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Slanderisation and Censure-ship: When Good Texts Went Bad in Early Modern England

Steven Veerapen

[1] In 1653, the playwright, poet and antiquarian Arthur Wilson's *The History of Great Britain, being the Life and Reign of King James I* was published. The text included a reflection on what had become an axiom of political culture in the Stuart age: that poetry and libel had an interdependent relationship. To Wilson,

peace begot plenty, and plenty begot ease and wantonness, and ease and wantonness begot poetry, and poetry swelled to that bulk in his time, that it begot strange monstrous satires against the King's own person, that haunted both court and country. (Wilson 1653: 289-90)

Wilson's jaundiced view of poetry seems fanciful; yet the rise of the verse libel in the Stuart era is well documented. Not only do legal reports of the early modern period recognise the problematic growth of libel, but recent scholarship has made significant inroads in tracing the blossoming of verse libels as a distinct and multifaceted cultural mode, often containing licentious accounts of individuals or political events (Hawarde, *Reportes*: 143). Indeed, the developing vehicle of the verse libel rapidly became, as Andrew McRae notes, a recognised feature of political and literary culture in the Stuart age (2004a: 1). These often pithy little poems were naturally anathema to the law, not least because they were characterised by their invariably anonymous manuscript circulation. Anonymity itself proved to be an extremely useful means of circumventing legal reprisal, and explosive libels 'were at one and the same time both written and spoken, simultaneously oral and textual'; and yet the relative success of adopting anonymity as a means of circumvention was not one with which Elizabethan slanderers were routinely armed (Fox 1994: 65). Instead, it emerged gradually, and was met with a flexible legal system that was willing to prosecute anyone who could be found to have knowledge of material deemed seditious or slanderous, whether they were its creators or not.

[2] However, Alastair Bellany has noted that 'our understanding of the verse libel's genealogy is hazier than it should be'. In order to understand the rise of these texts, which were so problematic to the Stuart regime (and worthy of exasperated recognition by Wilson), it is useful to consider the varied means by which slanderous, libellous and seditious discourses were disseminated and countered during the pre-Stuart period (Bellany 2007a: 1165). Although Wilson's view might suggest a pre-Jacobean world of harmony and industry, this was demonstrably not the case. Rather, libel and slander flourished in the Tudor political and domestic spheres, notwithstanding the nascence of the formalised, anonymous verse libel. Indeed, the blossoming of this particular form is arguably a product of pre-Stuart experimentation involving various means of disseminating slanderous discourse, as well as the testing of the power of authority to curb dissent.

[3] Slander (also known as libel, as no distinction between written and spoken words yet existed in law) referred in the period to words spoken with malicious intent before a third party which resulted in the demonstrable loss of reputation, credit or trade. In order for words to be slanderous, they had to be 'actionable' – that is, if one wanted to sue someone for saying them, one had to be able to demonstrate before the law that loss had been incurred as a result of the words spoken. If accused of slander, one could plead the truth of the words spoken (provided it could be proven), or else plead misinterpretation, with the principle of *mitior sensus* (literally, the least sense) inviting an increasing number of defendants to claim that their words had been intended without malice. This principle itself

gained currency in the court of Common Pleas in the 1570s and 80s and sought to stem the flow of actions for slander by maintaining that ‘no action should lie if the words could be construed in a milder sense’ (Habermann 2003: 45). Seditious libel occurred when words spoken incited rebellion or ‘brought into hatred’ individuals of higher social standing, whether a breach of the peace was intended or not. It is tempting to think that these words had to be false in order to be slanderous, but in the period there was a hardening of legal opinion which resulted in the belief that true slanders against superiors were worse than false slanders, because they laid bare the faults of an ordered society and incited disorder. During the reign of Elizabeth, litigators and judges grappled with a variety of laws and statutes in punishing slander, and it was not until the subsequent reign that Edward Coke was to provide a definitive common law remedy (known as seditious, or criminal, libel), which took the opportunity to clarify ideas and autocratic beliefs about slander, seditious libel, the proper prosecution of which had been the cause of vexation throughout the previous reign. Thus the 1605 birth of the common law crime of ‘seditious libel’ brought together the laws of slander and seditious libel, linking the speaking and writing of defamatory words, whether true or false, with disorder and malice. This has led Roger Manning (1980: 100-101) to recognise that, in the late-sixteenth and early-seventeenth centuries, ‘it was not necessary for seditious utterances or writings [against the reputations and/or actions, public or private, of public officials, magistrates and prelates] to be published, and if the facts alleged were true, that only made the offence worse, since a true slander was more likely to cause a breach of the peace than a public one.’

