her Majesty*, qtd. in Conyers Read, *Mr Secretary Walsingham and the Policy of Queen Elizabeth (1592)* 2 Vols. Vol. 1 (Oxford: Oxford UP, 1925), 54-5. Read later suggests that plot-breaking and the exposure of secrets were tasks that were associated with the office of the principal secretary. Read, 2. 307. Rambuss charts the development of the principal secretary, under the Tudors, from little more than a minor officer in the royal household to the chief representative of the crown. Richard Rambuss, "The Secretary's Study: The Secret Designs of *The Shepheardes Calender*," *English Literary History* 59 (1992): 313-35 esp. 316-7 (hereafter, Rambuss, "Study").

⁵⁸ Richard Rambuss, *Spenser's Secret Career* (Cambridge: Cambridge UP, 1993), 30 (hereafter, Rambuss, *Career*). Minson recognises a similar secretarial relationship to this day, suggesting: "The 'personal services' dimension of the secretarial role is in consequence only the most visible form of a more ubiquitous sexualisation of the workplace. Boss-secretary relations are seen, then, as being to a great extent secretly organised around heterosexist desires and fantasies [...]." Jeffrey Minson, "'Bureaucratic culture' and the management of sexual harassment" *Cultural Policy Studies Occasional Studies* 12 (1991), 14 Apr. 2000 <http://www.gu.edu.au/centre/cmp/Jeffrey_Minson.html>.

⁵⁹ Stewart, "Closet" 83.

The secretary was trusted with, and therefore party to, the thoughts and *intention* of his master. In the Revenger's Tragedy, Vindice asks:

VINDICE. Did he? 'Lack, you know all.

You were his midnight secretary.

GRATIANA. No.

He was too wise to trust me with his thoughts.(1. 1. 127-130)

The secretary was privileged to compose his master's letters, legitimately forge his signature and use his personal seal or dry stamp.⁶⁰ Such copying extended beyond that of his master's hand, the secretary was, in fact, "the simulacrum or mirror of the master himself".⁶¹

The general mistrust of the office of secretary can be observed in the hostile treatment given, in Renaissance drama, to those characters who hold the post. In the Duchess of Malfi, Antonio, the steward of the house, is referred to as a "bawd" (2. 3. 65) and "a slave that only smelled of ink and counters" (3. 3. 71); while, in The White Devil, Flamineo is not only secretary, but also pander and assassin in service to Brachiano. A similar treatment is given to Oswald in King Lear, a point which will be discussed, later, in the study of the play.

Although the secretary was often used as a messenger, there were men who were willing to carry letters in return for a fee. The dramatic representation of these peripheral agents of the letter as unsavoury, suggests a public perception of this occupation similar to that

⁶⁰ The dry stamp made an impression upon paper that could be inked over, producing as Goldberg, quoting Starkey, points out: "a near perfect facsimile". David Starkey, "Court and Government" in Revolution Reassessed, ed. Christopher Coleman, and David Starkey (Oxford: Clarendon, 1986), 55 qtd. in Goldberg, Writing Matter 261. During the reign of Edward VI, the king's dry stamp was firmly under the control of Edward Seymour, the Lord Protector.

⁶¹ Rambus, Career 72. See also Woudhuysen on the scribal responsibilities of the secretary. Woudhuysen 66-87.

awarded to the secretary. In King Lear, Oswald, despite his higher status as steward, is described as “a reeking post” (2. 2. 220), while, as anticipated earlier, in the reading of Twelfth Night, Viola disdains the position of a “fee’d post” (1. 5. 274). In the same play we observed the conspirators dropping the forged letter in Mavolio’s path, thus distancing themselves from the role of messenger and, thereby, involvement in the text. This association of messenger and text will be seen to be of importance in the charge of treason brought against those men, who might have carried so much as a single letter, in the treason trials that will be investigated later.⁶²

There was the concern regarding the intractable linguistic behaviour of the familiar letter outside rhetorical precepts. The changing loci of writing, the chamber, the closet, the cabinet, the writing desk, all presented actual spaces, physical and psychological barriers, to the spatial invasion that underpinned the dynamic of political and social control in Early Modern England. The letter, therefore, became associated with secrecy and interiority. It was inevitable that the letter should become a site of suspicion, and, with the introduction of novel identifications of written treasons, a crucial instrument in the prosecution of treason trials.

⁶² In The Revenge of Bussey D’Ambois, the captain is insulted by Clermont’s suggestion that he carries letters, “S’death sir, use a captain like a carrier!” (3. 2. 215). George Chapman, The Revenge of Bussey D’Ambois (1609) in Four Revenge Tragedies, ed. Katherine Eisaman Maus (Oxford: Oxford UP, 1995), 175-248.

Chapter 5

Treason Trials

In her study of the law of treason by word Rebecca Lemon points out that a history of how and when subjects were prosecuted under this statute has not yet been undertaken. She also suggests that such a project would be difficult due to its “patchy and episodic” application.¹ While not pretending to redress this omission, entirely, in this chapter I present legal proceedings which increasingly attend to written documents in the articulation of the crime. Study of the transcripts of these trials has led to the conclusion that the development of the concept of treason by word, by the inclusion of writing, within the 1534 Act, was also “patchy and episodic”, suggesting that the statute did not have the immediate or dramatic impact that some commentators aver. In order to support this conclusion, and chart the gradual entailment of written evidence, I have investigated the notion and prosecution of treason by word in the two centuries preceding the 1534 Act.

As argued elsewhere in this study, despite concerns regarding the rise of literacy and the influence of print, the prosecution of treason by word during the Early Modern period was influenced by cultural and political attitudes towards writing. There was concern regarding the enclosed environment, implications for secrecy and unmonitored interiority that surrounded this linguistic practice. Religio-political anxieties informed suspicion of letter

¹ Lemon 10. Elton suggests that the enforcement of this law proved difficult both before and after the 1534 statute, citing several cases where the drawing up of indictments for the crime was problematic. Elton, PP 298-310.

writing as potentially subversive behaviour and perceptions of the letter as a subversive document of increasing usefulness in treason trials. Solicitude, encouraged by cultural changes taking place during this time, effected a culture of surveillance as statecraft, in which the interception of letters was paramount to the detection of treachery. The articulation of the judicial condition regarding the letter, as evidence of treason, will be demonstrated in the trials below.

The final section of this chapter will present an evaluation of the impact of written evidence in treason trials upon the literature of the day. This will preface a discussion of the remaining plays. Before attending to the trials, however, it is necessary to present a brief overview of earlier judicial evaluations of the crime, as concomitant to imagining and compassing the king's death, as prescribed by the 1352 Statute. It would seem that the purposive offences of imagining the king's death, inciting insurrection and levying war against the king, enjoyed a wide legislative interpretation in order to justify indictments for treason.

During the reign of Richard II (a time recognised by Bellamy as being "of utmost importance" to the development of the law of treason), when trial by battle was still extant, a statute (21 Rich. II, c. 3) was passed which required no overt act in compassing the king's death or deposition.² This added new dimensions, including the prosecution of treason by word to the hitherto limited sue of treason within 1352 Act. The repeal of the

² Bellamy, *Tudor* 109. Laws passed during this period served to increase the royal prerogative. Trial by battle, or combat, was not actually abolished until 1819. Such a trial for treason by word takes place in *2 Henry VI* (1. 3. 179-219 and 2. 4. 59-103). Horner, the armourer, is accused of calling the king a usurper and promoting the Duke of York as the true claimant to the throne. After appearing before the king, Horner is sentenced to single combat, during which his death is taken as a sign of his guilt. However, Jean Howard writes of this scene: "the combat is moved close to a farce by the fact that the master turns up drunk and the apprentice does not know how to handle a sword. The audience beholds something perilously close to a parody." Howard 137.

1379 act, by the first parliament of Henry IV, did not prevent charges of what may be classed as treason by word being brought against five men who spread the rumour of Richard's survival and imminent return to power. An early instance of words satisfying the requirement of an overt offence may be observed in the production of a letter as evidence against one of the accused.³

By the end of the fifteenth century, words that could be described as "malicious" could justify an indictment for treason. Verbal misdemeanours seem to have been recognised as purposive acts. Gossip, prognostication (most famously the case of the Duchess of Gloucester) and even unguarded comments, could bring about a charge of treason.⁴ It was under this interpretation of the law that Thomas Kerver was indicted for treason, in 1444, on a charge of "depraving the king".⁵ Certain words might also be construed as encouraging the people to rise against the king, as in the posthumous attainder served against Jack Cade in 1453, which included an indictment for the use of "imaginative words". In 1477, Thomas Burdette was hanged at Tyburn for an "incautious jest" against the king. The judicial opinion was that such verbal acts could bring sadness to the king, resulting in his illness and death, thus allowing prosecution under the clause of imagining the king's death of the 1352 statute.

³ These cases are discussed by Isobel Thornley, 56-8. See also Bellamy, *Middle Ages* 118-24, Elton, *PP* 278-9, Resneck 545-52. Resneck, however, suggests that the charge of treason by word was part of a "manifold narrative" to prove the offence of imagining the king's death. Resneck 552. This is a point raised earlier in this study and would seem to be supported by the first three trials presented here.

⁴ The Duchess was accused, in 1441, of consorting with necromancers, particularly with Richard Bolingbroke, who had predicted the king's imminent death. Bolingbroke was hanged and the Duchess required to do the penance of walking through London with a lighted taper. The story is recited in Shakespeare's *2 Henry VI* (1. 2. 70-81), (2. 3 1-16), (2. 4. 6-40). See also Bellamy concerning the case of John Spermhauk. Bellamy, *Middle Ages* 116-18.

⁵ E. Kay Harris identifies this as the first deployment of the 1352 statute in this way. E. Kay Harris, "Evidence against Lancelot and Guinevere in Mallory's *Morte Darthur*: Treason by Imagination," *Exemplaria* 7 (1995). 14 Aug. 2001 <<http://web.english.ufl.edu/exemplaria/harris.html>>. In the same year, a woman who criticised the king's treatment of the Duchess of Gloucester was convicted of treason on the same charge and pressed to death. The fact that she had been paraded in a cart, with her same treasonable words displayed around her head, prompts Harris to recognise this as the use of words as tangible, visible evidence. Harris 14.

Writing attracted the same kind of judicial construction as the spoken word and there are various cases of prosecution for the publication and circulation of ballads, schedules, bills, posters and other written documents thought to be seditious.⁶ Such proceedings were not undertaken without due legal consideration, and it was usual for much care to be taken to distinguish between words that were seditious (wanting the overt act) and those that were treasonable, before an indictment was put before a jury for approval. However, since the beginning of the fourteenth century, it had been possible for parliament to pass Acts of Attainder which could impose convictions for treason without the need for judicial decision.⁷

We can observe a widening in the interpretation of the overt act of treason required by the 1352 Statute, to include words, throughout the fourteenth and fifteenth centuries. The written documents considered in treason trials during the period before the 1534 act period were, however, of a more public kind. The texts that will be considered here are those which, by their very privacy, aroused suspicion and anxiety. Legal and political

⁶ Annabel Patterson suggests that some of the charges for heresy against Sir John Oldcastle, in 1413, rested on being implicated in the dissemination of Lollard pamphlets and bills, citing incidences of the criminalisation of such behaviour in the early fifteenth century from the *Chronicles of Stow and Holinshed*. Annabel Patterson, *Reading Holinshed's Chronicles* (Chicago IL: and London: U of Chicago P, 1994), 239 (hereafter, Patterson, *Chronicles*). She also refers to the case of John Woolman who, in 1416, was hanged, drawn and quartered for distributing "seditious schedules". Patterson, *Chronicles* 239. Another well-publicised and remembered case was that of the poet Collingbourne who, in the reign of Richard III, was accused of devising a scurrilous rhyme about the king which might cause an uprising against him. He is remembered, along with the Duchess of Gloucester, in *The Mirror for Magistrates*. However, even in this case, as Rezneck points out, Collingbourne was also charged with conducting correspondence with the French king and Henry Duke of Richmond (later Henry VII), and therefore adhering to the enemy. Rezneck 550. He also recounts two fifteenth-century cases of treason by word where the circulation of "schedules" and "bills" brought about convictions. Rezneck 549.

⁷ Acts of Attainder were statutes which allowed Parliament legislative powers. The accused, having lost all civil rights, were declared guilty following the reading of charges. The first notable use was against the Despensers in the reign of Edward II, although Bellamy judges their conviction to be upon king's record. Bellamy, *Tudor* 53. These acts proved useful to both sides throughout the Wars of the Roses and were still employed during the English Civil War, no doubt due to the fact that they allowed forfeiture, even when dealing with absent or deceased traitors. The procedure was not new; conviction by king's record, or by notoriety, was previously employed to condemn traitors unheard. This was the case with David ap Gruffyd in 1283 and William Wallace in 1305, although each was afforded a show state trial. In a trial upon the king's record the only procedure was the reading of the king's record and supervision of the execution. Notoriety excluded trial procedure for treasons that were so notorious that an immediate conviction was justified. E. Kay Harris suggests that attainders were akin to the ancient summary justice of hue and cry. Harris 11.

institutions began to accept letters as revelations of the mind, imaginings, intentions and, therefore, evidence that could bring about a lawful prosecution of the crime of Treason by Word under current and ancient treason laws, with due deference to Common Law.

In order to examine the evolution of this crime and the legal proceedings employed against those accused of this particular treason, I have used transcripts of trials which I feel are significant to the study of the increasing use of the letter, as a judicial document, in the prosecution of the crime of treason by word.⁸ Bellamy suggests that, from the late fifteenth century onwards, treason trials became increasingly concerned with evidence, confessions and witnesses rather than the character of the accused.⁹ I wish to demonstrate that the letter could satisfy all these presentments and identify its presumptive use in the trials that follow. I would suggest that, as courts increasingly relied upon textual evidence, handwriting or “character” served as testament to the treacherous character of the accused. In King Lear, we find that Edgar’s supposed handwriting is taken as evidence of his filial disloyalty (1. 2. 61).

The trials of the Duke of Clarence, Lord Stanley, the Duke of Buckingham and Cardinal Wolsey are presented as proof that the introduction of treason by word in the 1534 Act was not as radical as some commentators suggest. This is particularly apparent in the case

⁸ I have mainly used State Trials and T. B. Howell, A Complete Collection of State Trials Vols. 1 and 2 (London: Hansard-Longman, 1809-1828), (hereafter, Howell). Both of these works, particularly Howell, are often based on works by Stow, Hall, Cobbett, Kennet, Burnet and various manuscripts, which I acknowledge to be not entirely accurate. For the trial of Nicholas Throckmorton I have also used the modernised version found in Patterson, Throckmorton. For the trial of the Earls of Essex and Southampton, the online version at <<http://renaissance.duelingmodems.com/trial/tria/03.html>>. Another source for the trial of Sir John Perrot is that found in Roger Turvey’s book on the subject, which is based on Howell and the Lansdowne Manuscripts of the British Library. Roger Turvey, The Treason and Trial of Sir John Perrot (Cardiff: U of Cardiff P, 2005), 134-83. Although the trials of Mary Queen of Scots took place during the period covered and letters were key documents presented in evidence against her, the proceedings have been so well documented elsewhere that I have chosen not to investigate these events further.

⁹ Bellamy, Middle Ages 214. However, Cunningham suggests that establishing the inward truth was manifest in the character and the words of the accused. Cunningham, Betrayals 2.

of Buckingham in 1522, when correspondence was cited in the charge of imagining the king's destruction, and words defined as an overt act. These early trials also indicate that treason by word was not a primary indictment prior to the 1534 act, although Cardinal Wolsey stood accused of treason on the evidence of a single letter in 1529.

Taking place after the passing of the 1534 act, the trials of Fisher and More should have provided an opportunity to invoke the new clause concerning writing, especially as correspondence between the two was cited as the second of More's indictments. Both were convicted of treason for malicious and treasonous words, but their convictions were more to do with the Act of Supremacy, also passed in 1534, than the new Treason Act. More was accused of treason by both speech and silence. It seems the law concerning written treason had yet to take full effect.

By 1539 the authorities seem to have been paying more attention to correspondence and the circulation of letters but offences still seem to have been prosecuted in much the same way as they were before the introduction of 26 Henry VIII, c.13. In 1541, the Act of Attainder used against Thomas Cromwell, though mentioning his correspondence, charged him with "heinous words" against the king, evidence, surely, that seven years after the Henrician act, courts were still adhering to previous methods of prosecution. It may be assumed that letters were not perceived as of any probative value.¹⁰

The trial of Thomas Seymour in 1549 seems to suggest that the Henrician clause defining writing as an act of treason was quite unnecessary, as letters were included in his articles

¹⁰ Some attention was paid to signs and symbols, however, as will be seen in the charges brought against the Countess of Salisbury.

of indictment at a time when Edward had repealed his father's treason laws. The definitive legislative document, the recently reinstated 1352 act, was considered sufficient to bring charges against Seymour. The later trials of his brother, Edward, also mention "communications" and letters, but written documents were not actually presented as evidence against either Seymour brother. Letters were presented against both Bonner and Gardiner in 1550 and 1551 and, although they were not charged with treason, but with disobedience to the King's Injunctions, I have included their trials here as evidence that more attention was being paid to letters as possible evidence and witnesses against the accused.

Despite the overwhelming catalogue of evidence against the Duke of Northumberland in 1553, I have given attention to this trial, as a significant letter, to which he was party, was mentioned during the proceedings. This letter has relevance to subsequent events concerning the succession, dissatisfaction with which led to the trials of Wyatt and Throckmorton. At the trial of Sir Thomas Wyatt we can observe, for the first time, a defendant in a treason trial being actually confronted with a letter. The accusation of conspiracy with Wyatt and others, resulted in the trial for treason of Sir Nicholas Throckmorton. Much of the evidence at this trial was based on correspondence between Throckmorton and Wyatt and other conspirators. This trial is significant, not only for the release of the accused, but also the use of secretaries and messengers as informers and witnesses against a defendant. The failure of Throckmorton's trial was partly responsible for the Second Marian Treason act of 1554, under which Thomas Cranmer was prosecuted. I include his trial because, although he was accused of heresy, it was a letter that proved to be both accuser and evidence of the crime.

The first Elizabethan Treason Act continued to include writing and printing as acts of treason, a fact that is patently apparent in the trial of Thomas Howard, Duke of Norfolk in 1571.¹¹ This is a trial which fully demonstrates the increasing reliance on letters as evidence and witness, and gives insight into the climate of surveillance and interception that prevailed in a time of high anxiety. Also observable are the circumventive actions taken by the correspondents in their efforts to avoid detection, as is the perceived role of secretaries and messengers as conspiratorial participants. A letter and other written documents were presented at the trial of Edmund Campion at which proof of handwriting became an issue.

A case that seems to illustrate the thesis of the increasing use of letters in treason trials is that of Dr. William Parry, at which the evidence relied almost entirely on letters and a written confession. The accused was confronted with his letters, which were read in court and accepted as a corroborative to his confession. The famous letter of the Babington Plot was not the only textual evidence presented against the plotters. Study of their trials uncovers a culture of plot and counter plot, forgery, secrecy and interception. In this and subsequent trials, such as that of Arundel, we can observe the increasing use of letters as proof of treachery. Certainly correspondence and the secret circulation of letters was used as evidence against Sir John Perrot in 1592, but, strangely, none of these letters were actually produced in court and, again, forgery and false witness are implicated in the evidence against him. It would seem that letter-writing between supposed traitors had become a suspicious activity and enough to prove conspiracy. At the trial of Essex and Southampton no letters were used as evidence against the accused. I have given some

¹¹ Norfolk was informed that he was to be tried under the 1352 Statute.

attention to this trial, however, as the actions of the Earl of Essex at his arrest, and one of his statements of defence, serve to illustrate contemporary anxiety concerning writing as evidence.¹² Not just letters but any textual evidence, such as lists and “articles”, appears to have been of great importance in the trials of the co-conspirators of the Essex Rising, particularly as evidence against Thomas Lee, who was also damned by his role as messenger.

Although I have concentrated upon the treason laws of the Tudor period, the legal and political dimensions of the Henrician Treason Act were far reaching. The judicial application of treason by word continued until 1628. The use of letters as proof in treason trials of the Stuart age is apparent in the trial of Sir Walter Raleigh, in 1603, when letters were used to substantiate a rather tenuous accusation of his involvement in the Main and Bye Plots. Particularly interesting in this trial is the dramatic introduction of letters into the court proceedings and the attention to other textual misdemeanours such as the ownership of treasonous books.

Although there was reference to the mysterious letter uncovering the Gunpowder Plot, it was not used as evidence in the trial of the plotters, who were all condemned against their written confessions. I pay attention to this letter, however, as a reflection of the talismanic effect of such unexplained and dislocated letters in Renaissance plays such as the Spanish Tragedy. A case of a crossover from stage to reality, rather than from court to drama. The final trial to which I give attention, that of Henry Garnet, makes use of letters to involve

¹² This anxiety is reflected in Wolsey’s somatic behaviour and speeches of concern regarding the interception of his mail in Henry VIII (3. 2. 111-18 and 210-27). William Shakespeare, Henry VIII, ed. John Margeson (Cambridge: Cambridge UP, 1990).

the accused in the Gunpowder Plot. Although Garnet was actually guilty of Misprision of Treason, letters seem to have convinced the court of a crime of proper treason.¹³

Throughout these trials a pattern emerges of increased reliance upon written documents, so that we might see the letter as the probative *mainour* (properly *pris ove maynovere*) or “capture” of earlier legal codes.¹⁴ While E. Kay Harris’ essay admits that words could function as *mainour*, in imagining the king’s death in the fifteenth century, the inadequacy of words alone, as evidence of the crime, is also stressed.¹⁵ The argument of the present study is that the letter could satisfy that requirement, the written document representing both the sign of the crime and witness to the deed. This is especially significant if we attend to the OED’s extended definition of *mainour* as deriving from the Old English *aet haebbendre handa gefangen* – “the hand-having thief caught with the evidence.”¹⁶ As Harris suggests, *mainour* could be applied to other forms of circumstantial evidence, such as holding a knife; why not a pen?¹⁷ The interpretive practices of the Tudor judiciary increasingly accepted the letter as evidence of treason, a crime no longer merely proceeding *ex suo proprio capite* - from his own head - but, as we shall see in the prosecution of the following trials, from his own hand.

¹³ Misprision was the concealment of knowledge of Treason. Actually, the crime was based on the Tudor misinterpretation of the linguistic source, Old French *mesprendre* (*méprendre*), to misunderstand. For a discussion of the development of this crime, see Bellamy, *Middle Ages* 216-24.

¹⁴ In law *mainour* was a stolen object found in the possession of a thief when apprehended, but later came to represent the fact, or act, of doing something unlawful. Earlier in legal history, a distinction had been made between larceny (when the thing stolen was actually found in the hand of the thief) and other circumstances when proof was not so irrefutable. Similarly, capture in the act was, as the phrase implies, a witnessed misdemeanour.

¹⁵ Harris 6, 14.

¹⁶ 21 Nov. 06. www.oed.com also, Harris 15.

¹⁷ Harris 15.

The Trials

Submitting evidence in support of an hypothesis places one at risk of presenting mere chronological commentary but I endeavour, wherever possible, to analyse the agency of the letter within the legal proceedings that follow, and chart its role in the expansion of the concept of Treason by Word.¹⁸

Being brother to the king did not prevent proceedings against George, Duke of Clarence, in 1478 (18 Edw. IV, 1478). The accusation of treason was principally grounded in his use of “inconsiderate words”. However, charges of “poisoning, sorceries and enchantments” were added to the indictment “to make his rash language full weight, which otherwise would have been too light to deserve the sentence of death.”¹⁹ This comment, by Kennet, would seem to indicate that words were not recognised as an overt offence at this time.²⁰ A further charge was that he had endeavoured to seize the crown by circulating an “exemplification” (a transcript of a legal document), under the Great Seal of Henry VI, naming himself as heir, should Edward, or his son, die without issue. This document also declared the bastardy of the king. This could be seen as a textual misdemeanour that could be interpreted as “malicious” under fifteenth century interpretations of the Edwardian statute and, therefore, warranting an indictment of imagining the king’s death. Clarence was tried by Act of Attainder and secretly executed.

The loyalty of Sir William Stanley at Bosworth did not protect him from a charge of High

¹⁸ I have not described the procedure in treason trials as this is fully described in Elton, Constitution 80-1 and Tanner 421-23.

¹⁹ Howell, 1. 275-6.

²⁰ White Kennet, A Complete History of England 1. 475, qtd. in Howell, 1. 275.

Treason in 1494 (10 Hen. VII, 1494-5).²¹ Stanley stood accused, upon the word of Robert Clifford, with others of the Warbeck “fraternity”, of “slanderous and opprobrious woordes” which suggested that Warbeck might be the son of Edward IV. There appears to have been some controversy among the judges as to the gravity of the offence. It was argued that it was a dangerous thing to “admit ifs and ands to qualifie words of treason”. However, it was agreed that his declaration, that he would not bear arms against Warbeck, if he was “the indubitate sonne” of Edward IV, came under the description of “positive words” and a direct over-ruling of the king’s title. This is a rather tenuous prosecution as the concept of treason did not legally embrace the sovereign’s titles until the reign of Henry VIII.²²

A case where letters were taken into consideration, before the passing of the 1534 Act, was that of the Duke of Buckingham in 1522 (Hen. VIII, 1522).²³ Tried in the Court of the High Steward, Buckingham was indicted for “certain woordes” spoken against the king and his government to Lord Abergavenny.²⁴ He was also accused of conducting a correspondence with one Nicholas Hopkins, a monk reputed to have knowledge of the future, regarding Buckingham’s (tenuous) claim to the throne. The letters to Hopkins were not cited as separate evidence, but the correspondence between them seems to have been accepted as part of his sponsorship of prognostication. As we have seen above, prognostication was a “malicious” act and therefore treason under the, then, current

²¹ Howell, 1. 277-8.

²² Clifford had been accused of treason but laid blame upon Stanley. Clifford’s impeachment of Stanley and the indictment and condemnation is recounted in Ford’s Perkin Warbeck (1. 3. 97-126 and 2. 2. 1-110). Howell quotes Bacon’s opinion that the real reason for Stanley’s arraignment was his increasing wealth and power, and that the threat of rebellion added to the decision. Howell, 1. 280-82. Clifford received a pardon and was made a member of the Privy Council.

²³ Howell, 1. 367-386.

²⁴ Elton suggests that Buckingham was tried under a mixture of chivalric and common law. Elton, PP 264.

interpretation of imagining the king's death. Buckingham claimed no overt act but Justice Fineux ruled "*icy c'est entente fuit paroles*" – "the words are the overt act".²⁵ This story is recounted in Henry VIII where Buckingham's surveyor (the overseer of his estates, but here, also *surveiller*) makes the above allegations against the duke (1. 2. 118-214).

A letter was instrumental in the change from the charge of Praemunire to a proper charge of High Treason in the proceedings against Thomas Wolsey, Cardinal, Archbishop of York, and Chancellor, in 1529 (20 Hen. VIII, 1529).²⁶ Wolsey had, a year earlier, been indicted for offences which were largely ecclesiastical, such as the use of his authority to obtain property with church funds and privately making treaties with, and accepting bulls from, Rome. These actions certainly placed him within the scope of the 1392 Statute of Praemunire (16 Rich. II, c. 2. 1392), the definitive document regulating the lesser, but seriously sanctioned, offence.²⁷ Charges of superseding his authority in the conduct of official correspondence placed him within the remit of the same crime. Wolsey admitted this crime and was sentenced accordingly, although he was not imprisoned and his preferments and properties were partly restored. However, a damning piece of evidence was produced against him which indicated a graver offence. Sir Francis Bryan had obtained a letter, written by Wolsey to the Pope, which was read in court and taken to indicate a secret intelligence between the Cardinal and the Vatican. (This letter, along with the accusation of Praemunire, appears in Shakespeare's Henry VIII (3. 2. 111-340). The discovery of this letter led to a proper charge of treason. Wolsey died before he was

²⁵ Bellamy, Tudor 152.

²⁶ Howell, I. 367-86.

²⁷ The penalties were loss of civil rights, forfeiture of lands and goods and imprisonment at pleasure. Several statutes had been passed following this measure, but the 1392 statute was still held to be authoritative. Passed to restrain the power of the Papal curia, the fourteenth-century statute forbade the purchasing or importing of Papal bulls and unauthorised communication with the Pope.

brought to trial for the greater offence. This is an occasion when a letter was accepted as evidence and recognised as a confession, or material witness, in a case prosecuted before the passing of the 1534 Act.

