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## **The Rise and Fall of Seditious Words, 1650 to 1750**

### **ABSTRACT:**

*The history of sedition, speaking critically or insultingly about government and official persons, has been redirected recently away from a focus on print culture towards spoken words. Secondly, the local and provincial processes of law enforcement provide a contrasting picture to the severe and punitive central courts such as Star Chamber. This paper addresses the local variations in the classification of defamatory and insulting words in the quarter sessions and the assizes of north-east England and North Yorkshire, and the waves of prosecution in the context of the political upheavals of the seventeenth and early eighteenth centuries. The general decline of prosecutions for sedition after 1700, except during the panic periods of the Jacobite risings, is a feature that has not attracted sufficient attention, and this process may have been the outcome of changing priorities among local authorities more concerned with printed dissent, or a changing culture of the general decline in public expressions of insult and denigration.*

**KEY WORDS:** defamation – sedition – quarter sessions – political change – defamatory words

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‘The seditious man is a madman . . . and therefore ought to be restrained’, said one judge in the case at the Star Chamber of a group of men in 1627 who sang rude songs about the government in the streets of the Surrey village of Staines. Expressions of political criticism, contempt or insult – the essence of sedition - were a matter of great anxiety to early modern English rulers. Though the new technology of print caused alarm - Francis Bacon viewed distributing seditious books as being ‘very near a kin to raising a tumult’, threatening the very existence of government - spoken words were the most common form of attack in the early modern period, and constituted the main focus of prosecution. Public performances of loyalty, faith, obedience, and deference in a hierarchical society were all customarily verbal. It is therefore not surprising that their opposites, insulting or disloyal speeches, were subject to legal restraints. As Brooks notes, ‘throughout early modern society the limits of acceptable speech were set a good deal more narrowly than they are today, even though the boundaries were constantly being tested and defined’.<sup>1</sup>

## I.

This is a study of the local prosecution of defamation and sedition in the criminal courts, mostly of northern and north-east England. Although personal cases of insult or defamation could be brought in both the church courts, where unchristian behaviour such as defamation was actionable, and increasingly in the civil courts where damages for the harm done by slander and libel could be claimed, there were also many cases in both quarter sessions and assizes in this period. These personal wrongs were among the ‘sins of the tongue’, but such sins could also be indicted as crimes.<sup>2</sup> Some have spoken of the seventeenth century upheavals as unleashing a ‘trumpet’ of sedition, and there is some point to that characterization. The law of treasonable words went back to the middle ages, but the broader, less serious notion of sedition – speaking against the government to the point of encouraging rebellion, treason or disorder – was created first, by Tudor legislation, and then by the

precedents of cases in the Star Chamber.<sup>3</sup> Once the specific laws protecting individual Tudor monarchs from rumours and insults had lapsed, defamation in text or speech of the government or its officers was redefined as a crime against the state, offering both central and local opportunities to silence criticisms in word or print that fell short of treason or incitements to treason. The range of political opinions was being restricted and the style of their expression subjected to ideological control. The law, however, was not really as precise as has been supposed: though both Edward Coke and John Selden made major pronouncements about libel and sedition, they did not agree on whether seditious words constituted a felony or a misdemeanour. Coke in 1605 had talked only of libel and not of sedition, while Selden, more than 20 years later, carefully does not mention libel in his argument that seditious words were merely a misdemeanour.<sup>4</sup> The dividing line distinguishing civil from criminal defamation cases, that is, between private injury and public offence, was thereby left obscure and caused confusion throughout the seventeenth and eighteenth centuries. The Star Chamber may have established the general legal principles, but the local courts, as David Cressy has shown, dealt with many attempts to suppress criticism, insult, rumours or misleading news reports, even if the crime actually prosecuted remained 'poorly defined in English law'. The handbooks published as guidance for justices of the peace were no real help in clarifying matters, though Richard Burn was clearer about libel than slander, which he thought might not be prosecutable at all because speech and the emphasis of its delivery might be subject to so many different interpretations.<sup>5</sup> Therefore, it was not true that 'criminal defamation' or 'seditious libel' were largely prosecuted at Star Chamber, as the common law allowed cases in the ordinary courts before magistrates and judges.<sup>6</sup> At a distance from the politically-driven prosecutions and savage punishments available to the Star Chamber, courts such as quarter sessions and assizes heard many cases of words spoken against the government and, equally, against the authorities who were its