[4] In practice, the law and its agents were less than blind in their dispensing of justice. Plebeian disputes involving injurious words spoken between neighbours were treated by the book – truth was an acceptable defence and the rule of *mitior sensus* was encouraged by judges eager to stem the flow of frivolous lawsuits. In more serious cases, however, the terms ‘slander’ and ‘seditious libel’ became catch-all terms for any language deemed inappropriate, contentious, unlicensed or illicit, regardless of its intent or the actual losses incurred as a result of its reaching a third party. Further, authorities were keen to find and prosecute anyone involved in the production and dissemination of any material they deemed slanderous. As a result, original writers, publishers, owners of manuscripts or even those simply repeating words they had heard could find themselves at the mercy of what we might term ‘language laws’, which ranged from the statute of *Scandalum Magnatum* to felony statutes, proclamations against certain books, the crime of seditious libel and the tort of slander. Indeed, the statute of *Scandalum Magnatum* – which can be traced to 1275, and provided for the punishment of those who spread defamatory rumours about important personages of the state – was re-enacted with changes in the second year of Elizabeth’s reign (Milsom 1981: 388). John Baker (2002: 437) notes that the statute was designed to prevent discord between classes, ‘but the purpose of an action on the statute was clearly to vindicate the magnate’s name by recovering damages’.

[5] Particularly during the reign of Elizabeth, various techniques of deploying libellous and seditious speech (whilst simultaneously attempting to evade punishment) existed. Poets, critics, and those who sought to use transgressive language attempted to benefit from the slipperiness of the law. Some sought to adopt the rhetoric of counsel. Notoriously unsuccessful attempts to frame speech castigated as ‘slanderous’ as conciliar attempts to advise the government can be witnessed in John Stubbes’ *The Discoverie of a Gaping Gulf* (1579), and *A Treatise of Treasons Against Q. Elizabeth and the Crowne of England* (1572). Others invoked the classical provenance of satire. Here Alastair Bellany (2007b: 156) recognises John Donne’s appreciation of the form when handled correctly, and Pauline Croft (1995: 272) notes that the work of classical satirists was beginning to circulate around literary London. Aiding such efforts were illicit presses, with perhaps the most famous example of Elizabethan usage of illicit printing presses being the Martin Marprelate affair of 1588-9. Arguably, this celebrated episode provided lessons to would-be slanderers in the difficulties of maintaining presses outside the ambit of authorities, whilst also providing

evidence that anonymity and pseudonymity (later key ingredients of verse libelling) were an invaluable means of eluding authority.

[6] Still others attempted to take advantage of the porous nature of censorship, and as a consequence the study of early modern censorship has long provided fertile ground for disagreement between scholars. Theories of censorship can be found in, amongst others, in the work of M. Lindsay Kaplan (1997); Janet Clare (1999); Cyndia Clegg (2004); Debora Shuger (2006); and Annabel Patterson (1984). Ultimately, what emerges is a sense of censorship being a loaded term that is largely unhelpful in understanding any distinct legal process or approach to legislating and controlling language. Further, it is one which no longer seems suitable in historicising events and outbreaks of transgressive language which can comprise the destruction by authors of their own work; the judicial trials of slanderous malefactors; the unknown excisions of texts by government officials; the conscious or unconscious regulation of spoken, written and printed language by those living in a litigious society; the state licensing (or non-licensing) of texts; and a slew of other procedural, cultural and legal processes.

[7] However, one method of evading legal reprisals for dissenting, slanderous or seditious speech that has gone largely unexplored is what we might begin to term ‘slanderisation’: the appropriation of outwardly innocent, licensed, or even ostensibly-edifying texts with slanderous or malicious intent, particularly at moments in which circumstances or political events can give them an unpleasant gloss. As a definition, one might think: ‘when good texts go bad’. The very innocence of the language of such texts allowed – in theory – their deployment to be defended on the simple, legal grounds that the speaker did not write them; they were neither actionable nor legally defamatory and they may even have been fully licensed by the state previously. Further, the use of slanderisation may be seen in various walks of Elizabethan life, with religious, musical and dramatic texts engaging with the use of seemingly innocuous compositions for scurrilous purposes.