John Fisher, Bishop of Rochford, was one of the first to fall foul of two Henrician Acts of 1534, 25 Hen. VIII, c. 22 and 26 Hen. VIII, c. 13.²⁸ Fisher's first fault was his failure to comply with the demands of 25 Hen. VIII, c. 22, namely his refusal to take an oath adhering to the statute's authorisation of the marriage between the king and Ann Boleyn. Such behaviour resulted in an automatic accusation of Misprision of Treason, of which Fisher was found guilty and deprived of his bishopric. In 1535, however, Fisher appeared before the Commissioners of Oyer and Terminer at Westminster on a charge of High Treason as defined by the Treason Act of 1534 (26 Hen. VIII, c. 13). Fisher was charged with the offence of attempting, in words or writing, to deprive the king of any of his titles, in this case Supreme Head of the Church.²⁹ The evidence against Fisher was that he had voiced an opinion to a messenger (Rich, the solicitor-general, who seems to have been sent specifically to gain such evidence against Fisher), questioning the king's right to be supreme head of the Church on earth. Rich swore that he had heard these words which were, in law, held to be malicious as defined by the act. Fisher was, therefore, held to be guilty of High Treason and sentenced to be hanged, drawn and quartered. Interestingly, the correspondence between Fisher and More, cited in More's trial, (below) was not used as

²⁸ Fisher was firstly accused of Misprision of Treason for concealing the predictions of Elizabeth Barton, the Holy Maid of Kent, regarding the king's divorce and remarriage. His name was included in the Act of Attainder specifically passed to deal with Elizabeth Barton and her followers. He was fined three hundred pounds. More had also been included in this bill but, after much petitioning from the lords, his name was removed. Elton, *England* 138. The Act was passed in February, 1534, and was necessitated by the fact that, at that time, words were not officially a treasonable offence. The statute extending the scope of treason was not introduced until the parliamentary session of November - December of that year. Fisher was attainted of Misprision of Treason only. The Maid of Kent was made to tour the country, denying her predictions, before her execution.

²⁹ *Howell*, 1. 395ff.

evidence against Fisher despite the fact that his trial was held after the 1534 Act.

The Act of Supremacy (26 Hen. VIII, c. 1), passed in late 1534, which required oaths of allegiance to the king as head of the English Church, was instrumental in the charge of treason brought against Thomas More in 1535.³⁰ More's silence on this subject was interpreted as denial of the supremacy. As Attorney Hales argued:

[...] though we have not one word or deed of yours to object against you, yet we have your silence, which is an evident sign of the malice of your heart; because no dutiful subject, being lawfully ask'd this question, will refute to answer it.³¹

As the Oath of Supremacy was enforced by penalty of treason, this formed the first count of the very long indictment at his trial (26 Hen. VIII, 1535).

The second count of the indictment was that More had conducted a conspiratorial correspondence with a known traitor, Fisher, by now convicted and condemned. The letters of this correspondence were described as "malicious attempts", "traitorous endeavours", and "perfidious practices against the statute", suggesting some reference to the 1534 Act.³² Letters had, indeed, been exchanged between More and Fisher but were not produced as evidence having, according to More, been burned. The third count was that he had repeated the offence of silence regarding the Act of Supremacy.

Despite weakness induced by twelve months of imprisonment, More argued successfully against the first three indictments. He was, however, found guilty on the fourth count, which was that of treasonable words, reportedly spoken to Rich, against the capacity of

³⁰ Howell, 1. 451-70. State Trials 59-63.

³¹ It was here that More questioned the validity of the charge of malice, claiming that: "[...] where there is no Malice there is no offence." State Trials 60.

³² State Trials 60.

Parliament to pass a statute declaring the king to be the supreme head of the Church.³³ It is strange that at this trial, as at Fisher's, letters were not presented as overt evidence, and even more strange that they should have been burned. It is likely that they were not of a treasonable nature and the exchange of letters was introduced as evidence of a conspiracy, in order to discredit More and emphasise his involvement with a known traitor.³⁴

In 1539 Cardinal Pole increased his efforts in Europe to persuade against England in the name of the Pope. This seems to have led to a certain paranoia, which, further encouraged by possible insurrections in the North and West of England, and rumours of adherence to old superstitions, led to Parliament's hasty passing of a single Act of Attainder.³⁵ This act was used to prosecute fifty three treason trials during the following year, in which treason by word was the main indictment.

Among the fifty three persons brought to trial were the Marquise of Exeter, Lord Montecute, Sir Geoffrey Pole, (the Cardinal's brother) and Sir Edward Neville, who were all taken to the Tower and accused of conducting a correspondence with Cardinal Pole. They were also indicted for expressing hatred of the king, dislike of his proceedings and a readiness to rise should the opportunity present itself. Montacute and the Marquise of Exeter were tried by their peers on the 2nd and 3rd of December 1539. They were charged

³³ Ostensibly, Rich had been dispatched to the Tower to remove More's books.

³⁴ Elton is of the opinion that, despite the "rigged" trials, the condemnation of both men was justified, according to law. Unbeknown to the government, Fisher had been in treacherous correspondence with the Emperor's ambassador, while More's final speech confirmed his allegiance to the Papal supremacy. Elton, *PP* 140. This also suggests that the interception of letters was not successfully employed at this time. More and Fisher were not the only high profile clerics to be condemned for refusal to take the Oath of Supremacy. In 1534, Prior Robert Lawrence, Richard Reynolds, Prior to Sion Hospital, an Augustine Prior, Webster, John Hale, Vicar of Isleworth and John Houghton, Prior of Charterhouse, all went to their deaths at Tyburn. All since beatified or canonised.

³⁵ Acts of Attainder required three readings; in this case the first reading took place on May 10th, the third on May 11th or 12th.

with many offences of treason by word, among them wishing the king's leg would kill him, dreaming that the king was dead, (a remembrance of Roman Imperial treason, perhaps), and talking of the rebellion in the West and the North. These words were taken as the discovery of their "treasonable designs" and proof that they had knowledge of rebellions, which they intended to join when opportunity arose.³⁶ Again, the supposed correspondence with Pole was not produced in court. The prosecutions seem to have taken place under the clauses of the 1352 act that had been employed in the fifteenth century, inciting insurrection and imagining the king's death. The mention of correspondence in these trials suggests that the exchange of letters was increasingly viewed as evidence of involvement in treasonous conspiracies.

On the 4th December, 1539, Geoffrey Pole was indicted for conducting a correspondence with his brother and for saying that he approved of his proceedings, but not the king's. Also indicted were Sir Edward Neville, for saying that the king was worse than a beast, George Crofts, Chancellor of Chichester Cathedral, for saying that the Pope, not the King, was the Supreme Head of the Church, and John Collins for saying that the king would burn in hell for destroying the abbeys. Croft and Collins pleaded guilty and were condemned, as was Neville, despite his plea of innocence. Geoffrey Pole was pardoned, as it was he who had uncovered the "plot".³⁷ Again, written documents were not presented at these hearings, despite references to correspondence. Cardinal Pole and various clerks, gentlemen and churchmen were attainted in their absence for aligning themselves with the

³⁶ Howell, 1. 479.

³⁷ Pardon and reward was allowed by the 1534 act to a person involved in treason who was the first to disclose the crime. Elton, PP 269.

Pope, Pole being made a Cardinal by him.³⁸ They were also charged with sending treasonable letters into England.³⁹ Nicholas Carew, Master of the Horse and Knight of the Garter, was arraigned for speaking of the Marquis of Exeter's attainder as unjust and cruel and thereby adhering to him. He was found guilty and executed on the 3rd March, 1540.

The Marchioness of Exeter and the Countess of Salisbury were also attained under the act of 1539. The Marchioness was accused of conferring with Carew in his treasons and with "divers other abominable treasons".⁴⁰ The Countess of Salisbury was accused of "aggravating words" and conspiring with her son (Pole).⁴¹ At the third reading of the Act against her, Cromwell produced a silk coat which the Earl of Southampton claimed to have found amongst the Countess's possessions. Embroidered with the coat of arms of England on one side and, on the other, the Five Wounds of Christ, the standard of the rebels of the Pilgrimage of Grace, the coat was taken as evidence of her sympathies with the rebellion.⁴² This could have been interpreted as the display of a banner against the king and adherence to the enemy. The Countess was also accused of having Papal Bulls in her possession and keeping correspondence with her son. This correspondence seems to have been taken as evidence of the charge of conspiracy, although its content is not made known. Found guilty, she was kept in the Tower for two years, probably as some kind of hostage to the behaviour of her son. However, following an insurrection in Yorkshire, led

³⁸ Pole had attacked Henry's first divorce in print. His attainder was annulled by the Marian parliament of 1554-55. Guy, *Tudor* 233.

³⁹ This offence could be prosecuted under a clause in 35 Hen. VIII, c. 2, which enabled crimes of treason committed abroad to be tried within this country. It also allowed forfeiture of estate.

⁴⁰ *Howell*, 1. 482.

⁴¹ *Howell*, 1. 481.

⁴² In 1537 a certain Carpissacke was indicted for treason on the grounds that he had commissioned a painter to make a banner with the five wounds of Christ. This was taken as an attempt to revive the Pilgrimage of Grace in Cornwall. His fate is unknown. See Elton, *PP* 295-6.

by Sir John Neville, she was beheaded in 1541. The Marchioness of Exeter died a natural death.

Sixteen other persons were indicted for various treasons under the 1539 Act of Attainder and several other attainders “of a new and unheard of nature”.⁴³ Also attained were priests, for carrying letters to the Pope and Cardinal Pole, merchants, knights, gentlemen, yeomen, for various spoken treasons. Others were attained for “treason in general, no particular crime being specified”.⁴⁴ There is no record of these people coming to trial, the 1539 Act of Attainder seemingly considered sufficient to condemn them. Several more names were added; Ten Carthusian monks (nine of whom died while incarcerated), were imprisoned for bringing in books written against the king’s marriage and three Irish priests were attained for carrying letters to the Pope.⁴⁵ The Bishop of Chichester and one Dr. Wilson were imprisoned on a charge of corresponding with the Pope, but were later pardoned.

Also indicted under this far-reaching act were two gentlemen named Hall and Robert Feron, who were accused of “treasonable things” and for calling the king an adulterer, a tyrant and a robber. Hall had not merely said these things but had written them in a letter to Feron. They were charged with imagining the king’s death and contriving war against the king. Hall, his letter possibly seen as fulfilling the overt deed required by the Act, was hanged. Feron appears not to have been executed and may have been pardoned. Although spoken treason was still regarded as the major crime, it would appear that more attention was paid to textual evidence during this time of anxiety. While letters were not, in

⁴³ Howell, 1. 479.

⁴⁴ Howell, 1. 472-3.

⁴⁵ A clause in the 1534 act allowed for prosecution of those who brought into the realm “any matter of writing” against the king.

themselves, produced as evidence against those accused of treason under this Act of Attainder, there are several references to the circulation of letters. The prosecution of those involved in the transmission of texts seems to suggest a heightened awareness of the constitutive role of writing in the crime of treason.

An Act of Attainder was also used against Thomas Cromwell, Earl of Essex, in 1541. Universally unpopular, due to his low birth and favour with the king, Cromwell stood accused of heresy based on his translation and circulation of “heretical” books. He was also said to have written letters to sheriffs arranging the release from prison of many thought to be heretics. However, the charge of High Treason was brought about by the accusation that, two years earlier, he had used “heinous words” against the king, at the Church of St. Peter the Poor. There was also mention of letters to Lutherans being found in his house. As in most cases of trial by Act of Attainder, Cromwell’s execution took place privately on Tower Green. A few days later, three prominent Lutheran reformers, Barnes, Garret and Jerome, also tried by Act of Attainder, were executed, creating the impression of Cromwell’s involvement in a Lutheran conspiracy as, no doubt, the reference to letters at his trial was intended to endorse. Again we see suspicion of letter writing as conspiratorial behaviour.

Correspondence was taken as evidence of involvement in treason in the case of the Duke of Norfolk, in 1546, when letters concerning the problems of his son, Henry, Earl of Surrey, led to his indictment. Surrey was accused, among other excesses, of using the king’s cipher and the arms of Edward the Confessor as an heraldic device, a privilege given only to the kings of England. This was enough to lead to an accusation of disturbing or interrupting the succession, resulting in Surrey’s trial before Commissioners of Oyer

and Terminer at the Guildhall in 1546 (38 Hen. VIII, 1546), where he was found guilty of High Treason and condemned to death and executed at Tower Hill.

Norfolk was proceeded against for the same crime when letters sent to the Bishop of Winchester fell into the hands of the king's council. One of these letters was cited as treasonous and accepted as evidence of Norfolk's involvement in his son's actions. He was accused of concealing his son's treason, "discovering" the council's secrets and using a cipher. Although Norfolk denied having used a cipher, except when on the king's business, he agreed that he had sent a letter to the Bishop of Winchester which spoke against Cromwell, not the king, but he could not remember if it was written in cipher. He was attained by Act of Parliament (suggesting that there was not enough evidence for a trial by his peers) and, despite "confessing" and throwing himself on the king's mercy, was found guilty. Norfolk escaped execution, as Henry died just before the execution was due to take place and the Act of Attainder against him was declared null and void in the reign of Mary.⁴⁶

The customary Act of Repeal of previous legislation in 1547 (1 Edw. VI, c. 12), some months into the reign of Edward, deprived Parliament of the treason and heresy restraints of his father's legislature and advertised a return to the Act of 1352. As mentioned in Chapter One, this first treason law of Edwardian legislature was quickly amended; writing was reinstated as an overt act of treason if employed against the king's supremacy. The 1352 Act seems to have proved sufficient, however, to authorise charges against Thomas Seymour, brother of the Protector, in 1549.⁴⁷ Seymour's outrageous ambition in a thwarted

⁴⁶ Howell, 1. 451-70.

⁴⁷ Howell, 1. 484-508. Howell says Seymour was attained by a process of Common Law. 486.

attempt to marry Elizabeth, subsequent marriage to Catherine Parr, the Queen Dowager, and designs to influence the king, must have placed him in a precarious position. Accused of High Treason by Act of Attainder, the Articles of Indictment, of which there were thirty three, stated that his guilt was proved by witnesses and “letters under his own hand”. Seymour refused to make direct answers to the charges. Although apparently not presented or read during the trial, the letters were accepted as evidence of his treason and given as much credence as the “testimonies” against him. When committed to the Tower, Seymour was anxious to instruct his servant “to speed the things that he wots of”. This seemingly referred to letters that he wished to be urgently sent to their destinations, and may be the letters that Seymour had written to the Princesses Mary and Elizabeth, urging them to conspire against the Protector. The contemporary culture of surveillance and its circumvention is emphasised by the fact that these letters were found sewn into the linings of his velvet shoes after his execution.⁴⁸

The conviction and execution of his brother must have done little to help Edward Seymour, Duke of Somerset, the Lord Protector, when a Proclamation of Misdemeanours and High Treason was published against him in 1550 (3 Edward VI, 1550).⁴⁹ Some of these misdemeanours were textual. Somerset, a victim of the factionalism that had risen early in Edward’s reign, was charged with communicating with ambassadors in other realms and writing letters that disparaged the Privy Council and encouraged uprising. The Council had offered a reward of one hundred crowns for information leading to the arrest

⁴⁸ Mary Queen of Scots received letters packed into the heels of new shoes delivered to her. John Guy, *My Heart is My Own: The Life of Mary Queen of Scots* (London: Harper Collins-Harper Perennial, 2004), 480 (hereafter, Guy, *Mary*).

⁴⁹ Howell, 1. 510-16.

of those who had distributed bills and letters in support of the Duke.⁵⁰ These charges were sufficient to bring about a conviction for High Treason but some of the indictments were admitted to be justified by intention only, suggesting that letters were not accepted as evidence of imaginary practices. Somerset was imprisoned, deprived of his title, but later released, reinstated to the council and had most of his estate restored.

In 1551, Somerset appeared at Westminster, once more, charged with Felony and High Treason.⁵¹ Accused of plotting to kill the High Steward and inciting rebellion and insurrection, he was proceeded against by only three indictments.⁵² Communications with supposed conspirators were cited which may indicate the use of letters as evidence, but there is no special mention. As Seymour was proceeded against by written depositions and the newly passed Treason Law (5&6 Edw. VI, c. 11) stated that no one could be found guilty of treason unless two witnesses were present, he was found not guilty.⁵³ It is unlikely in this case that letters were produced, as they might have been accepted as evidence of the overt offence that writing had again become, or even as witnesses. During the trial there had been reference to letters as testimony of treason in the trial of his brother, Thomas. It is apparent that written documents were not accepted as witnesses against Seymour on this occasion. He was, however, found guilty of felony and although

⁵⁰ Baldwin Smith suggests that Somerset's popularity with the populace of London was his real crime. Baldwin Smith, "Confessions" 478-9. Patterson sees this pursuit of publication as an act of censorship rather than a quest for evidence in the prosecution of treason by word. She also likens the council's actions to the charge of circulating Lollard pamphlets and bills brought against Sir John Oldcastle, in the reign of Henry V. Patterson, *Holinshed* 250.

⁵¹ *Howell*, 1. 516-27.

⁵² Northumberland, who had plotted against Seymour and succeeded him as Protector, although never adopting that title. This is in accordance with the sue of treason extending to royal officials.

⁵³ The new Edwardian Treason Law was encouraged by the Prayer Book and Agrarian rebellions of 1549 and signalled a return to the full range of Henrician treasons with "writing, printing, painting and graving" deemed High Treason on the first count. The statute made provision for all eventualities concerning the legitimacy, supremacy and succession of the king.

sentenced to be hanged, the usual punishment for the crime, he was, in fact, beheaded in January, 1552.

Writing was not mentioned in the official Injunctions for the Reformation of Religion, but was used as evidence of opposition to the Injunctions against two prominent pro-Catholic clerics, Bonner and Gardiner, in 1550 and 1551.⁵⁴ Edward Bonner, Bishop of London, had ignored instructions concerning certain omissions in his sermons that could be as interpreted as opposition to the Reformation of Religion. For this he was brought to trial and, as part of the evidence against him, a letter, sent to the Mayor of London, which appeared to doubt the validity of the sacrament, was produced and read by Secretary Smith. Despite Bonner's refusal to admit to the writing of this letter, it proved a witness against him and he was found guilty and committed to Marshalsea, where he remained until the accession of Mary in 1553, when he was returned to power and persecuted Protestants with great gusto.

Gardiner, Bishop of Winchester, indicted by Writ in 1551 (5 Ed. VI, 1551), was also accused of disobeying the King's Orders and Injunctions: "by open protestation and by letters also".⁵⁵ The letters were those which Gardiner had written, whilst in the Fleet, to the Protestant Council, the Archbishop of Canterbury and Ridley, Bishop of London. Judged to contain comments that were contrary to the king's commandments, the letters were accepted as evidence of his opposition to the Injunctions and Gardiner was found guilty.

⁵⁴ By-products of the Royal Supremacy, designed to eliminate recalcitrant religious practices and encourage doctrinal change, various Injunctions had been published since 1536. The Injunctions referred to here are those of Edward, passed soon after his accession in 1547, which followed the precepts and prohibitions of his father's directives but more emphatically discouraged the use of images and pictures. They also encouraged the reading of the scriptures and the use of English in church services.

⁵⁵ Howell, 1. 552.

Imprisoned in the Tower for most of Edward's reign, Gardiner was restored to office when Mary acceded, becoming the *malleus haereticorum* of her reign.

Great eloquence was used in Tudor legal documents and this was not lacking in Mary's first Treason Act of 1553 (1 Mary I, c. 1). While advertising her clemency and mercy, the act repealed all previous acts. It declared that no offence should be declared treason, petty treason or misprision of treason unless it was deemed so by 25 Edw. III, 5, c. 2. The return to this statute was to be of great importance in the trial of Nicholas Throckmorton (see further, below). Before the first treason act was passed, however, Mary was able to extend her clemency to the Lords of the Council (though not to Lady Jane Grey). Members of the Council were charged with High Treason in August, 1553, for asserting the title of Lady Jane Grey to the crown. This assertion took the form of a letter sent to Mary on July 9th, three days after Edward's death and the day on which she declared herself queen, which acted upon the will of Edward VI and ignored the will of Henry VIII. Referring to Mary's illegitimacy, it declared Jane Grey as queen.⁵⁶ Despite this insult, all were pardoned and discharged, save Northumberland and Sir John Gates, the latter known to have been actively engaged with Northumberland in drawing up Edward's will in order to subvert the succession to Lady Jane Grey. The fact that Northumberland was not pardoned indicates the possibility of the letter being held in reserve as evidence against him at his subsequent trial. However, although there was reference to the document at the trial, in 1553, it was not presented as a prime witness. His armed rising against Mary, supposed usurpation of

⁵⁶ Following the collapse of Edward's health in early 1553, Letters Patent had been drawn up to bastardise Mary and Elizabeth.

the Great Seal and attempts to interrupt the succession, were crimes enough to ensure his conviction for High Treason.⁵⁷

Jane and her husband, Sir Guildford Dudley, Northumberland's son, were detained at pleasure and may have remained so, were it not for the uprising of Sir Thomas Wyatt in January 1554, a rebellion inspired by aristocratic opposition to Mary's plans for a marriage with Philip of Spain. It was understood that, following the success of the rebellion, Lady Jane Grey would be reinstated as queen, although Wyatt would have preferred Elizabeth. The uprising was a failure and Wyatt was captured on February 6th. Six days later Jane Grey was beheaded on Tower Green and Guildford Dudley on Tower Hill. Suffolk, Jane's father, was executed later that month. Wyatt was arraigned at Westminster in March on a charge of High Treason for levying war against the queen.

At his trial Wyatt was questioned by the Queen's Solicitor concerning a letter sent from him to Elizabeth advising her to remove herself from the queen, the writing of which Wyatt confessed.⁵⁸ He was also questioned about letters he intended to write to Elizabeth, but there is no record of his answer. However, he denied a letter written to the Duke of Suffolk, one of his co-conspirators, but, on being shown the letter, admitted it was his hand.⁵⁹ We might view this as the confrontation of a material witness that was allowed to

⁵⁷ Coached in prison by Nicholas Heath, later Archbishop of York and Chancellor, Northumberland vowed to adhere to the Ancient Religion and took the Sacrament two days before his execution, at which he publicly recanted. It is possible he was promised a pardon should he renounce Protestantism and exhort the people to follow the Catholic faith. None was forthcoming and he was beheaded within a month of Edward's death.

⁵⁸ Bellamy suggests that the letter was introduced as an exercise in propaganda. Bellamy, *Tudor* 164.

⁵⁹ Suffolk had been involved in the plan to disrupt the succession but had been amongst those pardoned. He was found guilty and executed for his role in the Wyatt rebellion.

the accused, by the second Edwardian Treason Act, or a confession to an overt act.⁶⁰ It might also suggest the “character” witness as character witness, as with Edmund’s forged letter in King Lear - “You know the character to be your brother’s?” (1. 2. 62) - emphasising the association between the letter writer and treason.⁶¹ As Wyatt had committed a crime that could be ably prosecuted under the 1352 Treason Statute, it is more likely that the letters were presented as *ex post facto* evidence of Suffolk’s, Jane Grey’s and Dudley’s treason.⁶² They might also have served to implicate Elizabeth (who had been arrested and imprisoned in the Tower) in the plot, but her involvement could not be proved. Wyatt was found guilty of High Treason and executed at Tower Hill in April 1554.

One of the few persons to escape conviction and punishment following an indictment for High Treason was a sympathiser of the Wyatt rebellion, Sir Nicholas Throckmorton.⁶³ Proceeded against at the Guildhall in April, 1554 (19 Mary I, c. 1), Throckmorton was accused of levying war against the queen, compassing to deprive her of her crown, seeking to destroy her, and conspiring and imagining the queen’s death.⁶⁴ Subverting the procedure of the treason trial from the start, Throckmorton refused to plead until he had made a speech to the court. He was accused, by way of the written confession of a servant, Winter, of sending messages to, and having meetings with, Wyatt. In this written

⁶⁰ Bellamy suggests that letters and other incriminating documents fell into the same category as examinations and confessions. Bellamy, Tudor 149.

⁶¹ A further reference to character in this context is made in 2. 1. 72.

⁶² Elton says that Wyatt’s attempted rebellion ensured that the marriage treaty was accepted without opposition. Elton, England 218.

⁶³ However, Annabel Patterson reminds us that Bellamy identifies thirty two acquittals out of six hundred arraignments in the years 1530 to 40. Bellamy, Middle Ages 171 qtd. in Patterson, Throckmorton 8. Elton also suggests that acquittals were not uncommon. Elton, Constitution 82.

⁶⁴ Howell, 1. 870-902. State Trials 63-78.

statement, which was read in court, Winter confessed to taking “divers traitorous devices” to Wyatt and stated that Throckmorton had also sent a “post” to Sir Peter Carew. A written confession from one Cuthbert Vaughan asserted that he had also delivered letters to Sir Peter Carew and had brought Throckmorton letters from Wyatt.⁶⁵

Brought into the court to verify his confession, when questioned by Throckmorton, Vaughan admitted that he did deliver some letters but did not know if they were of any treacherous import. Although much was made of the correspondence between Wyatt and Throckmorton, the accused denied sending or receiving treacherous letters and asked for them to be produced in court, quoting the two witness rule.⁶⁶ This indicates that the letters would have been accepted as witnesses by prosecution and accused alike. Even if the letters had been produced they would not have stood as evidence or witness against him, as Throckmorton well knew.

Throckmorton cleverly referred to the Statute of Repeal of 1553, which had repealed all previous statutes and advertised a return to the 1352 Act. As the statute had purposefully excluded “words writing printing or ciphering” as offences, Throckmorton demanded proof of the open deed as defined by the 1352 Statute.⁶⁷ He insisted that he had not committed treason by the law as it stood on that day. It was then asserted that

⁶⁵ Howell, 1. 874. Carew had been involved in the conspiracy against the royal marriage and was imprisoned in the Tower. He was released in 1556. Vaughan was tried for his involvement in the plot but acquitted.

⁶⁶ There is some doubt as to whether Throckmorton could cite this rule because of course it was the product of the second Edwardian Treason Act which had been repealed in 1553. The first Marian Treason Act made no reference to witnesses and the 1352 Act on which it rested required none. The second act required two accusers to be present, as did the first Elizabethan Act. As Cunningham points out, however, the Edwardian act does not state whether witnesses had to be present or if their written statements would suffice. Cunningham, *Betrayals* 12. Bellamy suggests that there was much confusion and contradiction concerning this rule. Bellamy, *Tudor* 77.

⁶⁷ Sergeant Stanford argued that the 1352 Act was just a declaration of treasons at Common Law but was accused of construction by Throckmorton, who demanded that the statute be read in court. Stanford denied the request and continued to quote precedents such as the cases of the Duke of Buckingham, Lord Stanley and Jack Cade (discussed above).

Throckmorton was guilty of procuring the destruction of the queen by conspiring with others “by way of conference and sending between you and Wiat”.⁶⁸ As Wyatt had gone on to commit the deed, all were guilty. Throckmorton’s answer to this was that “procurement” was not within the compass of the 1352 Statute, and that he could not be accused of “adhering” to the queen’s enemy, as Wyatt had never confessed to being such. The jury accepted Throckmorton’s defence and he was declared innocent of the charges against him.⁶⁹ The court was dissatisfied with this verdict and the jury was immediately arrested and committed to prison. Four members admitted that they had offended and were released, the other eight were detained until December and punitively fined.⁷⁰

Following the Spanish marriage, a second Act of Repeal was passed in 1554 (1&2 Philip and Mary, c. 8), swiftly followed by the Act Against Traitorous Words (1&2 Philip and Mary, c. 9). Drawn up to discourage “naughty, seditious, malicious and heretical persons” from praying for the shortening of the queen’s days or for her turning away from the Catholic religion, this act protected the queen’s majesty only. In order to extend the law’s protection to Philip, a second Marian Treason Act (1&2 Philip and Mary, c.10), wherein he was described as the King, was passed. There was a return to Henrician definitions of treason by word within this act, which served to prevent the repeat of embarrassing episodes like the Throckmorton trial. Clause Six of 1&2 Philip and Mary re-enacted three previous statutes concerning the apprehension and punishment of heretics.⁷¹ It was under

⁶⁸ State Trials 73.

⁶⁹ Had the Edwardian Treason Act of 1552 still been in place Throckmorton could not have made this claim, for this act extended the sue of treason to abettors, procurers and counsellors.

⁷⁰ State Trials 78.

⁷¹ 5 Rich. II, c. 5 (1382), 2 Hen. IV, c. 15 (1401), and 2 Hen. V, c. 7 (1414). These earlier statutes were drawn up to deal with the Lollards. The 1401 Act, *De heretico comburendo*, was the first to inflict the punishment of burning for heretics who refused to recant, it also allowed arrest on suspicion, and the apprehension of suspected heretics by civil agencies. These acts had been repealed by Henry VIII and Edward VI.

this act that Thomas Cranmer, Archbishop of Canterbury was proceeded against in 1555.⁷² Although letters were not used in evidence against him at his examination (unless, perhaps, as one of the “enormous and inordinate crimes” referred to in the ninth of his “interrogatories”), it was a letter that became his accuser and led to his initial arrest and imprisonment in the Tower. His subsequent examination for treason and heresy took place at the Church of St. Mary, Oxford. Anxious to quell rumours of his currying favour with the queen, Cranmer composed a Bill, which he later referred to as a letter, which was published prematurely. Seemingly expressing a grievance against the restoration of the Mass, the letter was quickly reproduced and circulated, finding its way to the Bishop of Rochester and, eventually, to all members of the council. Cranmer did not deny the writing of this letter, but expressed regret at the way in which it had been published. He was found guilty, declared a heretic and, despite numerous recantations, was burned at the stake, joining almost three hundred Protestant martyrs who died in the fires of Smithfield during Mary’s reign.

