

‘Emotion in Early Modern England, 1660-1760: Performativity
and Practice at the Church Courts of York’

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Abstract

This thesis explores the meanings of emotions, particularly love, anger and sadness in late seventeenth- and early eighteenth-century England. Based on the extensive records of York church courts, it rejects the main meta-narratives of seventeenth- and eighteenth-century history, (which in the wake of Elias's *Civilizing Process* are primarily concerned with the development of 'modern' subjectivities), in favour of a more episodic and meaning centred theory of emotion as cultural performance.

Exploring the complex relationship between emotional experience and its forms of communication, it uses love-letters, slander suits and matrimonial separation cases to reconstruct the verbal, material, symbolic and bodily significance of affect. In so doing, and in drawing attention to the complex epistemological traditions surrounding theories of emotion, it demonstrates that accounts of early modern social relations need to move beyond the existing divisions of mind and body, self and social that typify existing historiography. For only then can we move towards a history of emotion that acknowledges its gendered and performative nature in the field of social practice.

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Conventions and Abbreviations.

Quotations from primary sources retain the original spelling and punctuation. I/j and u/v have been distinguished, and ‘th’ substituted for ‘y’ where appropriate. Capitalization has been standardized, and commas inserted where necessary to clarify obscure passages.

References to court cases are given as Plaintiff c [ontra/against] Defendant, with first names, date and archive reference number given in the first citation. Later references give the archive reference number and surnames of disputants. Dates follow Old Style but the year is taken to begin 1 January. The following abbreviations are used throughout:

BI	Borthwick Institute.
CPH & CPI	York Consistory and Chancery Court Cause Papers.
Trans C/P	Cause Papers transmitted on Appeal.
Cons. AB & Chanc. AB	York Consistory and Chancery Court Act Books.

Chapter 1. Emotion in Early Modern England, 1660-1760.

emotion [ad. L. *emotion-em.* n. of action f.*e-move-re.* f. *e* out + *move-re* to move.]

† 1. a moving out, migration, transference from one place to another. *Obs.*

† 2. a moving, stirring, agitation, perturbation (in physical sense) *Obs.*

† 3. *transf.* A political or social agitation; a tumult, popular disturbance. *Obs.*

4.a. *fig.* any agitation or disturbance of mind, feeling, passion; any vehement or excited mental state.

b. *Psychology.* a mental 'feeling' or 'affection' (e.g. of pleasure or pain, desire or aversion, surprise, hope or fear, etc.) as distinguished from cognitive or volitional states of consciousness. Also *abstr.* 'feeling' as distinguished from the other classes of mental phenomena.¹

1. Introduction.

The history of emotion is in its infancy. Yet under the influence of work in other disciplines, the subject is increasingly influencing the research agenda of social and cultural history.² A series of works by Carol and Peter Stearns, for instance, into the development of particular emotion beliefs, attempts to isolate and chart the historical categories of 'anger' and 'jealousy' in modern American history.³ In the process, they have emphasised the need for greater methodological sensitivity on the part of historians into emotion research, a theme taken up in the work of Theodore Zeldin.⁴ This point is also implied by the research of Michael MacDonald and David Sabeau into the subjective and collective meanings of emotions like sadness and fear in early

¹ *The Oxford English Dictionary*, S.V.

² The debates are too wide-ranging to be covered here in any depth. For an introduction see Amelia Oskenberg Rorty (ed.), *Explaining Emotions* (London, 1980), Introduction. Physiological approaches include P. Black (ed.), *Physiological Correlates of Emotions* (New York, 1970), *passim*, and D.C. Glass (ed.), *Neurophysiology and Emotion* (New York, 1967), *passim*. Biological approaches include Charles Darwin, *The Expression of the Emotions in Man and Animals* (1896), ed. Paul Ekman, (London, 1998), *passim*, and C.E. Izard, *The Face of Emotion* (New York, 1971), Introduction. Psychological studies include J. de Rivera, *A Structural Theory of the Emotions* (New York, 1977), *passim*, and M. Suckerman and C.D. Spielberger (eds.), *Emotions and Anxiety* (New York, 1976), Introduction. Sociological and anthropological developments are discussed below.

³ See Peter N. Stearns and Carol Z. Stearns (eds.), *Emotion and Social Change: Towards a New Psychohistory* (New York, 1988), Introduction; *Idem.* (eds.), *Anger: The Struggle for Emotional Control in America's History* (Chicago, 1986), Introduction; and P.N. Stearns, *Jealousy: The Evolution of an Emotion in America's History* (Chicago, 1986), Introduction and chapter 1.

⁴ Peter N. Stearns and Carol Z. Stearns, 'Emotionology: Clarifying the History of Emotions and Emotional Standards', *American Historical Review*, 90 (1985), pp.813-36; T. Zeldin, 'Personal History and the History of the Emotions', *Journal of Social History*, 15 (1982), pp.339-48.

modern English and German culture, respectively.⁵ And while historians of medieval England are unravelling the complex and varied meanings of anger as expressed through such forms as monastic curses, others are keen to historicize emotions as psychological, lived experiences.⁶

In important ways, such studies raise as many questions as they answer about the meanings and nature of emotions, and about the ability of historians to capture, identify or convey affective experience. For emotions are elusive phenomena, whether regarded as 'feelings' or thoughts, instincts or volitions, cognitive or sub-conscious processes. As the definitions listed in my epigraph suggest, this is not simply a matter of semantics. For the meanings of emotion are themselves unstable, a product of wider cultural beliefs about the relationship between mind and body, self and society.⁷ And as this thesis will demonstrate in an exploration of emotion in late seventeenth- and early eighteenth-century England, those meanings were not abstracted from, but embedded in the everyday context of social relations.

⁵ See for instance Michael MacDonald, 'The "Fearefull Estate" of Francis Spira: Narrative, Identity and Emotion in Early Modern England', *Journal of British Studies*, 31 (1992), pp.32-62; *Idem*, *Mystical Bedlam: Madness, Anxiety and Healing in Seventeenth-Century England*, (Cambridge, 1981). Introduction; David Sabeau, *Power in the Blood: Popular Culture and Village Discourse in Early Modern Germany* (Cambridge, 1987), chapters 1-3.

⁶ See for instance Lester K. Little, 'Anger in Monastic Curses', in Barbara H. Rosenwein (ed.), *Anger's Past: The Social Uses of an Emotion in the Middle Ages* (London, 1998), p.9; G. Rosen, 'Emotion and Sensibility in Ages of Anxiety: a Comparative Historical Review', *American Journal of Psychiatry*, 24 (1987), pp.770-784; G.S. Rousseau and Roy Porter, 'Introduction: Towards a Natural History of Mind and Body', and Roy Porter, 'Barely Touching: a Social Perspective on Mind and Body' in G.S. Rousseau (ed.), *The Languages of Psyche: Mind and Body in Enlightenment Thought: Clark Library Lectures* (Oxford, 1990), pp.3-44, 45-74; H. Medick and D.W. Sabeau (eds.), *Interest and Emotion: Essays on the Study of Family and Kinship* (Cambridge, 1986). Introduction; J.C. Spurlock and C.A. Magistro, ' "Dreams Never to be Realized": Emotional Culture and the Phenomenology of Emotion', *Journal of Social History*, 28 (1994), pp.295-310.

⁷ Anthropological and sociological research is instructive. See Jean Briggs, *Never in Anger* (Cambridge, 1970), Introduction and chapter 1; Robert Levy, *The Tahitians* (Chicago, 1973). Introduction; Richard A. Shweder and R.A. LeVine (eds.), *Culture Theory: Essays on Mind, Self and Emotion* (Cambridge, 1984), Introduction; K.G. Heider, *Landscapes of Emotion: Three Cultures of Emotion in Indonesia* (Cambridge, 1984), Chapter 1. For a sophisticated appraisal of the history of emotion anthropology, see Catherine Lutz and Geoffrey M. White, 'The Anthropology of Emotions', *Annual Review of Anthropology*, 15 (1986), pp.405-36.

This claim goes against the grain of most social history since the 1970s. For whilst such social constructs as ‘patriarchy’, ‘class’ and ‘gender’ have been subject to scrutiny,⁸ emotions like ‘love’, ‘anger’ and ‘sadness’ are typically invoked as transhistorical or pre-cultural human experiences. Thus some of the most commonly posed questions make quantitative comparisons between emotional landscapes in the past, and the present: did early modern men and women for love or money?⁹ Did they experience the same pangs of love for their children as we do, the same grief when those children died?¹⁰ Does an arguably higher homicide rate and more physical forms of punishment indicate early modern people were more prone to anger and violence and less prone to compassion than us?¹¹ And was society as a whole torn by faction and tensions or dominated by closely formed social bonds and kinship patterns?¹²

⁸ For an introduction to these themes see Joan Wallach Scott, *Gender and the Politics of History* (New York, 1988), esp. pp.28-53; Joan Kelly, *Women, History and Theory* (Chicago, 1984), esp. pp.51-64; Judith M. Bennett, ‘Feminism and History’, *Gender and History*, 1 (1989), pp.250-272.

⁹ The existence of this question is found in such diverse works as Lawrence Stone, *The Family, Sex and Marriage in England, 1500-1800* (London, 1977). Introduction; Mary Abbot, *Life Cycles in England 1560-1720: Cradle to Grave* (New York, 1996), p.95; and Amanda Vickery, *The Gentleman’s Daughter: Women’s Lives in Georgian England* (London, 1998), pp.91, 97, 123.

¹⁰ Compare Philippe Ariès, *Centuries of Childhood* (New York, 1965), Introduction and conclusion, and Linda A. Pollock, *Forgotten Children: Parent-Child Relations from 1500 to 1900* (Cambridge, 1983), Introduction.

¹¹ Early modern homicide statistics have been the subject of some debate. See J.A. Sharpe, ‘Debate: The History of Violence in England: Some Observations’, *Past and Present*, 108 (1985), pp.206-216; Lawrence Stone, ‘Debate: a Rejoinder’, *Past and Present*, 108 (1985), pp.216-224; Susan D. Amussen, ‘Punishment, Discipline and Power: The Social Meanings of Violence in Early Modern England’, *Journal of British Studies*, 34 (1995), pp.1-35. On the theatre of early modern punishment see J.A. Sharpe, ‘“Last Dying Speeches”: Religion, Ideology and Public Execution in Seventeenth-Century England’, *Past and Present*, 107 (1985), pp.144-167.

¹² See Keith Wrightson, *English Society 1580-1680* (London, 1990), chapter 2; Elizabeth Foyster, ‘A Laughing Matter? Marital Discord and Gender Control in Seventeenth-Century England’, *Rural History*, 4 (1993), pp.5-23, and more recently *Idem*, *Manhood in Early Modern England: Honour, Sex and Marriage* (London, 1999), chapter 5; Martin Ingram, ‘Ridings, Rough Music and the “Reform of Popular Culture” in Early Modern England’, *Past and Present*, 105 (1985), pp.80-113; Miranda Chaytor, ‘Household and Kinship: Ryton in the Late Sixteenth and Early Seventeenth Centuries’, *History Workshop Journal*, 10 (1980), pp.25-60; Anthony Fletcher and John Stevenson (eds.), *Order and Disorder in Early Modern England* (Cambridge, 1985), Introduction.

The answers to these questions are no less formulaic, conforming to what might be dubbed the ‘pessimistic’ and ‘optimistic’ models of pre-modern social relations.¹³ Thus numerous historians since Stone have focused on the pre-Restoration period as a time dominated by spousal and inter-personal violence and hostilities, as compared to a post-Restoration flowering of affective individualism, the reasons for which are considered below. The counter models to this pessimistic view take issue with its neglect of affect (and individuality) in earlier periods.¹⁴ J.A. Sharpe argues the claim that there was a major shift in affective relations in the eighteenth century is ‘totally wrong-headed’, for there is ‘considerable evidence’ that early modern men and women experienced ‘passionate attachment...like the romantic love with which we are so familiar’.¹⁵ And Alan Macfarlane has found individualism well established by the Middle Ages.¹⁶

While the progressive and continuity models claim to offer quite dichotomous views on the past, therefore, their methodologies are remarkably similar, and equally problematic. In their claims to locate affective experience, both rely on written or verbal affect displays as evidence of interior or unmediated ‘feelings’. In the process, certain epistemological assumptions have been overlooked. The most important of these is the claim that emotions like ‘love’ or ‘anger’ exist in some pre-cultural or interior space, unproblematically expressed through such ‘individual’ sources as letters and diaries. Thus in a recent critically acclaimed work, Amanda Vickery continues and reinforces the much earlier Ariès/Pollock debate by claiming it is ‘laughably easy to disprove [the

¹³ These are paralleled by ‘optimistic’ and ‘pessimistic’ models of women’s history. See Amanda Vickery, ‘Historiographical Review: Golden Age to Separate Spheres? A Review of the Categories and Chronology of English Women’s History’, *The Historical Journal*, 36 (1993), pp.383–414.

¹⁴ See Natalie Zemon Davis, ‘Boundaries and the Sense of Self in Sixteenth-Century France’ in T.C. Heller, M. Sosna and D.E. Wellberry (eds.), *Reconstructing Individualism: Autonomy, Individuality and the Self in Western Thought* (Stanford, 1986), pp.53–63.

¹⁵ J.A. Sharpe, *Early Modern England: a Social History, 1550–1760* (London, 1993), p.62.

¹⁶ Alan Macfarlane, *The Origins of English Individualism: The Family, Property and Social Transition* (Oxford, 1978), Introduction and chapter 1.

claim of parental indifference or severity by] using letters, diaries, and depositions'.¹⁷

Most of Vickery's subjects cannot contain their inner feelings: in letters William Ramsden's 'paternal satisfaction gushed from his pen', and Ellen Weeton's letter books 'leave no doubt that she lavishly cherished her dumpling of a baby girl'.¹⁸

At a basic level, this approach radically oversimplifies the relationship between emotional experience and expression, and the conventions of genre, style and content by which emotions are structured and communicated.¹⁹ And though such accounts of early modern parental or marital relations actively solicit a particular emotive response on behalf of the reader, the rhetorical strategies and conventions of early modern people are overlooked. In part, it is the very ubiquity, yet invisibility, of such emotional practices that limits the historians' ability to view emotions as cultural artifacts. More significantly, however, this mode of writing reinforces Western philosophy's eternal search for the birth of the circumscribed and interiorised monad or subjective 'self'.²⁰

As we have seen, the social historiography of post-Restoration England is primarily concerned, through comparative analysis, with the identification of 'modern' ways of thinking, feeling and behaving. In the process, emotions themselves are oversimplified, abstracted and reified as human universals, with little acknowledgement of their culturally and historically situated meanings. This tendency is not restricted to social history, but is implicit in a range of medical, intellectual, philosophical and literary

¹⁷ Cf. fn 10. Vickery, *Gentleman's Daughter*, p.93.

¹⁸ Vickery, *Gentleman's Daughter*, pp.121, 123.

¹⁹ See chapters 3 and 4.

²⁰ On this theme, see D. Acers, 'A Whisper in the Ear of Early Modernists: or, Reflections on Literary Critics Writing the "History of the Subject"', in D. Acers (ed.), *Culture and History 1550-1600: Essays on English Communities, Identities and Writing* (London, 1992), pp.177-192. The historical evolution of individualism as an ideology is discussed in Louis Dumont, *Essays on Individualism: Modern Ideology in Anthropological Perspective* (Chicago, 1986), pp. 60-92. See also I. Burkitt, *Social Selves: Theories of the Social Formation of Identity* (London, 1991), Introduction and chapter 1.

histories that share, and uphold, its epistemological assumptions. One of the most profound indicators of this is the language used to describe and discuss emotion. As Solomon has observed, a historically constructed myth of passivity dominates Western European discussions of how men and women ‘fall’ in love, are ‘paralysed’ by fear, ‘plagued’ by remorse, ‘haunted’ by guilt and ‘distracted’ by grief.²¹ We verbally locate emotion in the body: love resides in the heart, envy in the bile. There is an obvious potential for histories that chart the decline and emergence of a particular culture’s emotion beliefs through its emotional lexicon. What is important here, however, is that our use of the language of passivity accords with the use of the Freudian languages of repression, control and catharsis – expressed through such terms as ‘drives’, ‘urges’ or ‘instincts’ – that dominates historical discussions of emotional change. Nowhere is this more apparent than in historical adaptations of the principles of the sociologist Norbert Elias and the ‘civilizing process’.²²

2. Sentiment and Civility: the Legacy of ‘Psycho-genesis’.

Norbert Elias’s *The Civilizing Process* represents a self-conscious and historically specific attempt to account for the ‘civilizing of the West’, and the perceived psychological developments that took place between the Middle Ages and the twentieth century.²³

Using the European works on ‘civilitéé’ which appeared from the sixteenth century, Elias charts the apparent emergence of such feelings as disgust and shame, particularly in relation to bodily proprieties, alongside the decline of such ‘spontaneous and

²¹ R.C. Solomon, *The Passions* (New York, 1976). Introduction.

²² See Norbert Elias, *The Civilizing Process: The History of Manners and State Formation and Civilization* trans. E. Jephcott, 2 vols. (Oxford, 1978, 1982), *passim*.

²³ Elias, *Civilizing Process*, 1, p.16. The work dates from 1934-9. For a discussion of its specific socio-historical background see Brigitte H.E. Niestroj, ‘Norbert Elias: a Milestone in Historical Psycho-Sociology: the Making of the Social Person’, *Journal of Historical Sociology*, 2 (1989), pp.136-158.

unrestrained' impulses as physical aggression.²⁴ In perceiving such diverse 'drives' and 'impulses' as part of the 'affect structure in man as a whole', Elias suggests a filter-down and teleological account of psychological and sociological development. To simplify, individual psychological structures are seen to have evolved under the influence of a variety of broader socio-economic and political configurations, more specifically the structural and social differentiation resulting from state formation. The subsequent development of new codes of behaviours, manners and feeling filtered down through the social levels to become 'socially institutionalised' forms of 'self-control' that were again reproduced through social relations.²⁵ This process of individual and social inter-reaction, with individual psyches replicating and influencing the demands of the social structure, Elias terms 'psycho'- and 'socio-genesis'.²⁶

Although Elias's work views psychological structures and 'feelings' as socially constituted – thus attempting to overcome Western philosophy's emphasis on the individual as *opposed* to society - he retains an innate or biological component to emotion that is shaped by, rather than produced in social interaction.²⁷ And in discussing the 'affect structure in *man* [as] a whole', he simultaneously fails to account for the specific ways female bodies and emotions were influenced by social configurations, and the gendered nature of 'psycho-' and 'socio-genesis' [emphasis added].²⁸ Moreover, the neglect of gender as an element in the construction of emotions

²⁴ Elias, *Civilizing Process*, 1, p.164.

²⁵ Elias, *Civilizing Process*, 1, p.166.

²⁶ Elias, *Civilizing Process*, 1, pp.18-19, 156. See also *Idem*, 'On Human Beings and their Emotions: a Process-Sociological Essay', in M. Featherstone *et al.* (eds.), *The Body: Social Process and Cultural Theory* (London, 1991), pp.103-126.

²⁷ See Elias, *Civilizing Process*, 1, pp.164-166, and S. Mennell, *Norbert Elias: Civilization and the Human Self-Image* (Oxford, 1989), pp.202-206.

²⁸ Elias, *Civilizing Process*, 1, p.156. On this theme see Lyndal Roper, *Oedipus and the Devil: Witchcraft, Sexuality and Religion in Early Modern Europe* (London, 1994), Introduction.

in Elias's work confirms his identification of the psyche as a pre-cultural space,²⁹ as seen in his languages of 'instincts' and 'urges' versus 'control' and restraint'.³⁰

Leaving aside for the moment Elias's methodological selectivity, it is unsurprising that the themes of control and restraint continue in various accounts which invoke or replicate the 'civilizing process' as a model of psychological and social development.³¹ For whereas Elias stressed the inter-dependence of 'psycho'- and 'socio-genesis', most accounts of emotional development focus on the developmental shaping of individual 'drives' and 'urges' as a result of external forces, whether the theme is of emotional repression, or sentimental indulgence.³² Thus in the 'pessimistic' histories of sixteenth- and seventeenth-century England outlined above, the growth of 'affective individualism' and the decline of brutality are part of the same phenomenon. The rise of Protestantism, capitalism and political and economic individualism, the decline of patriarchy, and the corresponding rise of contract theory were among the factors making emotional coarseness as socially inappropriate as wiping one's nose on one's sleeve.³³ In place of traditional behaviours – marked by violence and aggression - came a series of European codes of 'civility', 'courtesy' and 'politeness' which stated the measured, rational behaviour required of a cultured and urbane nation.³⁴ And this demonstrated,

²⁹ Roper, *Oedipus and the Devil*, Introduction.

³⁰ Elias, *Civilizing Process*, 1, pp.164-6.

³¹ See Mennell, *Norbert Elias*, pp.60-61.

³² See for instance P. Spierenburg, *The Broken Spell: a Cultural and Anthropological History of Pre-Industrial Europe* (London, 1991), Introduction and conclusion; G.J. Barker-Benfield, *The Culture of Sensibility: Sex and Society in Eighteenth-Century Britain* 2nd ed. (London, 1996), esp. p. xxxiv, pp.78-81; F.A. Childs, 'Prescriptions for Manners in English Courtesy Literature, 1690-1760 and their Social Implications' (DPhil, Oxford, 1984), Introduction.

³³ See Stone, *Family, Sex and Marriage*, chapter 6 and conclusion. See also Susan D. Amussen, '“Being Stirred to Much Unquietness”: Violence and Domestic Violence in Early Modern England', *Journal of Women's History*, 6 (1994), pp.70-89; Margaret Hunt, 'Wife-Beating, Domesticity and Women's Independence in Eighteenth-Century London', *Gender and History*, 4 (1992), pp.10-34.

³⁴ This usually translates into histories of manners, as seen in Paul Langford, *A Polite and Commercial People: England, 1727-1783* (Oxford, 1989), chapter 2; and M.T. Quinlan, *Victorian Prelude: a History of English Manners, 1700-1830* (New York, 1941), Introduction; L.E. Klein, *Shaftesbury and the Culture*

according to Lawrence Stone, ‘the most important change in *mentalité* to have occurred in... the last thousand years of Western history.’³⁵ For it marked the beginning of ‘modern’ subjectivities and affective familial and social relations.

In addition to its role in histories of the pre-1750 period, the civilization narrative is felt in histories of mid eighteenth century and beyond. For the post-Restoration emergence of ‘affective individualism’ is viewed as an important precursor to sensibility and sentimentalism. As Barker-Benfield explains, ‘affective individualism’ and ‘sensibility’ are part of ‘the same “movement” but viewed from a different perspective’.³⁶ For both represent an ‘upsurge of new attitudes and emotions’ which resulted from broader social influences.³⁷ The ‘different perspective’ used by Barker-Benfield derives almost entirely from the material and bodily grounding of emotional change in the ‘new psychoperceptual system’ of nerve theory, identified by G.S. Rousseau and others as ‘national, even European or universal, common knowledge’ by mid eighteenth century.³⁸ In addition to the reforming influences of consumer capitalism, the arguable privatisation of the domestic, social mobility and – a factor missing in Elias – religious ideology, medical and scientific developments are therefore seen to have shaped the mid eighteenth-century ‘cult of sensibility’.³⁹ And as a wide-ranging cultural and social

of Politeness: Moral Discourse and Cultural Politics in Early Eighteenth-Century England (Cambridge, 1994), Introduction.

³⁵ Stone, *Family, Sex and Marriage*, p.22.

³⁶ Barker-Benfield, *Culture of Sensibility*, p.xxxiv.

³⁷ Barker-Benfield, *Culture of Sensibility*, p.xxxiv.

³⁸ G.S. Rousseau, ‘Science’ in P. Rogers (ed.), *The Context of English Literature: The Eighteenth Century* (London, 1978), p.194. See also *Idem*, ‘“Nerves, Spirits and Fibres”: Towards Defining the Origins of Sensibility’, *Blue Guitar*, 2 (1976), pp.125-53, and Barker-Benfield, *Culture of Sensibility*, pp.2-3.

³⁹ On the sentimentalizing of family life see Stone, *Family, Sex and Marriage*, pp.12-23; J.F. Traer, *Marriage and the Family in Eighteenth-Century France* (London, 1980), Introduction; R. Trumbach, *The Rise of the Egalitarian Family: Aristocratic Kinship and Domestic Relations in Eighteenth-Century England* (New York, 1978), chapter 1; Leah Leneman, *Alienated Affections: The Scottish Experience of Divorce and Separation, 1684-1830* (Edinburgh, 1998), pp.324-5. For a broader social perspective see Jean H. Hagstram, *Sex and Sensibility: Ideal and Romantic Love from Milton to Mozart* (London, 1980), Introduction; Isabel Rivers, *Reason, Grace and Sentiment: a Study of the Language of Religion and Ethics in England, 1660-1780, vol.1: Whichcote to Wesley* (Cambridge, 1991), Introduction; Markham

phenomenon, though primarily restricted to the middling and upper classes. sensibility is believed to have transformed the emotional landscape of eighteenth-century England and Europe. At the very least, humanitarian idealism was placed at the heart of family and social life. At the most extreme men, women and children were united in an ecstasy of tears.⁴⁰

Before we can begin to evaluate the broad implications of these progressivist or developmental approaches to the history of emotion, we need to address the range of medical, scientific and philosophical developments on which they depend. For in important ways, historians of sentimentalism have forced us to confront the gendering of emotion as part of its historicization. Moreover, that gendering is itself seen to have radically redefined the meanings of masculinity and femininity. Following the developmental narrative of psychological development discussed above, it has been argued that the same processes by which ‘modern’ affective sensibilities developed produced ‘modern’ gender identities.⁴¹ These changes were not merely physiological or representative, but rooted in organization and practice. As Barker-Benfield has put it, the emergence of sentimentality brought ‘dramatic changes in the ideals and practices of being male and female’.⁴²

Barker-Benfield’s claims, as we have seen, are largely rooted in the eighteenth century emergence of nerve theory as a psycho-perceptual paradigm - and a way of explaining moral, physical and psychological forms of ‘feeling’ – and the collapse of humoralism.

Ellis, *The Politics of Sensibility: Race, Gender and Commerce in the Sentimental Novel* (Cambridge, 1996). Introduction; Anne Vincent-Buffault, *The History of Tears: Sensibility and Sentimentality in France* (London, 1991), pp.1-4; Klein, *Shaftesbury*. Introduction; J. Mullan, *Sentiment and Sociability: The Language of Feeling in the Eighteenth Century* (London, 1988). Introduction; and Barker-Benfield, *Culture of Sensibility*, Introduction and chapter 1.

⁴⁰ On the bodily signifiers of ‘feeling’, see chapter 5.

Humouralism, a series of beliefs originating with Hippocrates but typically associated with Galen, has been extensively discussed by early modern scholars.⁴³ As an explanatory system, humouralism – with its focus on four primary bodily fluids – blood, cholera or yellow bile, phlegm and melancholy or black bile – rooted emotions in the physical body.⁴⁴ The distribution of humours suggested or influenced an individual's emotional temperament. An excess of cholera, for instance, could produce irritability, a tendency towards anger, ferocity and turbulence; an excess of black bile, taciturnity, moroseness, suspicion and obstinacy. And a mixture of cholera and black bile could produce pride and malevolence.⁴⁵ The proportional balance of these humours depended on a variety of environmental and constitutional factors, including diet and weather. They were also influenced by an individual's inner 'heat', however, the same characteristic which, it was claimed, determined gender difference.

It has become something of a historical commonplace to announce an 'about change' in thinking about humours and gender by the late seventeenth century, largely as the result of scientific developments.⁴⁶ As an English and European phenomenon, the philosophical identification of certain emotions as integral to intellectual and spiritual development was paralleled by medical debates over their physical and psychological origins and purpose.⁴⁷ Anatomical investigation, led by Thomas Willis, grounded 'feeling' in the brain and nervous system, whilst the theory of the nerves provided John

⁴¹ See Fletcher, *Gender*, p.xxii; Barker-Benfield, Introduction, and Foyster, *Manhood*, conclusion.

⁴² Barker-Benfield, *Culture of Sensibility*, p.3.

⁴³ Galen, *On the Passions and Errors of the Soul*, ed. P.W. Harkins, (London, 1963), *passim*. An example of literary analysis that relies heavily on humoral physiology is Lily Campbell, *Shakespeare's Tragic Heroes: Slaves of Passion* (London, 1961), Introduction and chapter 1.

⁴⁴ See J.B. Bambrough, *The Little World of Man* (London, 1952), Chapter 1.

⁴⁵ For a good introduction to the relationship between humours and emotions, see H.M. Gardiner *et al.* *Feeling and Emotion: a History of Theories* (Connecticut, 1937), p.134. See also T. Laqueur, *Making Sex: Body and Gender from the Greeks to Freud* (Cambridge, Mass. 1990), p.35.

⁴⁶ Foyster, *Manhood*, p.212-3. See also Fletcher, *Gender*, chapter 14, and E.F. Keller, *Reflections on Gender and Science* (London, 1985), p.43.

Locke and others with the material structures necessary to explore sensory reception and the association of ideas.⁴⁸ The language of medicine, it has been claimed, thenceforth ceased to be one of humours and became one of ‘nerves’, ‘fibres’ and intensified feeling or ‘sensibility’.⁴⁹ As George Cheyne put it:

The Intelligent Principle, or *Soul*, resides somewhere in the Brain, where all the Nerves, or instruments of sensation terminate, like a *Musician* in a finely fram’d and well tim’d Organ-Case; these Nerves are like *Keys* which, being struck on or touch’d, convey the Sound and Harmony to this Sentient Principle, or *Musician*.⁵⁰

The ubiquity of the language of nerve theory has been well explored as a literary and artistic phenomenon in eighteenth-century England, for it found its way into a range of fictional writings.⁵¹ So, too, have nerve theory’s political implications for the meanings of gender and class difference, as the language of ‘innate virtue’ and ‘universal order’ was bound up with terms like ‘good breeding’, ‘polish’, ‘manners’ and ‘social graces’. The social élite were therefore understood to have finer nerves and spirits (and hence finer sensibilities) than their labouring counterparts. In the words of David Hume, ‘the skin, pores, muscles and nerves of a day-labourer are different from those of a man of quality: so are his sentiments, actions and manners’.⁵²

Of course, nerve theory was also gendered, for it was a well-rehearsed argument that women possessed weaker and more sensitive nerves than men. Logically, it was

⁴⁷ Barker-Benfield, *Culture of Sensibility*, chapter 1, esp. pp.3-23.

⁴⁸ For an introduction, see Barker-Benfield, *Culture of Sensibility*, pp.3-5.

⁴⁹ See Rousseau, ‘“Nerves, Spirits and Fibres”’, pp.125-30.

⁵⁰ George Cheyne, *The English Malady* (1733), ed. R. Porter, (London, 1991), pp.3-4.

⁵¹ Studies of sentimental literature include Ian Watt, *The Rise of the Novel: Studies in Defoe, Richardson and Fielding* (Harmondsworth, 1957), Introduction and chapter 1; R.F. Brissenden, *Virtue in Distress: Studies in the Novel of Sentiment from Richardson to Sade* (New York, 1976), Introduction; C.T. Probyn, *English Fiction of the Eighteenth Century, 1700-1880* (London, 1987), Introduction and chapter 1. See also Barker-Benfield, *Culture of Sensibility*, esp. Chapters 1-2, 6.

claimed women must be regarded as intellectually inferior, 'because of the greater sensibility of the nerve fibres in their brain'.⁵³ They were also more prone to physical and psychological disorders, and to the effects of extreme emotions. As Mandeville explained, women's nervous delicacy meant that 'Grief, Joy, Anger, Fear, and the rest of the Passions, made greater Impression upon them, and sooner discompose[d] their Bodies', than their male counterparts.⁵⁴

The liberatory potential for women of the emerging psycho-perceptual scheme of sensibility was therefore negated. For though increased nervous sensibility could be associated with heightened moral and spiritual awareness, women's constitution became widely interpreted as physically, intellectually and emotionally different, and inferior, to men.⁵⁵ That this development could be translated as absolute difference – rather than the difference in *degrees* found in humoral theory – has been widely, but quite erroneously, accepted.⁵⁶ Elizabeth Foyster has recently asserted that such developments 'enabled men to construct women as fundamentally different from themselves, something they had never been able to achieve fully with the graduated humoral model'. For 'within the wider 2^d culture of sensibility' ... women were now regarded as not only physiologically, but also psychologically different from men'.⁵⁷ Foyster's claims are made explicit by Fletcher's assertion that the period

⁵² Cited in R. Markley 'Sentimentality as Performance: Shaftesbury, Sterne, and the Theatrics of Virtue' in Felicity Nussbaum and Laura Brown (eds.), *The New Eighteenth Century: Theory, Politics, English Literature* (New York, 1987), p.214.

⁵³ See Barker-Benfield, *Culture of Sensibility*, p.23.

⁵⁴ Bernard Mandeville, *A Treatise of the Hypochondriack and Hysterick Diseases in Three Dialogues* (1711, London, 1730), p.247.

⁵⁵ Barker-Benfield, *Culture of Sensibility*, chapter 1.

⁵⁶ One of the leading exponents of this view is of course Laqueur, *Making Sex, passim*. See the recent critiques by K. Park and R.A. Nye, 'Destiny is Anatomy', *New Republic*, (18 February 1991), pp.53-7; Mark S.R. Jenner and B.O. Taihe, 'The Historiographical Body', (forthcoming).

⁵⁷ Foyster, *Manhood*, p.213.

ultimately saw the emergence of ‘masculinity and femininity in something like a modern sense’.⁵⁸

Thus far, then, we have seen that the eighteenth century is accorded a vast historiographical importance in the context of the development and internalisation of ‘modern’ ways of thinking, feeling and behaving. The evidence produced in support of this view is striking. In addition to the exposition of the nerve paradigm found in medical theory and sentimental fiction, historians of philosophy and ideas also cite the period as one of defining moments in the onset of modernity. Such histories share, with sentimentalism, a belief in the historical emergence of the thinking, feeling and introspective self. And they rely on similar meta-physical developments, an important strand of intellectual history charting the ways in mind/body dualism - a separation of *psyche* and *soma*, reason and emotion – is identified with ‘modern’ philosophy, as characterised by the work of Descartes.⁵⁹ By prioritising the mind at the expense of the body - ‘*Cogito, ergo sum*’, (‘I think, therefore I am’) - Descartes is understood to have simultaneously redefined emotion and subjectivity at the same time as he elevated reason as the basis of philosophical truth.⁶⁰ It has been suggested that this compounded earlier associations of men with science/reason and women with nature/emotion, thus reinforcing the gendering of affect, and the ‘incommensurability’ of male/female difference.⁶¹

⁵⁸ Fletcher, *Gender*, p.xxii.

⁵⁹ See René Descartes, *Les Passions de l'Âme* translated as *Passions of the Soul* (London, 1649), reprinted in *The Philosophical Works*, trans. E.S. Haldane and G.R.T. Rodd (Cambridge, 1911).

⁶⁰ See Anthony Synnott, *The Body Social: Symbolism, Self and Society* (London, 1993), Introduction and R. Scruton, *From Descartes to Wittgenstein: A Short History of Modern Philosophy* (London, 1981), p.29.

⁶¹ Fletcher, *Gender*, p.292. Fletcher’s account borrows heavily from the discussions found in Keller, *Reflections*, pp.33-42; C. Merchant, *The Death of Nature: Women, Ecology and the Scientific Revolution* (San Francisco, 1980), pp.164-90; L. Jordanova, *Sexual Visions: Images of Gender and Science in Medicine between the Eighteenth and Twentieth Centuries* (Hemel Hempstead, 1989), Introduction and chapter 1.

3. New Gender, New Thinking? The Evolutionary Agenda.

Despite their pervasive influences, there are significant difficulties with these teleological accounts of emotional and psychological evolution. In the first place, Descartes was but one of many philosophers to explore the meanings of emotion and reason in seventeenth-century England. And though he – and Locke – are usually cited as the fathers of modern philosophical thought, Cartesian principles are often discussed in isolation from broader philosophical discussions and debates of the time, oversimplified or even misunderstood. Moreover, this is characteristic of many of the broader claims made about the ‘civilizing process’, the emergence of nerve theory and the decline of humoralism, and the concern for psychological structures on which developmental accounts of emotion depend. The range of discourses about emotion in the seventeenth and eighteenth centuries, the significance accorded to actual subjective experiences, and the relationship between feeling and its varied forms of expression have all been overlooked. So, too, have the meanings of emotion as constructed and negotiated as mental and bodily experiences, or as ways of informing and producing gender through social interaction. Instead, we have meta-narratives of emotional evolution that are drawn from a blend of (often conflicting and largely untheorised) evidence drawn from literary sources, diaries and conduct manuals.

By way of introduction to this problem, let us turn to Anthony Fletcher’s influential *Gender, Sex and Subordination in England, 1500-1800*. Fletcher is concerned with the emergence of ‘modern’ gender and, as we have seen, relies on the meta-narratives of psychological and emotional development critiqued above. In a prologue to the book’s section on ‘modern’ gender, Fletcher sets out to explore ‘New Thinking and New Knowledge’ – scientific and philosophical – that emerged after 1660, ‘the most

important [year] in seventeenth-century England'.⁶² Claiming to demonstrate the ways in which 'men's [attempts] to transform patriarchy in England by replacing its ancient and scriptural basis... with a new secular ideology of gender which... has proved equally enduring', Fletcher relies on a range of sources which is limited and problematic in scope and chronology. In fact, most of his evidence on the scientific and philosophical underpinnings of post-1660 change derives from a brief (and misconstrued) summation of Descartes' 'radical separation of mind and body'.⁶³ Though Descartes text of 1643 is not cited, let alone analysed, it is no more than a paragraph before we move on to George Cheyne's *English Malady* of 1733 which is apparently used to support Fletcher's pronouncements on Descartes.⁶⁴ The remainder of Fletcher's philosophical exploration consists of a brief discussion of Pateman's account of Locke's *Treatises of Government*, and its implications for rethinking the 'sexual contract'.⁶⁵ There is no consideration of the extensive tradition of eighteenth-century moral philosophy – aside from a brief mention of Shaftesbury's *Characteristicks* (1711) – and subsequently no broader consideration of how the relationship between reason/mind/man and emotion/body/woman was accommodated into, or subverted by broader philosophical debates.⁶⁶ Nor is there any consideration of this in relation to the voluminous works on emotion and reason produced since the classical period. Instead, we return to a prescriptive and literary survey that invokes the 'imaginative and ideological' importance of textual sources without any consideration of the shaping influences of authorial intent, narrative, convention, style or even genre.⁶⁷

⁶² Fletcher, *Gender*, p.283.

⁶³ Fletcher, *Gender*, p.291.

⁶⁴ Fletcher, *Gender*, pp.291-2.

⁶⁵ Fletcher, *Gender*, p.294. See Carole Pateman, *The Sexual Contract* (Oxford, 1988), Introduction.

⁶⁶ For a discussion of the complexities of seventeenth- and eighteenth-century philosophical beliefs, see J.B. Schneewind (ed.), *Moral Philosophy from Montaigne to Kant: an Anthology*, 2 vols (Cambridge, 1990), I, Introduction, and Susan James, *Passion and Action: The Emotions in Seventeenth-Century Philosophy* (Oxford, 1997), Introduction and chapter 1.

⁶⁷ Fletcher, *Gender*, p.xx.

Fletcher's assumptions about early modern emotion beliefs and affective transparency are not unusual. Nor is his neglect of the interlocutory and epistemological traditions and conventions underpinning early modern discourses on emotion or his selective and unproblematised use of literary evidence.⁶⁸ For the production of teleological or progressivist meta-narratives of change depends on the ironing out of conflict and the imposition of hegemony. Thus, in Elias's account of the 'civilizing process', a selective range of texts provides a coherent narrative of transition. Discordant and contradictory elements, or subsequent reactions *against* hegemonic discourses of change are simply omitted.⁶⁹ Yet it is the very existence of conflict that, as this thesis will demonstrate, has significant implications, and potentialities, for the history of emotion.

To concretise some of these claims, let us look again at the principles and conclusions of the developmental narratives outlined above. It has been argued that traditional meta-narratives of change are teleological, they use broader political, economic and social patterns of development alongside literary, medical and philosophical modes of representation to demonstrate the psychological internalisation of constraints and emotion beliefs. In so doing, they presuppose the existence of an internal, pre-cultural essence of emotion – manifested variously as 'drives', 'impulses' or 'urges' – that is moulded and explained by broader patterns of social expectation and legitimisation. And whilst the most important shaping mechanisms of the long eighteenth century included consumer capitalism and social mobility, (with its own 'customs, behavior [and] manners'), religious and secular forms of regulation, the explanatory framework was one of nerves, fibres and difference, rather than humours, fluids and degrees.⁷⁰

⁶⁸ See also Foyster's use of literary sources in *Manhood*, pp.14-15.

⁶⁹ For a similar critique, though one based on an entirely different methodology, see Roper, *Oedipus and the Devil*, pp.8-9.

⁷⁰ Barker-Benfield, *Culture of Sensibility*, p.78.

Although Elias addressed the individual-*in*-society, therefore, most historical accounts focus – as Descartes is seen to have done – on the separation of mind and body, reason and emotion, self and world, as a stage in the emergence of ‘modern’ subjectivity.⁷¹ In the words of Charles Taylor, ‘[c]oming to a full realization of one’s being...requires that we...have to objectify the world, including our own bodies, and...to come to see them mechanistically and functionally, in the same way that an uninvolved external observer would’.⁷²

Despite the claims of Taylor, there are probably few modern men and women who experience this sort of subjectivity. For as Margaret Lock has stated in another context, the body ‘mediates all reflection and action upon the world’, and is most often the concrete embodiment of what constitutes our ‘selves’.⁷³ Moreover, recent analyses of Descartes’ position suggest that this interpretation of Descartes is fundamentally flawed. For Descartes’ account of the mind/body relation preserved the theme of holism, perhaps even reinforcing it by his materialistic identification of the brain’s pineal gland as the site of ‘the passions of the soul’.⁷⁴ Moreover, like that of Lockean psychology and nerve theory, the influence of Descartes was actually limited until late in the

⁷¹On this theme see N. Malcolm, *Problems of Mind: Descartes to Wittgenstein* (London, 1972). Introduction; H. Caton, *The Origin of Subjectivity: an Essay on Descartes* (London, 1973). Introduction; and L.J. Rather, ‘Old and New Views of the Emotions and Bodily Changes: Wright and Harvey Versus Descartes, James and Cannon’, *Clio Medica*, I (1965) pp.1-25. See also the discussion in Charles Taylor, *Sources of the Self: The Making of Modern Identity* (Cambridge, Mass. 1989), Introduction.

⁷²Taylor, *Sources of the Self*, p.145.

⁷³See Margaret Lock, ‘Cultivating the Body: Anthropology and Epistemologies of Bodily Practice and Knowledge’, *Annual Review of Anthropology*, 22 (1993) pp.133-55, esp. p.133.

⁷⁴See for instance R.W. Rieber (ed.), *Body and Mind: Past, Present and Future* (New York, 1980), Introduction; Theodore M. Brown, ‘Descartes, Dualism and Psychosomatic Medicine’, in W.F. Bynum, R. Porter and M. Shepherd (eds.), *The Anatomy of Madness vol.1: People and Ideas* (London, 1985), pp.40-61.

eighteenth century.⁷⁵ It was far more common for physicians to explain psychological and physiological disturbance in traditional terms. In William Buchan's *Domestic Medicine*, for instance, published 142 times between 1769 and 1871, the writer expressed a holistic view of the human body that derived from a humoural model of illness. Body and mind could not be separated, and the passions could cause and cure illness in each.⁷⁶ In Cheyne's *English Malady*, as in the sentimental and philosophical literature discussed above, regulation of the passions was crucial for the maintenance of the whole frame. All 'violent and sudden Passions' could 'throw People into acute Diseases' and even death. 'Slow and lasting Passions' on the other hand, 'bring on Chronical Diseases; as we see in Grief, and languishing, hopeless Love'.⁷⁷

A similar preservation of mind/body holism is revealed by accounts of the subjective experience of illness, and particularly mental illness in early modern England. For whereas most accounts of insanity focus on the same kinds of modernisation narratives discussed above – medical professionalization, the prioritisation of reason and the hospitalisation of the insane as part of a broader tendency towards pathologisation – there have been moves towards exploring the lived experience of insanity and emotional distress.⁷⁸ Thus MacDonald's work on sadness in early modern England dissects the

⁷⁵ See Roy Porter, 'Making Faces: Physiognomy and Fashion in Eighteenth-Century England', *Études Anglaises*, 38 (1985), pp.385-396; Janet Browne, 'Darwin and the Face of Madness', in Bynum, Porter and Shepherd (eds.), *Anatomy of Madness*, pp. 151-165; and A. Suzuki, 'Anti-Lockean Enlightenment? Mind and Body in Early Eighteenth-Century English Medicine', in Roy Porter (ed.), *Medicine in the Enlightenment* (London, 1995), pp.336-360.

⁷⁶ William Buchan, *Domestic Medicine: or, a Treatise on the Prevention and Cure of Diseases by Regimen and Simple Medicines* (1772, repr. London, 1985), *passim*. See also C.J. Lawrence, 'William Buchan: Medicine Laid Open', *Medical History*, 19 (1975), pp.20-36; C.E. Rosenberg, 'The Fielding H. Garrison Lecture: Medical and Social Context: Explaining William Buchan's *Domestic Medicine*', *Bulletin of the History of Medicine*, 57 (1983), pp.22-43.

⁷⁷ Cheyne, *English Malady*, p.xiii. On the long-established view of the passions as an indirect cause of suicide see John Sym, *Life's Preservative Against Self-Killing*, ed. M. MacDonald. (1637, repr. London, 1988), preface.

⁷⁸ A formative influence on historians is Michel Foucault, *Madness and Civilization: A History of Insanity in the Age of Reason* (1960, trans. New York, 1965), Introduction. On the professionalization of medics, see Anne Digby, *Making a Medical Living: Doctors and Patients in the English Market for*

meanings of ‘despair’ and traces the etymology of such individual experiences as religious doubt, erotic melancholy and bereavement. In investigating the language used to discuss this emotion, and in rooting it within the context of individual case studies, MacDonald goes some way towards reconstructing the physical and psychological politics of everyday life.⁷⁹ So, too, does Roy Porter’s analysis of Samuel Johnson’s melancholy as representing a complex interaction between the subjective experience of sadness, and the historically-contingent cultural scripts through which emotion could be articulated and understood.⁸⁰ These accounts reveal the complex blend of religious, humoral, and mechanistic interpretations surrounding affect in the long eighteenth century, and the inappropriateness of ascribing hegemonic discourses – such as nerve theory – to the reconstruction of the experience and communication of affect.⁸¹ And as other historians demonstrate, the prioritising of a secular vision of medicine (whether of the language of humours or the nerves), neglects the more traditional spiritual (and diabolic) investment of meaning in the relationship between mental and physical process. In the interpretation of illness, mind/body holism continued to have a practical and symbolic significance; healing techniques were regarded as expressions of piety as often as illness was perceived as ‘God-willed’.⁸²

Medicine, 1720-1922 (Cambridge, 1994), Introduction. On the secularization of medicine and insanity, see Roy Porter, *Mind Forg’d Manacles: A History of Madness in England from the Restoration to the Regency* (London, 1987), Introduction. For a discussion of the psychiatric bias in the histories of psychology, see Richard Hunter and Ida Macalpine (eds.), *Three Hundred Years of Psychiatry, 1535-1860* (London, 1963), Introduction and G.S. Rousseau, ‘Psychology’ in G.S. Rousseau and Roy Porter (eds.), *The Ferment of Knowledge: Studies in the Historiography of Eighteenth-Century Science* (Cambridge, 1980), pp.143-210.

⁷⁹ See Michael MacDonald and T.R. Murphy, *Sleepless Souls: Suicide in Early Modern England* (Oxford, 1990), esp. pp.201-335. See also Michael MacDonald, ‘“Fearefull Estate”’, pp.35-6, and *Idem, Mystical Bedlam*, pp.xiii-7.

⁸⁰ Roy Porter, ‘“The Hunger of Imagination”: Approaching Samuel Johnson’s Melancholy’, in Bynum, Porter and Shepherd (eds.), *The Anatomy of Madness*, pp.62-88. See also *Idem, A Social History of Madness: Stories of the Insane* (Cambridge, 1989), Introduction.

⁸¹ On this theme, see chapter 5.

4. Emotion (or Passion?) Ontological Ambiguity in Emotion Theory.

A recognition of the survival of traditional interpretative practices in eighteenth-century discussions of affect and of the mind/body relation is crucial in any attempt to refine the existing historiography. For to do so draws attention to the historical complexities and instabilities of emotion theory. If we move beyond teleological and hegemonic accounts of reason versus emotion, ‘humours’ versus ‘nerves’ and self versus society, we find that the ontology, and terminology of emotion in the seventeenth and eighteenth centuries was as unstable and ambiguous as it is today. Early modern attempts to identify emotions as psychological or physiological, humoural, mechanistic or nervous phenomena as evidence of a ‘spiritual’ or ‘bestial’ nature, or as innate or culturally specific, reveal disputes over the meanings of emotions, and even their definition.⁸³ Moreover, humoural interpretations of emotion were no less gendered than those of nerve theory. By nature women were assumed to tend towards the phlegmatic or cold and moist temperament, since their bodies were more fleshy, softer and weaker than men’s, and their skin more moist. The greater passivity of women also made them more subject to extremes of emotion, especially hysteria.⁸⁴ By contrast, men tended to display the qualities of courage, anger and strength of spirit compatible with their leaner bodies and drier complexions.⁸⁵ And the meanings of emotions such as ‘courage’ and ‘anger’ were themselves morally laden, and ambiguous.

⁸² See the discussion in Mark S.R. Jenner, ‘Quakery and Enthusiasm, or Why Drinking Water Cured the Plague’, in Ole Peter Grell and Andrew Cunningham (eds.), *Religio Medici: Religion and Medicine in Seventeenth-Century England* (Vermont, 1996), pp.313-38.

⁸³ The terminology of emotion is considered below. On the terms and traditions of emotion theory in the wake of the Renaissance, see Gardiner *et al.* *Feeling and Emotion*, Introduction, and more recently, James, *Passion and Action*, Introduction and chapter 1.

⁸⁴ See for instance John Downname, *A Treatise of Anger* (London, 1609) reprinted in Hunter and MacAlpinc, *Three Hundred Years*, pp.71-3; I. Veith, *Hysteria: The History of a Disease* (Chicago, 1970), Introduction; G.K. Paster, *The Body Embarrassed: Drama and the Disciplines of Shame in Early Modern England* (Ithaca, 1993), Introduction.

⁸⁵ The physical effects of emotions under humoural theory are addressed in chapter 5.

A missing component in the historiographies of emotion, therefore, is any sense of the epistemological and interlocutory context in which philosophical and scientific theories emerged. Debates on emotion in seventeenth- and eighteenth-century England explored the number and meaning of emotions, the extent to which emotions were spontaneous or learned phenomena, the psychological and social function of emotions and the relationship between mind and body, passion and reason.⁸⁶ The philosophical, literary and medical treatises discussed above cannot therefore be viewed in isolation. Rather they need to be seen as part of long established (though often conflictual) traditions of writing on the human passions. For though often associated with the new philosophy, the themes and concerns of philosophers like Hobbes, Locke and Hume referred to and borrowed from the writings on emotion which reached back to the classical period, but reached unprecedented interest in scope and volume in the wake of the Renaissance.⁸⁷

Philosophers like Susan James have noted the spectacular range of textbooks, essays and treatises that emerged from the sixteenth century, and which attempted to catalogue, describe and account for individual emotions in relation to God, animals, and the rest of humankind.⁸⁸ These included Ludovicus Vives' *De Anima* (1538), Michel Montaigne's *Essais* (1580), John de Indagine and J. Baptista della Porta's *De Humana Physiognomia* (1586), Otto Casmannus's *De Noscendis et Emendandis Animi Affectionibus* (1597), Thomas Wright's *Passions of the Minde* (1601), René Descartes' *Les Passions de l'Âme* (1649) and de la Chambre's *Les Caractères des Passions* (1658) and *Le Système de*

⁸⁶ Such questions are too large in scope to attempt to answer here. For a good introduction to the main themes of debate see Gardiner *et al.* *Feeling and Emotion*, Introduction and conclusion. The terminology of emotion is discussed below.

⁸⁷ Shaftesbury's philosophy, for instance, has been seen as 'a complicated fusion of Stoic and Platonic thought, plus such diverse elements as Bayle's skepticism, Cumberland's doctrine of the public good, and the humanitarianism of the Latitudinarian divines'. See S. Grean, *Shaftesbury's Philosophy of Religion and Ethics: a Study in Enthusiasm* (Ohio, 1967), p.7. For inter-referentiality and connections between Hume and Locke, see A.O. Hirschman, *The Passions and the Interests: Political Arguments for Capitalism before its Triumph* (Princeton, 1977), p.243.

l'Âme (1665).⁸⁹ It is not irrelevant that certain of these texts are well known, whilst others are less so. For despite the rigorous small-scale comparative analyses conducted by James, there has been no significant wholesale examination of the range and types of texts on emotion produced during the period.⁹⁰ Partly because of this lack of research it is difficult to account for the varied definitions and classificatory principles used by contemporary writers. Yet the briefest investigation reveals that the mode and manner of emotion theory expounded by these texts varied enormously. As James observes, writers included 'divines who explicate their place in God's creation and in the history of humankind... Christian orators who work to arouse them in their congregations ... devout Christians who bridle them to attain quietness of mind... magistrates who seek to understand their subjects... [and] civil gentlemen' concerned with displaying appropriate social behaviour.⁹¹

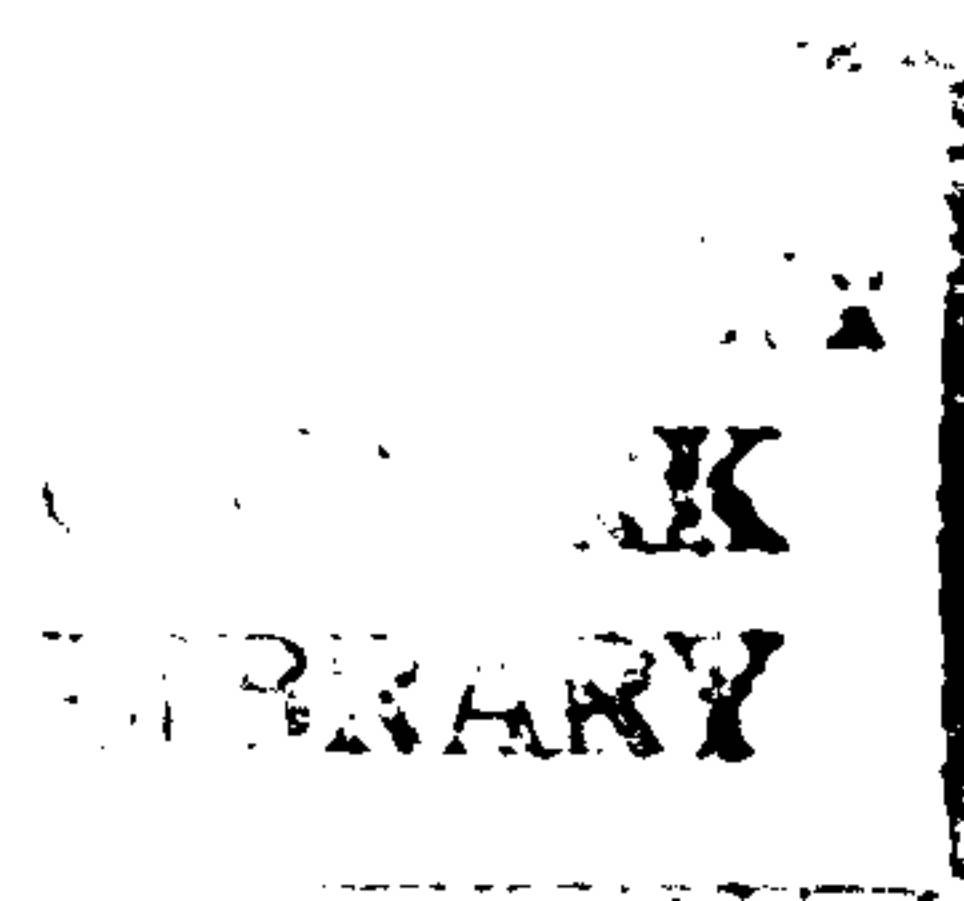
In light of this, there is clearly a need for the textual and ideological characteristics of these works to be addressed according to such themes as narrative structure, convention and genre. For there is rather more separating seventeenth- and eighteenth-century discourses on emotion than chronology, as suggested by the contrast between the devotional texts of William Law, for whom the 'imagination and desires' induced by emotion were the 'greatest realities we have' and Thomas's Wright's earlier condemnation of passions as 'domesticall enemie[s]' that needed to be 'brought into

⁸⁸ James, *Passion and Action*, Introduction.

⁸⁹ For a comprehensive list see Gardiner *et al.* *Feeling and Emotion*, p.120.

⁹⁰ James, *Passion and Action*, *passim*.