[8] It is well-established that the early modern period coincided with a cultural, legal and historical fascination with precedent and the reading of contemporary events in existing texts, histories and legal cases – indeed, the common law itself was a justice system built on precedent, as Rosemary O’Day illustrates via her provision of a useful list of the means by which ‘precedent books’ were utilised in law teaching, with ‘one volume [used] for each major kind of case – case, trespass, slander, promises, nuisances, etc. (2014: 167-8).’ This led to what Johanna Rickman has described as a legal system that constituted a ‘contentious ... ongoing cultural dialect’ rather than ‘a static background’ against which people lived their lives (2008: 15). Similarly, we know that there were anxieties surrounding the way in which texts might be received. One can turn, for example, to the notorious case of Fulke Greville’s manuscript *Antony and Cleopatra* (c1600-01). Written for a carefully limited, elite coterie, the play was nevertheless committed to the flames by Greville himself due to concerns raised

by the opinion of those few eyes which saw it, having some childish wantonness in them apt enough to be construed or strained to a personating of vices in the present governors and government. (Greville 1986 [1625]: 93)

Greville’s actions suggest, to Janet Clare a ‘climate of fear and caution’ (which is somewhat difficult to reconcile with the proliferation of slander with which the period coincided; if people were fearful of legal reprisals, it did not prevent them exercising their tongues, as the volume of litigation attests [Brooks 1998: 23-24; Clare 2014: 13]). Yet misinterpretation was not just a danger to be fearfully guarded against. It could be a welcome tool for slanderers who might rely on material being read with a contemporary, defamatory gloss, but who could then hope to use ‘misinterpretation’ as a mean of deflecting accusations of slander. Such individuals could simply place blame, as Greville more ingenuously did, on the wicked

minds of the third party: the hearers. It is thus useful to shift our focus from the interpretation – or misinterpretation – of texts to those who took advantage of plurality of interpretation with the knowledge that audiences would not take things in *mitior sensus*. Significant also is what David Cressy (2010: 42) recognises as the tendency of early modern readers and listeners to believe libellous words; and it is a notion supported by one anonymous commentator on the Martin Marprelate affair, who remarked somewhat disdainfully that Martin's 'seditious libels made easy way into the hartes of the vulgar [because such people] were apt to entertaine matter of Noveltie especiallie if it have a show of restraining the authoritie of their Superiours' (Black 2008: xxxii). Thus, slanderers or those with seditious intent might not have written the words they recited, nor even 'caused them to be written' (as was an ancillary accusation often levelled against those accused of reciting defamatory language), and this offers us the possibility of identifying a useful strategy of evasion. But have we evidence for this strategy being employed?

[9] The state church and its officials were masters of defining slander and sedition through their legal authority over language and their ecclesiastical right to condemn and punish slanders which pertained to moral and spiritual offences. However, this mastery extended to their slanderisation of Biblical texts in the pursuit of religious and political goals. Certainly this strategy was famously employed in early modern Scotland, where tensions between Church and monarch were more sharply drawn, particularly during the tenure of John Knox. Queen Mary's censure-ship did not bear fruit, but her short-lived husband Henry Stuart had slightly more success in forbidding the cleric from preaching for fifteen days following a 1565 sermon that likened the monarchs to Ahab and Jezebel. In England, a 1569 sermon by the clergyman Edward Dering, who had been disgraced for his provocative preaching in the past, began with his casting the blame for his disgrace on 'the slanderous tongues of many envious men', before going on to preach the necessity of 'the plain law of the Lord'. 'This law', Dering asserts, he 'knows not how your Majesty shall interpret, because I know not your spirit' (Dering 1971 [1569-70]: 139). The language is breathtakingly disingenuous; Dering's attempt to lay blame for any potentially malicious interpretation of his allusions on the listener – the queen – is obvious. As he expounds vociferously on the Biblical precedents of 'David disallowing wicked men in his house and Asa putting down idols', we can see in practice a preacher simultaneously deflecting accusations of attacking the queen whilst tacitly inviting consideration of religious reform and professing not to know what constructions might be put upon his language. It is in such performances that we see in practice what M. Lindsay Kaplan recognises as the peculiar 'boomerang effect' of slander (Kaplan 1997: 90).