Although there was no official Statute of Repeal at the beginning of Elizabeth’s reign, her first Act of Supremacy, in 1559, annulled many clauses of 1&2 Philip and Mary. It revived certain laws of Henry VIII and Edward VI concerning the Supremacy and adherence to Rome. Clause Five of the First Elizabethan Treason Act rehearsed, almost exactly, the provisions of the Marian Treason Act, making propitious use of words and writing as offences of compassing the queen’s death. The use of words was declared to be praemunire on the first count and treason on the second count, while writing and printing were declared to be treason on the first count. The settlement of the Church and religion,

⁷² Howell, 1. 768-862.

entitlement to the throne, and protection of the Supremacy, influenced much legislation during the first ten years of Elizabeth's reign. However, the arrival of Mary Queen of Scots in England in 1568, and the Papal Bull of Excommunication served upon Elizabeth in 1570, instigated a second Elizabethan Treason Act (2 Eliz. I, c. 1). Drawn up in 1571, the act was very much based on the 1534 Act of Henry VIII. Words, both written and spoken, were now adjudged as treason and the sanctions against the importation of papal bulls changed from those of praemunire to those of treason.

It was amid this climate of threat that Thomas Howard, Duke of Norfolk, was brought to trial before the Lords at Westminster in January, 1571.⁷³ The arraignment was largely based on Norfolk's attempts to marry Mary Queen of Scots. The indictments were unusual in that they relied on written evidence, producing no material accusers of the crime, and Norfolk's letters became his accusers. It was alleged that he had "falsely, subtlety and traitorously writ divers letters" to Mary when he had been prohibited from holding such correspondence; that letters and "instruments" of his own hand sent to Elizabeth, expressing his dislike of Mary and denying his pursuit of the marriage, were taken as proof of his intention to depose the queen and deprive her of her title; that he had stood surety for letters of credit written in his name and that he had written letters to the Duke of Alva, the Bishop of Rome, and Philip of Spain.⁷⁴ It was further alleged that he had sent money to assist with rebellion, and was implicated in the Ridolphi plot by being in possession of a treasonous letter from Ridolphi to the Duke of Alva. He had not disclosed this letter but had given it to his servant to be deciphered. He was also said to have

⁷³ Howell, 1. 953-1042. State Trials 87-117.

⁷⁴ Howell, 1. 961.

received a letter from the Bishop of Rome offering aid to further the designs of Mary Queen of Scots. The treason of which he was accused was, therefore, imagining and conspiring the deprivation, death and destruction of the queen's majesty by the Statute of Edward III and Common Law.

Norfolk, who had believed he was to be indicted under the 1352 Act, asked if all the treasons of which he was accused were upon the statute of Edward III. He quoted precedents as justification against the charges, but was informed that his actions allowed for the prosecution of imagining the queen's deposition and death. Letters, in which he advertised his dislike of the Queen of Scots, were held to prove that he wished to marry her for her position, with the intention of dispossessing Queen Elizabeth of her title. Against this textual accuser Norfolk pleaded not guilty and, as was his right, elected to be tried by his peers. This letter identifies the acceptance of writing as an extension of imagining the king's death.

The special nature of the accusation of treason by written depositions meant that Norfolk was denied the customary right to confront his accusers. He asked for the letters to Queen Elizabeth, expressing his dislike of Mary, to be brought into the court. This was denied, as it was alleged that others of the council had written such letters and Norfolk could not do otherwise, without revealing his secret dealing. However, a letter from Earl Moray was produced which was an answer to an enquiry from the Commission for the Marriage about Norfolk's dealings. In this letter Moray stated that he had met the Duke at Hampton Court Palace. A copy of a letter from the Bishop of Ross to Mary Queen of Scots, supposedly

seen and verified by the bishop, was produced.⁷⁵ It informed Mary of a meeting between himself and Norfolk. A copy of a letter sent by the Duke to Moray was produced which clearly declared Norfolk's intention to marry Mary, although it was two years old.⁷⁶ Surprisingly, the letter declaring Norfolk's dislike of Mary was then produced. As it was with letters of the other commissioners, it served to reinforce the falseness of his declaration and provide proof of his designs on the crown of England. Norfolk then desired to confront those who had been witness against him, face to face, as the law allowed but was refused, on the grounds of the Queen's security.⁷⁷

A written confession from the Bishop of Ross was read in court which referred to messages between Norfolk and Mary and also to messages between them both and "those of the North". Norfolk was then confronted with a veritable shoal of letters, each like a count of indictment against him. Among these letters was one in cipher, from Mary, which expressed her sorrow at the capture of Northumberland.⁷⁸ Although the letter was read in court, Norfolk denied receiving it but was told that it had been found in a bag of letters which he had ordered to be burned. Norfolk replied: "Burned letters do no hurt".⁷⁹

⁷⁵ Ross had been acting as Mary's agent in London. The circumstances surrounding this letter are suspect. It was supposedly negligently left in lodgings at Newcastle where it was found, by Moray, six months later and sent to Queen Elizabeth.

⁷⁶ This is quite in accordance with practice at the time. It was not unusual for letters to be kept for long periods and then produced as evidence at a much later date. As William Wentworth was later to warn Essex: "it is the common custom to keep letters, and years later produce them for evidence against you in court or elsewhere". Qtd. in Baldwin Smith, *Politics* 221. Moray, Mary's half brother, was, at that time, Regent in Scotland. At first in favour of the marriage, Moray changed his mind and sent a copy of Norfolk's letter to Queen Elizabeth who was ignorant of the marriage plans. We must assume it is the letter presented here.

⁷⁷ See p. 35 regarding the first Elizabethan Treason Act.

⁷⁸ Northumberland and the Earl of Westmorland had been the principle leaders of the Rising in the North (1569-70). Both fled the country, Westmoreland to the continent, Northumberland to Scotland, from whence he was obtained and executed in 1572.

⁷⁹ State Trials 108.

Another letter from Mary was sent to the Duke by the Bishop of Ross, a deciphered copy of which had been found under mats in Norfolk's chamber, along with a cipher hidden in the tiles and an alphabet. A letter written in "red ochre" (invisible ink?) was also read out, which the Duke confessed was his, but denied letters found during the investigation of the Ridolphi plot. These letters were written in the name and cipher of Quarante 40 which his servants, and later the Duke (having first denied it), attested to be his cipher. A bag of letters found under floor boards at his house had confirmed this anyway. Several other letters were presented as evidence and he was accused of receiving letters and tokens from Mary.⁸⁰

A confession from one of Norfolk's secretaries, Hickford, (sometimes referred to as Higford) who had been involved in delivering and deciphering letters, was read in court. Two other confessions were also verbally presented, one from the Bishop of Ross and the other from one of Norfolk's servants, Barker. Barker asserted that Norfolk was privy to plans for Mary's escape and implicated him in the Ridolphi Plot. Norfolk did not deny meeting Ridolphi, but denied any involvement and maintained that, although Barker had brought him letters, "in a Roman hand", he did not accept them. This claim was contested in Barker's confession.⁸¹ As a member of the council, however, Norfolk should have disclosed this knowledge.

⁸⁰ This reference to tokens may have been an attempt to emphasise the unsavoury and intimate relationship between Howard and Mary. It was thought that a woman who sent gifts was sending herself, as with the Duchess to her incestuous lover, Spurio, in The Revenger's Tragedy:

"Many a wealthy letter have I sent him
Swelled up with jewels"(1. 2. 11-12).

Regan sends tokens to Edmund in King Lear (4. 5. 35).

⁸¹ It is probable that the confessions of Hickford and Barker were obtained under torture or its threat.

In a possible return to earlier definitions of the crime, although there was also current legislation against prophecy, Norfolk was also accused of owning a Latin inscription. It read: *In exaltatione Lunae Leo succumbet, et Leo cum Leone conjungetur, et catuli eorum regnabunt.* (“At the exaltation of the moon, the lion shall be overthrown; then shall the lion be joined with the lion, and their whelps shall reign.”)⁸² As Mary and Norfolk had lions on their crests this was taken to predict that they would overthrow the lion (Elizabeth) and reign in her stead. The Duke denied knowing this prophecy but Hickford had referred to the Duke’s ownership in his confession.

Norfolk’s argument that the confessions against him were not lawful, as the witnesses were not free men, as required by law, but indicted traitors, was refuted. He was told that his secret and indirect means, which I take to refer to his letters, to join himself in marriage to Queen Mary were in themselves treason, according to the 1352 Statute.⁸³ Therefore, Norfolk was found guilty of High Treason by all the assembled Lords and was sentenced to the ultimate punishment. His execution did not take place until June, 1572, due to Elizabeth’s reluctance to sign his death warrant. This trial is of great importance to the premise pursued here. The Attorney General defined an overt fact as “a Declaration of the Mind; Letters, Tokens, Speeches, Messages and such like be Overt facts”.⁸⁴ Here, the letter not only fulfils the requirement of the overt act of treason, but also identifies writing as an extension of statutory treason by word, under the auspices of imagining the king’s death.

⁸² State Trials 100.

⁸³ He was, in fact, informed that “The Great Treason” was contained in the letters written in cipher, surely a reference to the 1352 Act under which he was tried. State Trials 103.

⁸⁴ State Trials 103.

Letters still pursued Norfolk to the scaffold for here he confessed to receiving two letters from the Pope, one ciphered, one deciphered, but denied being a papist and all involvement in the Ridolphi plot. Though sentenced to be quartered, Norfolk was beheaded and, perhaps in deference to his position as the leading English peer, his head was not displayed as was the usual case with traitors.

Soon after Norfolk's trial, one of his secretaries, Robert Hickford, was brought before the Queen's Bench and indicted for High Treason (14 Eliz., 1571).⁸⁵ Before making his plea, Hickord confessed to deciphering some of the letters mentioned in Norfolk's indictment, but denied any further knowledge of, or involvement in, the Duke's plans. He also confessed to being privy to letters from Mary Queen of Scots and acquainted with her cipher. He agreed that he had deciphered letters that had passed between her and the Duke. Although advised to plead not guilty to the whole indictment, Hickford threw himself upon the queen's mercy and made a guilty plea. The charge was that of adhering to, and comforting, the Queen's enemies by delivering letters and money to them. Upon this confession, Sergeant Barham proposed that judgement should be given. After a long speech of admonition by Lord Chief Justice Catlin, which implied that those who carried treasonous messages were as guilty as those who sent them, a verdict of treason was returned. Seeking to excuse his behaviour as obedience to his master, Hickford again denied having any part in the plot. He was told that his loyalty was to his prince and not his master. Although Hickford claimed he was not privy to Norfolk's plans, the contemporary perception of the relationship between master and secretary would have directed the guilty verdict. There is no record of his punishment, but as Hickford refers to

⁸⁵ Howell says Higford. Howell, 1. 1042-50. State Trials 117-21.

“the little time I have left” we can assume it was the death penalty.⁸⁶

In the year of Norfolk’s trial, Edmund Campion returned to England from Dublin and, convinced of his Catholic persuasion, soon left for Europe where he remained, becoming a Jesuit priest and teacher. In 1580 he was sent to England on a mission to sustain existing Catholic families and to convert the “heretics”. Essentially, the mission of Campion and his fellow priests was spiritual and not political. Great pains had been taken to evade any possible charges of treason against Jesuit missionaries, even to the extent of the Pope’s equivocal directives regarding the Bull of Excommunication of 1570.⁸⁷ Despite these precautions Edmund Campion and seven other priests were arraigned before the King’s Bench for High Treason in November, 1581 (24 Eliz. I, 1581).⁸⁸ The indictments were that, while abroad, they had encouraged the invasion of the realm, conspired the death of the queen and the overthrow of the state religion, and had come to this country to carry out this purpose. Severally arraigned, all the accused made a plea of not guilty.

Anxious not to be seen as persecutors of men for their religious faith, when the accused came to trial eight days later, the prosecutors had to prove a charge of treason against Campion and his fellow priests. Great pains were taken to insist on the validity of the trial by current and ancient laws. To place them within a site of sedition the queen’s counsel

⁸⁶ State Trials 121.

⁸⁷ The Bull, which had been issued by Pius V, not only excommunicated the queen, but called upon the faithful to withdraw their loyalty from her and remove her. To facilitate the success of the missions, Pius’ successor, Pope Gregory XIII, declared that the Bull was not binding upon Catholics until it had been executed, therefore, apparent loyalty to the state would not earn condemnation. This made it difficult to prosecute for the bringing in of the Bull, which would have been treason by the 1571 Act.

⁸⁸ Howell, 1. 1050-74.

reminded the court of recent incidents of treason and the rebellion in the North.⁸⁹ It was proposed that all these events had been encouraged by the Pope, to whom the accused owed allegiance, and to which treasons they had been party. Weakened by racking, Campion made eloquent argument against the indictments, stressing the spiritual nature of their mission (“we touch neither state nor policy”).⁹⁰ He reminded the court that the law required sufficient evidence and witness to prove that anything they had done could be interpreted as treason. Queen’s Counsel declared that the oaths that they had taken to the Pope and Bristow’s Motives were proof enough of their treason, but Campion was able skilfully to refute this allegation of treason against him.⁹¹

The required evidence and witness was to be provided by a letter which, as if a last resort, was produced and read. Sent by Campion to a Catholic named Pound, it regrets the confessing of some names under torture, but also refers to secrets which he would never divulge, “come rack, come rope”. The Queen’s Counsel seems to have accepted this letter as *prima facie* evidence of Campion’s treason: “What can sound more suspiciously or nearer to Treason than this letter?”⁹² It was suggested that the secrets to which the letter referred were those of the treason they had come to England to execute, although Campion claimed that he referred to secrets of the confessional.

⁸⁹ In particular Anderson, the queen’s counsel, referred to Felton, who had nailed the Bull of Excommunication to the gate of the Bishop’s Palace, and Storey, a former dissenting member of Parliament, who was suspected of involvement in the Rebellion in the North. They had been condemned and executed earlier that year. (Both were later beatified.) There is also a reference in the text to Saunders, I take this to be Nicholas Sanders, Papal Legate to Ireland, who worked ceaselessly to reinstate Catholicism and overthrow Elizabeth. He was involved in an unsuccessful rebellion in 1579.

⁹⁰ Howell, 1. 1054.

⁹¹ Richard Bristow, a contemporary of Campion and one of the revisers of the Douai Bible, had drawn up a treatise to persuade persons into the Catholic faith – Motives inducing to the Catholic Faith.

⁹² Howell, 1. 1060.

More textual evidence was presented in the form of papers which, it was claimed, had been found in various houses where Campion had stayed. Apparently oaths of renunciation of allegiance to the queen and of allegiance to the Pope, these documents were presented as proof of Campion's mission to execute the Bull of Excommunication. Although Campion argued that none of these documents bore his handwriting (which means he must have been given leave to examine them), he was convicted of adhering to the Queen's enemies under the 1352 Act. As he genuinely argued, he had done nothing except preach his faith. In the same year as Campion's trial a new act was passed (23 Eliz. I, c. 1) which was designed to deal with missionary priests and recusants; it now became treason to convert, or to be converted, to Rome. Such actions were equated with the transfer of allegiance from the queen to the Pope.

The discovery of a number of plots against the queen in the years from 1583 to 1585, and fear of recusancy, brought about a state of emergency in England. Royal and Parliamentary anxiety led to the enactment of increasingly penal laws to protect the queen's safety and deal with the threat of Rome. One of these plots involved Dr. William Parry, an adventurer who had been employed, by Burghley, in espionage amongst English Catholics abroad.⁹³ However, it was feared that he had become sympathetic to the Catholic cause, and so was brought to trial at Westminster, in February, 1584, when it was alleged that Parry had owned that he had a design to kill the queen.⁹⁴

⁹³ Constantly in debt, Parry had been condemned to death for assault but had been pardoned by the queen. Elton says the charge was burglary. Elton, *England* 367. After some dealings with Paget and Morgan, agents of Mary Stuart, he informed the queen of possible plots against her and was given a pension and made a member of Parliament. He was again imprisoned for opposition to an anti-Catholic bill, but later released by the queen.

⁹⁴ *State Trials* 121-28. Parry had supposedly approached Sir Edward Neville regarding the possible assassination of the queen. Parry pleaded entrapment but was denounced by Neville.

The indictment referred to letters sent by Parry to Gregory, Bishop of Rome, acquainting him with his purpose and desiring absolution for the deed. He was also accused of receiving letters from Cardinal de Como, which encouraged the enterprise and assured him of absolution.⁹⁵ Parry had confronted his accuser, Neville, at an examination prior to his trial and had, in fact, made a written confession and sent a letter to the queen confirming his guilt. At his trial he was confronted with his letters: “for the better manifesting of his Treasons”, including those to the Lord Treasurer and Lord Steward.⁹⁶ The letter from Cardinal de Como was read in Italian by Parry, then read in English by the Clerk of the Court. The reading of correspondence appears to have been regarded as both evidence and witness statement. When Parry was shown the letters, in the manner of the examination of witnesses, and admitted that they were genuine, they also became a confession. It was further alleged that he had delivered opinions in writing concerning the succession, which was treason under the law at that time.⁹⁷

Parry, who had pleaded guilty and admitted his confession, suddenly claimed that it had been extracted under torture, an accusation which Christopher Hatton, the government representative, refuted. Apart from the accusation by Neville, Parry was convicted solely on the evidence of his letters, in fact there was insistence upon the reading of these letters prior to judgement. Accepted as proof, witness and confession to his treason, the letters justified the guilty verdict and he was hanged at Westminster.

⁹⁵ One of these may have been a letter that Parry had shown to the queen earlier when he had confessed to being a double agent and warned of conspiracies against her.

⁹⁶ State Trials 124.

⁹⁷ State Trials 124.

There were many rumours concerning Parry's intention to kill the queen and the manner in which the crime was to have been executed. Whether he was a true convert, or just an inept double agent, has never been fully established. The discovery of the "plot" caused increased anxiety and encouraged a new Act for provision to be made for the surety of the Queen's most royal person (1585: 27 Eliz. 1, c. 1). The Act against Jesuits (1585: 27 Eliz. 1, c. 2) was also instituted at this time which ordered the driving out of all seminary priests within forty days on pain of treason, as was their return.

There was little doubt as to the guilt of seven conspirators of the Babington plot when they appeared before a Commission of Oyer and Terminer at Westminster, in September 1586.⁹⁸ They were accused of conspiring to overthrow and murder the queen and replace her with Mary Queen of Scots. Much of the evidence which brought them to trial was based upon correspondence. Savage, who had already been involved with French supporters of Mary Queen of Scots, was the first to be arraigned. He was accused of conspiring to assassinate the queen and receiving letters from Morgan (one of Mary's agents in France) and others, which encouraged this enterprise. Savage did not deny the letters, but denied his assent to the regicide. However, in his written confession, read out in court, he admitted that he was persuaded that such a murder would be lawful, according to the Bull of Excommunication, and later became involved in Babington's plans. The written confessions of the other conspirators seem to have been read out, confirming Savage's confession. All were accused of conspiring to murder the queen, release Mary Queen of Scots and of intending to aid an invasion by foreign enemies. Interestingly, the Clerk of the Crown referred to their "traitorous imagined practices" and "traitorous

⁹⁸ Babington, Tichbourne, Salisbury, Barnewell, Savage, Donn and Ballard.

compassed imaginations”, no doubt identifying the validity of their indictment according to Treason Laws current and ancient.⁹⁹

Walsingham had obtained most of the evidence against the conspirators through intercepted correspondence, having first identified a plot by deciphering letters sent between Mary and her agents in France. He employed Gifford, an apostate double agent, placing him both to intercept correspondence between Babington and Mary and to keep Babington “on plot”. In this way Walsingham was able to obtain evidence, which not only sealed the fate of the conspirators, but of Mary herself. Copies of damning letters sent by Babington to Mary, including one which revealed the whole plot, were read in court.¹⁰⁰ As in the case of Parry, the letters stood as accusation, evidence and confession. Babington’s incriminating letter was used as evidence against the other conspirators, certainly in the case of Tichbourne and Abington. All were found guilty as charged, with further crimes of murder, arson, robbery and subversion of religion, based on their separate confessions, added to their indictments. Sentenced to be hanged, drawn and quartered, they suffered deaths of extreme cruelty, so much so that even the queen was affected and gave orders that a further seven conspirators were to be “quite dead” before disembowelling.¹⁰¹

The day after the trial above, these seven conspirators, of which Abington seems to have been the prime suspect, stood trial at Westminster for High Treason with the same indictments against them. Again, treacherous correspondence with enemy agents was cited

⁹⁹ Howell, 1. 1128-40. State Trials 121-26.

¹⁰⁰ These were described in court as a “true copies in Babington’s own hand”. State Trials 125.

¹⁰¹ Despite the appalling conditions of their execution, the men performed Catholic rituals and said prayers in Latin on the scaffold, despite the fact that the establishment of the Anglican Church in 1563 had abolished the Catholic form of confession. Lemon sees the contravention of the expected scaffold ritual as a final act of insubordination and as awarding the condemned an agency. Lemon 88.

as evidence and the confessions of Babington and Ballard were read in court.¹⁰² Tilney and Abington denied involvement. Babington's letter to Mary was produced and read again, but Abington denied being one of the six noble men mentioned in the letter, or knowing of the plot. He seems to have written some kind of deposition or confession which he had torn into pieces, those pieces were presented in court suggesting that even a damaged piece of writing might prove helpful as evidence. Abington asked for two witnesses to speak against him, as Babington, Savage and Ballard were condemned traitors and not lawful witnesses. This was denied, as the conspirators stood indicted in such a way that they could be tried under the current law, or Common Law and 25 Edw. III. This may have been apparent, earlier in the trial, when the Clerk of the Crown referred three times to "traitorous compassed imaginations". Despite pleas of not guilty, all seven were convicted on the evidence of written confessions and Babington's incriminating letter. They suffered the same fate as those previously tried, being allowed a little more mercy.

A number of persons were implicated in the Babington plot, amongst them the Earl of Arundel (the Blessed Philip Howard), whom Babington had identified as being named, by Mary Queen of Scots, as a possible head of Catholics in England. Arundel had been imprisoned in the Tower four years earlier for attempting to leave the country without permission.¹⁰³ He was, never the less, brought before the Lords of the King's Bench on a charge of High Treason, in March, 1589.¹⁰⁴ Here he was told: "your letters are proof that you have conspired with traitors and that you are reconciled with the Pope", the acceptance of epistolary evidence from the outset. There were allegations that he written to

¹⁰² Abington, Tilney, Jones, Travers, Charnock, Bellamy and Gage. Howell, 1. 1141-62. State Trials 126-35.

¹⁰³ Before going abroad, Arundel had left behind a letter of grievance against the queen. It was most likely that this letter earned his prison sentence, rather than his unauthorised attempt to leave the country.

¹⁰⁴ Howell, 1. 1250-64. State Trials 156-61.

Cardinal Allen offering aid to further the Catholic cause. From correspondence as accusation, the court moved on to a letter as witness and proof of his treachery. A communication sent by Morgan, agent of Mary Queen of Scots, was produced which verified Arundel's recusancy. Unusually, a picture, said to have been found in his trunk, was also presented. It depicted a serpent thrown into the fire on one side with the motto, *Quis Contra nos?* and a bloody lion rampant on the other, with the poesy, *Tamen Leo*.¹⁰⁵ Arundel's request to confront his accusers was denied as he was tried under the 1352 Act, but some were brought in and, again unusually, gave their evidence behind an arras, *vive voce*.¹⁰⁶ Arundel discounted these witnesses as all indicted or attainted traitors and therefore not worthy of giving evidence. Letters written to, and on behalf of, Arundel were cited, as were those from Rheims which outlined a plot to invade the country and place Arundel as the head of English Catholics. A number of witnesses were called to verify the circulation of these letters. As further textual evidence against Arundel a "most villainous and slanderous" book was produced.¹⁰⁷ Written by Cardinal Allen, the book identified the Earl as the procurer of the current papal Bull and also as procurer of invasion. Parts of the book and the Bull were read out in court. Arundel was found guilty by his peers, receiving several reprieves (perhaps because of his kinship to the queen) and dying in the Tower after a further six years of incarceration.

The Babington Plot appeared again when it was used to establish a site of treason during a

¹⁰⁵ Although painting was not included as a treasonable offence in the second Elizabethan Treason Act it had been identified as such in the second Treason Act of Edward. Courts had a history of resurrecting previous statutes in the pursuit of conviction. Patterson tells of an incident in the reign of Mary Tudor when a painter had been called a traitor for misrepresenting Mary in an icon, painted as part of a pageant to celebrate the royal marriage. Fortunately, the miscreant was able to amend the painting and no further action was taken. Patterson, *Holinshed* 246-7.

¹⁰⁶ The reason for this may have been that the evidence was hearsay rather than factual.

¹⁰⁷ *State Trials* 159.

questionable trial in May, 1592, in which unverified letters, possible forgeries and false witness, were presented as evidence of the treason of Sir John Perrot, the Lord Deputy of Ireland. Outspoken and short tempered, Perrot had, a few weeks earlier, been found not guilty on a charge of imagining to deprive, depose and disinherit the queen, to take her life, and raise rebellion in the realm. Allegations at this trial concerning letters received from, and sent to, Viscount Baltinglas (“a traitor from Madrid”), and a letter to the king of Spain, offering support should Philip invade, were not proved. Either no letters were produced at the trial or the letter to Philip was an obvious forgery.

Again in May, Perrot faced a second indictment when he was accused of receiving letters from the Duke of Parma, soliciting assistance for the king of Spain.¹⁰⁸ He was also said to have discussed “traitorous purposes” with Sir William Stanley on several occasions. To these charges Perrot made a guilty plea, having returned to England voluntarily to seek pardon for his actions in Ireland. At this stage, the Clerk to the Crown, Sergeant Puckering, reminded the jury of the “Imagination” within which his treason lay - his use of “contemptuous words” (namely, calling the queen “a base bastard piss kitchen woman, a fiddling woman and a silly woman”), which constituted High Treason.¹⁰⁹ He was also charged with knowing that traitors were in Ireland but had not arrested them and had discharged those that had been taken.

Denis O’Roughan, a disgraced priest, who had been employed by Perrot as a spy, testified that he had brought from Spain a letter, which had been concealed in a box. He had been instructed to take two letters back to the king of Spain but, fearing detection, had passed

¹⁰⁸ Howell, 1. 1316-34. State Trials 181-90.

¹⁰⁹ State Trials 183 also from the Egerton MS. qtd in Turvey 114.

the task on to one Davie, paying a great deal of money for a safe, secret delivery. It was said to have been proved that Sir Thomas Wilson had sent letters to Perrot, which had been found sewn into the lining of the bearer's doublet, indicating the secrecy involved. Missives and an answer book (a Catholic religious text) were said to have been sent to Perrot by the Duke of Parma. There had also been correspondence with Sir William Stanley, with whom he had supposedly discussed treason. Several times in the trial all the correspondence was said to have been proved, but by what means was not made clear, for the letters do not seem to have been produced in court. It has been suggested that Perrot's mail was intercepted during his pre-trial stay either at the house of Lord Burghley or a house nearby. The comments about the queen were no doubt gleaned from this correspondence and were enough to condemn him for treason by word anyway. The hearing was adjourned until 26th June, 1592, when the same accusations of treason were rehearsed.

Despite the evidence of thirty witnesses against him, which suggests that the letters were not presented, or given much credence if they were, Perrot still protested his innocence, pleading that there was not one Irishman among them. Lord Chief Justice Anderson referred to Babington and Abington at this stage, declaring that Perrot's treason was as great as theirs and that he should be quartered. Perrot made a plea to be executed as a nobleman and made petitions regarding his inheritance, protesting that he meant no evil. The judgement was postponed and he was not executed. Had he not died in the Tower in the following September, it is likely that he would have been pardoned.

Letters were not presented as evidence against the Earls of Essex and Southampton at their trial for High Treason in 1600.¹¹⁰ However, the perceived importance of written evidence in treason trials is emphasised in a request from the Lord Admiral to establish the existence of any “articles in writing”, under the Earl of Essex’s hand, that might contain details of the “rebellion”.¹¹¹ In his confession, Sir Charles Danvers had maintained that such articles had been sent by Essex to Southampton and others. It had been affirmed that Essex had thrown a black purse, containing papers and a key, into the fire on return from his repulsion at Ludgate.¹¹² Blunt, another “conspirator”, had given evidence that Essex had summoned him to London by way of letters.