⁹¹ James, *Passion and Action*, p.4.



servitude'.⁹² Similarly, for every Hobbesian expression of the animalistic brutality of humankind, there was a Shaftesbury, arguing that there was 'in every Creature a certain *Interest or Good*... To this *END* if anything, either in his Appetites, Passions, or Affections... make him in any way injurious to [others, it will]... make him ill also *to himself*'.⁹³ Thus through the themes of compassion and sensibility, political discourses of the eighteenth century identified passion and emotion not only with narrow interest and socially destructive fantasy, but as components of social harmony and mutual benefit.⁹⁴ The reasons for this were not located only in the socio-economic, political and medical discourses that emerged in the long eighteenth century, but in traditions and beliefs rooted in classical precedent, and divisions between Stoics and Peripatetics, or Epicureans.⁹⁵

The Christian Stoic tradition held passions as inherently evil, or 'thornie briars sprung from the infected root of original sin'.⁹⁶ In this view, men and women were given emotions as a consequence of the fall, before which reason predominated in the human breast. Those passions, then, that made one 'in pleasure...dissolute, in sadness desperate, to rage in anger, to tremble in fear, in hope to faint, in love to languish' constituted 'those temptations that *S. Paul* did punish saying...I challenge my body, and bring it into servitude'.⁹⁷ Thomas Hobbes' comment that 'Passions unguided are for the

⁹² William Law, cited in J. Sambrooke, *The Eighteenth Century: The Intellectual and Cultural Context of English Literature, 1700-1789*, 2nd ed. (London, 1993), p.52 and Thomas Wright, *The Passions of the Minde in General* (1601, facs. repr. New York, 1973), p.8.

⁹³ Shaftesbury, *An Inquiry Concerning Virtue*, Book 1, Part 2, cited in L.A. Selby-Bigge (ed.), *British Moralists: Being Selections from Writers Principally of the Eighteenth Century*, 2 vols., (1897, repr. New York, 1964), pp.3-4. See also Thomas Hobbes, *Leviathan* (London, 1651), ed. R. Tuck, (Cambridge, 1992), preface.

⁹⁴ For an opposing view, see J.G.A. Pocock, *The Machiavellian Moment* (Princeton, 1975), Introduction.

⁹⁵ For a valuable introduction to this theme in relation to the work of Samuel Johnson, see K.M. Grange, 'Dr Johnson and the Passions', (DPhil, University of California, 1960), Introduction and chapter 1.

⁹⁶ Wright, *Passions of the Minde*, p.2.

⁹⁷ Wright, *Passions of the Minde*, p.8.

most part meere Madnesse' needs to be viewed in this historical and literary context.⁹⁸

For despite the claims of Elizabeth Foyster, there was nothing new about the discourses on anger and self-control that emerged in the eighteenth century.⁹⁹ Nor was anger, by that stage, consistently viewed as a force for ill. To this end, it is Hobbes' use of the term 'unguided' which alerts us to equally well established views of the passions, including anger, as a force for social good.

When Lord Kames described emotions as 'by nature [or, by God] modeled and tempered with perfect wisdom for the good of society as well as for private good', he echoed the sentiments of generations of writers who rejected the diatribes of the stoics.¹⁰⁰ The Aristotelian doctrine that emotion was associated with the pursuit of pleasure (good) and avoidance of pain (evil) was well-established long before the eighteenth century, and upheld by scholars who pointed out the relationship between emotion and the divine. As Thomas Wright observed in 1601, 'Christ our Saviour was subject to...passions' on the cross and in the Garden of Gethsemene.¹⁰¹ And the God in the Old Testament was also subject to the passions of 'love', 'ire' and 'zeal'.¹⁰² Moreover, since emotions thus partook of the moral and the divine, they were inescapable facts of existence that could not, even should not, be overcome. In the words of J. Lowde, 'the *Stoicks* would make Man so wholly rational. that they will scarce allow him to be sensible, and so would wholly exclude all natural affections and bodily passions out of humane Nature'.¹⁰³ Under Peripatetic doctrine, then, the passions should be tempered by and used in conjunction with reason, though they were not

⁹⁸ Thomas Hobbes, *Leviathan*, (1651) ed. R. Tuck, (Cambridge, 1992), p.55.

⁹⁹ Elizabeth Foyster, 'Boys Will Be Boys? Manhood and Aggression, 1660-1800', in T. Hitchcock and M. Cohen (eds.), *English Masculinities* (London 1999), pp.151-166. See also chapter 3, below.

¹⁰⁰ Lord Kames, *Elements of Criticism in 3 Volumes* (Edinburgh, 1762), 1, p.182.

¹⁰¹ Wright, *Passions of the Minde*, p.28.

¹⁰² Wright, *Passions of the Minde*, p.77.

reason's inferiors. It could even be construed as the reverse, since emotions could 'assist the feeble Influences of our Reason in the practice of Duty for our own and our Neighbour's good'.¹⁰⁴ As Charles Hickman, Bishop of Derry argued in 1700, '[r]eason is a cold and heavy Principle, that moves us slowly to our Work; but Passion puts an eagerness into our Desires, and a warmth into our Prosecutions, and makes the Work go cheerfully and vigorously on'.¹⁰⁵

Unfortunately, the limits of scale and scope imposed on this thesis, and the paucity of existing historical research, mean we cannot explore the complex and contradictory traditions of discourses on emotion in any depth. Yet sketching some of these complexities and ambiguities reminds us of the problematic nature of teleological views on the passions, and of such commonly invoked dichotomies as emotion versus reason, thought against feeling. Indeed, even the terminology used to discuss emotion was problematic. For such designations as 'passions', 'perturbations', 'affections', 'sentiments' and 'emotion' were dominated by uncertainty, imprecision, and doubts about what emotion actually *was*, let alone how to describe it.

Thus in the definition which introduces this chapter, the now obsolete languages of 'perturbations' and, to a lesser degree 'passions' (implying passivity) draws attention to the physical and mental unrest created by 'feeling'. And though the term 'emotion' *was* used in the seventeenth century, it did not come into popular or everyday usage until the early eighteenth century.¹⁰⁶ Thus even the use of such terms as 'Publick Emotions' to denote popular disturbances or unrest demonstrates the lack of direct linkage to the

¹⁰³ J. Lowdc. *A Discourse Concerning the Nature of Man* (1694, repr. London, 1979). p.24.

¹⁰⁴ I. Watts. *The Doctrine of the Passions Explain'd and Improv'd* (London, 1739). p.75.

¹⁰⁵ Cited in R.S. Crane. 'Suggestions Towards a Genealogy of the "Man of Feeling" ', *ELH*, 1 (1934). p.208

narrow psychological definition given by the *Oxford English Dictionary*.¹⁰⁷ Far more common were invocations to ‘passion’ to describe a state of mind and body in general, and extreme ‘feeling’ in particular. The *Oxford English Dictionary*’s listings are again instructive:

passion v. [a. OF. *Passionner* (Godef.), f. PASSION *sb.*]
 1. *trans.* To affect or imbue with passion.
 †b. To move or impel by passion.
 †2. To affect with suffering, to afflict.
 3. *intr.* To show, express, or be affected by passion or deep feeling, formerly *esp.* to sorrow.¹⁰⁸

As this brief description indicates, there are distinct ontological implications for the use of such terms as ‘passion’ and ‘emotion’ as descriptive or analytical categories. Though both terms were used to describe states of physical and psychological ‘feeling’, invocations to passion have traditionally invoked a more comprehensive (and theological) bodily experience than references to ‘emotion’. Yet ‘passion’ was very often used to describe *degrees* or classes of emotional experience, especially sorrow, rather than any cognitive or experiential difference. And at a broader level the term *affectio* (the originator of ‘affect’) was the name for any physical or psychological modification, as opposed to the ‘essence’ of mind and body. As Gardiner has shown, the term ‘affectio’ was also used in a narrower sense to denote emotions and passions indiscriminately, and at its most limited, those emotions which were most gentle, or least turbulent in nature.¹⁰⁹ By the sixteenth century, the term *affectus* bore the closest resemblance to what we would today term ‘emotion’, whereas such terms as ‘passion’ or ‘perturbation’ moved in and out of favour.

¹⁰⁶ Cf. Locke, *Education*, cited in *The Oxford English Dictionary*, S.V.

¹⁰⁷ Cf. Addison, *Tatler* 24, cited in *The Oxford English Dictionary*, S.V.

¹⁰⁸ *The Oxford English Dictionary*, S.V.

Unfortunately, the semantic mutations and implications of the terminology of affect, passion, emotion and ‘feeling’ require far more discussion than is possible here. There has been no analysis of emotion terminology for the seventeenth and eighteenth centuries to support the scholarly but neglected work by Erämetsä into eighteenth-century usage of the term ‘sentimental’.¹¹⁰ For this reason this thesis, albeit problematically, uses the term ‘emotion’ to refer to mental *and* bodily ‘feeling’, though where possible or appropriate contemporaries’ own terminology is used. The more general term ‘affect’ is also invoked to describe passions and emotions throughout. In part, this decision reflects the broader aim of the thesis: to demonstrate that ‘passions’, ‘emotions’ and ‘affects’, however weighted in contemporary rhetoric, were not entities to be abstracted from their specific communicative context, but were structured in, and derived meaning from, specific instances of human interaction. And it is only when we move beyond the search for human constants and individualism, and beyond the desire to plot teleological or developmental modes of psychological evolution, that historians can creatively explore, rather than paper over, conflicts and uncertainties, fissures and instabilities in the meaning and practice of emotion.

5. Performativity and Practice: Refining the History of Emotion.

To this end, this thesis draws on the recent research methods and aims of work in other disciplines, including psychology, sociology, anthropology and literary theory, to construct a new agenda for emotion research. Scholars in a range of disciplines no longer regard emotions as ‘simple, non-cognitive phenomena’ or ‘drives, to be experienced and expressed at an individual level.’¹¹¹ Instead emotions are diversely

¹⁰⁹ Gardiner *et al.* *Feeling and Emotion*, p.123.

¹¹⁰ See E. Erämetsä, *A Study of the Word ‘Sentimental’ and of Other Linguistic Characteristics of Eighteenth-Century Sentimentalism in England* (Helsinki, 1951). Introduction.

¹¹¹ For an introduction, see Rom Harré (ed.), *The Social Construction of Emotions* (Oxford, 1986). p.2.

interpreted as biological, physiological, psychological or cultural phenomena, and invested with a broad range of political significance.¹¹² At the same time, traditional concepts of the experiential and subjective self have collapsed under the weight of post-structuralism and post-modernism. Past and present subjectivities are increasingly viewed less in terms of individuality and interiority, than as the product of language, social production and performance.¹¹³ All too often, however, the attempt to analyse the meanings of subjective experience through the realm of the social collapses into a dispute between the discursive and non-discursive worlds, between experience as language and experience as bodily reality.¹¹⁴ Thus in opposition to the influence of discourse analysis, Lyndal Roper declares that '[b]odies have materiality, and this too must have its place in history'.¹¹⁵

Since women's history has to come to terms with a legacy of abuse having taken place *in, on and through* women's bodies, this dilemma is more than academic. It is also particularly pertinent to the histories of emotion and gender. As discussed above, the separation of mind/reason and body/emotion has traditionally been viewed as part of the 'coming of age' of individualised, sexed difference. And the ability of men and women to suppress, control, and curtail bodily urges, as seen in the work of Elias and subsequent discussions of the 'civilizing process', becomes incorporated into

¹¹² Examples include Rorty (ed.), *Explaining Emotions*, Introduction; P.A. Anderson and L.K. Guerrero (eds.), *Handbook of Communication and Emotion: Research, Theory, Applications, and Contexts*, (London, 1998), Introduction; Lutz and White, 'The Anthropology of Emotions', pp.408-410.

¹¹³ For a variety of approaches see Elizabeth Grosz, *Jacques Lacan: a Feminist Introduction* (London, 1990), Introduction; Burkitt, *Social Selves*, Introduction; Erving Goffman, *The Presentation of Self in Everyday Life* (London, 1984), Introduction; E. Doyle McCarthy, 'Emotions are Social Things: an Essay in the Sociology of Emotions', in D.D. Franks and E. Doyle McCarthy (eds.), *The Sociology of Emotions: Original Essays and Research Papers* (London, 1989), pp.51-72.

¹¹⁴ See for instance Michel Foucault, *The History of Sexuality vol.1: an Introduction* (London, 1979), *passim*; D. Riley, 'Am I That Name'? *Feminism and the Category of 'Women' in History* (Basingstoke, 1988), Introduction; and Roper, *Oedipus and the Devil*, pp.9-27. For a more recent discussion, see Mark S.R. Jenner and B.O. Taithe, 'The Historiographical Body' (forthcoming).

¹¹⁵ Roper, *Oedipus and the Devil*, p.21. See also Kathleen Canning, 'Feminist History after the Linguistic Turn: Historicizing Discourse and Experience', *Signs*, 19 (1994), pp.368-404.

developmental narratives of modernity. Yet whatever interpretation was placed on emotion in eighteenth-century England – as a product of the humours, the nerves, the diabolic or the divine - emotions were regarded, as they are today, as bodily and somatic experiences. We ‘feel’ emotions like anger, shame, sadness and love, and these ‘feelings’ have distinct internal effects, such as raised temperature and heightened heartbeat. They are also accompanied by physical effects: we blush with anger, shame or pride, shed tears with sadness, smile with happiness and pale in fear. We learn to observe these characteristics in others, to associate them with particular emotional states, and to use these observed impressions as indicators of an individual’s temperament or motivation. And early modern emotion theorists extensively detailed the physical and verbal characteristics associated with particular types of emotion, whilst manuals for painters, actors and rhetoricians advised how those signals might be reconstructed in performance.¹¹⁶ A similar recognition of bodily identity as subjective reality is observable elsewhere in early modern culture, ranging from pornographic images to invocations of spirituality and the divine.¹¹⁷

The challenge for emotion history, then, or for the history of emotion as lived experience, must be to address its complex meanings in the lives of men and women in eighteenth-century England. In other words, we need to analyse the significance of emotion as felt *and* talked about, and as produced in and through the day to day communication of such experiences as love, anger and sadness. In so doing, we can look at emotions less as abstractions or human fixities, but as gendered practices which

¹¹⁶ See chapter 5.

¹¹⁷ On pornography see Bridget Orr, ‘Whore’s Rhetoric and the Maps of Love: Reconstructing the Feminine in Restoration Erotica’ in C. Brant and D. Purkiss (eds.), *Women, Texts and Histories, 1575-1760* (London, 1992), pp.195-217. On the relationship between the physical and the divine, see Roper, ‘Exorcism and the Theology of the Body’, in *Oedipus and the Devil*, pp.171-199; Merry E. Weisner, *Women and Gender in Early Modern Europe* (Cambridge, 1985), pp.41-81.

are realised, naturalised and embedded in and through the relational and organisational, psychological and material processes of daily life. The benefits of this to the study of gender are obvious. Too often, gender is reified and isolated from everyday practice, viewed through the lens of prescriptive ideology and literary evidence, rather than in the context of lived experience.¹¹⁸ And since gender is naturalised, in part, through perceived emotional difference (as under humoral and nerve theory), deconstructing the everyday significance and meanings of affective relations can only add to our understanding of the processes by which gendered subjectivities are produced and reproduced in the field of social relations.

In constructing a history of emotion as embodied lived experience, this thesis does not claim to offer any definitive account of the meanings of emotion in the past. Yet it does aim to demonstrate ways in which early modern historiography can be refined through the recognition of emotions as cultural artefacts, structured and produced through a series of context-based rhetorical and bodily practices. The argument presented in this thesis derives from the close textual analysis of a series of disputes brought before York Consistory and Chancery courts between 1660 and 1760.¹¹⁹ Of course it is not claimed that the evidence found therein provides any more ‘real’ or ‘unmediated’ access to early modern ‘feelings’ than any other historical source. For as intimated above, and discussed in chapter two, historians have no unmediated access to any ‘interior’ world of affect; performances of emotion are always located within specific discursive and non-discursive fields. In the case of verbal and written languages of ‘feeling’, emotion is always shaped by and mediated through a series of structural and textual conventions

¹¹⁸ See Fletcher, *Gender*, *passim*.

¹¹⁹ A detailed discussion of the source base and methodology used is provided in the following chapter.

and expectations.¹²⁰ And as chapters three and four demonstrate, this claim is no less true of such putatively individualistic written sources as love-letters than it is of legally crafted accounts of anger found in slander litigation.

To understand the complexities of emotional performances, however, we need to move beyond the rhetorical and discursive construction of affect to examine the realm of non-discursive or bodily display codes. As seen in chapter five, such somatic indicators of ‘feeling’ as sighs and tears are themselves culturally situated. Moreover, the bodily practice and display of emotion is not confined to the boundaries of the individual *soma*. Using matrimonial separation suits, chapter six refines the historiography of domestic violence by highlighting the centrality of concepts of emotional and psychological cruelty to the interpretation of spousal abuse. In so doing, it demonstrates social and cultural expectations of marital ‘kindness’ and ‘concern’ were manifested and structured not simply through verbal and physical demonstrations of affect, but through the concretisation of ‘feeling’ in the material world.

This approach borrows heavily from the non-Cartesian social ontology of Pierre Bourdieu, who rejects the conventional distinctions between mental and social structures dominating Western modes of thinking about the individual.¹²¹ Rather than viewing psychological and emotional experiences as a result of the shaping mechanisms of external forces – socio-economic, political, theological or medical – it roots meaning in the conflicts and negotiations which took place between men and women in early modern society. In the process, mental and bodily experiences are viewed as the internalization of social processes, and social processes as the embodiment of individual

¹²⁰ The extent to which ‘emotion’ exists outside those performances is a theme considered in the conclusion to this thesis.

dispositions and actions. Emotions are, as Rosaldo puts it, 'embodied thoughts'. They are not simply 'substances in our blood, but social practices organized by stories we both enact and tell. They are structured by our forms of understanding'.¹²² This recognition allows us to move beyond the existing frameworks of early modern history, currently locked into sterile debates over attempts to trace the development of individual psychological structures, or to view those structures as products of social forces. To this end, this thesis argues that emotions are most usefully analyzed not as interior or pre-cultural experiences, but as a series of performances – verbal, gestural, physical, material and symbolic - structured by, and concretised through the realm of the social.

¹²¹ See Pierre Bourdieu, *Outline of a Theory of Practice*, trans. R. Nice. (Cambridge, 1987). Introduction.

¹²² Michelle Z. Rosaldo, 'Toward an Anthropology of Self and Feeling', in Shweder and LeVine (eds.), *Culture Theory*, p.143.

Chapter 2. Affective Testimonies: Narratives of Litigation.

In 1701 Sara Tyndall appeared before York Consistory Court in a case appealed from Chester.¹ Sarah claimed that she and Thomas Tyndall, a gentleman who lodged with her in Holy Trinity parish, Chester, were married at a local church in 1695. Before Richard Neathway, an ordained minister, Sarah and Thomas exchanged vows of matrimony. Though legally binding, this was a clandestine ceremony; no witnesses were present and the marriage took place outside the hours permitted by law.² After the marriage, the two continued to live under the same roof, though Thomas was ‘desirous for some reasons to have the said marriage kept private’. To this end, Thomas ‘did with great concern & earnestness request & with a considerable reward prevail upon Hanna Woodcock (then a maidservant to the said Sara) to make some solemn vows & protestations not to discover the said marriage’.³ When Sara showed concern at Thomas’s behaviour, he assured her of his commitment, declaring his love and bringing Sara a home-made contract of marriage ‘writ... with his own hand in his own blood’.⁴

The contract was soon broken. Four years later Thomas married Elizabeth Booth, a local gentlewoman believed to be a better match for Thomas ‘both in their persons and their age and fortune’.⁵ This time the marriage was ‘publicly solemnized’ in the home of the

¹ BI, Trans C/P 1700/2 (1701) Sara Tyndall c. Thomas Tyndall.

² Social and political agitation over clandestine or irregular marriages gave rise to a variety of legal measures during the late seventeenth and early eighteenth centuries, culminating in the 1753 Marriage Act, 26 George II, cap.32. Clandestine and other forms of marriage formation are discussed in more detail below. On the former, see R.B. Outhwaite, *Clandestine Marriage in England, 1500-1800* (London, 1995), Chapter 2, esp. pp.71,173.

³ Libel in Trans C/P 1700/2 Tyndall c. Tyndall.

⁴ Libel in Trans C/P 1700/2 Tyndall c. Tyndall.

⁵ Testimony of Thomas Allen, 40-year-old gentleman in Trans C/P 1700/2 Tyndall c. Tyndall.

bride's father.⁶ In the face of this insult, Sara launched a suit against Thomas to force him to revoke this illegal second union and to acknowledge his marriage to her. Thomas refused to do so, denying any contract with Sara and claiming to 'utterly abhor[]... any such design'.⁷

A number of Sara's friends and acquaintances testified on her behalf.⁸ Despite the secrecy of Thomas and Sara's union, witnesses observed 'a familiarity' existed between the couple.⁹ Hannah Woodcock, a 23-year-old spinster testified that as Sara's servant she observed 'a mutuall behaviour betwixt' Thomas and Sara, seeing them 'obliging to each other, & often such familiarity & conversation as is usual betwixt lovers'. On more than one occasion, the couple sat up 'late together after the usuall bed time of the Family, and some time till two or three or four of the clock in the morning'. At such times Hannah saw Thomas 'clipping, kissing, and sporting or toying with the said Mrs Tyndale (then Turner) so that this dept did judge the said passages as more than ordinary conversation'.¹⁰ In the absence of any concrete evidence of union then - Richard Neathway having long since absconded - Sara relied on more informal and less tangible indicators of emotional commitment. Central to these were the gestural and verbal performances of affection exchanged between the couple, which were widely interpreted as evidence of Thomas's 'great love and kindness' towards Sara.¹¹

⁶ Testimony of John Taylor, 30-year-old gentleman in Trans C/P 1700/2 Tyndall c. Tyndall.

⁷ Responses of Thomas Tyndall in Trans C/P 1700/2 Tyndall c. Tyndall.

⁸ Libel in Trans C/P 1700/2 Tyndall c. Tyndall.

⁹ Testimony of Rebecca Critchley in Trans C/P 1700/2 Tyndall c. Tyndall.

¹⁰ Testimony of Hannah Woodcock in Trans C/P 1700/2 Tyndall c. Tyndall. See also the testimony of Dorothy Crichley, 48-year-old wife of Alderman.

¹¹ Libel in Trans C/P 1700/2 Tyndall c. Tyndall.

In 1707 Alice Launston from Nether Poppleton also appeared before York Consistory, this time as the defendant in a slander suit brought by George Barrett, Mayor of Hull.¹² Barrett lived next to the Freeman family, who employed Launston as a servant maid. One afternoon he noticed someone had ‘swept some dirt to [his] door’, and, suspecting Launston was to blame, confronted her about it. Launston apparently admitted ‘she had done itt, and said you Rogue I will doo it againe’. Barrett claimed Launston then chased him with her broom, calling him ‘rogue, Rascall, and Villaine’ before she ‘putt the broome into the wett & dirty channell and struck him therewith on the back and spoyled all his cloathes’.¹³

Launston denied these allegations, responding with a separate slander suit against Barrett.¹⁴ Launston claimed she had been about her duties outside the Freeman’s home in Hull when Barrett began to abuse her, calling her ‘whore and an Impudent whore’, ‘bitch and & impudent troll’, and claiming she ‘minded nothing but soldiers’.¹⁵ During the course of the disputes between Launston and Barrett, as in the case between Sara and Thomas Tyndall, notions of blame centred on the themes of emotional and psychological responsibility and culpability. And in both cases, considerable emphasis was placed upon the interpersonal context of conflict. In Launston’s testimony against Barrett much was made of the fact that Barrett spoke ‘in an angry and passionate manner’ against her.¹⁶ In his testimony against Launston, Barrett claimed the defendant was ‘a rude, passionate & evill tongued girle’, whose treatment of him was conducted ‘in a passionate and rude manner’. And as they noted the ‘manner’ in which ‘words and deeds’ were spoken and performed, witnesses observed

¹² BL, CPI 2736 (1707) George Barrett c. Alice Launston.

¹³ Libel in CPI 2736 Barrett c. Launston.

¹⁴ BL, CPI 2768 (1707) Alice Launston c. George Barrett.

¹⁵ Libel in CPI 2768 Launston c. Barrett.

¹⁶ Libel in CPI 2768 Launston c. Barrett.

and interpreted the emotional states and behaviour of litigants.¹⁷ As this chapter will demonstrate, therefore, church court depositions provide an unusually rich source for the examination of early modern emotional practices.

* * *

1. The Courts of York, 1660-1760.

Concerned with the enforcement of spiritual and secular discipline, and forming a hierarchy of overlapping jurisdictions that centred on the diocese, church courts dealt with a broad range of offences in early modern England.¹⁸ Aside from party litigation – which included matrimonial formation and slander disputes, as well as matrimonial separation and testamentary disputes – the courts had disciplinary jurisdiction over cases of adultery and fornication, incest, non-payment of tithes and church disturbances.¹⁹ No less than any other court, ecclesiastical courts were concerned with individual grievances, hopes, disappointments and regrets. Furthermore, ecclesiastical courts were required to transcribe *verbatim* the testimony of men and women like Sarah and Thomas Tyndall, Alice Launston and George Barrett, who gave evidence as litigants, defendants and witnesses. The information produced often exceeded the rudimentary details of the dispute, depicting scenes of angry

¹⁷ See testimony of William Watson and Mary Cowper in CPI 2768 Launston c. Barrett.

¹⁸ For an introduction to the role and function of ecclesiastical courts in early modern England see R. A. Houlbrooke, *Church Courts and People During the English Reformation, 1520-1570* (Oxford, 1979), chapters 1 and 2; R. A. Marchant, *The Church under the Law: Justice, Administration and Discipline in the Diocese of York, 1560-1640* (Cambridge, 1969), chapter 1; C. I. A. Ritchie, *The Ecclesiastical Courts of York* (Arbroath, 1956), Introduction and chapter 1; Martin Ingram, *Church Courts, Sex and Marriage in England, 1570-1640* (Cambridge, 1987), Introduction. A more basic introduction to the court system is provided by Anne Tarver, *Church Court Records: an Introduction for Family and Local Historians* (Chichester, 1995), esp. pp. 1-31.

¹⁹ Some types of cause, such as defamation, could be brought by the office of the judge depending on such factors as the actual words in contest. For a comprehensive list of causes, see Henry Conset in *The Practice of the Spiritual or Separation Courts*, 2nd ed. (London, 1700), pp. 16-18.

confrontations, personal hostilities, romantic delusions, spousal betrayals and sexual rivalries.

Unsurprisingly, therefore, church court testimony has become an invaluable resource in the historical reconstruction and evaluation of social and marital relationships. Since the path-breaking procedural accounts by Houlbrooke and Marchant, a number of historians have used defamation material to explore the role of church courts as a forum for social conflict.²⁰ The often-implicit accounts of sexual beliefs and practices in these studies become explicit in the work of those who, through the use of adultery and fornication material, have attempted to reconstruct early modern sexual relations. Largely as a result of the nature of the sources - disciplinary action over sexual offences often resulting from disputes over poor rates or bastardy presentments - these studies are primarily concerned with the lower social levels.²¹ Scholars deploying techniques of gender and literary analysis provide a more nuanced (and less salacious) approach to the study of sexual politics.²² Historians investigating early modern experiences of marriage and the family have also made extensive use of party litigation, especially spousal and separation suits.²³ Unlike studies of 'correction' causes, matrimonial studies tend to

²⁰ See Marchant, *Church under the Law*, Chapter 1 and Houlbrooke, *Church Courts*, Chapters 1-3. Examples of the literature of dispute include J.A. Sharpe, '“Such Disagreements Betwix Neighbours”: Litigation and Human Relations in Early Modern England', in J. Bossy (ed.), *Disputes and Settlements: Law and Human Relations in the West* (Cambridge, 1983), pp.167-87; *Idem*, *Defamation and Sexual Slander in Early Modern England: The Church Courts at York*, *Borthwick Papers*, 58 (York, 1980); C. Haigh, 'Slander and the Church Courts in the Sixteenth Century', *Transactions of Lancashire and Cheshire Antiquarian Society*, 78 (1975), pp.1-13.

²¹ See for instance, G.R. Quaipe, *Wanton Wenches and Wayward Wives: Peasants and Illicit Sex in Early Seventeenth-Century England* (London, 1989), *passim*; John Addy, *Sin and Society in Seventeenth-Century England* (London, 1989), *passim*.

²² See Steve Hindle, 'The Shaming of Margaret Knowsley: Gossip, Gender, and the Experience of Authority in Early Modern England', *Continuity and Change*, 9 (1994), pp.391-419; Susan D. Amussen, *An Ordered Society: Gender and Class in Early Modern England* (Oxford, 1988), Chapter 1; Laura Gowing, *Domestic Dangers: Women, Words and Sex in Early Modern London* (Oxford, 1996), esp. Chapters 1-3. An obvious earlier example is Natalie Zemon Davis's extremely influential work, *Fiction in the Archives: Pardon Tales and their Tellers in Sixteenth-Century France* (Stanford, 1987), *passim*.

²³ See for instance Lawrence Stone, *Uncertain Unions and Broken Lives: Marriage and Divorce in England, 1660-1857* (Oxford, 1995), pp.1-53, 299-512, and the discussion in *Idem*, *Road to Divorce:*

focus on the middling and upper levels of society, again due to the characteristics of the source base.²⁴ With their concern for the embourgeoisement of English culture and the desire to construct long-term accounts of conjugal sensibilities – usually charting a ‘move away from vulgar, earthy, “animal” passions to “civilised” conduct’ - such accounts often support the progressivist or sentimentalist agendas critiqued in chapter one.²⁵ By contrast, this thesis uses church court evidence to move away from the developmental approach to emotional relations in favour of one that is meaning centred and socially produced. Before discussing this approach in detail, we must examine the body of evidence on which this thesis is based: cases brought to the York courts in the late seventeenth and early eighteenth centuries.

Compared to the considerable amount of research into Tudor and early Stuart court material, records for the Restoration and early eighteenth century are under-explored. In part this reflects broader historiographical trends. For despite the historical importance accorded to the Restoration period as a time of social, political, economic and intellectual transition – the dividing line between ‘pre-modern’ and ‘modern’ sensibilities – the early eighteenth century is one of the least studied areas of English social, political, economic and intellectual history. Perhaps as a result of this neglect, the courts have traditionally been seen as insignificant after the civil war, never recovering their pre-1640 peak. Recent research contradicts this view, demonstrating the

England, 1530-1987 (Oxford, 1990). Introduction: Susan Amussen. ‘“Being Stirred to Much Unquietness”: Violence and Domestic Violence in Early Modern England’, *Journal of Women’s History*, 6 (1994), pp.70-89; Margaret Hunt, ‘Wife-Beating, Domesticity and Women’s Independence in Eighteenth-Century London’, *Gender and History*, 4 (1992), pp.10-30; Anthony Fletcher, *Gender, Sex and Subordination in England, 1500-1800* (London, 1995), pp.99-203; Leah Leneman, *Alienated Affections: The Scottish Experience of Divorce and Separation, 1684-1830* (Edinburgh, 1988), pp.13-30, 324-322.

²⁴ The class and gender basis of litigation receives discussion below.

²⁵ Leneman, *Alienated Affections*, p.4. See also Stone’s attempt to measure marital violence and divorce in the past by ‘modern standards’ in his *Road to Divorce*, p.36. Margaret Hunt criticises the progressivist

considerable strength and influence of the post-Restoration courts.²⁶ Yet most research focuses on the Court of Arches, and the lesser courts of the southern province. The records of the Northern Province, the focus of this thesis, are still under-explored (see fig. 1). And unlike much Court of Arches material available on microfilm, (often also available to the eighteenth-century reading public in the form of anonymous tracts),²⁷ York court records have been largely untouched.²⁸

The Restoration church courts of York, as earlier, came under the auspices of the Archbishop and formed part of a complex, often overlapping series of courts.²⁹ Serving a population of over 800,000, York diocese stretched 125 miles from North to South, and 95 miles from West to East (fig. 2). Its courts also possessed appeal court status. Prior to the civil war, both the Chancery and Consistory courts heard cases from inferior courts within the diocese, including the Episcopal courts of Chester, Carlisle, Durham and Sodor and Man, and the independent consistories of Richmond and Nottingham.³⁰

account of middle-class marriage by noting the preservation (and privatisation) of spousal abuse in the face of notions of 'polite' behaviour. See 'Wife-Beating', pp.10-12.

²⁶ See I.M. Green, *The Re-Establishment of the Church of England, 1660-1663* (Oxford, 1978), Introduction. Studies of the post-Restoration courts include Tim Meldrum, 'Defamation at the Church Courts: Women and Community Control in London, 1700-1745' (MSc, London School of Economics and Political Science, 1990); *Idem*, 'A Women's Court in London: Defamation at the Bishop of London's Consistory Court, 1700-1745', *London Journal*, 19 (1994), pp.1-20; D.C. Beaver, *Parish Communities and Religious Conflict in the Vale of Gloucester, 1590-1690* (London, 1998), *passim*. See also Dave Peacock, 'Morals, Ritual and Gender: Aspects of Social Relations in the Diocese of Norwich, 1660-1703', (DPhil, University of York, 1996), *passim*, and Barry Till, 'The Administrative System of the Ecclesiastical Courts in the Diocese and Province of York, Part III: a Study in Decline', (Borthwick Institute, 1963), chapters 1-3.

²⁷ See for instance Anon, *Arches Court Law... Containing 3 Remarkable Cases* (London, 1735), *passim*.

²⁸ It goes without saying that British histories of divorce are not merely southern-based, but Anglocentric. See Leneman's criticisms in *Alienated Affections*, p.2. Important exceptions of northern research include Sharpe, 'Defamation', *passim*; Philip Tyler, 'The Church Courts at York and Witchcraft Prosecutions, 1567-1640', *Northern History*, 4 (1969), pp.81-109; Peter Rushton, 'Women, Witchcraft and Slander in Early Modern England: Cases from the Church Courts of Durham', *Northern History*, 18 (1982), pp.116-32; Revd. M.D. Smith, *Pastoral Discipline and the Church Courts: the Hexham Court 1680-1730*, *Borthwick Papers*, 62 (York, 1982), *passim*; M. Kennear, 'The Correction Court in the Diocese of Carlisle, 1704-1756', *Church History*, 59 (1990), pp.191-206; David Harley, 'Provincial Midwives in England: Lancashire and Cheshire, 1660-1760', in H. Marland (ed.), *The Art of Midwifery* (London, 1993), pp.27-48.

²⁹ Ritchie, *Ecclesiastical Courts*, Chapters 1-2; Marchant, *Church under the Law*, pp.12-17, 39-40; Till, 'Study in Decline', Chapter 3.

³⁰ See Marchant, *Church under the Law*, pp. 64-66.

Unlike the province of Canterbury, which developed its own appellate or appeal court (the Court of Arches), there was no separate appeal from the diocesan court to a provincial court.³¹ After the Restoration the Chancery was solely responsible for appeal business, including that from York Consistory.³²

The re-establishment of the York courts in the Restoration period, as elsewhere, was something of a piecemeal process.³³ Not until the autumn of 1661 would church courts acquire statutory authority, by the repeal of the Long Parliament legislation. From 1661, however, the York courts received a steady, if modest flow of business.³⁴ Both the Consistory and the Chancery courts experienced an increase in all types of litigation in the 1660s and 1690s (table 1a).³⁵ Indeed, the number of new cases entering the Consistory between 1664-7 (292) was higher than the 243 noted for 1585-6, when the church courts were supposedly at their peak.³⁶ A similar picture emerges from the Chancery court, with a substantial increase in business between 1682-3 (table 1b). As elsewhere, the church courts resumed their status after the Restoration, though changes in the levels and nature of litigation suggest a shift in the social role and function of the courts. As shown in table 2, for example, there was a proportional increase in the

³¹ On the Court of Arches, see Stone, *Road to Divorce*, Introduction.

³² On the jurisdiction and procedure of York's appeal status and function, see W.J. Sheils, *Ecclesiastical Cause Papers at York: Files Transmitted on Appeal, 1500-1883*, Borthwick Texts and Calendars, 9 (York, 1983), Introduction. The Court of Delegates in London occasionally received appeals from the Archbishop's diocesan and provincial courts, though their number and occurrence was significantly less than those from the Southern province. For an introduction to the Court of Delegates see Ritchie, *Ecclesiastical Courts*, Chapter 3, and G.I.O. Duncan, *The High Court of Delegates* (Cambridge, 1971), Introduction.

³³ Green, *Re-Establishment*, Introduction. On York, see the discussion in Till, 'Study in Decline', p.5. See also the regional studies by J. Barry, 'The Politics of Religion in Restoration Bristol', in T. Harris, P. Seaward and M. Goldie, (eds.), *The Politics of Religion in Restoration England* (Oxford, 1990), pp.133-189. For an account which looks at the theme from the perspective of parish reconstruction, Beaver, *Parish Communities*, chapter 7.

³⁴ Act books survive from 1661 and 1667 for the Consistory and Chancery courts respectively. See BI, Cons. AB 76 and Chanc. AB 29.

³⁵ Till, 'Study in Decline', pp.61-63.

³⁶ On sixteenth-century levels of business see Ritchie, *Ecclesiastical Courts*, p.17. Tables 1-2 are based on the laborious Act Book research undertaken by Till. See 'Study in Decline', pp. 61-4.

number of instance suits (those initiated by individuals, rather than ‘office’ suits that were initiated by churchwardens or other officials) after the Restoration. At York, as nationally, this was paralleled by a corresponding decline in the number of correction or disciplinary causes. This type of shift has been viewed elsewhere as evidence of the courts’ role away from the theme of control, (except in the sphere of matrimony), and towards arbitration, as court litigation formed a key stage in the settlement of dispute.³⁷ In place of the previous influence exerted by the courts, it has been claimed, secular modes of moral and social ‘control’ developed, most notably the Societies for the Reformation of Manners.³⁸

The interconnecting themes of control and decline do not concern us here. For rather than viewing the church courts in terms of agency and structure, I am interested in the qualitative analysis of church court records as sites for the investment of meaning and, as intimated by the disputes which introduced this chapter, the production of emotional performances. Although it will be stressed here that we cannot detach ecclesiastical depositions – or any medium for emotional communication – from their circumstances of production, the depositions of litigants and their witnesses are accessible through cause paper analysis. And while there is no substitute for Act Book studies in interpreting levels of business *initiated* in the courts, these are unreliable indicators of the reasons and nature of litigation, and even its outcome. After initial citations were noted, disputes could be referred to again several months later, or not at all. In the event that a suit was terminated soon after its initiation, there was usually no reason given for

³⁷ On this theme, see Sharpe, ‘“Such Disagreements”’, *passim*.

³⁸ See R. Trumbach, *Sex and the Gender Revolution vol. 1: Heterosexuality and the Third Gender in Enlightenment London* (London, 1998), pp.29, 91–4. See also Robert Shoemaker, ‘Reforming the City: The Reformation of Manners Campaign in London, 1690-1738,’ in Lee Davison *et al.* (eds.), *Stilling the Grumbling Hive: The Response to Social and Economic Problems in England, 1689-1750* (New York, 1992), pp.99-120, and John Spurr, ‘The Church, the Societies, and the Moral Revolution of 1688,’ in

the withdrawal or collapse of the suit, or the actual details of dispute. And since going to court was often a tactical measure, intended to provoke an out-of-court settlement, it has been estimated that up to 50% of all suits initiated in the courts ended prematurely.³⁹ Moreover, Act Books do not record depositions or details of the litigant, providing only minimal information about their court appearance (or more often that of their proctors), according to the dates when the courts were in session. For these reasons alone, cause paper analysis is a useful statistical exercise.

In the course of my research, therefore, I have constructed a computerised database of the 3,777 individual cause papers that survive for the period 1660-1760, as listed in the Borthwick Institute Indexes. The causes to which they relate are shown by number and type in tables 3 and 4, and represented in fig.3. I have also transcribed *verbatim* almost a third of the total number of surviving cause papers, which provides an extensive and detailed source base for the argument developed here.⁴⁰ Particular attention has been paid to litigation concerning adultery and fornication, irregular marriage, matrimonial formation and separation, pew disputes, slander suits and, to a lesser degree, tithe and testamentary matters. Moreover, York's status as the first point of appeal for the Northern Province means that in many cases, the testimony produced was more extensive than that found at other church courts.⁴¹ My analysis of this broad data set

John Walsh *et al.* (eds.), *The Church of England c. 1689-1833* (Cambridge, 1993), pp.127-142. The regional influence of such societies awaits further research.

³⁹ See Sharpe, "Such Disagreements", pp.182-7. From her study of London Consistory court, Gowing noted that fewer than 25% of cases progressed to sentence. See *Domestic Dangers*, p.39. Stone found that around 60% of matrimonial cases brought to the Court of Arches during this time were terminated before sentence. See *Road to Divorce*, p.37. This was a phenomenon also found in secular courts. Robert Shoemaker estimates that between 56% and 73% of disputes for assault, riot and defamation coming before JPs in Wiltshire and Hackney were settled informally. See his *Prosecution and Punishment: Petty Crime and the Law in London and Rural Middlesex, c.1660-1725* (Cambridge, 1991), p.55.

⁴⁰ I have transcribed over 1,000 cases *verbatim*. This has provided me with a data set of 2,000 individual libels, responses and counter-allegations produced by plaintiffs and defendants, and more than 3,000 witness statements and interrogatories. The process involved in litigation is considered in detail below.

⁴¹ For an obvious exception, see Stone's discussion of London's Court of Arches, *Road to Divorce*, Introduction. Thanks to Dave Peacock for providing information about the detail and structure of

has therefore informed my understanding of narrative technique and legal process. Yet some cases are obviously more amenable than others to the analysis and reconstruction of emotional performances. As in the cases of Sara and Thomas Tyndall and Alice Launston and George Barrett that introduced this chapter, matrimonial and slander disputes often became social rather than individual concerns, involving the testimonies of large numbers of interested parties. In the process, such cases reveal much about the specificities of individual disputes, as well as wider marital and social negotiations of class and gender relations.

Reconstructing the socio-economic base and lifestyle of litigants in matrimonial and slander disputes, however, is not straightforward. In part, this reflects the fact that church courts often omitted to include the occupations of plaintiffs and defendants. In accordance with most sources from the early modern period, they also tended to include women under their husbands' occupations, or by marital status.⁴² Reluctantly, this system of classification is, albeit problematically, followed here. Yet there are further complexities to consider in reconstructing socio-economic status of litigants, not least the sheer size of the York diocese. Leaving aside the courts' appellate or appeal status, early modern Yorkshire was economically, politically and socially diverse, and home to men and women from vastly different backgrounds, lifestyles and cultural beliefs.⁴³ And there were regional differences in the frequency with which men and women visited the

litigation at the Norwich courts. For an invaluable introduction and guide to the appeal cases brought to York during the period, see Sheils, *Ecclesiastical Cause Papers*, *passim*.

⁴² On this theme see Penelope J. Corfield, 'Defining Urban Work', in P.J. Corfield and D. Keene (eds.), *Work in Towns, 850-1850* (Leicester, 1990), pp.207-231.

⁴³ For an introduction to Yorkshire's diversity, see N. McCord and R. Thompson, *The Northern Counties from AD 1000* (London, 1998), pp.173-188 and the now aged but comprehensive *Victoria County History: The County of Yorkshire*, 2, ed. W. Page (1912, repr. London, 1974), pp.329-453. This is supplemented by the more recent and extensive *The Agrarian History of England and Wales*, ed. G.E. Mingay, vols. 5 and 6, (Cambridge, 1989). For a discussion of the linkages between regions, economics and cultures, see R.W. Unwin, 'Tradition and Transition: Market Towns of the Vale of York, 1660-1830', *Northern History*, 17 (1981), pp.72-117. Further regional studies are discussed below.

courts, a factor which must be attributable to the more populous, accessible, and wealthy nature of the West (see table 5). This diversity was arguably exacerbated by the socio-economic developments of the eighteenth century. Historians of northern England have identified the same kinds of commercial, industrial and social changes taking place as outlined in the previous chapter, all of which are assumed to have had direct consequences in the living, working and affective lives of eighteenth-century people. Of particular significance are the late seventeenth-century growth of the wool and textile industries in Yorkshire, and the perceived emergence of new working practices and class relations.⁴⁴

Of course eighteenth-century Yorkshire cannot be isolated from the kinds of demographic and economic developments seen elsewhere. These included a rise in population until around 1700, and its subsequent stagnation until the latter part of the eighteenth century,⁴⁵ the emergence of industrial centres like Leeds and Sheffield, as well as the emerging cultures of mercantile consumerism found in spa-towns and urban centres alike.⁴⁶ Yet as Maxine Berg ably demonstrates in her account of eighteenth- and nineteenth-century industrialisation, revolutionary models of change fail to take account of economic continuities and contradictions.⁴⁷ Moreover, such linear accounts, which invoke 'modern' class-based forms of social organisation, are tempered by observations that though certain regions of Yorkshire - particularly the West Riding - experienced

⁴⁴ See Derek Gregory, *Regional Transformation and Industrial Revolution: a Geography of the Yorkshire Woollen Industry* (Minneapolis, 1982), Introduction; Maxine Berg, *The Age of Manufactures, 1700-1820: Industry, Innovation and Work in Britain*, 2nd ed. (London, 1994), pp.41-3; John Smail, *The Origins of Middle-Class Culture Halifax, Yorkshire, 1660-1760* (Ithaca, 1994), p.56.

⁴⁵ On this theme see Phyllis Deane, *The First Industrial Revolution* 2nd ed. (Cambridge, 1992), p.59, and E.A. Wrigley and R.S. Schofield, *The Population History of England, 1541-1871: a Reconstruction* (London, 1981), pp.178-9.

⁴⁶ Paul Langford, *A Polite and Commercial People: England, 1727-1783* (Oxford, 1992), chapter 3. For a regional example of the emergence of a particular form of merchant clothier class, see Smail, *Origins*, chapter 3.

⁴⁷ Berg, *Age of Manufactures*, pp.7, 65.

economic expansion from the late seventeenth century, its impact was not felt until the late eighteenth and early nineteenth centuries.⁴⁸ And the less populous North and East Ridings continued to be scarcely populated and based primarily on livestock and agricultural production. An awareness of the limits of modernisation narratives and of the historical instabilities of concepts like ‘class’, has resulted in a number of nuanced regional attempts to reconstruct everyday patterns of work and culture.⁴⁹ Central to these endeavours is the attempt to locate particular versions of class-consciousness, particularly as the eighteenth century is increasingly viewed as the time when the ‘middling classes’ began to form a coherent and expansive social group.⁵⁰ This historical sensitivity to the meanings of class as construct, or ‘culture’ is relevant,⁵¹ for it necessitates a move away from the long-term progressivist narratives of change critiqued in the previous chapter, towards a theory of identity formation based on the everyday themes of social practice.⁵² To understand how these considerations might influence our analyses of the kinds of people testifying in matrimonial and slander disputes and to consider what their testimony brings to our understanding of eighteenth-century subjectivity and social relations, we need to turn to the evidence found in matrimonial and slander suits.

⁴⁸ For a regional example see Donald Woodward, *Men at Work: Labourers and Building Craftsmen in the Towns of Northern England, 1450-1750* (Cambridge, 1995), pp.10-11. Changes in female work patterns – and the impact of such patterns of broader macro-economic models have only recently been appreciated. See Berg, *Age of Manufactures*, chapter 7.

⁴⁹ Smail, *Origins*, chapter 3; Woodward, *Men at Work*, p.11.

⁵⁰ Smail, *Origins*, p.12. Examples include Langford, *Polite and Commercial People, passim*, and Peter Borsay, *The English Urban Renaissance: Culture and Society in the Provincial Town, 1660-1770* (Oxford, 1989), pp.226-31, as well as much of the literature of sentimentalism and ‘manners’ discussed in the previous chapter.

⁵¹ Smail, *Origins*, p.16.

⁵² To this end, promising research focuses on the relationships between class formation and property relations, and the construction of (gendered) identity through language. See for instance Lorna Weatherill, ‘The Meaning of Consumer Behaviour in Late Seventeenth- and Early Eighteenth-Century England’, and Amanda Vickery, ‘Women and the World of Goods: a Lancashire Consumer and her Possessions, 1751-81’, in J. Brewer and R. Porter (eds.), *Consumption and the World of Goods* (London, 1993), pp.206-217, 274-301. See also the themes raised by P. Burke and R. Porter (eds.), *Language, Self and Society: a*

As detailed in tables 3 and 4, there are 53 surviving cause papers for matrimonial separation at the courts of York. A list of the 40 most detailed cases – and consequently those studied in this thesis – is provided in appendix 1. Explanations of some of the socio-economic categories used are detailed, with their originating sources, in appendix 2. There is insufficient space here to discuss the legal criteria for separation during the seventeenth and eighteenth centuries, though this theme, or a re-evaluation of this theme, is addressed in chapter six.⁵³ If we look at the socio-economic structure of litigants, however, we find that matrimonial separation suits were largely the reserve of the wealthiest members of society. As shown in table 6, 40% came from the ‘middling sorts’, a category which included wealthy clothiers, professionals and yeomen.⁵⁴ A further 34% of male defendants were problematically defined as ‘gents’ or ‘gentlemen’, a term taken to mean, following Margaret Hunt, the gentry class whose income derived from property and rents, though the connection between gentry status and the professions at this point was mutable.⁵⁵ Though small, the proportion of titled aristocrats litigating (10%) is also significant, as only a handful of litigants came from the mass of textile workers, craftsmen and lower middle levels of society.⁵⁶ And there were no litigants at all from the very poor, a factor which seems unremarkable when we remember that the costs of litigating in marriage separation suits could be extremely high.

Social History of Language (Cambridge, 1991), *passim*.

⁵³ For an introduction to the most important issues see Stone, *Road to Divorce*, Introduction.

⁵⁴ The socio-economic classifications used here are explained in appendix 2.

⁵⁵ See Margaret Hunt, *The Middling Sort: Commerce, Gender and the Family in England, 1680-1780* (London, 1996), pp. 15-17. See also the discussion of leisured and professional gentry in G.E. Mingay, *English Landed Society in the Eighteenth Century* (London, 1963), p.6, and Smail, *Origins*, Introduction.

⁵⁶ On the Yorkshire aristocracy see P. Roebuck, *Yorkshire Baronets, 1640-1760* (London, 1980), Introduction. See also J. Cannon, *Aristocratic Century: The Peerage of Eighteenth-Century England* (Cambridge, 1980), *passim*, and J.V. Beckett, *The Aristocracy in England, 1660-1914* (Cambridge, 1984), Introduction.

All ecclesiastical litigation could be expensive, though, as detailed below, there were some financial measures in place to assist impoverished litigants. Cost of litigating depended on the type of dispute, the quality of legal counsel, the length of time the case lasted, the numbers of witnesses testifying, (for the latter received expenses, which could escalate if they lived some distance from the courts and had to stay in lodgings), and the volume of paperwork involved. The cost of litigating at York varied enormously, from a few shillings to tens of pounds if the suit was continued to its conclusion.⁵⁷ Moreover, marital separation was the most expensive and contested form of litigation. Along with the usual costs involved in the production and maintenance of a suit, separation increasingly involved hiring specialist counsel, and could drag on indefinitely.⁵⁸ A suit for separation on the grounds of cruelty or adultery could force a man to provide his wife with a separate maintenance for the rest of her life, or conversely, absolve him from any economic obligation.⁵⁹ In addition, the losing party would be required to pay the court costs of the victor.⁶⁰

The second type of cause addressed in this thesis, matrimonial formation litigation, was less expensive, though to a lesser degree it was also dominated by the middling and upper social ranks. As shown in tables 3 and 4, there are 55 cause papers concerned with matrimonial formation surviving at York. Of the 30 which inform the argument of this thesis, 22% of litigants came from the gentry ranks, and 17% from the 'middling

⁵⁷ Expense was one of the reasons why cases tended to peter out after the initial citation, as discussed above.

⁵⁸ One example is the case of Anne and Zachariah More, discussed in a case study in chapter 5. Anne's case against Zachariah involved no fewer than 24 witnesses, and dragged on for nearly 4 years. See BL, CPI 699 (1719-22) Anne c. Zachariah More of Lofthouse. In her study of Scottish court records Leah Leneman similarly notes the length of time involved in matrimonial separation suits. 6.7% of the suits she analysed lasted for more than 2 years. See *Alienated Affections*, p.14.

⁵⁹ See Stone, *Road to Divorce*, chapter 8.

⁶⁰ Though separation suits at York seem to have cost a fraction of those identified by Stone at the Court of Arches, it was not unusual for basic costs and fees involved (excluding witness and party expenses and the services of proctors), to total £12-13. On the Court of Arches, see Stone, *Road to Divorce*, p.186, and

sorts', (see table 7, and appendices 2-3). Yet a relatively large number of disputants came from the servant class, and the existence of such inter-class litigation is not coincidental. There were many types of matrimonial formation dispute brought to court in the seventeenth and eighteenth centuries.⁶¹ Most common among these was contract or spousal litigation, or disputes that resulted over the existence of a pre-nuptial contract or a promise to marry. And whilst conflicts over dowry payments and matrimonial agreements characterised formation disputes among the upper levels of society,⁶² the petitions of servant women were almost always directed against their employers. Thus the petition of Elizabeth Balgie, a servant maid from Fetherstone, was fairly typical.

In 1684, Elizabeth claimed that she had entered into a contract of marriage with her then employer William Wrightson, before becoming sexually involved with him. When she became pregnant, William apparently assured Elizabeth's mother that the two would be married in church, telling her to 'goe to Pontefract and buy her said daughter an Easter hat'.⁶³ The wedding was prepared and guests invited, but William did not show up. He later refuted any notion of a relationship between he and Elizabeth, insisting that he had never offered 'any love kindnesse or affection to the arlate Elizabeth Balgie in the way of marryage'.⁶⁴ As this evidence suggests, matrimonial formation and separation suits were alike concerned with the contestation and negotiation not only of economic or practical unions, but affective commitments that had been betrayed or rejected. Before we consider the significance of such testimony for the performance of affective relations

for an example from York see BI, Trans C/P 1748/1 (1748) George Surtees c. Elizabeth Surtees.

⁶¹ For an introduction, see Stone, *Road to Divorce*, pp.49-121.

⁶² See for instance Michael Rymer's petition against Francis Fairfax in 1686. Rymer, a clerk, claimed that he and Francis were contracted to marry. Francis, daughter of Lord Fairfax of Denton, denied the existence of such a contract. BI, CPH 3695 (1686) Michael Rymer c. Francis Fairfax.

⁶³ Testimony of Anna Balgie, mother of the plaintiff and William Wrightson in BI, CPH 3838 (1684) Elizabeth Balgie c. William Wrightson. See also libel in BI, CPI 3 (1702) Hannah Oliver c. Robert Northend.

⁶⁴ Responses in CPH 3838 Balgie c. Wrightson.

in early modern marriage, we need to address the third and final sample on which this thesis is based: slander disputes.

Like matrimonial formation and separation suits, the records of slander litigation have been much studied in recent years.⁶⁵ In important ways the dispute between George Barrett, a local dignitary, and Alice Launston, a servant, which introduces this chapter was not unusual. Slander disputes involved a greater cross-section of the population than any other form of party litigation, as detailed in a sample of 100 suits shown in table 8, and listed in appendix 4. Unlike matrimonial litigation, a relatively small proportion of litigants (4%) was designated 'gent' status, and there were no disputants in the sample studied from the highest social levels. There are some commonalities between these findings and those noted elsewhere. In her study of London Consistory, for instance, Gowing notes that the majority of seventeenth-century slander disputants derived from 'London's large variety of trades and crafts', with some middling class but no noble or gentry involvement.⁶⁶ And Trumbach's more recent study of the eighteenth-century business of London Consistory found the majority of litigants in slander suits to be 'master artisans or poorer'.⁶⁷

In this context, it is important to note that York also had a high number of female disputants in slander causes as compared to other forms of litigation. Though to a lesser degree than that identified by Gowing and Meldrum, the proportion of female litigants in slander suits at York is striking.⁶⁸ Women accounted for only 28% of plaintiffs and

⁶⁵ See fn20.

⁶⁶ Gowing, *Domestic Dangers*, pp.48-9, 12-19.

⁶⁷ Trumbach, *Sex and the Gender Revolution*, p.34. Yet Meldrum notes significant numbers of men and women from the 'middling sort' in his study of the London Consistory records. See 'A Women's Court', esp. p.7.

⁶⁸ Gowing, *Domestic Dangers*, p.33; Meldrum, 'A Women's Court', p.5

24% of defendants in the 3,777 cause papers surviving for the period studied (see fig.5). Yet 55% of all slander suits were presented by, and 41% defended by, female litigants. The effects of this on cross-gender disputes is made clear in fig 4, produced from the analysis of all surviving slander suits from the period 1660-1760. Women sued other women for slander in 26% of cases and they sued men in 29% of cases. Men's litigation was primarily directed at other men, (30%), with only 15% of suits featuring male litigation against women. Though far lower than the involvement of women as plaintiffs and defendants observed in Gowing's study of London Consistory court, these figures provide striking evidence of women's involvement and investment in the management of slander disputes at York.⁶⁹

Yet the narratives of dispute also reveal much about the performance and performativity of affect. Indeed, there are some interesting discursive parallels between the performance of emotion at the level of social practice, and an expanded interpretation of the 'vocabulary' of subjective identity found in Smail's discussion of class.⁷⁰ For the evidence found in slander and matrimonial disputes at York reveal the ways individual and collective identities were produced in and through a nuanced range of display codes that centred on discursive and non-discursive, physical and symbolic modes of communication. Thus in matrimonial formation disputes, men and women of all social levels invoked the range of emotional, material and symbolic practices involved in signalling and communicating affective intent.⁷¹ In separation suits, moreover, they contested and negotiated the meanings of a lack of 'kindness' or conjugal affect, and again that was produced and articulated through a variety of bodily, rhetorical and material performances. Equally suggestive is the ways slander suits demonstrated,

⁶⁹ See Gowing, *Domestic Dangers*, p.60.