[10] This process of appropriating what is in this case an unimpeachably upright text with the express purpose of criticising existing policy was one which was understood by early modern English clergymen. However, it would be dangerous to overestimate the success of Dering's strategy; as he notes in his sermon, he has 'heard of how much your highness misliked of me' (Dering 1971 [1569-70]: 140). In the absence of a realistic ability to ban or censor particular religious texts at impolitic moments, the disfavour of the queen might instead be considered a singular politico-religious indication of what was and was not condoned.

[11] Certainly Queen Elizabeth was ever apt to remind her preachers that they were her subjects. Peter McCullough recounts in particular the 1565 sermon of Alexander Nowell (against religious images), to which Elizabeth bluntly announced, 'do not talk about that' (1998: 47). Nowell attempted to continue his sermon, resulting in further interruption from the queen, who instructed him to 'leave that – it has nothing to do with your subject and is now threadbare'. McCullough notes also the 1579 incident in which the queen pointedly turned her back on the pulpit when a preacher launched into a sermon attacking her mooted match with the Duc d'Alençon. Certainly, in a system in which was encoded a network of patronage and favour, those who sought preferment in public office could thus

take their cue from royal reactions to particular textual allusions. As a consequence, we might consider the Elizabethan approach to ‘slanderised’ religious text as not censorship, but censure-ship. Governmental attitudes to what was and was not permissible did not have to be enforced by legal means or explicit diktats, but could rather be expressed through informal channels. Here was not brazen nonconformity, but resistance and criticism voiced in the language of conformity and expressed in the guise of wholesome religious texts, the preaching of which was one of the cornerstones of the Elizabethan religious settlement.

[12] Church figures’ deployment of otherwise acceptable texts in a deliberately provocative manner (and their subsequent ‘censure-ship’) do not, however, provide the only examples of the use of and reaction to slanderisation. In her comprehensive overview of the circulation of ballads in early modern England (2014), Jenni Hyde has recognised the extent to which the Tudor regime viewed the seductive language and attractive tunes employed by ballads as a potential menace. Interestingly, Hyde also recounts the case of a particular ballad’s seditious afterlife. ‘The Hunt is Up’ was a popular tune at the centre of court life during Henry VIII’s reign, with the earliest form of the text, attributed to William Gray, reading:

The hunt is up, the hunt is up,
 And it is a well nigh day;
 And Harry our king has gone hunting,
 To bring his deer to bay.
 (Gray 1533: 60)

Although the text appears fairly innocuous, the melody was appropriated by one John Hogon during the Pilgrimage of Grace in 1537, with lyrics added that complained ‘the masters of arte and doctors of dyvynyte / have brought the realme owght of good unite’ (Hyde 2014: 233). As Chappell and Macfarren recognise, Hogon’s alleged crime was failing to comply with a 1533 proclamation, which was issued ‘to suppress fond books, ballads, rhymes, and other lewd treatises in the English tongue’, by ‘singing with a crowd or a fyddyll’ a political song to that tune (1859: 60). Chappell and Macfarren’s study of the ballad’s history is illuminating. In addition to the legal circumstances of its 1537 appropriation by Hogon, the tune is also noted as being referred to as a good one for dancing in the *Complaynt of Scotland* (1549) and as having a number of parodic and theatrical afterlives. More pertinently, however, Chappell and Macfarren recognise that in the Hogon episode, ‘some of the words are inserted in the information [i.e. the Privy Council records], but they were taken down from the recitation and not given as verse’. The hesitance to proliferate slanderous material, even in the confines of the courtroom, can be found also in the proceedings of the Star Chamber. In a 1596 case, the Lord Keeper lamented that one libeller ‘made this Court (of such authority and state that [the Lord Keeper had] not heard nor read of the like in the world) an instrument to publish [and] record his blasphemies, and to have the nobles of the land from her Ma[jes]ties side, vpon whose sacred person they shoulde attend, to hear his slanders and libels’ Ultimately, he ordered the depositions ‘to be withdrawn from the Courte’ (Hawarde, *Reportes*: 55).