The anxiety concerning writing is reflected in one of Essex’s pleas of defence for his actions. He claimed that his hand had been counterfeited and a letter written in his name had put his life in danger, and that was why he had armed himself and set up an assembly of men. Bales, a scrivener, had confessed in the Old Bailey to forging the Earl’s hand in two letters, but the Attorney General insisted that this was done by the procurement of one of Essex’s own men.¹¹³ Southampton was reprieved but the Earl of Essex was condemned and executed privately on Tower Green, an act of “kindness” for which he thanked the Queen. Even here, however, his vanity had not quite left him, for he said that he feared that, at a public execution, the “Acclamations of the people” might disturb the peace of

¹¹⁰ Howell, 1. 1334-60. *State Trials* 190-201. Both trial records state that the trial took place in 1600, as does the original arraignment. However, the legal calendar began in March so the actual date would have been February, 1601.

¹¹¹ *State Trials* 197. This no doubt refers to Lord Admiral Charles Howard who had been appointed Earl of Nottingham and then Lord Steward, although Lord Buckhurst was the High Steward of the Court for this trial.

¹¹² It is hardly likely that such a prolific letter writer would not have had letters in the house.

¹¹³ In effect the Attorney General was right. There is no record of what was in these letters, but the Countess had put them into a cabinet where they were found by a John Daniel who thought them dangerous to the Earl. He had copies made, by an expert in forgery, which he gave to the Countess (in exchange for eleven hundred and seventy pounds), keeping the originals, possibly with the idea of either further blackmail or gaining money from the Earl’s enemies. He was tried in the Star Chamber and sentenced to perpetual imprisonment, pilloried with his ears nailed to the pillory and fined three thousand pounds. His actions deprived the Earl of this defence.

mind he had now achieved, he had now: “learned how vain a thing the Blast of popular Favour and Applause was”.¹¹⁴

Sir Christopher Blunt, Sir Gillie Merrick, Sir Charles Danvers and Henry Cuffe were all implicated in the Essex plot and appeared before a Commission of Oyer and Terminer soon after Essex and Southampton’s trial.¹¹⁵ None of the accused would confess to the crime, claiming that they meant the queen no harm. Cuffe, of whom more shall be said later, should have been accused of Misprision of Treason only. No doubt, the four page confession, with which he was presented and asked to verify his hand writing, related to the lesser crime. However, due to the perceived closeness of master and secretary, he, like Hickford, was held to be as guilty as his employer.

A “consultation”, which included “matter in writing”, “articles in writing”, and a list of names, was put forward as evidence of: “Treason in the very Thought and Cogitation, so as that Thought was proved by an overt act” against Blunt, Danvers and Merrick.¹¹⁶ Blunt admitted that he had received letters from Essex, bidding him to come to London. Upon this written evidence, all were found guilty of High Treason. Merrick was also accused of arranging the performance of Richard II on the eve of the “rebellion” and of giving the actors forty shillings to cover their losses. Blunt and Danvers were, as nobles, beheaded at Tower Hill, the others went to their deaths at Tyburn. Cuffe was publicly harangued on the scaffold when he disclaimed his treason, for he was judged to be party to the intent, if not the deed, and deserving of his fate.

¹¹⁴ State Trials 201.

¹¹⁵ State Trials 202-205.

¹¹⁶ State Trials 203.

The “matter and articles in writing” referred to at the above trial must have included letters, as a letter, read out as evidence against the above accused, was used to incriminate another casualty of the Essex plot, Captain Thomas Lee. Betrayed by his co-conspirators, Lee was accused of conspiring to seize the queen and force the release of Essex and Southampton. Within days of their trial he was arraigned in Newgate for High Treason.¹¹⁷ The Attorney General read the letter as proof that he was acquainted with Essex, who had also employed him as a messenger to take a letter to Tyrone in Ireland. This one letter, and his role as a messenger, seems to have provided the necessary proof of his treachery and he was condemned and died the next day at Tyburn.

Whatever changes came about in political strategy upon the accession of James, the use of letters in the construction of proof in treason trials continued. Such was the case at the trial of Sir Walter Raleigh in 1603.¹¹⁸ At this trial, letters, one of which was delivered by bizarre means, were produced like conjuring tricks by both Coke, the prosecutor, and Raleigh himself. Raleigh was accused at Winchester, in November 1603, of involvement in the Main and Bye Plots.¹¹⁹ His indictments were largely based on the written confession of Lord Cobham, Warden of the Cinque Ports, who was, with his brother and others, a conspirator in the Main Plot.¹²⁰ It was alleged that Raleigh had knowledge of Cobham’s plans to procure foreign aid and invasion from Spain, and that he had urged Cobham to secure a pension for him from the Count of Aremberg (Ambassador for the Spanish

¹¹⁷ Howell, 1. 1403-10.

¹¹⁸ Howell, 2. 1-46. State Trials 205-23.

¹¹⁹ The Main Plot was a plan to depose James and place Arabella Stuart on the throne. The Bye plot, also called the priest’s plot, involved the kidnapping of James and forcing him to revoke his anti-papal legislation. The Bye plot was exposed by Henry Garnet who feared reprisals against Catholics.

¹²⁰ This confession was subject to several retractions.

Netherlands) in return for foreign intelligence. The rather tenuous evidence of an association between Cobham and Raleigh, in establishing a case for treason, may have been the reason for letters to be produced in this trial, although their content is not always made known. In his address, Coke defined treason as resident “in the heart, in the hand, in the mouth”, indicating that this was to be a trial of treason by word as a means of establishing the motive of imagining the king’s death or deposition.¹²¹

It was alleged that Raleigh had been the instigator of letters sent by Cobham to various persons, to raise money for their enterprise. It was further alleged that, in order to establish peace, and restore the popish religion, he had persuaded Arabella Stuart to write letters to the King of Spain, Arch Duke Albert, and the Duke of Savoy. In his deposition Cobham admitted receiving four letters from Raleigh and asserted that Raleigh had written letters in his name. Cobham had written a letter to Cecil which he arranged to be placed in a bible, so that it might be found as if by chance. Raleigh was said to have written to Cobham, citing the one witness rule, advising him not to be afraid, as there were no material witnesses against them. However, this had no bearing on their case, as they were tried under Common Law and the 1352 statute, but Raleigh denied the letter, anyway.

The Attorney General then pulled a letter from his pocket written by Raleigh to Cobham, which had been thrown through Cobham’s window pinned to an apple. The letter, in which Raleigh asked Cobham to recant, was read out, but Raleigh denied the letter, claiming that he had merely asked for Cobham’s help. He then pulled a letter from his

¹²¹ Howell, 2. 7.

pocket, which he asked Cecil to read, as only he knew Cobham's hand. This letter seemed to exonerate Raleigh but it was thought that the withholding of this letter, until this point in the proceedings, was suspicious, and so it was discounted. Cobham's first letter, probably the one hidden in the bible, was accepted as the truth. Letters seem to have taken on the role of advocate in this instance, effecting a cross examination, certainly used as claim and counter claim. Raleigh was not allowed to confront Cobham at his trial and, apart from Cobham's deposition against him, letters, recognised by Raleigh as "paper accusations", were the only witnesses. Other textual evidence had been presented against Raleigh. It was claimed that he owned a controversial book, written against King James' right to the throne, which had been passed on to Cobham and then to his brother, although Raleigh claimed it had been taken from his room.¹²² The ownership of this book was interpreted as an attempt to deprive the king of his crown. Other books, belying a treasonous intention, were mentioned, identifying both reading and writing as overt acts in the prosecution of treason in this trial.¹²³

Cobham's letter was the last piece of evidence to be presented against Raleigh and it was this that condemned him. The jury took fifteen minutes only to reach a guilty verdict. Raleigh was sentenced to be hanged, drawn and quartered but, in a show of mercy, James pardoned him. He was imprisoned until 1616, when he was released to take part in the ill-fated Orinoco expedition, following which, he was re-arrested and executed in 1618.

Cobham received a dramatic last minute scaffold reprieve.

¹²² Rosalind Davies contends that this book was the first text to confirm Raleigh's guilt. She advises that one day's hearing was given over to the examination of this and other books, and identifies these documents as intrinsic evidence. Rosalind Davies, " 'The Great Day of Mart': Returning to Texts at the Trial of Sir Walter Rayleigh in 1603," *Renaissance Forum* 4 (1999), 02 Jul. 2001 < <http://www.hull.ac.uk/renforum/v4/no1/davies.htm>>.

¹²³ Raleigh had broken the law by owning such books, for all seditious books should have been handed over to the authorities.

No letters were presented as evidence against the gunpowder plotters in 1606, although the anonymous letter sent to Lord Monteagle on the eve of the planned event, was given much dramatic consideration.¹²⁴ The phrase in the letter: “the danger is passed as soon as you have burn’d the letter” no doubt referred to the danger of being implicated in the plot if found in possession of such incriminating evidence. The letter took on a mysterious almost magical persona being deemed indecipherable by all except the king.¹²⁵ It was, in fact, referred to by Sir Edward Coke as “the means” by which the plot was discovered.¹²⁶ Every possible indictment of High Treason was presented against the plotters including “open Rebellion, Burglary, Robbery and Horsestealing”.¹²⁷ All were condemned by their written confessions, the handwriting of which they affirmed at the bar.

Found among the possessions of the gunpowder plotters were “Heretical, treasonable and damnable Books” (more textual evidence).¹²⁸ Among the texts owned by Francis Tresham, a conspirator attained but not indicted, was the Treatise of Henry Garnet.¹²⁹ Also accused of High Treason, Garnet appeared at the Guildhall some months after the trial of those involved in the Gunpowder Plot.¹³⁰ He was accused of being involved in the plot and of

¹²⁴ Robert Winter, Thomas Winter, Guy Fawkes, Ambrose Rookwood, John Grant, Robert Keyes, Thomas Bates and Sir Everard Digby.

¹²⁵ A similar “magical” power associated with letters had been recognised in James when, in 1600, the corpse of the Earl of Gowrie, who had attempted to assassinate the king, refused to bleed until touched by the king in his search for letters. In August, 1608 a notary, George Sprot, was accused of High Treason for conspiring with Gowrie and Robert Logan. Papers found upon him, and an interchange of letters between Sprot and the would-be assassins, were taken as evidence against him. The trials of Logan and Sprot are not included here as they took place in Scotland.

¹²⁶ State Trials 234. Lemon identifies this letter as a signifier of both the discovery and the event. Lemon 3.

¹²⁷ State Trials 228.

¹²⁸ State Trials 227.

¹²⁹ Wills points out that the Treatise used by Coke as evidence against the plotters was a copy. It was not certain that Garnet was the author, but there were additions to the text which had been made in Garnet’s hand. The book was used to establish a connection between Tresham and Garnet. Garry Wills, Witches and Jesuits: Shakespeare’s Macbeth (Oxford: Oxford UP, 1995), n. 192. Tresham died in the Tower in 1605.

¹³⁰ State Trials 240-301.

giving his approval to its execution, an accusation that Coke sought to ratify by referring to the mysterious letter once more:

The scope of some chief Actor in this tragedy (more sensitive in that point of Compassion as it seems, than the rest) was, to advise a Noble Gentleman {...] by an obscure letter (more resembling the Riddle of Oedipus than the Counsel of a friend) that he should abstain from the Place [...]. The dark figure of the Writing, the strange manner of delivering, the small likelihood of any Cloud at that time gathering, might have moved many Men rather to have neglected, [...]. But this discreet and worthy Gentleman, [...]; imparted this Occurrent to certain of the Privy Council, and they to the King, who by the Spirit of true Divination, which is infused into the Lips of the King by God, [...] never gave over mining.¹³¹

Having placed Garnet in an ambit of treason by reference to this letter, Coke went on to cite more textual misdemeanours. It was alleged that, placing all upon the success of the plot against king and state, he had written to the Pope requesting that Catholics desist from dissension:

Now doth Garnet write to the Pope, That commandment might come from his Holiness[...], for the staying of all Comotions of the Catholicks here in England, intending to set their whole Rest of the Catholick Romish Cause upon the Powder – Plot, and in the meantime to lull us asleep in security, in respect of their dissembled Quietness and Conformity: [...].¹³²

He had also written to Baldwin, the Legier of the Low Countries, requesting his help for horses for Catesby, in order to remove suspicion from the plotters. A letter from Catesby, entreating Garnet's help in raising rebellion in Wales, was also cited, as was a letter written by Garnet, while in the Tower, which appeared to express his innocence. As this letter was written in lemon or orange juice, a secret purpose was suspected, so it was

¹³¹ State Trials 294

¹³² State Trials 245-6.

discounted.¹³³ Garnet pleaded the secrets of the confessional as a defence against his knowledge of the plot, but it was attested that, as Catesby had also advised him out of confession, he should have reported his knowledge to the authorities.¹³⁴ Garnet's crime was really that of Misprision of Treason, not disclosing the plot, but it seems that his letters were treated as overt acts, which proved him party to the intent of the crime. He was, therefore, found guilty of High Treason and executed at St. Paul's, in the manner accorded to the crime.¹³⁵ Despite initially adhering to the required form of confession and repentance, Garnet prayed in Latin just before he was "turned off". Immediately after his death some of the crowd dipped handkerchiefs into his blood to use as holy relics.

We can observe the letter becoming both narrative and phenomena of the offence of Treason, the manifestation of the interior, a kind of textual rack. This last is not an exaggerated description if we recognise the involvement of the letter and the body rehearsed in violence against the letter in Renaissance drama. In Edward II, the king likens his tearing of the letter to the tearing of Mortimer's limbs (20. 140-144), while in The Revenger's Tragedy, the duped Younger Son (in some versions Junior Brother) evokes images of after-death dismemberment as he tears his letter-cum-death warrant: "Be merry, hang merry, draw and quarter merry" (3. 4. 15). Certainly, in King Lear, Edgar likens opening the seal of Goneril's letter to Edmund to bodily torture:

¹³³ There are also references to letters written with sack. State Trials 253. Haynes refers to several methods of secret transmission such as onion juice, alum, milk and lemon juice. Haynes 15, 19, 21. As these methods were well known to intelligencers, a blank piece of paper immediately aroused suspicion. Sir Edward Coke made much of the wide margins and "clean paper" in this letter. State Trials 247. See also Schneider 95. Guy reports that Mary Queen of Scots found that alum was too easily discovered. Guy, Mary 480.

¹³⁴ Catesby had been killed during the raid on Holbeache House.

¹³⁵ Garnet was guilty of treason anyway, as he had contravened the 1585 Act, which made it High Treason for any Catholic priest to enter the country. Robert Southwell had been executed, in 1595, for the same treason. Southwell also performed Catholic rituals on the scaffold and relics of his blood were taken.

Leave, gentle wax; and, manners, blame us not:
To know our enemies' minds we rip their hearts,
Their papers is more lawful. (4. 6. 254-6)

while also suggesting a legal engagement with text. As Eagleton suggests: “in one sense, written letters would seem more real than airy speech because they are material and so rather like the physical body”.¹³⁶ The letter becomes the literal embodiment of treason. The judicial intrusion into the dynamics of letter writing became tantamount to the interpretation of the law of treason by word. Taking on a performative role, the letter was manifold in the semantics and semiotics of treason, becoming, not only a means of discovery, but a representation of the act. In the hands of the prosecution, the letter could be a Bill of Accusation, an Act of Attainder, could replace the written indictment, become a witness in its own right, a commentator, a conspirator to the plot and a death warrant. Hand writing or “character” became important, and it seems that to admit to one’s “character” was as good as a confession. Often we have seen that letters were not presented in themselves but were referred to as “correspondence”, as if the exchange of letters indicated some treasonous congress.

This correspondence was, of course, accessed by the interception of mail, which letter writers strove to circumvent. As well as the methods mentioned in the trials above, secret “drops”, and private post offices were used. Codes and ciphers became increasingly complex. The discovery of treason by word, both written and spoken, justified the employment of spies and moles, like Bosola, in The Duchess of Malfi: “a very quaint invisible devil in flesh: An intelligencer” (1. 2. 81). Some of these informants were self-

¹³⁶ Terry Eagleton, William Shakespeare (1986; Cambridge MA: Blackwell, 1995), 39.

seeking, revenge-hungry, casual informants, others held professional positions, like Walsingham's chief "intelligencers", Thomas Phellippes, Thomas Rogers and Gilbert Gifford, this last, as we have seen, most successfully employed in the uncovering of the Babington Plot.¹³⁷

In these treason trials we have seen that to be in any way connected with letters, as in the cases of Hickford, Cuffe and Lee, was seen as involvement in treasonous activity. As Maillard says in The Revenge of Bussy D'Ambois:

Again peruse the letters. Both you are
Made my assistants, and have the right and trust
In all the weighty secrets like myself. (3. 1. 21-23)

The very close "closeted" relationship between a secretary and his master was enough to suggest plotting and conspiracy, their office, alone, was sufficient to convict these servants. Living in the shadow of his master, a secretary found that shadow fell heavily when a charge of treason was brought against his employer. The locks and keys of "Honesty, Care, and Fidelitie" were forced, if necessary, the closet opened.¹³⁸

¹³⁷ Phellippes, best known for his interception, deciphering, and possible forgery of the correspondence of Mary Stuart, was not just a spy, but was also clerk to Walsingham and his talents were those expected of a competent secretary. Modern historians have chosen to dismiss Read's acceptance of a "sophisticated" espionage system during this period. Read, 2. 380-95. Haynes, while not denying the political expediency of spying, particularly in foreign policy, identifies simple rudimentary methods of obtaining information, although acknowledging the Cecils and Walsingham as spymasters. Haynes 14, 192. Archer agrees that there was no systematic apparatus of intelligence, but, with reference to Foucauldian concepts of sovereignty and surveillance, suggests a reliance on the culture of courtly show. John Michael Archer, Sovereignty and Intelligence: Spying and Court Culture in the English Renaissance (Stanford CA: Stanford UP, 1993), 4-5. Baldwin Smith, however, considers that most Tudor treason plots failed due to the ineptitude and incompetence of the would be traitors. Baldwin Smith, Politics 3, 33. See also John Bossy Under the Molehill: An Elizabethan Spy Story (New Haven CT: Yale UP, 2001), 17, 23, 55. Read does admit some imperfections in Walsingham's "secret service". Read, 2. 385.

¹³⁸ As Rambuss suggests:

For the handling of someone else's secrets always entails the possibility that the attempt to show oneself to be an insider can come across more as a threat, or at least an unwelcome reminder, that as an assertion of complicity. Rambuss, Career 24.

Early Modern courts were faced with a difficult problem – interpreting the insecure concept of imagining or compassing the king’s death and establishing lawful proof of the crime.¹³⁹ As Karen Cunningham writes: “Jurists had to penetrate an accused traitor’s mind in order to expose its secret contents”.¹⁴⁰ Letters were seen as a means to do just that. Textual evidence seems to have legitimised the charge of treason, providing proof of both the intent, the “imagination” and the overt offence: “Thought [...] proved by an overt act”.¹⁴¹ The function of the 1534 act was to validate and sustain the underpinning Great Treason Act of 1352.¹⁴²

Prosecuting lawyers found a further use for the letter. The production of a hand-written document added to the melodrama of a courtroom situation that was contrived to emphasise the horror and enormity of the crime of High Treason. Histrionics were essential to the prosecution of the crime. Speeches, particularly the exordia, were delivered in a highly dramatic manner. They gave opportunities, to both sides, for a fine display of oratory and knowledge of Latin, with many allusions to classical, biblical and historical events. The prosecution would often refer to a series of heinous cases of treason, while the accused would cite examples of loyalty and injustice. These speeches were usually inordinately long and, to judge by the language used, delivered in a declamatory fashion. At the trial of the Gunpowder Plotters, Sir Edward Philips, the Sergeant of the Court on that day, opened the indictment thus:

¹³⁹ See Barrell for a discussion of the linguistic and legal confusion regarding the definition of these words. Barrell 1-42.

¹⁴⁰ Cunningham, *Betrayals* 328.

¹⁴¹ See the trial of Blunt, Gillie, Merrick and Cuffe, p. 159 above.

¹⁴² This would explain the continued reference, by both accused and judiciary, to the 1352 Act in the above trials. Elton, however, looks upon the 1534 act as: “a fresh start [...], lacking in all those justificatory references to the statute of Edward III”. Elton, *PP* 284.

The Matter that is now offered to you [...], is matter of Treason; but of such horror, and monstrous Nature, that, before now, The Tongue of man never deliver'd, The Ear of Man never heard, The Heart of man never conceited, Nor the Malice of hellish or earthly Devil ever practised [...]; to murder and subvert, Such a King, Such a Queen, Such a Prince, Such a Progeny, Such a State, Such a Government, So complete and absolute, That God approves, The World admires, All true English Hearts honour and reverence, The Pope and his Disciples only envies and maligns?¹⁴³

The exchanges between men of wit, well versed in the argument and dialogue of rhetoric, as in the cases of Throckmorton, Raleigh, Coke, Cecil and others, read like the scripts of plays.¹⁴⁴

The very setting up of the court was dramatic; as an example of this I quote the scene at the trial of Essex and Southampton:

[...] Seven Sergeants at Arms came in with maces before the High Steward (Lord Treasurer Buckhurst who was sitting under the Canopy of State) and laid them down before him. The King at Arms stood on one side of the High Steward by his chair of Estate and one of Her Majesty's Gentlemen Ushers with a white rod in his hand on the other side.[...] The Captain of the Guard (Sir Walter Raleigh) and forty of the Queen's Guard were there to attend the service. Then the Sergeant of Arms made the O Yea and Proclamation, that the High Steward of England commanded silence and to hear the commission read on pain of imprisonment. [...]. Another proclamation was made that the Lieutenant of the Tower of London should bring forth his prisoners. [...]. Then the High Constable of the Tower, the Lieutenant of the Tower and the Gentleman Porter who carried the Ax before the prisoners came first in and the prisoners followed and made their appearance at the Bar, the Gentleman Porter with the Ax standing before them with the Ax's edge (away) from them. [...]. The two Earls (which were prisoners) kissed one another's hands and embraced each other.¹⁴⁵

¹⁴³ State Trials 226.

¹⁴⁴ At Raleigh's trial the Attorney addressed him thus: "Oh Sir! I am the more large, because I know with whom I deal: For we have to deal today with a man of wit". State Trials 208. See Altman and Hattaway for theories of the influence of rhetorical debate upon dramatic production.

¹⁴⁵ 03 Aug. 2006 <<http://renaissance.duelingmoderns.com/trial/trial03.html>. Lord Chief Justices Popham and Anderson were among the assembly. They had both been involved in the trial and conviction of Edmund Campion. Hostettler says that Popham had formerly been a dissolute and a highwayman. John Hostettler, Sir Edward Coke: a force for freedom (Chichester: Barry Rose, 1997), 27.

No less dramatic was the end of a trial, where the death penalty had been passed. The axe would then be turned toward the prisoner, the High Steward would stand and break his white rod, and all assembled would shout praise for the sovereign. This *mise en scène* seems to have been particularly designed for the trials of aristocrats, no doubt because their treason was thought to be a greater crime than that of the less noble. As Baldwin Smith points out, however, their nobility was stripped from them by their treacherous acts.¹⁴⁶

This dramatic setting called for performance by prosecutors and defendants alike, in the case of the accused, the performance of his life.¹⁴⁷ Throckmorton cried out at his trial: “Oh merciful God! Oh eternal Father who seest all things, what manner of proceedings are these?”¹⁴⁸ Perrot stage managed his judgement proceedings by bringing a hand property into court. Holding up a carnation he proclaimed: “I care not for death the value of this flower”.¹⁴⁹ Babington affected a “mild countenance, a sober gesture and a wonderful good grace”, when answering his indictment.¹⁵⁰ After the fearful death penalty was passed upon the Earl of Arundel he said: “*Fiat voluntas Dei*, God’s will be done and so [like an actor] made low obeysance to the state”.¹⁵¹ At the trial of the Earl of Essex, Secretary Cecil, being assured of a reliable witness to refute Essex’s accusation of treason against him, fell to his knees, crying: “I thank God for this day.”¹⁵²

¹⁴⁶ Baldwin Smith, “Confessions” 484.

¹⁴⁷ This seems to hold to this day. There exists a website dedicated to “Acting techniques for Attorneys” 10 Jan. 2008 <http://www.celestewalker.com/celestewalker_tab_6.html>.

¹⁴⁸ State Trials 76. Throckmorton referred to himself as a: “Player in that woful Tragedie”, while describing the court proceedings as a “Pageant”.

¹⁴⁹ State Trials 189.

¹⁵⁰ State Trials 124.

¹⁵¹ State Trials 161.

¹⁵² State Trials 198.

Defendants also seemed to treat the court proceedings as a costume drama. At the start of his trial the Earl of Arundel, despite having come from prison, appeared in:

a wrought velvet gown, furred about with Martins, laid about with gold lace, and button'd with gold buttons, a black sattin doublet a pair of velvet hose, and a long, high black hat on his head.¹⁵³

This stylish dress may be interpreted as an act of bravado or an expression of innocence.

Sir John Perrot (carnation in hand) entered his judgement proceedings:

[...] Clothed in a doublet and hose of black satin plain, and a gown of wrought velvet furred, and a square or flat crowned black felt hat, with a small band, and a plain white ruff.¹⁵⁴

The Earl of Essex attended his trial clothed, from head to foot, in black.

Public executions were as much a part of the repertory of official theatrical power, as court proceedings. The “performance” began with a horrid imitation of the royal procession, during which similar rituals and ceremonies took place. The condemned traitor was:

drawn to the place of Execution from his Prison, as being not worthy any more to tread upon the face of the Earth wherof he was made: Also for that he hath been retrograde to Nature, therefore is he drawn backward at a Horse-Tail. And whereas God hath made the Head of Man the highest and most supreme Part, as being his chief Grace and Ornament, [...]; he must be drawn with his Head declining downward, and lying so near the Ground as may be, being thought unfit to take benefit of the common Air.¹⁵⁵

The performance of their death gave the condemned further opportunities for dramatic speeches. In these speeches, which were often directed by pre-execution coaching, the

¹⁵³ State Trials 157.

¹⁵⁴ State Trials 187.

¹⁵⁵ State Trials 235.

condemned were expected to confess their guilt, beg forgiveness, express the lawfulness of their punishment, and instruct the onlookers in the observance of loyalty.¹⁵⁶ A

Foucauldian view may be taken of these proceedings:

The confession is a ritual of discourse in which the speaking subject is also the subject of the statement; it is also a ritual that unfolds within a power relationship, for one does not confess without the presence (or virtual presence) [...] of [...] the authority who requires the confession, prescribes and appreciates it, and intervenes in order to judge, punish, forgive, console and reconcile [...]: it exonerates, redeems, and purifies him; it unburdens him of his wrongs, liberates him, and promises him salvation.¹⁵⁷

Those who did not follow this formula were held in contempt. Among these was Dr Parry, who “impudently” still protested his innocence upon the scaffold and neither prayed, nor requested prayer of the assembly.¹⁵⁸ Cuffe also continued his plea of innocence in the face of death. At first, Cuffe appeared to be following the dictates of the scaffold speech but then began to plead:

But to come to the Cause of my death; there is nobody here can possibly be ignorant what a wild commotion was raised on the 8th of February by a particular great but unadvised Earl. I do call on God, his angels and my own Conscience to witness that I was not in the least concerned therein, but was shut up that whole Day within the House, where I spent the time in very melancholy Reflections.

Despite being interrupted and advised not to “palliate his crime by specious pretences”, Cuffe tried to excuse himself again, but, after further interruptions, prayed and asked pardon of God and the queen.¹⁵⁹

¹⁵⁶ For a discussion of the compliance apparent in such confessions see Baldwin Smith, “Confessions” 471-98.

¹⁵⁷ Michel Foucault, *The History of Sexuality: Vol. 1*, trans. Robert Hurley (New York NY: Random-Vintage, 1980). 61-2 qtd. in Sinfield, *Faultlines* 163. Mullaney contends that this form of public confession extends no further back than the Reformation. Mullaney 111.

¹⁵⁸ *State Trials* 128.

¹⁵⁹ *State Trials* 203.

Apart from the perceived exertion of ideological control apparent in the spectacle of violence and death, a further occasion for perceptual regulation may be observed. Not only did the confession, rhetorically controlled or not, give access to the innermost and terrible thoughts of the condemned, but public executions were a way of invading the thoughts of the spectators. These occasions served to generate that anxiety and self-policing that was so useful to the dissemination of state and ideological determination. Particularly effective was the extension of the spectacle by post-execution dismemberment of the body, a practice made all the more terrible when set against the new orthodoxy of predestination. As Montaigne observed in Rome, in 1581:

How much the people are frightened by the rigours exercised on dead bodies: for these people who had appeared to feel nothing at seeing him strangled, at every blow that was given to cut him up cried out in a piteous voice.¹⁶⁰

These spectacles were meant to impress public consciousness, identify a public and personal enemy, by using the law to construct responsible individuals. As Cuffe pronounced upon the scaffold:

We are exposed here as sad Spectacles and Instances of human Frailty; the death we are to undergo carries a frightful Aspect, [...] besides that it is as full of Ignominy as Terror; [...] I place my entire Trust and Dependence in the Atonement of my Saviour's Blood.¹⁶¹

Personal revenge was translated into collective will.