representatives and instruments in the locality. Magistrates and other royally-appointed officers were in theory offered protection by the burgeoning case-law of seditious words. The law had been outlined, but its applicability was left in practice to the local courts.<sup>7</sup>

## II.

It is clear from the criminal court records in north and north-east England that magistrates were willing to see indictments for defamation come before them in large numbers, something that, though recognised, has been rather neglected in the general study of defamation in the sixteenth and seventeenth centuries.<sup>8</sup> Insults and slanders were treated as serious misdemeanours, in keeping with the many instances of assaults and riotous behaviour that also arose from fractious social relationships. Local policies of ‘criminalizing’ words alongside more physical attacks produced many cases. However, those framing the indictments were somewhat uncertain as to when defamation became seditious: only a few cases were classified as ‘defamation of government’ or sedition. Although most prosecutions for sedition were in defence of local authorities, there were also many which seem indistinguishable from ordinary insults. Thus personal defamations against people who were not apparently important, involving allegations of reputations for theft, or having been branded on the shoulder as an ‘incorrigible rogue’, or even witchcraft, were sometimes indicted as seditious, in company with direct expressions of hostility to the monarch, insults to the government and denigration of royal character. There was a rich vocabulary describing threatening words, and the final charge may have depended on how seriously witnesses took the words spoken and how severely the magistrates responded.<sup>9</sup> The phrasing adopted in the indictments may be crucial here, as it seems their terms are carefully chosen, but the identification of the reasons for classifying something as seditious is difficult. Insulting words were often ‘false and scandalous’, ‘opprobrious’, ‘pernicious’, ‘malicious’, or, more rarely, ‘contumelious’. Fewest of all were those words judged to be seditious (as well as any or all of

the other terms). Consequently, what is striking is, on the one hand, the variety of words thought dangerous enough to prosecute, and, on the other, the variations in, and apparent inconsistency of, their judicial treatment.

Both here and throughout the north, the offence regarded as serious was the use of allegations that ‘scandalised’, that is, stood in danger of destroying, the reputation of the respectable. The words were often described as not only defamatory, but also ‘false and scandalous’, or ‘malicious and opprobrious’, though it is worth noting that ‘false and scandalous’ are also the words applied to those selling rotten food in North Yorkshire. The word probably meant malicious or deceitful rather than just untruthful (though speaking the truth could also be libel if it threatened good order, thought Coke). These cases most commonly took the form of exchanges of insults between acquaintances and neighbours and, though indicted at courts such as quarter sessions and assizes, resembled the defamation cases in the church courts. For example where the words contained a specific accusation rather than general insults, they were treated more seriously in the secular courts: in a 1677 case of cross-cutting defamations, perhaps reflecting a quarrel between two families, Thomas Vardy of Alnwick spoke ‘false and scandalous words’, namely that ‘Anne Turner is Michael Pemberton’s whore’, and was supported by Mary Vardy (probably his wife) claiming that Turner kept ‘noe company, but whores like herself and is good for none but to bring a Sowe forth with piggs’. Anne Turner (wife of George), by way of reply, also allegedly spoke false and scandalous words, that ‘Nathaniel Salkeld is a whore master and rogue and hath layne with Mary Vardy’ and she was ‘his whore’.<sup>10</sup> The emphasis on falsehood and malice here and in similar cases seems significant.