[13] Evidently, ballads provided a genre capable of being mutated, repackaged and reworded according to the intentions of those spreading them. The slanderisation of this curiously universal genre therefore provides us with evidence that it was not just the original language of innocent texts that could prove a handy tool for those wishing to slander enemies and sow sedition, but musical arrangements and form. As Hyde further notes, ballads thus constitute ‘a sophisticated form of knowingness [that] could, on occasion, be created by ... tune alone (2014: 237).’ It is no great leap to assume that a tune known for its associations with the royal court would, when misused, invite mocking criticism of the court itself. Popular melodies could therefore become laden with meaning and cultural associations, and that meaning could be manipulated via alteration of lyrics or usage in incongruous or sensitive situations. As Peter Lake and Steve Pincus remind us,

‘there were emerging protocols to be observed when having recourse to the politics of popularity, but they remained hazy and ill defined, and it was always horribly easy to fall over the edge into sedition’ (2007: 7). Hogon, in his appropriation of a popular melody in order to take advantage of its cultural associations, did not fall over the edge, but willingly leapt.

[14] In the case of ‘The Hunt is Up’, Hogon performed his version of the ballad in the homes of Robert Frances, John Kettleburgh and John Harlen, relying on the tune’s royal provenance to encourage criticism of Henry’s policies. However, his audience recognised his attempt at deliberately slanderising the popular tune and reported him to their local authorities. The men in his rural audience claimed to be unable to understand some of the veiled references in the song, and those references ‘served as protection for both parties: Hogon’s words did not become unmistakably seditious until they were explained and the Norfolk men could not be accused of troublemaking if they had not understood the meaning of the song without that elucidation’ (Hyde 2014: 234). The slanderisation of a musical piece, at least on this occasion, was confounded by the unwillingness of the audience to become complicit in enjoying the seditious overtones of its topical deployment. But nevertheless they were sufficiently aware of the manipulation of the tune to report it, and investigators were sufficiently aware of the propensity for musical ballads to have political repercussions to take action. As a method of resistance and dissent, slanderisation was, we might conclude, unsuccessful – but only insofar as Hogon had the misfortune of performing his slanderised version of ‘The Hunt is Up’ before an unreceptive audience.

[15] Yet the very fact that a musical piece – a fairly simple tune – could provide those looking to disseminate slanderous and seditious language with a vehicle is one which requires further consideration, for echoes of Hogon’s strategy can be found on the popular stage. In the anonymously-authored *Thomas of Woodstock*, the tendency of authorities to fret about the power of music in circulating dangerous speech is, seemingly, held up to ridicule. Although it has been argued that the play postdates Shakespeare, it is often speculated as being a source for Shakespeare’s *Richard II* (MacDonald P. Jackson: 2002). Central to the plot is the depiction of events in England prior to the murder of Richard’s uncle, Thomas of Woodstock, and the play includes the corrupt machinations of the king’s favourite, Lord Chief Justice Tresilian. As Tresilian’s paranoia and avarice grow in inverse proportion to the civil liberties of the king’s subjects, Richard’s tyranny – as, typically, refracted through Tresilian – is highlighted in the actions of the favourite’s subordinates:

Nimble: Close again Master Bailiff, he comes another whisperer, I see by some – oh villain, he whistles treason! I’ll lay hold of him myself.

Whistler: Out alas, what do ye mean sir?

Nimble: A rank traitor Master Bailiff. Lay hold on him, for he has most erroneously and rebelliously whistled treason.

Whistler: Whistled treason! Alas sir, how can that be?

Bailiff: Very easily sir. There’s a piece of treason that flies up and down the country in the likeness of a ballad, and this being the very tune of it thou hast whistled treason.

Whistler: Alas sir, ye know I spake not a word.