The final appearances of the hapless “traitors” afforded one last opportunity for dressing

¹⁶⁰ “Montaigne: Travel Journal” in *Culture and Belief in Europe 1450-1600: An Anthology of Sources*, ed. David Englander and Diana Norman and Rosemary O’Day and W. R. Owens (1990; Oxford: Blackwell, 1996), 278-86 qtd. 283.

¹⁶¹ *State Trials* 203.

up. The Duke of Norfolk, having divested himself of a velvet gown, a black satin doublet and a velvet night cap, revealed: “a white sattin doublet I made to die in”.¹⁶² The headsman at Sir Walter Raleigh’s execution threw down his own cloak to protect the “wrought Velvet Gown” which Raleigh wore for his execution.¹⁶³ This same gown was used to cover the leather bag into which Raleigh’s head was placed.

Dramatic ceremony continued even after death. Following his execution in 1522, the Duke of Buckingham was deprived (disgraded) of his position of Knight of the Garter in the following manner:

[...] his armes, ensignes, and hatchments cleerly expelled and put from among the armes, ensignes, and hatchments of the other noble knights of the saide order[...], Somerset violently cast downe into the quire, his crest, his banner, and sword. And when all the publication was all done, the officers of armes spurned the saide hatchment with their feete out of the quire into the body of the church, first the sword, and then the banner, and then was the crest spurned out of the church at the west doore, and so to the bridge, where it was spurned over into the ditch.¹⁶⁴

This ceremony was also enacted upon Lord Cobham, despite his reprieve. These dramatic events created what may be seen as a sub-genre of treason, a genre with which literary products, especially those of the stage, could engage.

We have observed, in the trials above, the increasing use of letters to inform a discourse of treason, in an attempt, as Cunningham points out:

to secure letters as authentic revelations of their writer’s mind and, [...], as uncomplicated vehicles of direct transference of thought. In this structure, [...]

¹⁶² State Trials 117.

¹⁶³ State Trials 223.

¹⁶⁴ Howell, 1. 298.

ideas pass uncensored and unresisted from a self-revealing writer to a receptive reader.¹⁶⁵

In the plays that follow, we, unlike the court, have access to the thought of both writers and readers of letters, which affords us a censorship and disclosure denied to the judiciary. However, as recent intervention in electronic transmission of text, in the pursuit of terrorists, rather than traitors, may suggest, our cultural understanding of private textual communication is not so different from that of the sixteenth century legislators. We may, therefore, apply the same conceptual analysis to the letters of King Lear, Macbeth and The Spanish Tragedy, as those interrogators and lawyers of the sixteenth century, and read them within the same ambit of suspicion and anxiety, interpreting them as the intention of treason.

¹⁶⁵ Cunningham, Betrayals 132

Chapter 6

Letters and the Negotiation of Treason in King Lear

Burckhardt draws attention to the rhetoric of blindness, sight and clear vision in King Lear, but a similar paradox in the presentation of written and spoken language might also be addressed.¹ The play is suffused with images of written language; proclamations, *imposteurs*, contracts, maps, papers, notes and writs, while the letter directs the course of the plot. These written representations largely pursue the good, who take refuge in dislocated spoken language, as if the fixed formality of indirect communication directs the direct, as indeed, dramatically and theatrically, it does. The most prominent of these written images are, of course, the numerous letters that pervade the play. Assuming an intertextual role, in that they are both part of, and yet outside, the text, the letters of this play sustain, rather than generate, a series of dramatic situations, and become part of, rather than inform, the narrative. I read this play as Shakespeare's entailment of the Tudor concept of treason, the letters providing the prominent motif of the discourse of treason which I perceive within the play.

Despite emotional responses to the deaths of Cordelia and Lear, all the characters in this play receive condign punishment, according to the treason laws of the period.² Apart from their "scripting", Goneril and Regan are complicit in inviting adultery and have, thereby,

¹ William Shakespeare, King Lear, ed. R. A. Foakes. The Arden Shakespeare (1997; London: Thomson-Arden, 2004). Sigurd Burckhardt, "King Lear: The Quality of Nothing" in Essays in Stylistic Analysis, ed. Howard S. Babb (New York NY: Harcourt Brace, 1972), 235-49. Bond also recognises blindness as a dramatic metaphor for insight. Edward Bond, Preface to Lear Plays: 2 (1978; London: Methuen, 1998), 15-102 qtd. 11.

² The Arden editor, R. A. Foakes, comments upon the prominence of disobedience, rather than treason, in the play. However, study of the various treason laws undertaken in the present study, supports the identification of the actions of the characters as treason. Foakes 71.

committed High Treason according to a law passed following the attainment and execution of Katherine Howard (33 Hen. VIII, c. 21). Under this law it became High Treason for any royal female, “to move by writing or message or token, persons to have carnal knowledge of them”.³ Katherine had, indeed, written loving letters to Thomas Culpepper, although they did not actually invite adultery. Culpepper confessed to an intimate relationship, but while he denied that any physical act took place, he admitted that both he and the queen intended to consummate their love, again, intent was proved. Like Katherine, neither Goneril nor Regan actually commit adultery, but are guilty of the same offence of intent, made manifest by their letters. Also guilty of treason were those who, “do move or make means to the Queen or wife of a prince to use or have carnal knowledge of them”, as were their “aiders, counsellors or abettors”. No doubt, by the maxim of earlier laws, this could be interpreted as causing sorrow to the king and thereby imagining the king’s death, although the act is not specific in this. Goneril is also guilty of sororicide and possible regicide.

If Lear’s division of the kingdom is arbitrary and he still holds the royal power he desires (Cornwall still calls him king in 3. 7. 13), then both sisters are guilty of numerous acts of High Treason. Edmund, apart from entering into an adulterous association with two royal personages, which was High Treason, anyway, even according to the 1352 Statute, disturbs the natural order, becomes involved in rebellion and commits regicide, if Cordelia is the rightful monarch at that time (Edmund refers to her as Queen in 5. 3. 52). But is she? As Goneril and Regan lead the “English party” (4. 6. 246), Cordelia could be seen as the

³ Katherine was originally charged with “incontinency”, but a Bill of Attainder was brought into Parliament in January 1541 against the queen and Lady Rochford (as an “aider and abettor”), on a charge of High Treason. Howell, 1. 446. The Bill against Katherine was, for a time, suspended. The Act of Attainder was translated into statute after her death. Several relatives and servants were attained for misprision and sentenced to life imprisonment, although some were released later. Culpepper and Francis Dereham, another favourite of the queen, were executed, Culpepper receiving the merciful sentence of beheading, Dereham the full penalty for treason.

invading monarch. At the start of Act Four, Scene Four, and again in Act Five, Scene Three, Cordelia arrives with drum and colours. Such an action was defined by various treason acts as riding under a banner and, thereby, levying war against the king.⁴ All correspondence with her would then be treasonous, identifying those, like Gloucester and Kent, who read or convey her letters, as traitors. A clause in the 1534 Treason Act defines “the bringing into the realm any matter of writing or commandment” as a treasonable offence. They are also guilty of adhering to the enemy, if Goneril and Regan are accepted as true rulers, which was High Treason according to treason acts ancient and current. Gloucester’s blinding can then be seen as a fitting punishment, in fact, if we remember the awful punishment awarded to the crime, he might have received a more dreadful sentence. Even Lear could be accused of adhering to the enemy, if he is no longer king: “ ’tis our fast intent / To shake all cares and business from our age” (1. 1. 37-8).

Kent also commits the treasonable offence of attacking the king’s messenger, if Goneril and Regan reign. By the same token, Edgar commits High Treason in killing Oswald, as the notion of High Treason extended to all royal officials. After all, Oswald commits no crime, is a loyal servant to Goneril and is not as embroiled in “intelligence” as those in Lear’s camp. But, if we return to 33 Hen. VIII, c. 13, which places the messenger within the context of treason, he can be seen as the procurer of royal adultery and, therefore, guilty of High Treason. Edgar’s regret that Oswald “Had no other deathsman” (4. 6. 253) suggests that, by his service to Goneril, the steward is guilty of treason. Like the real-life secretaries of treason trials, he deserves the more gruesome death accorded to the crime.

⁴ This crime does not appear in the 1352 Statute but was touched upon in the statute of 1397 (21 Rich. II, c. 3). It had been defined as treason before the 1352 statute and could most probably be prosecuted under Common Law.

The mediacy of the letter synthesises the multiple perspectives of treason that occur in this play.

It is, then, significant that we are introduced to the so called subplot at the beginning of the play.⁵ It is within the “Gloucester story” that this epistolary negotiation with treason begins, for here we are introduced to the first letter writer, Edmund. Coarsely introduced by his father as a bastard, soon to be sent away, we might give Edmund’s: “Sir, I shall study deserving” (1. 1. 30) a darker reading, and view it as a foretaste of his later behaviour. His epistolary enterprise is, however, deferred, to make way for an engagement with another indirect communication which intends a “darker purpose” (1. 1. 35-37), Lear’s map.

The map, while not a letter, is a system of signs and symbols, expressing itself in what Joanne Woolway calls a “cartographic register”.⁶ As *charta*, it becomes a legal document that underwrites all the marital, filial and political contractual negotiation and agreement that is inferred from this scene. It could almost be seen as an Act of Succession. Lear’s reading of the map is the first clue to his dislocation from reality. He imposes a geopoetics upon its reading, establishing a parallax.⁷ The script of the map becomes the prescription to which Gloucester alludes in Scene Two (1. 24). We might examine Lear’s reading of the map against de Certeau’s distinction between space and place:

⁵ Bergeron recognises this description as “inadequate”. David Bergeron, “Deadly letters in *King Lear*,” *Philological Quarterly* 72 (1993): 157-76 (hereafter, Bergeron, “Deadly Letters”).

⁶ Joanne Woolway, “Spenser and the Culture of Space,” *EMLS Conference Paper* (1996), 02 Sept. 1999 <<http://www.shu.ac.uk/1emls/cont/texts/woolway.html>>.

⁷ This is not an unusual action, if we consider the position of the map in the colonial discourse of the sixteenth century. See Harley for the application of Foucauldian ideas on the production of discourse in Early Modern cartography. J. B. Harley, “Secrecy: The Hidden Agenda of Cartography in Early Modern Europe,” *Imago Mundi* 40 (1988): 57-76. Perhaps, as Lear’s plans involve his daughters, we can trace the “feminisation” of continents of pre-Mercator maps.

A place (*lieu*) is the order[...] in accord with which elements are distributed in relationships of coexistence. [...]. The law of the “proper” rules in the place. [...]. A place is thus an instantaneous configuration of positions. It implies stability. [...]. Space occurs as the effect produced by the operations that orient it, situate it, temporalize it, and make it function in a polyvalent unity of conflictual programs or contractual proximities. {...}. In contradistinction to the place, it has thus none of the univocity or stability of a “proper.”⁸

Lear reads the map as de Certeau’s “space”, rather than “place”. His division of the kingdom introduces instability into both the political and social (familial) order.

Edmund seeks to subvert the social praxis of patrilineage in his desire to usurp the position of his brother, Edgar, Gloucester’s legitimate heir. Although Edmund’s intentions are conveyed by means of the direct communication of the soliloquy (1. 2. 1-23), he holds a letter. This letter is, necessarily, a property letter - a theatrical resource, which recognises and exploits both differing degrees of literacy among the audience in the public theatre, and contemporary suspicion of writing as a dangerous and deceptive use of language. These factors would accord the property letter potent talismanic status as a symbol (which even the illiterate could recognise) of Edmund's treachery. As Keifer writes: “The very appearance of a hand property involving the written word can be a silent signal to the audience that mischief is in the making”.⁹

Edmund’s repetition of “legitimate” at the end of the speech, contrasts strongly with his use of “base” and “bastard” earlier (1. 2. 18-21). This awards the letter a legal role in two senses. Not only does it assume the form of an indictment against Edgar, but becomes a legal document that will transform base to legitimate. Edmund hopes that this letter will

⁸ De Certeau 117.

⁹ Keifer, *Stage* 296.

disinherit his brother and make him heir to his father's title and land, a hope that is realised for, by the end of the play, Edmund is addressed as Gloucester. There are resonances here of Derrida's word play on *envois* in The Postcard, for the letter is, in a legal sense, an *envoi de possession*, while it contains the many voices, Edmund's, Edgar's and Gloucester's, as reader, of *en voix*. The "terrible dispatch" of this scene (1. 2. 33-4) might also direct our attention to the similar dislocation of the words "post" and "dispatch" in the text.¹⁰

We might, with A. C. Bradley, ask why Edmund has chosen this particular method of introducing Edgar's treachery.¹¹ Why should Edgar write to his own brother when they live in the same house? Bergeron, with brief reference to historical examples of household correspondence, finds nothing unusual in this.¹² We could, however, view this as Shakespeare's response to contemporary attitudes towards the letter as a sign of conspiracy and secrecy. This association is compounded by Edmund's assertion that he found the letter in his closet. As we have seen, this small private room aroused much suspicion among political and religious authorities, to whom privacy was a constant worry. As we have, of course, been made privy to Edmund's thoughts, then the letter becomes the overt evidence of his evil intent. Edmund's attempt to hide the letter is a clever piece of stage business, which serves to heighten the aura of suspicious expectation that surrounds the letter.

The language of the letter suggests a trial, a concept encouraged by the synonymous

¹⁰ Derrida 3-105 and *passim*.

¹¹ A. C. Bradley, Shakespearian Tragedy (London: Macmillan, 1904), qtd. in Bergeron, "Deadly Letters" 159.

¹² Bergeron, "Deadly Letters" 159.

acceptance of the words *essay* and *assay*. While Edmund promotes the letter as a trial of his loyalty - "he wrote this but as an essay, or taste of my virtue" (1. 2. 45) - it represents the trial of Edgar, to which Gloucester comes as judge and jury. He accepts the letter as evidence, against which, Edgar, like so many of the accused in treason trials, has no redress. Furthermore, although the "character" to which Gloucester refers (1. 2. 61) is taken to mean handwriting, the word, as Bergeron suggests: "resonates with additional meaning for us. We understand this as a character issue."¹³ Like the texts of treason trials, this letter becomes a character witness. Gloucester's interpretation of signs, like Lear's reading of the map, is not that of reality. He is as blind to the truth of this letter as he is to the document that Lear bids him read when he is truly blind in Act Four, Scene Six (135-40). As Burckhardt points out: "He can never, literally, *see* Edgar".¹⁴ Symbolically, Gloucester never actually sets eyes upon his eldest son throughout the play.

In his commentary on this scene, the Arden editor, R. A. Foakes, interprets Edmund's reference to "invention" (1. 2. 20) as a plan.¹⁵ The proposal here is that the "invention" is his letter, for it is a forgery, an elaborate fiction. Edmund's vital letter is, in fact, a double fiction, for it purports to be the Erasmian familiar letter, which, as Lisa Jardine points out: "constructs a fiction of the affective presence of an absent individual". Using St. Jerome as her authority, Jardine continues: "The feigned element in letter writing is legitimate, because it is needed to elicit the right degree of feeling in the recipient".¹⁶ Edmund's use of feigning is an example of the dishonesty of planned language. Here we find double feigning, for all letters are effectively fictions, in that writers of letters construct roles for

¹³ Bergeron, "Deadly Letters" 165.

¹⁴ Burckhardt 240.

¹⁵ Foakes 181.

¹⁶ Jardine, *Historically* 80.

both themselves and their recipients within the letter. Edmund has constructed a role for his brother, but he also casts himself as recipient, a role that is really his father's. Despite the complications of the feigning, the letter arrives at the correct destination. As Gloucester is persuaded, it creates the desired affect. Again, we might look to Derrida and the double meaning of *arriver*, for the letter has both arrived and directed the consequence.¹⁷

Jardine would deny evidence of rhetorical embellishment in this epistolary transaction, calling the letter “banally instructive”, viewing it as outside Erasmian conventions of epistolary negotiation.¹⁸ Arguably, however, Edmund's mastery would accord him complete understanding of the practices and implications of letter-writing. We might, with Bergeron, see him as: “the master of indirect discourse”.¹⁹ In fact, we may see Edmund as one of those educated, discontented young men employing their skills to advance their status. “Invention” might almost remind us of *inventione*.

Edmund is also a master of direct discourse and has a proper assessment of the power of language, as we see in his direction of both language and events in Act Two, when he provides the “better testimony” and “auricular assurance” promised in Act One (1. 2. 81-93). By careful manipulation of spoken language and the employment of theatricality (2. 1. 1-85), Edmund displays himself as the scripting agent of affect and, like the theatre, produces that affect by the use of technology, speech and art. The supposed fight between the two brothers may be seen as a further trial (by combat) of Edgar. It presents another

¹⁷ Derrida xvi.

¹⁸ Jardine, *Historically* 94.

¹⁹ Bergeron, “Deadly Letters” 166.

feigning, which like the feigned letter, brings about a guilty verdict and a death sentence.

Edgar is now outside the law.

From hereon Edgar is transformed. Significantly, this transformation is achieved by the corruption of language. The dishonest language of the letter identifies him as a patricidal traitor, an elaborate charade condemns him as an outlaw, later, lunatic ravings disguise him as the “Bedlam beggar”, Poor Tom (2. 2. 185). Perhaps Edgar’s nakedness in Act Three is meant to conflict with the elaborate linguistic constructions that have been forced upon him.

A proper understanding of the power of language is crucial to the dramatic identity of Goneril and Regan, whose actual scripting and access to letter-writing, is a symptom of their challenge to Renaissance ideology and contemporary patriarchal authority. Their linguistic ability is, perhaps, as subversive as their control of events in the play. We have been made aware of their manipulation of language in their formulaic responses to Lear’s fatal question in Act One (1. 1. 35-76). Perceptions of textuality and sexuality are explored in Renaissance drama and measured against a socially constructed femininity sustained by a contemporary consciousness of the boundaries of feminine literacy. In The Atheist’s Tragedy, the adulterous Levidulcia is tainted by her writing by the comparison of sheets of paper to bed sheets:

LEVIDULCIA. [...] I’ll write a word or two i’ your behalf.

SEBASTIAN. A word or two, madam? That you do for me will not be contained in less than the compass of two sheets. [...]. (2. 5. 57-59)²⁰

²⁰ Cyril Tourneur, The Atheist’s Tragedy, (1611) ed. Katherine Eisaman Maus in Four Revenge Tragedies (Oxford: Oxford UP, 1995), 249-317.

Distance from the letter, as a sign of virtue, is reflected in such plays as The Revenger's Tragedy, where letters pursue a narrative of lust and rape, in the refusal of the "foolish chaste" (1. 3. 98) to read missives.²¹ The literate women in King Lear also subvert other cultural expectations, by swearing their first allegiance to their father and refusing to be scripted by their husbands in Act One (55-61 and 69-76). As Alan Sinfield suggests: "women who script men are bad". Goneril and Regan's scripting represents the power that they should have surrendered in "the larger story of marriage", they surrender neither script nor power.²²

The dramatically and linguistically empowered Goneril is the first of the female characters we see engaged in letter-writing. Quickly forgetting her vow of filial duty, Goneril is to write to her sister to complain of her father's behaviour: "I'll write straight to my sister, / To hold my very course" (1. 3. 26-7). This encodes plotting and collusion between the sisters.²³ Like many real life plots, their conspiracy is largely conducted through correspondence. The letter also introduces the first hint of tension between the two sisters, for Goneril is intent upon taking the initiative. This letter is not a property letter but, in its partially undisclosed contents, becomes another *envois*, as "kick off", as it effectively influences future events in the play. Goneril's engagement with letter-writing serves to expose her nature and is important to the dramatic presentation and perception of her character. This is partly achieved by the association of Goneril's letters with her steward

²¹ See also Two Gentlemen of Verona:

JULIA. What fool is she, that knows I am a maid,
And would not force a letter to my view! (1. 2. 53-54)

This also likens the letter to rape. William Shakespeare, The Two Gentlemen of Verona, ed Peter Alexander in The Complete Works of Shakespeare (London: Collins, 1951), 27-52.

²² Sinfield, Faultlines 33.

²³ Later in the play Cornwall speaks of messengers and spies: "Our posts shall be swift and intelligent between us" (3. 7. 11).

and secretary, Oswald, whose identity is elaborated by other characters in the play in relation to his service to Goneril. Although in Act One, Scene Four Goneril says: “What he hath uttered I have writ my sister” (325), four lines later she implies that it is Oswald who has written the letter, adding:

Take you some company and away to horse
Inform her full of my particular fear,
And thereto add such reasons of your own
As may compact it more. (1. 4. 332-335)

implying that he is more than just a messenger. This is a clever dramatic ploy, making use of contemporary perceptions of the role of secretary crucially constituent to the character of Goneril. As Alan Stewart writes:

The role of secretary is twofold: firstly, to maintain secrecy in collation and processing of information with which to provide counsel to the prince, and, secondly, to maintain an outward show which publicly signals secrecy and privacy.²⁴

These aspects of secrecy and privacy are pursued throughout the play, as in Kent’s assessment of Oswald’s duties, a :“super-servicable, finical rogue [...] one that wouldst be a bawd in way of good service [...] knave, beggar, coward, pandar[...];” (2. 2. 17-19).

The association of “bawd” and secretary reflects the sixteenth-century anxiety regarding the previously discussed problematic relationship between secretary and master, and its sexually suspect connotation.²⁵ This was particularly so in the case of a woman and her servant.²⁶ Later in the play Edgar talks of the servant serving “the lust of my mistress’

²⁴ Alan Stewart, “Edward II: the pliant king” unpublished paper, qtd. in Jardine, *Historically* 104.

²⁵ Chapter 4, pp 108-10 above.

²⁶ Stewart, “Closet” 86-9.

heart” and doing “the act of darkness with her” (3. 4. 84-5). This implies textual intimacy as sexual intimacy.²⁷ Regan’s suggestion that Oswald is of Goneril’s bosom (4. 5. 28), may be taken to refer to the close relationship between employer and secretary or an erotic liaison. Edgar denies Oswald sanctified burial implying that the post is unsanctified, both in the person of the messenger, and the “ungracious (beyond grace) paper” he carries (4. 6. 268-70). The unceremonial dispatch of Oswald’s body:

Here in the sands
Thee I’ll rake up, the post unsanctified
Of murderous lechers (4. 6. 268-70).

is reminiscent of Hamlet’s disposal of the body of Polonius (the go-between of a murderous lecher): “I’ll lug the guts into the neighbour room” (3. 4. 217).²⁸ Thus, Goneril is disclosed in the person of her messenger, just as Lear is insulted in the stocking of his. Oswald's role in the circulation of letters is instrumental in the organic determination of Goneril's character - the *facteur* becomes a factor in the representation of Goneril in the play.

Lear also sends letters at this time, the course of which is never clear. In an offstage scene, described later, Lear's and Goneril's letters seem to have arrived together: “Our father he hath writ, so hath our sister” (2. 1. 124). The “differences” that are apparently discussed in these letters encourage Regan and Cornwall to leave their home and visit Gloucester, bringing the “several messengers” (Kent and Oswald) with them. As the Arden editor, R. A. Foakes, points out, citing Bradley and others, Goneril's letter has served to establish a

²⁷ Part of the evidence against Katherine Howard concerned her relationship with Francis Dereham. His coming to her chamber to write letters seems to have been accepted as proof of sexual congress.

²⁸ William Shakespeare, *Hamlet*, ed. Peter Alexander in *The Complete Works of William Shakespeare* (London: Collins, 1951), 1028-72. This may also be seen as a class issue and reflects the fate of the servant in Act Three, thrown onto a dunghill (3. 7. 95).

dramaturgical crux, bringing all the main characters together for Lear's rejection at the end of this act.²⁹ This rejection begins with the treatment of Lear's messenger in Act Two, Scene Two. Here, the quarrel between Kent and Oswald provides a dramatic opportunity for emphasising Oswald's (and, therefore, Goneril's) association with treachery. The fact that Regan shows more concern for her sister's messenger than her father's, is a foretaste of the humiliation of Lear soon to come. Both messengers become the person of those whom they serve, their roles directed by the letters they carry. In ignoring the letters of her father, Regan subverts another epistolary protocol, the assumption of epistolary reciprocity, the letter as debt.³⁰ The failure to follow this rhetorical and social rule signals the contempt in which Lear is to be held.

Whilst humiliated and disgraced in the stocks, Kent produces a letter from Cordelia, with whom he appears to have been in correspondence, although there has been no reference to this. The letter is a property letter, perhaps because, as several editors have suggested, it is an emblem of Cordelia and a way of keeping her within the plot. However, here, we can again observe the ambiguity of the letter. It can be seen as treacherous correspondence and part of a conspiracy in which Kent is involved. When Kent refers to his "obscured course" (2. 2. 166), it is generally accepted that it refers to his disguise. We may, however, see this as a reference to his concealed treachery, perhaps using his employment as messenger to spy on Regan and Cornwall. The introduction of this letter can, however, be seen as identifying Kent as the truthful official messenger, legalising his position and contrasting him with the "unsanctified" Oswald. Each reading of this letter emphasises the problem of variable treason that is presented throughout the play.

²⁹ Foakes ed., 126 n. 224.

³⁰ See Schneider 61-91.

Regan's virtual dismissal of Lear's message and her immediate attention to her sister's, means that Goneril's letter, like Edmund's forged letter, is legitimised by the nature of its reception. Lear is aware of Regan's behaviour which may be the cause of his exclamation: "O, Regan will you take her by the hand?" (2. 2. 383), particularly when viewed against the commutability of hand and instrument, pen and sword, apparent in Renaissance handwriting manuals, sites of what Goldberg describes as "microviolence".³¹ Goneril's reply: "Why not by the hand, sir? How have I offended?" (2. 2. 384), draws attention to the fact that her hand, both in the sense of her physical hand, and her writing, has caused most of the "offence" (and narrative and dramatic locomotion) so far. Oswald's presence in this scene further reminds us of the complicity of treacherous writing that has taken place.

Such treachery is not emphasised in the obvious spying and covert correspondence that is exposed in the scene between Kent and a Knight, at the beginning of Act Three. Being on the side of "right", these letters are seen as official, legitimate correspondence, underlining the importance of the reception and reading of letters in determining their value. However, again, these letters must be placed within the context of treason. Kent, while passing on some information about the rift between Albany and Cornwall, reveals a full-blown conspiracy, involving spies and smuggled correspondence. Furthermore, he provides money, sends a token to Cordelia and gives permission for letters of credit to be issued in his name. In the treason trials of the period we have observed how these very actions were accepted as adhering to the enemy, and, therefore, High Treason, earning the ultimate punishment.

³¹ Goldberg, Writing Matter 59-107.

Treason is connected to the next vital letter in the play, once more exploiting expectations of the letter as an agent of intrigue. Gloucester talks of the letter he has received as being locked in his closet (3. 3. 11), just as Edmund, in 1. 2. 60, refers to the forged letter as being found in his closet, underlining the closeted secretive nature of writing and the problematic arrival of letters. This letter also becomes, like the forged letter, a piece of written evidence in a trial, the trial of Gloucester - in fact writing, once again, becomes the unchallenged, *prima facie* witness. The document is obviously part of the correspondence between France and English loyalists, but its previous legitimacy is devalued, as it now becomes illegal and treacherous, according to its reading by Cornwall, Goneril and Regan. Now Gloucester is seen as a spy and a traitor, his cruel treatment legalised by his crime.

The very fact that Gloucester was “closeted” would suggest seditious behaviour when viewed in the light of contemporary perceptions of the closet as outlined in Chapter Four of this study.³² The letter might also be interpreted as an extension of my earlier point of the letter as a legitimising document, for, as Cornwall says: “True or false, it hath made thee Earl of Gloucester” (3. 5. 16). This is further emphasized by Edmund’s immediate reference to his lineage, as if this letter has also conferred legitimacy upon him.³³ Two letters, true or false, for good or bad, have made Edmund Earl of Gloucester, two closeted letters, two treacherous letters; writing appears to take no account and is unaccountable.

Cordelia’s reception of Kent’s letters in Act Four, Scene Three (11-34), is meticulously

³² Chapter 4, above, 107-8.

³³ The association of letters and legitimacy is recognised by G. G. Hiller in his essay on Drayton’s *Englands Heroicall Epistles* where he draws attention to how Drayton’s illustrious lovers consistently use their letters to refer to their genealogies and family connections. This suggests a general acknowledgement of an association between writing and legitimacy and the acceptance of letters as more than documents of communication. Geoffrey G. Hiller, “‘Now let us make exchange of mindes’ Techniques of Verse Letter Characterisation in Drayton’s *England’s Historicall Epistles*,” *Cahiers Élizabéthains* 33 (1988): 31-45.

reported. The reasons for this scene, omitted from the Folio version, are not obvious, but as the gentleman appears to be some sort of messenger, he could be seen as fulfilling the classical role, which Shepherd describes as: “a useful device for telling the audience about what cannot be practically shown (often because of distance in place or time)”.³⁴ Certainly the action of the play is not affected. Although this scene is often recognised as a saintly tribute to Cordelia, Jardine sees this as a textbook response to the familiar letter, the correct feminine response to a morally admirable (in Erasmian terms) circulation of letters.³⁵ This effects a re-evaluation of the status of this circulation of letters, variously identified as loyal or treacherous according to their reading. Perhaps this association with familiar letters is a dramatic resource for enhancing the character of the absent Cordelia. Since her departure to France, until this moment, her appearance in the play has been by way of letters, her reactions to which have been described as passionate. Obviously Shakespeare would have been conversant with the rhetorical formulae of the epistolary manuals of the day and may have used this device to underline Cordelia's true feelings of affection. Jardine's premise would suggest that Shakespeare is using the way in which people write and read letters as a definition of character, which would explain the seeming arbitrariness of some of the letters in the play.