⁷⁰ Smail, *Origins*, p.230.

through a particular discursive register, the production and performance of ‘anger’ as a subjective and social, aural and verbal display of feeling. While traditional historiography views the expression of emotion in the church courts as relatively unproblematic, therefore, - matrimonial separation suits providing evidence of patriarchal aggression and slander disputes as evidence of ‘hot blood’ – the matter is far more complex.⁷²

2. Structure and Process: Narrativity and the Church Courts.

The implications of this claim are far-reaching, not least in terms of historians’ traditional use of church court records to justify the kinds of evolutionary narratives critiqued in chapter one. In each of the kinds of case discussed here, elaborate recreation of the mental and social world in which conflict occurred was central to the depositions of litigants and their witnesses, as each party sought to prove their moral and legal right. Let us consider for a moment the suits that introduced this chapter or the matrimonial formation dispute between Wrightson and Balgie discussed above. In these cases, as in each that came before the courts, litigants invoked a range of forms of ‘proof’ in support of their cause. In the process, the gestural, physical and verbal characteristics displayed, the persons present and the times, places and dates of dispute - even the possession of an Easter hat - were unravelled through a unique blend of legalistic jargon and colloquial phraseology that suggests privileged access into litigants’ experiences. In Stone’s terms, the historian seems to become a ‘voyeur’, ‘peering through key-holes’ and listening to ‘conversations around the fire in the kitchen’ as ‘the dead rise up from

See chapter 4.

⁷² See chapters 3 and 6.

their graves and speak to us in their own words about what they saw, heard, felt and thought'.⁷³

Yet this sense of intimacy is illusory, for there was and is nothing unmediated about the construction of depositions in the church courts. Although they are a uniquely rich source of information about the day to day emotional and psychological experiences of men and women, church court testimonies are no more able to 'penetrate into the hearts and minds of persons in the past' than any other historical source.⁷⁴ The depositions of litigants and witnesses were subject to a highly specific series of shaping mechanisms which historical analyses need to take into account. Moreover, the neglect of these constraints, and the legalistic and literary conventions in which church court testimony was embedded has served to bolster the progressivist bias of much literature on marriage and the family during the long eighteenth century. As discussed in chapter one, this thesis challenges such traditional meta-narratives as sentimentality and progressivism, and explores the meanings and constructions of emotions – particularly romantic love, anger and grief or sadness - as culturally situated performances. It also addresses broader questions about the relationship between legal structures and social practice; the complexities of emotional rhetoric; the relationship between experience and expression; and the traditional dichotomies of self/society, mind/body, and discursive/non-discursive phenomena that dominate theories of affect. In so doing, it challenges some methodological principles of church court historiography.

Despite the traditionalism of Stone, there has been a recent shift away from viewing church court testimony, and indeed all forms of litigation material, as windows onto the

⁷³ Stone, *Road to Divorce*, p.14.

⁷⁴ Stone, *Road to Divorce*, p.14

past. Ever since Natalie Zemon Davis's account of pardon tales in sixteenth-century France, many historians have demonstrated greater sensitivity to the processes by which narratives of litigation are crafted and disputed in the courtroom setting.⁷⁵ Gowing's account of the 'story-telling frame' employed by witnesses is instructive, as she sensitively attempts to reconstruct the conscious and unconscious patterning of church court testimonies in relation to culturally available archetypes.⁷⁶ In the process, the deposition is politicised as 'an unusual verbal and narrative opportunity' for women typically excluded from platforms of self-expression. As Gowing sees it, this was a chance for women to tell stories in court 'using linguistic practices, familiar story-lines, and shared perceptions through which their audience, lay or legal, could engage in the story'.⁷⁷ Secular court records are similarly interpreted as instruments in the articulation of female experience. Thus Miriam Chaytor finds in seventeenth-century assize depositions evidence of women's suppressed memories of rape, in the belief that textual absence represents 'thoughts which cannot be read directly'.⁷⁸ The work of Zemon Davis, Chaytor, Gowing and others has been deservedly influential, opening up new areas of research and prompting a number of historians to focus on church court testimony as 'multi-layered stor[ies]' in their own right.⁷⁹ In this context, 'what really matters', as one recent account insists, 'is what people said of each other and how they chose to structure their stories'.⁸⁰

Yet there are significant problems in this approach. As in more traditional methodologies found in the work of Stone and others, inner feelings, sentiments and

⁷⁵ Zemon Davis, *Fiction in the Archives*, esp. Chapters 1-2.

⁷⁶ Gowing, *Domestic Dangers*, pp.54-55.

⁷⁷ Gowing, *Domestic Dangers*, pp.54, 56.

⁷⁸ Chaytor, M. 'Husband(ry): Narratives of Rape in the Seventeenth Century', *Gender and History*, 7 (1995), pp.378-408, esp. pp.382-3.

beliefs are unproblematically accessed through the historical record with insufficient consideration of the legal and inter-personal constraints placed on litigants' testimonies. Of course it is crucial to deconstruct the language found in court testimonies to expose the widely held cultural beliefs, conventions and assumptions in which it is embedded. After all, this is consistent with a vast body of literature addressing the opacity of language and the narrativity of everyday life.⁸¹ All too often, however, there is a lack of engagement with the *specificities* of textual production, the needs and expectations of the church court process and participants, and in particular, the roles of proctors, clerks and judges in influencing the ultimate shape and content of litigants' or witnesses' testimony.

Such figures have not, of course, been completely ignored. Gowing, and more recently Peacock have both accepted that the interventions of proctors and clerks impacted on the final shape of a litigants' story as it was transcribed in the historical record.⁸² But these are no more than passing acknowledgements of the context of textual production. As a result individual psychological experiences are conceived as pre-existing, individualist structures coming into contact with and mediated by - rather than being produced in and through - the institutional framework of the courts. And individual psychological experience stands outside the realms of the collective: as historical actors men and women might borrow from a shared stock of imagery, stories, beliefs and

⁸⁰ Elizabeth Foyster, *Manhood in Early Modern England: Honour, Sex and Marriage* (London, 1999), p.14. See also Peacock, 'Morals, Rituals and Gender', esp. Chapter 3.

⁸⁰ Peacock, 'Morals, Rituals and Gender', p.65.

⁸¹ See for instance Barbara Herrnstein Smith, 'Narrative Versions, Narrative Theories', in W.J.T. Mitchell (ed.), *On Narrative* (Chicago, 1981), pp.213-218; Hayden White, 'The Value of Narrativity in the Representation of Reality', in Mitchell (ed.), *On Narrative*, pp.13-14; and M. Foucault, *Language, Counter-Memory, Practice: Selected Essays and Interviews*, ed. D.F. Bouchard, (New York, 1977), *passim*. Examples of historical interest in language include Peter Burke, 'Languages and Anti-Languages in Early Modern Italy', *History Workshop Journal*, 11 (1981), pp.24-32, and Burke and Porter (eds.), *Language*, *passim*; Laura Gowing, 'Gender and the Language of Insult in Early Modern London', *History Workshop Journal*, 35 (1993), pp.1-23.

linguistic conventions, but they retain ‘verbal agency’ and the control of the script.⁸³

Ultimately, in other words, the ‘authentic voice of witnesses can still be discerned’.⁸⁴

This approach provides an overly simple account of the relationship between self, language and the law in the courtroom setting. For narrative strategies are always embedded in, and inextricable from the circumstances of their production.⁸⁵ This has theoretical implications, for the notion of an ‘authentic’ voice presupposes the existence of an ‘authentic’ and stable self that lives beyond and outside the historical record. And that, of course, is the very issue that this thesis seeks to overcome through the analysis of emotional experience as processual, performative, and contingent. To concretise some of these issues, and to establish the modes of analysis pursued in this thesis, we must first address in detail the actual narrative processes involved in the construction of church court testimony, and the broader, legal context in which it was produced.

We have seen above that unlike most other forms of litigation, ecclesiastical testimony was recorded *verbatim*. We have seen that the scope and influence of the church courts was diverse and all encompassing, and that women were provided with unparalleled access to engage in litigation in their own right. Yet there were also a number of required procedures to be followed by litigants and their witnesses in office and party litigation suits alike. And the influence of those procedures cannot be overstated. All plaintiffs and defendants were required to employ the services of a church court lawyer

⁸² Gowing, *Domestic Dangers*, p.235, and Peacock, ‘Morals, Rituals and Gender’, pp.66-67.

⁸³ Gowing, *Domestic Dangers*, p.262.

⁸⁴ Peacock, ‘Morals, Rituals and Gender’, p.67.

⁸⁵ For a recent exposition of this viewpoint which explicitly challenges the conclusions of Chaytor, see Garthine Walker, ‘Rereading Rape and Sexual Violence in Early Modern England’, *Gender and History*, 10 (1998), pp 1-26

or proctor to act on their behalf.⁸⁶ Proctors were trained in ecclesiastical law and admitted to specific courts as practising counsel.⁸⁷ That proctor would be constituted as the plaintiff or defendant's proxy through the drawing up of a 'publick Instrument', or through a private agreement witnessed by a Notary Public and others.⁸⁸ Technically, the potential litigant could hire more than one proctor, but there is no evidence of this at York during the period.⁸⁹ In party litigation the institution of a proctor was followed immediately by the production of a citation against the defendant. Usually delivered to the defendant's home, the citation (described as a 'Judicial Act' by Conset), contained the name of the judge, the nature of the suit, the name of the plaintiff, and the date, time and place where the case would be heard.⁹⁰ The defendant did not necessarily need to appear in person, depending on the nature of the cause. Citations could therefore be general, asking the defendant to appear for the 'whole cause and order of proceedings', or specific, when s/he would be asked to appear for a particular purpose on one or more occasions.⁹¹

Once the citation had been issued, the defendant's legal options were limited. If he or she was a minor, then the case became invalid, as there was a minimum age at which litigants and witnesses could testify. However, there was considerable confusion at York, and perhaps nationally, over the designation of minority, as definitions were variously given as 7, 14, 20, 21, or even 25 depending on the nature of the cause.⁹² At York disputes arose over the age of defendants and witnesses on more than one

⁸⁶ Ecclesiastical court procedures are detailed in Chapman, *Ecclesiastical Courts*, esp. chapter 2. For an introduction to the work of church court proctors, see C.W. Brooks, 'The Common Lawyers in England, c. 1558-1642', in W. Prest, (ed.), *Lawyers in Early Modern Europe and America* (London, 1981), pp.42-64.

⁸⁷ See Conset, *Practice*, p.30.

⁸⁸ Conset, *Practice*, p.30.

⁸⁹ See Till, 'A Study in Decline', p.125.

⁹⁰ Conset, *Practice*, p.26. The York Consistory court was held in the Minster.

⁹¹ See Conset, *Practice*, p.27.

occasion. In 1754 for instance. Joseph Webster was cited in a slander suit by Susannah Bellas, who alleged that Webster told her to ‘hold thy tongue nasty whore’.⁹³ Joseph Webster did not respond to the citation but his guardians did, claiming that he was no more than 20 years old, and consequently not responsible for his actions in the church courts. Bellas testified that Webster was 21, and therefore accountable, but her case failed because she could not prove this to the satisfaction of the court. Ordinarily, the age of the contested party would have been established by tracing and producing the relevant certificate of baptism. But in this instance, Joseph came from a family of dissenters, and had not been baptised in the parish church.⁹⁴

Aside from the claim of minority, there was no legal justification for a defendant (or his or her designated proctor) failing to appear to answer the plaintiff’s accusations. Indeed, refusal to attend could result in a charge of contumacy, leading to excommunication, and even imprisonment. Excommunication could be minor or major: in the former, the excommunicate was prevented from attending church or receiving communion; in the latter s/he could be refused the company of the faithful, and become a social outcast. If the excommunicate remained in this position for 40 days, with no satisfaction made to the church court, then the secular authorities could become involved. The defendant could ultimately be imprisoned until the accusations of contempt of court were satisfactorily responded to, and contumacy fees were paid. This exertion of court discipline was not common at York, but it could and did happen.

In 1736, for instance, Martha Kearsley, wife of Samuel Kearsley, an inkeeper from Manchester, brought a slander suit against Hannah Shuttleworth, wife of George

⁹² Conset, *Practice*, pp.34, 51.

⁹³ Libel in BL, CPl 1326 (1754) Susanna wife of William Bellas c. guardians of Joseph Webster.

Shuttleworth, yeoman.⁹⁵ Martha claimed Hannah had ‘uttered spread and published... several scandalous and defamatory words to of or against’ her, including that she ‘was a whore & a poxed whore’ who ‘kissed with young gentlemen for half a guinea a time in the absence of her husband’.⁹⁶ The case proceeded as usual, with witnesses being called to testify for the plaintiff and the defendant, when routine enquiries revealed the plaintiff was ‘suspected to keep a lewd & disorderly house and to encourage young men and young women to be naught together’. Moreover, it seemed that Kearsley had recently been ‘suppressed by the Justices of the Peace for keeping the same’ and ordered to ‘quit the said House’.⁹⁷ As was usual in such circumstances, Kearsley was summoned to court in person at the request of the defendant’s proctor, to respond to these claims. Yet Kearsley refused to appear.

Some months passed before Kearsley was again cited to attend court. Again, she failed to do so. On 21 April 1736 Kearsley was declared contumacious, and the judge issued a ‘mandate for denouncing her to be excommunicated’.⁹⁸ Despite this action, Kearsley refused to pay the necessary fees of contempt. She was arrested, and placed in Lancaster gaol, where she seems to have remained until 4 December 1740. Act Books record that on this date her proctor signified Kearsley’s willingness to pay the £6/6- owing to the court in costs and to ‘take her oath to obey the law’.⁹⁹ Kearsley was then released from gaol and from her excommunication, but immediately found herself subject to an appeal

⁹¹ CPI 1326 Bellas c. Webster.

⁹⁵ BI, Trans C/P 1740/3 (1740) Martha Kearsley c. Hannah Shuttleworth.

⁹⁶ Libel in Trans C/P 1740/3 Kearsley c. Shuttleworth.

⁹⁷ Interrogatories in Trans C/P 1740/3 Kearsley c. Shuttleworth.

⁹⁸ Writ of Excommunication in Trans C/P 1740/3 Kearsley c. Shuttleworth.

⁹⁹ Trans C/P 1740/3 Kearsley c. Shuttleworth.

from Shuttleworth, which demanded the payment of Shuttleworth's litigation expenses and fees (totalling £12/01/03).¹⁰⁰

In the majority of cases, there was no alternative but for a defendant and plaintiff to enlist a proctor and follow the dictates of the court. Despite the costs of litigating, detailed above, poverty was not sufficient grounds for a defendant's refusal to act, for there was scope for litigants to be dealt with via *informa pauperis*. This meant that s/he might - in the case of legacy or tithe - be obliged to pay the necessary fees to the court and to the proctor at a future date if his/her case proved unsuccessful. In some other cases the plaintiff or defendant could be excused from paying fees altogether, providing it could be proven that s/he was not 'worth above five pound in his own proper debtless Goods'.¹⁰¹ In such a case the plaintiff or defendant would be assigned a Proctor obliged, or even compelled to act free of charge for his client. This was a considerable loss to the officials concerned: on average, proctors charged 6-8 shillings per day.¹⁰² There were also a number of informal means by which a litigant might seek the financial assistance of the courts. In 1703, for example, Benjamin Whitton, a labourer from Leeds, was accused of slandering John Purdue, also of Leeds. Whitton sent a petition to the Archbishop of York, asking to be liberated from the prosecution on the grounds that he was poor, but also because the slander involved - that Purdue was 'a cheat a Rogue & a Knave' - were not strictly actionable in an ecclesiastical court.¹⁰³ Whitton denied having spoken these words, and informed the Archbishop that he was a 'poor labourer... left by his deceased father (who was likewise a poor man) the charge & care of bringing up three small children of his fathers' without any thing but his

¹⁰⁰ Trans C/P 1740/3 Kearsley c. Shuttleworth.

¹⁰¹ In the 'inferior courts' of London Consistory and the archdeaconries of Middlesex this figure was 40 shillings. See Conset, *Practice*, pp.56-7.

¹⁰² Till, 'A Study in Decline', p.140.

labours'. For these reasons, Whitton continued, he was 'not able to contest the matter with the said Purdue, but is likely to be denied communion with the church of God for his inability to answer the said Purdue's groundless suit'. Fearing 'the censure of excommunication above all things' Whitton went on to ask for a 'stay' in the proceedings. Christopher Wilkinson, curate of Arnley and eleven other men from the village counter-signed this petition that stated the accused to be 'a very Industrious sober man, & a constant frequenter of divine service.'¹⁰⁴ The Archbishop's response is not recorded.

In the majority of cases, defendants directly contested the allegations of plaintiffs, and the case thenceforth followed a prescribed pattern. The plaintiff's proctor would issue a libel, a written statement of numbered paragraphs setting out the details of complaint. The textual conventions of those complaints depended on the type and date of the cause.¹⁰⁵ Each article of allegation required a response from the defendant, and *responsa personalia* could either deny or accept the matter in contest. In the case of denial, the libel would thereafter be termed the 'Allegations'. The content of those allegations could be amended only before the suit was contested, (i.e. before the defendant made his or her answer to the libel). This answer could be 'affirmative' or 'negative'. In the former, the defendant would admit to the allegation by offering a 'qualified' or unqualified confession. An unqualified confession meant that the defendant would 'submit himself to the Judge and offer what Charges are to be Taxed'.¹⁰⁶ A qualified confession, however, urged extenuating circumstances which had yet to be taken into account, and implied that 'some certain Qualities or Circumstances... [had

¹⁰³ Petition in BL, CPI 19 (1703) Office pp. John Purdue c Benjamin Whitton of Leeds.

¹⁰⁴ CPI 19 Purdue c. Whitton.

¹⁰⁵ After 1733 the details of the libel were recorded in the vernacular, rather than in Latin, and tended to be far more detailed than in previous centuries. See Tarver, *Church Court Records*, Introduction.

been]...silently past over by the Defendant'.¹⁰⁷ In 1731, for instance, Richard Webster of Worston, Clitheroe did not deny that he had slandered Anne Taylor, also of Clitheroe. But he claimed that 'in case' he did speak the contested words, he did not do so 'out of any malice hatred or ill will' towards the plaintiff, 'nor out of any designe to injure prejudice or defame' her.¹⁰⁸ In this way, the defendant hoped such mitigating circumstances would be taken into account by the sentencing Judge. An alternative to confession was to contest the suit 'negatively', by denying either the facts in the case or the grounds of the plaintiff's accusation. Thus in another suit brought by Ruth Edwards against Alice Watson of Halifax in 1701, the defendant testified she 'did not within the time and place arte nor at any other time & place spread or repeate any scandalous or diffamatory words to of or against Ruth the wife of James Edwards and more particularly not any of the words libellate nor words to the like effect so that the good name and repute of the said Ruth Edwards could not be hurt lessened or impaired by reason of speaking any words by this rondt'.¹⁰⁹

In affirmative and negative responses, then, the composition of defendants' depositions was influenced by court practice. This was part of a more generalised concern for the language, structure and shape of litigants' testimony, shown in the ecclesiastical law manuals used by proctors and clerks. In Conset's *Practice*, for instance, the writer stressed that personal responses must be structured 'after the same manner, as the question was propounded', and provided careful examples of acceptable modes and styles of narratives.¹¹⁰ That this condition influenced the content and shape of litigants'

¹⁰⁶ Conset, *Practice*, p.86.

¹⁰⁷ Conset, *Practice*, p.87.

¹⁰⁸ BI, CPI 1013 Trans C/P 1731/2 (1731) Anne Taylor of Chatburn in Clitheroe c. Richard Webster of Worston in Clitheroe. The implications of 'malice' in slander litigation are explored in chapter 3, below.

¹⁰⁹ CPI 60 Ruth Edwards, wife of James Edwards c Alice Watson of Halifax.

¹¹⁰ Conset, *Practice*, p.97.

testimony is apparent in the slander dispute between Sir William Lowther and Thomas Taylor, an agricultural worker from Pontefract.¹¹¹ Lowther claimed that Taylor had written and publicised a scurrilous poem about the Lowther family. Taylor's subsequent denial of this charge reveals fundamental similarities between the language used by plaintiff and defendant:

Allegation of Lowther:

Article 5. 'That you the said Thomas Taylor within the time in the precedent arlate did upon reading & publishing the schedule aforesaid [poem] declare that the mad knight mentioned therein was Sir William of Durston who was then dead, And then discoursing of William Lowther Esquire (the party promotent in this cause) Some one or other of the witnesses then present told you that the said William Lowther Esquire would give you Twenty pounds to know the Author and you the said Thomas Taylor then replied, the Author would not be ashamed to owne it to his face, with many other circumstances and expression, you the said Thomas Taylor then uttered & spoake, whereby the witnesses then present did understand that your reading publishing & declaring the schedule aforesaid was with an intent to declare and scandalise the said William Lowther (the party promotent in this cause).'

Responses of Taylor:

Article 5: 'That this Rondt did never read or publish the pretended schedule arlate, or declare that the madd knight mentioned therein was Sir William Lowther dec'd, nor did any person discourseing upon the arlate Mr Lowther tell this Rondt that he would give £20 to know the author, nor did this Rondt declare Reply & say that the Author of the pretended diffamatory libell would not be ashamed to owne itt to his face, nor did any witnesses understand that this Rondt had any intent to defame & scandalise the said William Lowther.

Excluding the possibility of further allegations being brought against either party, the initial libel and responses were the closest litigants came to telling their own stories before the courts. Plaintiffs and defendants did not, as is the case in modern civil and criminal suits, have the option of directly addressing the judge in court, or of cross-questioning witnesses. Rather, the responses produced by the defendant to the allegations of the plaintiff merely signalled the onset of the next stage in the suit: the plaintiff's request for a term to be assigned to prove the allegations.¹¹² The defendant

¹¹¹ Libel and responses in Bl. CPI 2767 (1708) William Lowther c. Thomas Taylor of Pontefract.

¹¹² There was a complex hierarchy of types of 'proof' during the period. See Conset. *Practice*, p.108.

could appeal against this request at any stage, and often did so as a delaying tactic.¹¹³ If the judge allowed a term to prove the allegations, then the onus was on the plaintiff to produce witnesses to testify on his/her behalf. Since witnesses could, perhaps understandably, be reluctant to become embroiled in familial or social antagonisms, they could be compelled to appear on pain of excommunication or imprisonment.¹¹⁴ The plaintiff would ‘tender...or at least to promise [the witnesses] their Charges of Journy’, and his or her proctor was compelled to be present when the witnesses were examined.¹¹⁵ Once they had taken an oath not to show any ‘love, favour, affection, or malice to either of the parties in suit’, the witnesses would testify as to what they knew about the case, and answer any interrogatories produced by the opposing proctor.

It is at this point that we need to remind ourselves of the claims made by those historians who have stressed litigants’ agency in the courtroom. Gowing and others have focused particularly on witnesses’ testimonies in order to make broader claims about the legal and narrative strategies open to deponents. Men and women are seen to have exercised considerable freedom of self-expression in their depositions through the embellishment of detail, the inclusion or exclusion of particular incidents, or the order in which a story was told, all of which are said to have contributed to ‘notably individual’ statements of experience.¹¹⁶ As can be seen from the foregoing discussion, in the case of plaintiffs’ and defendants’ testimonies, this claim overlooks key aspects

¹¹³ The policy of appealing was criticised by contemporaries as evidence of corruption, or of the dragging out of cases for the benefit of the defendant. Certainly it could provide a convenient way for the defendant to stall proceedings, whilst forcing the plaintiff to maintain him/herself and his/her witnesses indefinitely.

¹¹⁴ See Conset, *Practice*, p.106.

¹¹⁵ Conset, *Practice*, p.107. If the witnesses’ expenses were not agreed with the plaintiff they could demand the same through the judge before taking their oaths. The sum decided by the judge would depend on a number of factors, including ‘the distance of the witnesses’ [h]abitation from the place of Judgement, as also whether they be Horse-Men, or Footmen with respect also to their quality and their abode at the court, before their Examination be perfected’. If at any stage the plaintiff refused to pay expenses within a 40-day period, then the witnesses could proceed against them via excommunication and imprisonment in the usual way. See Conset, *Practice*, p.113.

of the textual construction of court depositions. It is a no less problematic claim about the testimony of witnesses. Equally problematic is the related claim that witnesses' interrogatories – and particularly those directed against women – were primarily replications of a series of broader social conflicts surrounding women's lack of 'credit' (denoting 'reputation, trust, and name').¹¹⁷ Whilst the notions of credit were indeed heavily gendered in the courts as elsewhere in early modern England, these claims disregard the influence of law and tradition in the production of depositions and interrogatories. This must reflect the fact that Gowing's analysis is based on Personal Answer Books and deposition material; the interrogatories, which provide the framework for these sources have not survived.¹¹⁸ At York, however, interrogatories were frequently kept with the rest of the deposition and libel material relating to a cause. Used in conjunction with works like Conset's *Practice*, which laid down the legal process recommended or required in church courts of the period, these reveal much about the limitations of agency in the courtroom.

Let us focus first on the question of witnesses' testimony, and the process by which witnesses provided information for the benefit of plaintiffs or defendants. The court clerk took witnesses' depositions 'individually and privately' in the presence of the opposing proctors.¹¹⁹ Witnesses were examined and interrogated about the specifics of the libel, and their answers transcribed by the clerk. Until 1733 those answers would be the only part of the document in English, as the remainder was in Latin.¹²⁰ The clerk would then read back to the witnesses the sum of their statements, giving them the

¹¹⁶ Gowing, *Domestic Dangers*, p.47.

¹¹⁷ Gowing, *Domestic Dangers*, pp.50-51.

¹¹⁸ See Gowing, *Domestic Dangers*, p.50.

¹¹⁹ Conset, *Practice*, p.116.

¹²⁰ Aside from general problems of illiteracy, the alienating potential of Latin articles and positions was not lost on contemporaries. Conset warned that since most witnesses 'especially Country-men' were not

opportunity to make amendments, subtractions or additions to their testimony before signing it.¹²¹ The effects of this process is visible in the York court testimony - some witnesses' statements were physically restructured by the clerk, and others had whole sections unsigned by the deponent.¹²² The Judge would then read the testimony back to the witnesses to reaffirm the veracity of the statements, and interrogatories were produced by either proctor to clarify or contest particular points of witnesses' testimony.

Throughout this process, it is clear that clerks shaped the statements of witnesses to ensure the meeting of the criteria laid out in the libel and interrogatories. There is no doubt that the character of testimonies must have been influenced not merely by the legal process or tradition of individual courts, but by the particular characteristics and working practices of clerks. In some cases, whole words and even sentences were reproduced *verbatim* in witnesses' testimony at York. Time and again abbreviations such as 'and so forth' were used to represent elaborate legal conventions. The physical appearance of documents – the body of the text written in one hand, with the witnesses' names, ages and personal details inscribed in another – suggests that at times deposition sheets were prepared in advance, with blank spaces for the details provided by individual witnesses.¹²³

In 1744, for instance, Thomas Beecroft, a yeoman from Middleton, north Yorkshire, brought three suits for slander against three separate individuals. Beecroft claimed that his brother John, a farmer from Hutton in the Hole parish, Lastingham, had been

able to read Latin, the onus was on Clerks to ensure every part of the documents was explained to deponents before being signed. See *Practice*, p.117.

¹²¹ Conset, *Practice*, p.116.

¹²² See for instance the testimony of George Lyndley, 29-year-old clothier from Kirk Burton in BI. CPH 4239 (1692) George Lyndley c. Joshua Key of Kirk Burton.

travelling on horseback from Hemsley to Beadlam when he passed Thomas Brewster, Robert Dalton and William Marshall, all of whom were known to the plaintiff. It was claimed that John Beecroft had overheard the conversation between the three men as they passed, and that one of the men declared that Thomas Beecroft was a ‘whoremaster’.¹²⁴ Neither the plaintiff nor his brother was aware which of the three men had spoken these words, for the three cause papers identified each of them individually and separately as the culprit.¹²⁵ And in each the allegations, and the testimony of the witnesses, are virtually identical aside from the substitution of the name of the defendant, as seen in the following extract from the testimony of George Boyes, a 35-year-old tailor from Westerdale:

Example 1:

he saith that upon the eighteenth day of June last past the Dept was going from Hemsley libellate to Westerdale the place of his abode That in his road betwixt Hemsley and Beadlam about two miles from Hemsley and about a quarter of a mile from Beadlam he met with the libellate *Robert Dalton travelling towards Hemsley in company with Thomas Brewster and William Marshall*, that as they passed this Dept in the road he heard them talking together and heard the said *Robert Dalton* say that the said Thomas Beecroft was a whoremaster He saith that that part of the road where he heard the said Robert Dalton speak the said defamatory words is within the parish of Hemsley aforesaid That the dept apprehended by what the said Robert Dalton then said that the said Thomas Beecroft had been guilty of the crime of ffornication and further he cannot depose [emphasis added].¹²⁶

Example 2:

he saith that upon the eighteenth day of June last past the Dept was going from Hemsley libellate to Westerdale the place of his abode That in his road betwixt Hemsley and Beadlam about two miles from Hemsley and about a quarter of a mile from Beadlam he met with the libellate *Thomas Brewster travelling towards Hemsley in company with Robert Dalton and William Marshall*, that as they passed this Dept in the road he heard them talking together and heard the said *Thomas Brewster* say that the said Thomas Beecroft was a whoremaster He saith that that part of the road where he heard the said Thomas Brewster speak the said defamatory words is within the parish of Hemsley aforesaid That the dept apprehended by what the said Thomas Brewster then said that

¹²³ See for instance BI, CPI 1389 (1757) Proctor of Mary Bell c. John Pindar of St Mary’s, Kingston upon Hull.

¹²⁴ Libel in BI, CPI 1269 (1744) Thomas Beecroft c. Thomas Brewster.

¹²⁵ See also BI, CPI 1267 (1744) Thomas Beecroft c. Thomas Dalton and CPI 1268 Thomas Beecroft c. William Marshall.

¹²⁶ Testimony of George Boyes in CPI 1269 Thomas Beecroft c. Thomas Brewster.

the said Thomas Beecroft had been guilty of the crime of fornication and further he cannot depose [emphasis added].¹²⁷

It seems obvious in this instance that the bulk of the narrative resulted from the pen of the clerk attempting to shape the witness's testimony to the legal requirements of slander litigation. Elsewhere, witnesses' testimony clearly followed the language and form of the original allegations, as seen in a spousal dispute between Thomas Haswell and Elizabeth Dodgson, of Durham in 1729.¹²⁸ Dodgson and Haswell were Quakers and, according to Dodgson, were informally married at a Friends' meeting. (which explains the lateness of the cause, since Quakers were excluded from the requirements of the Marriage Act).¹²⁹ Haswell denied the two had made any commitment, testifying that he had agreed to marry Dodgson, a widow, only if she proved to be financially independent. He subsequently called off the arrangement when it was revealed that Elizabeth had substantial debts.

Elizabeth's libel stated (as was usual in such cases) that she was 'a person of a sober life and conversation & one who would make a fitt wife for the said Thomas'.¹³⁰ It went on to detail how over a five year period Thomas 'became acquainted with... [the plaintiff] and made his application to and courted her in the way of marriage & expressed much love and affection to her'. During this courtship Thomas did 'treat & entertain the said Elizabeth Dodgson kind & loveingly ... & make many vows and protestations of the great love and kindness he bore to her'. Finally, through his 'urgent importunities and

¹²⁷ Testimony of George Boyes in CPI 1267 Thomas Beecroft c. Thomas Dalton.

¹²⁸ BI, CPI 1004 (1729) Thomas Haswell c. Elizabeth Dodgson.

¹²⁹ Jewish marriages were also recognised by the church. By contrast Roman Catholics, nonconformists and non-believers were *not* exempted from the requirement of church marriage. See J.H. Baker, *An Introduction to English Legal Theory*, 3rd ed., (London, 1990), p.545 f/n 1, p.550.

¹³⁰ Libel in CPI 1004 Haswell c. Dodgson.

repeated declarations of his affections for the said Elizabeth', the plaintiff claimed.

Thomas did 'prevail upon her to consent to marry him'.¹³¹

The witnesses summoned by Elizabeth gave an almost identical statement in support of her claims. Elizabeth Watson, a 43-year-old Quaker who lived near Dodgson testified Elizabeth was 'a person of sober life and conversation'. Watson recalled that six years prior to the case 'Thomas Haswell became acquainted with and made frequent visits to & courted the said Elizabeth Dodgson in way of marriage'. During their courtship, Thomas 'did treat & entertain the said Elizabeth Dodgson kind & loveingly & make many protestations of the great love & kindness he had for her'. Finally, by his 'urgent importunities and repeated declarations of his affections for the said Elizabeth Dodgson', Watson believed that Thomas did 'prevail upon her to consent to marry him'.¹³² Jane Shutt, a 24-year-old servant from Newton Hall agreed that her then mistress, Elizabeth Dodgson, was a 'person of sober life and conversation'. Shutt was present when Thomas Haswell visited Dodgson at home, and remembered that he did 'expresse much love and affection to the said Elizabeth Dodgson and courted her in the way of marriage'. Shutt heard Thomas 'make many protestations of the great love and kindness' he had for Elizabeth, and did therefore 'believe that the said Thomas Haswell by his urgent importunities & repeated declarations for the said Elizabeth Dodgson did prevail upon her to consent to marry him'.¹³³ John Dodgson, the 20-year-old son of the defendant, also recalled that Haswell had shown 'great love and kindness to [Elizabeth Dodgson] and entertained her kindly'. Like other witnesses, John testified that the

¹³¹ Libel in CPI 1004 Haswell c. Dodgson.

¹³² Testimony of Elizabeth Watson in CPI 1004 Haswell c. Dodgson.

¹³³ Testimony of Jane Shutt in CPI 1004 Haswell c. Dodgson.

‘urgent importunities & repeated declarations of [Haswell’s] affections towards his mother the arlate Elizabeth Dodgson did prevail upon her to consent to marry him’.¹³⁴

The patterning of witnesses’ statements was replicated in their responses to interrogatories, again as a point of legal practice. Rather like the relationship between libels and responses, interrogatories were structured as a series of numbered questions, the tone and implications of which depended on the needs and agenda of the producing party. An example of this process is found in the 1679 matrimonial dispute between Johnathon Lockwood and Anne Lockwood als Shemeld.¹³⁵ Johnathon Lockwood, a 15-year-old boy from Sheffield, testified that he was tricked into marrying Anne Shemeld by her family in an elaborate plot to secure Lockwood’s inheritance. Lockwood claimed that he had been playing football in the street with his friends when he was called into the home of Anne’s father and plied with alcohol, then forced to participate in an illicit marriage ceremony.¹³⁶ After the exchange of vows, Lockwood returned to play football in the street, and he and his bride continued to live separately from one another. Two years later, Lockwood sought to marry another woman. It was then that Shemeld’s family claimed the existence of a prior contract of matrimony between Lockwood and their daughter.¹³⁷ During the course of the dispute, interrogatories for the plaintiff asked witnesses:

- To depose anything touching a pretended marriage betwixt the said Johnathon Lockwood & Ann Shemeld in what house was it solemnised on what day of the week and hour of the say or night & what were the precise words by which they did contract themselves to each other and in what roome of such house was the said pretended marriage made...
- How long had the said Johnathon Lockwood been at the house of Castall Shemeld before the pretended marriage was celebrated who was it that invited him to the said

¹³⁴ Testimony of John Dodgson in CPI 1004 Haswell c. Dodgson.

¹³⁵ BI, CPH 3399 (1679) Johnathon Lockwood c. Anne Lockwood als Shemeld.

¹³⁶ Libel in CPH 3399 Lockwood c. Lockwood als Shemeld.

¹³⁷ On this theme see Stone, *Road to Divorce*, Introduction and chapter 1.

house at that time & whether was the said Johnathon at the time much overtaken with drink and had he not more strong drink given him at the said Castall Shemolds house and did he not vomit there, and how long did the said Johnathon stay at the said Castall Shemold's house after the said pretended marriage was solemnised...

- Whether did the said Johnathon use any courtship in the way of marriage to the said Ann Shemeld before the time aforesaid & what habit was the person in that did officiate and minister at the said pretended marriage & what was his name.
- Whether the said Johnathon L. & Ann S. at any time cohabit or live together as man and wife and whether that the said Johnathon ever had the carnall knowledge of the body of the said Ann S as you believe...
- Whether was not the pretended marriage (if any such were made) kept secret from the said Johnathon Lockwood's relations and not spoken of for the space of two years or more and for what time And what fortune hath the said Johnathon L. or the said S in Lands or moneys and are they and either of them likely to have.

Witnesses' responses to these questions followed closely the style and form in which they were asked, as seen in the testimony of Anthony Firth, apprentice to the defendant's father:

- That the marryage betwixt the said Johnathon Lockwood and Ann Shemeld was solemnised in the house of Castall Shemeld father to the said Ann, about nine of the clock on the night, and that they the said Johnathon and Ann did pronounce after the minister the usual words sett downe in the booke of common prayer and that they were marryed in a chamber of the said Castle Shemelds house...
- That the arte Johnathon Lockwood had frequented the house of Castle Shemeld for about three quarters of a yeare before he & the said Ann were marryed... That at the time of the marryage this rondt could not observe that the said Johnathon was any way over taken with strong drink...
- That the arte Johnathon Lockwood for the said time of three quarters of a yeare did court the said Ann in the way of marryage and that they were marryed by Mr John Bourlace who was in priests habit having a long black gowne...
- That after the said Marryage the said Johnathon Lockwood did often go to the house of the said Castle Shemeld & kept company with the said Ann Shemeld...
- That for some time after the said Marryage the same was kept secret from the said Johnathons relations but how long this rondt knows not, And that the said Johnathon is supposed to have three score pounds per annum in lands, but what Ann is likely to have he knows not.

The objections issued against witnesses by opposing proctors were no less a product of convention. Gowing has observed a series of wranglings taking place over the legitimacy of witnesses at London Consistory court. She notes that the undermining of

witnesses' veracity was a common part of the witnessing process, as 'men and women witnesses were subject to attempts to discredit their words; but women were interrogated particularly closely on the truth of their words'.¹³⁸ Women were asked how they lived, for example, implying that they received money from the plaintiff to testify, and asked whether they understood oaths. They were objected to on the grounds of over-familiarity with the plaintiff or defendant, or accused of a generalised deceitfulness. The existence of such questions – challenging the social status, financial independence and particularly the sexual behaviour of female witnesses - is interpreted by Gowing as evidence of the social tensions and hostilities surrounding dispute, and the fact that women's 'testimony was understood differently from that of men'.¹³⁹

Yet a rather different picture emerges from the evidence found at York. Male and female witnesses were both criticised by opposing counsel, and often in very similar terms. In 1748, for instance, George Surtees of Ryton, Tyne and Wear, brought a separation suit against his wife Elizabeth on the grounds of adultery and cruelty.¹⁴⁰ Margaret Crow, a 28-year-old servant of the Surtees family was called to testify on behalf of her master. Margaret claimed to have acted as a mediator between Elizabeth and her lover John Thompson, a neighbouring gentleman, and to have colluded in the deceit of her master by informing Thompson when her mistress was alone. Margaret claimed that she had seen Thompson arrive at her mistress's house and drink coffee with her, before he 'loosed his breeches...took his privy member in his hand' and engaged Elizabeth in an 'adulterous act'.¹⁴¹ Elizabeth's proctor refuted Margaret's claims, claiming that Margaret was 'very industrious and endeavouring to persuade and

¹³⁸ Gowing, *Domestic Dangers*, p.50.

¹³⁹ Gowing, *Domestic Dangers*, p.51.

¹⁴⁰ Trans C/P 1748/1 Surtees c. Surtees.

¹⁴¹ Testimony of Margaret Crow in Trans C/P 1748/1 Surtees c. Surtees.

bribe or corrupt several people to forswear themselves' against her ex-employer.

Condemned as a 'person of ill fame character and reputation'. Margaret's testimony was given 'no faith or credit' by the defendant and her counsel.¹⁴²

A cognate treatment of witnesses (male and female) is found in a much earlier spousal dispute of 1672 between Anne Wettenhall and William Henshall of Stockport, Manchester.¹⁴³ Anne claimed that she and William had contracted matrimony together through the verbal exchange of vows. In the face of strong opposition from William's witnesses, Anne (or rather her proctor) rejected the testimony of women like Alice Hooley, a spinster from Cheadle Heath, Chester. The plaintiff claimed that there was 'no credit to be given at least sufficient in the lawe' to Alice's testimony, 'for that at the time of her production swearing and examination in this cause, and before and since she was and is an excommunicated person'. Moreover, she was widely reputed to be a 'person of very ill fame, report credit and esteeme, amongst her neighbours and others that know her and one whose oath will not be believed or taken and alsoe for that shee came voluntarily without a compulsory to depose in this cause and has received or is promised great rewardes'. The testimony of James Torkingham, another witness for the defence was similarly rejected on the grounds that Torkingham 'was and is a person of ill repute, credit and esteem amongst his neighbours and others that knowe him and one whose oath will not be believed or taken And also for that hee is reputed for gain or reward to favour' through his testimony. At the same time, the defence's challenge to Anne's own witness was rejected. Richard Hogge, a servant was not, as the defence claimed, a person of 'ill repute, credit and esteem', but esteemed to be a 'a person of

¹⁴² Counter-allegations in Trans C/P 1748/1 Surtees c. Surtees.

¹⁴³ BL, CPH 5241 (1672) Anne Wettenhall c. William Henshall of Bradbury, Stockport.

good repute and credit and one that for favour or affection to any party or hope or gain or reward would or will not forswear himselfe or give in evidence false testimony'.¹⁴⁴

The almost identical structuring of witness criticism demonstrated here was far from coincidental. Accusations of partiality, bribery and corruption, or economic and sexual bankruptcy were levelled at male *and* female witnesses. Moreover, those criticisms, or exceptions were embedded in legal theory as well as practice. In his description of the strategies deployed by proctors in party litigation, Conset noted the ways in which witnesses' testimony could be brought into doubt. Legitimate objections to witnesses included claims that:

they are intimate Friends to the Party producing them, and Enemies... to that Party against whom they are produced; that they are... of an ill Fame, Vicious, Poor, Indigent, and of Consanguinity, or Affinity, or Domesticks... And are clothed, and receive a stipend by the said Party, and lastly, such to whom no Credit is to be given.¹⁴⁵

As a matter of course, then, proctors would protest against witnesses in the same spirit that they appealed against 'the generality, ineptitude, obscurity... and undue Specification of the libel'.¹⁴⁶ In both cases, objections were standard and expected ways of contesting a suit. The opposing proctor did not need to have any basis for making such objections, they were simply a judicial practice designed to stall the proceedings, or to catch out witnesses to whom such descriptions might, by a fateful coincidence, be proven to apply. The recognition of the influence of legal process does not deny, of course, that the exceptions might be gendered, or that female witnesses might be particularly subject to exceptions on the grounds of financial incompetence or sexual incontinence. But the distinction between male and female credit identified by Gowing

¹⁴⁴ Further responses and allegations of Anne Wettenhall in CPH 5241 Wettenhall c. Henshall.

¹⁴⁵ Conset, *Practice*, pp.140-141.

¹⁴⁶ Conset, *Practice*, p.87.

was not so evident at York, and men and women were normally discredited through the generalised conventions discussed above.

The Judge would decide whether or not to allow exceptions brought against witnesses. If they were allowed, he would assign a certain period of time – a ‘Term Probatory’ – in which those exceptions must be proven. If the party presenting the witnesses was convinced that these were delaying tactics only, then his or her proctor would object, again in a formulaic manner, ‘that the said Allegation so made by *N.* are false, and must protest of the Generality, undue Specification, the ineptitude, the Nullity and the Inconcludency of these Exceptions, and alledge that the same ought not to be admitted’.¹⁴⁷ If the excepting proctor failed to prove the exceptions, then they would be rejected out of hand. The Judge would then issue a Term-Probatory or non-referable deadline for further submissions.

At this stage in the proceedings, the plaintiff and defendant had done all in their power to prove their respective causes. Provided no further matters arose, the Judge assigned the proctors ‘a competent term to propound all acts’ in order to establish a reasonable deadline for concluding the case.¹⁴⁸ During this period, largely spent tying up loose ends, no further evidence could be submitted and a date for sentencing was decided. When that date arrived, each of the proctors would present the Judge with their desired outcome (inevitably, each proctor would ask for the case to be found in favour of their client, with costs), and the Judge decided which, in his view, was most appropriate. Depending on the type of cause, a guilty sentence could result in public penance for the

¹⁴⁷ *Conset. Practice*, pp.140-1.

¹⁴⁸ See Chapman, *Ecclesiastical Courts*, p.46.

defendant and/or award of costs to the plaintiff.¹⁴⁹ In matrimonial disputes, plaintiffs and defendants were reconciled or separated according to the requirements of the law.¹⁵⁰ A final opportunity was available for the defendant to give reason why the sentence should not be executed. If unsuccessful, the sentence would be implemented and costs paid within 15 days on pain of excommunication.¹⁵¹

Throughout the course of party litigation, then, from the decision to initiate proceedings to the issuing of a sentence, church court testimony was heavily shaped by the traditions and demands of court practice and ecclesiastical law. We cannot know what litigants and defendant *actually said* to clerks, or how far those clerks prompted, corrected and reshaped statements as they converted first person stories into third person depositions. Nor do we know the extent to which litigants and witnesses were prepared by proctors before their statements and responses were heard. Of course, we do have snippets of testimony suggestive of colloquial or everyday speech patterns nestling uncomfortably alongside legalese, as when the plotting of time in testimony revolved around witnesses' own psycho-perceptual memory scheme.

An instance of this is found in the 1727 slander suit between Anne Whishaw of Middlewich, Cheshire and John Earl, a brazier, also from Middlewich. Hannah Smith, the 44-year-old wife of an agricultural worker testified that she recalled little of the events surrounding the slander, though she did recall that the dispute took place 'in gooseberry time for that they were then picking mellow gooseberrys at the said Thomas

¹⁴⁹ In slander suits, penance usually involved the guilty party wearing a white shroud and admitting in a public place, such as a church or market, that s/he 'hath greivously offended God, by maliciously uttering Defamatory words against his Neighbour'. See Conset, *Practice*, pp.337-8 and Trans C/P 1727/8 (1727) Office, promoted by Anne Whishaw c. John Earl of Middlewich, Cheshire.

¹⁵⁰ See Baker, *Introduction*, Chapter 27.

¹⁵¹ Conset, *Practice*, p.172.

Sampsons'.¹⁵² In the spousals suit brought by Maria Slingsby against Thomas Wigglesworth in 1662, Maria's sister testified that she had witnessed exchanges of affection between the plaintiff and defendant. Amongst other, more formalised declarations of his intentions towards Maria, Thomas had apparently 'wished her to be of good cheere, for she should want nothing that was fitting for a woman, soe long as he had a groate'.¹⁵³ And in the adultery suit brought against Henry Cockroft, a yeoman and Susannah Kirshaw, a widow from Heptonstall in 1720, the official language of the 'detestable crime of fornication or Adultery' sits awkwardly alongside the more descriptive and less value-laden testimony of witnesses. This is particularly apparent in the deposition of Jonas Stansfield, a 35-year-old yeoman. Jonas, one of the promoters of the suit, described how he had stumbled across the defendants in the act of sexual intercourse:

...the arlate Susan Kirshaw lying on her back upon some hay in the said barn her the said Susan Kirshaws leggs being spread open and her pettycoates about her breast he the arlate Henry Cockroft lying then and there upon the arlate Susan Kirshaw with his breeches down about his feet, and all the buttons of his cloaths (save two or three towards the topp) open, and he this dept saith that before he was discovered by the arlate Henry Cockroft he did actually see them the arlate Henry Cockroft & Susan Kirshaw use such motions as are common in cases of the like nature, and did after the arlate Henry Cockroft gott of the body of the arlate Susan Kirshaw see his yard stick, which he (being in confusion) could not hide readily from this dept by reason of his breeches being about his feet and his said yard bearing up his shirt, by all which he this dept is very well assured that the arte Henry Cockroft had the carnall knowledge of the body of the arlate Susan Kirshaw.¹⁵⁴

Nevertheless, the existence of everyday speech patterns in the legal record does not imply access to individual, unmediated or 'authentic' experience. It simply highlights the complex, often ad-hoc, ways collective expressions mingled with those of the law

¹⁵² Testimony of Hannah Smith in Trans C/P 1727/8 (1727) Whishaw c. Earl.

¹⁵³ Testimony of Jenetta Slingsby in Bl. CPH 5482 (1662) Maria Slingsby c. Thomas Wigglesworth.

¹⁵⁴ Testimony of Jonas Stansfield in Bl. CPI 617 (1720) Office c. Henry Cockroft and Susanna Kirshaw.

and its lawyers to illuminate a range of contemporary cultural discourses and gestures. And this recognition can allow us to overcome some of the problems traditionally associated with church court testimony as historical evidence. For if we move away from the belief in all individual experiences as circumscribed, interior, and somehow existing outside its various manifestations (written, verbal or bodily), and towards a more socially grounded view of experience, we can view court testimony as a site for the investment and contestation of meaning.

Of course the rhetoric and gestures of emotion reproduced and articulated in the courtroom are no more unproblematically accessed – and no more ‘real’ - than any other platform of expression. But as men and women described, evaluated and debated their experiences within a rigid and narrowly defined set of perimeters, the narrative structures of legal process provided a framework for the acting out and realisation of beliefs about affective experiences. References to emotional performances found in church court testimony therefore provide evidence of the ways emotion was thought about, talked about and interpreted in everyday life, and in the courtroom.

To this end the value of church court testimony lies not in its ability to capture and transmit the unchanging structures of emotional experience – though, as we have seen, this is the claim of some historians - but rather in what it reveals about the *construction* of that experience. For we have seen that deponents debated the ‘manner’ in which words were spoken, (as in the case of Launston c. Barrett), and the use of ‘familiar’ or ‘sporting’ gestures, (as seen in the dispute between Sara and Thomas Tyndall) in order to structure and negotiate psychological and emotional needs and expectations. This was not unusual. References to discursive and non-discursive signifiers of affect are

commonplace in church court disputes, though many have previously been overlooked. These include the sighs and tears of the abused wife to the shouts of slanderers and the love-letters produced by jilted lovers. Drawing on such evidence, the following chapters demonstrate that emotions like love, anger and sadness cannot be viewed primarily as isolated, circumscribed or individual experiences for they were (and are) produced in the context of interpersonal relationships, and refracted through the prism of the law. To explore these claims in more detail, we can examine the articulation of affect in one particular type of cause: slander litigation. For though historians traditionally use defamation narratives as evidence of the emotionally charged atmosphere of dispute, this neglects the complex inter-relationship between the verbal and aural politics of ‘angry words’ as a social phenomenon, and the legal and textual conventions in which they were embedded.

Chapter 3. 'In Fury and Passion': Angry Words and Slander Narratives.

In 1701 Elizabeth Steele, a farmer's wife from St Oswald's parish, Durham, brought a slander case against Margaret Raine, wife of a fellow farmer. Elizabeth claimed her husband's milkmaids were working in the fields when they were disturbed by Margaret Raine, who 'stood on the hedge beside' the women and 'fell to scould, and raile in great fury & passion against...Elizabeth Steele'.¹ 'Amongst other ill language... Margaret Raine did...with a loud voice and in great anger & passion...call her the said Elizabeth Steele a whore, saying your dame is a whore...& ask the whore your dame if she was not drunk when she went to bedd to the steward'. Margaret denied these allegations, claiming it was *she* who had been slandered by Elizabeth.² Margaret told the court how Elizabeth did 'upraid and scandalize' her by declaring 'in anger and passion...Margaret Raine was a drunken hussy & a drunken sow' who 'received the sacrament in the forenoon & went to the devil in the afternoon'. Moreover, Margaret continued, the testimony of Elizabeth's witnesses proved only that their minds were 'venamed and sowred with ill will & malice against' her. Although Margaret brought two witnesses to support her story, the outcome of the case is unknown.

* * *

1. Slander and Anger in Early Modern History.

Slander suits such as this are used to illuminate many key themes of early modern history, including marital relationships, illicit sexuality, and notions of honour and

¹ Libel in BL. Trans C/P 1701/4 (1701) Elizabeth Steele c. Margaret Raine.

reputation.³ Whilst Laura Gowing uses London Consistory depositions to analyze relationships of gender, language and power, more traditional historians focus on slander litigation as a way to access social tensions and hostilities, and to construct the emotional landscapes of past communities.⁴ Thus Ingram observes that slanders were ‘spontaneous outbursts, usually uttered face to face and in hot blood’;⁵ Sharpe uses York court evidence to show slanders resulted from ‘loose words spoken in anger rather than as a consequence of long-standing and elaborate denigration of good name’.⁶ More recently Dave Peacock has concurred, noting ‘the majority of Norwich deponents... state that arguments erupted with an outburst of “hot and angrie words”, with slanders being uttered in a “raileing passion”.’⁷ Such outbursts were, Ingram has asserted, ‘consciously or unconsciously tinctured with malice’.⁸ At a broader level, such invocations to emotional outbursts and ‘hot blood’ reinforce the identification of early modern societies as more angry and aggressive than our own, as suggested by progressivist histories that build on the work of Norbert Elias.⁹

² Responses and counter-allegations in Trans C/P 1701/4 Steele c. Raine.

³ Examples include J.A. Sharpe, *Defamation and Sexual Slander in Early Modern England: The Church Courts at York*, Borthwick Papers, 58 (York, 1980), *passim*; Martin Ingram, *Church Courts, Sex and Marriage in England, 1570-1640* (Cambridge, 1987), Introduction; Laura Gowing, *Domestic Dangers: Women, Words and Sex in Early Modern London* (Oxford, 1996), *passim*; C. Haigh, ‘Slander and the Church Courts in the Sixteenth Century’, *Transactions of Lancashire and Cheshire Antiquarian Society*, 78 (1975), pp.1-13; Peter Rushton, ‘Women, Witchcraft and Slander in Early Modern England: Cases from the Church Courts of Durham’, *Northern History*, 18 (1982), pp.116-32; T. Meldrum, ‘A Women’s Court in London: Defamation at the Bishop of London’s Consistory Court, 1700-1745’, *The London Journal*, 19 (1994), pp.1-19; M.B. Norton, ‘Gender and Defamation in Seventeenth-Century Maryland’, *William and Mary Quarterly*, 36 (1979), pp.3-39; Dave Peacock, ‘Morals, Ritual and Gender: Aspects of Social Relations in the Diocese of Norwich, 1660-1703’, (DPhil, University of York, 1996), Introduction.

⁴ See Gowing, *Domestic Dangers*, Introduction and chapter 1.

⁵ Ingram, *Church Courts*, p.292.

⁶ Sharpe, *Defamation*, p.26.

⁷ Peacock, ‘Morals, Rituals and Gender’, p.81.

⁸ Ingram, *Church Courts*, p.314.

⁹ Norbert Elias, *The Civilizing Process: The History of Manners and State Formation and Civilization* trans. E. Jephcott, 2 vols. (Oxford, 1978, 1982). See the discussion in chapter 1 of this thesis.

If we look again at the testimony found in the dispute between Margaret and Elizabeth - particularly the 'angry and passionate' and 'malicious' nature of confrontation described by litigants - it is easy to understand how such interpretations have arisen. Slander suits describe men and women fighting, shouting and brawling, and, it is implied, reveal intimate portrayals of such universal human experiences as anger and shame. This sense of intimacy is undeniably a feature of the sources, as the detail they provide, Stone has suggested, allows us to 'penetrate into the hearts and minds of persons in the past'.¹⁰ Even more than other court records, church court depositions are believed to offer largely unmediated or privileged access into the minutiae of dispute, as they chronicled the beliefs and motivations of early modern people.¹¹

Yet as discussed in chapter two, this view of church court testimony is oversimplified, for it downplays the shaping influences of legal and court process. Equally problematic is the assumption that emotional experiences like anger are transparently accessible through the historical record, with no consideration of the complex relationship between 'feeling' and its forms of communication.¹² To this end, such approaches share the common assumption that 'anger' is quantifiable as a human universal, rather than culturally situated and even constructed, a possibility raised by much recent sociological and anthropological research.¹³

¹⁰ Stone, *Road to Divorce*, p.14.

¹¹ See Gowing, *Domestic Dangers*, pp.54-56, and Peacock, 'Morals, Rituals and Gender', p.65. See also M. Chaytor's discussion of assize records in 'Husband(ry): Narratives of Rape in the Seventeenth Century', *Gender and History*, 10 (1980), pp. 378-408, esp. p.382.

¹² See chapters 1 and 4.

¹³ See chapter 1.

Building on the previous chapters' analysis, therefore, this chapter examines the discursive conventions and legal requirements shaping representations of anger in slander litigation. In so doing, it demonstrates that the invocations to 'anger', 'passion' and 'malice' found in court testimony cannot be read as 'background' or contextual information to dispute, for they were legally constitutive elements of slander litigation. Moreover, though there is no more access to 'real' emotion or feelings through court testimony than through any other source, slander narratives demonstrate the verbal and non-verbal communicative practices through which anger was constructed and performed in social practice. They exemplify, therefore, the interdependence of individual and social, lay and legal narratives of affect as produced and situated in particular discursive fields, a theme raised in the previous chapter.

2. 'An Angry and Passionate Manner': Narrative Conventions of Slander Suits.

There are 761 surviving cause papers concerned with slander for the period studied.¹⁴

Though the structure and form of this broader source-base informs the evidence presented here, this chapter uses a sample of 100 cases, listed in appendix 4. The socio-economic classifications of plaintiffs and defendants involved are shown in table 8.