When the targets were local officers of the state, the cases would be more serious than the strictly personal. All local regimes faced difficulties winning the public's support for their actions. Magistrates were the vulnerable face of the local state, and throughout the period

until the early eighteenth century suffered verbal attacks. Although it was seditious to speak against the king's ministers and high officials, it was probably thought excessive to treat insults to local authorities such as magistrates as so serious a crime. This is reflected in the way justices themselves chose to react to the many verbal assaults on their reputations. Not all opposition was verbal, as defiance of authority at many levels was an inevitable outcome as local society came under greater degrees of regulation (only in part the product of central government efforts such as Charles I's 1631 Book of Orders). Magistrates had been complaining for years about the 'the loads of statutes that continually are increased and for execution laid upon our shoulders', as Lambard put it in 1599.<sup>11</sup> Defiance of court orders, though undermining the authority and standing of the legal process, was hardly ever described as seditious. Refusal to obey orders was common, particularly in Newcastle upon Tyne, where the Mayor exercised tight control over the timing of commercial activities and the creation of nuisances in the streets by such as butchers with their shambles. Defiance of this sort was frequently interpreted as posing no threat to general social and political order. More dangerous, and more likely to involve indictment at the quarter sessions of the town, was the deployment of words that 'reflected' upon the mayor or the aldermen. This offence - often cited without detail as to the actual words - was taken to be a potential factor that could undermine the town's authorities. For example in 1706 Michael Cockburn was before the Newcastle quarter sessions 'for speaking reflecting words on Matthew White Esq Alderman', and was bound over for his good behaviour. A similar case in Northumberland in 1691 involved one Matthew Armstrong for speaking reflecting words against 'the Justices of the Peace of that County'. Even when it was clear that direct insults were involved, the accused were relatively lightly treated: there were no penalties inflicted on Robert Watson mariner in 1706, 'for abusive words of the Mayor and Aldermen'.<sup>12</sup>

Some, but not all, words described in the quarter sessions as 'in contempt of authority'

were also deemed seditious. Consequently, many charges in the North Riding, refer to scandalous words, but not to sedition. This does not mean that the prosecuted were let off lightly, but the politics of the insult seem to have been defined as parochial rather than national, at least as far as the victims were concerned. By the civil wars, it seems, most prosecutions for insulting magistrates confined the offences to scandalous, opprobrious, shameful, or reproachful words. Only rarely was sedition involved. For example, one Robert Bossall of Huby, yeoman, was prosecuted in 1627 ‘in time of pestilence there, uttering seditious and opprobrious words concerning Sir William Sheffield viz., as follows, “I will sett such a blacke bitch in his arse as he never had in his life, and, I have no bulletes, but I will shoot beans in his arse”’; he was imprisoned in York Castle, fined £40 and released some months later. More usually the insults were highly personal, and the prosecutions served a deterrent purpose, as when a Whitby innholder was charged with scandalous words against a JP: ‘Sir Hugh Cholmley is a thick, idle, sapheaded, sleepy drone’. In a 1719 case, not only had Thomas Clarkson of Burniston abused and threatened a constable, he had also ‘abused, and spoke several false and scandalous words against, Sir Roger Beckwith, John Dodsworth and Henry Peirse, Esquires, Justices, when in the execution of their office’, for which he was bound over until the next session with the requirement he find sureties for his good behaviour. Failing to provide them, he was confined in York castle until he did so. In a similar fashion, Reverend Edmud Tew of Boldon, County Durham, dealt with an attack on his integrity as a magistrate in 1756, called a ‘fool’ by a parishioner who threatened him with a case at the King's Bench. Tew had the advantage of being able to combine the forces of both church and state, forcing his attacker (after a short spell in jail) to apologise on his knees before the whole parish.<sup>13</sup>