The secretive nature of letters is again emphasised in Regan's reaction to the letter which Oswald carries from Goneril to Edmund:

Why should she write to Edmund? Might not you
Transport her purposes by word? Belike -
Some things, I know not what – I'll love thee much;

³⁴ Simon Shepherd, *Marlowe and the Politics of Elizabethan Theatre* (London: Harvester, 1981). 110.

³⁵ Jardine, *Historically* 91. Stewart agrees with Jardine's reading, describing this scene as: “a moment of perfect Erasmian epistolarity”. Stewart, *Letters* 16.

Let me unseal the letter.(4. 5. 21-23)

The written message at once arouses her suspicions, as Goneril's suspicions were raised by Regan's first epistolary enterprise in Act Four, Scene Two (82-88). That a letter has been sent, instead of a verbal communication, alerts Regan to the fact that this may be a "personal letter", in the Erasmian sense, suggesting affection and intimacy. It is not clear if Regan succeeds in persuading Oswald to hand over the letter, if she reads it, or if she sends Edmund a letter or a token, but she sends a verbal message to Goneril. Regan requires no secrecy for her threat, recognising the immediate power of direct language, also feeling, perhaps, given her own reaction toward her father's letter, that a written message may be ignored. By this time also, the sibling intimacy required by a personal letter has been dissipated.

The letter which Oswald carries is another property letter, the subsequent actions it generates, making it, like Edmund's forged letter in Act One, Scene Two, a symbol, its repeated appearances, later in the plot, re-encoding its talismanic significance. In its deferred reading we may recognise it as a dead letter which becomes a death letter, for it discloses not only the treachery of Edmund, but the murderous, adulterous intrigue of Goneril. It may also be associated with legality, for it becomes both testimony and death warrant in the "trial" of Edmund and Goneril. As anticipated in Chapter Five of this study, Edgar's words:

Leave, gentle wax; and manners, blame us not.
To know our enemies' minds we rip their hearts,
Their papers is more lawful.(4. 6. 254-6)

also liken the letter to a confession, evoking images of bodily torture and dismemberment

to expose the secrets hidden within.³⁶ This letter is the contextualisation of the treason that runs throughout the play. The constant references to legal terms in the scene of its second reading (5. 3. 83- 87), establishes it as a document which legitimises the punishment which is to be inflicted upon the traitors. It is not quite an Act of Attainder, however, for a trial ensues, a trial by combat which ends in not only the death, but the de-legitimisation of Edmund, who has already been diminished by Albany's reference to: "a half-blooded fellow" (5. 3. 81). This crucial letter overwrites and displaces all the other textual transmission of the play.

Here I have somewhat neglected the other characters in the play, for they are beyond the law as outlaws (Edgar has been published and proclaimed as such), and by madness, dislocation or blindness, beyond writing. Lear has lost both regal and textual power, he is "without a figure" (1. 4. 183-4), "nothing" (185), like Oswald: "a whoreson zed, an unnecessary letter" (2. 2. 62).³⁷ Edgar has been unwritten by Edmund's letter - "O know my name is lost, / By treason's tooth bare-gnawn and canker bit" (5. 3. 119-20) - while Gloucester, who put so much faith in the evidence of the written word, is blind and beyond the reach of text. Being beyond the law, however, does not deter them from carrying out a mock trial of Goneril and Regan. Despite their lunatic ravings, the trial does bear some resemblance to a real trial with its talk of evidence, justice, commissions and arraignment. That it is a treason trial is signalled by Lear's reference to the punishment for that crime for Regan, suggesting dismemberment in her anatomization to: "see what breeds about her heart" (3. 6. 73). This trial is a travesty of the restorative justice that is absent in this play.

³⁶ Stewart sees this letter as an epistolary revenge against the forged letter of Act One, Scene Two. Stewart, Letters 31.

³⁷ See The Two Gentlemen of Verona:

SPEED. Why she woos you by a figure.

VALENTINE. What figure?

SPEED. By a letter I should say. (2. 1. 137-39)

William Gulstad suggests that this trial (3. 6. 35-74) may be a metaphor for a witch trial for Goneril.³⁸ References throughout the play to her extreme sexuality (underlined by the Renaissance belief that a woman's sexuality was inherent in her speech), her lasciviousness, her “gorgeous”, even scanty, clothing - “which scarcely keeps thee warm” - suggesting vanity, may imply an association with witchcraft (2. 2. 459). Writing then becomes part of her *maleficium*. Spates sees Lear’s misogynistic diatribes as influenced by the establishment of the *femme fatale* in Early Modern literature, encouraged by the spread of syphilis.³⁹ Perhaps Goneril is cast in this mode - “her boat hath a leak” (3. 6. 26) - and certainly her letters spread like a disease through the play.

However, it is more likely that Goneril is condemned as a dissident female for her “scripting”; it is not just her writing that disrupts the system but her command of the male speech mode and her usurpation of the male prerogative: “I must change names at home and give the distaff / Into my husband's hands” (4. 2. 17-18). Goneril is linguistically enabled, directly and indirectly, and is to be punished for her efficiency in both: “Shut your mouth, dame / Or with this paper shall I stop it”(5. 3. 153). This may remind us of the disabling of the educated woman, Lavinia, in Titus Andronicus, and the mute accusation of writing.⁴⁰ In the same play Tamara’s mouth is stopped by the pastry of her own scripting. Shakespearean women who surrender their scripts have their mouths stopped with a kiss, like Beatrice in Much Ado About Nothing:

³⁸ William Gulstad, “Mock Trial or Witch Trial in *King Lear*,” Notes and Queries 31 (1994): 494-7.

³⁹ William Henry Spates, “Proverbs, Pox and the Early Modern Femme Fatale,” Notes and Queries 53 (2006): 47-51 qtd. 48.

⁴⁰ William Shakespeare Titus Andronicus, ed. Peter Alexander in The Complete Works of Shakespeare (London, Collins, 1951), 870-901. Sanders suggests, however, that by reading of rape in Ovid’s Metamorphoses, contrary to the instructions concerning women’s reading, Lavinia has been the cause of her own violation. She adds: “Many conduct manuals went so far as to equate reading about carnal acts with committing them”. Sanders 62-3.

BEATRICE. I would not deny you; but by this
good day, I yield with great persuasion; [...].
BENEDICT. Peace; I will stop your mouth.
[kissing her] (5. 4. 94-97)⁴¹

Those who do not yield are choked with their own scripting.

Goneril is now doubly disempowered, verbally and calligraphically. Her scripting has ended her “scripting”. Like Edgar, she has been tried by letter, a letter that is accuser, witness, evidence and death warrant. Although Goneril takes the final initiative in scripting her own death, linguistic and institutional power has been correctly relocated and men's voices and male language conclude the play. Male written language, in the form of Edmund's death warrant, directs the denouement.

The play concludes with those who sought asylum in spoken language. Kent's borrowed accents and diffused speech(1. 4. 1-2), the assumed ravings of Edgar as Poor Tom, the cryptic paradoxical observances of the Fool, and the peremptory verbal fulminations of Lear. These corruptions of the spoken word have informed a Foucauldian view of language as the “first and last structure of madness”.⁴² Words are almost turned against themselves in an effort to recreate that pre-primary “fundamental”, “delirious” language with which to express truths that cannot be accessed by conventional sounds, signs or symbols. This, however, returns us to the letter, for most of the “madmen” are not truly mad, therefore their “language” is a double fiction, like Edmund's letter - a negotiation of language to effect a legitimate feigning, like the familiar letter.

⁴¹ William Shakespeare, *Much Ado About Nothing*, ed. Peter Alexander in *The Complete Works of Shakespeare* (London: Collins, 1951), 137-65. However, another scripting woman who arranges her own love affairs and assumes the male role, the Duchess of Malfi, stops her steward/husband's mouth with a kiss. (3. 2. n. pag.). John Webster, *The Duchess of Malfi*, (1612) ed. Elizabeth M. Brennan 2nd ed. (1983; London: A & C Black, 1989).

⁴² Michel Foucault, *Madness and Civilisation*, trans. Richard Howard (New York NY: Vintage-Random, 1961). 100.

It is, therefore rather unsatisfactory that England should be left in the stewardship of Edgar and Kent, both of whom have corrupted language to their own ends. However, they may have sustained the truth through this corruption, for, in their disguise as “wretches” (3. 4. 28), they have rendered themselves illiterate and are therefore free of the corruption of the written word and removed from the linguistic debate. Around Edgar there exists a certain coldness, as Jardine suggests:

Throughout his companionship with Lear on the Heath and his compassionate guiding of his blinded father, Edgar utters not one word of consolation to either. Instead he contributes a sense of surreal dislocation of speech and action, which produces an almost intolerable emotional meaningless commentary on the events as they unfold.

She later defines this as “emotional dyslexia”.⁴³ A certain “dyslexia” has pervaded most of this play. There is a nullity about the final scene, a nothingness that echoes the sterility that will be identified at of the ending of The Spanish Tragedy. As in that play, a dynasty has ended. Meanwhile, we are left with no resolution to the juxtapositions of writing, speech, truth or treachery.

⁴³ Jardine, Historically 96. Teague calls Edgar “ a Christian Stoic in a pagan world”. Teague 99.

My most humble and loving
 friend and comforter in Christ
 I have from you praying and
 for I was longed so much for
 to have with you the which I
 wish done & comforted me
 now I think a great that you
 will make my heart to die to
 that I remain to be at your
 always you in you that you
 and in that hope I trust upon
 you will be with me in the
 of the which at long last to be
 thank you for that you have
 good wife that you follow my
 prefer that I do fall to depart
 know now in the I have wish
 I may you wish you to be with
 here from you are my wife I
 for my man for I am now a do
 to be with you and in the
 and I will be for and I will
 trying to be with you in the
 with me now that you may be
 you wish to be with you

one thing I had for you and
 that by the way I have
 first my man to be with
 but will so never you be with
 your man
 wife and in the
 with me that for be
 do it with

Fig. 6. Letter from Katherine Howard to Thomas Culpepper. 05 Apr. 2009 <http://nationalarchives.gov.uk/museum/item_id=13>.

Master Coulpeper, I hertely recomend me unto youe praying you to sende me worde how that you doo. Yt was showed me that you was sike, the wyche thyng trobled me very muche tell suche tyme that I here from you praying you to send me worde how that you do. For I never longed so muche for [a] thyng as I do to se you and to speke wyth you, the wyche I trust shal be shortely now, the wyche dothe comforthe me verie much whan I thynk of ett and wan I thynke agan that you shall departe from me agayne ytt makes my harte to dye to thynke what fortune I have that I cannot be always yn your company. Y[e]t my trust ys allway in you that you wolbe as you have promysed me and in that hope I truste upon styll, prayng you than that you wyll com whan my lade Rochforthe ys here, for then I shalbe beste at leaysoure to be at your commarendmant. Thaynkyng you for that you have promysed me to be so good unto that pore felowe my man, whyche is on of the grefes that I do felle to departe from hym for than I do know noone that I dare truste to sende to you and therfor I pray you take hym to be wyth you that I may sumtym here from you one thyng. I pray you to gyve me a horse for my man for I hyd muche a do to gat one and thefer I pray sende me one by hym and yn so doying I am as I sade afor, and thus I take my leve of you trusting to se you s[h]orttele agane and I wode you was wythe me now that yoo maitte se what pane I take yn wryte[n]g to you.
Yours as long as
lyffe endures
Katheryn
One thyng I had forgotten and
that hys to
instruct my man to tare here wyt[h] me still, for he
sas wat so mever you bed hym he wel do et and [...]

Fig. 7. Transcript of Katherine Howard's Letter. 05 Apr. 2009
<http://nationalarchives.gov.uk/museum/item_id=13>.

Chapter 7

“But now I see that words have several works”:¹ The Spanish Tragedy

The Spanish Tragedy appears to effect a synthesis of the social, political, judicial and theatrical themes that have been investigated in previous chapters. The most obvious connection seems to be the women of the three plays. The linguistic empowerment of the female characters of these texts challenges the patriarchal political and social order, as perceived in the expectations of feminine literacy in the sixteenth century. As previously stated, Lady Macbeth’s exegesis of a single letter determines the interpretation of her character as a murderous Medean figure. It is not reading, however, but writing, that is constitutive to the portrayal of Goneril, Regan and Bel-Imperia as culturally subversive females. In The Spanish Tragedy, as in King Lear, the scripting of the literate female does not stop at the page, but is a determinate of events.

It is, however, the letter that compounds the narrative of treason in the three plays. As in King Lear and Macbeth, the letters of The Spanish Tragedy are of indeterminate legal status. They deviate between truthfulness and fraudulence, secrecy and disclosure, all the time competing with the documents of officialdom and authority. Although the play’s motifs of justice, the desire for equity, subjectivity, war, nationhood, and theatricality have been examined elsewhere, I shall sometimes need to revisit these topics in my treatment of

¹ Thomas Kyd, The Spanish Tragedy. (?1585-92) ed. B. L. Joseph The New Mermaids (London: Benn, 1964), 3. 1. 17. I have used two texts in my study of the play, the version above and The Spanish Tragedy. ed. J. R. Mulryne, 2nd ed. The New Mermaids (London: A & C Black, 1989). All quotations are from the 1964 version, edited by B. L. Joseph. I have not included the additions in this study.

the drama.² Strangely, while making a potentially subversive comment upon the irresponsibility of official judiciary in the prosecution of crime, The Spanish Tragedy dwells upon the very bureaucracy and legality it seeks to critique.

Like Macbeth, the play is suffused with reminders of the legitimacy that the several offenders choose to subvert. Even the underworld requires a passport. It is this intrusion of the legal and judicial into the text that encourages the suggestion that the play exploits the notion of a world bound within laws, rules and proscription, not least, Calvinist predestination. Kyd exploits the post-Reformation pre-occupancy with predestination by presenting an orchestrated, irreversible plot. This orthodoxy (“subject to destiny” 3. 15. 27) is apparent in the relentlessness of the outcome of the play, so proscribed that Revenge gets bored and falls asleep. (3. 15. 1-27)

The numerous legal documents which inform of this measured world, are offset by unofficial documents, letters, which encourage disruption of that order. The conflict between personal revenge and real justice is examined through the mediacy of the written word. Hieronimo’s dilemma is not only the distinction between divine and natural justice, but also that which exists between the documents of the official prerogative and the unmediated writing of the letter. Examined here will be, not merely the conflict between personal revenge and divine justice but also the status of the written word as the interstitial medium through which this dichotomy is interrogated. Included among the “documents”

² Altman 267-82. Frank Ardolino, “The Influence of Spenser’s *Fairie Queene* on Kyd’s *Spanish Tragedy*,” Early Modern Literary Studies 7 (2002), 08 Sept. 2007 <<http://purl.oclc.org/emls/07-3/ardofaer.htm>>. Christopher Crosbie, “*Oeconomia* and the Vegetative Soul: Rethinking Revenge in the Spanish Tragedy,” English Literary Renaissance 38 (2008): 3-33. Cunningham, Betrayals. Michael Hattaway, Elizabethan Popular Theatre (London: Routledge, 1982), 101-28 (hereafter, Hattaway, Theatre). Whigham, Seizures 22-62.

will be the “fictive interiority” of the soliloquy.³ Treated as a self address, the soliloquies of this play present an outward show of the intent so crucial to the prosecution of treason in the sixteenth century. Hieronimo’s crime is one of both the imagination and the body. The “imagining” will at last become the overt deed of writing.

The diplomatic and bureaucratic documents of this play are always on display. From the peace treaty of Act One, to the bonds and leases of Act Three, there is always an audience for these texts. In contrast, the writing and delivery of letters, those of Bel-Imperia and Pedringano, is secret and concealed. There is also an intimation of a conspiratorial exchange of letters between Lorenzo and Pedringano in Act Three, Scene Four (50-9). The letters are, in this way, placed at a distance from the law and identified as subversive. They are further displaced from legality by their encouragement of revenge. However, like the letters produced in treason trials, these letters also adopt a legal stance, becoming marriage contracts, pardons, confessions and death warrants. Bel-Imperia’s letter takes on the form of a writ against the murderers, Pedringano’s concealed letter is witness, accuser and confession to the killing of Horatio, truth lies within the letter, not the law. Letters, therefore, mediate between law and subversion, justice and revenge. Throughout the play, Hieronimo’s engagement with both official documents and letters is as a reader. The documents of both royal and judicial courts present obstacles to the enactment of his plans, while letters impel them. We might say he is pursued or beset by text, the authority of which he cannot resolve.

If, like Altman, we accept Act One as a Senecan prologue to the play, we will recognise

³ Richard Hillman, *Self-speaking in Medieval and Early Modern English: Drama: Subjectivity, Discourse and the Stage* (London: Palgrave-Macmillan, 1997), 107.

the prefatory identification of the controversial issues to be expounded in the text.⁴ The very question of heavenly justice is called to account here. Andrea is not in Limbo, as might be expected, but suspended between fields of love and war in Hell. He appears before pagan, rather than heavenly, judges, seeking not justice, but revenge. The introduction of the official proceedings of an earthly court presents the central dichotomy of the plot.

Acting as a plaintiff against his murderer, we learn from Andrea's Ghost that he has already been examined by a bench of judges, Minos, Aeacus and Rhadamanth, to obtain a passport to his place in the underworld. The underworld is, like life, bound by bureaucratic rules, of which the judges are ever mindful. Unable to decide which of the Hadean plains deserves his presence, the three gods observe the rules of hierarchic administration, and send Andrea's ghost to a higher court. The legal document, with which he is provided - "To this effect my passport straight was drawn" (1. 1. 54) - is another reminder of the intrusion of official bureaucracy into a scene that seeks to usurp that agency's prerogative. After passing through scenes of a kind of trial and retribution (1. 1. 57-71), the Ghost comes before Pluto and Proserpine. Finding that official documents are again needed, even after death, Andrea at last receives the judgement of Proserpine, and is allowed to return to earth to seek vengeance for his untimely dispatch.

The Ghost of Andrea does not merely view Proserpine as a judge, but as a sponsor or patron. Crosbie draws our attention to themes of ambition and social climbing within the text.⁵ Andrea is an example of the subaltern malcontent, like Edmund, in King Lear,

⁴ Altman 268-9.

⁵ Crosbie 1-6, 12-21.

studying “deserving” (1. 1. 9). Not wishing to be contained within the unearthly “bounds” of a lover or a “martialist” (1. 1. 62), Andrea’s ghost seeks a high place in the underworld. More concerned for his position as a courtier than a lover, he seeks to compensate the loss of his social standing, as well as to seek revenge against those who cut him off. Like Edmund also, Andrea was, in his mortal life, guilty of High Treason, and in the same way, pursuing a liaison with a royal female. Andrea’s reference to his secret possession of Bel-Imperia leaves us in little doubt that the relationship was sexual. Their liaison can be defined as a secret marriage.⁶ Bel-Imperia is heir to the childless king and Andrea’s treason is identified by both the treason act of Edward III and the Henrician act of 1542.⁷ His consignment to Hell is fully justified by his earthly behaviour. Unlike Edmund, although seeking revenge, Andrea uses an emissary to further his design.

If Revenge and the Ghost are placed above, according to the stage direction, they could appear as judges. As Chorus, however, they will interpret and predict the outcome, rather than merely oversee the enactment of the evidence and the circulation of documents. They are set there not to judge, but to see that the sentence is carried out. In this, their position is like that of Hieronimo, judgements are made elsewhere, the punishment is a foregone conclusion.

The supernatural judiciary is replaced by the earthly court of Spain, where heaven, not hell, dispenses justice. Official documents dominate the victory celebrations of Scene Two. Portugal has been vanquished, not so much by fortune of war, but by defiance of the “laws of arms” (1. 2. 168). The Viceroy has broken a peace treaty by refusing to pay

⁶ There were two forms of secret marriage in Elizabethan England, *per verba de futuri* – a promise to marry, binding if followed by consummation - and *per verba de presenti* – an exchange of promises before witnesses. The Duchess of Malfi undertakes the latter form of secret marriage with her steward (1. 1).

⁷ See Whigham, *Seizures* 25-6.

tribute. This act is defined as the crime of “trespass”(1. 2. 138). The general’s description of the battle, rather reminiscent of the Ghost’s description of its passage through Hell, outlines a further trial and retribution scene (1. 2. 32-84), also describing the unfair and contemptuous slaying of Andrea. The description of the victory is ratified in writing, a formal agreement, official confirmation of the “peace conditional”(1. 2. 89). The Viceroy has made a solemn vow to pay tribute, but it is his signature upon the document that ensures its legality and truth.

Another judgement ensues, as to whether Horatio or Lorenzo should have reward for Balthazar’s capture. This judgement is, again, confined by laws and stately duty, laws and rules pervade the acting out of life and death. Hieronimo has no position in this judgement, other than that of advocate for his son. We might recognise this as an early disclosure of his limited power, and it might be seen to foretell his frustrated imperative later in the play. The prolixity of these early scenes is redeemed by the way in which they establish and sustain the notion of an authoritarian regime, both above and below the earth. They might be seen as the inordinately long exordia in the trial of the actors of this play.

The importance of conforming to lawful behaviour so influences the Viceroy in Act One, Scene Three, that he cannot turn his mind to mourning the loss of his son until he has ensured that the terms of the peace treaty have been observed. Although blaming the fickleness of Fate and Fortune, the Viceroy admits it was his “breach of faith” (1. 3. 34), his breaking of the laws of war, that brought about the death of his son. There are further references to the law of arms, which Villuppo accuses Alexandro of breaking, in his cowardly attack upon Balthazar. Unlike the King, who attended to the arguments of both sides before making judgement, the Viceroy accepts the uncorroborated evidence of

Villuppo.⁸ Like many real-life defendants, Alexandro is given no chance to make a statement. His “trial” is like an Act of Attainder, the judgement is given as soon as the charges are laid. This concept might be seen to be given some weight by Alexandro’s reading of Villuppo as a text: “O wicked forgery” (1. 3. 72).

Despite the recent misfortunes brought about by his contempt of the law, the Viceroy makes a hasty, precipitate, judgement. His verdict is unlawful, driven by revenge: “They reckon no laws that meditate revenge” (1.3. 48). This is law translated into personal revenge. We might recognise an inverted parallel between this scene and the subplot of King Lear. Like Edmund, Villuppo hopes to gain advancement through false evidence. In the later play, however, written evidence is accepted readily, “auricular assurance” (1. 2. 92) is secondary. Unlike Gloucester, the Viceroy’s ears, rather than his eyes, are ready to receive “ill news”(1. 3. 56). He might say “let’s hear, let’s hear” rather than, like Gloucester: “let’s see, let’s see” (1. 2. 43).

In the early scenes of Act Two, letters take up their interstitial stance between the official and the unlawful, as they offset the marriage arrangements between Portugal and Spain. Balthazar sends unsuccessful love letters in the hope that they may intercede where official negotiation may fail. It is the letters of Bel-Imperia and Horatio, however, that appropriate the space of the formal marriage contract between Spain and Portugal. Bel-Imperia’s letters are the documents which give license to the illicit love making and unlawful union that is to follow.⁹

⁸ Cunningham suggests that the Viceroy believes the evidence against Alexandro: “because, Villuppo tells a version of events that the Viceroy believed before Villuppo spoke”. Cunningham, Betrayals 137.

⁹ Stewart also recognises letters as marriage contracts, suggesting that Hamlet’s letters to Ophelia may be taken as such. Stewart, Letters 231-60.

Karen Cunningham suggests that Bel-Imperia is delivered to Hieronimo by her bloody letter.¹⁰ She has, however, already been delivered by letters to the play in this scene. Although Balthazar's reference to a blot upon her name (2. 1. 11) is meant to excuse her cold refusal of his suit, we find that she has, indeed, been stained with ink.¹¹ Her trusted servant, Pedringano, admits that Bel-Imperia has sent letters to Horatio. It is not clear if Pedringano has been privy to these letters as a secretary, (Bel-Imperia refers to him as her "second self" 2. 4. 9), or if he has intercepted their transmission. Either way, unlike Oswald in King Lear, he betrays his trust.¹² This betrayal is, however, obtained, as it was with many real life secretaries and servants, by the threat of death. As go-between, informer and spy, he typifies many of his sort, seeking, not just money, but preferment.

The association of dramatic identity with Renaissance perceptions of feminine literacy has been explored elsewhere in this study. Bel-Imperia's letter writing is not only crucial to the identity of her character, but also pursues the discourse of treason which runs through this play. Her letters to Horatio place her within the same site of treason as Goneril and Regan, according to the Katherine Howard Attainder (33 Hen. VIII, c. 21. 10), as the sanction applied, not merely to adulterous liaisons, but to the amorous activities of all royal women. As Whigham points out, however, Bel-Imperia is also guilty of:

“*ideological treason*’ - not only against the statutes of the realm, but against the status, kinship, and gender norms that ground much of the statute’s cultural authority”.¹³

¹⁰ Cunningham, Betrays 134. See also Goldberg, “HH” 313.

¹¹ See Sanders: “A page blotted with ink, as an image of a female self, implies error, pollution, contact with dangerous fluids; ink, blood, semen. The only story such a text could contain is that of sexual transgression printed in boldly visible letters.” Sanders 139. Such is the story of Bel-Imperia.

¹² Whigham discerns a certain reluctance in Pedringano's betrayal of his mistress, but still compares him unfavourably with the ever faithful Kent (Caius) in King Lear. Whigham, Seizures 52

¹³ Whigham, Seizures 26. See also Fantazzi: “The whole system of the integrity of the household and the transmission of property was bound up in female chastity.” Vives ed. Fantazzi, xxiv.

Her behaviour threatens, not only the dynastic plans of the family, but also political order.

As Guido Ruggiero explains:

The moral family as the basis for the state empowered the state [...] and in turn the moral state empowered the family; we should be careful not to impose an anachronistic public/private dichotomy. The family from the perspective of civic morality worked at several levels. First, it institutionalised sex in its correct place in an ordered and disciplined Christian society: within marriage. In turn, the correct result of sex, legitimate children were also placed in a nurturing and moral environment.[...]. In addition it married them correctly, within their own class, thus theoretically assuring the social hierarchy and protecting it from the dangers of love, passion, and sex.¹⁴

Educated and wilful, like Goneril and Regan in King Lear, Bel-Imperia writes her own letters, chooses her own (lower class) lovers and commits the same treasons.¹⁵ Her decision to replace Andrea with a new lover, barely more than three days after his death:

Ere Sol had slept three nights in Thetis' lap
And slak'd his smoking chariot in her flood,
By Don Horatio, our Knight Marshal's son,
My funeral and obsequies were done. (1. 1. 23-5)

begs the question of the genuineness of her love. Is her action: "The more to spite the prince that wrought his end"(1. 4. 68)? The exchange of the scarf between them may suggest, however, that their mutual love of Andrea has drawn them to each other.¹⁶

Horatio is, like the courtly characters of Twelfth Night, removed from the stain of writing, perhaps the more to express his innocence and to emphasise the perfidy of his death. He sends no letters but: "in his mouth he carries pleasing words" (2. 1. 124). Balthazar,

¹⁴ Guido Ruggiero, "Marriage, love, sex, and Renaissance civic morality" in Sexuality and Gender in Early Modern Europe, ed. James Grantham Turner (Cambridge: Cambridge UP. 1993), 10-29 qtd. 13.

¹⁵ In Act Four, Scene One, we learn that she speaks French (77-9), and in Act Three, Scene Ten, comes up with a Latin phrase (103-4). Her use of this Latin tag, *Et tremulo metui pavidum junxere timorem, Et vanum stolidae proditionis opus* (3. 10. 103-4), might suggest that she speaks Latin, but may merely be Kyd's inclusion of another classical extravagance. In many ways Bel-Imperia might be compared with Olivia in Twelfth Night, in her social position and independence, but Olivia does not employ the agency of writing, though she, too, is silenced in the end.