Some of the testimony that survives is scant or damaged, but this sample nevertheless contains a considerable body of material suitable for analysis. If we move beyond the case of Margaret Raine and Elizabeth Steele to look more generally at the language used in these cases, therefore, the formulaic descriptions of anger is striking. When in 1691 John Kay brought a suit against William Beever of Kirkburton, interrogatories asked whether the defendant did 'speak the words in an angry, passionate or reflecting manner

¹⁴ See chapter 2 for a discussion of slander litigation.

or with any malicious intent against the plaintiff?’¹⁵ Elsewhere, the ‘malicious’ and ‘angry’ manner of defendants’ speech was variously described as ‘angry and passionate’, ‘boisterous’ and ‘angry’ or ‘violent and angry’.

In 1704, for example, John Thompson from Rothwell, West Yorkshire, brought a slander suit against William Clarkson, also of Rothwell. Thompson claimed he entered a public house in the town with a group of male friends, and ‘past by’ the defendant without speaking. Yet Clarkson followed him, and began to ‘abuse this respondent’ by calling him ‘whoremaster a rogue a whoremasterly rogue and a theife’, a ‘sheepstealer’ and a ‘coiner’.¹⁶ Witnesses claimed these words were spoken ‘maliciously’ and in an ‘angry and passionate manner’. In 1722, Robert Wilson of Cayton, North Yorkshire, testified for William Redhead when the latter accused one Thomas Hopper of slandering him. Wilson reported that Hopper ‘did in an angry boisterous manner’ declare Redhead a ‘Rogue and Ile prove him a Rogue’.¹⁷ In 1666, Elizabeth Taile, the wife of one Robert Taile, a yeoman from Methley, West Yorkshire, testified in a slander case between one Peter Collins of Methley, and Matthew Walker. She claimed that she had seen and heard Walker ‘in a very angry manner say unto the said Peter Collins, thou art a whoremaister’.¹⁸ Thomas Barstow, a 29-year-old gentleman from Leeds similarly testified that he heard one Martha Laycon, a widow from Otley, ‘in a great warmth and passion’ speaking to one Edmund Barker Esq., ‘in an angry and passionate manner say that he the said Edmund Barker had got or gotten a hundred bastards’.¹⁹ And in 1710, Maria,

¹⁵ Interrogatories in BI, CPH 4264 (1691) John Kay c. William Beever.

¹⁶ Libel in BI, CPI 80 (1704) Office pp. John Thomson c. William Clarkson.

¹⁷ Testimony of Robert Wilson in BI, CPI 680 (1722) William Redhead c. Thomas Hopper.

¹⁸ Testimony of Elizabeth Taile in BI, CPH 2805 (1666) Peter Collins c. Matthew Walker of Methley.

¹⁹ Testimony of Thomas Barstow in BI, CPI 886 (1729) Edmund Barker Esq. c. Martha Laycon. See also testimony of Thomas Stocks, a 30-year-old joiner of Otley, who deposed that ‘he heard Mrs Laycon speaking in an angry and passionate manner to him the said Mr Barker’.

the wife of William Brewing of Newark, Nottinghamshire, alleged that one Anne Glover had asked her ‘in an angry and passionate manner...where is the whore your mother?’²⁰ Thomas Castle, a 19-year-old from Newark testifying that he had been present when the words were spoken, and that they were spoken by Glover ‘in a Boisterous & passionate manner’.²¹

The repetitive nature of this testimony is not coincidental. Even allowing for damaged, brief or incomplete testimony, there was considerable repetition of such individual terms as ‘malicious’ (45%) ‘angry’ (32%), in ‘anger’ (33%) or in ‘passion’ (46%), with most cases invoking more than one such description (see table 9). These terms were not used exclusively, but were supplemented or replaced by other words which similarly invoked the emotional climate of dispute; elsewhere, litigants referred to words being spoken ‘in a heat’, or in ‘wrath’ and ‘fury’.²² Moreover, whatever pattern of words – ‘angry and passionate’, ‘angry and malicious’, or ‘malice and anger’ – was used by the plaintiff, the same formula was used in the testimony of his or her witnesses.²³

Such repetitions are frequent enough to suggest there was far more involved in the construction of slander narratives than the transparently reflected speech of litigants. As discussed in the previous chapter, though it was a legal requirement that the testimony of deponents was transcribed *verbatim*, it was influenced, shaped and structured by the legal conventions, the influence of the proctors or lawyers, and the peculiarities of the clerk. In this context the imputation of a ‘passionate and malicious’ mind was not mere

²⁰ Libel in BL, CPI 2784 (1710) Maria Brewing c. Anne Glover.

²¹ Testimony of Thomas Castle in CPI 2784 Brewing c. Glover.

²² See for instance BL, CPI 50 (1700) Joseph Swinden c. William Popplewell; Trans C/P 1701/4 Steele c. Raine; BL, CPI 790 (1724) Office pp. Robert Proctor c. Thomas Usherwood.

background to dispute, but a central element in social, moral and legal definitions of slander. To this end, Jim Sharpe acknowledges how contemporary criticism of the ‘malicious’ nature of slander betrayed ‘a residual acceptance of the medieval concept of slander as a breach of Christian charity’.²⁴ And Ingram and Wrightson both observe slander was ‘grounded in the principle of maintaining harmony and charity within the Christian community’.²⁵ It is all the more surprising, therefore, that the actual linguistic formulas used in the courtroom have been overlooked. So, too, have the legal implications of such formulas, and the elaborate discussions of the relationship between ‘anger’, ‘malice’ and culpability found in legal treatises.

3. Slander in Ecclesiastical Law.

The history of ecclesiastical law is complex. Unlike canon law - a series of specific rules governing maintenance and conduct of the Church and its ministers - ecclesiastical law was a hybrid. From the Reformation, it was composed of ‘papal and domestic canon law, the ecclesiastical common law, relevant parts of civil law and parliamentary statutes’.²⁶ Any coherence belonging to ecclesiastical law, therefore, probably resided in the professional training of judges and lawyers, in law-books and local custom. Yet despite this flexibility, there were certain criteria that determined the existence of a slander under ecclesiastical law. Firstly, the imputed crime had to be ecclesiastically punishable. As set out in chapter two, this covered a range of offences including fornication and bastardy. Secondly, slander had to cause an ‘ill-fame’; in other words, it

²³ See for instance *Trans C/P 1701/4 Steele c. Raine*.

²⁴ Sharpe, *Defamation*, p.8.

²⁵ Ingram, *Church Courts*, p.292. and Keith Wrightson, *English Society, 1580-1680* (London, 1990), pp.53-54.

²⁶ Justice Vaisey, *The Canon Law of the Church of England: Being the Report of the Archbishop's Commission on Canon Law* (London 1947), p.51.

did not exist if it was spoken between two persons. It was the ‘public’ nature of slander that caused ill fame, a theme addressed in more detail below. Thirdly, the slander had to derive from *malice*.²⁷ More importantly than whether or not the contested words were in any sense *true*, therefore, was the claim that they were spoken with the *intent* of causing an ‘ill-fame’ and therefore that they caused social conflict.

This was a commonplace assertion in legal textbooks between the seventeenth and nineteenth centuries.²⁸ Godolphin’s *Repertorium Canonicum* (1678) for instance defined slander as ‘the uttering of Reproachful speeches’ which must not only ‘aim at some prejudice or damage to the Party defamed’ but must ‘proceed...of malice’.²⁹ J.T. Law’s *Forms of Ecclesiastical Law*, an early nineteenth century synopsis of earlier legal writers noted that the words must be ‘spoken in malice, and proceed...from the inflammable spirit of hatred’.³⁰ And Henry Conset’s *Practice* (1700) stipulated that ‘if...the Words [in contest] were reproachful, he shall obtain the Victory: And then the Party uttering them, is to be punished...the reason is, because those Words were uttered out of a malicious and angry mind’.³¹

There is no doubt, then, that legal theories of slander prioritized the existence of ‘malice’ in discussions of culpability. That this was also common in legal *practice* is shown by Helmholz’s study of the medieval York courts. Helmholz found allegations of

²⁷ This clause was established by the Constitution of Oxford (1222). For a discussion, see R.H. Helmholz, ‘Canonical Defamation in Medieval England’, *American Journal of Legal History*, 15 (1971), pp.255-268, esp. p.257.

²⁸ On the later period, see Vaisey, *Canon Law*, p.51.

²⁹ John Godolphin, *Repertorium Canonicum; or, an Abridgement of the Ecclesiastical Laws of this Realm* (London, 1678), p.515.

³⁰ J.T. Law, *Forms of Ecclesiastical Law, or the Mode of Conducting Suits in the Consistory Courts*, 2nd ed. (London, 1831), p.47. See also John Ayliffe, *Parergon Juris Canonici Anglicani* (London, 1726), p.212.

malice were integral to proving a suit; two cases where malice was not proved were dismissed.³² But what of the relation between malice and ‘anger’? Helmholz does not address this question, but it is clear from the above evidence that contemporaries *did*. Of course, as with any assertions about early modern emotion beliefs, this claim is problematic.³³ Yet in terms of culpability, anger could prove malice, even when one person’s defects were highlighted for the good of the populace. As Thomas Ridley explained in *A View of the Civil and Ecclesiastical Law* (1675), allegations of ‘leprosy, the French pox and other like infectious diseases’ were permissible provided that they were ‘revealed with a sincere mind’ and ‘rather to cause men to refrain their company for feare of the infection than of any malicious rumours’.³⁴ And even in such instances, the claims must not be ‘uttered in any spleen or choller’, as this would lead to ‘contumilie and despite’.³⁵ In legal theory and practice, then, malice and anger were aligned. As Margaret Raine claimed, the uttering of slanderous words in ‘passion & wrath’ was widely conceived as ‘an instance or strong & undeniable argument’ of ‘ill will grudge or malice’ on the part of defendants.³⁶

So far, this chapter has argued that anger and malice were legally important in slander litigation, and that this influenced the construction of slander narratives. The importance of this cannot be overstated, for it allows us to view the contextual information provided by deponents in a new light. In their analysis of slander suits, historians have focused on the words uttered by defendants, using those words to illuminate contemporary ideas

³¹ Henry Conset, *The Practice of the Spiritual or Ecclesiastical Courts*, 2nd ed. (London, 1700), p.335

³² Helmholz, ‘Canonical Defamation’, p.257.

³³ This theme is discussed in more detail below.

³⁴ Sir Thomas Ridley, *View of the Ecclesiastical Law* (London, 1675) p.343.

³⁵ Ridley, *View*, p.344.

³⁶ Counter-allegations of Margaret Raine in Trans C/P 1701/4 Steele c. Raine.

about reputation, gender and sexual relations.³⁷ The remainder of this chapter will demonstrate that no less important than the words in contest was the way in which those words were spoken. For as men and women sought to prove the malicious and angry manner of defendants, they drew on a range of verbal and bodily proofs that the slander took place, as Conset put it, ‘in a heat’.³⁸ It is here that we can identify everyday discursive and non-discursive practices being refracted through the prism of the legal process. For the proofs offered by litigants and their witnesses were not confined to the ‘brawlings, chidings and the like’ recommended by Conset.³⁹ Instead, they were composed of a far more complex register of social performances in which internal emotional states were articulated through words and gestures.⁴⁰

Elsewhere in this thesis, the material and bodily manifestations of affect receive attention.⁴¹ In this analysis of slander suits, we will focus on verbal and aural displays. For one of the most obvious ways for plaintiffs to demonstrate an ‘angry mind’ on the part of defendants was to draw attention to their patterns and modes of speech. Again, this is a neglected aspect of early modern history. Despite recent interest in the bodily, spatial and material cultures of social and marital relationships - in gift-giving, say, or the reconstruction of living space - the meanings of verbal and aural communication has been overlooked.⁴² Perhaps this reflects the obvious point that historians, unlike anthropologists, cannot hear the voices of their subjects. Yet precisely *because* slander

³⁷ See Gowing, *Domestic Dangers*, chapters 1-3; Sharpe, *Defamation*, esp. pp.7-14; Peacock, ‘Morals, Rituals and Gender’, chapter 3.

³⁸ Conset, *Practice*, p.335.

³⁹ Conset, *Practice*, p.335.

⁴⁰ On the relationship between ‘feeling’ and external displays, see chapter 5.

⁴¹ See chapters 5 and 6.

⁴² See for instance Diane O’ Hara, ‘The Language of Tokens and the Making of Marriage’, *Rural History*, 3 (1993), pp.1-40; Peter Rushton, ‘The Testament of Gifts: Marriage Tokens and Disputed Contracts in North-East England, 1560-1630’, *Folk Life*, 24 (1985-6), pp.25-31; Lorna Weatherill, *Consumer*

suits were essentially concerned with the way in which words were spoken, they do contain references to a range of vocal strategies that illuminate the collective and communicative meanings of anger in social practice. These ranged from such inflections as the rhythm and tone of speech to the distance between disputants.

4. A 'Loud and Passionate Manner': The Verbal Politics of Slander.

A frequent focus of attention in slander suits was the volume and pitch of the voice. Litigants used evidence of 'shouting', 'brawling' or 'crying out' as proof of the defendant's emotional state and, as noted earlier, his or her intention to make an accusation audible to others, and hence 'public'. In 1730, for instance, Sarah Falconer of Leeds brought a suit against her neighbours, William and Mary Thomas. The couple had been sitting in their home with others when the conversation turned to the subject of Sarah and her husband. Mary and William told the company Sarah was 'a whore & had kis'd for halfe a crowne & was afterwards turn'd out at the back Doore'.⁴³ Maria Dawson, a 50-year-old cloth-dresser, lived next door to the couple. She recalled she had been working in her home when she was alarmed by the defendants speaking 'in a *loud* and passionate manner', and their homes 'only divided...by a thin brick wall' [emphasis added].⁴⁴ Anne Pearse, the 50-year-old wife of a musician lived opposite the defendants. She was also disturbed by the defendants 'talking *loudly* and with much passion' while she was 'standing by herself at the Nook or Corner of her dwelling' [emphasis added]. Anna was able to hear more than usual on this occasion because the defendants had left their front door open.⁴⁵

Behaviour and Material Culture in Britain, 1660-1760 (London, 1988), chapters 1-3.

⁴³ Libel in BI, CPI 892 (1730) Sarah Falconer c. William Thomas.

⁴⁴ Testimony of Maria Dawson in CPI 892 Falconer c. Thomas.

⁴⁵ Testimony of Anna Pearse in CPI 892 Falconer c. Thomas.

In such testimony, a loud and intrusive voice was presented as polluting the aural space of others as they lived and worked. To this end the social meanings of anger were constructed through men and women's failure to 'live quietly and peaceably' amongst 'the neighbours', as their shouting and brawling impacted on their local environment.⁴⁶ Thus in 1756, Thomas Smeaton, a 46-year-old tailor from St Peter the Little parish, York, testified in a slander suit between Elizabeth Calvert and John Ward. Smeaton deposed that he was 'in the open street' near his home when he heard the defendant speaking to 'Elizabeth Calvert in a boisterous manner', say that 'she was a common whore and sherriff Matthew's whore'.⁴⁷ Juliana Gibson, the 30-year-old wife of a waterman from the same parish, had also witnessed the incident. She testified that 'observing a tumult in the street', she 'went to her own Door' where she saw and heard 'the libellate John Ward speaking in a loud boisterous manner to the said Elizabeth Calvert'.⁴⁸ In John Kilner's suit against Mary Micklethwaite of Penistone, South Yorkshire, in 1727, Margaret Batty, a 24-year-old spinster, was collecting water from a well with neighbours when she encountered Mary and the plaintiff's wife.⁴⁹ Margaret saw them speak briefly before parting, when Margaret heard the defendant shout after Sarah Kilner '*loudly*' and passionately 'O Rot thee for a Barren whore and a bitch'. Margaret and her companions took particular notice because the words were 'spoke very loudly & with much heat or passion'.⁵⁰ And in a suit from 1760, Elizabeth Leedall testified on behalf of Elizabeth Clayton against Catherine Mangey of Leeds. Leedall, the 48-year-old wife of a cordwainer, was at a neighbour's house when she was alerted to a

⁴⁶ Testimony of William Sellars in BL, CPI 80 (1704) Office pp. John Thompson c. William Clarkson.

⁴⁷ Testimony of Thomas Smeaton in BL, CPI 1362 (1756) Elizabeth Calvert c. John Ward.

⁴⁸ Testimony of Juliana Gibson in CPI 1362 Calvert c. Ward.

⁴⁹ Libel in BL, CPI 868 (1727) Office pp. John Kilner c. Mary Micklethwaite.

‘great noise’ outside. At this she and her friends ‘looked out of the window to see what the matter was’. They saw Elizabeth and Catherine in the street, and heard Catherine call Elizabeth ‘an old whore, a pimping whore’ who ‘played nought on the board of a keele’ [i.e. a ship].⁵¹ Others testified how they left their homes to see what caused the noise, and gathered in the street to watch the brawling women.⁵²

Elsewhere, witnesses testified that they were alerted to a slander by a ‘disturbance’, a ‘quarrel’ or a ‘clamour’. They claimed that they heard one of the parties ‘cryeing out at’, ‘abuseing’ or ‘scolding’ one another and felt obliged to intervene and ‘keep the peace’. More often than not it was women who mediated between slander disputants as they did between matrimonial disputants.⁵³ Thus in 1719 Margaret Mason, a 50-year-old gentlewoman from All Saints’ Pavement, York, testified on behalf of her neighbour John Dalton. Margaret deposed that she was disturbed about her business by a ‘noise in Dalton’s... shop’. When she hurried round ‘in order to make peace’, she found the defendant haranguing the plaintiff.⁵⁴

In addition to the volume of speech, the repetition of words conveyed an agitated and uncontrolled speech pattern, as seen in the 1757 case between Mary Bell, a spinster from Hull and John Pindar, a local gentleman.⁵⁵ Witnesses recalled how John called the plaintiff ‘whore’, and that he also ‘used att the same time other very indecent and

⁵⁰ Testimony of Margaret Batty in CPI 868 Kilner c. Micklethwaite.

⁵¹ Testimony of Elizabeth Leedall in BI, CPH 2976 (1670) Elizabeth Clayton c. Catherine Mangey.

⁵² Libel in CPH 2976 Clayton c. Mangey.

⁵³ On this theme, see Gowing, *Domestic Dangers*, chapter 6, and my ‘Oeconomy of Violence? Marital Conflict in Early Modern England’, (M.A., York, 1996), chapter 2.

⁵⁴ Testimony of Margaret Mason in BI, CPI 587 (1719) Office pp. John Dalton c. Anne Allen

⁵⁵ BI, CPI 1389 (1757) Mary Bell c. John Pindar.

defamatory words and repeated them often over'.⁵⁶ Such repetition often formed a stream of epithets against the plaintiff. Thus in 1705 Charles Lister, an attorney from Ripon testified that William Walker accused him of being 'a whoremaster, a rogue and acted rogueishly, a knave and acted knaveishly, a proud rascally silly fellow, a silly rascally fellow, a mean pittiful silly fellow, a proud rascally beggarly silly fellow and a rogue to all mankind that he dealt with in way of practice'.⁵⁷ And in 1703 Hugh Jowett, a clothier from Bingley brought a case against Susanna Clayton of the same town. Susanna's daughter had given birth to an illegitimate child, fathered on Jowett. Witnesses confirmed Susannah had 'fall[en] into heat and passion', and declared Jowett to be 'a whoremaster ...troubled with the French pox', which 'she reiterated and spake several times'.⁵⁸

These verbal signs were a well-established part of anger displays. Contemporary treatises like James Burgh's *Art of Speaking* emphasized the different stylistic registers common to various emotions, noting that by the age of three, infants 'express their *grief* in a tone of voice, and with an action totally different to that which they use to express their anger, and they utter their joy in a manner different from both'.⁵⁹ Burgh's claims were echoed in advice manuals, literature and acting guides. For in the same way that other emotions had distinct aural indicators – melancholy making words 'dragged out rather than spoken; the Accents weak and interrupted [with] Sighs breaking into the Middle of Sentences and Words' - anger was identified by the tone and structure of the

⁵⁶ Testimony of Anna Bell in CPI 1389 Bell c. Pindar.

⁵⁷ Libel in BI, CPI 568 (1705) Office pp. Charles Lister c. William Walker.

⁵⁸ Libel in BI, CPI 20 (1703) Hugh Jowett c. Susannah Clayton.

⁵⁹ James Burgh, *The Art of Speaking, Containing... Rules for Expressing Properly the Principal Passions and Humours*, 2nd ed. (London, 1768), p.12.

spoken word.⁶⁰ As Foote explained in *A Treatise on the Passions*, anger transformed the tone and rate of speech, as ‘the expression of the Voice and Eyes are Quick’, and there is a ‘Loudness in the Tone of Voice [and] a Rapidity in the Utterance’.⁶¹ Similarly, in Daniel Burgess’s *Hastiness Unto Anger* the author lamented how in anger ‘the heart [takes] its fire as redily as the driest tinder; and the mouth flaming it forth as quickly as gun-powder before that the company, or the man himself, is aware of it’.⁶²

Such texts were inherently gendered. So, too, were the representations of anger found in slander litigation. Historians have observed that women’s participation in ecclesiastical disputes - especially slander - was far higher than that found in other courts.⁶³ This is no less true of the York courts. As discussed in chapter two, women accounted for only 28% of plaintiffs and 24% of defendants in the 3,777 surviving cause papers for the period studied.⁶⁴ In slander suits, however, those proportions rose to 55% and 41% respectively.⁶⁵ Historians have also focused on the gendering of the language used in slander suits.⁶⁶ At York, as at London, the terms of abuse were gendered. Women were called ‘whores’, ‘bitches’ and ‘strumpetts’; men as ‘cuckolds’, ‘rascalls’, and ‘thieves’. And as in Gowing’s account of London suits, and Peacock’s study of Norwich, the physical places where slander occurred were similarly and significantly gendered.⁶⁷ Less examined are the differences between descriptions of male and female emotional expression.

⁶⁰ Anon., *A Help to Elocution and Eloquence* (London, 1770), p.25.

⁶¹ Samuel Foote, *A Treatise on the Passions...as they Regard the Stage* (London, 1747), p.1.

⁶² Daniel Burgess, *Hastiness unto Anger Described and Disgraced* (London, 1698), pp.33-34.

⁶³ See Gowing, *Domestic Dangers*, p.33 and Meldrum, ‘A Women’s Court’, p.5.

⁶⁴ See chapter 2, and fig. 5.

⁶⁵ See chapter 2, and fig. 4.

⁶⁶ See in particular Gowing, *Domestic Dangers*, chapter 1.

The sample used in this chapter contains 20 references to words being spoken in a ‘scolding’ or ‘scoulding’ manner.⁶⁸ What is interesting is not the overall significance of this phrase in slander litigation (after all, it occurred in only 20% of those cases sampled), but the gendering of the term itself. In 98% of cases where disputants were accused of ‘scolding’, the parties concerned were female.⁶⁹ In the 1727 case between Joan Forrest of Robin Hoods Bay against Elizabeth Harrison, for instance, Richard Parkinson testified on behalf of the plaintiff. He recalled standing at his shop door and hearing the two women ‘at about five or six yards distance a scolding one another’.⁷⁰ Women also used the term amongst themselves. Thus in the slander suit brought by Mary Smith of Skipton against her neighbour Anne Cottam, witnesses noted the women quarrelled then settled their differences, Anne saying, ‘prithee, let us not scold like two strumpetts’.⁷¹

This gendering of language was consistent with the gendering of anger. For while physiological models of emotion - humoural, mechanistic and nervous - acknowledged emotional capacities varied according to age, sex, class and environment, most treatises viewed anger as incompatible with womanhood.⁷² As Richard Allestree explained in *The Ladies’ Calling*, women should be in ‘subjection’: for an unruly woman was ‘a plague to her relatives, and a derision to strangers, yea, and a torment to her self’.⁷³ Far more than men, women were required to ‘reduc[e] the passions to a temper and

⁶⁷ See Gowing, *Domestic Dangers*, chapters 1 and 7; Peacock, ‘Morals, Rituals and Gender’, chapter 5.

⁶⁸ See for example BI, CPH 2778 (1668) Sarah Mitchell c. Elizabeth Antrobus; BI, CPI 1356 (1754) Elizabeth Porter c. Thomas Caley; CPI 892 Falconer c. Thomas; Charles Green c. Anne Lampshaw.

⁶⁹ A good example is provided by the dispute between Elizabeth Raine and Margaret Steele that introduced this chapter. See Trans C/P 1701/4 Steele c. Raine.

⁷⁰ Testimony of Richard Parkinson in BI, CPI 866 (1727) Joan Forrest c. Elizabeth Harrison.

⁷¹ Libel in BI, CPI 1110 (1736) Mary Smith c. Anne Cottam.

⁷² For a discussion of medical and physiological interpretations of emotion, see chapter 5.

⁷³ Richard Allestree, *The Ladies Calling in Two Parts*, 3rd ed. (London, 1675), pp.44-45.

calmness, not suffering them to make uproars with which to disturb oneself, nor others.’⁷⁴ This injunction should not have been difficult to obey, since humoral theory gave women less choler than men, and nerve theory made them physiologically weaker. Women’s anger was, in the words of Allestree, only an ‘impotent rage’.⁷⁵ Women who *were* physically violent, as seen in matrimonial separation suits from the period, were characterized as grotesque perversions of femininity.⁷⁶ Yet as the evidence provided here illustrates, women were stereotyped as verbally aggressive and potential scolds through recourse to the ‘feminine weapon: the tongue’.⁷⁷ This association between women and verbal violence continued in a range of literary and medical works into the eighteenth century.⁷⁸

The meanings placed on male and female behaviour was clearly contested as defendants disputed the nature of dispute and the manner in which words were spoken. The nature of their defences supports this chapter’s emphasis on the relationship between malice and anger in ecclesiastical law. One option, of course, was for defendants to deny speaking the words in question, though this was a defence which usually worked only in the absence of witnesses.⁷⁹ It was also possible to argue, according to the strict legal criteria of slander, that although the words *were* spoken, the ‘good name’ of the plaintiff was ‘not in the least impaired by any words spoken’ by the defendant.⁸⁰ This defence was ambiguous, for it allowed the possibility that the words had been spoken, but were

⁷⁴ Allestree, *Ladies’ Calling*, pp.47-48.

⁷⁵ Allestree, *Ladies’ Calling*, p.48.

⁷⁶ See Bound, ‘Oeconomy of Violence’, p.24.

⁷⁷ Allestree, *Ladies’ Calling*, p.48.

⁷⁸ See for instance Daniel Defoe’s *Roxana: The Fortunate Mistress*, (1724), ed. J. Mullan, (Oxford, 1996), which contains a mistress who ‘scolded...like a mad woman’, as well as various other references to women’s tongues, pp.20,130, and Mary Davys, *The Accomplished Rake* (London, 1727), p.191.

⁷⁹ Note the responses of the defendant in a case not sampled here: BI, CPI 18 (1703) Office pp. Thomas Jefferey c. Thomas Smith.

inconsequential in the face of an existing lack of credit held by the plaintiff.

Another form of response – which also subverted the claim of malicious intent - was for defendants to claim that plaintiffs had misheard or misconstrued the disputed words. In 1694, for instance, Simon Weelby of East Retford, was litigated against by Elizabeth Wharton.⁸¹ Elizabeth claimed that James had pointedly remarked in mixed company that ‘a young whore is noe maide’, before suggesting to James Wharton that he ‘goe home and rub his head’.⁸² The implication of this statement was of course that Wharton was a cuckold, since a horned head was a common symbol of the cuckolded husband.⁸³

Weelby’s response was to redefine the nature of the verbal exchange which had taken place. He testified that it had been Wharton who appeared ‘very angry and passionate with and gave ill word to this respondent’. As a result of this unwarranted and unnecessary hostility, claimed Weelby, he ‘told the said James Wharton (without any reflection on his wife) that he was hott and might goo home and rub his head’.⁸⁴

In addition to claiming plaintiffs misheard or misinterpreted the disputed words, defendants redefined the context and ‘manner’ in which the words had been spoken.

Defendants claimed the words were uttered innocently, out of concern for their employers or in the fulfillment of their official functions. Refiguring the emotional significance of those words, they claimed they had spoken calmly, rationally, or simply in jest. In 1704, for instance, George Lotherington of Thornton in Craven defended himself in a slander suit brought by Robert Allen, Rector of the nearby parish of

⁸⁰ Responses of defendant in CPI 18 (1703) Jefferey c. Smith.

⁸¹ Libel in BI, CPH 4350 (1694) Elizabeth Wharton c. Simon Weelby.

⁸² Testimony of Laurence King in CPH 4350 Wharton c. Weelby.

⁸³ See Gowing, *Domestic Dangers*, pp.96-97.

Sneaton. Lotherington was Overseer of the Poor for Sneaton and legally required to investigate bastardy. So it was that he investigated rumours that Robert Allen's servant had given birth to an illegitimate child that she fathered on Allen. As Lotherington explained in his defence, he accused Allen of adultery 'without any heat passion or malice, and with no intent to defame or lessen the reputation of the said Mr Allen, but purely in discharge of his Duty & office'.⁸⁵ A number of witnesses supported these claims. Christopher Ellis, a 47-year-old agricultural worker from Eskdale-side parish, Whitby, was paid by Allen to house Allen's servant, Lucretia, during her pregnancy. Ellis described how Lotherington had approached Allen, 'very civilly and without any anger or passion' in order to 'speake about the said Lucretia Lake being likely to become chargeable to the town.... which the said George Lotherington did only in discharge of his office as overseer of the poor...& not in the least with any intent to scandalize or diffame the said Mr Allen'.⁸⁶

Similar examples are found elsewhere. In 1711, Martha Mortimer of Doncaster brought a slander suit against John Parkin, whose employer stored grain in the room above Martha's shop. Parkin accused Martha of stealing the grain. When brought to court to explain himself, Parkin denied blame, testifying he had not accused Martha of theft 'in an angry or passionate manner & with a malicious intent or designe to defame or injure' her. Rather, he 'spoke the same mildly, coolely & sedately, & with an intent & designe only to discover & find out the robber...of the said corne & to bring such person or persons to condigne punishment'. In support of his claim, and to prove the seriousness of his allegations, Parkin told the court that the evidence he had collected against

⁸⁴ Responses in CPH 4350 Wharton c. Weelby.

⁸⁵ Responses in BL, CPI 85 (1704) Robert Allen c. George Lotherington.

Mortimer had already been given before the Quarter Sessions of Doncaster, ‘which said prosecution [was] yet depending and undetermined.’⁸⁷

Elsewhere, men and women invoked sociability, rather than the lack of charity involved in slanders by claiming that the contested words were spoken, and received, in a ‘bantering’ or ‘jocular’ manner. In another case from 1730, Thomas Lotherington of Dunnington rejected allegations he had slandered Elizabeth Horsley by declaring ‘he believed...Robert Taylor had fuck’t her for that...he saw [her] upon a bed in his parlour’. Witnesses confirmed Thomas’s claims that he had spoken these words ‘in a bantering way’ and hence meant no malice.⁸⁸ And in 1731 Anne Taylor, wife of John Taylor from Chatburn, Clitheroe, charged Richard Webster with calling her husband ‘a cuckold...thereby further meaning that she the said Anne was a whore’.⁸⁹ Webster did not deny speaking the words, but insisted that they were not intended to cause offence, but spoken in the context of homosocial banter and companionship. Webster claimed the two were involved in conversation when Taylor asked him ‘whether Webster had kissed another man’s wife and made him a cuckold’, to which Webster had allegedly responded - as a ‘supposition’ - that ‘if all handsome women cuckolded their husbands then he [Clitheroe] might be one’.⁹⁰ In this spirit, the defence’s interrogatories asked witnesses, ‘Did you not apprehend and take it that the said words and expressions of the defendant were but in banter and jest and out of merriment and Joke and not out of malice and revenge, nor with any attempt to defame’ the victim?⁹¹

⁸⁶ Testimony of Christopher Ellis in CPI 85 Allen c. Lotherington.

⁸⁷ Responses in Bl. CPI 200 (1711) Martha Mortimer c. John Parkin.

⁸⁸ Responses in Bl. CPI 971 (1730) Elizabeth Horsley c. Thomas Lotherington.

⁸⁹ Libel in Bl. Trans C/P 1731/2 (1732) Anne Taylor c. Richard Webster.

⁹⁰ Responses in Trans C/P 1731/2 (1731) Taylor c. Webster.

⁹¹ Responses in Trans C/P 1731/2 Taylor c. Webster.

5. A Case of ‘Hot Blood’? Rethinking Narratives of Slander.

The evidence presented here suggests that we need to rethink historical accounts of early modern slander and anger. Firstly, it has been shown that references to the ‘hot blood’ of verbal exchanges do not transparently represent the testimony of litigants.⁹² Nor do they unproblematically represent any pre-cultural or non-discursive somatic experience of anger. What they *do* provide is a representation of anger within a particular discursive field: slander litigation. Rather than reading depositions as entirely legalistic formula, however, this chapter has attempted to demonstrate the ways in which the communicative practices of individuals interacted with the legal requirement for men and women to demonstrate particular modes and models of anger. In other words, as deponents attempted to prove the affective significance of slanderous words, they located them within socially and collectively recognizable behavioural codes. Obviously, we do not know how far such codes were internalized in and reproduced *through* the field of social practice, though this is a broader interest of this thesis.⁹³ Nor is it clear how far these displays were acted out, or re-enacted, in court testimony purely as a response to legal criteria. Of course, if we are viewing anger as social and meaning-centred, rather than individual and spontaneous, this does not matter. What is relevant is that invocations to anger found in the courtroom alluded to the verbal, gestural and spatial negotiations through which ‘anger’ was structured and performed in social interaction.

⁹² Ingram, *Church Courts*, p.292.

⁹³ This theme is addressed in the conclusion.

It is this recognition of anger as a conflictual and contested site of meaning – a theme pursued below in relation to romantic love and sadness - that highlights the inadequacies of traditional historiographical models. For as discussed elsewhere in this thesis, developmental approaches to human emotions work only by ironing out conflict and imposing consensus.⁹⁴ In contemporary theories of affect, as in the realm of social practice, interpretations of emotion were multiple and contentious. Treatises on anger disputed its role as a product of the humours, the devil or the divine.⁹⁵ Following classical principles, some stressed the importance of the soul; others of the *psyche* or *soma*.⁹⁶ And while writers like Daniel Burgess described anger as ‘a curse that goeth over the face of the whole earth’, others, like John Downname, had traditionally applauded the passion as ‘lawfull’ and ‘laudable’, provided it was tempered by humanity and religion.⁹⁷

The existence of such dichotomous positions can largely be attributed to the traditional and diverse perspectives of Stoics and Epicureans, both of whom tend to be overlooked in the history of emotion.⁹⁸ Yet it is this neglect, combined with the unproblematic reading of such sources as conduct manuals without reference to their textual and epistemological conventions, which facilitates teleological accounts of emotional

⁹⁴ See the discussion in chapter 1.

⁹⁵ For an example of the traditional association of anger (or wrath) with God, see C. Chauncy, *Earthquakes a Token of the Righteous Anger of God: A Sermon* (Boston, 1755), Preface. For a broader consideration of the theological meanings of human passions, see Michael MacDonald, ‘The Inner Side of Wisdom: Suicide in early modern England’, *Psychological Medicine*, 7 (1977), pp.565-582; M. MacDonald and T.R. Murphy, *Sleepless Souls: Suicide in Early Modern England* (Oxford, 1990), Introduction and chapter 1.

⁹⁶ Compare William Ayloffe, *The Government of the Passions, According to the Rules of Reason and Religion* (London, 1700), pp.1-2 and Anon. *An Introduction Towards an Essay on the Origin of the Passions* (London, 1761), pp.3-4. A more detailed discussion of the relative influences of physical and psychological interpretations of affect is provided in chapter 5.

⁹⁷ Burgess, *Hastiness unto Anger*, p.A3; John Downname, *A Treatise of Anger: Wherein is Shewed the Lawfull, Laudable, and Necessary Use of Just and Holy Anger* (London, 1609), Introduction.

⁹⁸ See the discussion in chapter 1, and K.M. Grange, ‘Doctor Johnson and the Passions’, (DPhil.

evolution – largely conceived as a move away from anger and towards sentiment - in post-Restoration England. Consider, for instance, Liz Foyster's recent account of anger control which is couched in this traditional framework.⁹⁹ Claiming 'it was in the eighteenth century that the language for referring to and reproofing an emotion like anger initially came into use', and that only then was it believed 'possible, and indeed desirable, for men to learn to control their anger', Foyster ignores a lengthy tradition of anti-emotion literature.¹⁰⁰ For Thomas Wright was one of many to invoke biblical precedent as an element in the structuring of anger. In 1601 he wrote that 'to rage in anger, to tremble in fear, in hope to faint, in love to languish. These were those temptations of the flesh that *S. Paul* did punish, saying...I challenge my body, and bring it into servitude'.¹⁰¹

As Wright's words suggest, it is only by reconstructing the specific discursive conventions and traditions surrounding theories of affect that we can understand the contemporary meanings of such 'universals' as anger. And it is only by historicizing those meanings that we can unravel the significance of context-situated interpretations of emotion. Thus whilst the ecclesiastical courts' relation between 'anger' and 'malice' – which has little relevance in our understanding of anger as spontaneous, unplanned and hence an opposite to malice - needs to be rooted in medieval interpretations of the 'vice' of anger as it evolved from classical tradition and the church fathers.¹⁰² By the

University of California, 1960), chapter 2.

⁹⁹ Elizabeth Foyster, 'Boys will be Boys? Manhood and Aggression, 1660-1800', in Tim Hitchcock and Michèle Cohen (eds.), *English Masculinities 1660-1800* (London, 1999), pp.151-166.

¹⁰⁰ Foyster, 'Boys will be Boys', p.159.

¹⁰¹ Thomas Wright, *The Passions of the Minde in General* (1601, facs. repr. New York, 1973). See also L. Blackburne, *The Unreasonableness of Anger: A Sermon Preached before the Queen, at Whitehall, July xxix, 1694* (London, 1694), preface.

¹⁰² See Geneviève Bührer-Thierry, '“Just Anger” or “Vengeful Anger”? The Punishment of Blinding in the Early Medieval West', in Barbara H. Rosenwein, (ed.), *Anger's Past: The Social Uses of an Emotion*

eighteenth century, the appropriateness of the association between anger and malice was itself in dispute, as treatises on ecclesiastical law debated the fact that anger did not always equate with malice, and *vice versa*. It was argued, therefore, that malicious words could be spoken – in the eighteenth century as today – in a ‘coole’ or ‘bantering’ manner.¹⁰³ Thus Sir Thomas Ridley’s *View of the Ecclesiastical Law* (1675) categorized the levels of culpability attached to various ways of speaking ill words against another, noting that a ‘scoffing and jesting manner’ could easily conceal rankor and malice’.¹⁰⁴

The full significance of these findings awaits further research, both into the history of ecclesiastical law as it developed between the thirteenth and eighteenth centuries, and into legal practice as conducted in ecclesiastical courts throughout the country. Aside from their implications for the histories of anger and slander, however, these findings have a more general significance for historians’ ability to gain access into the emotional performances of men and women from the past. For whether viewed as an element in the reflection or production of meaning, any textual representation of experience is influenced by the specific requirements of the medium. Here, we have looked at the discursive manifestation of anger in a particular legal context. Yet there was nothing any more ‘real’ or ‘unmediated’ about the language of affect found in such putatively individualized performances as diaries, autobiographies and letters. For as the next chapter demonstrates through the analysis of the love-letter, emotional expression was

in the Middle Ages (London, 1998), p.75. See also Lester K. Little, ‘Anger in Monastic Curses’, in Rosenwein (ed.), *Anger’s Past*, p.9.

¹⁰³ This is Gowing’s interpretation of many slanders coming before the London courts. See *Domestic Dangers*, p.124.

never beyond the social, but embedded in it, shaped by its circumstances of production, and by contemporary beliefs about the meanings and effects of romantic love.

¹⁰⁴ Ridley, *View*, p.340.

Chapter 4. The Rhetoric of Affect: Love and the Letter.

1. A Woman's 'Secret Anguish'.

Between August and December 1742, Thomas Mascall, an Attorney from St Mary-le-bow, Durham, received six letters from Ursula Watson, a merchant's niece from Houghton-le-Spring near Sunderland.¹ Responding to Thomas's concern about her relationship with one Thomas Griffith, Ursula wrote to assure Mascall that she loved only him. In her letters, she expressed remorse for the sorrow she had caused Mascall and fear that her actions had lessened his regard for her. Invoking the style and form of words found in the Common Prayer Book – a common practice in courting rituals – Ursula expressed an urgent desire that their relationship would continue 'till Death us do part'.² Less than a year later, Ursula apparently had second thoughts. She denied having a relationship with Thomas, claiming that any intimations of a contract had been 'careless and unintentional'.³ Infuriated by Ursula's rejection, and the fact that Ursula was now betrothed to Griffith, Thomas Mascall appeared before the Consistory Court of Durham, and later the appeal Court of York. He testified that after a courtship lasting two years, a promise to marry had been exchanged between himself and Ursula on four occasions.⁴ If correct, Ursula could have been forced to cohabit with Mascall as his wife, for a verbal contract in the present tense was legally binding.⁵ Ursula was therefore to regret the letters she had sent, for they were exhibited as evidence against her.⁶ And despite her subsequent disavowal of the intent, though not the authorship of those

¹ The two places are approximately 12 miles apart. Bl. Trans C/P 1744/5 (1744) Thomas Mascall c. Ursula Watson.

² Exhibit no. 1 in Trans C/P 1744/5 Mascall c. Watson.

³ Testimony of Ursula Watson in Trans C/P 1744/5 Mascall c. Watson.

⁴ Trans C/P 1744/5 Mascall c. Watson.

⁵ For an introduction to canon law on marriage, see Lawrence Stone, *Road to Divorce: England 1530-1987* (Oxford, 1992), Introduction and part 2.

⁶ Allegation of Thomas Mascall in Trans C/P 1744/5 Mascall c. Watson.

letters, the ‘secret anguish’ they revealed seemed to support Thomas’s claims.⁷ Ursula’s letters are reproduced in appendix 5 as they were transcribed by the court clerk.

Unfortunately, the original letters do not survive.

To understand the import of Ursula’s letters, and the emotional states they described, we need to look further into the context of their production. Relations between Ursula and Thomas had been deteriorating since the previous February, when Thomas first accused her of infidelity. Mascall claimed that by that time he and Ursula had embarked on a sexual relationship, Mascall having ‘free access to ... Ursula Watson’ on several occasions, particularly on 25 February 1742 when they ‘had carnall copulation of each others bodys three times’.⁸ According to Thomas, this physical exchange was emblematic of their contract, coming after a series of verbal and material exchanges, cemented by his gift to Ursula of a wedding ring.⁹ Ursula obviously felt differently. Although she had accepted Mascall’s gifts, kept company with him, and even advised on the re-decoration of his house, Ursula continued to spend time with Griffith. Time and again Mascall pressed Ursula to reject Griffith’s advances, and time and again she agreed to do so, only to change her mind at a later date. Ursula’s letters mark a particular point in her relationship with Mascall, for between August and December 1742, Mascall seldom visited Ursula, leaving mediators or the written word as their only channels of communication. By the following March, the situation was still unresolved. Although regular contact was re-established, Mascall was pressing Ursula to move closer to his house in Durham, so that he could keep an eye on her. Ursula agreed, but less than a month later absconded, refusing to see or receive

⁷ Exhibit no. 5 in Trans C/P 1744/5 Mascall c. Watson.

⁸ Testimony of Thomas Mascall, in Trans C/P 1744/5 Mascall c. Watson.

⁹ Trans C/P 1744/5 Mascall c. Watson. See Stone, *Road to Divorce*, Part 2.

communications from Mascall, and pledging to marry Thomas Griffith. It was at this stage that Thomas Mascall sought the assistance of ecclesiastical law.

Unfortunately, we know little about the personal circumstances of Ursula and Thomas. Whilst ecclesiastical court records are typically rich in detail, the ages of the couple are not given. We know that Thomas worked and lived in Durham until his death in 1769, whilst Ursula divided her time between the lodgings in Durham that she rented from a Mrs Lamb and one Mark Johnson, and the home of William Watson, her uncle, in Houghton-le-Spring.¹⁰ Obviously, we know that both were literate, and that as an attorney Thomas Mascall would have been knowledgeable about the workings of matrimonial law.

Certainly, he refers to Henry Swinburne's *Treatise of Spousals or Matrimonial Contracts*, a (still authoritative) legal tract published in 1686, for the finer points of contract law.¹¹

We cannot judge Ursula's knowledge of matrimonial law, though she claimed to be ignorant of the same.¹² Since Ursula was, like the majority of litigants in matrimonial cases, from the middling sort, we can assume that she enjoyed a standard of living commensurate with that status.¹³ But we do not know what books she enjoyed reading, how she spent her time, or even how she felt about Thomas. What we do know is that when Ursula wrote to Thomas, and when Thomas produced those letters in court, both acted according to cultural precedent. To understand the expressions of affect found in

¹⁰ Burial entry for 'Thomas Mascall, Attorney at Law' on May 9, 1769 in *The Registers of Mary-le-Bow in the City of Durham*, ed. Herbert Maxwell Wood, (Newcastle, 1912), p.155.

¹¹ Testimony of Thomas Mascall, in Trans C/P 1744/5 Mascall c. Watson, Henry Swinburne, *Treatise of Spousals or Matrimonial Contracts* (London, 1686), *passim*.

¹² Testimony of Ursula Mascall, in Trans C/P 1744/5 Mascall c. Watson.

¹³ On court costs, see chapter 2. The surviving bill in Trans C/P 1744/5 Mascall c. Watson was £5/2/6, though there were probably other expenses not included. Charges at the Court of Arches may have been higher, but Stone only gives details for separation cases. See Stone, *Road to Divorce*, pp.187-90. On the lifestyles of the middling sorts see Peter Earle, *The Making of the English Middle Class: Business, Society and Family Life in London, 1660-1730* (London, 1989). Introduction and John Smail, *The Origins of Middle-Class Culture: Halifax, Yorkshire, 1660-1780* (Ithaca, 1994), esp. chapters 6-7.

Ursula's letters, therefore, and to reconstruct the contemporary significance of the same, we need to examine the writing and exchange of love-letters as a form of social practice.

2. Love Letters in Early Modern England.

It was not unusual to write a letter to a loved one in early modern England.¹⁴ This was the case at least from the sixteenth century, and amongst those with sufficient leisure, literacy and capital. Nor was it unusual, by the late seventeenth century, for those letters to appear in matrimonial court cases, although this was probably an innovation. For though canon law had accepted letters as exhibits since the medieval period, there is little or no mention of their exchange between lovers in Ingram and Houlbrooke's studies of the church courts in the sixteenth and seventeenth centuries. And Gowing's study of the early seventeenth-century London courts notes only two instances.¹⁵ Yet Lawrence Stone's later study of the Court of Arches shows that letters were frequently exchanged at all social levels. In the case of *Troope v. Henson* (1662-1664), for instance, Stone notes that letters of 'increasing warmth' were exchanged between the gentry protagonists at particular crisis points in their relationship. In 1661, George Ryder and Priscilla Jones, members of what Stone calls the 'provincial middling sort', struck up a romance through secret correspondence, and letters were passed between them when they were physically distant. In an example from the 'London middling sort' Jack Lingard, a law student, wrote "several endearing letters" to Abigail Harris, and in an example of 'cross-class' courtship

¹⁴ See Alan Macfarlane's comments in *Marriage and Love in England, 1300-1840* (Oxford, 1986), p.301. Although motivational differences clearly existed between amatory letters exchanged in the case of courtship, and those that were passed between couples involved in adulterous liaisons, the term 'love-letter' here refers to both.

¹⁵ Martin Ingram, *Church Courts, Sex and Marriage in England, 1570-1640* (Cambridge, 1987), *passim*; Ralph Houlbrooke, *Church Courts and the People During the English Reformation, 1520-1570* (Oxford, 1979), *passim*; Laura Gowing, *Domestic Dangers: Women, Words and Sex in Early Modern London* (Oxford, 1996), pp.74, 160. For the canon law on letters as exhibits, see H. Conset, *The Practice of the Spiritual*

in 1746-7, a number of letters were exchanged between Arthur Collier, a civil lawyer, and Elizabeth Moseley, daughter of Sir Edward Moseley, Baronet of Rolleston, Staffordshire.¹⁶ In each of these cases, as in the case of Thomas Mascall and Ursula Watson, the sending of a love-letter helped form a relationship, and prove that a relationship had existed. Yet despite their apparent ubiquity by the Restoration - as modes of communication, and as expressions of emotional experience - love-letters have received little historical attention.¹⁷

Recent historical analyses of middle and lower class courtship in early modern England have at their core behaviour that was once viewed as irrelevant, or incidental. In such work, material exchanges such as those that took place between Ursula and Thomas are recognised to have important social significance. Historians are increasingly aware that the exchange of gifts, 'especially a ring or a bent or broken coin... [were]... popularly believed to carry special symbolic meaning'.¹⁸ O'Hara, Rushton, Gillis and Gowing have all drawn upon the anthropological work of Mauss and others to reconstruct the broadly political role of gifts in cementing and articulating emotional commitment.¹⁹ Yet such a nuanced

Courts, 2nd ed. (London, 1700), p.147, and R.H. Helmholz, *Canon Law and the Law of England* (London, 1987), p.335.

¹⁶ Lawrence Stone, *Uncertain Unions and Broken Lives: Marriage and Divorce in England, 1660-1857* (Oxford, 1995), pp.58, 64-66, 68, 89-90, 100.

¹⁷ An important exception, though one concerned primarily with the themes of orality and literacy rather than emotions and selfhood is Elizabeth S. Cohen. 'Between Oral and Written Culture: The Social Meaning of an Illustrated Love-Letter' in B.B. Diefendorf and V. Hesse (eds.), *Culture and Identity in Early Modern Europe 1500-1800: Essays in Honor of Natalie Zemon Davis* (Michigan, 1997), p.181. See also Roger Chartier et al. (eds.), *Correspondence: Models of Letter-Writing from the Middle Ages to the Nineteenth Century*, trans. Christopher Woodall (London, 1997), *passim*, though contributions focus largely on the internal structures of letters, rather than on their affective significance.

¹⁸ Stone, *Uncertain Unions*, p.13.

¹⁹ Diana O'Hara, ' "Ruled By My Friends": Aspects of Marriage in the Diocese of Canterbury, 1540-1570', *Continuity and Change*, 6 (1991), pp.9-41; *Idem*, 'The Language of Tokens and the Making of Marriage', *Rural History*, 3 (1992), pp.1-40; Peter Rushton, 'Property, Power and Family Networks: The Problem of Disputed Marriage in Early Modern England', *Journal of Family History*, 3 (1986), pp.205-219; *Idem*, 'The Testament of Gifts: Marriage Tokens and Disputed Contracts in North-East England, 1560-1630', *Folklife*, 24 (1985-6), pp.25-31; J.R. Gillis, 'From Ritual to Romance: Toward an Alternative History of Love', in C.Z.

approach to the economy of courtship makes over-simplified accounts of the love-letter even more surprising.

Where letters between courting couples have been noted, by Stone and others, their structural and epistemological peculiarities have been neglected. Unlike gifts, which are understood to be shrouded in social meaning, letters are used as unproblematic vehicles of subjective feelings. Just as Norbert Elias uses letters to identify and chart the 'depth of feeling' experienced by men and women in the past, so do more recent analyses.²⁰ According to Stone, letters were exchanged between couples to 'soothe [each other's] feelings', to give expression to 'fond' feelings, or to serve as a form of 'guilty evasion' in place of verbal communication.²¹ This view of letter-writing is also apparent in studies of husband/wife relations drawn from the personal writings of the élite. In *The English Family*, Houlbrooke finds in private letters a fuller 'expression of individual feelings of affection', than may be found elsewhere.²² Wrightson, Sharpe and Slater have similarly sought to reconstruct affective life through the study of contemporary letters. Arguing against the characterisation of early modern marriage as harsh and unloving, Sharpe uses Thomas Knyvett's letters to his wife as evidence of a 'touching and real affection' between the couple.²³ In a similar fashion, Keith Wrightson argues for close familial relationships based on the 'very revealing insights'

Stearns and P.N. Stearns (eds.), *Emotion and Social Change: Toward a New Psychohistory* (London, 1988), pp.87-115; Gowing, *Domestic Dangers*, csp. pp.159-164.

²⁰ Norbert Elias, *The Civilizing Process: The History of Manners and State Formation and Civilization* trans. E. Jephcott, 2 vols., (Oxford, 1994), 1, p.16. See also the discussion in chapter 1 above.

²¹ Stone, *Uncertain Unions*, pp.61, 64, 81.

²² Houlbrooke, *The English Family*, p.32, and pp.103-4 for an example of this method.

²³ Sharpe, *Early Modern England*, p.66. See also Keith Wrightson, *English Society 1580-1680* (London, 1993), chapter 4; Miriam Slater, 'The Weightiest Business: Marriage in an Upper-Gentry Family in Seventeenth-Century England', *Past and Present*, 72 (1976), pp.25-54.

into subjective experience provided by such evidence as love-letters.²⁴ And Macfarlane also finds in the love-letter ‘eloquent testimonies of domestic affection’ among the elite.²⁵

Amanda Vickery has recently produced a more nuanced interpretation of the structure of love-letters in eighteenth-century England, by drawing attention to the self-conscious crafting of love-letters.²⁶ Yet Vickery does not consider the meanings of affect that are displayed in love-letters, or the relationship between emotional experience and expression. And elsewhere she uses diaries and letters as unproblematic mediators of inner experience.²⁷ Like ‘diaries, wills and eulogies’, letters ‘testify to the long standing expression of love within marriage’.²⁸ It remains the case, therefore, that neither the meanings of romantic love as a cultural phenomenon, nor the peculiar specificities of the love-letter as a form of emotional expression have been addressed. The love-letter is viewed less as a fictional construct, or as a textual space undergoing revision in the construction of ‘self-hood’, than as a fixed representation of subjectivity, stabilised by the underscoring of an author’s name.²⁹

Yet, as has been discussed elsewhere in this thesis, recent research suggests that neither emotional experience nor its forms of representation is straightforward.³⁰ And at the same time that all forms of emotional expression have become subject to scrutiny, autobiographies, diaries, and other forms of ‘personal’ expression are seen as problematic in their rendering of the ‘self’ behind the ‘I’. If, therefore, as Webster argues, autobiographical writings need to

²⁴ Wrightson, *English Society*, p.94.

²⁵ Macfarlane, *Marriage*, p.301-2,193,189

²⁶ Amanda Vickery, *The Gentleman’s Daughter: Women’s Lives in Georgian England* (London, 1998), chapter 2.

²⁷ See for instance Vickery’s analysis of Ellen Wecton’s letter-books in *The Gentleman’s Daughter*, p.77

²⁸ Vickery, *The Gentleman’s Daughter*, p.57.

²⁹ See Nussbaum’s comments on autobiography in *The Autobiographical Subject: Gender and Ideology in Eighteenth-Century England* (London, 1989), p.18.

³⁰ See chapter 1.

be viewed less as documents of individual experience than as examples of a particular literary genre, letters in general, and love-letters in particular, need to be viewed with the same caution.³¹ For as modes of self-expression, they must participate in a similar process of literary construction.

For these reasons, this chapter rejects the essentialization of self and emotion implicit in traditional historiographical analyses of the love-letter. Whereas this thesis has previously highlighted the textual and rhetorical conventions surrounding the expression of anger in the court deposition, this chapter explores the apparently authentic language of romantic love produced in the course of litigants' testimony. It argues that though love-letters provide evidence of the ways contemporaries performed and structured affect in the context of individual relationships, their content and structure were no less crafted than church court depositions. Analyzing the form and content of Ursula's letters alongside that of other love-letters produced as exhibits in the York courts, therefore, this chapter explores their meanings as literary and material artefacts and a form of social practice. And it demonstrates that at a time when issues of self-representation received unprecedented attention - as seen in the development of autobiography, and epistolary fiction - love-letters were a highly specific way of *shaping* as well as *reflecting*, emotional experience.³²

3. Writing the Self: A Matter of Convention?

We clearly cannot simply ignore or reject the emotional distress described by Ursula in her letters to Thomas. Yet though she claims that 'my heart dictated to my pen', and that she

³¹ Tom Webster, 'Writing to Redundancy: Approaches to Spiritual Journals and Early Modern Spirituality', *The Historical Journal*, 39 (1996), pp.33-56.

³² On the rise of autobiographical forms, see Nussbaum, *The Autobiographical Subject* and Patricia Spacks, *Imagining a Self: Autobiography and the Novel in Eighteenth-Century England* (Harvard, 1976), Introduction. The rise of the epistolary form is discussed below.

‘only writt my own sentiments’, the authorship of those sentiments is problematic.³³ When Ursula assured Thomas that ‘when pleasing you, [I] most pleas myself; ‘when I cees to love you I must cees to live’; ‘I neither can will or ever desire to be happy without you’; or ‘for God’s sake dont abandon me now, for life without you will ever be haitfull’, the emotional rhetoric she employed was paralleled in fictional writing of the time.³⁴ Nowhere is this more apparent than in the case of letter-writing manuals, which in seeking to initiate readers into the art of ‘love-epistles’, helped shape the development of a romantic epistolary ‘self’.³⁵

From the anonymously published *The Secretaries Studie* (1652), Henry Care’s *The Female Secretary* (1671), and *The Lovers’ Secretary in Four Parts*, (1692), to the outpouring of eighteenth-century publications such as *Polite Epistolary Correspondence* (1751), *The Complete Letter-Writer* (1757), and *The British Letter Writer* (1765), letter-writing manuals laid out the content and style of letters appropriate for particular situations, with examples for the reader to copy out if necessary.³⁶ In the case of love-letters, the models were largely formulaic, dealing with protestations of love, the despair of the lover, the lover’s betrayal and the belief that love will conquer all.³⁷ During the eighteenth century, as part of the so-called ‘cult of sensibility’, invocations to the suffering of the ‘soul’, to ‘tears’, and to the ‘torment’ or ‘anguish’ of lost love became part of the emotional lexicon specific to such

³³ Exhibits 2 and 4 in Trans C/P 1744/5 Mascall c. Watson.