Less commonly, this type of scandalous words could be defined as ‘sedition’ when it attacked the system of government. As with ‘reflections’ on local authorities, these words

could appear merely defamatory, and in fact differed little from the merely ‘scandalous’ allegations, but the addition of ‘seditious’ or ‘pernicious’ to the description of the words in the indictments suggests that for some reason they were being taken more seriously. They cut away at their victims’ credibility, personal honour, and their right to have authority at all. The personal became, at least locally, political, though the distinction was a fine one. For example, in 1664, Thomas Lambe heard Francis Cowton of Humbleton say, ‘Look you how that bow legged fellow (meaning Henry Lambton Esq one of his Majesty's Justices of the Peace) sitting on the bench, stands he looks more like a horse rider than a Justice of the Peace’. This was interpreted as insulting rather than dangerous. By contrast, John Pickering, yeoman, during a dispute about tithes under the Protectorate, made a more generic denunciation of the system, saying that he had no ‘outward’ protector, and ‘the justices you run to are tyrants. Look how it was betweene King and Parliament; so you shall see it againe; they fell from words to blowes and to blood, and so it will be againe’. This was deemed seditious.<sup>14</sup>

This indicates that sedition – seditious words – was most obvious in direct insults to the monarch (or his replacement, a Cromwell), his family, or spreading rumours about them. Of Charles II, one man said, ‘false, scandalous, malicious, opprobrious and seditious words’ – ‘Charles Stewart is a tyrant and brought in an Army to destroy this nation’. Malice was essential to sedition, though falsity and scandal were also fundamental. However, although all seditious speaking was scandalous, not all scandalous words were seditious. More ambiguous still was the word ‘rebellious’ which was applied equally to those involved in various risings in the Cromwellian and Restoration periods and subsequently to striking keelmen on the Tyne, and to Jacobites in general. There was no doubt about hints of violence, however, when Samuel Chicken of Newcastle, a tobacconist, was accused of malicious and seditious words, ‘We must be forced to rise against the Government’.<sup>15</sup> It is worth noting that there were *real*

risings in the North, or credible threats of them in the 1650s and 1660s, and the later rebellions such as that by Monmouth or the Jacobites provided short periods of both local and national panic.<sup>17</sup> These were shortlived, but the concern over spoken words was a more consistent focus of official attention. Charges for high treason seem to have been provoked by actions in addition to the spoken words, actions which indicated danger to the state. In 1651, Richard Montaign, gentleman of New Malton (North Riding of Yorkshire), not only toasted Charles II but with others drew his sword to do so. In 1679 Robert Dolman, a steward of Sir Thomas Barnbow's coal mines, consulted with others on how to kill the king, promote the Catholic faith, and, quixotically, establish a nunnery near Ripley. In 1689, Edward Charlton, one of the Catholic JPs imposed on the commission of the peace in 1687, was deemed to be spreading such 'false and dangerous news' as to constitute treason. When actual rebellion was happening elsewhere, enhanced surveillance led to discoveries of suspicious persons: in 1685, one Sir William Scott was found on a ship coming into Newcastle by the customs, hiding in the 'roundhouse', and arrested on suspicion of treason. It is perhaps not surprising that local authorities from the 1690s onwards kept the names of people deemed 'ill-affected' to the government.<sup>17</sup>

Therefore, it is possible that in practice there was a rough hierarchy of offences in the minds of the local authorities, from lowly and relatively harmless defiance of community regulations and contempt in defying court orders to false, scandalous, opprobrious (and occasionally 'contumelious') words, seditious speech and threats of outright rebellion. There was, so to speak, an ascending scale culminating in sedition and treason. On some occasions the offence was simply one of refusal to defer by speaking 'in contempt of authority'.<sup>18</sup> In other cases, the words or the attitudes they indicated were interpreted as more serious offences. These were not rigidly defined, or precisely applied, categories, however, and were deployed with great variability which at times defies retrospective explanation by historians.

It is likely that the persons accused, their accusers, the established characters and previous reputations of both, all played a factor, along with the substance of the actual words used and confirmed by witnesses. Yet it is hard to see why a defamation alleging witchcraft by a comparatively ordinary woman should have been seen as seditious unless the authorities thought every threat to the social peace a danger to good government.