Nimble: That’s all one: if any man whistles treason ‘tis as ill as speaking it. Mark me Master Bailiff, the bird whistles that cannot speak, and [yet] there be birds in a manner that can speak too: your raven will call ye [rascal], your crow will call ye knave, Master Bailiff. Ergo, he that can whistle can speak, and

therefore this fellow hath both spoke and whistled treason.
 (*Thomas of Woodstock* 2002, III.iii.1685-1701)

To Sandra Clark, this exchange depicts a police state under Richard II's rule; to Irving Ribner, it underscores 'the corruption of law ... [and] the utter perversion of order in the tyranny of Tresilian and his men' (2007: 97; 2005: 137). Neither reading, however, situates the text within its contemporary framework. The alacrity with which Nimble and the Bailiff are quick to identify the Whistler's melody as treasonous, and in particular as flying 'up and down the country in the likeness of a ballad' would likely have struck Elizabethan audiences as entirely plausible, even if laughable. The Whistler's protestations, too, take on a different complexion given what we know about slanderisation. Although his defence seems reasonable, it is just as possible that the character invites audiences – familiar with the power of melodies to carry seditious overtones – to consider whether he is really as uncomprehending as he claims. Of course, even if he is entirely innocent of the knowledge of the treasonous gloss attached to his tune, the problem faced by authorities remains: how can dissent be controlled when slanderisation brings with it plausible deniability? With this understanding, what seems like a caustic depiction of Richard II's England actually encourages comparison with contemporary attempts to control discourse. If the ostensibly Plantagenet desire to find criminal activity in the whistling of a tune is thus held to be a 'perversion of order', then so too is the Tudor response to the slanderisation of ballads seen in the John Hogen episode.

[16] Adding weight to the notion that the Whistler's defence is purposefully ambiguous is the preceding arrest of a Schoolmaster for writing a libel in verse against Tresilian. The illiterate bailiff, despite the Schoolmaster's witty attempt at defending himself for his libel, is as quick to hear 'the most shameful treason' (III.iii.1671-2) as he is when he hears the 'treasonous' whistling. A number of issues arise from the zealous efforts of Nimble and the Bailiff. Firstly, as the Schoolmaster is guilty, a shadow is thrown over the Whistler's use of a tune recognisable as seditious. The Whistler's defence – that he had lost his calves and mistook the Bailiff and Nimble for them – is dubious, as is the apparent coincidence that he would chance upon the tune of a ballad which even the illiterate Bailiff recognises as having acquired seditious overtones.

[17] From Schoolmaster to cowherd, the willingness to give voice to and immediately deny dissent makes, as the Bailiff states, dangerous speech likely to fly 'up and down the country'. It will also be noted that the Schoolmaster is engaged in reciting his railing rhyme (which he acknowledges as 'little better than libels' [III.iii.1630]) to his serving man, with the suggestion thus made the lower orders are as eager to learn dangerous speech as their masters are to compose it. But here we must also recognise resonances of what Hyde has described as the ubiquity of the ballad as 'experienced throughout society in homes and on the street, in cottages and at court, in taverns and at the theatre' (2014: 34). The Schoolmaster's use of unambiguous libel (despite his specious claims to the contrary) throws into doubt the protestations of ignorance by the whistling cowherd. Although the Bailiff, as a representative of authority, is portrayed as an illiterate buffoon, his instinctive willingness to 'hear' treason in the poetic words and tunes of others is less a mark of social perversion than an aggressively anxious reaction to a real problem. If the Whistler is innocent, he is damned not by the Bailiff and Nimble alone, but by the Schoolmaster's willingness to libel authority and thus excite the instincts of autocrats; if he is guilty, his denial is plausible and audiences are invited to sympathise with a figure knowingly engaged in slanderising a text. Neither libelling nor overly zealous state responses to libelling emerge from the play as clear and unproblematic processes. If the England of *Thomas of Woodstock* is a police state, then it is a remarkably familiar one, containing many of the tensions between willing (and chancing) dissenters and frustrated, somewhat oversensitive authorities recognisable in the late-Tudor state. More likely, however, the humour of the scene suggests less a strictly authoritarian state (and less still Janet Clare's 'climate of fear

and caution'), than a faintly ridiculous game of negotiation and exchange between dissenters and authorities, with deniability and stiff-necked refusal to accept deniability at loggerheads, especially during moments of crisis. If one recognises a climate of fear and caution in the play's treatment of the Schoolmaster and the Whistler, it is on the part of the Bailiff and Nimble rather than the two slander-peddling citizens.