³⁴ Exhibits 5 and 6 in Trans C/P 1744/5 Mascall c. Watson.

³⁵ On published letters see Ruth Perry, *Women, Letters and the Novel* (New York, 1980), chapter 1.

³⁶ For an introduction, see Godfrey Frank Singer, *The Epistolary Novel: its Origin, Development, Decline and Residuary Influence* (New York, 1963), chapter 1.

³⁷ Trans C/P 1744/5 Mascall c. Watson.

circumstances.³⁸ In ‘The seaman’s sorrowful parting with his dear love’, for instance, an imaginary sailor writes:

Dearer to me than Life itself, Could my faltering Tongue express the Sorrow of my bleeding Heart, that now must be compelled to leave thee, and expose myself to the Hazard of the Sea...yet the greatest of my Fear is, lest thou that art the joy of my Heart, the Comfort of my Soul, should’st in my Absence, in any measure Miscarry.³⁹

Such over-blown emotional discourse was frequently satirised, one fictional character writing to his ‘Charming Tyrant’, ‘tho’ you forbid me to repeat Suns, Rocks, Mountains, Earthquakes, which are as essential to a Letter of this kind as Gilt-Chapter, yet you forgot to except against Sighs, Prayers, Vows, Tears, and the many other little Reliefs the unhappy fly to’.⁴⁰ Yet such expressions remained commonplace in romantic correspondence, often supported by invocations of the psychological and physiological consequences of emotional betrayal. As Ursula wrote to Thomas in letter 5, ‘the discontent you left me in makes [me] allmost abandon my self to melancholy. I am betwixt faint hope and reall despair for I have never had one easy moment since, when I reflect on your pain and myself the cause’.⁴¹ Elsewhere she complains of sleeplessness and ‘uneasiness’, familiar images of suffering to readers of contemporary literature. In *The Complete Letter Writer*, an abandoned lover finds the evening a time of torment: ‘all Night long, dreadful Fancies haunted me, and drove all soft and pleasing ideas from me...I could not, durst not slumber’.⁴² Similarly, in *The Ladies’ Miscellany* (1738), Silvia upraids Octavio for his treatment of her, informing him that ‘I have

³⁸ See the discussion in chapter 1, and G.J. Barker-Benfield, *Culture of Sensibility: Sex and Society in Eighteenth-Century Britain*, 2nd ed. (London, 1996), Introduction.

³⁹ ‘The Seaman’s Sorrowful Parting With His Dear Love’, in Anon., *A New Academy of Compliments* (London, 1748), p.31. Further examples may be found in Anon., *The British Letter Writer* (London, 1765), esp. part 3, and Anon., *The Polite Correspondence or, Rational Amusement, Being a Series of Letters Philosophical, Poetical, Historical* (London, 1750), Introduction.

⁴⁰ Anon., *The Ladies’ Complete Letter-Writer* (London, 1763), p.136.

⁴¹ Exhibit no. 5 in Trans C/P 1744/5 Mascal c. Watson.

⁴² Anon., *The Complete Letter-Writer, or, Polite English Secretary*, (London, 1757), p.132.

not slept, nor once had you out of my thoughts' since their last meeting.⁴³ In a culture that viewed romantic failure as a cause of depression, insanity and even suicide, such emotional displays were a staple of popular entertainment.⁴⁴ And although both sexes could be affected, women were peculiarly susceptible, their weaker nervous systems meaning that - as Mandeville put it - 'Grief, Joy, Anger, Fear, and the rest of the Passions, made greater Impression upon them' than upon men.⁴⁵ Aware that such expressions could reduce her sentiments to cliché as easily as they could induce sympathy, then, Ursula was careful to point out that her experiences are subjective and spontaneous. In letter 3 she wrote: '[d]oan't imagine my concern is but what is commonly tirm'd our sex's arts; no, it proceeds from a reall uneasyness which you have but too often experienc'd'.⁴⁶

4. Romantic Love and the Economics of Exchange.

Ursula's self-positioning as passively enduring yet morally victorious draws attention to the functioning of gender in romantic discourse. For women were, as Mandeville's words suggest, archetypal victims of romantic suffering. It is not insignificant, then, that in the example cited above, the sailor who writes to his love is the one who is departing. For the task of waiting for a lover was as traditionally female as that of suffering. A standard *topos* of epistolary literature since Ovid has, in fact, been the female letter of 'suffering and victimisation'.⁴⁷ Ballaster notes that each of Ovid's fifteen heroines possessed a silent lover

⁴³ Anon., *The Ladies' Miscellany*. (London, 1738) p.13.

⁴⁴ See Michael MacDonald and Terence Murphy, *Sleepless Souls: Suicide in Early Modern England* (Oxford, 1990), chapters 1-2.

⁴⁵ Bernard Mandeville, *A Treatise of the Hypochondriack and Hysterick Diseases* (1711), cited in Barker-Benfield, *The Culture of Sensibility*, p.27.

⁴⁶ Exhibit no. 3 in Trans C/P 1744/5 Mascall c. Watson.

⁴⁷ Elizabeth V. Goldsmith (ed.), *Writing the Female Voice: Essays on Epistolary Literature* (Boston, 1989), p.viii. For an example of this see Martha Fowke, *Clio and Strephon: Being the Second and Last Pair of the Platonic Lovers* (London, 1732), *passim*.

who had abandoned, seduced or betrayed them.⁴⁸ With the publication of the *Lettres Portugaises* (1669), (translated into English by Roger L'Estrange as *Five Love-Letters from a Nun to a Cavalier*), the Ovidian convention of the letter 'as a form of complaint from the victim of seduction' was re-established in seventeenth-century prose fiction.⁴⁹ The *Five Love-Letters*, detailing the romantic betrayal and abandonment of a Portuguese nun by a French officer, was reprinted 21 times before 1690, as part of a burgeoning European interest in letter fiction.⁵⁰ Adams Day suggests that epistolary works made up 200 in every 500 published works between 1660 and 1740. Examples range from epistolary romances, like Behn's *Love-Letters between a Noble-Man and his Sister* (1683-7), to such novels as Richardson's *Pamela* (1740) and *Clarissa* (1747-8) and Rousseau's *La Nouvelle Héloïse* (1761).⁵¹ A recurring theme throughout many such works was the image depicted by Ursula Watson: the female subject, virtuous, emotionally bereft, and abandoned or betrayed by her lover.

Yet there was power in passivity. Firstly, there was an obvious liberatory potential for women in using the letter as a vehicle for self-expression.⁵² Secondly, in representing that self as a suffering being, emotion became a commodity to be purchased or exchanged. This reminds us of the social nature of emotional states, and of the ways emotional expression drew upon an economy of credit and loss. As Ursula informed Thomas in letter 5, her own

⁴⁸ R. Ballaster, *Seductive Forms: Women's Amatory Fiction from 1684 to 1740* (Oxford, 1992), p.60.

⁴⁹ Ballaster, *Seductive Forms*, p.63.

⁵⁰ K.A. Jenson, 'Male Models of Feminine Epistolarity: or, How to Write Like a Woman in Seventeenth-Century France', in E.C. Goldsmith, (ed.), *Writing the Female Voice: Essays on Epistolary Literature* (Boston, 1989), pp.25-38, esp. p.26.

⁵¹ R. Adams Day, *Told in Letters: Epistolary Fiction Before Richardson* (Ann Arbor, 1966), p.2. In addition to published fictional correspondences, the period saw letter-writing employed for a wide range of purposes, including travel accounts, letters of social and political intrigue, satires on social conditions, medical and philosophical discussions, stories by and of the rich and famous, and so on. See Perry, *Women, Letters and the Novel*, chapter 3.

⁵² On women as writers see F. Graham et al (eds.), *Her Own Life: Autobiographical Writings by Seventeenth-Century English Women* (London, 1989), Introduction.

grief cancelled out his own, for if ‘tears and remors will make [him] any Satisfaction [he was] amply paid for all [her] faults’.⁵³ In a similar fashion, Sarah Turner, a widow from Chester, testified to her feelings for Thomas Tyndale, a gentleman with whom she claimed to have made a contract: ‘I must look upon all these things, as a just judgement and reward, for my actions...tho itt be the ruen of your ever fathfull frend, S.T.’.⁵⁴ This commodification of emotional expression as something to be purchased, exchanged or bartered, meant that lovers could measure their experiences by the emotional displays of others. Thus in 1755, Dorothy Wentworth, a gentlewoman from Knaresbrough in Yorkshire’s West Riding, wrote to her lover:

Beverley, November the 8th 1755
My Dear Preshous Iuele [Jewel],

...
I ad heard the malloncoley newse you wrote me word of in your letter befor and a man at Rodram that as killed his Lover that shoud have been married the day after to her, upon another man keeing her and wishing her joye, poor woman. The mans in York castle. They ad a song at Beverley on the feare day; thears pashon to a great hight carried on. I think no bodey can love moar than we do. I shud be all was hapey with you without a compliament...
Dor. Wentworth.⁵⁵

Michael McDonald and Terence Murphy have shown that seventeenth- and eighteenth-century newspaper reports of suicide ‘transformed [its] hermeneutics’, as men and women structured their final letters in accordance with published examples.⁵⁶ A similar process was at work in Dorothy’s letter to Samuel, and in each of the letters discussed above, as lovers turned to culturally comprehensible narratives in order to make sense of experience. In turn their letters reinforced conventional understandings of the appropriate language, and effects.

⁵³ Exhibit no. 5 in Trans C/P 1744/5 Mascall c. Watson. The cultural meanings of tears are considered in chapter 5.

⁵⁴ Exhibit in BL Trans C/P 1700/2 (1700) Sara Tyndall als Turner c. Thomas Tyndale, p.25.

⁵⁵ BL, CPI 1376 (1756) Godfrey Wentworth c. Dorothy Wentworth.

⁵⁶ See MacDonald and Murphy, *Sleepless Souls*, p.301.

of romantic love. Contemporaries were not unaware of this phenomenon; in some cases it was even encouraged. Letter writing manuals stressed that regular perusal of fictional models could help the reader internalize skills of self-representation. *The Ladies' Complete Letter-Writer* (1763) for instance, advised readers that 'by frequently perusing, copying, and imprinting the Language of them on their Memories', they would 'soon learn to express themselves with Grace and Freedom upon all Manner of Subject[s]'.⁵⁷ Readers were similarly encouraged to become familiar in the rhetoric of parallel cultural models, as 'the Lubrications of the *Spectator*, *Tatler*, *Guardian*, *Rambler*, *Connoisseur* and *Adventurer* ... will ... fashion not only their Manner of Writing, but their Manner of Thinking' about love.⁵⁸ Yet it was not only the rhetoric of romance that influenced emotional expression, for the mechanics of self-representation were embedded in the material culture of the letter.

Unlike the conveying of emotional expression through speech and gesture, letter writing provided an embodiment of emotional experience that lasted long after the emotion had passed. And unlike verbal expression, a letter could be revised and re-read time and again by the reader and the writer. Moreover, the physical act of writing partook of an elaborate social ritual that varied according to such issues as the letter's function and the social status of the recipient. In *The Complete Letter-Writer*, for instance, readers are reminded that 'when you write to a Person of Distinction or Gentleman, let it be on gilt Chapter, and without sealing the Letter itself, inclose in a Cover, which you are to Seal over it, and write the Superscription thereof'.⁵⁹ *Epistolary Correspondence* advised the reader how and where on the letter to add the date and the place of writing, how to employ margins, and even how

⁵⁷ Anon., *Ladies' Complete Letter-Writer*, pp.2-3.

⁵⁸ Anon., *Ladies' Complete Letter-Writer*, p.3.

⁵⁹ Anon., *Complete Letter-Writer*, p.61. See also Antoine de Courtin, *The Rules of Civility; or the Maxims of Genteel Behaviour* 3rd ed. (London, 1703) and John Shebbeare, *A Love-Epistle in Verse* (London, 1756). *passim*.

to fold the letter.⁶⁰ In this context, the formalised discourse used by Ursula in her letters to Thomas Mascall - her use of the address, 'Dear Sir' (notably in all except the 6th exhibit), and her concluding with 'U. Watson', for instance - must be seen as conforming to literary convention rather than, as Anthony Fletcher's analysis suggests, evidence of the narrowly patriarchal nature of early modern marriage.⁶¹

In addition to the linguistic framing of emotions found in the love-letter, its material components - pen, paper, wax - carried a variety of meanings. All the letters discussed here were written in ink, on manuscript paper of varying sizes. As seen in Ursula's letters to Thomas, the date, the place of production, and the names of the addressee and sender were noted. It was commonplace to add a post-script, (as Ursula does in the first exhibit), particularly in the love-letter. For whilst the use of a postscript could prove offensive in a letter to a superior - having 'the Appearance of your having almost forgot them', according to the *Complete Letter Writer* - in love-letters, it gave an impression of unwillingness to part with a lover, or of emotional expression being unable to be contained by the parameters of the text.⁶²

As Jonathan Gibson has argued in his recent study of 'significant space' in seventeenth-century manuscript letters, these apparently insignificant conventions were meaningful, for they influenced the ways in which contemporaries read the text.⁶³ Since they also added to the authenticity and memorability of a letter, individual idiosyncrasies could be crucial in the determining of a case. Thus, when Dorothy Chrichley testified that Thomas Tyndale had sent

⁶⁰ John Gignoux, *Epistolary Correspondence Made Pleasant and Familiar* (London, 1759), pp.ii-iv.

⁶¹ Anthony Fletcher, *Gender, Sex and Subordination in England, 1500-1800* (London, 1995), p.155.

⁶² Anon., *Complete Letter-Writer*, p.61.

⁶³ See Jonathan Gibson, 'Significant Space in Manuscript Letters', *Seventeenth Century*, 12 (1995), pp.1-9.

Sarah Turner a contract of marriage in a letter, she recalled that the contract was 'writt on the compass or volume of a quarter of a sheet of paper... [and that]... the name Thomas... Tyndale [was] subscrib'd ... in red... in a larger character than the... contract was writ in'.⁶⁴ The colour of the ink is significant here, for Thomas apparently told Sarah that 'he had writ with his own hand in his own blood'. Unfolding a dramatic scene of composition for the court, Sarah claimed that when she had doubted him, he had 'open'd his breast & told her, if shee wou'd not believe the... contract was writt in his Blood, hee would draw blood from thence, and write it anew'.⁶⁵ Sadly, we will never be able to verify whether this was the case, for Sarah was unable to produce the letter for the court. Despite its extreme nature, this case illustrates the point in question: the material culture of letters was embedded in the body of the writer, as well as the body of the text.

In eighteenth-century England, the physical act of letter writing was suggestive of the giving of the self. For despite their conventions, letters provided an imprint of the writer's identity; not simply by the signature, but through the 'traces of the body that produced them in inkblots, teardrops, erasures'.⁶⁶ Gibson has shown how the style of handwriting deployed in seventeenth-century letters expressed social meanings. Scribal and italic/roman writings, for instance, 'signified respect for the addressee', whilst 'secretary-hand... signified the writer's personal investment in the letter'.⁶⁷ In addition to writing styles, however, invocations of the use and movement of the hand that wrote helped convey meaning. Thus the letter sent by Dorothy Wentworth to her lover Samuel Hawkrige, betrayed by its 'hasty scraole and

⁶⁴ Testimony of Dorothy Chrichley, wife of Benjamin, an Alderman from Chester, in Trans C/P 1700/2 Turner c. Tyndale, p.46.

⁶⁵ Libel in Trans C/P 1700/2 Turner c. Tyndale.

⁶⁶ Elizabeth Heckendorn Cook, *Epistolary Bodies: Gender and Genre in the Eighteenth-Century Republic of Letters* (Stanford, 1996), p.2.

⁶⁷ Gibson, 'Significant Space', p.7, fn 4.

paper', and 'a very bad penn', the hurried and emotional circumstances of its production.⁶⁸ Those circumstances could be exploited for rhetorical effect. When John Toller wrote to Elizabeth Buller's father about Elizabeth's pregnancy, he invited his reader to imagine the scene of writing, claiming that his 'hand trembl[ed] to write' what he found hard to express.⁶⁹ In a similar fashion, Ursula Watson encouraged Thomas Mascall to visualize the consequences of his actions by reference to her physical act of reading: 'I thote my uneasiness had been incapable of addition, but O Good God what did I not suffer at the reading [of] your letter'.⁷⁰

Such invocations to the practices of reading and writing highlight the specific symbolic properties of the letter form. We have seen how emotional representation was a commodity of exchange in the economy of emotion. The act of letter writing was a particularly appropriate expression of this economy, for it was predicated on a dynamic of exchange. The writing or receiving of a love-letter was not a solitary act, but a social one, cementing both sender and recipient in a relationship of obligation and expectation. As Alice Chaworth wrote to her lover William Heppenstall in 1759, 'I desir you to rite to me... prea dont feall riting to me', warning that 'I shall think one day ass long as a month till I heafe that pleasor and satisfaxon to hear from you'.⁷¹ On several occasions, Ursula Watson urged Thomas to write to her- 'Pray let me hear from you very soon' - complaining that it was 'impossible to force a line from [Thomas] without [her] writing first'.⁷² As time passed she became more earnest: 'let me beg let me conjour you for love for pitys sake to see or hear from you'.⁷³ Thomas's

⁶⁸ Exhibit in CPI 1376 Wentworth c. Wentworth.

⁶⁹ Exhibit in BL, CPI 240 (1714) Elizabeth Buller c. John Toller.

⁷⁰ Exhibit no. 6 in Trans C/P 1744/5 Mascall c. Watson.

⁷¹ Exhibit in BL, CPI 1414 (1760) William Chaworth c. Alice Chaworth.

⁷² Exhibits nos. 1 and 2 in Trans C/P 1744/5 Mascall c. Watson.

⁷³ Exhibit no. 5 in Trans C/P 1744/5 Mascall c. Watson. The obligation to respond is found elsewhere in letters of the period. See for instance Alice Chaworth's appeal to her lover, William Heppenstall: 'Pray don't

reply to her final letter apparently signalled a resolution between them, ‘Beginning my Dearest wife and Ending the fondest tenderest truest faithfulest Husband living or words to that or the like effect’.⁷⁴ Unfortunately, Thomas’s own letters cannot be reproduced, for though Thomas had clearly kept copies, only the originals could be produced as evidence. These Ursula refused to present, claiming on the advice of her proctor that she was ‘not by law oblig’d’ to do so.⁷⁵ Yet her sentiments demonstrate the importance of reciprocity in letter writing, seen elsewhere in contemporary culture.⁷⁶ As Chartier has noted in *Correspondence*, ‘every letter, by describing where and when it is being written and by mentioning other letters (received, expected or hoped for), takes as its main topic the pact that binds the correspondents’.⁷⁷

This issue of reciprocity is important because letters were physical objects, requiring transportation. At a time when postal services were infrequent and costly, letter-writers often relied on friends and acquaintances as carriers.⁷⁸ Since letters between lovers often

fail writing to me, for I shall rejoice to hear of your health and welfare’, Exhibit in CPI 1414 Chaworth c. Chaworth.

⁷⁴ For details of Thomas’s letters, see testimony of Thomas Mascall in Trans C/P 1744/5 Mascall c. Watson.

⁷⁵ Testimony of Ursula Watson, in Trans C/P 1744/5 Mascall c. Watson. It is likely that Ursula’s refusal to supply the letters, and Thomas’s inability to force her to do so, was the main reason for the eventual failure of Thomas’s suit. For removed from the context of exchange, Ursula’s letters were not sufficient evidence of an agreement to marry.

⁷⁶ The act of writing could in itself convey obligation and commitment. In a contract suit brought against Thomas Haswell by Elizabeth Dodgson in 1729, for instance, the prosecution alleged that Haswell had ‘approved the said marriage by many signs of familiarity with...Elizabeth Dodgson...by writeing kind & affectionate letters to her’. See BI, Trans C/P 1729/10 (1729) Elizabeth Dodgson c. Thomas Haswell. In *Ladies’ Miscellany*, Octavio threatens Silvia that he would commit suicide if she did not reply, p.16. Similarly, Mary Davys’s Artander writes to Berina, ‘I earnestly sue for a speedy answer to every letter I write, which will greatly alleviate my present disorder’, *The Reform’d Coquet* (1724), ed. J. Grieder. (London, 1970), p.266.

⁷⁷ R. Chartier, ‘Introduction’, in Chartier *et al.* (eds.), *Correspondence*, p.18.

⁷⁸ From 1660 when the Post Office was established local mail offices spread slowly throughout the country, but only three posts a week were generally available. The cost of delivering a letter outside of London during the period has been estimated at 6s, and that cost would be borne by the recipient. With the Stamp Act of 1711, a tax was imposed on ‘stamped vellum, parchment and chapter’, which pushed up the price still further. See Perry, *Women Letters and the Novel*, p.63. A more detailed account of the postal service is found in Kenneth Ellis, *The Post Office in the Eighteenth Century: a Study in Administrative History* (London, 1958), Introduction.

contained details that the couple preferred to keep secret - Ursula Watson desiring her faults to be 'Buryed in eternall Oblivion', for instance - the fear of discovery, and the perils of finding a trustworthy mediator loomed large. Popular literature was full of stock-situations when the loss, discovery or interception of a letter spelt disaster for a couple.⁷⁹ In such a context, the problem of conveying a letter could shape the form and content of the letter itself.⁸⁰ In John Toller's final letter to Elizabeth Buller, John referred to a hostile interception: 'your mother sent me word never to write to you again'.⁸¹ The fear of a 'busy insinuateing false toung' hangs over the head of Ursula Watson and Thomas Mascall, whilst Ursula's writings reveal the broad network of obligation on which their correspondence depends. Ursula's letters were directed to Thomas via one Elizabeth Chapman of Houghton-le-Spring, a spinster, who gave them to the Sunderland postman to convey to Mascall at Durham. Only the fifth letter was sent by a different route. This Ursula gave to her sister Elizabeth Watson, who passed it to William Cooper, a butcher of Houghton-le-Spring, who gave it to Thomas Mascall, presumably during a business trip to Durham. This elaborate scheme was perhaps necessary because of the indisposition of Elizabeth Chapman, or the Sunderland postman. At any rate, communication was not easy; as Ursula wrote to Thomas in letter 5, 'by the method I take of sending this you may easily gess at my concarn'.⁸² Here, as elsewhere, then, the concerns of the letter influenced its form and structure.

⁷⁹ For an introduction see Ballaster, *Seductive Forms*, p. 61.

⁸⁰ This is an example of the ways in which meaning in the letter could derive 'from the structures and potential specific to the letter form' rather than any external influence. See J.G. Altman, *Epistolarity: Approaches to a Form* (Ohio, 1982), p.4. For a further example, see Anon., *Ladies' Miscellany*, p.20, in which Silvia's father discovers her letters from Octavio, and forbids further contact between the lovers.

⁸¹ Exhibit in CPI 240 Buller c. Toller.

⁸² Exhibit no. 5 in Trans C/P 1744/5 Mascall c. Watson. Communication was easier for Thomas Mascall. His letters were conveyed directly by his servant, John Robinson. See testimony of Thomas Mascall in Trans C/P 1744/5 Mascall c. Watson.

5. Love and the Letter: Form and Meaning.

Although the limited number of letters addressed here means any conclusions must remain tentative, the recurrence of certain themes raises questions about historical accounts of early modern love-letters, in particular the assumption that emotional expression is an unproblematic mediation of subjective experience. Firstly, the material properties of the love-letter helped to construct the experience being articulated: from the choice of its components to the method of delivery, form informed meaning in the love-letter. This recognition raises doubts about the ability of love-letters to express *any* subjective emotional experience, and indeed the extent to which emotional experience can ever be recaptured. For however far subjective experience may be said to exist beyond its forms of expression, the rhetoric of affect was, as today, embedded in and structured by a series of cultural archetypes. The rhetoric of love-letters was therefore paralleled in epistolary fiction, romances and letter-writing manuals. As self-conscious representations of experience they drew upon broader medical, literary and artistic understandings of the psychological and physiological effects of romantic love. This finding is echoed by recent explorations into ‘folk-psychology’, which suggests that men and women organise or frame experience in narrative form.⁸³

This approach to the relationship between the individual and society is a useful one given our lack of evidence about the particular mental world of women like Ursula Watson. For it could be argued relatively low rates of literacy, and high costs of literary works during the period militated against most men and women shaping their experiences in accordance with literary models. Yet we must remember that the division between oral and written culture was a tenuous one. In addition to books and periodicals, narratives of experience drew upon a wide variety of collective cultural reserves, including half-forgotten stories, myths and

fables, which might bear little relation to individual reading practices.⁸⁴ Thus Natalie Zemon Davis found that even ‘simple women’ and ‘poor Plowmen’ used a range of narratives strategies (including popular storytelling and courtly literature) to recast their crimes into ‘culturally acceptable - and therefore excusable - forms’.⁸⁵

If, as this analysis suggests, love-letters tell us less about any interiorised experience than about the rhetorical strategies by which affect was structured according to available cultural paradigms, then they tell us as much about ‘emotionology’ as they do about emotion.⁸⁶ This term, coined by Carol and Peter Stearns to describe the emotional standards of a given community, suggests a disjuncture between emotion as ‘felt’ or lived, and the language used to describe it. Because traditional historiographies of marriage and the family have taken emotionology as a barometer of actual experience, this distinction has been blurred. Thus Sharpe views parallels between early modern and modern writing as evidence that early modern people experienced ‘passionate attachment...like the romantic love with which we are so familiar’.⁸⁷ And Stone reads the rise of particular literary forms, like the love-letter, as indicative of shifts in emotional life, as much as in emotional lexicons, or the mechanisms of expression.⁸⁸ Yet the increased popularity of love-letters from the late seventeenth century need not indicate a corresponding shift in sentiment, any more than the rhetoric of romantic love is evidence of emotional experience.⁸⁹ Although the early modern ‘love-letter’ was

⁸³ See Jerome Bruner, *Acts of Meaning* (London, 1994) esp. p.55.

⁸⁴ See Michael MacDonald, ‘The “Fearefull Estate” of Francis Spira: Narrative, Identity and Emotion in Early Modern England’, *Journal of British Studies*, 31 (1992), pp.32-62, esp. pp.36-7.

⁸⁵ See the discussion in Diefendorf and Hesse (eds.), *Culture and Identity*, ‘Introduction’, p.7. See Natalie Zemon Davis, *Fiction in the Archives: Pardon Tales and their Tellers in Sixteenth-Century France* (Stanford, 1987), *passim*.

⁸⁶ Peter N. Stearns and Carol Z. Stearns, ‘Emotionology: Clarifying the History of Emotions and Emotional Standards’, *American Historical Review*, 90 (1985), pp.813-36.

⁸⁷ Sharpe, *Early Modern England*, p.62.

⁸⁸ Lawrence Stone, *Family, Sex and Marriage in England, 1500-1800* (London, 1977), esp. p.227.

⁸⁹ On the progressivist school of emotion history, see chapter 1, above.

defined in similar terms as it is by the OED, as ‘a letter written by a lover to the beloved, and expressing amatory sentiments’, the structuring of those sentiments depended on a number of conventions and beliefs about the nature of romantic love.⁹⁰ And of course they were historically and culturally contingent.

For these reasons, this chapter has suggested a need to reconceptualize the history of love and the letter. Moving away from the view of emotions as bounded, individual sentiments, this chapter has demonstrated their socially constituted and performative nature. In analysing the ways Ursula Watson and others ordered their subjective experiences according to available cultural paradigms, it has posited the existence of a dialectical relationship between emotional experience and representation. In this approach, the historical value of love-letters lies not in any alleged ability to allow access into inner experience, but in their positioning. Placed at the intersection of the subjective and the collective, love-letters provide evidence of the ways contemporaries adopted, rejected and transformed existing cultural archetypes in order to make sense of experience. They may therefore be analysed not as transparent conduits, but as active participants, in the production and articulation of romantic love.

Yet the discursive construction of emotion needs to be analysed in the context of the non-discursive. For the production and articulation of affect in the eighteenth century – as today – was not limited to the textual strategies described here, but concretised in and through such somatic indicators as sighs and tears. In many ‘histories of the body’, and in the meta-narratives of sentimentality critiqued in chapter 1, such physical expressions are politicised as a ‘pre-cultural’ space. As the next chapter illustrates, however, bodily displays of emotion

⁹⁰ The first recorded usage of the term is noted as 1240 in *The Oxford English Dictionary*. S.V.

were - no less than the discursive constructions of affect found in love-letters and slander narratives – socially produced and constituted.

Chapter 5. The Limits of the Discursive? Somatic

Indicators of Affect.

1. The History of the Body.

The preceding chapters have examined the verbal and written significance of emotions as constructed and played out in slander litigation and love-letters. By examining the legal and social significance of anger in slander suits, and the linguistic and cultural conventions of love found in romantic missives, they have demonstrated that emotions were not fixed or stable phenomena in early modern England, but performative and contingent elements of social practice. In focusing on the rhetoric of affect, however, we must not neglect its physicality. For in the seventeenth and eighteenth centuries, as today, emotions were viewed as somatic experiences. We ‘feel’ emotions like anger, love and grief, and those ‘feelings’ are understood to manifest themselves in and through the physical form. In today’s terms, anger brings a raised heartbeat, a flush of blood to the face and an involuntary clenching of the fists. The feelings associated with grief are no less formulaic: we experience a lump in the throat, and a sickness in the pit of our stomachs. And the physical effects of emotions – the blush of shame, the tears of sorrow – are observed and interpreted by others as indicators of our internal feelings and experiences.

It is little wonder, then, that somatic indicators of affect are a bulwark to traditional historiographies. Historians of sentimentality and ‘civilité’ alike view the emergence of ‘modern’ psychological and physical sensibilities as manifested first and foremost in the body and the forms of bodily behaviour deemed suitable (or unsuitable) in certain periods. Thus Norbert Elias focuses on the evolution and curtailment of urges and bodily

drives with a Freudian agenda, though it must be noted that historians often vulgarise this argument by over-emphasizing constraint rather than *psycho-* and *socio-genesis*.¹ By contrast, but with the same emphasis on the shaping of individual psyches and bodies as a result of socio-political and economic processes, writers on sentimentality prioritise affective indulgence and excess through tears, sighs, moans and a generalised depth of feeling. Foremost in this development is the alleged decline of humoural physiology and the rise of the nervous paradigm.²

The treatment of bodily experience and signifiers found in Elias and Barker-Benfield share a number of key assumptions. The most important of these is that despite the influence of cultural factors in shaping psychological impulses and standards, both accounts allow the bodily a pre-cultural or 'real' dimension. In Elias's *Civilizing Process*, that is identified through the language of 'instincts' and an innate, biological component to emotion that is cited outside the realm of the social.³ Similarly, and despite his (literary-based) analysis of bodily display as the product of widespread socio-economic and political developments, Barker-Benfield regards the body as the 'border of the most private-public split imaginable', and the boundary between the subjective and social worlds.⁴

¹ Norbert Elias, *The Civilizing Process: The History of Manners and State Formation and Civilization* trans. E. Jephcott, 2 vols. (Oxford, 1978, 1982), 2, pp.27-113 and *Idem*, 'On Human Beings and their Emotions: a Process-Sociological Essay', in M. Featherstone *et al.* (eds.), *The Body: Social Process and Cultural Theory* (London, 1991), pp.103-126. See also Stephen Menzell's comments on the historical appropriation of the 'civilizing process' in *Norbert Elias: Civilization and the Human Self-Image* (Oxford, 1989), p. 49. The relationship between Elias and early modern historiography is addressed in chapter 1, above.

² G.J. Barker-Benfield, *The Culture of Sensibility: Sex and Society in Eighteenth-Century Britain*, 2nd ed. (Chicago, 1996), Introduction.

³ Elias, *Civilizing Process*, pp.164-166 and Menzell, *Norbert Elias*, pp.202-206.

⁴ Barker-Benfield, *Culture of Sensibility*, p.295.

This approach to affective expression is paralleled by research in cultural and feminist history that (understandably in the latter, given the tradition of violence perpetrated in, on and through women's bodies) politicises bodily experience as an extra-discursive reality. As Lyndal Roper has famously declared, '[b]odies have materiality, and this too must have its place in history'.⁵ For the body 'mediates all reflection and action upon the world', and is most often the concrete embodiment of what constitutes our 'selves'.⁶ The attempt to identify bodily experience (or, more accurately, suffering) is in part a reaction against the perceived sterility of the discursive body.⁷ In the main, this has resulted in accounts of bodies being sexualised, tortured and dissected, and bodies experiencing physical pain.⁸ There are, of course, important exceptions to this characterisation of early modern historiography, as was discussed in chapter one. Firstly, some accounts of medicine have been attuned to questions surrounding the subjectivity of illness and distress, and the cultural interpretations of bodily display.⁹ The work of Michael MacDonald and Terence Murphy has done much to illuminate the experience of sorrow as lived experience.¹⁰ And there has been recent interest in the cultural construction of

⁵ Lyndal Roper, *Oedipus and the Devil: Witchcraft, Sexuality and Religion in Early Modern Europe* (London, 1994), p.21. See also Kathleen Canning, 'Feminist History after the Linguistic Turn: Historicizing Discourse and Experience', *Signs*, 19 (1994), pp.368-404.

⁶ See Margaret Lock, 'Cultivating the Body: Anthropology and Epistemologies of Bodily Practice and Knowledge', *Annual Review of Anthropology*, 22 (1993) pp.133-55, esp. p.133.

⁷ A formative influence is Michel Foucault's genealogical approach. See for instance *The History of Sexuality, vol 1 an Introduction*, trans. R. Hurley, (London, 1979), *passim*.

⁸ Examples include P. Spierenburg, *The Spectacle of Suffering* (Cambridge, 1984), chapter 1; Jonathan Sawday, *The Body Emblazoned: Dissection and the Human Body in Renaissance Culture* (London, 1995), Introduction; R.J. Evans, *Rituals of Retribution: Capital Punishment in Germany, 1600-1987* (Harmondsworth, 1997), chapter 1.

⁹ See for instance Roy Porter, 'Lay Medical Knowledge in the Eighteenth Century: The Evidence of the *Gentleman's Magazine*', *Medical History*, 29 (1985), pp.138-168; *Idem*, 'The Hunger of Imagination': Approaching Samuel Johnson's Melancholy', in W.F. Bynum, R. Porter and M. Shepherd (eds.), *The Anatomy of Madness: Essays in the History of Psychiatry vol. 1: People and Ideas* (London, 1985), pp. 62-88; *Idem*, *A Social History of Madness: Stories of the Insane* (London, 1989), Introduction; Adrian Wilson, 'Participant or Patient? Seventeenth Century Childbirth from the Mother's Point of View', in Porter (ed.), *Patients and Practitioners*, pp.129-44.

¹⁰ Michael MacDonald and T.R. Murphy, *Sleepless Souls: Suicide in Early Modern England* (Oxford, 1990), *passim*. See also Michael MacDonald, *Mystical Bedlam: Madness, Anxiety and Healing in Seventeenth-Century England* (Cambridge, 1981), chapter 1.

physical pain and suffering.¹¹ Yet in the main, there have been few accounts of bodies touching, feeling, and engaging in the day to day experience of living.¹² There is also a marked absence of research into the cultural and social meanings of affect displays.

In the history of emotion, then, as in certain schools of sociology and anthropology, somatic displays of emotion are naturalised as a pre-cultural space. This is apparent in the narrative of human evolution found in the work of Darwin, and in the more recent research procedures of Paul Ekman.¹³ Compatible with this approach to human physiology is a distinction between emotional ‘expressions’ – the blush of shame, the tears of grief and other ‘universals’ – and such ‘gestures’ as a nod of the head or a shrug of the shoulders. Of course these methodological and empirical assumptions have not been unchallenged, and cultural relativists have questioned the universality of the most basic expressions.¹⁴ Less explored is the extent to which the distinction between ‘expressions’ and ‘gestures’ is itself unhelpful, as the term ‘expression’ implies something ‘real’ waiting to be expressed, and reinforces the notion of affect as a pre-cultural or innate world of experience.¹⁵

¹¹ See for instance Esther Cohen, ‘The Animated Pain of the Body’, *American Historical Review*, 105 (2000), pp.36-68.

¹² See the discussion in chapter 1. For a similar critique see Mark S.R. Jenner, ‘Review Essay: Body, Image, Text in Early Modern Europe’, *The Social History of Medicine*, 12 (1999), pp.143-154, esp. p.154.

¹³ See Charles Darwin, *The Expression of the Emotions in Man and Animals* (1872), ed. Paul Ekman (London, 1998), *passim*, and Paul Ekman, *The Face of Man: Expressions of Universal Emotions in a New Guinea Village* (London, 1980), Introduction.

¹⁴ See for instance Jean Briggs, *Never in Anger* (Cambridge, 1970), Introduction; Robert Levy, *The Tahitians* (Chicago, 1973), Introduction; Richard A. Shweder and R.A. LeVine (eds.), *Culture Theory: Essays on Mind, Self and Emotion* (Cambridge, 1984), Introduction; K.G. Heider, *Landscapes of Emotion: Three Cultures of Emotion in Indonesia* (Cambridge, 1984), Chapter 1. For a sophisticated re-appraisal of the history and anthropology of emotion, see Catherine Lutz and Geoffrey M. White, ‘The Anthropology of Emotions’, *Annual Review of Anthropology*, 15 (1986), pp.405-36.

¹⁵ On this theme, see Sally Planalp, ‘Communicating Emotion in Everyday Life: Cues, Channels and Processes’ in P.A. Anderson and L.K. Guerrero (eds.), *Handbook of Communication and Emotion: Research, Theory, Applications, and Contexts* (London, 1998), p.29.

Redefining this distinction between ‘expressions’ and ‘gestures’ is invaluable to refining the history of the body.¹⁶ For debates over the ‘innate’ or ‘learned’ nature of affect displays ignore the question of interpretative context. What matters, surely, are the meanings particular emotional expressions take on in specific socio-historical and cultural situations. Significant epistemological differences between blushes and shrugs (or, to borrow from Geertz, between blinks and winks) become inconsequential if we focus on the question of *meanings*, and the performative strategies through which affect displays were produced and interpreted.¹⁷

To this end, the remainder of this thesis demonstrates that gestures, no less than expressions, were symbolic and functional indicators of emotional experience. While the preceding chapters have focused on the discursive production of affect within church court testimonies and love-letters, this chapter explores the physicality of affect, and the role of bodily displays like tears in establishing emotional states. In so doing, it argues that the affective body was not a given or pre-cultural aspect of human interaction in eighteenth-century England, any more than it is today. Nor is it true to say that by the eighteenth century nerve-theory provided *the* prism by which emotion was viewed.¹⁸ Rather, the body was then, as it is now, a cultural space for the investment and negotiation of meaning. This analysis, concretised in a case study at the end of this chapter, has significant implications for the methodological principles of histories of sentiment and the body. Demonstrating the lingering influence of humoral physiology in the interpretation of emotional distress, and the series of conflicting beliefs about the communicative body in social practice, this chapter ultimately questions the discursive/non-discursive split of early modern historiography. For it suggests that no less

¹⁶ For an elaboration of this theme, see chapter 6.

¹⁷ See Clifford Geertz, *The Interpretation of Cultures: Selected Essays* (1973, repr. London, 1993), pp.6-7.

¹⁸ See the discussion in chapter 1, above.

than the discursive constructions of affect found in love-letters and slander narratives, bodily displays of emotion were social and cultural artefacts.¹⁹

2. 'Of Sighs and Tears': Somatic Indicators of Affect.

As was discussed in chapter one, church court litigation involved disputes over emotional and psychological expectations, commitments and betrayals. Previous chapters have shown how negotiations over the existence of particular emotional states – such as romantic love and anger – were an integral element of legal process and social practice. We have seen how men and women brought material and verbal evidence to the courts – such as the physical evidence of love-letters, or the aural evidence of 'angry words' – to structure and convey particular articulations of affect. More frequently, invocations to emotional expectations or confrontations were fleeting and transient: witnesses noted the 'sad' or 'downcast' state of litigants, or generally invoked the misery or disappointment that accompanied social or conjugal conflict.²⁰ Nowhere was this clearer than in the case of matrimonial separation suits. For as the following chapter explores in detail, separation suits were among the most lengthy, expensive and hard-fought of all litigation in the York courts. And at their core was a range of disputes over the emotional and psychological entitlements and obligations of spouses.²¹

In their testimonies, men and women testified to the emotional trauma they experienced as a result of conjugal breakdown, neglect or abandonment, but emotional distress revealed itself particularly in the testimony of abused wives. In the 1719 suit brought by Anne More of Lofthouse against her husband Zachary, for instance, witnesses supported

¹⁹ A recent and nuanced account of this split is provided in Mark S.R. Jenner and Bertrand O. Taithe, 'The Historiographical Body,' (forthcoming).

²⁰ See for instance BL. Trans C/P 1697/2 (1697) Anne Shaw c. Robert Shaw.

²¹ See chapter 6

Anne's claims of domestic misery by detailing her physical distress.²² They observed how Anne was 'much disordered by crying', that she had 'redd eyes' and a downcast frame, and was generally 'pensive and sorrowful'.²³ Similarly, in Margaret Walker of Otley's case against her yeoman husband Joseph in 1725, Stephen Overend, a 73-year-old yeoman recalled how Margaret 'comed... to this dept's house in tears and complained that her husband had turned her out of doors'.²⁴ In the 1721 case between Elizabeth Laughton of Tickhill near Doncaster and her husband John, a 35-year-old servant, Katherine Arthur testified she had 'several times heard Mr Laughton with tears in her eyes' lament her marital unhappiness.²⁵ And Elizabeth Armitage, a 60-year-old midwife from Doncaster recalled how John Laughton had spoken 'very roughly and unkindly' to his wife and that 'Mrs Laughton in tears... begged him to desist' from abusing her.²⁶

As discussed in chapter six, it was commonplace in separation suits for women to highlight the emotional 'unease' and misery their husbands' treatment had brought to them. It was also commonplace for the rhetoric of marital 'unkindness' to be structured according to existing archetypes of male aggression and female passivity. Somatic indicators of emotional distress were equally functional elements of women's testimony. Just as female litigants presented bruises, scars and wounds to others as evidence of their husbands' physical brutality, emotional suffering revealed itself through a listless or disconsolate frame, sighing, and, most of all, through tears. Yet despite its politicisation as a display of feeling, the history and language of tears is a largely unexplored element of social practice.

²² BL, CPI 699 (1719-22) Anne More c. Zachary More of Lofthouse. Anne More's experiences receive detailed consideration in the case study found below.

²³ See testimony of Anne Challoner and William Aysley in CPI 699 Anne c. Zachary More

²⁴ Testimony of Stephen Overend in BL, CPI 812 Margaret Walker c. Joseph Walker of Otley.

²⁵ Testimony of Katherine Arthur in BL, CPI 631 (1721) Elizabeth Laughton c. John Laughton of Eastfield in Tickhill.

There are exceptions to this historiographical trend. Although they do not focus specifically on tears, MacDonald and Murphy accommodate crying into the generalised physical debilitation associated with sadness as lived experience in early modern England.²⁷ Vincent-Buffault's account of weeping in eighteenth-century France acknowledges the cultural specificity of tears, but, as discussed above, she does not discuss the historical conventions surrounding affect displays, or the relationship between affect displays and experience. Increased crying is directly linked to intensified 'feeling'.²⁸ A more recent account acknowledges the cultural symbolism of tears in an exploration of the relationship between narcissism, melancholy and loss in Renaissance writing. Since the author of that study, Lynne Enterline, is concerned with interpreting the language of melancholia through the prism of Lacanian psycho-analysis, there is no attempt to examine the meanings of tears as an element in social practice, or to locate them in any typology of affective display.²⁹ Yet tears were not only communicative phenomena, but also elaborately schematised representations of affect. Along with blushing, glaring, pouting and other physical proofs of 'feeling', tears were analysed and described in a growing number of works on the passions found in the post-Renaissance world.³⁰ It is therefore impossible to construct their social significance without considering the elaborate physiological tradition in which tears were embedded.

²⁶ Testimony of Elizabeth Armitage in CPI 631 Laughton c. Laughton.

²⁷ See MacDonald and Murphy, *Sleepless Souls*, pp.99-102, 194-6, 291-4. See also MacDonald, *Mystical Bedlam*, pp.90-92, 122-123.

²⁸ Anne Vincent-Buffault, *The History of Tears: Sensibility and Sentimentality in France* (London, 1991), p.4.

²⁹ See Lynn Enterline, *The Tears of Narcissus: Melancholia and Masculinity in Early Modern Writing* (Stanford, 1995), Introduction. Further literary examples include R. Henke, ' "Gentleman-Like Tears": Affective Response in Italian Tragi-Comedy and Shakespeare's Late Plays', *Comparative Literature Studies*, 33 (1996), pp.327-50, and M. Swiss, ' "Lacrimae Christi": The Theology of Tears in Milton's "Lycidas" and Donne's Sermon 13, "Jesus Wept", [Whitehall, Lent, 1622-3], ' *Milton Quarterly*, 22 (1988), p.102

Along with practical and ethical debates over the origins and nature of the passions, and the kinds of self-reflexive analysis of humanity discussed in chapter one, seventeenth-century theorists chronicled and tabulated the various somatic experiences of affect. In so doing they drew on a long-established tradition of accessing interiority through bodily display. For whatever understandings were placed on the passions - as psychological or physiological phenomena, a product of the divine, the humours or the nerves - it was widely conceived that emotional experience was legible in the facial and bodily expressions of others, provided the beholder was sufficiently literate.

As part of a national and European interest in the passions, a spectacular array of publications offered readers a formulaic repertoire of display-codes through which to identify the emotional temperaments and states of others. The style and form of those codes were inter-textual, appearing in the work of philosophers, orators, dramatists and painters, all of who were similarly concerned with the bodily communication of affect. There is insufficient space here to discuss these publications in any detail.³¹ Examples include René Descartes' *Passions of the Soul* (1649); Charles Le Brun's *Expression of the Passions* (1688); and Christian Thomasius' *New Discovery* (1692), the latter of which pledged to 'discover' through emotional expressions 'the secrets of the hearts of other men... even against their will'.³² As Peter Harrison argues in a discussion of the

³⁰ On this theme, see chapter 1.

³¹ For a detailed list, see H.M. Gardiner *et al.* *Feeling and Emotion: a History of Theories* (Connecticut, 1937), p.120.

³² The full title of Thomasius's work is instructive: *A New Discovery of a Well-Founded and for the Community Most Necessary Science of the Knowledge of the Secrets of the Heart of Other Men from Daily Conversation, Even Against their Will* (Halle, 1692). See also René Descartes, *Les Passions de l'Âme*, translated as *Passions of the Soul* (1649), reproduced in *The Philosophical Works*, trans. E.S. Haldane and G.R.T. Rodd (Cambridge, 1911); Charles Le Brun, *A Method to Learn the Design of the Passions*, trans. J. Williams (1734), ed. A.T. McKenzie, (facs. repr. Los Angeles, 1980), *passim*. Le Brun's *Method* receives consideration below. On the conventions of painting more generally, see Alan T. McKenzie, 'The Countenance You Show Me: Reading the Passions in the Eighteenth Century', *The Georgia Review*, 30 (1978), pp.758-773, and Brewster Rogerson, 'The Art of Painting the Passions', *Journal of the History of Ideas*, 14 (1953), pp. 68-

influence and imagery of the Fall in early modern writing, contemporary belief in a ‘language of nature’ - that ‘all natural objects bore signs indicating their use’ - lurked behind attempts to depict and decipher human emotions.³³ Yet this belief also rested on a mind/body/soul relation rooted in classical precedent.

For Aristotle, passions had a moral and practical function in the soul for the pursuit of good (pleasure) and the retreat from evil (pain). The soul’s attraction to an object of pleasure drew the body towards it, whilst the soul’s retreat from an object of pain or displeasure made the body recoil. Physical affect displays were an extension of this logic, as the movement of spirits and muscles in response to an object produced such physiological reactions as crying and blushing. The type of response varied according to the nature and degree of emotion experienced, as indicated in Le Brun’s depictions of fright, desire and sadness (see fig.6).

Charles Le Brun (1616-1690) was director of the Académie Royale de Peinture et de Sculpture in 1683, and influential as painter and theorist. The *Method*, which elaborately plotted the passions depicted by Descartes in *Les Passions de l’Âme* was reprinted several times during the late seventeenth and eighteenth centuries, and was a formative influence on such later theorists as William Hogarth and Sir Joshua Reynolds.³⁴ The associations between the work of Le Brun and Descartes, and indeed the general parallels between methods and styles of depiction found in seventeenth-century treatises, illustrates how far the naturalisation of somatic displays could be

94. See also J.T., *Pictures of Passions, Fancies and Affections: Poetically Deciphered in a Variety of Characters* (London, 1641).

³³ Peter Harrison, ‘Reading the Passions: The Fall, the Passions and Dominion Over Nature,’ in Stephen Gaukroger (ed.), *The Soft Underbelly of Reason: The Passions in the Seventeenth Century* (London, 1998), p.54. The gendering of this putative transparency is considered below.

³⁴ William Hogarth, *The Analysis of Beauty*, ed. J. Burke, (Oxford, 1955), and Sir Joshua Reynolds, *Discourses on Art*, ed. Robert R. Wark, (San Marino, 1959), both of which are discussed by McKenzie in Le Brun, *Method*, Introduction.

interpreted as prescriptive rather than descriptive.³⁵ For the post-Renaissance emergence of such instructive and heavily conventionalised images of affect was compatible with attempts to standardise deportment, behaviour and gesture associated with the 'civilizing process', and contemporary interest in the development of an universally accepted 'language of gesture'.³⁶

It is clearly impossible here to evaluate the extent to which somatic representations actually *shaped* physiological experience by creating, and perpetuating cultural beliefs about appropriate or legitimate affective feelings. A more realistic endeavour therefore - and one no less illustrative of the culturally embedded nature of physical experience - is to consider the ways those representations structured and sanctioned particular interpretations of somatic expression. Thus weeping was viewed as a physiological expression of emotional distress, reflecting and responding to the movement of the animal spirits through the physical form. As Charleton put it, sorrow caused 'the soul to contract', so that the '*Animal Spirits* are... recalled inward, but slowly and without violence; so that the *blood* being by degrees destitute of a sufficient influx of them, is transmitted with too slow a motion' [original emphasis].³⁷ When this happened, the 'pulse is rendered *little, slow, rare* and *weak*, and there is felt about the heart a certain oppressive *strictness* as if the orifices of it were drawn together, with a manifest *chilness* congealing the blood and communicating itself to the rest of the body' [original

³⁵ Further examples of artistic conventions are found in McKenzie, 'The Countenance You Show Me', p.759, and Rogerson, 'The Art of Painting the Passions', pp.68-94.

³⁶ See Elias, *Civilising Process*, 2, pp.27-113 and Dilwyn Knox, 'Ideas on Gesture and Universal Languages, c. 1550-1650', in John Henry and Sarah Hutton (eds.), *New Perspectives on Renaissance Thought: Essays in the History of Science, Education and Philosophy* (London, 1990), esp. p.102.

³⁷ W. Charleton, *A Natural History of the Passions* (London, 1674), p.150.

emphasis].³⁸ The resulting physical indicators of sorrow included ‘an uncomely distortion of the face’ as the emotion began to ‘vent itself in sighs and tears’.³⁹

The specific origin and materiality of tears was a subject of some controversy in the seventeenth century. Some claimed tears derived from fluids in the brain, others that they were the products of excess animal fluids in the blood, or that they derived from fluids in the eyes themselves.⁴⁰ Less contentious was the claim that tears, like sighs, functioned as a release-valve to protect the delicate equilibrium of body and soul. For when an excess of spirits made the sensitive soul overcome with grief, the ‘*ventricles* of the heart...are by the blood in abundance brought into them, more than usually crowded and distended’. At the same time, the lungs became ‘stuffed and inflated’ and unable to ‘perform the action of respiration but by *sobhs* intermixed; and the *Midriff*, to give room to such distension of the heart and Lungs, is pressed downward...which great depression and brisk contraction being repeated, is the efficient cause of *Sobbing*’ [original emphasis].⁴¹ Finally, the brain was affected by this ‘disorder’ and ‘the arteries surcharged with too great an afflux of blood from the oppressed heart’ that ‘the palace of the Soul itself is brought into danger of a purple deluge. For prevention whereof’:

The nerves encircling and binding the trunks of the arteries in many places, strongly constrict them; so that the commotion of the blood is much repressed, the liquor thereof (in the beginning of the passion highly rarefied) suddainly condensed, and the ferous part of it being put into a flux, is transmitted into the...Glandules of the Eyes, there placed and designed by nature to receive it. And then because these *Glandules* are in like manner constringed, and as it were

³⁸ Charleton, *Natural History*, p.151.

³⁹ Anon. *The Mirror of Human Nature* (London, 1775), p.29. See also William Ayloffc, *The Government of the Passions According to the Rules of Reason and Religion* (London, 1700), p.117 and Charleton, *Natural History*, pp.151-2.

⁴⁰ Compare Charleton, *Natural History*, esp.p.154; J. Bulwer, *Pathomyotomia, or a Dissection of the Significant Muscles of the Affections of the Minde* (London, 1649), pp.147-8, and N. Steno, *Anatomical Observations of the Glands of the Eye and their New Vessels thereby Revealing the True Source of Tears* (London, 1662), pp.16-18.

⁴¹ Charleton, *Natural History*, p.156

squeez'd by certain nerves that are of the same original and community with the *Pathetic* nerves of the *face* and *heart*: the serious liquor is expressed out of them through their *excretory channels* leading to the corners of the Eyes...and forced to distil in a shower of tears [original emphasis].⁴²

Physiological explanations of the tears, as those of affect displays more generally, were inherently gendered. Depictions of certain emotional states, like fright and anger, tended to use the male form, as seen in Le Brun's *Method*. By contrast, a spiritualised form of desire and sadness were often associated with women (see fig.6). This was not accidental, for men and women alike were believed prone to types and degrees of emotional expression, well before the emergence of nerve theory.⁴³ Along with 'infants and old men', women were traditionally understood as subject to tears under humoural theory because their blood was 'more thin and diluted with *serum*' (which was subsequently more likely to cause an 'Effusion of the Sensitive Soul') than in young adult males.⁴⁴ And as a result of their weaker, softer and moister bodies, women were more prone to blushing (accumulated blood being more visible because of their thinner skin), and to sudden but fleeting flurries of passions like rage, visible in the face, limbs and eyes.⁴⁵

3. Affective Strategies and the Mutability of Meaning.

What then of the physiological and emotional changes associated with the eighteenth century as a period of transition? No less than in the previous century, intellectual and physiological accounts of the passions in the 1700s saw the continuation and preservation of classificatory and representational structures rooted in classical

⁴² Charleton, *Natural History*, p.157. See also Bulwer, *Pathomyotomia*, pp.141-2.

⁴³ On the belief that nerve theory radically altered interpretations of gender and emotional experience, see Barker-Benfield, *Culture of Sensibility*, pp.1-3.

⁴⁴ Charleton, *Natural History*, p.158. See also the discussion in chapter 1.

⁴⁵ For a dated but comprehensive introduction to humoural theory see J.B. Bamborough, *The Little World of Man* (New York, 1952), pp.64-66.

precedent. Thus works on oratory and painting, and treatises on the passions continued to discuss affect in humoural terms, and to invoke the static physiological models used by Le Brun.⁴⁶ There was also continued emphasis on external display as the key to internal feeling, a link reinforced by philosophical, political and medical discourses on the sociability of affect.⁴⁷ And there was the rise of more systematic attempts to classify affective display, as seen in discourses on physiognomy and pathognomy, the latter of which addressed not the permanent characteristics of the face which resulted from personality or character traits, but the fleeting facial expressions of emotion.⁴⁸

Of course we cannot ignore the emergence of new ways of viewing the affective body, or new cultural registers in which emotion was constructed, though— as will be seen — these developments did not necessarily coincide with changes in feeling, or even become widespread until the late eighteenth century.⁴⁹ Yet a rise in the literature of manners and civility probably increased the self-conscious and socially situated nature of emotional representation. Thus, when *The Spectator* discussed affect displays as ‘the inward disposition of the mind made visible’, it did not rely on the schematic indexes of the face

⁴⁶ See for instance J. Burgh, *The Art of Speaking. Containing... Rules For Expressing Properly the Principal Passions and Humours*, 2nd ed. (London, 1768), pp.1-10. For an historical account of the continued influence of humoural theory in eighteenth-century medicine and culture see Roy Porter, *Mind Forged Manacles: a History of Madness in England from the Restoration to the Regency* (London, 1987), p.47.

⁴⁷ Examples include David Hume, *A Treatise of Human Nature* (London, 1739), ed. L.A. Selby-Bigge (Oxford, 1978), esp. pp.575-6; Adam Smith, *The Theory of Moral Sentiments* (London, 1759), ed. D.D. Raphael and A.L. Macfie, (Oxford, 1976), p.11; Francis Hutcheson, *An Essay on the Nature and Conduct of the Passions, with Illustrations on the Moral Sense* (1742, facs. repr. London, 1971), Introduction. See also V.M. Hope, *Virtue by Consensus: The Moral Philosophy of Hutcheson, Hume and Adam Smith* (Oxford, 1989), Introduction and chapter 1; J.G.A. Pocock, *The Machiavellian Moment* (Princeton, 1975), Introduction; J. Sambrook, *The Eighteenth Century: The Intellectual and Cultural Context of English Literature, 1700-1789*, 2nd ed., (London, 1993), esp. pp.75-6.