### III.

One aspect of talk that worried the authorities was the circulation of reports that undermined the government or its actions. Recent studies suggest that there was a vibrant culture of rumour and gossip which connected the localities with national politics in London by spreading stories, letters and printed pamphlets and books all over the country. The efforts by local authorities to deal with these contrasted greatly with the proceedings of the Star Chamber or Privy Council. It seems clear from the substance of northern sedition cases that people had heard the same rumours and ideological allegations as their contemporaries in London, suggesting that 'news' had found a national market, or at least a means of dissemination, by at least the mid-seventeenth century. The North was therefore probably a full participant in a national network of both information and *misinformation*. The distinction between factual reporting and gossip, rumour and salacious tittle-tattle was no easier to maintain in the early modern period than in the age of the tabloid newspaper and the internet. It is probable that false stories and propaganda jostled with factual reports in variable proportions, as Deborah Shuger has suggested. People were well informed (and thoroughly misinformed) by the new circulation of news and print culture.<sup>19</sup>

An example of the common national currency of false rumour was the supposed Irish threat in 1641, whose widespread credence was based on a forged document engendering fear of the genuine massacres occurring Ireland. This was firmly believed by some everywhere. For example, in an alehouse at Youlthorpe (East Riding of Yorkshire) Thomas Stafford

claimed that

The souldgeares weere all roges that came against the Scotcs, and if it had not beene for the Scotcs, thirtye thowsand Ireish had rissen all in armes, and cutt all our throtes, and that the Kinge and Queene was at masse together, and that hee would prove it uppon recorde, and that hee is fitter to be hanged then to be a Kinge.

A few years later, when Cromwell was campaigning in Scotland in 1651, gentleman William Lazenby was charged with false news and seditious words, namely that

Generall Cromwell had lost his army, and that he was taken into a castell or hold, or unto the seas. And that he hoped within a twelvemonth to see Generall Cromwell's head off, and all the heads of all the Parliament men in England that now is. And Edward Gower, George Crathorn, and Katherine his wife, and Mr. Barber, the minister, all of Towthrop, heard these words.

A much vaguer hint of the local spread of national rumours was case in 1679, when Newcastle man William Trotter was heard to claim that 'there was no king in England, and the apprentices of London had declared that there was no king in England'. This followed the apprentice riots a few years earlier which the government had suppressed so severely.<sup>20</sup>

In a case where, unusually, sources are revealed, one woman in North Shields reported news of James II's death spread by a known dissenter and a Scottish pedlar :

shee going into the house of Patrick Atking, of North Sheilds, a Scotchman and a cobbler, to light a candle, Margarett Atking his wife said, 'Neighbour, did not you heare the post of last night?' 'Yes, I heard and saw it, but what is the newes, neighbour?' Whereupon shoe answered and said, 'Very badd newes, for our new King James is dead, and they say they have surfeited him, and he hath bene thrice lett blood since his brother died.'

It was not uncommon for accounts of seditious speeches to begin with someone asking ‘What news?’, and being told stories that were later prosecuted in court. On hearing what appeared to him seditious rumours in summer 1685, a prosecuting witness said to the speaker -

There is many such idle people as you both are in this countrey, and if I knewe where there were authority I would leave my journey and cause you to be apprehended to give account where you had this news, for I beleive you are some confederates, or holds intelligence with some confederates, of that partye.

On other occasions, the content of the news was not repeated in the court charges, as in 1652 when ‘an Auld Malton man’, a labourer, was prosecuted for ‘reporting false news and speaking seditious and scandillous words against the Commonwealth’, and was fined 40 shillings.<sup>21</sup>