¹⁶ Whigham suggests: "it seems unwise to deny the presence of a for-itself affection between Bel-Imperia and Horatio". He considers this as a trinary relationship with Andrea in the manner of the *levirate* custom of the younger brother marrying the wife of the deceased older brother. Whigham, Seizures 43.

however, unlike the Viceroy, perceives deceit within the spoken word. Horatio is, of course, like Andrea, guilty of High Treason by consorting with the female heir to the throne. Like Andrea also, by the precepts of various treason acts, to be condignly punished, hanged and stabbed in a dramatic rehearsal of the state punishment for treason. Despite Horatio's pleasing words, he is verbally outshone by Bel-Imperia. In her first speech of Act Two, Scene Two (7-17), she appears to appropriate the prerogative of male language. Her passionate speech to Horatio usurps the male initiative, in this scene of wooing, and she even arranges their next meeting.¹⁷ Bel-Imperia's letter writing has encouraged comparison with Goneril and Regan in King Lear, but her mastery of direct and indirect discourse might rather suggest the linguistic qualities of a male character, Edmund, in that play. The stichomythic interjections of Lorenzo and Balthazar, however, emphasise the true ineffectuality of her agency.

The suggestion of an exchange of correspondence in Act Two, Scene Two - "Write loving lines, I'll answer loving lines" (2. 1. 36) - parodies the exchange of formal marriage contracts that is to take place in the next scene. The unlawful writings of Bel-Imperia's illicit union are immediately cast against the legally-sanctioned proposed marriage between the Portuguese and Spanish households.¹⁸ From a strong, linguistically empowered, woman she is reduced to a piece of barter, her hand in exchange for Portugal's release from tribute. She has, in fact, no voice, as all the arrangements are made

¹⁷ Whigham also views Bel-Imperia's behaviour as "mimetically male". Whigham, Seizures 36. Making a chivalric connection between the scarf as a favour, he suggests that the dropping of her glove in Act One, Scene Four, represents a gage, a sign of her: "aggressive appropriation of the (masculine) chivalric challenge". Whigham, Seizures 44.

¹⁸ If we accept the premise of critics, such as Ardolino and Whigham, and assume that consummation takes place, this might be seen as another marriage ceremony. Ardolino 1, 8. Whigham, Seizures 37, 49. Alan Stewart sees Hamlet's epistolary courtship of Ophelia as a: "legally binding courtship leading to marriage". Stewart, Letters 37, 231-60. Perhaps Bel-Imperia's letters to Horatio may be taken as a marriage contract. Vives' editor, Charles Fantazzi, writes:

Female chastity ensured the continuity of the male-headed household. If a wife was not chaste he could not be sure of the legitimacy of his offspring. [...]. If his daughter was not chaste, she could not be transferred to another man's household and he was dishonoured". Vives, ed. Fantazzi, xvii.

in her absence, a prelude to the figurative and actual stopping of her mouth in Act Two, Scene Four. The formality of Bel-Imperia's intended marriage is set against the ancient ceremony of hand-fasting that she and Horatio undertake in the bower. This suggests two reasons for Horatio's despatch. He is not merely a love rival but, if we accept this scene as a betrothal, a threat to the dynastic plans of the royal households. In effect, Bel-Imperia's letters have become Horatio's death warrant.

The Viceroy, too, dwells upon dynastic worries now that his "successive line" has been cut off (3. 1. 14). He has had too much of words and decides to carry out sentence against Alexandro. The letter of the law intervenes, however, when an official pardon arrives, much like the last minute scaffold pardons of real life. Again, however, the Viceroy questions written evidence, and requires the eye-witness testimony of the Ambassador before he turns to the written document from the King. Described in the script as letters, these documents take on a legal stance, again confusing the status of written word. The Viceroy admits he has made a misjudgement, recognising that he has been misled by spoken evidence. He now acknowledges the value of things set forth in articles, rather than the spoken word. Official justice triumphs over personal revenge. The King's letter takes on a further legal stance, for it becomes the death warrant of Villuppo. Condemned to torments as bitter as those promised to the villains of the piece, in the final scene, we wonder if Villuppo might meet up with them in Hell.

The fundamental question to be asked in Act Three, Scene Two is, why did Hieronimo reject the evidence of Bel-Imperia's letter? The reason given in the text is that he suspects a trap, a trick to place him under suspicion of involvement in "a train" (3. 2. 38), a conspiracy. Perhaps it is the lack of subscription which makes his legal mind doubt its

truth. This letter can be seen as a device, its appearance emphasising the value of the letter as the interstitial agency that insinuates itself between revenge and heavenly justice. Calling upon heaven to avenge his son and bring the perpetrators of the crime to justice, Hieronimo asks for a sign. Instead of a clap of thunder or an unnatural portent, a letter falls. The letter, in fact, urges, not sacred justice, but vengeance, yet it also represents the two codes of justice examined in the play. Written in blood, encouraging revenge, it takes on the appearance of a blood covenant, outside the constitutional order, suggesting a contamination which will be expounded later.¹⁹ However, both Bel-Imperia and Hieronimo refer to the document as a “writ” (3. 2. 26- 49), which, as a court official, he might have recognised as an accuser or witness in a judicial proceeding.²⁰ Hieronimo’s hesitancy serves to emphasise his dilemma between official judiciary and personal revenge, licence and license. Despite initially regarding this letter as an “unexpected miracle” (3. 2. 32), he still puts his faith in heaven and the official proceedings of the justice system of which he is part.

Kyd further illustrates the arbitrariness of justice by presenting Lorenzo, the accused of the letter, as taking the official course when dealing with Pedrigano:

My Lord, let me entreat you to take pains
 To exasperate and hasten his revenge
 With your complaints unto my lord the king
 This their dissension breeds a greater doubt. (3. 4. 31-34)

¹⁹ Writing of Faustus’s use of blood as ink, Gallagher suggests: “the blood appears charged with an incipient meaningfulness that arrives before the text he is poised to write. [...] the very matter used to produce the document is already a text, of a sort”. Lowell Gallagher, “Faustus’s Blood and the Messianic Question of Ethics,” *English Literary History* 73 (2006): 1-29 qtd. 10. (Hereafter, Gallagher, “Faustus”).

²⁰ This makes Hieronimo’s rejection of the letter more surprising. We have seen that letters were accepted as prime evidence against Norfolk in 1571. If this play was written, as Mulryne suggests, in the late eighties or early nineties, then it is clear that letters were accepted as evidence of treason at the time that it was written. Mulryne, xii. Kyd’s own experience of “paper evidence” might also have led him to give this letter more weight. Of course the deferral extends the suspense and the debate concerning justice. The drama of this scene also enhances the theatricality of the play.

Lorenzo's decision to use the court of the Knight Marshall to bring about Pedringano's end places Hieronimo in his position as the dispenser of justice. In fact, his own lack of redress makes him all the more determined to discharge the law:

For blood with blood shall, while I sit as judge,
Be satisfied, and the law discharg'd.
And though myself cannot receive the like,
Yet will I see that others have their right. (3. 6. 35-8)

Again the letter intrudes upon the scene of a constitutional proceeding, Hieronimo's "blood with blood" reminding us of the blood covenant of that document, bloody revenge, in contrast to the state execution that is about to take place. As Pedringano confesses to the crime, no trial is necessary and the death penalty is passed. Hieronimo cannot supervise the execution because the hanging would remind him too much of the manner of Horatio's death. Again, this sets the unlawful hanging of Horatio against the legitimate "turning off" of Pedringano. Pedringano's crime was, of course, greater than the felony of murder. Like Oswald, in King Lear, as go-between and purveyor of love letters between Bel-Imperia and Horatio, he becomes a "mover" in their treason. Like Oswald also, he deserved a greater "deathman" (4. 6. 253). In real life, more than his clothes would have been rifled.

As Kyd portrayed the arbitrariness of justice in the previous scene, so the relativity of mercy is addressed in the execution scene. Pedringano, after a grotesquely humorous exchange with the hangman, expecting a pardon, finds: "nothing but the bare empty box" (3. 5. 7). In this horrid inversion of the last minute pardon, Kyd introduces a political metaphor. This device underlines the fears of those faced with the enigma of Calvinism, who might be wondering if their box was empty too. Pedringano's expectation of a pardon excludes the prayer and performance of repentance required of the real life

criminal. It also excludes the forgiving speech of the condemned to the executioner, which may give meaning to the Hangman's request of Hieronimo: "You will stand between the gallows and me?"(3. 7. 26)²¹

Once more, a letter seeks to impel Hieronimo's revenge, but, this time, one in which he believes. Perhaps the letter takes on an official stance, being delivered by the executioner.²² Hieronimo now accepts the epistolary evidence of both this letter and that of Bel-Imperia. The hangman's removal and search of Pedringano's clothes has performed a function similar to that of post-death dismemberment, as the secrets of the body have been revealed.²³ Pedringano's letter takes on the form of a confession, also becoming an accuser of, and witness against, Lorenzo and Balthazar. Despite this discovery, Hieronimo still regards this letter as a possible sign from heaven and decides to seek proper justice from the king.

On the verge of suicide, Hieronimo attempts to seek justice from legal sources. Again letters compete with official documents, for the king is much engaged with the marriage contract and peace treaty. Thwarted by Lorenzo in his bid to approach the king, Hieronimo finds his plea overshadowed by the business of the state. Frustrated by bureaucracy, he decides to undertake his own revenge and obey the dictates of the unmediated language of the letter. His revenge is further delayed by legality when he is beset by the pleas of the petitioners. He enacts the violence he wishes to perpetrate against the murderers upon the

²¹ Kiefer refers to the hangman's reference to a "passport" in this scene (3. 7. 23), suggesting that it recalls Andrea's repeated use of the word in the earlier scenes, adding: "Its use in this context may be meant to suggest the connection between what happens in this world and the next". Kiefer, *Stage* 336 n. 9.

²² In order to reject lingering traces of Catholic ideas of demonology, it was essential that the public executioner was recognised as a state official. Pedringano refers to him as an "officious knave" (3. 6. 42).

²³ The hangman was entitled to the clothes of the condemned. We might be reminded of the post-death search for letters in the shoes of Thomas Seymour in 1549.

texts of the plaintiffs, recognising, like Senex, the futility of official documents and the system they support. The bureaucratic documents of both the royal and judicial courts present obstacles to the enactment of his plans. Calling now, like Lear, in his madness, upon pagan gods, he rejects the life that has been assailed by laws and bureaucracy and turns to the letter as the authorizing agent of his actions.

It is at this stage that Hieronimo ceases to be a reader. When he begins to address himself in the first person in Act Three, Scene Twelve, however, his madness has made him take on a dual personality. He embarks upon a prosopopoeiac relationship, of which more shall be said later. His self-address suggests that he sees himself as a kind of co-conspirator, a situation that requires private, secret communication. Kyd's use of rhetorical nuances in these speeches likens these soliloquies to an exchange of extra-textual letters.²⁴ Unlike Lorenzo, Hieronimo does not trust himself, or see himself as his own friend (3. 3. 118). Lorenzo needs no reply to his "letters", but Hieronimo's are full of vacillation and doubt and so take on the form of a two-way correspondence. He "writes" at a distance from himself, the mad Hieronimo expressing his thought to the sane. It is significant, then, that the endgame should be accomplished within his dual office of lawyer and arranger of court entertainments and that it is achieved by written product of his thought, the play of Soliman and Perseda.

Hieronimo's play is a treasonous text. It is, in itself, literally, a plot: "already in mine head" (4. 1. 51), the written evidence of his imagined revenge:

²⁴ Shepherd suggests: "his emotional speeches are highly patterned, noticeably rhetorical or remorselessly alliterative: they sound written even as they claim transparent expressivity". Shepherd 167. He goes on to say that this may be a remnant of earlier dramatic styles, but we might recognise the intrusion of the rhetoric of letter writing here.

O, that I will my lords, make no doubt
Of it:
I'll play the murderer, I warrant you,
For I have already conceited that. (4. 1. 33-35)

It also becomes an elaborate conspiracy promoted by the circulation of texts. When Hieronimo gives each of the participants (who are surprisingly unsuspecting of the similarities to recent events) a written part, they become conspirators in their own deaths. The King and Duke of Castile also become unwitting conspirators when the text of the play is circulated between them. The Duke will become the prompt to his son's death, while the other spectators literally "look upon the plot" without knowing it (4. 4. 33). Hieronimo's decision to stage the play in different languages likens the text to a cipher. Like the ciphered letters of a treasonous conspiracy, translation into a "vulgar tongue" (4. 4. 75), will expose the crime:

BALTHAZAR. But this will be a mere confusion,
And hardly shall we all be understood.
HIERONIMO. It must be so, for the conclusion
Shall prove the invention and all was good. (4. 1. 181-4)

Like Edmund's letter, the text is an invention. The play becomes a travesty of the trial that Hieronimo has desired for so long, as the perplexing script foregrounds the players, rather than the characters. This is achieved in the reference, by the King, Duke and Viceroy, to the participants by their real names. Hieronimo is to make the trial that was promised in his Latin lament of Act Two: "of everything, and of death, too" (2. 5. 67-80). Yet, in a way, this trial is not a travesty, but a redefinition of justice. In the midst of this act of treason, Hieronimo is carrying out his official office: "to punish such as do transgress" (3. 6. 12). The text of the play is like the death warrant he would have signed in his official

capacity.²⁵ His remit was not to judge, but to see the sentence carried out, and so he does. The murders of this scene might almost be seen as a partially realised example of state violence.²⁶

The pen has carried out revenge, not just Hieronimo's pen, but Bel-Imperia's also. The blood she draws from Balthazar completes the blood covenant of the letter that initiated this terrible revenge. Written into the playlet, as she was written into the dynastic plans of her father and the King, Bel-Imperia steps outside the measure of male language in scripting her own death, like Hieronimo, she still can "write".²⁷ Hieronimo's play ends with a true dumb show, both in the dramatic tableau, the "murderous spectacle" (2. 4. 9) of Horatio's body, and his own silencing in the biting off of his tongue.²⁸ The time for spoken language has passed, only writing can direct the denouement. Pen and knife commute to carry out the final murder and Hieronimo's suicide. Had the Duke of Castile not insisted upon a written confession, the pen-knife, the instrument of writing, would not have become a weapon.

Hieronimo adds to the pathos of the tragic display of Horatio's body by producing the bloody handkerchief, which has become the emblem of, first Andrea, and then Horatio.²⁹

Though not a letter, the emblem correlates the message of the letter, and becomes its

²⁵ Altman also recognises Hieronimo's legal stance in this: "As a heuristic device the play is perfectly conventional and one that might be expected of a legal advocate". Altman 279.

²⁶ For a discussion of the representation of state violence in this play, see James Shapiro, "'Tragedies naturally performed.' Kyd's Representation of Violence: *The Spanish Tragedy* (c. 1587)" in Staging the Renaissance: Reinterpretations of Elizabethan and Jacobean Drama, ed. David Scott Kastan and Peter Stallybrass (New York NY: Routledge, 1991), 99-113.

²⁷ As Sinfield writes of Desdemona, who, like Bel-Imperia, is another of Shakespeare's females who seek to subvert ideological expectations: "She is written into a script that is organised through the perceptions and needs of male dominance in heterosexuality and patriarchal relations". Sinfield, Faultlines 54. Isabella, the other silenced woman of the play - "Meanwhile, good Isabella, cease thy plaints" - also takes her own life (2. 5. 60).

²⁸ Altman suggests that the decision to present the play in foreign tongues reduces the whole play to a dumb show. Altman 280.

²⁹ That is, if we accept that Bel-Imperia's favour is the same artefact. See Ardolino 11.

analogue. It is a further impellent of revenge. When Hieronimo pulls it from his clothes in Act Three, it replicates Bel-Imperia's bloody letter and abrogates the judicial documents of the citizens. Not described as bloodstained by Horatio, in Act One, we must imagine that, having been taken from Andrea's lifeless body, the handkerchief was unlikely to have been spotless. As a bloody artefact it underpins the trail of blood and vengeance that runs throughout the play and reciprocates Bel-Imperia's bloody letter. As it passes from Bel-Imperia to Andrea, to Horatio and Hieronimo, it signifies the blood covenant between them that its appearance expiates in the final scene.³⁰

Grantley questions the sanity of Hieronimo's actions, while identifying madness as a significant motif in revenge drama: "In some form or another mental imbalance crops up in many, if not most, revenge tragedies".³¹ It is "mental imbalance", rather than madness, that I perceive here. I see Hieronimo's behaviour as "*passing strange*" (4. 1. 85), a psychosis, a kind of Lacanian aphanisis.³² He becomes separated from himself, as I have intuited earlier.³³ He is eclipsed by the signifier of revenge:

Behoves thee then, Hieronimo, to be revenged.
The plot is laid of dire revenge,
On then, Hieronimo, pursue revenge,
For nothing wants but acting of revenge. (4. 4. 27-30)

At the end there is a literal: "fading of the voice".³⁴ Once the revenge has been carried out,

³⁰ Compare this scarf as a reminder of Andrea and Horatio with the crimson scarf of Charlemont in *The Atheist's Tragedy*. In Tounneur's play the scarf has, of course, been purchased by D'Amville, in a pretence to represent the love and loyalty owed to a beloved friend, Charlemont.(2. 1. 105). This endorses its talismanic appearances in Kyd's play.

³¹ Darryll Grantly, "Masques and Murderers: Dramatic Method and Ideology in Revenge Tragedy and the Court Masque" in *Jacobean Poetry and Prose: Rhetoric Representation and the Popular Imagination* ed. Clive Bloom (Basingstoke: Macmillan, 1988), 194–212 qtd. 208.

³² Jacques Lacan, *The Four Fundamental Concepts of Psycho-Analysis* (1973; New York NY: Karnac, 2004), 206-8, 216-29.

³³ We might say this of the Ghost also.

³⁴ Roland Barthes, *S/Z*, trans. Richard Miller (New York NY: Hill & Wang, 1974), 41-2.

Hieronimo becomes whole again, as I feel his last speeches denote, despite his self-mutilation. Rather than “Hieronimo is Mad Again”, Hieronimo is sane. We might read that return to sanity in his speech to the Viceroy:

And you, my lord, whose reconciled son
March'd in a net, and thought himself unseen,
And rated me for brainsick lunacy,
With, ‘God amend that mad Hieronimo!’
How can you brook our play’s catastrophe. (4. 4. 117-21)

The ending of the play is that of sterility and hopelessness. Both royal households have been cut off: “the whole succeeding hope” (4. 4. 204), and, as Horatio is Hieronimo’s only child, the Knight Marshall’s also. The anxiety of dynasty, succession, and state stability has been pursued throughout this play, as in King Lear.³⁵ We might, here, recognise the real life judgement upon those guilty of treason, the limitation of a traitor’s bloodline. Bel-Imperia’s letters might be seen, like those of Goneril and Regan, as a contamination of the bloodline, by the taint of the pen and the interruption of the succession. In fact the letters of the literate females of the two plays have effected the gradual seepage of the bloodline through the contaminating fluids of blood, ink and semen. The spilling of blood, through war, murder and suicide has invoked a barrenness that is not only that of the land but, in the unlawful liaisons of Bel-Imperia, the sterility of sex without procreation. There is no Albany, no Edgar, with some promise of resolution. Instead there is a relentless, Calvinist finality.

³⁵ Hattaway refers to a woodcut of the 1615 quarto in which Hieronimo bears a torch before the arbour where his son is hanging: “Behind him is Bel-Imperia and behind her, in a black mask, is Lorenzo with a drawn sword. [...] these descriptions [...] see the tragedy as that of a family or dynasty.” Hattaway, Theatre 106.



Fig. 8. The Spanish Tragedy. From the 1615 Quarto. 05 Apr. 2009 <<http://www.elizabethanauthors.com/Span5.htm>>.

Chapter 8

“My thought, whose murder yet is but fantastical”: Treason and Intent in Macbeth

Definitions of treason in Macbeth may not seem to be as obscure as those found in King Lear and The Spanish Tragedy. Act One, Scene Two, opens with two precise presentations of the crime.¹ The rebel, Macdonwald, is given a battlefield trial by combat, and, with a reference to the punishment of “drawing” - “unseamed him from the nave to th’ chops” - is executed, his head displayed, as fitting for a traitor (1. 2. 22-3). The Thane of Cawdor’s crime of adhering to the enemy:

[...] Whether he was combined
With those of Norway, or did line the rebel
With hidden help or vantage, or that with both
He labored in his country’s wrack, I know not;
But treasons capital, confessed and proved,
Have overthrown him. (1. 3. 111-14)

earns condemnation by a kind of Act of Attainder, or on King’s Record:

No more that Thane of Cawdor shall deceive
Our bosom interest: go pronounce his present
death. (1. 2. 63-65)

The description of the battle that has just taken place is very much like the trial and retribution account of the Spanish–Portuguese war of The Spanish Tragedy, setting Macbeth’s loyalty against the perfidy of traitors (1. 2. 32-84). Cawdor’s death is the formulaic, dramatic performance as required of traitors upon the scaffold:

¹ William Shakespeare, Macbeth, ed. Sylvan Barnet (London: Signet, 1963).

Again, as in King Lear, we see an association between legitimacy and writing, but the legal documents represented here are official legitimate writings, which support that which Alan Sinfield calls a “Jamesian” reading of the play:

Defining the lawful good king against the usurping tyrant [...] ameliorating [...] potential splits between legitimacy and actual power by insisting on the unique status of the lawful good king.³

Holgar Schott, however, finds this a misreading of the play:

It is not that a “Jamesian” reading of the play [...] is too straightforward, and hence too boring, too old-fashioned, to be acceptable; rather, it is so straightforward that it cuts a clear road through the impenetrable undergrowth of Macbeth (and Macbeth).⁴

It is the ambiguity of language that is the “undergrowth” of the play, for the legal documents also inform of the “Buchanan disturbance” of a monarchy limited by the supremacy of law over absolute and despotic rulers, suggested in that source author’s works.⁵ These oppositional readings define Macbeth’s unlawful behaviour (and writing) by reminders of legality.

The spoken word is also ambiguously presented and is usually the property of messengers who are agents of the legal and official. These couriers appear throughout, like the legal documents cited, as reminders of legitimacy and seemingly representing truth. Shortly before the Weird Sisters confront Macbeth and Banquo, however, they describe themselves as “posters of the land and sea” (1. 3. 33), perhaps identifying themselves as

³ Alan Sinfield, “*Macbeth*: History, Ideology and the Intellectuals” in New Historicism and Renaissance Drama ed. Richard Wilson and Richard Dutton. (London: Longman, 1992), 167-80 qtd. 171 (hereafter, Sinfield, “Macbeth”).

⁴ Holger Schott, Idiotic Tales: Communitarity in Macbeth and Coriolanus Elton Shakespeare Prize Essay 1995, 29 Jan. 2000 <<http://www.tas.harvard.edu/~hscott/shakesp.html>>.

⁵ Sinfield, “Macbeth” 177.

the first of the many messengers in this play. Spoken language then becomes the property of evil personages, here, associated with witchcraft and magic, challenged and inverted in the strange incantations of the witches.

This representation of spoken language becomes associated with unlawfulness, for the message they impart is, in fact, a prophecy. This was, in itself, a dangerous practice. Prognostication was regarded as potentially seditious, possibly inciting and legitimizing rebellion, and, as we have seen, when concerning the king, could be an act of treason under the charge of imagining the king's death. The expression of such statements in the printed form of the astrologer's almanac was seen as particularly subversive. Press controls were established in the late sixteenth and early seventeenth centuries in an effort to discourage political prophecy. There was concern regarding the possible effect upon the readers of these extremely popular publications.⁶ The dual purpose of the almanac, as a calendar of feasts and festivals, some of which were viewed as pagan and religious recalcitrant practices, accounted for further hostility towards these cheap and readily-available texts. The witches are therefore associated with paganism, sedition, incitement and Catholicism, by this prophecy, if we consider the contemporary association of Jesuits with magic and witchcraft, and the official suspicion of political prognostication.

The subsequent verbal messages of Ross and Angus further underline the ambivalence of both the spoken word and the predictions. Some of the prophecies appear to be realised without the involvement of Macbeth or Banquo in any rebellious acts. This encourages

⁶ Macbeth's attendance to these prophecies is not unusual, for monarchs, including Elizabeth and James, consulted astrologers, despite the fact that casting the monarch's horoscope, thereby asserting the power of prediction over royalty, was punishable by death. Astrology was given respectability towards the end of the sixteenth century by its association with mathematics. The leading astrologers of the day were often, like John Dee and Leonard Digges, famed mathematicians.

Macbeth to examine the situation of truth within the spoken word:

This supernatural soliciting
Cannot be ill; cannot be good:
If ill, why hath it given me earnest of success,
Commencing in a truth? (1. 3. 130-33)

Legality and legitimacy appear to have been conferred, not as in King Lear, by written document, but by the spoken word.⁷ As communications come from different sources, one seemingly suspect, language presents a paradox of truth, a paradox within which the conflicting status of Macbeth's letter may be examined.

While critical attention has been paid to the single letter of the play as a means of determining Lady Macbeth's character, and her role as a reader, the letter itself, and the reason for Macbeth's choice of indirect communication, has been largely ignored. The letter offers a dramatically valuable complexity of meanings and interpretations. Mark Taylor suggests an encoded subtext within the letter, in which Macbeth encourages his wife to initiate his own covert desires, perhaps contained in the address to "my dearest partner of greatness" (1. 5. 11). This would identify the letter as the same kind of planned language demonstrated in Edmund's letter in King Lear. Ryan Kiernan also identifies the witches' predictions as: "the open voicing of 'black and secret desires', already brewing secretly in his heart before the encounter", adding later: "The 'secret black and midnight hags' [...] who haunt and taunt Macbeth give visible form and cryptic expression to his aspirations and anxieties, his wishful self-delusions and actual possibilities".⁸ As Taylor and Kiernan's comments suggest, the question of Macbeth's ambition is not new. The

⁷ Later, however, Macbeth refers to these communications as "missives" (1. 5. 7), adding to the confusion.

⁸ Taylor, 36. Ryan Kiernan, Shakespeare: New Readings (London: Harvester, 1989), 60-1.

present reading, however, seeks to interpret that ambition as intent, made manifest in the letter, set against contemporary assumptions of treason by word.

As we have seen, the law pertaining to speech and writing, within a thesis of treason, which was allowed by the concept of imagining the king's death, remained in place until the early seventeenth century. The statute was, then, extant at the time that this play was written. Indeed the letter could be seen as a codified communication, employing the cryptic of the familiar letter, and, like Edmund's letter in King Lear, a double feigning. As Lady Macbeth solves the ellipses, the letter effects a conspiracy. Within this context, and again accepting Taylor's suggestion of Macbeth's subtext of covert desire, we can recognise Macbeth's letter as treason by word. He is imagining, intending, the king's death. Lady Macbeth casts judgement on the letter, accepting it as an expression of intent. The letter then becomes the overt act. It is, then, as the expression of intent that I first wish to analyse this letter, to intercept and interrogate it, in the manner of documentary evidence in a treason trial. The advantage, here, of course, is that we do have access to Macbeth's thoughts and it is those thoughts, before he sends the letter, that might identify this document as an overt act. This somewhat exonerates Lady Macbeth, but her reading will be given in evidence later.

Macbeth's reputation as a loyal servant of the king precedes his appearance, but, as David Morse suggests, he enters the play in circumstances that might subvert that loyalty:

The moment when the witches hail Macbeth as Thane of Cawdor in a parodic travesty of sanctioned ritual is one which has complex reverberations, for it is here

that authority is being questioned. [...]. In the witches' prophecies all legitimacy is abolished.⁹

Macbeth starts at the witches' predictions, but perhaps this is because they are voicing his treasonous thought. He has been fighting in a civil war for a king who seems to be rather weak, for although Macbeth refers to Duncan's: "facilities so meek" as personable traits which have endeared him to his subjects, there is a suggestion of an ineffectual ruler here (1. 7.17). Thoughts of regicide are apparent in his soliloquy, later in the scene:

This supernatural soliciting
Cannot be ill, cannot be good. If ill,
Why have it given me earnest of success
Commencing in a truth? I am the Thane of Cawdor.
If good, why do I yield to that suggestion
Whose horrid image doth unfix my hair
And make my seated heart knock at my ribs
Against the use of nature? Present fears
Are less than horrible imaginings:
My thought, whose murder yet is but fantastical
Shakes so my single state of man, that function
Is smothered in surmise and nothing is
But what is not. (1. 3. 131-43)

Although he quickly throws these treasonous thoughts aside, they have been given voice, none the less. As the Scottish throne was devolved by tanistry, and Malcolm has not yet been named as heir, Macbeth, as Duncan's kinsmen, could have gained the throne by legal means. However, as soon as Malcolm is given that honour, Macbeth's treasonous thoughts return:

The Prince of Cumberland! That
is a step
On which I must fall down, or else o'erleap,
For in my way it lies. Stars hide your fires;
Let not light see my black and deep desires:
The eye wink at the hand; yet let that be
Which the eye fears, when it is done, to see. (1. 4. 49-54)

⁹ Morse 173.

This suggests that he is willing to assassinate Malcolm in his desire to gain the throne, a fact of which Malcolm seems to be only too aware in Act Two. Throughout these early scenes Macbeth is much engaged in thought - “he seems rapt withal” (1. 3. 57), “Look how our partner’s rapt” (1.3. 143) - and begins to make asides. All of these thoughts are concentrated upon his desire for kingship.