⁴⁸ On the evolution of physiognomy, see Roy Porter, ‘Making Faces: Physiognomy and Fashion in Eighteenth-Century England’, *Études Anglaises*, 38 (1985), pp.385-396; J. Browne, ‘Darwin and the Face of Madness’, in Bynum, Porter and Shepherd (eds.), *The Anatomy of Madness*, pp.151-165. On the contemporary influence of pathognomy, see M.G. Ketcham, *Transparent Designs: Reading, Performance and Form in the Spectator Papers* (Athens, 1985), chapter 2.

⁴⁹ As is discussed below, the construction of nervous physiology also borrowed heavily from the language of humoural theory. See for instance R. Robinson, *A New System of the Spleen, Vapours and Hypochondriack Melancholy* (London, 1729), Introduction.

and hands found in the theories of Le Brun, or John Bulwer.⁵⁰ Adopting a more fluid and contingent approach to bodily display, its digressions on manners acknowledged the myriad of social and interpretative strategies involved in communicating affect. Indeed, as Ketcham argues, *The Spectator*'s account of gesture moved beyond the 'external catalogue' of affect in which 'one sign equals one meaning'. Instead it offered 'a 'reading of social performances whereby the meaning of a sign must be read according to its context, and... a theory of sentiment where the meaning of the sign resides in the observer's responses'.⁵¹ The perception and judgement of the observer was ultimately crucial to the communication of feeling. No less than clenched fists or flushed cheeks, the posture, speech tone and manner of communication was understood to betray an individual's inner character and feelings.

Of course the range of expressions and gestures discussed in *The Spectator* were no less conventionalised than earlier behavioural models.⁵² What is significant for the purposes of this chapter, however, is that this recognition of affect as socially constituted allows a far more nuanced interpretation of somatic display than found in traditional historiography. For whilst Barker-Benfield and others offer a unidirectional account of affect in which, to use the terms laid down above, one sign = one meaning, somatic displays of affect had a multiplicity of meanings, and were deployed for a variety of different ends. This is apparent in the wide-ranging meanings associated with weeping in contemporary literature and social practice.

⁵⁰ *Spectator* 86, cited in Ketcham, *Transparent Designs*, p.31. See Le Brun, *Method*, *passim*, and John Bulwer, *Chirologia: or the Natural Language of the Hand, and Chironomia: or the Art of Manual Rhetoric* (1644), ed. James W. Cleary, (Illinois, 1974), *passim*.

⁵¹ Ketcham, *Transparent Designs*, pp.49-50.

⁵² They conformed to the heightened models of refinement and sensibility identified in fiction by Barker-Benfield, *Culture of Sensibility*, chapter 1. For a thorough yet neglected critique of the rhetoric of sentimentality which underpinned those models, see E. Erämetsä, *A Study of the Word 'Sentimental' and of other Linguistic Characteristics of 18th Century Sentimentalism in England* (Helsinki, 1951), Introduction and chapter 2.

The physiological conventions associated with tears have been discussed above. Their political and social function was far more complex. We have seen how tears, no less than other somatic indicators, invoked authentic feeling, and throughout the period writers used weeping to engage readers' empathy, or to demonstrate a character's emotional depth. In *The Moral Miscellany* for instance, a man composes an 'Elegy' to a deceased lover, in which he laments his previous ill-treatment of her. Remorseful and grief-stricken, the narrator sits alone, 'weep[ing]...with downcast eye'.⁵³ In *The London Merchant: or, the History of George Barnwell* (1731), actions speak louder than words, as Millwood betrays her love for Barnwell: 'O! Spare my Tongue, and let my Blushes (this Flood of tears to that will force its Way) declare what Woman's Modesty should hide'. Barnwell's response is unequivocal: 'Oh, Heavens! She loves me, worthless as I am; her Looks, her Words, her flowing Tears confess it'.⁵⁴

Yet as the triumphantly weeping posture of Lillo's Barnwell suggests, tears were ambiguous. Though traditionally emblematic of sorrow, weeping could signal a number of emotions and motivations.⁵⁵ They could, for instance, express gratitude. Samuel Pepys' *Diary* records that when he took his sister into his home at their father's request, albeit as a servant, she did 'with many thanks did weep for joy'.⁵⁶ Tears could betray an individual's commitment and concern for others. Thus in 1725, in an adultery suit brought by the churchwardens of Huddersfield against one James Murgatroyd, a witness

⁵³ 'Elegy,' in Anon., *The Moral Miscellany*, (Dublin, 1774), p.363.

⁵⁴ George Lillo, *The London Merchant: or, the History of George Barnwell* in J.L. Steffenson (ed.), *The Dramatic Works of George Lillo* (Oxford, 1993), Act 1, Scene 5, ll.64-70, p.164.

⁵⁵ See Charleton, *Natural History*, p.153.

⁵⁶ As a reminder of the transactional nature of tears, it is noteworthy that Pepys records how his sister's actions 'did give me and my wife some content and satisfaccion'. Entry for November 12 1660 in Samuel Pepys, *The Diary of Samuel Pepys*, ed. R. Latham and W. Matthews, II vols. (London, 1970-83), I, p.291. Thanks to Mark Jenner for this reference.

recalled she had seen the accused lying with his alleged lover, Elizabeth Woodhead, in a compromising position. Woodhead was indisposed in bed, while Murgatroyd 'sat by her upon the Bedd-side and cryed over her, expressing a great concern for her indisposition or sickness'.⁵⁷ Weeping was no less associated with indignation and hurt. In 1730, John Corles, a gentleman from Preston, was accused of fornication with one Alice Turner, a servant girl who had recently given birth to an illegitimate child. The case was appealed to York from Richmond, and Maria Hodgkinson, a servant woman from Preston was called to testify. Hodgkinson suggested the union signalled nothing other than rape. She testified that she accidentally met with 'the said Corles and her the said Alice together the said Corles having his Breeches down & the said Alice crying & calling the said Corles a Rogue & saying she wondered what he would do with her'.⁵⁸

These examples from the York courts could be multiplied almost indefinitely, as men and women used tears to signal and evaluate different degrees and types of selfish or 'compassionate' feelings.⁵⁹ And we must not forget their theological import. For in addition to being associated with Christ's passion, tears were invoked by theologians and preachers as symbols of the eternal misery and despair awaiting the unrepentant sinner. Thus in R.B.'s *Unparallel'd Varieties: Or, the Matchless Actions and Passions of Mankind* (1683) hell is a place of 'utter darkness, where is weeping and wailing, and gnashing of teeth' through pain and abandonment.⁶⁰ By contrast to the state of hell, and indeed the mortal realm which

⁵⁷ Testimony of Elizabeth Wood in BI, CPI 793 (1725) Office pp. Nicholas Bramhall c. James Murgatroyd of Huddersfield. On the significance of affect displays in matrimonial separation suits see chapter 6

⁵⁸ Testimony of Maria Hodgkinson in BI, Trans C/P 1730/5 (1730) John Corles c. William Stratford and James Holmes.

⁵⁹ See libel in BI, Trans C/P 1725/2 (1725) Thomas Nicholson, curate of Easby c. late churchwardens of Easby. See also the discussion of the relationship between self and social passions in chapter 1.

⁶⁰ R.B. *Unparallel'd Varieties: or, the Matchless Actions and Passions of Mankind* (London, 1683), p.99.

was also full of sorrow, the state of heaven had no sorrow, and no tears. As W. R. noted in *An Essay on Grief* (1695), ‘*though they sow in tears, they shall reap in Joy*’, for in the next life they shall ‘drink Rivers of Pleasure for every Tear that fell from their Eyes’ [original emphasis].⁶¹

Of course tears also functioned on earth as evidence of deep spirituality, and were a conventionalised part of the conversion experience. The non-conformist minister, Oliver Heywood, noted how at his father’s death ‘god did... assist my heart, both in expounding Job 33 and praying’ until he experienced ‘both a flood of teares and a solemn parting’.⁶² The conversion of Oliver’s mother was filled with ‘bitter crys of godly sorrow, and hearty groanes for pardoning mercy’, and his children’s religiosity in turn was evidenced by their tendency to cry during prayer. Oliver recounted in his autobiography how on one occasion:

My John on Lord’s Day sennight being Nov 4, I being from home and my maid out of the house, at her return found him weeping bitterly, sore bleared, having begun it as he was reading a chapter[.S]he of a long time could not get from him the cause, he still sobbed and took on very heavily, at last he told her it was because he had sinned ag[ains]t god, and had offended him. [B]lessed be god for this beginning of god’s work upon his heart.⁶³

It was not unusual for the grief of puritan children to be used as evidence of religiosity, not least because the younger one was, the more likely he or she was to be moved by passion. In a similar fashion Rogers’ *Discourse Concerning Trouble of Mind* observed that ‘those that are converted in their younger days, the warmth and heat of their glowing and beginning zeal, does more easily melt into

⁶¹ W. R., *An Essay on Grief: With the Causes and Remedies of it* (Oxford, 1695), pp.219-220.

⁶² Oliver Heywood, *The Reverend Oliver Heywood, B.A. 1630-1702: His Autobiography, Diaries, Anecdote and Event Books*, 4 vols., ed. J. Horsfall Turner, (London, 1882), 1, p.31.

⁶³ Heywood, *Autobiography*, pp.42, 233.

tears, and then the Rivers flow more than they do afterwards'. In many ways, therefore, the physical birth prefigured a child's subsequent spiritual birth, for 'as in the first, so 'tis in the second birth, as soon as they are born, they cry. No sooner are they brought from darkness into marvellous light, but they wonder at their folly, and at the grace of God that saved them from it, and that wonder does produce grief and love'.⁶⁴ Good Christians were therefore expected to weep for the sins and sadness of others, for 'the tears they shed are tears of compassion for the very sad and miserable condition of the world'.⁶⁵ In the words of Rogers, 'tears and sighs' unified and cemented 'all the members of the same [social] body', for '*every one ... has this Language, in which the poor afflicted Job spoke to his hard-hearted Visitors*, Chap 19.21. Have pity upon me, O ye my friends, for the hand of God hath touched me' [original emphasis].⁶⁶

The theological import of grief and crying deserves far more attention than can be given here, for there are histories to be written on the various emotional registers and conventions used by different religious denominations and groups.⁶⁷ Yet it is hoped that the range of examples provided here indicates the multifarious meanings given to tears not merely as physiological phenomena in eighteenth-century England, but as social, political and religious symbols. Rather than being construed as spontaneous responses to inner feeling, tears need to be viewed as affective performances structured by, and interpreted in, a complex system of personal and social beliefs and expectations. This claim is underlined by the

⁶⁴ T. Rogers, *A Discourse Concerning Trouble of Mind, and the Disease of Melancholy in 3 Parts*, 2nd ed. (London, 1706), p.341.

⁶⁵ Rogers, *Discourse*, p.316.

⁶⁶ Rogers, *Discourse*, p.ix.

affective body's ambivalent status. For it was a literary and philosophical convention that, whilst purporting to announce the secrets of the psyche or soul, somatic indicators could be concealed, misrepresented, or even faked. The body, in other words, could lie.

The convention that crying signalled dissimulation rather than sincerity, for instance, dated back at least as far as Ovid. Again, this orthodoxy was gendered, as women were believed especially prone to what we term 'crocodile tears'.⁶⁸ As observed in Steno's *Anatomical Observations*, women had a greater tendency towards tears in any case, so it was 'very easy for young women to pretend to tears at will, having taught the eyes to weep'.⁶⁹ There are numerous literary examples of this typology throughout the long eighteenth century. In Colley Cibber's *The Careless Husband*, for instance, Sir Charles Easy reproaches Lady Modish for her treatment of her suitor, Morelove, and she responds with tears. Sir Charles is immediately sceptical: 'Ah! True Woman, drop him a dissembling Tear, and then his just Resentment must be husht of course'.⁷⁰ In Richard Steele's *The Funeral: Or, Grief a-la-Mode* (1702) the concern for dissimulation is expressed by Cabinet who, mocking the 'Necessaries for Funerals' notice displayed by the Undertaker notes the irony of hiring mourners to 'Grieve, Lament, and Follow in [the] stead' of their relations.⁷¹ We then observe Lady Brumpton – a widow believed to be 'deeply Joyful' under her 'Weeds and black Train' – boasting of her ability to

⁶⁷ On the 'heart religion' of Methodism for instance, see S.G. Dimond, *The Psychology of the Methodist Revival: an Empirical and Descriptive Study* (London, 1976), Introduction and p.130; Barker-Benfield, *Culture of Sensibility*, p.72

⁶⁸ Ovid's *Remedia Amoris* warned readers to 'beware of being moved by maidens' tears, for they have taught their eyes to weep'. Cited in Steno, *Anatomical Observations*, p.18.

⁶⁹ Steno, *Anatomical Observations*, p.18.

⁷⁰ Colley Cibber, *The Careless Husband*, Act 5, Scene 7, ll. 125-8, in M. Sullivan (ed.), *Colley Cibber: Three Sentimental Comedies* (London, 1973).

⁷¹ Richard Steele, *The Funeral: Or, Grief a-la-Mode: a Comedy*, in S. Strum Kenny (ed.), *The Plays of*

emotionally control her late husband. If ever the two quarrelled, Lady Brumpton declares, she would fall on her knees ‘to implore his Pardon...with Tears, Sighs and Importunities’.⁷² Later she revels in the ‘exquisite pleasure’ of her performance of grief.⁷³ It was a well-established cultural convention, then, that women manipulated tears for their own ends, and in order to achieve moral, emotional or psychological power over others. As Rousseau cynically declared in *Emile* (1762):

Women’s empire is an empire of gentleness, skill and obligingness; her orders are caresses, her threats are tears. She ought to reign in the home as a minister does in a state – by getting herself commanded to do what she wants to do.⁷⁴

As this evidence suggests, the affective body, like all forms of inter-personal communication, fulfilled a perilous and unstable function between experience and expression, the subjective and the social. This was not just a literary convention but an integral and constitutive element of social practice. For it was in that instability between performance and interpretation – in the space between a blink and a wink, to return to Geertz’s analogy – that meaning resided.⁷⁵ In other words, it was only in the production, perception and interpretation of somatic displays, and in the disputes and conflicts that arose over their interpretation, that the displays *existed*, at least as cultural artefacts.

To concretise some of these claims, we must return to the evidence of the courts, and to the experience of Anne More of Lofthouse, a gentry woman whose

Richard Steele (Oxford, 1971), Act 1, Scene 1, ll. 8-10, p.25.

⁷² Steele, *Grief a-la-Mode*, Act 1, Scene 1, ll.11-15, p.25.

⁷³ Steele, *Grief a-la-Mode*, Act 2, Scene 1, ll.38-44, p.62.

⁷⁴ Jean-Jacques Rousseau, *Emile, or, On Education* (1762), trans.A. Bloom, (London, 1979), p.408.

⁷⁵ Geertz, *Interpretation of Cultures*, p.6-7. Cf. f/n 17, above.

marriage caused her considerable distress.⁷⁶ In 1719, Anne More, daughter of Richard Harnage, MP, brought a separation suit against her husband Zachary, owner of a local alum works. The dispute lasted four years, during which time no fewer than twenty-eight witnesses, including some of the country's most eminent physicians, testified. Though extreme in nature and content, the richness of detail provided by the suit allows a case study of the themes raised by this chapter. For as deponents disputed the emotional, psychological and physical origins and nature of Anne More's distress, their testimonies revealed the conflicts and negotiations surrounding affect displays, and the social nature of physical experience.

* * *

4. Affect as Performance: the Case of Anne More of Lofthouse.

One evening in September 1719, Anne More dined with her family and acquaintances at her home at Lofthouse, Durham. There was nothing unusual about this. As members of the local élite, she and Zachary often entertained civic officials and clerics of various denominations. On this occasion Anne's friends Mrs Collingwood and Thomasina Maynard of Yarm had joined them, along with Mr Gordon, Steward to the Duke of Buckingham, Mr Hunt, the parish priest, and Mr Witham, a 'Romish Bishop'.⁷⁷ Wine flowed freely, and the evening was an apparent success, as the party 'play'd at cards' late into the night.⁷⁸ When she went to bed, however, Anne 'fell very ill in an unusuall manner in strange smarting pains at her stomach'.⁷⁹ The pains kept Anne awake all night, and the next morning she told Thomasina Maynard that she was 'much out of order at her

⁷⁶ Cf. fn 22.

Libel in CPI 699 More c. More.

⁷⁸ Testimony of Thomasina Maynard in CPI 699 More c. More.

⁷⁹ Libel in CPI 699 More c. More.

stomach'.⁸⁰ Thomasina noticed Anne 'seemed to be out of order at several times that day', but that she nevertheless 'went up and down the house about her business'.⁸¹ The following day Thomasina Maynard went home. On her return two weeks later, Thomasina was shocked by the change in Anne's condition.

When Thomasina entered the More home, accompanied by Mrs Anne Challoner, a mutual friend from Guisborough, she found Anne emotionally distraught. Anne told her friends that Zachary had abused her, calling her 'whore' and 'pimp' and telling her that 'his coach and horses were at her service to carry her away and that he hoped at some time or another to see her want bread'.⁸² Since Zachary was at home – 'threatening menaceing chiding & brawling' with his wife - the two women could not offer much assistance, though they were concerned to see Anne 'much disordered by crying', and 'her eyes... very Redd'.⁸³ Ten days later, when Zachary went to London, Anne contacted Mrs Challoner and other friends and acquaintances, telling them that she feared she was dying, and asking them to visit her at Lofthouse. When they did so, the full extent of Anne's physical and emotional debilitation became apparent.

As she sat by the sick-bed of Anne More, - by now intermittently weeping, confused, hysterical and fearful - Mrs Challoner noticed her friend's face was 'bloated and that she appeared over [*sic*] her stomach (which this dept felt and see) to be something bigger than ordinary.'⁸⁴ Indeed, so distended and swollen

⁸⁰ Testimony of Thomasina Maynard in CPI 699 More c. More.

⁸¹ Testimony of Thomasina Maynard in CPI 699 More c. More.

⁸² Testimony of Thomasina Maynard in CPI 699 More c. More. On the legal and cultural meanings of separation litigation, see Chapter 6.

⁸³ Testimony of Anne Challoner in CPI 699 More c. More. Cf. f/n 17.

⁸⁴ Testimony of Anne Challoner in CPI 699 More c. More.

was Anne's abdomen that Mrs Challoner 'and the rest of the neighbours thought she had actually been with child'.⁸⁵ Dorothy Hall from Kirkleatham observed that Anne was often 'sick at her head and stomach and sometimes vomited and this dept saith she was swell'd at her stomach, and her face was a little swell'd and a little dull coloured'. As Anne's condition deteriorated, she 'took a fitt such an one as [Dorothy] never see any body in before in which fitt this dept saith she laid very still and graspt her hands and after that she was out of that fitt she immediately fell into another of the same kind'. After 'three or four of those fitts that night one after another', Dorothy was 'afraid [Anne] would have dyed'.⁸⁶

In addition to the abdominal and facial swelling and fitting observed by Challoner and Hall, Anne complained of persistent abdominal pains, vomiting, diarrhoea and convulsions. Thomas Dawson, a 55-year-old magistrate from Durham, heard that Anne was often 'seized with burning and pricking pains in her stomach which were soon followed by a violent purgeing which continued about three weekes and that was followed by as violent a vomiting which lasted about three weeks longer'. After a particularly extreme bout of vomiting and diarrhoea, Anne told Thomas that 'skins and sloughs, came away' in her 'stools and vomitts which according to her description this dept took to be the mucous coat of her stomach and guts'.⁸⁷ Sarah Hall of Guisborough, who spent some time caring for Anne at Lofthouse, observed that Anne 'vomited green stuff with a mixture sometimes of blew in it but most chiefly green such as this dept never see in all her life'. At such times the 'pitt of [Anne's] was 'discoloured viz. black and yellow and complained of being swell'd and in this depts opinion the said Mrs More was

⁸⁵ Testimony of Anne Challoner in CPI 699 More c. More.

swell'd and that her body seemed to be harder than ordinary'.⁸⁸ And the More's family physician, Dr Joseph Anderson, visited Anne several times at Lofthouse between September and December 1719. Anderson often saw Anne 'a purgeing and vomiting', and noted with some surprise that 'what [Anne] vomited was a thin green liquor for the most part'.⁸⁹

These bizarre symptoms clearly disturbed and puzzled onlookers. So, too, did the range of emotional sufferings that accompanied them. We have seen that Anne Challoner and Isabella Maynard were struck by Anne's grief-stricken state. Dr Anderson and others observed Anne seemed 'disordered [in] her head & brain' as she lurched between extreme emotions. One moment she was 'unhappy', tearful and believing herself to be 'of all women the most miserable'.⁹⁰ The next she was 'smileing' and peaceable, 'affectionate' with her husband and open to philosophical and theological debate.⁹¹ Subsequently Anne was variously depicted as physically aggressive and suicidal, when she was capable of 'wild and incoherent expressions' and gestures, or emotionally subdued and miserable, when she would lie on her bed 'her limbs and her body ... drawn all up together upon a heap'.⁹²

As this evidence suggests, the physicality of Anne's suffering was not in dispute. And Anne, at least, was in no doubt about its cause. She claimed her illness was

⁸⁶ Testimony of Dorothy Hall in CPI 699 More c. More.

⁸⁷ Testimony of Thomas Dawson in CPI 699 More c. More.

⁸⁸ Testimony of Sarah Hall in CPI 699 More c. More.

⁸⁹ Testimony of Dr Joseph Anderson, 56-year-old physician in CPI 699 More c. More.

⁹⁰ See testimony of Dr Joseph Anderson, Edward Hawkins and Anne Challoner in CPI 699 More c. More.

⁹¹ Testimony of Edward Hawkins in CPI 699 More c. More.

⁹² Testimony of Edward Hawkins and Isabella Scrafton in CPI 699 More c. More.

the direct result of Zachary's cruel and abusive treatment of her. She testified that since their marriage Zachary had been verbally, physically and emotionally violent towards Anne, inflicting her with the 'French Pox' immediately after their marriage, for which he offered her a prescription for mercury which 'would have killed [Anne] if she had had a hundred lives'.⁹³ Since that incident, relations between Zachary and Anne had worsened further, as Zachary, a steadfast Catholic, was enraged by Anne's recent return to the Protestantism of her youth. In light of this, Anne claimed, Zachary had attempted to murder her as vengeance for abandoning the Church of Rome. So it was that at their dinner party in September 1719, the servant of Mr Witham, the 'Romish Bishop' and Northern Vicar Apostolic offered Anne a glass of wine.⁹⁴ Anne thought nothing of this, though she believed it was 'nasty wine... the end of a bottle'.⁹⁵ Only later, as she experienced the beginnings of a long and painful illness did Anne conclude that through the mediation of a Catholic priest and his servant – and in what strikes the reader as a grotesque perversion of the sacrament – Zachary again attempted to take her life.⁹⁶

Zachary denied these allegations. He did not deny the extreme emotional and physical disturbances experienced by Anne, for he had witnessed them first-hand. But he did contest their origin and cause. Zachary testified that Anne was emotionally and psychologically unstable, that she had a 'passionate and unhappy temper' and was 'fancyful' and 'vapourish', a contemporary term used to denote

⁹³ Libel in CPI 699 More c. More.

⁹⁴ On Witham's contemporary relevance as a Catholic crusader see Hugh Aveling, *Northern Catholics: The Catholic Recusants of the North Riding of Yorkshire, 1558-1790* (London, 1966), p.398. See also John Bossy, *The English Catholic Community, 1470-1850* (London, 1979), pp.212, 214.

⁹⁵ Libel in CPI 699 More c. More.

⁹⁶ Libel in CPI 699 More c. More.

nervous disability.⁹⁷ In addition, Zachary continued, Anne was both hypochondriac and alcoholic, consuming copious amounts of physic and alcohol, so that she had ‘impaired her health & disordered her head & brain’.⁹⁸

Obviously the truth or otherwise of Anne and Zachary’s testimony is uncertain. Though Anne ultimately lost her case, we cannot know whether Zachary had attempted to poison his wife; whether Anne believed that he did; or whether the entire complaint was invented in order to secure a separation. At any rate, Anne refused to return to Zachary despite the judgement of the court, as a result of which she was excommunicated.⁹⁹ Soon afterwards Zachary died, and the More estate passed into the hands of a dissolute heir who ended his days in Gibraltar.¹⁰⁰ It was not long, therefore, before the family and its local influence died out.¹⁰¹

At the time of Anne’s suit against Zachary, however, the domestic situation of the More family, and the physical and emotional distress of Anne in particular, was the subject of much local interest. As witnesses gathered around Anne’s sickbed, and as they testified in court, her emotive and communicating body formed a cultural space, or site of conflict, for a series of investments and disputes over the origins and meaning of affect displays. We have seen how witnesses identified Anne’s physical suffering as it manifested itself through tears, ‘greenish’ vomit, a distended abdomen, fainting, fitting and diarrhoea. In interpreting those phenomena, and in identifying those symptoms with emotional debilitation,

⁹⁷ Counter-allegations in CPI 699 More c. More. The significance of these claims is explored below.

⁹⁸ Responses of Zachary More in CPI 699 More c. More.

⁹⁹ See BL, Chanc. AB 43.

¹⁰⁰ The marital strife of Zachary More junior would be the subject of John Hall Stevenson’s poem ‘Zachary’s Tale, or the Suspicious Husband Cured’. See *Crazy Tales* (London, 1769), pp.49-83.

¹⁰¹ See Aveling, *Catholic Recusants*, pp.397-9.

neighbours, carers, clerics and physicians betrayed a series of beliefs about the psychological and physiological effects of affective distress. And contrary to the implicitly or explicitly teleological interpretations of affect critiqued above, their testimony reveals there was no wholesale reinterpretation of the meanings of affect over the period studied.¹⁰² There is no evidence to suggest the triumph of nerve theory over more traditional and holistic interpretations of emotional experience.¹⁰³ And there was a clear lack of the kinds of hegemonic discourses on the origins of ‘feeling’ (broadly defined) which historians of science and sensibility claim were ‘national, even European or universal, common knowledge’ by mid eighteenth century.¹⁰⁴ Indeed, the attempt to locate such meta-narratives denies the complex and context-specific modes of interpretation deployed by the men and women involved.

At face value, the dispute between Anne and Zachary could be offered as evidence to support the widespread emergence of the psycho-perceptual paradigm by the early eighteenth century.¹⁰⁵ We have seen how Zachary attributed Anne’s psychological and physical distress to the condition of her ‘temper’, claiming that she was hypochondriacal and hysterical, ‘fancyful’ and ‘vapourish’. Several of Zachary’s witnesses concurred. According to the More family doctor, Anne had a history of ‘Hesterick fitts’ for which Dr Anderson prescribed ‘broths’ and ‘astringent medicines’.¹⁰⁶ And Oliver Proddy, the More’s apothecary, observed

¹⁰² See above and chapter 1.

¹⁰³ Barker-Benfield, *Culture of Sensibility*, Introduction.

¹⁰⁴ G.S. Rousseau, ‘Science’ in P. Rogers (ed.), *The Context of English Literature: The Eighteenth Century* (London, 1978), p.194. See also *Idem*, ‘“Nerves, Spirits and Fibres”: Towards Defining the Origins of Sensibility’, *Blue Guitar*, 2 (1976), pp.125-53.

¹⁰⁵ See Barker-Benfield, *Culture of Sensibility*, Introduction and chapter 1.

¹⁰⁶ Testimony of Dr Anderson in CPI 699 More c. More.

that Mrs More commonly took medicines ‘prescribed in Hesterick and Cholerick cases’,¹⁰⁷

The language used in this testimony is important, for it echoes the agenda of the meta-narratives critiqued above. Barker-Benfield’s examination of literary models of affect concludes the use of such terms demonstrates the extent to which nerve theory was disseminated and popularised throughout the country by mid century.¹⁰⁸ Since nerves covered the human form, and were responsible for the transmission of sensation to the brain, any slight alteration or weakening in the system was held responsible for physical and psychological disorder. As Sir Richard Blackmore, physician to William III and Queen Anne explained in his *Treatise of the Spleen and Vapours* (1725), ‘all Diseases are Deviations from the natural rectitude of the Constitution; and therefore break the Symmetry, and subvert the regular Coherence and Subordination of the various Parts’.¹⁰⁹

Moreover, nervous disease of all kinds afflicted women in particular, because their nerves were weaker and more lax than those of men. Thus whilst Addison associated ‘the vapours’ with women in two 1711 *Spectator* papers, the majority of Cheyne’s case studies attributed ‘hysterical’ nervous disorders to women.¹¹⁰ And where men suffered from nervous disability, the terminology deployed was often quite different to that used to describe that of women.¹¹¹ For ‘the vapours’

¹⁰⁷ Testimony of Oliver Proddy in CPI 699 More c. More. On traditional languages of hysteria, see I. Veith, *Hysteria: The History of a Disease* (Chicago, 1970), Introduction.

¹⁰⁸ See Barker-Benfield, *Culture of Sensibility*, pp.18-20, 30.

¹⁰⁹ Sir Richard Blackmore, *A Treatise of the Spleen and Vapours: or, Hypochondriacal and Hysterical Affections* (London, 1725), p.vii.

¹¹⁰ See the discussion in Barker-Benfield, *Culture of Sensibility*, pp.17, 25.

¹¹¹ For an argument that these differences were purely theoretical, see Mark S. Micale, ‘Hysterical Males: Medicine and Masculine Nervous Illness From the Renaissance to Freud’, (University of Manchester working paper, 1997).

were to women what 'the spleen' was to men, 'and if the Vapours are subject to histerick fits, the Spleen is sometimes incident to be affected with the epilepsy, or at least disorders of the convulsive kind'.¹¹² There is no doubt that models of nervous debility influenced literary models of the period. Along with such terms as 'low spirits', 'weak' or 'harassed' spirits, 'splenetic', and 'vapourish', the term 'the vapours' became part of the lexicon of heightened sensibility associated with particular female heroines. Thus Richardson's *Clarissa* suffered from 'weak' or 'sunk' spirits, and Defoe's *Moll Flanders* and *Roxana* suffered from the 'vapours'.¹¹³ In the latter, *Roxana* laments how she:

grew sad, heavy, pensive and melancholly; slept little, and eat little; dream'd continually of the most frightful and terrible things imaginable: Nothing but Apparitions of Devils and Monsters; falling into Gulphs, and off from steep and high Precipes, *and the like*; so that in the Morning, when I shou'd rise, and be refresh'd with the Blessing of Rest, I was *Hag-ridden* with Frights, and terrible things, form'd meerly in the Imagination; and was either tir'd, and wanted Sleep, or over-run with Vapours.¹¹⁴

By the time of Anne's case against Zachary, the term 'the vapours' is understood to have been shorthand for a generalised and overwhelmingly female debilitation of the mind and body.¹¹⁵ Given the testimony of Zachary and his witnesses, and the alleged ubiquity of nervous distemper by the mid eighteenth century, then, it might be argued that Anne's somatic experiences were interpreted according to

¹¹² Robinson, *A New System*, p.197.

¹¹³ For an introduction see Barker-Benfield, *Culture of Sensibility*, pp.18-23.

¹¹⁴ Daniel Defoe, *Roxana: The Fortunate Mistress* (London, 1724), ed. J. Mullan (Oxford, 1996), p.326.

¹¹⁵ See Barker-Benfield, *Culture of Sensibility*, chapter 1. This model of the body was also class-based, as those of the upper echelons were believed to boast finer nerves, and thus a greater propensity to 'feel', as discussed in chapter 1. See George Cheyne in *The English Malady* (1733), ed. Roy Porter (London, 1991), Introduction and chapter 1.

popularised accounts of female ‘vapours’ and ‘hysterick fits’.¹¹⁶ Indeed, many contemporary works on the vapours seemed to echo the symptoms of the disease with those identified on the body of Anne More. Robinson’s *System*, for instance, described how the patient would become ‘low-spirited’, and ‘subject to frequent sighings, tremblings, and palpitations of the heart’.¹¹⁷ As the disease worsened, she would experience ‘a troublesome molesting noise and rumbling in the inferior bowels, which often ends in belching Eructations, and the rising of much wind from the Stomach’.¹¹⁸ The appetite rises and fails, the patient becomes ‘dismal’ and ‘fear, sadness and despair, those cruel Torturers of the Soul, so absolutely possess their Minds, that it’s impossible to affect them with the least possible Hopes of recovery’. In the final stages of the illness, fainting and fitting became common, as sufferers ‘involuntarily grasp their hands, fix their teeth and stretch out their limbs, as in convulsions’. Abdominal swellings and pain were not unusual, and some women experienced ‘excruciating pains’ which ‘dart from the head into the back stomach and bowels, and there excite the hysteric cholick, which is attended with frequent reachings and vomitings of a green poracious bile’.¹¹⁹ At its most extreme the vapours gave rise to ‘hypochondriak melancholy’, leading to madness, perturbations, despair and multiple anxieties. It was not abnormal for the patient to fear conspiracies against her, or, like Anne More, to believe that some persons wished her dead.¹²⁰

¹¹⁶ See for instance Physician, *A Treatise of Diseases of the Head, Brain and Nerves, with Directions for Their Cure... to which is Subjoin'd a Discourse of the Nature, Cause and Cure of Melancholy in Men, and Vapours in Women*, 3rd ed. (London, 1719), Introduction.

¹¹⁷ Robinson, *A New System*, p.212.

¹¹⁸ Robinson, *A New System*, pp.212-3.

¹¹⁹ Robinson, *A New System*, pp.212-219, 223.

¹²⁰ Blackmore, *Treatise*, cited in R. Hunter and I. MacAlpine (eds.), *Three Hundred Years of Psychiatry, 1535-1860: a History Presented in Selected English Texts* (New York, 1982), p.322.

Yet despite the commonalities between eighteenth-century works on nervous distemper and the symptoms associated with Anne More, neither the term ‘nerves’ nor ‘nervous’ features in the testimonies of witnesses and litigants.¹²¹ Nor do they feature in over 1,000 cases between 1660 and 1760 that were transcribed *verbatim* during the course of this thesis.¹²² Instead of the language of ‘nerves’, ‘strings’ and ‘fibres’ which Barker-Benfield identifies as predominant by the mid eighteenth century, invocations to an older discourse on humours continued until the late 1760s.¹²³ Litigants talked about being ‘out of humour’, having a ‘peevish humour’ or a ‘bad humour’, or simply being ‘humorous’, a term also used to describe Anne More.¹²⁴ In the More case alone, there were 10 individual references to the ‘humour’ of Anne More and only one reference to her ‘low spirits’, a term used in both humoral and nervous physiology.¹²⁵

The influence of the humours as an interpretative and diagnostic strategy was more than linguistic, as it continued in the medical practice of physicians summoned to tend to Anne during her illness. The involvement of Dr Anderson, the More family physician, has been noted during the family’s residence at Lofthouse. Like many gentry families, however, the Mores also spent time in London, and they had lodgings in Covent Garden. On a visit made soon after her marriage, Anne summoned several of the country’s most eminent doctors to advise her about a ‘soreness’ on her tongue, which she believed was the ‘French

¹²¹ CPI 699 More c. More.

¹²² On the size and scope of the source base, see chapter 2.

¹²³ Barker-Benfield, *Culture of Sensibility*, pp.18-19.

¹²⁴ See for instance interrogatories of the defence in CPI 699 More c. More; Responses of Samuel Tineman in BI, CPI 169 (1702) Elizabeth Tineman of Kirklington c. Samuel Tineman; Responses in BI, Trans C/P 1697/2 (1697). Anne Shaw c. Robert Shaw; Libel in BI, Trans C/P 1765/4 (1765) Catherine Ettrick c. William Ettrick.

¹²⁵ Testimony of Dr Joseph Anderson in CPI 699 More c. More.

Pox'.¹²⁶ Amongst those in attendance was Richard Mead, the famous author of a number of medical treatises, and Sir Hans Sloane, member of the Royal College of Physicians and founder of the British Museum.¹²⁷

When called to testify on behalf of Zachary, the information produced by Mead and Sloane was not extensive. Both men recalled visiting Anne in 1715, the former accompanied by Dr John Brown and Dr Samuel Palmer, both surgeons from Covent Garden.¹²⁸ Though their diagnoses differed – Sloane suspecting that Anne's 'distemper [was] venereal', and Mead disputing this – it was broadly agreed that Anne suffered a 'scorbatick habbit or sharpe humour'.¹²⁹ And whilst Sloane gave Anne a 'mercurial method' for rooting out her venereal symptoms, Mead and the others physicians consulted prescribed her 'asses milke & a diett drink' in order to soothe her 'hystericall symptomes'.¹³⁰

None of the physicians consulted, therefore, mentioned the possibility of 'vapours' or nervous distemper in their diagnosis of Anne's physical condition, though they each (with the exception of Sloane) attributed her symptoms to a cause which was part-psychological, part-constitutional. Moreover, the attribution of a 'sharpe humour' can be accommodated into traditional discourses of emotional and physical illness which stressed the role of unbalanced humours and 'animal spirits'. Even Blackmore's iatromechanical *Treatise* – regarded by

¹²⁶ Libel in CPI 699 More c. More.

¹²⁷ Given the nature of Anne's claims it is interesting that Mead's publications included *A Mechanical Account of Poisons in Several Essays* (London, 1702). See also *The Medical Works of Richard Mead* (Dublin, 1767). On the life and work of Hans Sloane see E. St John Brooks, *Sir Hans Sloane: The Great Collector and his Circle* (London, 1954). Introduction.

¹²⁸ Testimony of Mead in CPI 699 More c. More.

¹²⁹ See testimony of Sloane, Mead, Browne and Palmer in CPI 699 More c. More.

¹³⁰ Testimony of Mead in CPI 699 More c. More.

Barker-Benfield as an example of the ‘popularisation of sensational psychology’ – discussed how disordered bodily fluids upset the ‘animal spirits’ and drove them into ‘Disorder and Confusion’.¹³¹ And the term ‘vapours’ itself was a traditional one associated with the production of cholera in the spleen. As Blackmore explained, vapours were produced in the body by the excessive production of ‘hurtful humours’.¹³²

No less than nervous debility, therefore, excess melancholy could explain the symptoms found on the body of Anne More. In Rogers’ *Discourse Concerning Trouble of Mind*, for instance, the author observed that ‘Melancholy seizes upon the Brain and Spirits, and incapacitates them for Thought or Action; it confounds and disturbs all their Thoughts, and unavoidably fills them with anguish and vexation’.¹³³ And Richard Baxter’s *Preservatives against Melancholy and Overmuch Sorrow*, published in the late seventeenth century and reprinted several times before 1730 lamented the case of those who through ‘overmuch sorrow’ and ‘melancholy’ became diseased or ‘crazed’ in the ‘*brain and imagination*’ as well as the physical form.¹³⁴ As Roy Porter notes in a history of insanity there was a sharp distinction between the rhetoric of medical development and healing practices in the eighteenth century.¹³⁵

¹³¹ Blackmore, *Treatise*, p.xii; Barker-Benfield, *Culture of Sensibility*, p.6.

¹³² Blackmore, *Treatise*, p.3.

¹³³ Rogers, *Discourse*, p.ii.

¹³⁴ Richard Baxter, *Preservatives against Melancholy and Overmuch Sorrow, Or the Cure of Both by Faith and Physic* (London, 1713), p.18.

¹³⁵ Porter, *Mind Forg’d Manacles*, p.47. See also Stanley W. Jackson, ‘Melancholia and Mechanical Explanation in Eighteenth-Century Medicine’, *Journal of the History of Medicine*, 38 (1983), pp.298-319.

Yet as the More case illustrates, humoral theory did not alone account for the identification and analysis of affective display. Ultimately, all hegemonic discourses on the origin and symptoms of emotion collapse in the face of the ad-hoc and context-based system of bodily strategies and interpretations found in social practice. The spectacular range of affective indicators displayed on, and emanating from, the body of Anne More was interpreted by individuals through a web of complex, often-conflicting theories and beliefs. Thus some witnesses attributed Anne's symptoms to the strains of religious conflict, the vicar Edward Hawkins emphasising Anne's fear of being 'Condemned to Hell' because she had not received the sacrament in both kinds.¹³⁶ This interpretation of emotional distress according to earlier views on 'religious melancholy' or divine punishment continued to be expounded in treatises on the passions.¹³⁷ Other witnesses, like Anne Challoner, rooted Anne's emotional distress in environmental factors, most notably a 'want of rest' brought on by the strain of an unhappy marriage.¹³⁸ Her physical symptoms caused no less speculation, as carers and neighbours and acquaintances debated the possibility Anne was pregnant, as she experienced sickness and tiredness, and her swollen, distended abdomen was, to the touch, somewhat 'harder than ordinary'.¹³⁹ As we have seen the physicians who visited Anne attributed her suffering to constitutional factors, though many of her symptoms eluded medical diagnosis. Thus when Robert Fysh, Rector of Slingsby, asked Dr Anderson 'what he thought of Mrs Mores illness... Dr Davidson answered that it was hard to say what it was or to that effect for that he had been a

¹³⁶ Testimony of Edward Hawkins in CPI 699 More c. More.

¹³⁷ See for instance Samuel Clifford's *Signs and Causes of Melancholy* (London, 1716), Part I. See also Rogers, *Discourse*, pp. 1-25.

¹³⁸ Testimony of Anne Challoner in CPI 699 More c. More.

¹³⁹ Testimony of Anne Challoner and Sarah Hall in CPI 699 More c. More.

practitioner a great many years and that in all his practice he had never mett with a case like hers'.¹⁴⁰

As men and women visited and examined Anne, then, they saw, touched and heard her distress, and attempted to account for that distress according to their individual experiences and beliefs. Meanwhile, Anne was prepared to attempt any course necessary to secure relief. That included the consumption of voluminous amounts of home physic, the consultation of a number of specialist medics, and persistent prayer.¹⁴¹ On one occasion she even asked Elizabeth Proddy, the 30-year-old wife of the local apothecary, to 'put some leeches to the said Mrs Mores feet'. The leeches were brought, but Elizabeth resisted, declaring herself 'timerous in touching of them'. Anne was unconcerned, telling Elizabeth not to worry, 'for that... had heard they would not fasten upon any person that was poisoned'.¹⁴²

How then can we best characterise somatic display as an element in emotion history? The transience of 'feeling', the inability of emotional experience to be articulated *outside* the conventions – rhetorical or somatic – existing in any given culture, makes the meanings attributed to displays the target of analysis. And as we have seen, those meanings were diverse and contingent, located in the space between signifier (the material or gestural form of display, such as tears, sighs, fits or vomit), and the signified (its socially acquired and contextualised significance). To this end, the notion of 'performativity' found in the work of Judith Butler is

¹⁴⁰ Testimony of Robert Fysh, 25-year-old Rector in CPI 699 More c. More.

¹⁴¹ See testimony of Priscilla Joysey, Dr Joseph Anderson and Edward Hawkins in CPI 699 More c. More.

¹⁴² Testimony of Elizabeth Proddy in CPI 699 More c. More.

instructive. For no less than gender, the signifiers associated with somatic displays were performative elements in the production and interpretation of affect. And just as the rhetorical articulation of love letters helped to construct and convey affective experience, the emotive self was ‘manufactured and sustained through corporeal signs and other discursive means’.¹⁴³

In a very real sense, therefore, there was nothing ‘private’ about bodily experience as imagined by Barker-Benfield. The performativity of emotion revealed its socially constituted nature. This analysis does not deny the ‘feelings’ associated with somatic displays, but it does suggest that individual apprehension and identification of those feelings was and is no less a product of culture than the language used to describe them. As Pierre Bourdieu has written in another context, ‘the body is in the social world, but the social world is in the body’.¹⁴⁴ Thus this chapter has viewed inner feeling or experience less as a pre-cultural space, but (again, to adapt Butler’s statement on gender) as ‘an effect and function of a decidedly public and social discourse’ *about* emotionality and affective experience.¹⁴⁵ In this context, the somatic body cannot be viewed, as Barker-Benfield has argued, as the ‘border of the most private-public split imaginable’.¹⁴⁶ For the *soma* straddled the subjective and social worlds, proclaiming the social embeddedness of interiority through sighs, tears, and the physical languages of affect.

¹⁴³ Judith Butler, *Gender Trouble: Feminism and the Subversion of Identity* (London, 1990), p.136.

¹⁴⁴ Pierre Bourdieu, cited in P. Bourdieu, and L.J.D. Wacquant, *An Invitation to Reflexive Sociology*, (Chicago, 1992), p.36.

¹⁴⁵ Butler, *Gender Trouble*, pp.134, 136.

¹⁴⁶ Barker-Benfield in *Culture of Sensibility*, p.295.

Moreover, this recognition of the social nature of experience is helpful in redefining the limits of the *soma* itself. For despite the focus in this chapter on somatic indicators of emotion – from the conventionalised language of tears and sighs to the less conventional but equally meaningful evidence of vomiting and fitting – affective displays were not limited to the physical manifestations discussed here. Rather, they partook of a far more complex range of bodily practices – verbal, gestural, symbolic and material – which formed the fabric of everyday social interaction. These forms of communication cannot be termed ‘expressions’ in any traditional sense, but as the next chapter will demonstrate, they were no less meaningful in the social construction and articulation of affect.¹⁴⁷

¹⁴⁷ On the relationship between ‘expressions’ and ‘gestures’, see the above discussion.

Chapter 6. Marital ‘Kindness’ and Material Culture: the Embodiment of Affect.

In 1711 Margaret Layer appeared before the York courts to request a separation from her husband. Margaret was not seeking a financial settlement from Arthur, but the right to continue living separately from a man who she claimed had subjected her to extreme cruelty.¹ Like others before her, she unravelled before an all-male courtroom the story of her relationship with her husband, and the varied wrongs inflicted on her during her marriage.²

Margaret was a widow, who had lived alone for several years before she met Arthur Layer. During that time she made a living as an ale-seller, and managed ‘very well and credibly’ in Walmgate, York. Through a ‘large amount of industry and care in her business’, she told the court, Margaret had secured her own home and ‘household goods and other goods of a considerable value’. Then she met Arthur, a widowed joiner with an adult son, who lived near to her. After a brief courtship, Arthur proposed. Margaret was initially reluctant; her efforts in securing an independent living made her understandably cautious about embarking on a hasty union. Arthur was persuasive. He told her that when they married, she would not need to worry about finding an income, for he owned his own home, and his business as a carpenter ‘would sufficiently support...him and his family’. Sensing Margaret’s resolve weakening, Arthur gave her ‘an invitation to see his house’, so she could judge for herself his ability to provide for her. This proved successful. Margaret was

¹ Libel in Bl. CPI 187 (1711) Margaret Layer c. Arthur Layer.

sufficiently impressed, she stopped working, and Arthur and his son moved into Margaret's home.

Within a month Margaret regretted her decision. Arthur and his son became violent and abusive. According to Margaret Thorpe, a 60-year-old neighbour, Arthur began to 'beate and pinche his wife very severely' and to call her 'strumpett'.³ On several occasions she and her daughter had been woken by Margaret's screams of 'murther, murther', whereupon Margaret Thorpe had 'run into [the Layer's] house where Margaret 'told this dept that they had been beating her and that she thought they wou'd have beaten her braines out & begg[ed] of this dept to stay besides her for fear they should murther her'. When called as a witness less than a year later, Margaret Thorpe was at a loss to explain such brutality. Margaret Layer, however, was not.

Margaret's testimony against Arthur revolved round the claim that the marriage was based on deception. After Arthur and his son moved into Margaret's home, it rapidly transpired Arthur had deployed 'many stratagemes and falsitys to engage her' to marry him. Most specifically, Margaret discovered that Arthur owned few material possessions, and that he borrowed 'manye of his neighbour's goodes to furnish the house' he showed Margaret as evidence of his wealth.⁴ He *was* a carpenter, but 'a very poore one', unable to 'provide sufficient maintenance for his family'. Moreover, not content with sharing her own possessions, Arthur and his son attempted to deprive Margaret of her own access to them. She told the court that while she slept the two men did 'use all the means they could invent... to convey [away] the... goods

² For an introduction to the laws on marriage and separation see J.H. Baker, *An Introduction to English Legal History*, 3rd ed. (London, 1990), chapter 27 and Lawrence Stone, *Road to Divorce: England, 1530-1987* (Oxford, 1990), pp.139-158; 190-195.

³ Testimony of Margaret Thorpe in CPI 187 Layer c. Layer.

and effects which belonged to her before marriage'. Breaking open her locks, they removed and sold everything of value, leaving Margaret financially impoverished. When Margaret attempted to stop her husband taking her property, they threatened to 'kill or murder her', endeavouring to 'putt such threats in action by pushing a large piece of iron into her throat'.⁵ Margaret escaped from her home, having lost all her possessions in the process, and was being supported by neighbours when she petitioned to the court for separation. She pleaded with the ecclesiastical judges that she might not be forced to return to her husband 'to the danger of her life'.⁶

* * *

1. Marital conflict in Early Modern History.

Unfortunately, we do not know whether Margaret's suit against Arthur was successful, for no sentence was recorded. Yet we do know that though there were relatively few separation suits brought before the York courts at this time, as in other ecclesiastical courts, and that given her relatively humble status, her suit was unusual.⁷ Less so was the extreme nature of Margaret's complaints against Arthur. As part of a recent growth of interest in matrimonial separation suits, historians have charted the levels of violence prevailing in early modern marriage in order to explore aspects of social and interpersonal conflict, and marital relations.⁸ They have

¹ Libel in CPI 187 Layer c. Layer.

⁵ Libel in CPI 187 Layer c. Layer.

⁶ Libel in CPI 187 Layer c. Layer.

⁷ Statistics on the local and national rates of separation, and the class base of litigants are provided in chapter 2.

⁸ See in particular S.D. Amussen, '“Being Stirred to Much Unquietness”: Violence and Domestic Violence in Early Modern England', *Journal of Women's History*, 6 (1994), pp.70-89; *Idem*, 'Punishment, Discipline and Power: The Social Meanings of Violence in Early Modern England', *Journal of British Studies*, 34 (1995), pp.1-35; Margaret Hunt, 'Wife-Beating, Domesticity and Women's Independence in Eighteenth-Century London', *Gender and History*, 4 (1992), pp.10-30; Laura Gowing, *Domestic Dangers: Women, Words and Sex in Early Modern London* (Oxford, 1996).

generally reached remarkably similar conclusions - the graphic and brutal nature of violence experienced by wives is used to illustrate the patriarchal nature of early modern marriage. On a broader level, this kind of evidence is used to support the meta-narratives of emotional evolution critiqued in earlier chapters. Physical violence in marriage is thus equated with greater tolerance of violence throughout society, and a more open display of power than is characteristic of modern 'affective' relationships.⁹ As Anthony Fletcher puts it, this was 'a society suffused with personal relationships of dominance and subordination, a society in which the use of violence was accepted as a necessary means of maintaining order in hierarchical relationships, both within and outside the household'.¹⁰ Despite evidence for the continuation of a privatised form of domestic violence in middle-class households well into the eighteenth century, (and indeed the continuation of violence in many marriages today), this argument has been broadly accepted.¹¹ So, too, has the idea that marriages were and are based on love, *or* on interest, with historians presenting the rise of sentiment, (and what they suggest was a corresponding decline in physical brutality) as evidence of the trends towards increased repression and/or greater civilité in post-Restoration England.¹²

chapter 6; E.A. Foyster, 'Male Honour, Social Control and Wife-Beating in Late Stuart England', *Transactions of the Royal Historical Society*, 6 (1996), pp.215-225; *Idem*, *Manhood in Early Modern England: Honour, Sex and Marriage* (London, 1999), pp.181-193; Anthony Fletcher, *Gender, Sex and Subordination in England 1500-1800* (London, 1995), chapter 10; Stone, *Road to Divorce*, part 2 and *Idem*, *Uncertain Unions and Broken Lives: Marriage and Divorce in England, 1660-1857* (Oxford, 1995), part 3.

⁹ See Amussen, 'Punishment, Discipline and Power', p.29; Fletcher, *Gender*, pp.192-3; Roderick Phillips, *Untying the Knot: a Short History of Divorce* (Cambridge, 1991), p.102.

¹⁰ Fletcher, *Gender*, p.192.

¹¹ See Hunt, 'Wife-Beating', pp.11-12.

¹² The classic exposition is Lawrence Stone, *The Family, Sex and Marriage in England 1500-1800* (London, 1977), p.109. For a more recent discussion of early modern marriage as a 'business partnership', see Mary Abbot, *Life Cycles in England 1560-1720: Cradle to Grave* (New York, 1996), p.95. See also the discussion of marital history found in Leah Leneman, *Alienated Affections: The Scottish Experience of Divorce and Separation, 1684-1830* (Edinburgh, 1998), pp.324-5. A critique of traditional methodologies is provided in chapter 1 of this thesis.

In previous chapters this approach to the history of affective relations has been criticised in favour of a more meaning-centred and culturally situated mode of analysis. I have argued that the imposition of meta-narratives of change disguises the ambiguous relationship between emotional experience and expression, the conflictual nature of emotion beliefs and representations, and the complex and performative significance of discursive and non-discursive affect displays. This chapter develops these themes through an examination of 40 separation suits brought before the York courts between 1660 and 1760.¹³ In so doing, it aims to refine the history of domestic violence and marital relations by exploring the symbolic, material and emotional meanings of marital conflict. Examining the narrative construction of separation suits such as that between Margaret and Arthur Layer, this chapter draws attention to the oversimplified reading of court testimony found in many historiographical accounts of domestic violence, and exposes the legal and rhetorical conventions of separation evidence. In the process, it demonstrates that emotional suffering, not usually viewed as legally relevant to a woman's case until the mid- nineteenth century, was at the very heart of individual and social interpretations of marital breakdown. Moreover, that suffering resulted not from the wounds and injuries inflicted by physical abuse, but from a more comprehensive blend of material, verbal and psychological cruelties and neglects which women claimed to experience on a day to day basis.

This approach requires a more careful consideration of the relationships between experience and expression, materiality and affect than characterises even the most nuanced historiographical accounts of early modern marriage. For despite Amanda Vickery's recent acknowledgement of the opposition of interest and emotion – or

¹³ See table 6 and appendix 1. The nature of this sample is discussed in chapter 2.

‘cold-blooded arrangement versus idyllic freedom’ – in courtship rituals to be an ‘artificial dichotomy’, her account treats material practices as *reflecting*, rather than *constituting* emotional experience.¹⁴ And although the world of goods is seen to have shaped identities of class and status – a claim commonly invoked by historians of the middling sorts and consumer culture - it is not accorded a role in shaping emotional or psychological structures and feelings.¹⁵ In Vickery’s work, emotion continues to occupy some pre-cultural or interiorised space, as demonstrated in her unproblematised reconstruction of parental affection through letters and diaries.¹⁶

Importantly, this critique of the historiographies of marital relations allows us to draw together and refine many of the key issues of emotion history identified by this thesis. In previous chapters, we have looked at the discursive and non-discursive articulations of anger, romantic love and sadness, focusing on the performativity of each through the verbal utterances of slander, the written conventions of love-letters, and such somatic signifiers as tears. Redefining the limits of the *soma* through analysis of the material culture of affect, this chapter demonstrates the embodiment of emotion in and through the bodily practices and artefacts of domestic relations.¹⁷ For the kinds of rhetorical and gestural affect displays discussed in previous chapters were not contained or circumscribed by the boundaries of individual bodies, any

¹⁴ Amanda Vickery, *The Gentleman’s Daughter: Women’s Lives in Georgian England* (London, 1998), p.40.

¹⁵ See Amanda Vickery, ‘Women and the World of Goods: a Lancashire Consumer and her Possessions, 1751-81’ in John Brewer and Roy Porter (eds.), *Consumption and the World of Goods* (London, 1993), pp.274-301; Lorna Weatherill, *Consumer Behaviour and Material Culture in Britain, 1660-1760* (London, 1988), Introduction; John Smail, *The Origins of Middle-Class Culture: Halifax, Yorkshire, 1660-1760* (Ithaca, Cornell University Press, 1994), pp.93-106.

¹⁶ Vickery, *The Gentleman’s Daughter*, pp.97, 123, 163. See also Vickery’s discussion of Elizabeth Shackleton’s account of her consumer goods, p.165.

¹⁷ See the discussion of the relationship between ‘expressions’ and ‘gestures’ found in the previous chapter. This approach uses and develops the anthropological and sociological perspectives on the interest/emotion relation discussed by H. Medick and D. Sabean (eds.), *Interest and Emotion: Essays on the Study of Family and Kinship* (Cambridge, 1977), Introduction. See also M. Czikzentmihalyi

more than those bodies were abstracted from the material or cultural world.¹⁸ Rather, they were social performances, experienced and embedded in the day to day experiences of living.

Before we can evaluate the meanings of this approach for the reconstruction of individual marital relationships, and for the history of emotion, we need to turn again to the case of Margaret and Arthur Layer. For it is only by scrutinising the narratives of spousal abuse that we can begin to unravel the previously unexplored legal and social conventions influencing the construction of separation suits. And as in the deconstruction of slander litigation, this textual interrogation of the sources is a prerequisite in any attempt to explore the verbal, gestural, material and symbolic significance of interpersonal conflict at the level of everyday practice.¹⁹ Moreover, in the case of separation litigation, this mode of analysis allows us to view the multiple levels on which spousal disaffection was figured and the enormous social and cultural significance of emotional and psychological abuse.