#### IV.

Waves of prosecution often followed political upheavals, regime change or rebellions. A change in ruler, particularly in the contentious circumstances that attended so many in the seventeenth century, always invited speculation and dissent. As Wall has put it, ‘change of reign was always dangerous, for the bonds of obedience were loosened and new loyalties had to be learned’.<sup>22</sup> Seditious utterances were directed at the Commonwealth during the 1650s and at the restored monarchy in 1660s. After 1688, William III (if not Mary) was treated with contempt by some. Each regime faced its ideological opponents’ seditious speeches. Possibly, each new establishment reinforced the legitimacy of its rule by creating a wave of sedition, an artificial rise in prosecutions driven by the insecurities of being new and contentious. The court data therefore could reflect official anxieties rather than actual occurrence of seditious utterances, the outcome of drives to suppress opposition real or imagined. Thus it was not unusual to find regimes under insulting fire from their disappointed opponents. In 1652, for example, Dame Clare Vaughan, of Whitwell, was charged with ‘speaking seditious, malitious

and scandullous words and language against the peace of the Commonwealth'. Furthermore, sustaining the legal doctrine that the victim of seditious utterances did not have to be alive at the time, one gentleman in 1659 was prosecuted for commenting on Cromwell's death, because, 'intending and imagining to move sedition, discord, dissention, and rebellion within the Kingdom of England, maliciously [he] did speak and utter these seditious and scandalous words: "that Oliver, Lord Protector, was burning in hell fyr for taking so many honest gentlemen's lives away"'.<sup>23</sup>

After the Restoration, the prosecuted were naturally those who had supported the previous regime, such as a yeoman of Keld, accused of the seditious and defamatory words 'Thou had best be quiet, for those that thou buildest upon, I hope they will not last long, and that I lived as well when there was no King and I hope to do so again, when there will be no King'. More sophisticatedly, a Durham man alleged that the king had broken the Act of Indemnity.<sup>24</sup> Some were unrepentant republicans, such as one Yorkshire man who said 'The king should never be crowned and if he was crowned he would never live long, and his father's head was taken off with an axe but a bill should serve to take off his'. Similarly, in Richmond in 1663, yeoman James Arrundell levelled 'opprobrious words' at Simon Douglas of Fremington, saying 'Thou and thy father are rogues and traitors, and all is traitors that doth fight for the King'. The same year, Jonathan Shackleton was heard to say

Am I a phenattick ? Yow shall know yet before March wind be blowne that we phenatticks will looke all those in the face which now doe oppose us, for the Kinge is a bloody Papist, or else he would never have give consent to the putting to death of soe many honest men as he hath.

This presumably followed the trials and executions of the regicides.<sup>25</sup> Religious loyalties, royalist sympathies and patriotism were not always clearly aligned in some of the more furious debates recorded in the records. In 1673 a Scawton woman was indicted for seditious

words,

The King of France is our King; I pray God he may get his victory this battle, and then I hope he will be in e're it be long, and the Protestant Ministers must be put forth of the churches and ours put in, and except all the Protestants will turne they must all be killed, and the King also must be killed except he will turne.

Another woman replied, 'The King is nothing to us, the Queen is: the King is a Protestant in outward show, and a Catholicke in his heart'. This was about two or three weeks before the discovery of the Popish Plot, perhaps significantly.<sup>26</sup>

Outright rebellion evoked sympathisers to reveal themselves, rather unwisely: in 1685, one man proclaimed the seditious words, 'I will fight for the Duke of Monmouth so long as any blood remains in me', while two years later another said 'The King is a Rogue and a Traytor'. Once James II had fled, the prosecutions concentrated on insults to his successors, particularly William of Orange. One New Malton linendraper - a 'seditious man' - was heard to say 'God damme the King William and Queen Mary' and was fined £5 for seditious words. Others toasted the exiled king, as did a Crakall yeoman, 'Here is a health to King James and I hope it will be to the confusion of the nation', and at Thirsk, a Ugthorpe yeoman said, 'I wish prosperity to King James and all his forces', while in Northallerton, another yeoman said, 'Here is King James's health to you'.<sup>27</sup>