[18] Through its depiction of the arrests (and protests) of the composer of a libel and the whistler of a tune, *Thomas of Woodstock* illustrates the limitations of both verbal and melodic transmission of transgressive sentiments. As long as one made impermissible sounds – or, rather, words or noises which could be interpreted as slanderous or seditious – the potential existed for authorities to make an association with libellous or even treasonous activity. Yet music and verse were, quite clearly, effective (and popular, if tunes or words gained currency) ways of dissenting. As a consequence, it is perhaps unsurprising that the anonymous, handwritten verse libel became a means of voicing dissent without *using* one's voice in the decades following the play's composition.

[19] As Greg Walker and Henry James have noted, theatregoers were particularly apt to view events on the stage as having contemporary resonances (1995: 109-121). Furthermore, responding to Annabel Patterson's study of censorship, interpretation and the relationship between poets and the state, Richard Dutton has noted that governments could not hope to regulate what people would think or link to a text to at any given moment (2000: xv). However, the corollary of this is that neither could malicious slanderers and seditious, whose reliance on timeliness, topicality and unpredictable audience reception underpinned their opportunistic borrowing of texts. Nevertheless, what authorities could and did do was to seek to find the intent behind words recited at moments at which they judged them to become laden with unacceptable or potentially dangerous meaning. Slanderisation thus became an unstable, almost paradoxical process: the texts appropriated derived their scurrilous gloss from fleeting events, and yet fleeting events are what instigated authoritarian crackdowns on literary expression.

[20] This certainly seems to have been the rationale behind the Earl of Essex's famous commissioning of *Richard II*'s performance immediately prior to his abortive rebellion in 1601. The play's subject matter had been burdened with a history of contention, and interesting questions arise here about the censorship of non-dramatic historical works, and the extent to which this implies that early modern audiences were likely to consider history as analogous to contemporary events. Licensed historical texts could provide ready-made, popular conduits for commenting subversively on events, in essence acting as scripts which invited slanderisation. We should therefore not be surprised to find that more mechanised state censorship was occasionally used in the publication of historical material. Indeed, Cyndia Clegg (2014) provides a useful history of the (rather haphazard) censorship of Holinshed's *Chronicles*, which is itself accepted as a source for Shakespeare's *Richard II*. Yet the play itself had been fully licensed and entered into the Stationer's Register in 1597; yet its performance on the eve of an uprising against the sovereign saw the players brought before the Privy Council for questioning. The fact that the company was soon released and apparently swiftly restored to royal favour is particularly interesting, raising as it does issues concerning the differing intent behind the performers and the commissioners of the production. Evidently, the inherent legality of the text, combined with the fact that the players recited it without malicious intent on their part, may have been sufficient for investigators to conclude that the actors' performance of a text which had been in legal circulation for decades be taken in *mitior sensus*. The use of the legal rule applied in slander cases is deliberate. Censorship of the play had evidently failed to prevent its staging, and the laws of slander and libel did not apply to actors innocently reciting non-actionable words which had previously been endorsed by the state. Yet the fact that they were interrogated and their actions open to authoritarian scrutiny prevents us from concluding that the

slanderisation of the text – at least on the part of Essex and his followers, who were the seditionists – proved successful.

[21] Interestingly, it might be argued that Shakespeare and his company were aware that the performance of play texts and their multiplicity of interpretations – whether innocent or subversive – was something to be recognised and guarded against. Casting blame for malicious interpretation on the interpreters rather than the speakers or writers was an invaluable, even a playful strategy. Puck's speech in *A Midsummer Night's Dream* provides us with ratification of this, as he defends insubstantial, formless and motiveless actors.

If we shadows have offended,
 Think but this, and all is mended—
 That you have but slumbered here
 While these visions did appear.
 And this weak and idle theme,
 No more yielding but a dream,
 Gentles, do not reprehend.
 If you pardon, we will mend.
 And, as I am an honest Puck,
 If we have unearnèd luck
 Now to 'scape the serpent's tongue
 (Shakespeare 1979 [1595], V.i.417-427)