2. Structure and Process in Separation Suits.

Margaret's testimony provides graphic evidence of her physical sufferings at the hands of Arthur and his son. As we read her account of their premeditated and remorseless attacks, and her pleas that she should not be forced to live with Arthur 'to the danger of her life', we cannot fail to be moved by, even empathise with, her physical and emotional anguish. In this Margaret's account is not unusual. Each of

and E. Rochberg-Halton. *The Meaning of Things: Domestic Symbols and the Self* (Cambridge, 1981). pp.17-18.

¹⁸ See the discussion in chapter 5. See also Judith Butler. *Gender Trouble: Feminism and the Subversion of Identity* (London, 1990). p.136 and P. Bourdieu, and L.J.D. Wacquant. *An Invitation to Reflexive Sociology* (Chicago, 1992). p.36.

¹⁹ See chapter 3.

the women who testified for separation at the York courts recounted the systematically violent nature of their relationships. In 1673, for instance, Jane Curre testified how her second husband, a gentleman she married ten years previously, beat her regularly ‘with a strong bridle and bitt at the end of it... untill with the violence of his blowes he knocked her down’.²⁰ Lady Mary Smithson reported that her husband Sir Jerome, ‘did frequently throw knives at his fair lady as she has been sitting att table on purpose to mischieve her, & once in her dressing roome did cut his Lady’s face with a pair of sissers from her eye brow to her lyp’.²¹ Elizabeth Halliday testified that her husband Walter, a gentleman from Hutton Cranswick in the East Riding did ‘inhumanely beat, strike and bruise her... whipt her with a whip... and did tear her cloaths from off her back’. Moreover, ‘continuing in such his fury he beate her upon the legs & her body with his feet & afterwards dragged her out of the yard into his house by the hair of her head in so much that she was bruised very much in many parts of her body and in danger of her life’.²²

As women described the levels of violence to which they had been subjected, they detailed the injuries sustained. Elizabeth Pighell testified that her husband John, the Rector of Patrington in the East Riding, punched her in the face ‘with his hand doubled’, so that ‘her eye ran down with blood, in so much that she was in great danger of being blind of it’.²³ And Martha Brooke, the wife of a yeoman, told the court that her husband Timothy beat her ‘in so much that he hath made her face and other parts of her body black and swell with the blows he gave her so that she hath

²⁰ Libel in BL, CPH 3230 (1673) Jane Curre c. Henry Curre of Boardley.

²¹ Libel in BL, CPH 3469 (1680) Lady Mary Smithson c. Sir Jerome Smithson.

²² Libel in BL, CPH 461 (1718) Elizabeth Halliday c. Walter Halliday of Hutton Cranswick.

²³ Libel in BL, CPH 4505 (1697) Elizabeth Pighell c. John Pighell of Patrington.

been forced to use and apply pultaises and ointments to cure the wounds and bruises which he gave her'.²⁴

It is unsurprising that historians use similar accounts to demonstrate the narrowly patriarchal nature of early modern marriage, or to suggest physical violence functioned as an 'instrument of men's day-to-day control of women in the home'.²⁵ Echoing Fletcher, Elizabeth Foyster has recently concluded that cases of extreme marital violence indicate 'the extremes to which patriarchal power could be taken, and the lengths to which some men would go to gain control of their wives'.²⁶ Other historians have highlighted the apparently random and spontaneous nature of attacks. From a recent study of London litigation, for instance, Margaret Hunt suggests that 'in numerous cases there seems to have been no reason at all [for male violence] beyond a man's desire to beat up a woman and not be penalized for it'.²⁷ Such attempts to locate the 'causes' of domestic violence, to attribute it to a self-conscious exertion of household power, to a momentary loss of control resulting from 'refusal of a husband's sexual demands' or even to wanton sadism are simplistic.²⁸ So, too, are discussions of the representativeness of separation suits, the focus on *physical* violence, and attempts to discuss individual episodes of abuse in broader accounts of psychological evolution without reference to the uniqueness and specificities of marital conflict.

²⁴ Libel in BI, CPH 3516 (1683) Martha Brooke c. Timothy Brooke.

²⁵ Fletcher, *Gender*, p.203. For modern parallels see L. Gordon, *Heroes of their Own Lives: The Politics and History of Family Violence, Boston, 1880-1960* (New York, 1988), Introduction and chapter 1.

²⁶ Foyster, *Manhood*, p.192. Foyster's interpretation of marital violence is evaluated in more detail below.

²⁷ Hunt, 'Wife Beating', p.16.

²⁸ Fletcher, *Gender*, p.195.

For of course we can have no idea of the ‘actual’ levels of spousal abuse that existed in the past, even if we focus on physical violence alone. Perhaps more than any other form of inter-personal conflict, (partly because its criminal status was difficult to determine, and partly because of the specificities of the individual relationships in which it occurred, there is a ‘dark figure’ of unrecorded offences).²⁹ On a more pressing note, however, we must remember that no less than any other historical source, separation suits had a logic of their own, shaped by the needs and expectations of the court and its officials, ecclesiastical law and social custom.³⁰ Thus we cannot simply read separation suit material alongside Shakespeare’s *Othello*, as Foyster has done, as evidence of subjective experiences of male anger or domestic violence.³¹ For while both forms of evidence might indeed function as ‘texts’, they are nevertheless subject to highly specific conventions of genre and style.³² And the (intentionally) emotive rhetoric of separation material must not blind us to the complex validation of spousal abuse as a social, moral and *legal* complaint. This is not to downplay the suffering endured by women like Margaret Layer, quite the reverse. For a recognition of the textual and linguistic conventions surrounding narratives of cruelty allows us to construct a more contextualised and comprehensive analysis of her allegations than is provided in existing historiography.

To this end, let us return to the accounts of physical violence contained in women’s testimonies against their husbands. We have seen how the brutal and graphic descriptions of male brutality in marriage have led historians to make wide-ranging

²⁹ The term derives from J.A. Sharpe’s discussion of crime more generally. See *Crime in Early Modern England, 1550-1750* (London, 1984), p.42.

³⁰ See the general discussion in chapter 2 and my analysis of slander suits in chapter 3.

³¹ Foyster, *Manhood*, esp. pp.186, 189. See also my criticism of Foyster’s treatment of anger in chapter 3.

³² Foyster, *Manhood*, p.14.

assumptions about the legitimacy of male power in the household, and the assumption that a certain degree of violence was an accepted, even expected part of marriage.³³ It was only when that violence became excessive that women like Margaret Layer petitioned against their husbands in the ecclesiastical courts of the period. And the subsequent accounts provide descriptions of extensive and frenzied cruelty inflicted by husbands on the bodies of their wives. Whereas other historians have viewed violence as evidence of patriarchal punishment or vindictiveness, therefore, others have focused on the levels of violence, and the manner of its expression. Thus Lawrence Stone has claimed that ‘domestic cruelty often took bizarre and extreme forms bordering on madness’, and Ingram has suggested that violent men displayed signs of ‘mental disturbance or instability’.³⁴ When we read the testimony of women like Elizabeth Pighell, who claimed her husband ‘informed her in a serious and thoughtful manner [that] there was something on his spirits that he could not possibly drive away or gett quitt of without having her heart’s blood’ it is difficult not to agree.³⁵ But as in the representation of anger in slander suits, the narrative construction of marital conflict was not straightforward.³⁶

When women came before the courts to allege cruelty on the part of husbands, their testimony was structured according to legal criteria. Historians have noted that under ecclesiastical law, husbands were allowed to physically chastise their wives, provided they did not do any ‘bodily damage, otherwise than appertaines to the office of a husband for lawfull and reasonable correction’.³⁷ Exactly what constituted ‘reasonable’ correction was vague. What it meant in practice, as Stone has argued,

³³ Amussen, ‘Punishment, Discipline and Power’, pp.27-30.

³⁴ Stone, *Road to Divorce*, p.199 and Ingram, *Church Courts*, p.183.

³⁵ Libel in CPH 4505 Pighell c. Pighell.

³⁶ See chapter 3.

was that women had to prove that they had been threatened with or received ‘life-threatening damage as a result of physical abuse’.³⁸ Stone does not consider the relationship between this definition and the shape of women’s testimonies. Yet as the measurement of violence formed the crux of plaintiffs’ and defendants’ depositions, women *necessarily* elaborated the exact nature and degree of the maltreatment they had received. And their stories, illustrated by accounts of bodily scars and infirmities, were intended to demonstrate the ‘unreasonable’ and excessive nature of their husbands’ behaviour. So, too, were women’s descriptions of the emotional and psychological states exhibited by husbands at the time when that abuse occurred. In the suit brought by Catherine Ettrick against her yeoman husband William, for instance, Catherine told the court how William ‘without any cause whatever suddenly fell into one of his passionate fits of frenzy or madness, which was frequently the cause’, before he struck his wife.³⁹ Other women, like Lady Grace Chaworth, daughter of the Earl of Rutland and wife of lord Patrick Chaworth, Viscount of Armagh, recalled how their husbands were overcome by ‘passion or fury’, or had ‘falled into greivous passion, Rage and ffury against’ them.⁴⁰ And in Elizabeth Laughton’s suit against her husband John, a gentleman from Tickhill, near Doncaster, Elizabeth’s aunt testified that John was frequently in ‘great wrath and passion’ as he ‘railed at’ and abused his wife.⁴¹

³⁷ Henry Smith, *A Preparative to Marriage* (1591), cited in Gowing, *Domestic Dangers*, p.207.

³⁸ Stone, *Uncertain Unions*, p.5.

³⁹ Libel in BI, Trans C/P 1765/4 (1765) Catherine Ettrick c. William Ettrick.

⁴⁰ Libel in BI, CPH 3000 (1672) Lady Grace Chaworth c. Lord Patrick Chaworth, Viscount of Armagh. Lady’s Grace’s brother Lord Roos, later Earl of Rutland and heir to the Manners’ estates, was divorced by Act of Parliament. His petition for adultery against Anne Pierrepont, daughter of the Marquis of Doncaster, was the first in the country to draw attention to the power of parliament to legalize divorce. See the discussion in Stone, *Road to Divorce*, pp.312-4. For further examples of the point in question, see also BI, CPI 169 (1702) Elizabeth Tineman c. Samuel Tineman and CPH 4505 Pighell c. Pighell.

As this evidence suggests, the descriptions of physical violence found in separation suits conformed to legal convention. The recounting of specific instances of injuries received, the place and times when those injuries occurred, and the language used by litigants and witnesses, were rhetorical strategies in the production of believable and actionable narratives. As Roland Barthes observes in his discussion of the 'reality effect': 'what does it matter that a detail has no function in the account so long as it denotes 'what took place'? 'Concrete reality' becomes a sufficient justification for what is said'.⁴² Yet the narrative construction of violent domestic incidents also conformed to a series of popular, gendered beliefs about anger, and its relationship with madness and reason.⁴³

As is discussed elsewhere in this thesis, there was nothing unproblematic about emotion beliefs in early modern England. As today, there were a range of different assumptions and interpretations placed on anger, and all emotions, as psychological, physiological, spiritual or diabolical phenomena. Yet the articulation of male anger in terms of brutality or a loss of reason was a common trope. One way of defining manhood was to view man's reasons as differentiated from that of women, and that of beasts.⁴⁴ As George Saville put it in 1688, 'there is inequality in the sexes, and... for the better economy of the world the men, who were to be the lawgivers, had the larger share of reason bestowed upon them'.⁴⁵ Men's reason was tenuous. All

⁴¹ Testimony of Elizabeth Mainwaring in BI, CPI 631 (1721) Elizabeth Laughton c. John Laughton of Tickhill.

⁴² Roland Barthes, 'The Reality Effect' in *French Literary Theory Today: a Reader*, trans. R. Carter, (Cambridge, 1987), p.15.

⁴³ The verbal and physical conventions of anger displays do not concern us here. For a discussion, see chapter 3.

⁴⁴ I have dealt with this theme in 'An Oeconomy of Violence? Marital Conflict in Early Modern England,' (M.A. York, 1996), chapter 2. For a more recent discussion of the relationship between manhood and reason see Foyster, *Manhood*, pp.186-7.

⁴⁵ George Saville, *Advice to a Daughter* (London, 1688), reprinted in V. Jones (ed.), *Women in the Eighteenth Century: Constructions of Femininity* (London, 1994), pp.167-8.

men could be ‘hurried by sudden starts of passion into expressions and actions which their cooler reason will condemn’.⁴⁶ True madness, however, robbed men of their reason, making them ‘unmanly and unjust’ and prone to bestial acts of violence.⁴⁷ It is not insignificant in this context that insanity was also one of the grounds on which the courts allowed a marriage to be annulled.⁴⁸ In separation suits, as in petitions for annulments, women made recourse to the trope of madness, and the belief that there was ‘no beast so brutal, as a man depraved’.⁴⁹

Wherever there is an aggressor there must, of course, be a victim. Stone claims that ‘even more striking than the ferocity of some husbands’ in separation disputes ‘was the passive endurance of so many abused wives... amounting in some cases to masochism’.⁵⁰ Passivity certainly characterised plaintiffs’ depositions. And women called on witnesses to verify that they were ‘loveinge and obedient’ wives, that they behaved ‘with great Duty and respect and as a dutifull and affectionate wife’ by endeavouring ‘by all the ways and means [they] cou’d possibly use to please, content and avoy’d provoaking’ their husbands.⁵¹ Yet, again, this testimony was far from simple. In reading women’s statements we need to be attuned to the rhetoric of suffering.⁵² In the words of William Fleetwood, the late seventeenth-century Bishop of Ely, ‘there is an unaccountable force in meekness, patience and forbearance’.⁵³

⁴⁶ ‘An Unfortunate Mother’s Advice to her Absent Daughters in a Letter to Miss Pennington’, in Vivian Jones (ed.), *The Young Lady’s Pocket Library, or Parental Monitor* (1790 ed., repr. London, 1995), p.102.

⁴⁷ William Fleetwood, *The Relative Duties of Parents and Children, Husbands and Wives, Masters and Servants, Consider’d in Six Sermons* (1705, facs. repr. London, 1985), p.336.

⁴⁸ Stone, *Road to Divorce*, p.191.

⁴⁹ Daniel Defoe, ‘An Abused Wife’s Appeal’, *Review*, 96 (1705), in W.L. Payne (ed.), *The Best of Defoe’s Review: an Anthology* (Newcastle, 1951), p.237.

⁵⁰ Stone, *Road to Divorce*, p.191.

⁵¹ Libel in Trans C/P 1765/4 (1765) Catherine Etrick c. William Etrick and libel in BI, CPI 88 (1704) Jane Greaves c. John Greaves.

⁵² See J. Lamb, *The Rhetoric of Suffering: Reading the Book of Job in the Eighteenth Century* (Oxford, 1995), Introduction.

⁵³ Fleetwood, ‘Discourse XI: Duties of Wives to Husbands’ in *The Relative Duties*, p.234.

Janet Todd and Elaine Hobby have shown how seventeenth-century female authors urged readers to display qualities of selflessness and sensitivity, appearing to collude with women's cultural and economic subordination as they did so. At another level, however, these authors created a realm in which these qualities rendered women not impotent, but dominant.⁵⁴ The recognition of the moral advantage women gained through the rhetoric of suffering should in itself be sufficient to refute Stone's charges of masochism. Yet this was also a *legal* concession. It is ironic that Stone acknowledged ecclesiastical courts could 'accept evidence of a wife's bad temper as a bar to a cruelty suit against her husband'.⁵⁵ Given such legal and cultural factors at work in the court-room setting, it should not surprise us that women made a 'a virtue of necessity' by conforming to the trope of the long-suffering wife.

Aware of the power of such testimony in securing women a favourable outcome, men sought to negate it. Some men denied that any violence had taken place. Robert Dobby, a sailor, argued that he did 'never in his life time did strike' his wife, but 'always treated her with kindness', a claim which had wide-reaching implications.⁵⁶ Other husbands acknowledged the illegitimacy of their behaviour, but laid the blame on such external factors as spousal incompatibility. Thomas Stradling did not deny that he had used 'harshness to..his...wife' but blamed his behaviour on Elizabeth's uneasiness with him, which provoked him into 'acts as otherwise he cou'd not have been guilty of'. Thomas's testimony may indicate that this was a collusive suit, for he added that since 'they live an uneasie and uncomfortable life together' and one

⁵⁴ J. Todd, *The Sign of Angellica: Women, Writing and Fiction, 1660-1800* (London, 1989), p.4; Elaine Hobby, *Virtue of Necessity: English Women's Writing, 1649-88* (London, 1988), Introduction.

⁵⁵ Stone, *Road to Divorce*, p.203.

which was 'in no wise becoming man and wife', he 'really [thought] the judge of this venerable court may justly by sentence separate them from bed and board and he earnestly desire[d] it may be so'.⁵⁷

More frequently, men responded to charges by redefining their wives' characters, and the nature and extent of domestic violence. Men like William Ettrick denied their actions were 'without any cause or provocaton', and appealed to the patriarchal right of legitimate punishment. William who had already been fined at quarter sessions for assaulting his wife, claimed Catherine Ettrick was 'a person of a proud haughty petted and forward Temper' who 'voluntarily and...without any reasonable cause or provocation eloped' from him.⁵⁸ John Greaves, shopkeeper and Mayor of Beverley, denied that his wife had been a good wife; rather she had 'studied to provoake him &...to putt him into a rage and passion'.⁵⁹ John Pighell charged that 'seldome did [his wife] demeane herselfe as a good wife ought to doe towards her husband'. On the contrary, she had 'studyed as still she does by all possible meanes how to disoblige vex and trouble' him.⁶⁰ And when William Idelle, a gentleman from Brantingham in the East Riding was charged with cruelty by his wife Elizabeth, William's brother, John, deposed that she had not behaved 'with that duty and respect as becomes a good and loveing wife'. Instead, John claimed, she was 'all along of a morose and surly temper... provoking him with unbecoming and disrespectfull language & carriage'.⁶¹ Whilst women attempted to declare their

⁵⁶ Libel in BI, CPI 582 Barbara Dobby c. Robert Dobby (1719). The significance of 'kindness' in separation suits is considered below.

⁵⁷ Libel in BI, CPI 291 (1713) Elizabeth Stradling c. Thomas Stradling.

⁵⁸ Responses in Trans C/P 1765 Ettrick c. Ettrick.

⁵⁹ Libel in CPI 88 Greaves c. Greaves. On the contemporary significance of Beverley, see D. Neave, 'Beverley 1700-1835', in R.B. Pugh (ed.), *A History of the County of York East Riding: The Borough and Liberties of Beverley*, Victoria County History 6 (Oxford, 1976), p.114.

⁶⁰ CPH 4505 Pighell c. Pighell.

⁶¹ Testimony of John Idelle in BI, CPI 154 (1704) Elizabeth Idelle c. William Idelle.

husbands mad, and hence not ‘men’, men exploited the assumption that there was, in Richard Allestree’s words, ‘nothing more odious than a Woman-Tiger’ to challenge their wives’ conformity to the gender codes that made them ‘women’.⁶²

As this evidence suggests, separation suits were shaped and structured according to the demands of legal process, and contemporary beliefs about the respective nature and duties of husbands and wives. To use them as evidence of female subordination and male aggression, or of a more general toleration of violence in early modern society without reference *to* these demands and beliefs, is deeply suspect. So, too is the exclusive emphasis on *physical* violence found in the historiography of marriage and divorce. Based on an over-emphasis on the narrow definitions of cruelty found in ecclesiastical law, this approach ignores the complex verbal, symbolic, and material abuses cited in church court testimony. And though they did not comprehend cruelty in any formal sense, the persistent cataloguing of such abuses suggests that a more context-situated and relational conception of marital disaffection – which prioritised emotional and psychological abuse – was being negotiated and interpreted in society, and in the courts.

3. ‘A Continuall Trouble and Misery’: Redefining Conjugal Cruelty.

As we have seen, ecclesiastical law held a narrow definition of conjugal cruelty. Stone has argued that until 1790 this was limited to a ‘life-threatening’ degree of physical violence. After that date, this included ‘a reasonable apprehension of future bodily harm’, though not until 1860 would a judicial reinterpretation define cruelty as ‘mere verbal abuse and insults’.⁶³ For this represented, according to Stone, ‘a slow

⁶² Richard Allestree, *The Ladies’ Calling in Two Parts*, 3rd ed. (London, 1675), p.70.

⁶³ Stone, *Uncertain Unions*, p 5

concession by judicial pronouncements to the new ideal of the companionate marriage'.⁶⁴ R.L. Griswold has concurred, arguing that not until 1849 could Justice Edward King recognize that 'a husband may, by a course of humiliating insults and annoyances...eventually destroy the life of health of his wife', for this reflected newly accepted ideas about illness in general, and female illness in particular.⁶⁵

These statements fit neatly into the models of affective evolution and domestic relations outlined and critiqued above. So, too, do the judicial developments on which they depend. Yet, there is another side to the story. This exclusive focus on legal theory oversimplifies the relationship between the injunctions of ecclesiastical law and the idiosyncrasies and custom found in legal practice.⁶⁶ Of course the limited interpretation of conjugal cruelty found in ecclesiastical law doubtless informed lay and official evaluations of spousal abuse and, as we have seen, directly affected the construction of litigants' testimony. But in no case studied was physical violence *alone* presented as the motive for separation. Nor did it seem to be the sole, or in many cases, the most *important* criteria by which spousal abuse was defined in everyday practice. For as Charles Arthur, vicar of Wadworth, near Doncaster, testified in the separation suit between Elizabeth and John Laughton in 1721, 'there were several ways of using a wife ill without beating her'.⁶⁷

The discussion of these 'several ways' was integral to most women's testimony as they described, as Margaret Layer had done, the varied forms of verbal, emotional and material abuses they had experienced. Moreover, such abuses, whatever the

⁶⁴ Stone, *Uncertain Unions*, p.5.

⁶⁵ Justice King cited in R.L. Griswold, 'The Evolution of the Doctrine of Mental Cruelty in Victorian American Divorce, 1790-1900', *Journal of Social History*, 7 (1986-7), p.132.

⁶⁶ On this theme, see chapter 3.

claims of progressivists, had long since been understood as detrimental to an individual's 'life [and] health'.⁶⁸ Indeed, in 95% of cases studied, women detailed the verbal abuses they had received from their husbands, viewing them as inappropriate and psychologically debilitating. In 1704, for instance, Jane Greaves complained her husband John used 'most unbecomeing expressions towards her', calling her 'whore, bitch, jade, drunken bitch and whore' which 'rendered her uneasie and uncomfortable'.⁶⁹ Elizabeth Rowsby testified her husband did 'declare his aversion disaffection and hatred to her' by using 'most unbecoming expressions'.⁷⁰ Elizabeth Pighell deposed the verbal abuse or 'chideing and brawling' of her husband John made her not only 'uneasy and uncomfortable' but 'the most miserable woman in the world'.⁷¹ Lady Grace Chaworth complained that soon after her marriage to Lord Chaworth he subjected her to 'barbarous language' such as 'jade, whore and the like' which caused her 'great dissatisfaction and great trouble of mind'.⁷² Martha Brooke deposed that her husband's 'base languages' were a 'great severity to her', and Elizabeth Stradling complained that her husband called her 'whore, bitch, sow, great ugly sow and Great Bear'.⁷³ In a final example, Grace Allenson, a gentlewoman from Peasholme Green, York, testified that her husband Charles did 'quarrell and brawl' with her daily, calling her 'whore & bidd god damne her & other angry words... whereupon she wept most bitterly'.⁷⁴

⁶⁷ Testimony of Charles Arthur in CPI 631 Laughton c. Laughton.

⁶⁸ Justice King cited in Griswold, 'Evolution', p. 132.

⁶⁹ Libel in CPI 88 Greaves c. Greaves.

⁷⁰ Libel in BL, CPH 4253 (1691) Elizabeth Rowsby c. William Rowsby.

⁷¹ Libel in CPH 4505 Pighell c. Pighell.

⁷² Libel in CPH 3000 Chaworth c. Chaworth.

⁷³ Libel in CPH 3616 Brooke c. Brooke; libel in CPH 291 Stradling c. Stradling.

⁷⁴ Libel in BL, CPH 3264 (1675) Grace Allenson c. Charles Allenson. On the cultural meanings of tears, see chapter 5.

The verbal and aural significance of ‘angry words’ as a source of social disruption is discussed elsewhere in this thesis.⁷⁵ In separation suits their significance was grounded in their demonstration of disaffection, and their ability to cause emotional anguish. As Richard Thackwray, a linen weaver deposed on behalf of Grace Allenson, it was the persistent ‘quarreling’ and ‘brawling’ of her husband that made her life ‘a continuall trouble & misery’, and her ‘grief & trouble almost insupportable’.⁷⁶ This ‘quarrelling’ included not only name-calling but, in some cases, men’s constant criticism of women’s housekeeping abilities, families and appearance. Thus Catherine Etrick reported how her husband William would frequently abuse her ‘before her children by calling her a Damn’d ugly old Bitch and an Idiot’.⁷⁷ And Abigail Moor, wife of Henry Moor, a gentleman from Leeds complained how her husband used to ‘bid her look at the dogg & then sa[y] I love the taile of that dogg better than thy face’.⁷⁸

As this testimony illustrates, then, the nineteenth century emergence of the doctrine of ‘mental cruelty’ did not correspond with any new individual or social understanding of the debilitating impact of verbal abuse. Seventeenth-century people were, as Michael MacDonald argues, ‘as convinced as we are that social and psychological stress disturbed the minds and corroded the health of its victims’.⁷⁹ In *A Physical Nosomy* (1665) William Drage included ‘discontents betwixt man and wife’ as ‘the most lacerating of all grief’ in his catalogue of the typically disturbing

⁷⁵ See chapter 3.

⁷⁶ Testimony of Richard Thackwray in CPH 3264 Allenson c. Allenson.

⁷⁷ Libel in Trans C/P 1765/4 Etrick c. Etrick.

⁷⁸ Libel in Bl. CPI 2741 (1707) Abigail Moore c. Henry Moore of Leeds.

⁷⁹ Michael MacDonald, *Mystical Bedlam: Madness, Anxiety and Healing in Seventeenth-Century England* (Cambridge, 1981), p. 72.

experiences that could produce fear, madness and even death.⁸⁰ And Fleetwood warned that there was ‘a bitterness of language which everyone understands, and Words that wound to the quick...are...Swords’. And since such ‘ill useage’ caused ‘much sadness, and much trouble, pain and uneasiness within’, continued Fleetwood, it was entirely ‘unbecomeing the Relation’ of marriage.⁸¹

Fleetwood’s implicit invocation of an appropriate mode of behaviour or ‘right useage’ within marriage is interesting, for it corresponds with the testimony of litigants themselves. We have seen how the term ‘kindness’ implied a range of verbal, gestural and material behaviours. Equally meaningful was the term ‘useage’. For as women recounted their husbands’ treatment of them, they referred – in over 70% of cases – to the ‘useage’ that they had received, describing it not only as ‘barbarous’ and ‘base’, ‘inhumane’ or ‘cruel’ – words which explicitly referred to physical violence – but ‘unmindful’ and ‘unkind’.⁸² Explicitly invoking their husband’s vows to love, honour and cherish them in marriage, women claimed that ‘these premises notwithstanding’, their husbands were ‘unmindful of their conjugal vow[s]’, that they displayed no ‘regard or conjugal love’ for their wives, demonstrating instead their ‘Aversion and hatred’ in words and deeds.⁸³

Again, the structure of this testimony was formulaic. In matrimonial separation suits, as in matrimonial formation cases, the establishment that a valid, binding and mutually reciprocal commitment had been made between disputants was a socially

⁸⁰ William Drage cited in MacDonald, *Mystical Bedlam*, p.73.

⁸¹ Fleetwood, ‘Discourse XII: Duties of Husbands to Wives’, in *The Relative Duties*, pp.335-7.

⁸² See libels in Trans C/P 1697/2 (1697) Anne Shaw c. Robert Shaw; CPH 4283 Rowsby c. Rowsby; Trans C/P 1765/4 Ettrick c. Ettrick; CPH 3000 Chaworth c. Chaworth.

⁸³ See libels in Trans C/P 1765/4 Ettrick c. Ettrick; CPH 3516 Brooke c. Brooke; CPH 3230 Curren c. Curren; CPI 88 Greaves c. Greaves; CPH 3000 Chaworth c. Chaworth; CPI 581 Dobby c. Dobby.

and legally necessary part of the litigation process.⁸⁴ Nevertheless, it remains relevant that in criticising their husbands' behaviour, women's testimony juxtaposed their expectations of the marital state – particularly the display of mutual regard and affection – with the disregard, 'aversion' and 'hatred' that their husbands bore them. To this end, women cited as evidence of the breakdown of their marriage not only the physical and verbal abuses discussed above, but also a lack of sexual and physical intimacy on the part of husbands. Thus Mary Wilkinson, a gentlewoman from North Dalton, complained how her husband had 'entirely forsaken [her] company & society', and had long ceased to 'perform any conjugall dues or respects unto her'.⁸⁵

This symbolic and functional lack of mutuality was concretised most frequently in the physical structure and artefacts of the household, which became the site of conflict for a series of negotiations and disputes over the respective rights and obligations of spouses. As the remainder of this chapter will demonstrate, this recognition brings a greater awareness and sensitivity of the construction and communication of affect. For the material culture of marriage was loaded with political import. As a moral issue, men were expected to provide for and extend economic mutuality to their wives, regardless of any legal obligations and responsibilities.⁸⁶ In the words of the influential Royalist divine, Richard Allestree, a

CPH 291 Stradling c. Stradling; CPI 154 Idelle c. Idelle; BI, CPH 4042 (1674) Anthony Fletcher c. Anne Fletcher.

⁸⁴ This reflected the fact that prior to the Matrimonial Act of 1753, the means of contracting matrimony were diverse and contested. For a discussion see Stone, *Uncertain Unions*, Introduction, esp. pp. 15-17.

⁸⁵ Libel in BI, 862 (1727) Mary Wilkinson c. John Wilkinson. See also the libel and responses in BI, Trans C/P 1748/1 (1748) George Surtees c. Elizabeth Surtees.

⁸⁶ Traditionally, historians have claimed that early modern married women had 'no rights at all' with regard to property, as seen in Antonia Fraser, *The Weaker Vessel: Woman's Lot in Seventeenth-Century England* (London, 1984), p. 5. More recently, historians have noted their legal potentialities. See for instance Amy Erickson, 'Common Law Versus Common Practice: the Use of Marriage

husband was required to let his wife ‘partake with him in those outward things, wherewith God has blest him’, and ‘have the very same care to sustain [his wife] that he hath for himself’.⁸⁷ Some years later, and from the other end of the political spectrum, the Whig bishop, William Fleetwood, concurred. He viewed this mutual exchange the only way to avoid ‘all those contentions and brawling... which are the plague of families’ and, even more significantly, as the prime means by which ‘the love of Husbands is requir’d to shew itself’.⁸⁸

Fleetwood’s words bring us to the heart of the matter. In marriage the giving, exchange, sharing and withholding of material interests – as in the dispute between Margaret and Arthur Layer – was inseparable from, and *constitutive of*, affect. Through rituals and gestures of inclusion and exclusion, intimacy and alienation – the property and artefacts of marriage were signifiatory and performative agents in the production and communication of ‘conjugal love’ and ‘kindness’ or, conversely, of ‘aversion, disaffection and hatred’.⁸⁹ Thinking about love and hate like this allows us to move beyond the dichotomising of interest and emotion, discursive and non-discursive phenomena, critiqued elsewhere in this thesis. In the context of embodied practice, the material culture of affect structured and conveyed emotion no less effectively than a love-epistle or physical punch, a flushed cheek or a falling tear.⁹⁰

Settlements in Early Modern England’, *Economic History Review*, 43 (1995), pp.21-39 and *Idem*, *Women and Property in Early Modern England* (London, 1993), Introduction. On women’s renegotiation of the marriage contract into a separate maintenance contract, see Susan Staves, *Married Women’s Property in England, 1660-1853* (London, 1990), esp. pp.162-165.

⁸⁷ Richard Allestree, *The Whole Duty of Man* (London, 1659), pp.327-8.

⁸⁸ Fleetwood, ‘Discourse XII’ in *The Relative Duties*, p.315.

⁸⁹ Libel in Trans C/P 1765/4 Ettrick c. Ettrick; libel in CPH 4505 Pighell c. Pighell.

⁹⁰ On the rhetoric of love, see chapter 4. Somatic indicators receive discussion in chapter 5.

In 90% of cases studied, women implicitly or explicitly aligned material deprivation with emotional dissatisfaction or trauma. These sufferings were not abstracted from the context of dispute, but embedded in the material and symbolic artefacts of union. Thus women testified they were denied access to, or control over household spaces and goods, that they and their children were refused their roles and rights as members of a family, particularly with regards to shelter, warmth and food. In the 1675 suit between Grace and Charles Allenson, Frances Turner, the couple's servant, testified how Grace 'scarcely durst speak to' Charles, 'or goe to him to dinner... and many times has dined privately with her children in the nursery.'⁹¹ Other women reported being forced to dine with servants, or altogether denied sustenance.⁹² In 1713, for instance, Elizabeth Stradling reported how her husband refused to let her dine at his table, or even to 'eat good and wholesome food but forc'd her and her children to eat mean and poor dyet not fit for christians'.⁹³ Elizabeth Halliday testified that she and her children 'want all manner of necessarys... and that if it were not for some good charitable friends and relations they lay out of doores and starve for want of bread'.⁹⁴ Anne Fletcher testified that her husband Anthony refused his wife and children 'any manner of meat or of other substance and relief altho' she earnestly begged it of him'.⁹⁵ Catherine Ettrick also testified that her husband told her he 'had a right to Lock her upp and feed her on bread and water thro' a Grate'.⁹⁶ Jane Curren testified her husband Henry actually carried out this threat, for 'severall times' he did 'locke her upp in a Room alone' and refuse her any sustenance.⁹⁷

⁹¹ Testimony of Frances Turner in CPH 3264 Allenson c. Allenson.

⁹² Libel in Trans C/P 1765/4 Ettrick c. Ettrick.

⁹³ Libel in CPH 291 Stradling c. Stradling.

⁹⁴ Libel in CPI 461 Halliday c. Halliday.

⁹⁵ Libel in CPH 4042 Fletcher c. Fletcher.

⁹⁶ Libel in Trans C/P 1765/4 Ettrick c. Ettrick.

There are striking parallels between these complaints and those identified in other separation suits from the period. At the Court of Arches in 1675, Lady Anne Boteler complained her husband locked her in a room without fire or food and threatened to shut her 'in a dark hole and feed [her] with bread and water'.⁹⁸ And at London Consistory Anne Kendrick, the wife of a farmer, testified that her husband 'cooked victualls away from her refusing to allow her any food or sustenance'.⁹⁹ The emotive nature of such testimony cannot be denied. Moreover, the theme of the imprisoned and ill-treated princess was an increasingly common one in romance literature, identified by Hackett as structurally related to women's autobiographical writings.¹⁰⁰ Such literary parallels are interesting, particularly in the light of the discussion of the relationship between emotional experience and expression found elsewhere in this thesis.¹⁰¹ For whether or not women deliberately identified themselves with these fictional heroines, the image of the confined and malnourished wife was a convenient and recognisable trope for the articulation of embodied female suffering, and male cruelty.

So, too, were accounts of women shivering with cold, and being denied the right to light fires or warm themselves in the conjugal household. Thus Catherine Ettrick complained that her husband expected her to 'lye severall winters without any fire in her Room, [and] without any curtaines to her bed', so that she was cold and miserable.¹⁰² The hearth was a persistent symbol of domesticity at this time (used for warming both people and food), and a convenient symbol of wealth (the hearth tax

⁹⁷ Libel in CPH 3230 *Currer v. Currer*.

⁹⁸ Cited in Stone, *Uncertain Unions*, p.302.

⁹⁹ Cited in Gowing, *Domestic Dangers*, p.210.

¹⁰⁰ See H. Hackett, "'Yet Tell Me Some Such Fiction': Lady Mary Wroth's *Urania* and the Femininity of Romance" in C. Brant and D. Purkiss (eds.), *Women, Texts and Histories, 1575-1760*. (London, 1992), pp.39-69.

assessments) Men's refusal to allow women access to the hearth and its comforts was therefore figured as a collapse of the most basic economic and emotional spousal responsibilities. Thus Peter Harmore, the 25-year-old servant of John Greaves, Mayor of Beverley, reported how his master abused Jane Greaves verbally and physically, and refused her the right to warm herself in his home. After one particularly vicious argument, John had cast Jane out of the house for the evening, forbidding the servants to allow her back in. The following morning, Peter stumbled across his mistress in the stable, where she was 'sett upon an old Chest... very much out of order & almost starved'.¹⁰³ The eviction of Jane Greaves clearly signalled to Peter Harmore his master's lack of interest in or concern for his wife's physical and emotional wellbeing. For though Peter worked for John Greaves at the time of the suit, he deposed such incidents led him to believe 'the arlate Jane Greaves cannot live with her husband peaceably or comfortably'.¹⁰⁴ The implication that eviction signalled a wider collapse of marital mutuality on the part of spouses - and epitomised an end to women's 'peace' and 'comfort' - was echoed elsewhere.

In 1674, for instance, Anne Fletcher described how her husband 'did with a thick stick or cane 'beat [his wife] from and out of his dwelling house...and did protest and swear that she should not abide there and that he would not maintain her'.¹⁰⁵

Anne sneaked back in every time his back was turned, but was removed again as rapidly, 'sometimes by her Armes and att other time by her foot'. Finally, Anthony 'took away or caused to be taken away all the greater part of his household goods

¹⁰¹ See chapter 4.

¹⁰² Libel in Trans C/P 1765/4 Etrick c. Etrick.

¹⁰³ Testimony of Peter Harmore in CPI 88 Greaves c. Greaves. The symbolism of eviction is discussed below.

¹⁰⁴ Testimony of Peter Harmore in CPI 88 Greaves c. Greaves.

¹⁰⁵ Libel in CPH 4042 Fletcher c. Fletcher.

that were in the dwelling house and without the consent of [Anne] did lock the outer door of his dwelling house and did carry away the key... so that Anne became destitute'. Anthony Fletcher subsequently set up home with one Jane Snawden, to whom he now expressed 'kindness' rather than his wife, forcing Anne to apply for maintenance through the courts.¹⁰⁶ And Barbara Dobby testified her husband threatened her with 'a case of pistolls' before his 'cruelty increased to be so great & barbarous' that he 'turn'd or forced his... wife from him'. Finding herself 'destitute of a habitation [Barbara] was forced to take a room in Pickering (where her parents live) to work for a living'. It is not insignificant that Barbara's libel described this treatment as more 'cruel' than his previous attempts to kill her with a brick and an iron fender.¹⁰⁷

As this evidence suggests, the early modern household was not a neutral structure, but a series of contested sites and spaces, each of which was invested with particular emotional and psychological resonance. And whilst early modern homes did not necessarily have separate areas for its varied activities, certain regions of the household were more emotionally charged than others. Women's exclusion from particular domestic sites and possessions – such as food and the hearth – therefore sparked off a series of gendered negotiations and confrontations about the meanings of certain possessions, and the respective rights and responsibilities of men and women as spouses. And central to such disputes was another pervasive symbol of domesticity and union: the conjugal bed.

¹⁰⁶ Libel in CPH 4042 Fletcher c. Fletcher.

¹⁰⁷ Libel in CPI 581 Dobby c. Dobby.

In their testimonies, women claimed that they ‘durst’ not sleep with their husbands, or ‘give [them] or perform conjugal duty or rites’, for fear of abuse.¹⁰⁸ In the dispute between Elizabeth and Charles Laughton, for instance, servants testified how they were sent to their mistress ‘to desire her to come friendly to bed’ with her husband, ‘to which she answered that she durst not’.¹⁰⁹ The bed was subsequently constructed as the site of much verbal and physical abuse. Elizabeth Pighell testified that she had been sleeping separately from her husband when he stormed into her chamber and slashed her bedclothes with a knife before ‘takeing up a chaire and striking her therewith in such a violent and barbarous manner that he almost dasht out her eyes’.¹¹⁰ John Pighell admitted these charges, but argued he only did it ‘to see if he could cause her to come to his bed’.¹¹¹ Catherine Ettrick testified that soon after her marriage to William, he began to mistreat her by ‘kicking her out of bedd at three, four or five o’clock in the morning, curseing & damning her for a lazy Bitch and saying that he hoped to see her bed ridd’.¹¹² Barbara Dobby testified that she was staying with her in-laws when her husband ‘came thither late in the night &... pulled her violently out of the Bed... & did then beat & abuse her very much’.¹¹³ And Elizabeth Tineman deposed her husband had ‘so abused [her] by ill wordes and threates’ as they lay together, that in the middle of the night she went to share the bed of her landlady.¹¹⁴ Elizabeth attributed his husband’s aggression to his impotence, claiming that he ‘could not raise his strength so as to enter his said wife’s body’, and had ‘owned and said that he was one of the five in his own family that were

¹⁰⁸ Libel in BI, CPI 1312 (1749) Mary Bell c. William Bell.

¹⁰⁹ Testimony of Elizabeth Hole in CPI 631 Laughton c. Laughton.

¹¹⁰ Libel in CPH 4505 Pighell c. Pighell.

¹¹¹ Responses in CPH 4505 Pighell c. Pighell.

¹¹² Libel in Trans C/P 1765/4 Ettrick c. Ettrick.

¹¹³ Libel in CPI 581 Dobby c. Dobby.

¹¹⁴ Libel in BI, CPI 169 (1702) Elizabeth Tineman c. Samuel Tineman.

stumblers and in his own case or condition'.¹¹⁵ George Jackson, a local upholsterer had built the bed in which the couple slept. and he recalled how he had teased Samuel when he built it, telling him to 'gett his wife with an heire in the said bed'. Samuel had apparently told Jackson tersely 'he would doe what he could but he could not gett his prick to stand'.¹¹⁶

This kind of evidence has led historians to suggest that sexual intercourse was a central element in marital discord.¹¹⁷ After all, as Richard Baxter explained, the marital bed was the site where husband and wives entered 'a bond and love and society' together for that 'loving affection [that] must pass betwixt husband and wife' and 'the bond of perfection'.¹¹⁸ From a survey of adultery cases at the London Consistory, Gowing found that bedroom scenes involving sexual confrontations were commonly central points of tension in individual relationships, as in fictional literature.¹¹⁹ Yet this focus on sexual conflict has detached the symbolism of the bed from the broader contemporary allusions to 'kindness', 'regard' and mutual respect found elsewhere in church court testimony. Sexual intimacy, or its lack, was therefore always contextualised within broader patterns of physical and emotional abuse and disaffection, while the meanings of the conjugal bed were mutable.

There is ample evidence in church court testimony that the conjugal bed was not the privatised space that it usually is today. Men and women observed one another in their beds as they shared domestic and work spaces, servants and women slept

¹¹⁵ Libel in CPI 169 Tineman c. Tineman.

¹¹⁶ Testimony of George Jackson in CPI 169 Tineman c. Tineman.

¹¹⁷ See Fletcher, *Gender*, p.195.

¹¹⁸ Richard Baxter, *A Christian Directory* (London, 1673), extract in N.H. Keeble (ed.), *The Cultural Identity of Seventeenth-Century Woman* (London, 1994), p.150.

¹¹⁹ See Gowing, *Domestic Dangers*, pp.186-7.

together quite routinely in many households, and it was customary in some places for friends and acquaintances to see a newly married couple put to ‘naked bedd’ together.¹²⁰ Nevertheless, the central importance of the marital bed as a practical, symbolic and emotional space is undeniable. In marriage the acquisition of a bed marked the beginning of a union, and its functions changed with the lives of the couple. As an important site for the rites of passage, the marital bed was the place where an individual was conceived, born, made love, gave birth and died. What is perhaps significant in the context of separation suits, therefore, is not that disputes arose over the meanings of sex in marriage, but that they arose over the meanings of the bed itself.

In the examples discussed here, men expected their wives to lie with them, and became hostile when they refused. Women retorted that they were *unable* to lie with their husbands because for fear of ‘great hazard and danger’ whilst they slept.¹²¹ This fear of nocturnal abuse invoked the absence of trust, responsibility and compassion expected in marriage. This was exemplified by women’s claims of spousal abuse at a time when they at their most supine and vulnerable: late pregnancy and childbirth. In 1672 Lady Grace Chaworth testified to the great ‘trouble of mind’ induced by her husband’s deliberate tormenting of her ‘three or four days after she had been brought to bed to be delivered of her child’, when Lady Grace was ‘much distemper’d and in a fever’.¹²² She testified that her husband brought ‘into the chamber next which she lay... a company of musicians... & caused them to strike up or play very loudly to the... danger of her health & tho’ requested by the said Lady to take them away yet he refused (with indignation) so to do, but... sate drinking & making a greivous

¹²⁰ See for instance Bl. CPH 3283 (1677, docketed 1639), Jeremy Briggs c. Ruth Foures.

¹²¹ Trans C/P 1730/6 (1729) Jane Currie c. James Currie curate of Bromfield.

noyse and caused the musik to play until twelve o'clock att night'.¹²³ More often, the conflict between husbands and wives focused on the specific needs and demands of women during childbirth. Thus in 1680, Lady Mary Smithson testified that her husband Sir Jerome refused 'to permitt either a physician or an Apothecary to visit her' during her labour, but subjected her to a series of physical and verbal abuses as she lay incapacitated in bed.¹²⁴ And Catherine Ettrick testified that her husband William similarly refused to fetch her help when she went into labour after the two had gone to bed. Instead, he 'curs'd and damn'd her, saying it was sufficient that he was disturbed, that in the morning he would send for somebody [and] that if it were her labour, many women were brought to bed under a hedge and went to work again, and what was one bitch more than another'.¹²⁵ When the day broke, William left Catherine alone in bed, screaming to the servants for help, while he went for his morning stroll.

Such accounts of spousal conflict during childbirth are consistent with Wilson's assertion that the typical exclusion of husbands could result in domestic conflict.¹²⁶ In addition to the gender-specificity and power dynamics of the pregnancy and the birthing ritual, pregnancy and childbirth redefined domestic spaces and relations, as it redefined female bodies. Pregnant women were often unable to engage in sexual activity, and the bed was subsequently redefined as an asexual female space.¹²⁷ And

¹²² Libel in CPH 3000 Chaworth c. Chaworth.

¹²³ Libel in CPH 3000 Chaworth c. Chaworth.

¹²⁴ Libel in CPI 458 Smithson c. Smithson.

¹²⁵ Libel in Trans C/P 1765/4 Ettrick c. Ettrick.

¹²⁶ See Adrian Wilson, 'The Ceremony of Childbirth and its Interpretation' in Valerie Fildes (ed.), *Women as Mothers in Pre-Industrial England: Essays in Memory of Dorothy McLaren* (London, 1990), pp.68-107, and *Idem*, 'Participant or Patient? Seventeenth-Century Childbirth from the Mother's Point of View' in Porter, *Patients and Practitioners*, pp.129-44

¹²⁷ J. Sharp's *The Midwife's Book* (London, 1671) explicitly stated that husband and wife should refrain from sex until after the completion of the lying-in period. Cited in Wilson, 'The Ceremony of Childbirth', p.77.

as the examples provided here demonstrate, spousal tensions and disputes over the respective duties of husbands and wives, and the practical and symbolic function of domestic spaces arose in the context of these redefinitions.

In support of this claim is the fact that men also testified that their wives abused them at a time when they were incapacitated. The sounding of a discordant note within marriage - as in Lord Chaworth's introduction of a 'company of musicians' into the marital home - is echoed elsewhere. When Sir Thomas Stanhope of Nottinghamshire and his wife were experiencing marital difficulties, for instance, she deliberately disturbed him by 'singing all the day long to the lute' when he was sick in bed.¹²⁸ And William Idelle claimed that when he was ill his wife, 'instead of keeping him company and comforting him...endeavoured to disturbe him and make him uneasie by playing on her violin and other musical Instruments makeing a great noise on purpose as he believes to disquiet him'.¹²⁹ Like male harassment of women during childbirth, then, spousal abuse during sickness or incapacitation was a denial of the marriage vows, and a perversion of the gendered roles of husbands and wives.

Moralists had long recognised that the well being of the household depended on the mutual support of husband and wife at times of illness. In seventeenth-century England, these were never far away. Yet contemporary diaries demonstrate how the incapacitation of either spouse was likely to be a time of hostilities, as a result of the stress of being ill, or the financial and psychological pressure of tending to, or compensating for a partner's ailments. Thus the Yorkshire yeoman Adam Eyre noted in his 'Dyurnall' how his wife suffered a pain in her leg, and listed the various and

¹²⁸ Felicity Heal and Clive Holmes, *The Gentry in England and Wales 1500-1700* (London, 1994), p.49.

¹²⁹ CPI 154 Idelle c. Idelle. On the significance of discordant music, see P.W. Cosgrove, 'Affective Unities: The Aesthetics of Music and Factional Instability in Eighteenth-Century England', *Eighteenth-Century Studies*, 2 (1988), pp.133-156.

expensive attempts at diagnosis.¹³⁰ More wearing, however, was the ill-temper and bickering which passed between the couple, particularly when Adam accidentally stepped on his wife's 'sore foot'. Shocked by the way she 'braule[d] and revile[d]' him, Adam warned his wife that he might 'never to com in bed with her' again.¹³¹

4. Beyond the *Soma*: Bodily Practice and Emotional Embodiment.

Though this chapter is based on a relatively small number of cases, the themes it addresses occur with alarming regularity in separation suits of the period, as women sought to prove the 'unspeakable tyrannies' of 'fierce looks, bitter words, sharp tongue and cruel usage'.¹³² Indeed, Stone has noted the frequency with which marital disputes centred on household goods and access in particular, as men kicked women out of bed, assaulted them with household goods and evicted them from the dwelling. Yet for Stone, such incidents illustrate only the ways men with a 'hair-trigger temper' assaulted their wives 'in all the usual ways'.¹³³ This analysis ignores the complex meanings and symbolism of marital disaffection as articulated in and through material culture and the world of goods. It also neglects the complex construction of separation suits in accordance with legal and social expectations of mutuality and 'kindness' – emotional, psychological *and* material – within the conjugal union. And it heavily oversimplifies the graphic and brutal, but nevertheless stylised, accounts of physical violence found in court depositions.

¹³⁰ Adam Eyre, 'A Dyurnall, or Catalogue of All My Accions and Expences from the 1st of January, 1646 [7]'. *Yorkshire Diaries and Autobiographies in the Seventeenth and Eighteenth Centuries*. Surtees Society, 65 (1877), pp.1-118. See the entry for March 20, when Eyre pays 22s to Dr Browncloe, p.22.

¹³¹ Eyre, 'Dyurnall', p.43. Further examples may be found in Ralph Houlbrooke (ed.), *English Family Life, 1576-1716: an Anthology from Diaries* (Oxford, 1988), *passim*.

¹³² Anne Wentworth, *Vindication*, extract in E. Graham *et al.* (eds.), *Her Own Life: Autobiographical Writings by Seventeenth-Century Englishwomen* (London, 1989), pp.183-187. See also Fletcher, *Gender*, pp.194-201; Foyster, *Manhood*, pp.181-195; Hunt, 'Wife-Beating', pp.20-23.

Of course the recognition of these problems, and the redefinition of spousal abuse presented here, is not to deny the pain or trauma of domestic cruelty in the past, or in the present. Nor is it to negate the complex and political function of physical abuse as an element in the production and maintenance of patriarchal relations. Rather, it is to explore the meanings and displays of affect in marriage, and the broader, psychological and emotional consequences of *disaffection*, however defined. And in so doing, it has been necessary to redefine the meanings of affect itself, as produced and communicated in the fields of social relations. For no less than the naturalised abstractions of ‘gender’ and ‘patriarchy’, emotions are always in a state of becoming, realised and concretised in the artefacts and processes of everyday life.¹³⁴

Whilst other chapters have explored this theory through the analysis of love-letters, ‘angry words’ and weeping, therefore, this chapter has focused on the performativity of affect through a broadly defined concept of bodily practice. It has moved beyond the boundaries of the individual *soma* to explore the social function of affect displays. In so doing, it has demonstrated that the contemporary concepts of ‘conjugal love’, ‘regard’ or ‘kindness’ were not separable from the sum of their parts. Rather, they were rooted in and communicated through a complex blend of verbal, material, linguistic and gestural performances that defined and structured everyday marital relations. And in the final analysis, this must have implications for the historicization of emotion as discursive *and* non-discursive phenomena.

¹³³ Stone, *Uncertain Unions*, p.300.

¹³⁴ For a critique along these lines in relation to gender, see Judith M. Bennett, ‘Feminism and History’, *Gender and History*, 1 (1989), pp.250-272.

Conclusion. Rethinking the History of Emotion:

Performativity and Practice.

My topic of research has typically elicited one of two responses from academics and non-academics alike: ‘why’? or ‘how’? I hope this thesis goes some way to answer at least one of these questions. If nothing else, it should demonstrate the rich potentialities of emotion research. For many of the questions tackled by this thesis have parallels in key areas of early modern historiography. Over past decades social and cultural historians have, in diverse ways, sought access to interior worlds and mentalities through letters and diaries, autobiographies and conduct manuals, depositions and interrogation material.¹ And though their sources, ideologies and agendas have differed, there is a remarkable uniformity in the methodologies used, and in historians’ attempts to describe and account for subjectivity within broader narratives of change or continuity in emotional and psychological structures.²

These characteristics of social and cultural history are symptomatic of a broader problematic in the histories of subjectivities and social relations. As Lyndal Roper observes in *Oedipus and the Devil*, historians ‘often write as if social change impinges directly and uniformly upon the individual’s mental structure, as if the psyche were a kind of blank sheet for social processes to write upon’.³ As was

¹ Examples include L.A. Pollock (ed.), *Forgotten Children: Parent-Child Relations from 1500 to 1900* (Cambridge, 1983), *passim*; Sarah Heller Mendleson, *The Mental World of Stuart Women: Three Studies*, (London, 1987), Introduction; J. Demos, ‘Shame and Guilt in Early New England’, in C.Z. Stearns and P.N. Stearns (eds.), *Emotion and Social Change: Towards a New Psychohistory* (New York, 1988), pp.69-85; S. Hindle, ‘The Shaming of Margaret Knowsley: Gossip, Gender, and the Experience of Authority in Early Modern England’, *Continuity and Change*, 9 (1994), pp.391-419; K. Hodgkin, ‘The Diary of Lady Anne Clifford: a Study of Class and Gender in the Seventeenth Century’, *History Workshop Journal*, 19 (1985), pp.148-161; Lyndal Roper, *Oedipus and the Devil: Witchcraft, Sexuality and Religion in Early Modern Europe* 2nd ed. (London, 1995), Introduction.

² See the discussion in chapter 1.

³ Roper, *Oedipus and the Devil*, p.8.

argued in chapter one this treatment of psychological structures echoes broader historiographical tendencies to divide the discursive and non-discursive realms of experience, and to iron out conflict in the search for long-term narratives of change. By asserting the centrality of bodily experience in the subjective worlds of men and women in early modern Germany, Roper exposes the analytical limits of accounts based primarily on the logic and influence of social structures at the expense of individual agency. Yet Roper's account similarly fails to satisfactorily conceptualize the interactions of the subjective and the social, the *psyche* and the *soma*. For in her use of psychoanalysis to explore the relationship between the 'psychical and the physical', bodily 'drives' and urges take on a logic and force of their own.⁴ In asserting agency, we lose structure. Meaning resides in experiences grounded in 'conscious and unconscious imagery' and the reality of the physical, for 'the body can convey what we find impossible to put into words'.⁵

This historiographical split between structure and agency, discursive and non-discursive phenomena is replicated elsewhere. Consider the term 'emotionology' for instance, coined by Carol and Peter Stearns to distinguish between emotion as 'lived' or felt, and the language used to describe it.⁶ This relationship is not typically regarded as problematic. Most historians of social relations, particularly in the wake of the 'linguistic turn', are more than happy to rifle through literary and anecdotal accounts of emotional expression, and to present these as evidence of interior beliefs and constants. In a recent book on early modern masculinity, for instance, Elizabeth Foyster justifies this position on the grounds that 'traditional objections to the use of fictional literature in writing history because it is partial and

⁴ Roper, *Oedipus and the Devil*, pp.17, 25, 152.

⁵ Roper, *Oedipus and the Devil*, p.22.

not factual... no longer stand'. For the development of 'new historicism' has shown us that 'all written documents of the past are 'texts' which can only be read subjectively.'⁷

This position is a logical one, given the recent expansion in works which have so successfully explored the interplay between subjective and collective forms of expression, and the conventions of genre and style found in archival and literary sources.⁸ The problem arises, however, when historians fail to address those specificities, and attribute to all 'fictional' works – ballads, novels, plays, medical texts and depositions – the same ideological and literary status.⁹ In the process, there is no real analysis of the specific and historically situated interactions between structure and agency or between experience and expression. Nor is there any consideration of the articulation of those expressions in particular discursive and non-discursive registers. Men and women emote, unproblematically, in and through the historical record, alerting us, in the process to a 'real' or 'authentic' self waiting to be discovered. Thus, citing John Tosh, Foyster concludes that 'it is perhaps from fictional sources that our search for the 'inner man' may prove most useful'.¹⁰ Ironically, this approach to interiority is even reinforced by Carol and Peter Stearns' discussion of 'emotionology'. For however useful it is to isolate a way of discussing forms and changes in emotion rhetoric without *necessarily* invoking

⁷ C.Z. Stearns and P.N. Stearns, 'Emotionology: Clarifying the History of Emotions and Emotional Standards', *American Historical Review*, 90 (1985), pp.813-36. See also chapter 4, above.