Others predicted disaster. A Leyburn gentleman was arraigned for a long speech predicting James's victory, 'I will wager you a guiney that within a moneth King James will be either in England or Scotland with his army'. Rumours of potential national financial collapse spread in the 1690s, partly because the formation of the national debt and establishment of the Bank of England. A Pickering man said 'this King William has ruined us all'. Others saw things more conspiratorially. In 1696 a mercer of Thirsk argued seditiously that 'King William did mortgage this kingdom to the States of Holland when he

was about to come over, and the first ass[essmen]t that was granted after he came in went to pay off the said mortgage'. A witness replied 'How could he do so because he was not possessed of the Kingdom?', to which the mercer responded that when the people of England delayed their welcome and assistance, William said 'if they did not immediately come in to his assistance, he would send King James a list of their names that had subscribed to him'.<sup>28</sup> These were prosecuted at the quarter sessions, but in one assize indictment, a Northumberland man, Robert Jefferson from Hexham, labourer, was accused of scandalous and opprobrious words when he was heard to say 'the Prince of Orange has taken down all his rich hangings both there and in other places and sent them to some place to be transported to Holland which is robberye, and I hope he will follow them 'ere it be long'. He also alleged that William had taken 'all King James's plate and some of it hath turned into money and the rest hath turned it into piggs like lead and sent it to Holland and the prince of Orange will go himself when he is done'. These were hard times economically, but the comments on the national debt under William III may have been partly induced by the economic recession and currency difficulties of the 1690s. As Pauline Croft has commented, seditious speeches may have offered a means of protest, 'a mechanism short of a riot'.<sup>29</sup>

These contested successions created a sedition of *nostalgia* which mixed criticism of the present regime with the championing of the lost leader, either dead or exiled. History and its interpretation also came under seditious scrutiny. In the 1660s this often involved maintaining a deliberately deviant version of the conflicts before and during the civil wars. Of Charles I one man said in the 1660s, 'He suffered justly, and had a fair tryall' and was responsible for all the sufferings including his own – 'Did not the late King and Earl of Strafford bring all this trouble upon the land?'. Others were equally unrepentant and recalcitrant: one gentleman was heard to say that

he was for those men that had murdered the last King, and he would be for them

as long as he had life, and that they were honest men, and that the last King did deserve the death he had. Anthony Barton, of Blaxton, yeoman, heard Mr. Charles North say that King Charles was a traitor; whereupon the said Mr. Stenton tooke the said North a boxe of the eare. And the said North said that the ould King, when he was put to death, had but his due.

Later, people would look across the water to James II and his family as the rightful monarchs, something that was reinforced by the death of Anne, the last Stuart, and the accession of the Hanoverians.<sup>30</sup>

## V.

The two eighteenth-century Jacobite rebellions provoked great alarm and fear among the authorities of northern England, in part because local gentry in Northumberland, Cumberland and Lancashire were known to have strong Jacobite sympathies. Words appeared more ‘treacherous’ than seditious in the face of the violent actions of Jacobites and their sympathisers, and people and their speeches became a particular focus of judicial action in the 1715 Rising. Spoken words, printed material and symbolic expressions of sympathy on the Pretender’s birthday, were all prosecuted in large numbers. In Newcastle, for example, George Levistone, spoke to William Robson, ‘calling him a Rogue and knave if he did not take the part of the Earl of Marr and his men and in case the Scotch came here he would join them and carry them to the place where the most money was to be gott, with some more treasonable words’, while another man, John Hewison, was heard to utter the treasonable words, ‘Damn the King’. In North Yorkshire, a gentleman was overheard predicting that George I would be ‘thrown out and put in his room’. In Newcastle in early 1716 the quarter sessions recorded a long lists of 24 names of those arraigned ‘on suspicion of being disaffected to the Government’ as well as a couple of prosecutions for treasonable words. In prison at the same time were James Jones, ‘a papist’, and John Wilson and Alexander