In particular, we might note the subtle turning of blame for any offence on the 'slumbering' audiences, and Puck's eagerness to escape the 'serpent's tongue' – an image not far divorced from the tongues of evil-minded, slanderous misinterpreters, who were invariably conceptualised as being dangerously venomous. The perception of slander as a 'poison' was an enduring trope. Commentators such as Thomas Adams were apt to consider slander as a form of oral poison, which passed through the ear and corrupted the soul. Of more pressing concern was the notion that the audience could be 'implicated in [a slanderous text's] immorality' (Bellany 2007b: 151). A hissing, hostile, offended audience thus makes itself the venomous slanderer – if, of course, we believe that Puck is honest and innocent of malicious intent. At any rate, Shakespeare recognised that theatrical audiences had the power to react negatively, and defence against negative reaction was required by those whose words – and, as we have seen, even whose use of music – could be construed in an actionable or otherwise scurrilous sense. Again we can identify a method of defence as being to deftly cast blame for slanderous interpretation on those who constructed it; but once again the slanderer finds himself in the position of having to make such a defence and 'mend' the suddenly hostile relationship between actor and audience. Once again, speaking publicly places power in the hands of the hearer, even if the speaker has a strategy in place to either 'make amends' or blame the hearer for a negative reception.

[22] Ultimately, these examples indicate that slanderisation was not, as it might be tempting to imagine, a safe or reliable way of evading either censorship or slander and sedition accusations, but it was certainly tested out despite the unpredictability of its reception. Thus we might consider the invitation for audiences to read defamatory, seditious and topical allusions to their contemporaries one of several methods tried prior to the introduction of the free press. Slanderisation failed if one could not trust one's audience to be complicit and refrain from forcing an explanation of the meaning behind the words spoken. Nevertheless, the process of deploying outwardly innocuous texts with scurrilous intent erodes any comfortable understanding of censorship as an active programme focused on preventing unquestionably provocative or actionable speech. All texts – be they religious, literary or musical – have afterlives which may involve unexpected subversion for scurrilous or slanderous purposes – and this has implications for studies of censorship, legal development and literary history.

[23] Thus, we might return to Arthur Wilson's recognition of the growth of verse libels and their indication of a subversive link between poetry and slanderous language. Having now witnessed the rather unreliable appropriation of innocent texts (religious, dramatic and musical) and their potentially hostile reception, it is clear that slanderisation was a method tested by early modern malcontents, and found lacking. As a result, we can glimpse another paving stone in the road to the popular Stuart verse libel. Yet it must be noted that these cases of singers, clergymen and players being caught or questioned are generally isolated or at least remarkable cases, usually due to their textual deployment reaching hostile audiences or the attention of authorities (which was obviously the point, particularly in the case of religious sermons, the subversive glosses of which were intended to inspire changes in religious policy). What we cannot know is how widespread this practice of slanderisation was at moments of political stability; bureaucratic inefficiency; legal relaxation; when audiences simply failed to interpret things in scurrilous ways; or even when they did but were sympathetic, and the intended double-meanings were kept quiet.

[24] Having thus recognised slanderisation as a process, we might ask a number of questions. Were innocent songs sung at politically-sensitive times in rural towns, with audiences secretly enjoying the naughty pleasure of interpreting them as slanderous? Were Biblical allusions made against the queen in prophesyings and sermons which have not yet been scrutinised with a view to assessing their potential scurrility? Were plays performed which mocked specific figures and events which are now obscure to us, and which went either unnoticed or unpunished? The answers to these questions are elusive. Yet it is nevertheless evident that although the process of slanderisation is recognisable from those moments in which it failed, this does not preclude it having been used successfully in ways which would, by virtue of that success, be unlikely to come to our attention via court records, governmental investigations or reports of royal displeasure. What these episodes do tell us is that using existing texts in order to invite slanderous interpretation was a risky business, and though it offered the potential avenue of innocent intent and not being the original author, neither were robust safeguards against censure-ship or intermittent authoritarianism. As long as one used one vocalised material, there were means by which authorities could apportion blame and punishment if that material found itself taking on a dark complexion.

[25] In order to build a fuller picture of the period's relationship with transgressive language, it is crucial that scholars of early modern slander and censorship widen their scope of study beyond obviously slanderous and seditious texts and pay greater attention to the misuse of licit and innocuous texts – and even musical arrangements – for slanderous and seditious purposes. In a culture accustomed to the sensitivity of language and the legal repercussions of deploying explicitly proscribed speech and writing, it is necessary to consider the ways in which shifting and evolving legal and political circumstances could turn good language bad, as well as the opportunities afforded to individuals in twisting (or inviting alternative interpretations of) the meanings of innocent, licensed texts.

University of Strathclyde

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