⁸ E.A. Foyster, *Manhood in Early Modern England: Honour, Sex and Marriage* (London, 1999), p.14.

⁹ Natalie Zemon Davis, *Fiction in the Archives: Pardon Tales and their Tellers in Sixteenth-Century France* (Stanford, 1987), *passim*; Laura Gowing, *Domestic Dangers: Women, Words and Sex in Early Modern London* (London, 1996), *passim*.

¹⁰ See Foyster, *Manhood*, pp.20-21.

¹¹ Foyster, *Manhood*, p.16. On the centrality of the 'inner man' in Western philosophy, see chapter 1 and David Aers, 'A Whisper in the Ear of Early Modernists: or Reflections on Literary Critics writing the "History of the Subject"', in *Idem*, (ed.), *Culture and History, 1550-1600: Essays on English Communities, Identities and Writing* (London, 1992), pp. 177-192.

accompanying changes in emotional structures, this technique actually reinforces the implication that ‘feeling’ is something internal, pre-existing, and abstractable from its means of expression.¹¹

This thesis has argued against this approach by demonstrating that emotions cannot be disentangled from, but are produced in and through, a range of communicative practices. Moreover, those practices were subject to a variety of conventions and formulas. As shown in the chapters on love-letters, slander narratives and such somatic indicators of sadness as tears and sighs, affective communication conformed to, and drew meaning from, broader cultural registers and beliefs.¹² And as well as being structured in and through verbal and written signs, bodily displays and gestures, emotional experience was embedded in and articulated through material culture and the world of goods.¹³ As this evidence suggests, therefore, it is insufficient to view early modern emotions as individuated or private entities that were shaped by such external forces as prevailing medical paradigms.¹⁴ As physical and psychological, material and symbolic experiences, they were realised in and through specific day to day interactions and negotiations taking place between men and women as they lived and worked.

In light of these findings, a potential solution to the opposition of mind/body, agency/structure approaches that dominate historiographical research might be found in the principles of ‘social selves’ theory, an increasingly influential mode of

¹¹ Stearns and Stearns, ‘Emotionology’, pp.835-6.

¹² See chapters 3-5.

¹³ See chapter 6.

¹⁴ See the critiques in chapters 1 and 5.

analysis in the study of human personality.¹⁵ As Ian Burkitt has explained, this mode of analysis destabilises the self/social opposition by placing emphasis on the social and constitutive nature of interiority. Rather than being distinct or separate from the social world, concepts of ‘the self’ are produced and realised within it, ‘created in the active relationship between human bodies and their material environment’.¹⁶ There are clear echoes here in the work of Pierre Bourdieu, whose influential discussion of ‘practice’ was set out at the beginning of this thesis.¹⁷ Indeed, Bourdieu’s use of the term *habitus* is useful in rethinking the ways subjective psychological *and* bodily relations are shaped - through inscription, repetition and practice - by interaction with the social world. So too is Judith Butler’s observation on the production of sex and gender as performances, stories that are realised in and through the telling.¹⁸

This does not, of course, deny the political significance of those stories in everyday lives. Nor does it reject the mental and bodily experiences of ‘feeling’. But it *does* suggest that by focusing on the meanings specific emotional experiences take on in particular historical moments – as demonstrated through written, verbal, gestural, material and symbolic practices – we can reconcile discursive and non-discursive, physical and psychical influences at the point of individual experience and social realization. Indeed, as Butler’s work demonstrates, this approach allows us to move beyond artificial dichotomies between reality and discourse. For it reveals that ‘construction is not opposed to agency; it is the necessary scene of agency, the very

¹⁵ See for instance Ian Burkitt, *Social Selves: Theories of the Social Formation of Identity* (London, 1991), Introduction.

¹⁶ Burkitt, *Social Selves*, p. 190.

¹⁷ Pierre Bourdieu, *Outline of a Theory of Practice*, trans. R. Nice, (Cambridge, 1987), Introduction. See the conclusion to chapter 1.

¹⁸ Judith Butler, *Gender Trouble: Feminism and the Subversion of Identity* (London, 1990), conclusion.

terms in which agency is articulated and becomes culturally intelligible'.¹⁹ To this end the recognition of splits and fissures, conflicts and instabilities in seventeenth- and eighteenth-century discussions of emotion subverts the meta-narratives of early modern historiography. But in so doing, it opens up new areas of enquiry, through the themes of performativity and practice, which are grounded in non-reductionistic and meaning centred modes of analysis. And this can only be of benefit in our attempt to comprehend the mental and physical worlds of men and women of the past.

¹⁹ Butler, *Gender Trouble*, p 147

Appendix 1.

Catalogue Listings of Sampled* Matrimonial Separation Suits from
the York Courts, 1660-1760.

1. CPH 3264 (1675) Grace Allenson c. Charles Allenson.
2. CPH 5734 (1685) Elizabeth Awtie c. Daniel Awtie.
3. CPI 1312 (1749) Mary Bell c. William Bell.
4. Trans C/P 1737/2 (1737) Elizabeth Bowes c. Thomas Bowes.
5. CPH 3516 (1683) Martha Brooke c. Timothy Brooke.
6. CPI 1414 (1760) Alice Chaworth c. William Chaworth.
7. CPH 3000 (1672) Lady Grace Chaworth c. Lord Patrick Chaworth.
8. CPI 154 (1701) John Cunliffe c. Dorothy Cunliffe.
9. CPH 3230 (1673) Jane Curren c. Henry Curren.
10. Trans C/P 1730/6 (1730) Jane Currie c. James Currie.
11. CPI 855 (1726) Margaret Coulston c. Thomas Coulston.
12. CPI 581 (1719) Barbara Dobby c. Robert Dobby.
13. Trans C/P 1675/4 (1765) Catherine Ettrick c. William Ettrick.
14. Trans C/P 1688/3 (1674) Anne Fletcher c. Anthony Fletcher.
15. CPI 88 (1704) Jane Greaves c. John Greaves.
16. CPI 461 (1718) Elizabeth Halliday c. Walter Halliday.
17. CPI 577 (1717) Eleanor Hird c. William Hird.
18. CPH 5246 (1682) Jane Hardy c. Gilbert Hardy.
19. Trans C/P 1732/4 (1732) Robert Hollyman c. Jane Hollyman.
20. CPI 154 (1709) Elizabeth Idelle c. William Idelle.
21. CPI 631 (1721) Elizabeth Laughton c. John Laughton.
22. CPI 187 (1711) Margaret Layer c. Arthur Layer.
23. CPI 2741 (1707) Abigail More c. Henry More.
24. CPI 699 (1719-22) Anne More of Lofthouse c. Zachary More
25. CPH542 (1709) Anne Mould c. Edward Mould.
26. CPH 4505 (1697) Elizabeth Pighell c. John Pighell.
27. CPH 2779 (1668) John Rickard c. Alice Rickard.
28. CPI 51 (1700) Anne Robson c. Ebenezer Robson.
29. Trans C/P 1697/2 (1697) Anne Shaw c. Thomas Shaw.
30. CPI 2759 (1708) Emmanuel Siddall c. Sara Siddall
31. CPH 3469 (1680) Lady Mary Smithson c. Sir Jerome Smithson.
32. CPI 291 (1713) Elizabeth Stradling c. Thomas Stradling.
33. Trans C/P 1748/1 (1748) George Surtees of Ryton c. Elizabeth Surtees.
34. CPI 169 (1702) Elizabeth Tineman c. Samuel Tineman.
35. CPI 458 (1718) and CPI 661 (1715) Lady Jane Vavasour c. Sir Peter Vavasour.
36. CPI 812 (1725) Margaret Walker c. Joseph Walker.
37. CPI 1259 (1743) Mary Watson c. Alexander Watson.
38. CPH 2737 (1666) Lady Katherine Webster c. Sir John Webster.
39. CPI 1376 (1756) Godfrey Wentworth c. Dorothea Wentworth
40. CPI 862 (1727) Mary Wilkinson c. John Wilkinson.

* Sample of 40, discussed in chapter 2.

Appendix 2

Explanations of Socio-Economic Categories Used in this Thesis.¹

Recorded Occupations and Definitions:

Aristocrats and Knights: Titled gentry and knights only.

Gent: Following cause-paper usage and assumed to refer to gentry status, and income generated through land and rents.²

Professions and Commerce: The 'middling sort': 'shop-keepers, manufacturers...civil servants, professionals and lesser merchants'.³ As wealthier agricultural members of the 'middling sorts', yeomen are also included.⁴

Church Officials: e.g. Clerics, curates, rectors and vicars.

Textile workers: Primarily small-scale weavers, spinners, weavers, wool-combers and cord-wainers, working in cottage industries, or employed by the larger-scale clothiers and manufacturers noted above.⁵

Metal workers: e.g. Blacksmiths and cutlers.

Other Craftsmen: e.g. Carpenters, joiners, clockmakers, nailers and tanners.⁶

Agricultural Workers and Husbandsmen: Following cause-paper usage. Though there were large differences in the economic and social position of husbandsmen as agricultural producers, and in relation to other agricultural workers, they are included here to distinguish husbandsmen from the higher status and wealth associated with yeomen.⁷

Victualling Trades: e.g. Innkeepers, brewers, bakers and butchers.

Military/Marine Trades: Soldiers, sailors and ship-workers.

Unknown: Unrecorded.

¹ These categories are based on the groupings used by J. Smail, *The Origins of Middle-Class Culture: Halifax, Yorkshire, 1660-1780* (Ithaca, 1994), Chapter 1, and M. Hunt, *The Middling Sort: Commerce, Gender and the Family in England, 1680-1780* (London, 1996), esp. p.15.

² This category is problematic, as a result of the mutable definitions of 'gentry' status, and the permeability of professional and landed occupational groupings. See the discussion in chapter 2.

³ Hunt, *The Middling Sort*, p.15. Unlike those explicitly included in Hunt's definition, this category includes a relatively high proportion of wealthy clothiers, a phenomenon discussed in Smail's account of Halifax. See *Origins*, esp. p. 56-70.

⁴ See Keith Wrightson, *English Society 1580-1680* (London, 1990), pp.30-32.

⁵ Most such deponents came from the West Riding, and it is likely that, as a grouping, they experienced a decline in fortunes over the period studied, as suggested by Smail's account of commercial centralisation in contemporary Halifax. See *Origins*, pp.191-2.

⁶ The definition of skill in determining status of crafts is difficult. See Wrightson, *English Society*, p. 37. The crafts included here follow the definitions used by Wrightson, and in Smail's discussion of the craft industry of Halifax, *Origins*, esp. pp. 94-5.

⁷ See Wrightson, *English Society*, pp.136-7.

Appendix 3.

Catalogue Listings of Sampled* Matrimonial Formation Suits from the York Courts, 1660-1760.

1. CPH 2628 (1662) John Adamson c. Mary Rawson.
2. CPH 4070 (1682) Robert Armitage c. Anne Armitage.
3. CPH 3838 (1684) Elizabeth Balgie c. William Wrightson.
4. CPH 3094 (1672) Helen Browne c. John Browne.
5. CPI 240 (1714) Elizabeth Buller c. John Toller.
6. Trans C/P 1667/2 (1667) Henry Bunbury c. George Manley.
7. CPH 813 (1725) William Carlisle c. Elizabeth Carlisle.
8. Trans C/P 1663/5 (1665) Elizabeth Chapman c. Robert Smith.
9. CPH 4298 (1692) Hester Colby c. John Garnett.
10. CPH 2820 (1667) Gilbert Cowper c. Anne Skelton.
11. CPH 2640 (1663) Jane Danby c. William Charters.
12. Trans C/P 1729/10 (1729) Elizabeth Dodgson c. Thomas Haswell.
13. CPI 377 (1717) Sarah Goddard c. Thomas Goddard.
14. Trans C/P 1669/6 (1669) George Grayson c. Margaret Beesley.
15. CPH 3399 (1679) Johnathon Lockwood c. Anne Shemeld.
16. Trans C/P 1744/5 (1744) Thomas Mascall c. Ursula Watson.
17. Trans C/P 1715/2 (1714) Edmund Massey c. Margaret Ogden.
18. Trans C/P 1665/2 (1665) Anne Mastam c. Edward Starkey.
19. CPI 3 (1702) Hannah Oliver c. Robert Northend.
20. CPI 36 (1705) Thomas Pierson c. Elizabeth Hewison.
21. CPH 2936 (1675) Thomas Raynor c. Anne Raynor.
22. Trans C/P 1708/1 (1708) Robert Roskell c. Elizabeth Knipe.
23. CPH 4755 (1688) William Rowland c. Margaret Winter.
24. CPH 3695 (1686) Michael Rymer c. Francis Fairfax.
25. CPH 2544 (1662) Maria Slingsby c. Thomas Wigglesworth.
26. CPH 3437 (1678) James Storey c. Elizabeth Metcalfe.
27. Trans C/P 1700/2 (1700) Sarah Tyndale c. Thomas Tyndale.
28. CPH 3206 (1675) Anne Wettenhall c. Thomas Henshall.
29. Trans C/P 1709/2 (1709) Jane Wood c. Thomas Wood.
30. CPI 795 (1723) Hannah Woodcock c. Johnathon Shaw.

* Sample of 30 as discussed in chapter 2.

Appendix 4.

Catalogue Listings of Sampled* Slander Suits from the York Courts.
1660-1760.

1. Trans C/P 1735/4 (1734) Office pp. Richard Abbot c. William Glasebrook.
2. CPI 1241 (1742) Mary Ackerley c. Martha Hartley.
3. CPI 85 (1704) Robert Allen c. George Lotherington.
4. CPI 1277 (1747) William Armstrong c. John Dalkin.
5. CPI 2736 (1707) George Barrett c. Alicia Launston.
6. CPI 2774 (1710) William Bayliffe c. George Brown.
7. CPI 1269 (1744) Thomas Beecroft c. Thomas Brewster.
8. CPI 1268 (1744) Thomas Beecroft c. William Marshall.
9. CPI 1342 (1751) James Bell c. Susanna Rollison.
10. CPI 1389 (1757) Mary Bell c. John Pindar.
11. CPI 1326 (1754) Susanna Bellas c. guardians of Joseph Webster.
12. CPI 2784 (1710) Maria Brewing c. Anne Glover.
13. CPI 1095 (1738) Elizabeth Butler c. Hannah Smithson.
14. CPI 199 (1711) Office pp. Matthew Bywater c. Sarah Jennings.
15. CPI 1362 (1756) Elizabeth Calvert c. John Ward.
16. CPI 395 (1717) Robert Carter c. Jane Taylor.
17. CPI 893 (1730) Margaret Chadwick c. John Simkinson.
18. Trans C/P 1736/4 (1736) Grace Chambers c. Richard Cross.
19. CPH 2976 (1670) Elizabeth Clayton c. Catherine Mangey.
20. CPH 2805 (1666) Peter Collins c. Matthew Walker.
21. CPI 655 Trans C/P 1722/2 (1722) Office pp. Jane Cooke c. George Crow.
22. CPI 1310 (1749) Elizabeth Crofts c. John Heward.
23. CPI 587 (1719) Office pp. John Dalton c. Anne Allen.
24. CPI 168 (1702) Office pp. William Douthwaite c. William Willoughby.
25. CPI 1138 (1738) Office pp. Elizabeth Douthwaite c. Elizabeth Pinckney.
26. CPI 892 (1730) Sarah Falconer c. William Thomas.
27. CPH 3834 (1684) William Farrand c. Joseph Oldroyd.
28. CPI 866 (1727) Joan Forrest c. Elizabeth Harrison.
29. Trans C/P 1692/5 (1692) Office pp. Sarah Fawcett c. Helen Moore.
30. CPI 2745 (1707) Thomas Fletcher c. Edward Wood.
31. CPH 3456 (1680) Lucilia Goodalph c. Joan Copley.
32. CPH 4456 (1696) Mary Grayson c. Theophilus Young. Esq.
33. CPI 908 Trans C/P 1727/9 (1727) Charles Green c. Anne Lampshaw.
34. CPI 1000 Trans C/P 1732/6 (1732) William Greenwell c. Anne Emmerson.
35. CPI 2779 (1710) James Haigh c. Thomas Leake.
36. CPI 1297 (1748) Sarah Heap c. Margaret Ward.
37. CPI 78 (1704) Office pp. Joshua Hill c. Joseph Beever.
38. CPI 796 (1723) Office pp. Nathan Holdsworth c. Samuel Moore.
39. CPI 971 (1730) Elizabeth Horsley c. Thomas Lotherington.
40. CPH 4321 (1693) James Howgill c. William Anderson.
41. CPI 1366 (1752) Mary Hutchinson c. Jane Appleton.
42. CPI 308 (1719) Sarah Hutton c. Benjamin Loxley.
43. CPI 1298 (1748) Catherine Jackson c. George Mann.
44. CPI 883 (1729) Elizabeth Jackson c. Isabel Cooper.
45. CPI 1294 (1747) Anne Jenkinson c. William Freeman.
46. CPI 20 (1703) Hugh Jowett c. Susanna Clayton.
47. CPH 4264 (1691) John Kay c. William Beever.
48. Trans C/P 1740/3 (1740) Martha Kearsley c. Hannah Shuttleworth.
49. CPI 868 (1727) Office pp. John Kilner c. Mary Micklethwaite.
50. CPI 166 (1702) Mary Kingston c. Johnathon Broadhead.
51. CPI 861 (1727) Office pp. Elizabeth Kitchingman c. William Faceby.
52. CPI 568 (1705) Office pp. Charles Lister c. William Walker.
53. CPI 748 (1724) Office pp. Elizabeth Lister c. Anne Gill.

54. CPI 57 (1701) Robert Little c. Francis Young.
55. CPI 1337 (1755) Jane Lovejoy c. Elizabeth Walton.
56. CPI 2767 (1708) Sir William Lowther c. Thomas Taylor.
57. CPI 200 (1711) Martha Mortimer c. John Parkin.
58. CPI 83 (1704) Office pp. William Mortimer c Miles Reynolds.
59. CPI 132 (1700) Martha Patricke c Elizabeth Wilkes.
60. CPI 1265 (1744) Rachel Pilmoor c. Edward Dawson.
61. CPI 174 (1710) Office pp. Thomas Pollard c. John Brook.
62. CPI 1356 (1754) Elizabeth Porter c Thomas Caley
63. Trans CP 1665/4 (1665) Office c. William Powdrell.
64. CPI 790 (1724) Office pp. Robert Proctor c. Thomas Usherwood.
65. CPI 2864 (1747-57) Jane Ramsay c. Barbara Robinson.
66. CPI 680 (1722) William Redhead c. Thomas Hopper.
67. CPI 195 (1711) Office pp. Richard Redman c. Samuel Brearscliffe.
68. CPI 731 (1753) Office pp. John Redshaw c. George Miles.
69. CPI 1272 (1742) Ann Rhodes c Sarah Wilson.
70. CPI 90 (1704) Office pp. George Ritschell c. John Rowell.
71. CPI 1307 (1748) Alice Roberts c. Edward Youle.
72. CPI 2782 (1710) James Roberts c. Robert Ingleson.
73. CPI 1097 (1739) Susannah Robinson c. Margaret Johnson.
74. CPI 846 (1727) Sybil Seadlethorp c. John Ealand.
75. CPI 2739 (1707) Robert Sedgewick c Maria Garside.
76. CPI 157 (1700) Office pp. William Skelton c. John Faber.
77. CPH 4363 (1695) Anna Smith c. Richard Jebb.
78. CPI 1110 (1736) Mary Smith c. Ann Cottam.
79. CPI 1363 (1750) Prudence Smith c. Johnathon Charlesworth.
80. CPI 342 (1716) Mary Eve Sparke c. Robert Newhouse.
81. Trans C/P 1701/4 (1701) Elizabeth Steele c. Margaret Raine.
82. CPI 319 (1719) William Sterne c. Luke Williamson.
83. CPI 1092 (1738) Mary Stork c. Bridget Purvis.
84. CPI 1317 (1751) Mary Sunderland c. William Halliwell.
85. CPI 50 (1700) Joseph Swinden c. William Poplewell of Warton
86. Trans C/P 1723/4 (1723) Eleanor Tarran c. Anne Mawer.
87. CPI 1013 Trans C/P 1731/2 (1731) Anne Taylor c. Richard Webster.
88. CPI 2811 (1720) Elizabeth Taylor c. John Taylor.
89. CPI 80 (1704) Office pp. John Thomson c. William Clarkson.
90. CPI 1341 (1751) Elizabeth Townley c. Richard Townsend.
91. CPI 135 (1700) John Waddington c. Henry Clarebrough.
92. CPI 963 (1729/30) Sarah Waters c. John Dennis.
93. CPI 1392 (1757) George Watson c. Dorothy Cole.
94. CPH 4350 (1694) Elizabeth Wharton c. Simon Weelby.
95. CPH 3714 (1688) Francis Wheatley c. Alice Everingham.
96. CPI 71 (1701) John Wheatley c. John Cunliffe.
97. Trans C/P 1727/8 (1727) Office pp. Anne Whishaw c. John Earl.
98. CPI 914 (1726) William Whitehead c. Margaret Taylor.
99. CPI 844 (1727-8) Susan Whiteley c. John Slake.
100. CPI 1419 (1760) Sarah Worrall c. John Bentley.

* Sample of 100 as discussed in chapter 2.

Appendix 5. Transcription of the Letters of Ursula Watson.

To Mr Thomas Mascall, Attorney att Law at Durham. No. 1

Dr Sir, by my troubleing you with this you may easeally suppose the uneasyness I have felt since I parted from you, lest any busey insinuateing false tounge should make you so: but depend uppon [it.] my futer conduct shall be allways to pleas you, and when pleasing you [I] most pleas my self. For the height of all my hopes and happiness in this life depends on your love [] I could say ten thousand things more, but will conclude with my Dearest in the most affectionate manner. Yours till Death do us part Ursula Watson. Houghton August 29th 1742 Pray let me hear from you very soon.

To Mr Thomas Mascall, Attorney at Law at Durham. No.2 Dr Sir, as I fiend it is impossible to force a line from you without my writing first, so [I] cou'd have no longer patience when I had the means in my power of hearing from you, for be assured when abcent from my seight, you are always in my thotes. You perhaps will laugh at my folly for making so frank a declaration, but as my heart dictated to my pen you may the easier excuse it, from My Dearest yours U Watson Houghton October 5 1742

To Mr Thomas Mascall, Attorney at Law at Durham. No.3.

Dr Sir, the favour of your obliging letter I receiv'd, for which I return a great many thanks, but cannot help telling you I spent the neight I parted from you in reflections on your sever letter. For I do assure you, sleep was a stranger to my Eyes till Morning,. Doan't imagine my concern is but what is commonly tirm'd our sex's arts; no, it proceeds from a real uneasyness which you have but too often experienc'd. Sometimes I could almost have suspected your Love for quarrelling [with] me on every frivolous pretence, but then I cou'd not accuse you for being the cause, but traitress and such like are hard names to one who must ever be Yours U. Watson Houghton November 30 1742

To Mr Thomas Mascall, Attorney at Law at Durham. No. 4

Dr Sir, it gave me no small satisfaction to hear you got saif home, but should have recciv'd infinitely more to have heard you were well. You return'd me thanks for the Justice I did you: believe me, I was far from accuseing you, I only writt my own sentiments, which if they had the good fortune to correspond with yours, [it] would give me more pleasuer than I can possibly express but as there are few or none who pass their whole lives without some unguarded moments, impute not my fault then to infidelity, but indiscretion, I shall say no more but could wish with your self to have it Buryed in eternall Oblivion, and [you] may depend uppon the last promise of Yours, U. Watson Houghton December 7th 1742

To Mr Thomas Mascall, Attorney at Law at Durham. No. 5

Houghton December 18 1742 Dr Sir, the discontent you left me in makes [me] allmost abandon my self to melancholy. I am betwixt faint hope and recall despair, for I have never had one easy moment sins, when I reflect on your pain and my self the cause. Think what a situation of mind I was in to see you go from me in such a Condisson. If you doubt my sincerity, I will Testifye it by any way you shall desire. As for my leivcing the room, I must confess it was highly blameable, but if Tears and remors will make you any Satisfaction, you are amply paid for all my faults. Let me beg let me conjour you, for love, for pity's sake, to see or hear from you till I know you are better. My own uneasyness [is] incapable of receiving addition when I beg'd to see or hear from you [and] you gave me no answer. Think then what secret anguish I endewer'd: be assured I can love onely you, and when I cees to love you, I must cees to live. If I fail in my request, I shall not blame you but my own hard fait. But remember I shall be for your sake the greatly wretched U. Watson. By the method I take of sending this, you may easily gess at my concern.

To Mr Thomas Mascall, Attorney at Law at Durham. No.6

Oh Dearest, I dare not call you my Dearest, for I'm afraid I have lost you. I thote my uneasiness had been incapable of addision, but O Good God what did I not suffer at the reading [of] your letter. You bid me be casey, but know I neither can, will, or ever desire to be happy without you. I call my God to witness for me that I have not a secret wish but in your love to throw my self at your feet to testify it by all the marks of a sincer, affectionate, and tender wife. Reflect on that name and think what I endewer: my heart has been long accustomed to love you, and my tounge to tell you so. If ever you loved me, for God[']s sake dont abandon me now, for life without you will for ever be haitfull to U. Watson. Houghton Dec 18 1742.

Appendix 6. Figures

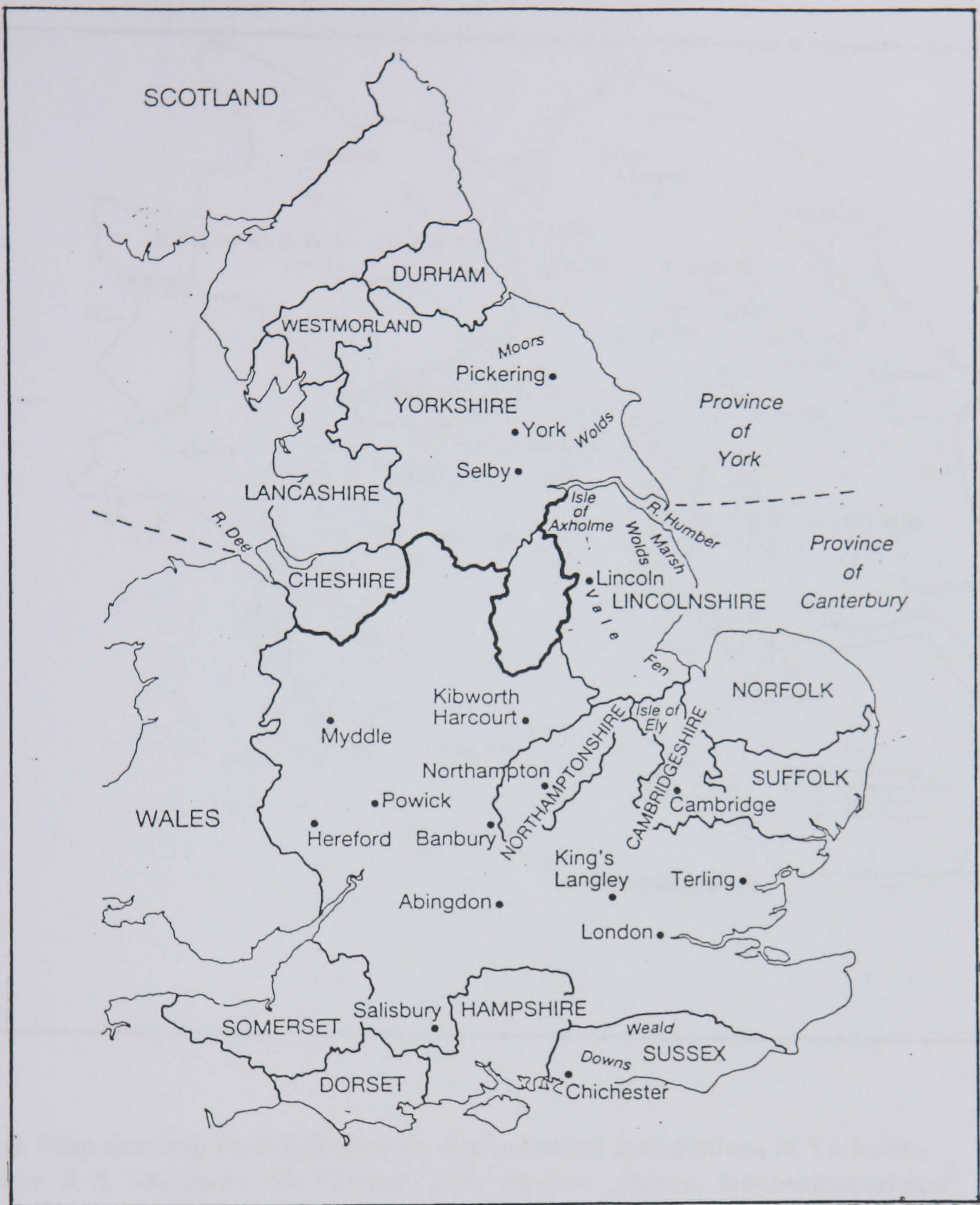


Fig.1. Map Showing the Division between the Northern and Southern Ecclesiastical Provinces.

Source: Amy Erickson, *Women and Property in Early Modern England*, (London, 1993), preface.

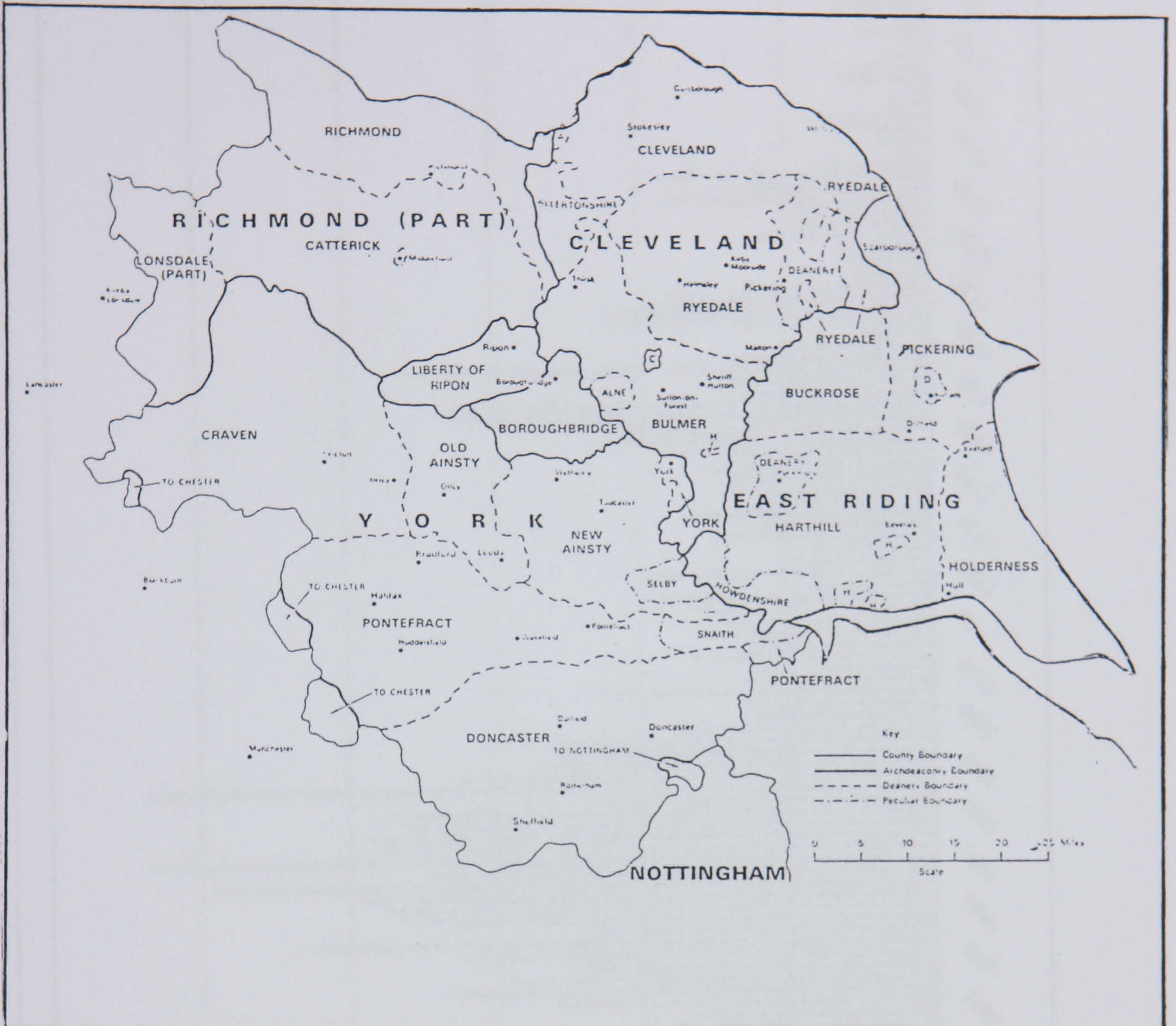


Fig.2. Map showing Post-Reformation Ecclesiastical Jurisdictions in Yorkshire.
 Source: R.A. Marchant, *The Church Under the Law: Justice, Administration and Discipline in the Diocese of York, 1560-1640*, (Cambridge, 1969), p.39.

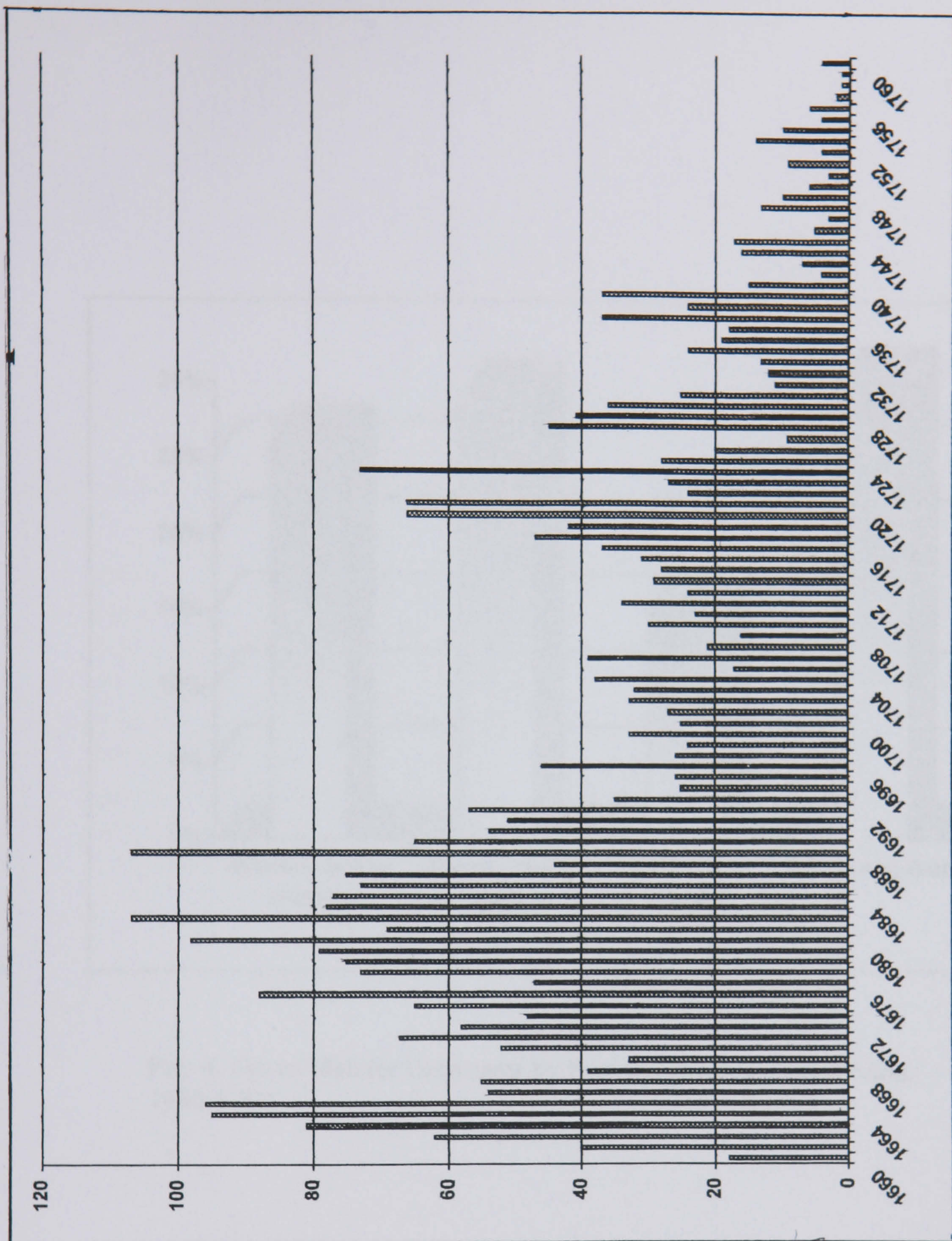


Fig.3. Total No. of Surviving Cause Papers from the York Courts, by Year, 1660-1760.

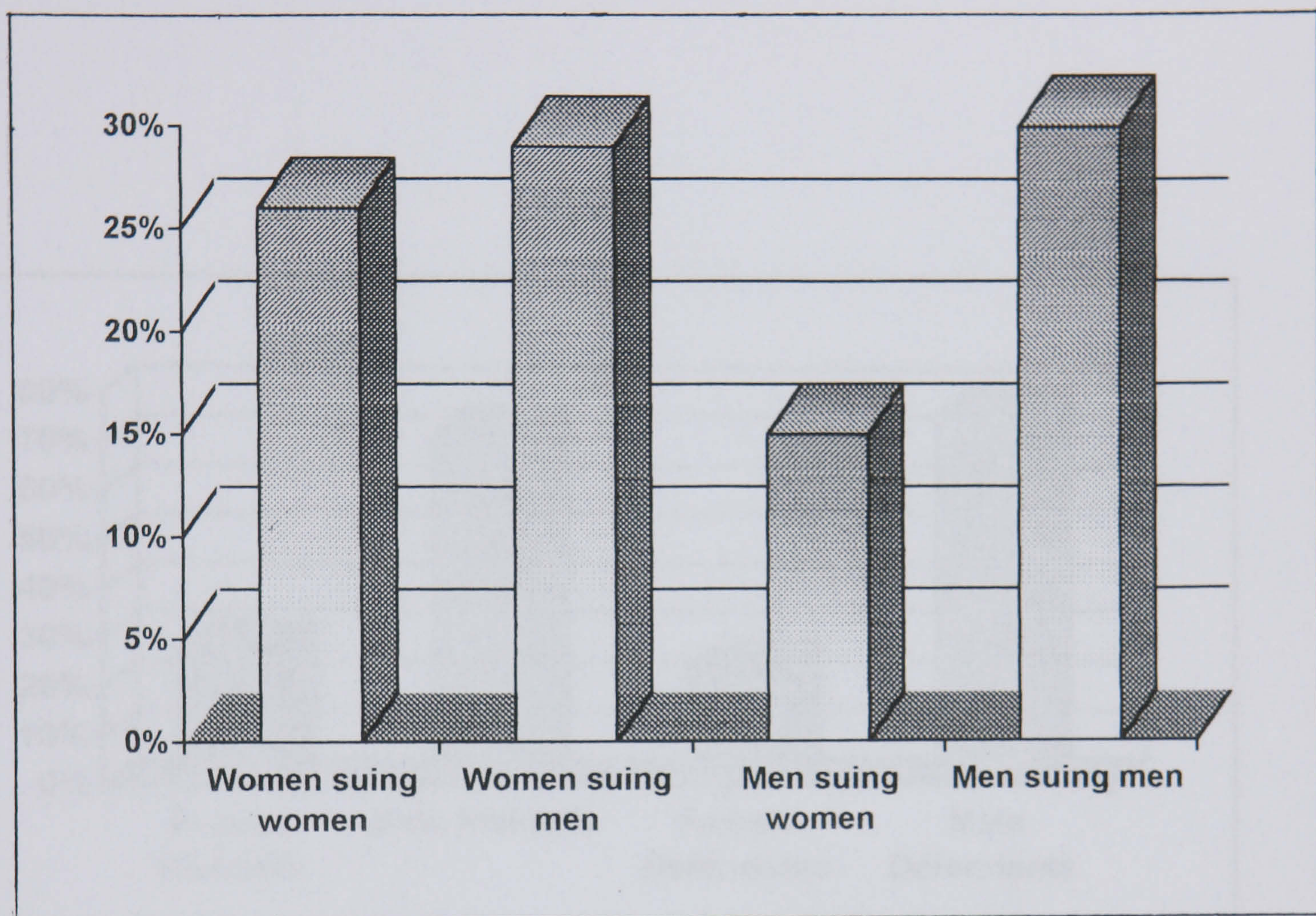


Fig. 4. Sex of Slander Disputants by Percentage at the York Courts, 1660-1760.

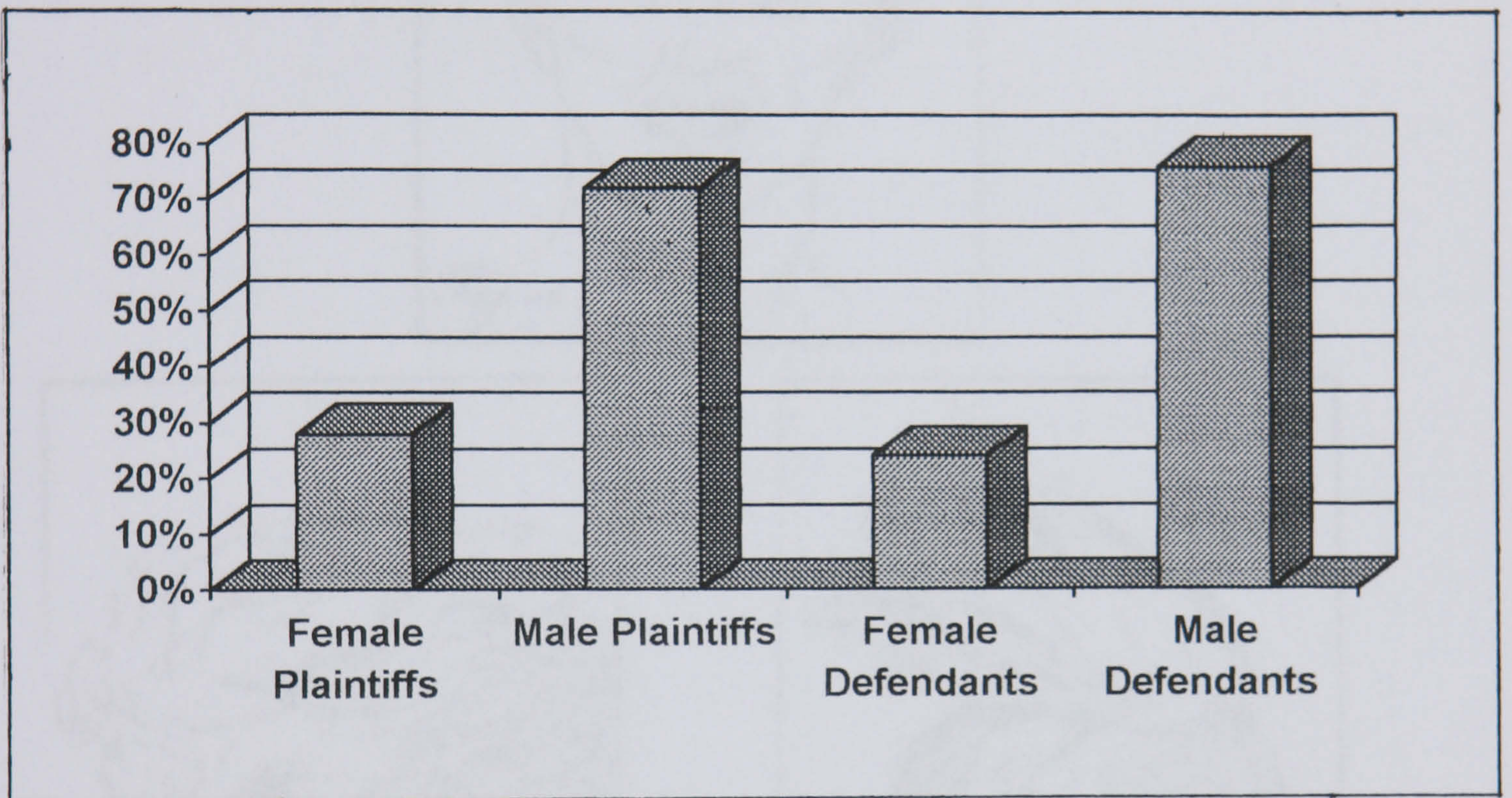


Fig. 5. Sex of Disputants by Percentage in All Surviving Cause Papers from the York Courts, 1660-1760.

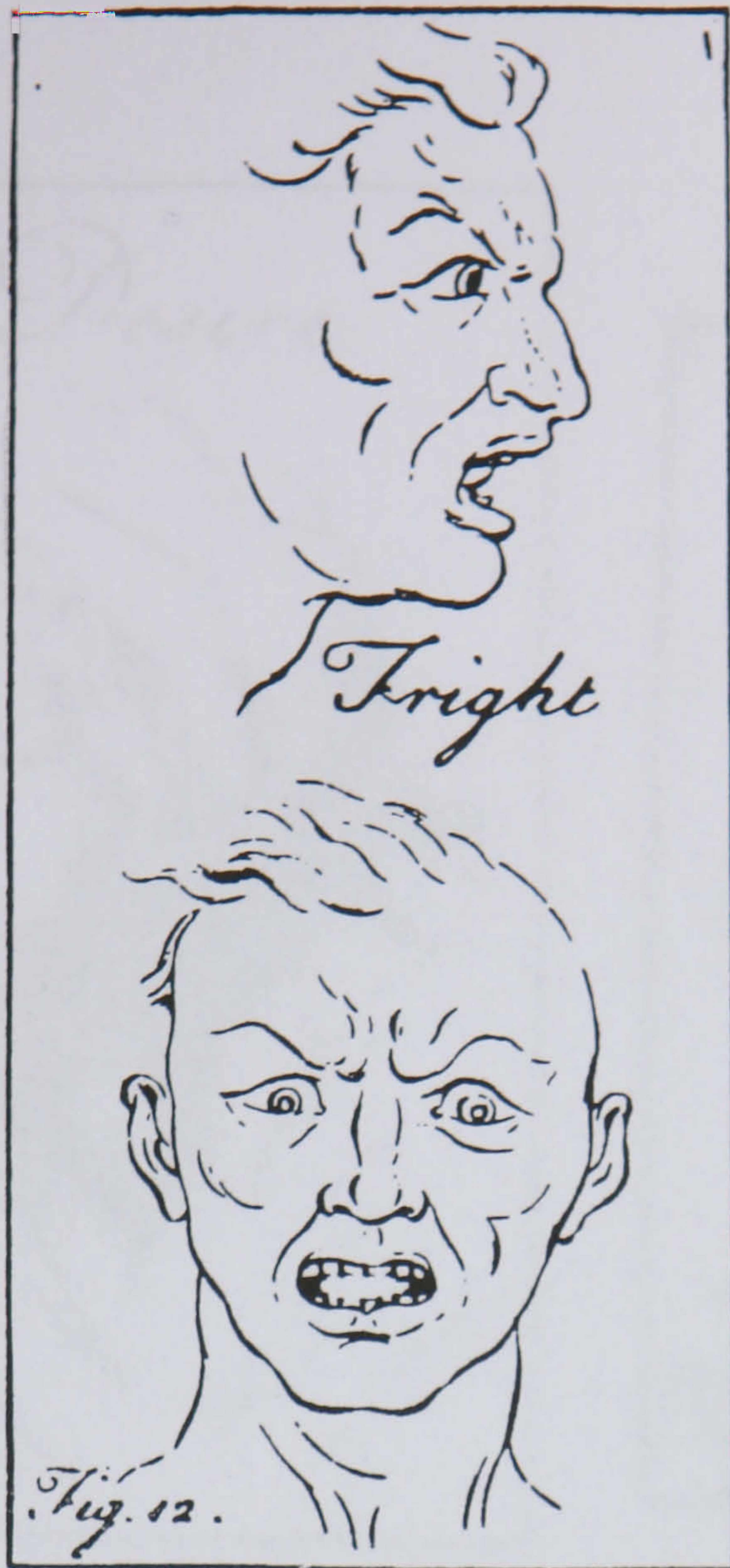


Fig.6. Representations of Emotional States in Charles Le Brun's *Method*, (1734)
(continued overleaf).

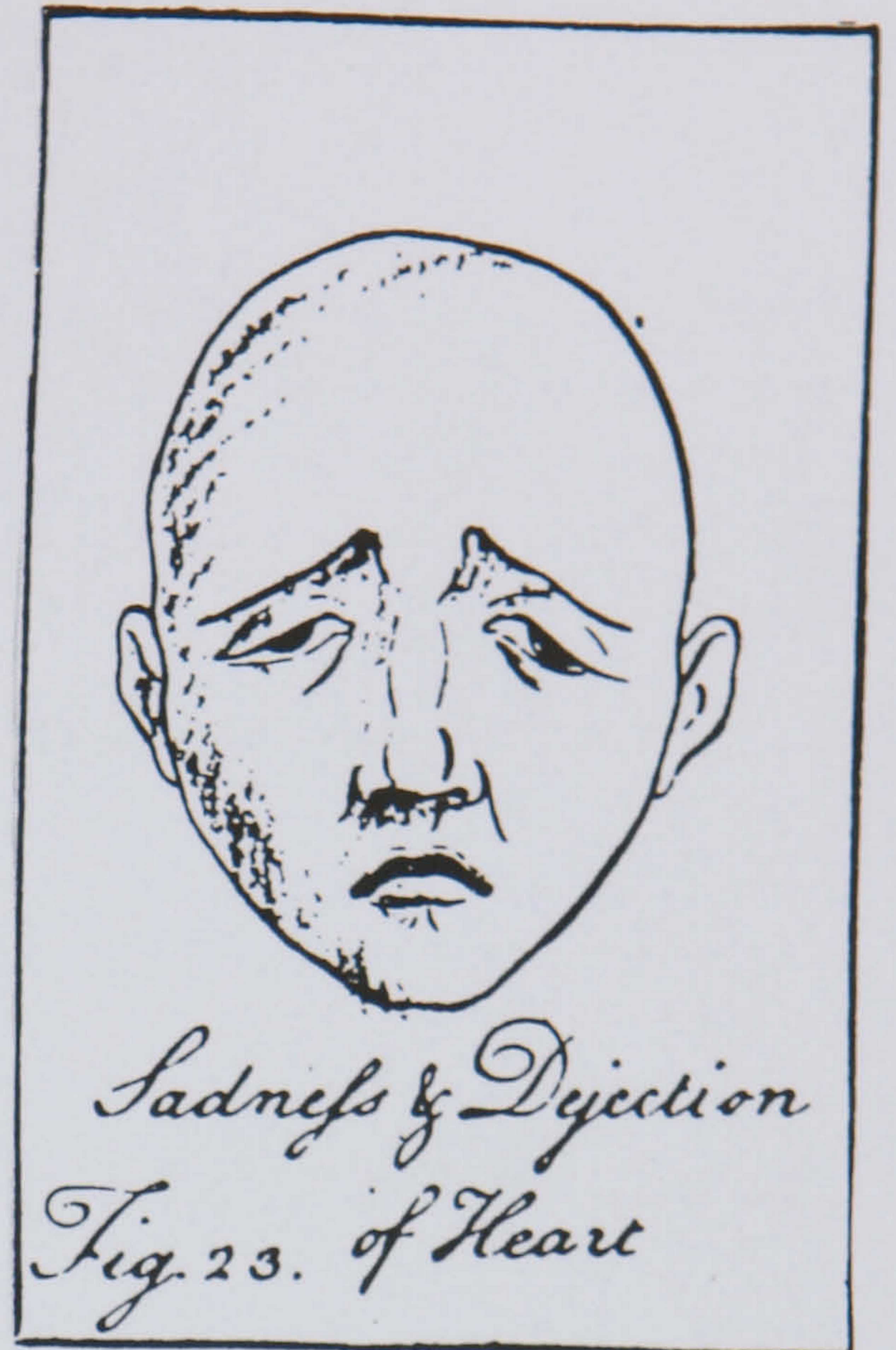


Fig.6. Representations of Emotional States in Charles Le Brun's *Method*, (1734)
(continued),

Appendix 7. Tables.

Date	No of New Causes
1664-67	292
1682-84	192
1692-95	393
1700-01	121

Table 1(a). No. of New Consistory Causes Initiated at York, 1664-1701.

Date	No of New Causes
1667-70	78
1670-73	96
1682-83	125
1703-04	78

Table 1 (b). No. of New Chancery Causes Initiated at York, 1667-1704.

Dates	No. of Instance Suits	No. of Office Suits
1667-69	43	52
1670-72	54	41
1682-83	111	14

Table 2. No. of Instance and Office Causes Initiated at York, 1667-1683.

Type of Cause	No. of Causes	% of total #
Adultery	51	2%
Assessments	87	4%
Church Offences	54	2%
Clerical Appointments	59	2%
Fornication	3	< 1%
Incest/Prohibited Degrees	11	1%
Irregular Marriage	30	1%
Matrimonial Formation	41	2%
Matrimonial Separation	19	< 1%
Neglect of Duties	48	2%
Other	9	< 1%
Pension	28	1%
Pew Disputes	96	4%
Repairs to Church	20	1%
Slander	404	17%
Testamentary	458	19%
Tithe	746	31%
Unknown *	218	9%
Wages as Parish Clerk	14	< 1%
Total	2396	100%

* Unspecified in the Borthwick Institute Catalogues

Percentages calculated to the nearest whole number

Table 3. Surviving Cause Papers from the York Courts, by Nos. and Types of Cause, 1660-1699.

Type of Cause	No. of Causes	% of total #
Adultery	29	2%
Assessments	78	6%
Church Offences	13	1%
Clerical Appointments	31	2%
Fornication	13	1%
Incest/Prohibited Degrees	7	< 1%
Irregular Legal Proceedings	4	< 1%
Irregular Marriage	8	< 1%
Matrimonial Formation	14	1%
Matrimonial Separation	34	2%
Neglect of Duties	24	2%
Other	5	< 1%
Pension	--	--
Pew Disputes	131	9%
Repairs to Church	30	2%
Slander	357	26%
Testamentary	406	29%
Tithe	141	10%
Unknown *	48	3%
Wages as Parish Clerk	8	< 1%
Total	1381	100%

* Unspecified in the Borthwick Institute Catalogues

Percentages calculated to the nearest whole number

Table 4. Surviving Cause Papers from the York Courts, by Nos. and Types of Cause, 1700-1760.

Stated Residence	No. of Defendants	No of Plaintiffs
Yorkshire		
North Riding	425	295
West Riding	1233	1035
East Riding	337	243
Other		
Cheshire	108	84
Cumbria	37	41
Durham	75	77
Flintshire	2	2
Isle of Man	4	3
Lancashire	138	129
Newcastle	29	17
Northumbria	10	9
Nottinghamshire	88	62
Sub-total	2486	1997
Unknown *	1291	1780
Grand Total	3777	3777

* Unspecified in the Borthwick Institute Catalogues and/or Cause Papers

Table 5. Stated Residence of Disputants in All Surviving Cause Papers from the York Courts 1660-1760.

Recorded Occupation	No.	%
Aristocrats & Knights †	4	10%
Gent. †	13	34%
Professions and Commerce †	16	40%
Church Officials †	1	2%
Textile Workers †	1	2%
Other Craftsmen †	1	2%
Military/Marine Trades †	1	2%
Unknown †	3	8%
Totals	40	100%

* Based on 40 suits as discussed in chapter 2. Percentages are rounded to the nearest whole number.

† These occupational groupings are explained in appendix 2.

Table 6. Recorded Occupations of Male Disputants in Sampled Matrimonial Separation Suits from the York Courts, 1660-1760.

Recorded Occupation	No.	%
Gent. †	13	22%
Professions and Commerce †	10	17%
Other Craftsmen †	2	3%
Agricultural Workers & Husbandsmen †	9	15%
Victualling Trades †	2	3%
Military/Marine Trades †	2	3%
Widows	3	5%
Servants	7	12%
Unknown †	12	20%
Totals	60	100%

* Based on 30 suits (60 disputants). Women's occupations are included with men's, as discussed in chapter 2. Percentages are rounded to the nearest whole number.

† These occupational groupings are explained in Appendix 2.

Table 7. Recorded Occupations of Disputants in Sampled Matrimonial Formation Suits from the York Courts, 1660-1760.

Recorded Occupation	No. of Litigants	% of Litigants
Gent. †	8	4%
† Professions and Commerce	17	9%
Church Officials †	9	5%
Textile workers †	10	5%
Metal Workers †	1	< 1%
Other Craftsmen †	13	7%
Agricultural workers & Husbandsmen †	20	10%
Victualling Trades †	5	3%
Military/Marine Trades †	4	2%
Labourers and Servants	5	3%
Wives	52	25%
Widows	1	< 1%
Spinsters	8	4%
Unknown †	47	23%
Totals	200	100%

* Based on random sample of 100 cases (200 disputants). Unless specified separately (i.e. wives, widows, spinsters), women's occupations are included with those of men, as discussed in chapter 2.

† These occupational groupings are explained in appendix 2.

Table 8. Recorded Occupations of Disputants in Sampled Slander Suits from the York Courts, 1660-1760.

Terms *	No of Cases	% of Cases
'Malice/Malicious'	45	45%
'Anger'	33	33%
'Angry'	32	32%
'Passion'	46	46%

* Based on a sample of 100 cases discussed in chapter 2.

Table 9. Frequency of Usage of Terms Employed in Sampled Slander Suits from the York Courts, 1660-1760.

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