At the end of Act One, Scene Four, Macbeth leaves the stage to inform his wife of Duncan’s visit, so we must assume that his house is nearby and it would not be necessary to write to her. His delayed arrival can only be explained by the deliberate act of writing the letter, as Taylor concludes:

the letter seems not at all hastily composed, disorganised, or marked by afterthoughts tacked on. In fact, it strikes one as very deliberately ordered so as to make the promise of kingship the climactic event in the series it recounts and thus to leave this event reverberating in the consciousness of its intended reader [...].¹⁰

Lady Macbeth is part way through Macbeth’s letter at the beginning of Scene Five, but it has not informed her of the royal visit, as we learn later:

Is not thy master with him? Who, were’t so,
Would have informed for preparation. (1. 5. 31-2)

The letter’s purpose is clear, for it dwells entirely upon the predictions of the witches and could be seen as a perpetuation of the prophecy and placed in the same uncertain and irregular legal territory. The Renaissance perception of “natural” language is as much challenged here as it is by the language of magic and witchcraft of the “three imperfect speakers” (1. 3. 70).

¹⁰ Taylor 34.

Lady Macbeth's reading of this letter identifies it as a familiar letter (or Shakespeare's distortion of the convention) for it certainly makes the "absent present", as Lady Macbeth's subsequent speech demonstrates. She addresses her husband as if he were, indeed, present. As the contents of the letter are only partly disclosed, we may assume that Lady Macbeth's reading of it has been influenced by an *amicitia* that has been established at the start. Evidence of this might be recognised in Macbeth's revisiting the language of the letter, echoing "dearest partner" by "dearest love" on his arrival after the letter has been delivered and read (1. 5. 58).

Generally, Lady Macbeth has been viewed as a Senecan character, one of Sinfield's bad "scripting women".¹¹ We see her here as a reader, a socially acceptable way for a woman to engage with texts, by contemporary standards, although we later find that she can write. The speech that follows her reading, however, does not demonstrate a proscribed passive activity. Macbeth's letter has arrived, but his wife's reading of it has ensured its delivery and its address. Freud, quoting Jekel's theory of Shakespeare's bipartite construction of characters, suggests that Lady Macbeth cannot be regarded as an independent character until Macbeth completes her.¹² The circulation of the letter has been the primary agent in that completion. Macbeth's writing, Lady Macbeth's reading and speech, make both complicit in treason by word. They both assume criminal liability, represent the two distinctions of guilt. Macbeth provides the *mens rea*, Lady Macbeth the *actus reus*, the letter establishes the concurrence. As Alan Stewart observes:

The letter [...] written in Macbeth's hand, and its textual content, uttered in Lady Macbeth's voice, presents the two characters as one, even though the characters

¹¹ Sinfield, *Faultlines* 33.

¹² Sigmund Freud, "Freud on the Macbeths", from *Some Character-Types Met With In Psycho-Analytical Work* (1916), 136. 03 May 1999 <http://sunflower.signet.com.sg/~yishengnotes/shakespeare/mbeth_t.htm.03 May 1999>. See also Stewart, *Letters* 33.

have not yet occupied the same stage. [...]: Macbeth never has to explain to her in person, on stage, what must happen for the witches' prophecy to come true.¹³

This letter now translates Macbeth's thought into an overt deed, for it is a textual representation of Duncan's murder. Perhaps the most telling line in this scene is Lady Macbeth's: "When you durst do it, then you were a man" - in other words, - "when you wrote the letter"(1. 7. 49).

Before leaving the content of the letter, it might also be useful to examine it in the light of a cultural phenomenon relevant to the historical context in which the play was written, the theory of equivocation. Images of equivocation have been recognised from the beginning of this play and it is contemporary attitudes towards this perceived abuse of language and meaning that may account for Macbeth's use of written language at this stage. Garry Wills reminds us of Garnet's instructions on truth in A Treatise of Equivocation:

One could not conceive or hold a conscious falsehood; but one could convey the truth in part, or by different media. Given a proposition, "God is not unjust," one can say "God is not" and then write "unjust" [...] or even say it "in one's mind."¹⁴

Although Garnet's Treatise was written in the 1590s, his execution in 1606, and the reportedly miraculous events surrounding it, no doubt revived popular interest in this manuscript. It seems to have been preserved as a manual for Catholics. As we have seen, a copy was found in the belongings of one of the Gunpowder Plot conspirators. Macbeth's letter could certainly be seen as the equivocal use of different media, disguising written sedition by spoken loyalty. It is the powerfully intense "inner language" of his soliloquies, however, that suggests the mental reservation of the equivocator.¹⁵

¹³ Stewart, Letters 33

¹⁴ Wills 95.

¹⁵ Wills 95.

In these speeches Macbeth reserves his identity as a traitor by placing the deeds of regicide and usurpation within a location of fantasy and illusion. In other words, they reside in his imagination, evading any kind of overt linguistic definition. There has been reference to “horrible imaginings” (1. 3. 138), “black and deep desires” (1. 4. 51). Unlike that of Lady Macbeth, Macbeth’s self is unspoken and unwritten. Therein lies, however, the intent of the treasonous act. Unfortunately, Macbeth is too much a poet to sustain the enormous mental discipline of the true equivocator, so that the reservation eventually evolves into self-identification and condemnation. The true equivocator’s reservation provides a clarity of meaning, the inner thought is truth and reality, the outward language and behaviour signals the illusion. In Macbeth the process is reversed; he becomes the stuff of his nightmare, a nightmare that may have been shaken off, were it not for the penning of the letter which ensured Lady Macbeth’s initiative in the event.

We might view this letter, however, as a free agent, a mover, a determiner, almost a portent in itself, part of the prediction and, like the almanac, inciting as well as foretelling. In this way the letter assumes a higher dramatic status, becoming a crucial convenience of narrative, locomotion and characterisation, if we accept J. Hillis Miller’s theory of the dislocation of writing:

Writing is a dislocation in the sense that it moves the soul itself of the writer, as well as of the recipient, beyond or outside of itself, over there, somewhere [...] else. Far from being a form of communication, the writing of a letter dispossesses both the writer and the receiver of themselves. Writing creates a new phantom written self and a phantom receiver of that writing.¹⁶

Derrida makes similar suggestions regarding letters:

¹⁶ J. Hillis Miller, “Thomas Hardy, Jacques Derrida and the Dislocation of Souls” in *Taking Chances: Derrida, Psychoanalysis and Literature*, ed. Joseph H. Smith and William Kerrigan *Psychiatry and the Humanities* Vol. 7 (Baltimore MD: Johns Hopkins UP, 1984), 135-45 qtd. 136.

Why do the theoreticians of the performative [...] interest themselves so little [...] in the effects of written things, notably in letters. [...]. If there is not something performative in the letter, how is it that a letter can produce all sorts of these ends, foreseeable and unforeseeable, and in fact even produce its recipient ?¹⁷

The letter in Macbeth is performative in that, for Lady Macbeth, and, equivocally, for Macbeth, like the letter advising of the gunpowder plot, it represents the act itself. This is so much so that Lady Macbeth almost considers the deed carried out when a messenger appears to announce the visit of the king, she imagines Macbeth already installed upon the throne.

MESSENGER The King comes here tonight.
LADY MACBETH Thou'rt mad to say it. (1. 5. 33)

Now the letter has truly arrived (*arriver* - to happen), Lady Macbeth has imagined the king's death. The ink of the letter has become blood, milk, gall, the pen has become the knife (1. 5. 40-54). The letter has become the event:

Thy letters have transported me beyond
This ignorant present, and I feel now
The future in an instant. (1. 5. 53-5)

Macbeth's letter would certainly be accepted as performative within the contemporary assumption of verbal intention mentioned above. It is also performative in creating Lady Macbeth as the reader that Macbeth intends her to be. As a familiar letter making the absent present, the letter also assumes a perlocutionary function, assuming a pragmatic oral role. Its pragmatism may only exist in Lady Macbeth's reading, however. Nevertheless, it persuades Lady Macbeth to fulfil that identity, as indeed she does, within the play and critical opinion, a Derridian reading of the unpredictability of the written word. That unpredictability is further diffused by the employment of the efficiency of the Erasmian

¹⁷ Jacques Derrida, "Telepathie" *Furor*, February, 1981, 5-41. Qtd. in Miller 137.

familiar letter. It is thus placed within both written and spoken areas of interpretation. This underlines the idea of according the letter a free agency, stating intention yet also propagating and literally scripting the perpetuation of the prophecy. In fact we might say that Lady Macbeth has become the letter's creature.

Macbeth and his wife could be seen as being scripted by script. Both characters refer to their hands as instruments of violence, a violence, as previously mentioned, that could be found within writing, as well as murder. As Goldberg elaborates:

[...] placing the instruments of writing in the hand, instruments conceived of as the tools of violence, the hand is also thereby placed within a regulated scriptive domain.[...]. Both hand and quill are instruments.¹⁸

The knife was an essential tool in manuscript, an instrument of violence placed within the controlled environment of writing. Macbeth's knife and hand were placed within a regulated domain when, as the legitimate instruments of a loyal subject, they were employed in killing the king's enemies. Using the knife to prepare the quill, to incite the treacherous use of hand and knife, places it outside the scriptive order. The letter, too, when viewed against the subtext theory, becomes a violation of the conventions of writing, circumventing the prescription of the writing manual. When Macbeth says in Act Four: "The very firstlings of my heart shall be / The firstling of my hand." we might remember that this letter was the "firstling" of his hand in these events, his "secret murders", emphasizing its performative power (1. 147-8).

The letter is placed outside the conventions of writing and is identified, like regicide, usurpation and tyranny, as a site of violence outside the scriptive order. The ambiguities

¹⁸ Goldberg, Writing Matter 59.

and dislocations of language to be found in this play are also apparent in the fact that spoken language has directed the writing of this letter. This is, in turn, translated or, in this case, subverted, into spoken language by its reading. The written word further directs spoken language when Lady Macbeth realises that: “the valour of my tongue” (1. 5. 28) will be needed to persuade Macbeth to fulfil the role that his letter suggests. When she refers to “illness” (1. 5. 21) we may accept the letter, like the letters of King Lear, as an infection, spreading the disease of not only treachery, but tyranny, rebellion and civil war. The murder of Banquo, and the attempted murder of Fleance, are, of course further incidences of Macbeth’s treason. He attempts to pervert the course of the succession, as prophesised by the witches. Although succession to the throne was no longer a great problem after James’ accession, the various Succession Acts of Tudor monarchs have identified it as a continuous issue.

Our first and last dramatic meetings with Lady Macbeth involve her engagement with the written word, firstly as a reader, lastly, at a point in the play where she is no longer able to script, as a writer. Various critics suggest that Lady Macbeth’s writing in this scene is a letter, still attempting to control events.¹⁹ Others have seen her writing as a confession, Kiefer identifying it as such and as an expression of Lady Macbeth’s conscience.²⁰ Denied the retreat into the poetic imagination of Macbeth, Lady Macbeth makes use of “written troubles” (5. 3. 42). Garry Wills likens her writing to the confession in a witch trial, drawing parallels between the sleepwalking scene and the Duchess of Gloucester’s penitential scene in 2 Henry VI (2. 4. 15), seeing Lady Macbeth’s night-gown and taper as

¹⁹ See Alan Stewart: “the reference to folding and sealing strongly implies that she is writing a letter, a reference to the first letter that she is first seen reading aloud”. Stewart, Letters 33.

²⁰ Frederick Keifer, “ ‘Written Troubles of the Brain’: Lady Macbeth’s Conscience” in Reading and Writing in Shakespeare, ed. David Bergeron (Delaware DE: U of Delaware P, 1996), 64-81.

a penitent witch's garb.²¹ We might also apply a misreading of the Duchess of Gloucester's complaint of being "mail'd up in shame" (2. 4. 31) to Lady Macbeth's involvement in the transmission of this single letter.

The ritualistic behaviour that surrounds this writing indicates that Lady Macbeth is still under the influence of writing, a continuation of that dispossession and dislocation that took place at the reading of the letter:

I have seen her rise from her bed, throw her night-gown
upon her, unlock her closet, take forth paper, fold it,
write upon't, read it, afterwards seal it, and again
return to bed; yet all this while in a most fast sleep. (5. 1. 3-7)

Writing becomes a significant externalisation, part of the somatic language that displays her inner distress, complementing the soliloquised inner language of Macbeth. She appears to be mesmerised by writing, under its spell, her writing, here, almost like a written incantation, linking writing once more to mystery and magic. Shakespeare has again examined contemporary anxiety about writing by displacing it to the female hand, encoding Renaissance tropes of gender and feminine literacy so that Lady Macbeth's hands are stained with ink as well as blood. The letter has become part of the crime that holds Lady Macbeth within an outward ritual of fear, while Macbeth is trapped in a fearful waking dream though he, too, stands accused and defined by writing at the last, when Macduff says:

We'll have thee, as our rarer monsters are,
Painted upon a pole, and underwrit,
"Here may you see the tyrant." (5. 8. 25-7)

²¹ Wills 86-7.

Like Goneril and Bel-Imperia, Lady Macbeth is allowed one final act of scripting in arranging the manner and time of her own death, although she seems to have been scripted and underwritten by the letter in all else.

Language is one the many antitheses and oppositions of this play and is instrumental in negotiating the multiple meanings and interpretative dilemmas of truth and treason that form its basis, particularly in the intricate representation of spoken and written modes. The possibilities for treachery in Macbeth's letter have been established, as has the further subversion of writing, reflected in its transmission of the spoken word of the prophecies. This subversion is set against the legitimate and legal functions of written legal documents and lawful faculties.

The status of the spoken word is also unspecified. Unlike the messengers in King Lear, none of the official messengers of the play carry letters, or are associated with the written word and are, thus, distanced from the site of writing and suspicion. This distancing from writing does not demonstrate confidence in the spoken word, however, for the pronouncements of these messengers interact with the verbal messages of witches, spirits and apparitions. In Act One, Scene Three, Ross arrives with a message that announces the overthrow of insurrection and honour for Macbeth (104-16), an official pronouncement that occurs immediately after the prophecy of the three witches. It confirms the success of the prognostication, in part, and causes Banquo to exclaim: "What! Can the devil speak true?" (1. 3. 107) The location of the referent remains tantalisingly uncertain. Subsequent messengers, bearing official tidings, seem to give the weight of truth to the prognostications, promoting a confusing intricacy of language and truth.

After Macbeth has written his letter the properties of the two language modes seem to become more clearly defined, with spoken language (apart from that of the Macbeths) located in truth, loyalty and legitimacy. This legitimate truth is portrayed in a rather insinuating form in Act Three, Scene Six, in Lennox's speech. Here he appears to be supporting Macbeth as the king, but: "cannot want the thought", a confusing inversion of the mental reservation of equivocation:

Who cannot want the thought, how monstrous
It was for Malcolm and for Donalbain
To kill their gracious father? Damnèd fact,
How it did grieve Macbeth! Did he not straight
In pious rage the two delinquents tear,
That were the slaves of drink, and thralls of sleep?
Was not that nobly done? Ay, and wisely too,
For t'would have angered any heart alive
To hear the men deny it. So that I say,
He has borne all things well, [...]. (3. 6. 8-17)

Spoken language still maintains the truth when in Act Five, Scene Five (30-8), a messenger again validates part of the prophecy, reporting the moving of Birnam wood. When Macbeth sees this messenger he says: "Thou com'st to use thy tongue; thy story quickly", almost as if the message were a weapon to be, like swords, smiled at (5. 5. 29). For the first time he is without fear:

I have supped full with horrors.
Direness, familiar to my slaughterous thoughts
Cannot once start me. (5. 5. 13-15)

Unlike Lady Macbeth, who was trapped in her fear, Macbeth has come through fear and can face tongues and swords, having recovered his: "single state of man" (1. 3. 140).

The recovery is confirmed when he fights Young Siward and proclaims or, perhaps, realises: "my name's Macbeth". (5. 7. 7) As Wilson Knight remarks: "He is no longer

‘cabined, cribbed, confined, bound in to saucy doubts and fears’ ”. Or, as Auerbach puts it: “Macbeth has become heavy with a self-acquired wisdom which has arisen for him from his own destiny, he has grown ripe for knowledge and death”.²² The spoken word does indeed become a weapon, for it is a verbal message that encourages Macbeth to leave the castle and meet Macduff, who sites his voice within his sword. Unlike King Lear, the spoken, not the written, word directs the denouement. Macbeth condemns the spoken word, in which he has had so much faith, for its “doubleness”, but in fact the spoken word has revealed the truth. The predictions have been successful despite being the pronouncements of “the instruments of darkness”(1. 3. 126). The “doubleness” resides in the letter.

Studying the status of the written language of the letter in this play has obscured the more important site of “inner” language which progressively isolates and alienates Macbeth from reality and truth. However, inner language was crucial to the legal establishment of intent in the prosecution of treason. The realisation of Macbeth’s interiority, a concept which held so much fascination for Renaissance jurists, was his letter. It is quite fitting that at the end of this play Macbeth should be beheaded, for apart from being an ideal representation of capital punishment, the execution removes the locus of self-illusion and the imagination, the intent, of his treason: “After, to have his head cut off, which had imagined the Mischief.”²³ While the language of the mind protected Macbeth from the reality of treachery, the real truth of this play resides in the letter. It is the revelation of, not only Macbeth’s intent, but the self for which he has so tortuously searched. He has become, not the person of the witches’ predictions, but, like Lady Macbeth, the person of

²² G. Wilson Knight, The Wheel of Fire (London: Methuen, 1949), 156. Erich Auerbach, Mimesis, trans. Willard R. Trask (Princeton NJ: Princeton UP, 1953), 326.

²³ Sir Edward Coke at the trial of the Gunpowder conspirators. State Trials 235.

the letter. It is not, as Kiernan suggests, the witches who give: “visible form and cryptic expression to his aspirations”, but the letter.²⁴

²⁴ Kiernan 60.

Conclusion

Good my Lord make haste
To see the dangerous paper: Papers hold
Oft-times the formes, and copies of our soules
And (though the world despise them) are the prizes
Of all our honours [...]. (4, 1. 204-8)¹

As Frederick Kiefer reminds us, these lines from the 1641 quarto of Chapman's Bussy D'Ambois, make explicit the symbolic significance of Montsurry's letter in the play, namely, that: "written documents often contain the revelation of our true selves".² This is an ahistoric apprehension; Lisa Jardine suggests that Erasmus may have re-written some of his letters before publication, while Alexander Pope retrieved his, after lengthy and intricate transactions, publishing revised versions in 1735.³ Today, we might imagine that more interest is shown in the letters of the famous than in biographical, or autobiographical, works, causing many to forbid the publication of their correspondence, or to burn or destroy their letters. Philip Larkin, who did not leave the same instructions regarding his letters as his diaries, that they be destroyed, hid letters between himself and Kingsley Amis behind a skirting-board in his house in Barnet. This study has examined the political and judicial appropriation of this impulse, within the thesis of intent, in the sixteenth and early seventeenth centuries, while analysing a select few plays of the period which reflect upon, and dramatize, that appropriation. The chosen texts negotiate the societal, religious, and political anxieties which underpinned the treason laws of the

¹ George Chapman, Bussy D'Ambois and the Revenge of Bussy D'Ambois, (1607) ed. Frederick Boas (Boston MA: Heath, 1905). Mar. 2007 Project Gutenberg 21 Mar. 09 <http://manybooks.net/titles/chapman_2089020890-8.html>. See also Kiefer, Stage 138-54.

² Bussy D'Ambois, ed. Boas, 158 qtd. in Kiefer, Stage 152.

³ Lisa Jardine, "Defamiliarising Erasmus: Unstitching P. S. Allen's Edition of the Letters". Unpublished paper from unFamiliar Letters: Re-reading Early Modern Correspondence Conference at Birkbeck College London, 19 Jul. 2002.

period: that is, the rise of literacy, dynastic difficulties, and religious belief and observance.

Effecting an interrogation of Renaissance tenets of literacy, these plays capitalise upon a wide range of attitudes towards the written word. In King Lear we see Edmund, as the treacherous, educated man, his linguistic skills giving him power to construct a truth-seeming deception, and bring about the deaths of Cordelia and Lear by means of a written warrant of execution. Unlike Edmund, who rejects the supernatural, Macbeth is a tyrant who dabbles with prognostication, uses the same hand to write and to murder, and dies cursing the spoken word which brought about his downfall. Hieronimo, in The Spanish Tragedy, although initially placing his trust in legal documents, executes his revenge by way of a play and an instrument of writing. We might say that these men, if we accept the present reading of Macbeth's letter as an expression of intent, murder by text. Although all language is relentlessly interrogated in Twelfth Night, written language is confined to the festive fringes of the court, while, in order to encourage a sympathetic reception, the main characters make little engagement with writing. At the end of the play, the perpetrators of the written word are expelled, while it concludes in song, so that neither the written nor the spoken word is given preferment.

The challenge to patriarchal, political and social order perceived in feminine literacy is apparent in the portrayal of Goneril, Regan and Bel-Imperia as linguistically able women. Lady Macbeth, presented as a reader, is shown to interpret text in a totally spontaneous and unacceptable manner, while her later writing, as a confession, appears to be a debasement of the spiritual document. In contrast, Cordelia, who is never directly identified with writing in King Lear, engages with the written word as a socially

acceptable, textbook, model reader. We might take cognisance of the same distance from writing of the two main female characters of Twelfth Night, who are isolated, by a virtuous illiteracy, from a seemingly literate court. The present study, however, has given a darker reading of their estrangement from the written word, predicated upon an encultured stigmatisation of feminine literacy.

The peripheral agents of the written word, the messengers of the plays, are also involved in this linguistic debate. Far from being merely marginal, mechanical devices, or the Senecan *nuntius* of narrative and locomotion, they are associated with writing and speech in a way that is often a crucial determinate to the presentation of truth or treachery. In King Lear, Oswald is portrayed as not only a messenger, but also a secretary and a writer, in contrast to Kent, who advertises himself as a carrier of plain, spoken messages. The association of the former with Goneril, and of the latter with Lear, determines the relationship of truth to the spoken or written word. Messengers in Macbeth carry no written messages, and are generally associated with truth and legitimate monarchy, while even the witches predict the true line of succession. The one exception is Macbeth's letter to Lady Macbeth, which must have been delivered by hand, and perhaps there is some significance in this delivery occurring off-stage. It may rehearse Bel-Imperia's seemingly unexplained letter of the Spanish Tragedy or the mysterious warning letter of the Gunpowder Plot. The fact that Viola carries no written messages in Twelfth Night serves to extend her linguistic passivity, while the letter to Malvolio is dropped in his path, so that none of the conspirators is directly implicated. This endorses the involvement of messenger and text, according the letter a free agency, like the conspiratorial letter in Macbeth. In the Spanish Tragedy, the official documents of state messengers are offset by

a secret circulation of letters which portend illicit sexual behaviour and murder, culminating in a treacherous text.

The succession, a politically persistent preoccupation throughout the Tudor period, is also specifically addressed in King Lear, The Spanish Tragedy, and Macbeth. Lear's devolution of the crown and division of the kingdom contradicts, not only the hereditary principles upon which the Tudor dynasty depended, but also the concept of the body politic of the monarch. In the same play, Edmund also attempts to subvert the order of patrilineage. The outcome of this disturbance of political and natural order is filial rebellion and civil unrest, leading to the destruction of the legitimate line. Limitation of the bloodline is the fate of the two households in The Spanish Tragedy, a drama which also dwells upon the importance of succession and dynasty. Murder and illicit love threaten not only civil, but also domestic, politics in this play. Civil war follows Macbeth's murderous attempt to interrupt the succession as predicted by the witches. Interruption of the succession and the natural order is shown to have dire political and social consequences in all three plays.

Also addressed are the conflicts of religious belief apparent in the Tudor and early Stuart periods. Echoes of the recalcitrant paganism perceived in Catholic rituals are evident in the pagan gods upon whom Lear calls, while, in The Spanish Tragedy Hieronimo turns to both Christian and pagan deities within scenes of stark Calvinistic finality. Macbeth, though placing his trust in prognostication and witchcraft, like Lorenzo in The Spanish Tragedy and Edmund in King Lear, calls upon himself, being too much in the world. Of all the political and cultural anxieties of the period however, it is language, and its uses, that is interrogated in the plays, which of course is fitting as we are, here, analysing the

entailment of the concepts of the law of treason by word. It would appear that the most conspicuous medium for the investigation of written and spoken language in the chosen plays is the letter, in particular the familiar letter.

The dramatic use of the familiar letter to express duplicity is maintained by the rhetorical modelling of the genre, as discussed in Chapter Four of this study. The lack of true sincerity associated with such letters is dramatically useful in creating an environment of fraudulence in these plays. Even “sincere” promotions of the familiar letter, like those of Erasmus, that Lisa Jardine examines, are open to question.⁴ The very authenticating precepts of the familiar letter that Erasmus proposes, and those he admires in the writings of Jerome, encourage a scepticism towards the genre. Apart from the admitted feigning, the implications of role-playing, and the imagined reader identify a certain theatricality and fictionality in the familiar letter. Lisa Jardine, herself, echoes Erasmus’s terminology of “ornament” and “artistry”, with “feigned”, “simulation”, “constructed”, and “controlled”, which, with frequent referral to “textbook” responses, creates a terminology that serves to devalue the sincerity of the familiar letter.⁵ We have observed how Edmund and Macbeth have utilised these “sincere” conventions to promote treason, while the festive characters of Twelfth Night manipulate the precepts of the letter-writing manual to effect a cruel joke.

The rhetoricising of the familiar letter serves two useful dramatic purposes. The practice underlines the possibility of linguistic duplicity, yet, in its insistence upon outward show, emphasises the contradiction of its logic by the private letter. These conflicting facets

⁴ Lisa Jardine, Erasmus, Man of Letters: Construction of Charisma in Print (Princeton NJ: Princeton UP, 1993). Jardine, Historically 78-97.

⁵ Jardine, Historically 78-90, 94-6 and *passim*.

served to enhance both dramatic characterisation and theatrical affect on the Renaissance stage, strategies which have been addressed elsewhere, and it is not the purpose of this study to rehearse critical givens. What has been examined here is the dramatic entailment of the Renaissance obsession with interiority, and its relation to the treason laws of Tudor and early Stuart England. The awful practice of “drawing” in the punishment of traitors was not merely a way of prolonging the agony, or to exhibit a discouraging example, but a way of discovering the intent of the traitor: “His Bowels and inlay’d Parts taken out and burnt who inwardly had conceived and harboured in his Heart such horrible Treason.”⁶ Within a jurisprudence created by crises, the interrogation of the intercepted letter served the same purpose.

Analysis of the three major plays of this study has sought to emphasise the use of the letter as an overt sign of treason, a manifestation of the thought, to which we have been allowed access, through the soliloquy of the perpetrators. The dramatic letter fulfils the purpose of the intercepted letter of the treason trial, proof of, and witness to, the intended act, thought becomes action, as Margaret Atwood supposes:

Touch the page at your peril: it is you who are blank and innocent, not the page. Nevertheless you want to know, nothing will stop you. You touch the page, it’s as if you’ve drawn a knife across it, the page has been hurt now, a sinuous wound opens, a thin incision. Darkness wells through.⁷

It seems as if, in these plays, once pen has been put to paper, the deed has been carried out, as, indeed, was recognised by contemporary judicial opinion.

The introduction of this study was, in its analogy of treason and terrorism, an attempt to

⁶ State Trials 235.

⁷ Margaret Atwood, Murder in the Dark (London: Virago, 1983), 79.

make the past complicit with the present by recognising a resonance of the two politically and culturally produced phenomena. The intention was to rescue the thesis from isolation in the Renaissance and present it as a timely analysis of extra-legal reactions to crises of government. Renaissance drama was considered as an agency of that analysis. The Tudors were not the first, nor, indeed, the last, to use laws to solve problems, and the anxieties of the sixteenth and early seventeenth centuries are conserved and perpetuated today. We can compare historical assumptions; the threat of Rome is replaced by fear of religious diversity, we are encouraged toward manufactured consent in place of collective will, and racism disguised as nationalism. Governments deny torture, seek to imprison without trial, but, most of all, these anxieties, real or manufactured, have effected a culture of surveillance. Today, it is not the letter, but the text message and email, that is intercepted, telephone conversations are monitored, certain websites are under suspicion, as are various publications. Like the Tudor treason laws, the USA Patriot Act can define any act of deviance as an act of terrorism.⁸

The difference between this modern surveillance and that of the sixteenth century is, however, proof of intent. As we observed in the court case cited in the introduction, involvement in the activities under surveillance does not, unlike the Renaissance perception of the letter, prove intent. Comparisons are still timely, as Oliverio and Lauderdale suggest:

Systematic patterns, however, can be examined when the state defines an entity, whether it is an individual or another state, as threatening its survival and legitimacy. Under these conditions, terrorism finds its name, time, and place.⁹

⁸ This is an acronym of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2005.

⁹ Oliverio and Lauderdale ed., 204.

Treason found its name, time, and place in Tudor Treason Laws.

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