Brownlee ‘for dispensing treasonable papers’. In the summer another round of at least 12 arrests was undertaken as local men celebrated by ‘carrying a green bough on the 10<sup>th</sup> June the Pretender’s Birthday’, and being dismissive of the King - David Howey ‘for saying Puff for King George’ and Job Errington ‘for speakeing abuseive words on King George’. There were also eleven men arrested for a riotous assembly, though their political leanings are not mentioned. All were acquitted or the charges were dropped.<sup>31</sup> Subsequent years saw a few similar prosecutions – Robert Harrison in 1717 for ‘drinkeing confusion to all Presbyterians and Hanoverians and reflecting upon and abuseing the soldiers’, and in 1718, Barbara Harrison spinster ‘for having in her custody a book reflecting upon His Majesty and His Government’. In early 1719, James Clarke was prosecuted for ‘reflecting on his Majesty King George’, and similarly George Pryor with four other men ‘for beating William Edwards and John Salton and drinking the Pretender’s Health’ – all without convictions. There were a few assize cases at this time, including the arrest of Elizabeth Countess of Maille in Newcastle, a ‘prisoner here being a stranger on suspicion of being disaffected to the Government’. Although this was the year of another disastrous rising, with Spanish troops in support, it is unclear if these cases reflected the anxieties it caused.<sup>32</sup>

There were few cases during the long peace between the two risings, and, perhaps significantly, in the second rising in 1745 there was only a small number in the assizes for both Newcastle and Northumberland. In 1746 John Shearer appeared on the evidence of Sarah and Thomas Brown, innkeeper, who said that Shearer and James Woodburn (a soldier in the King’s Scottish regiment) came in to drink a pint of ale, when Shearer said

It was time King George was gone home and he would have him home for that the Crown of England was the pretended right of all the Stuarts ffamily and the Rebels would face the Duke and then would put such Bitches as this Dep[onent] into the Dog wheel and uttered several other Treasonable Expressions.

In the same year, Newcastle man John Warden was reported by a gentleman, William Rawling, for refusing to drink the Duke of Cumberland's health, but proposed to drink to the 'Chevalier's' instead, that is, to the Pretender's. Other comments were less predictable: in Hexham in 1748 Henry Elliott denied treasonable expressions but was accused by three men of saying in conversation, 'God damn the Queen of Hungary and all her allies', so attacking Empress Maria Theresa of Austria. One witness, knowing that he often played on a violin, asked him if the Pretender and the Queen of Hungary were both present, who would he play for: Elliott said the Pretender. After questioning him about who had the better right to the throne, Elliott answered 'King George has no more right to the crown than I have', and of the Pretender, he expressed the hope 'in a short time to see him enjoy it by force of arms and you will all see it and I will do what is in my power for his Interest', and added that all the Stuarts had better right to the throne than King George. Cases of this nature could be found anywhere in times of panic, such as when a foreigner, probably a Venetian, was accused in 1756 in a village near Sunderland and sentenced to the pillory. He had, the accusation went, 'resided at Monkwearmouth Shore *c[irca = about]* six months . . . in a very clandestine manner without any visible way of subsistence and to the terror of the Inhabitants there', and was seen in a tavern swearing an oath to the Young Pretender. The company had been equally drunk, and the case went forward apparently almost by accident, probably at the instigation of a single magistrate. The conviction provoked the submission of a 'unanimous petition of the neighbourhood' for a pardon, involving most of the local establishment, which was supported by the judge at the trial, and the prisoner was released. Thus in north-east England, there were occasional official panics about drunken words spoken in taverns and inns at times of war or rebellion, but it was a declining phenomenon after the '15 rising: prosecutions seems to have been provoked by the strange character of the words or the speaker.<sup>33</sup>

The increasing concern in London about the effects of print culture, clearly expressed in the early seventeenth century by the Star Chamber, is mirrored to some extent at the local level, though it is significant that this anxiety is most prominent after the Restoration. The development of new forums for the communication and exchange of false information and sedition certainly produced precautionary regulation. One focus of anxiety, new in the Restoration, was the establishment of coffeehouses where news was a major attraction. Like social activities in public houses and taverns for previous generations, ‘both coffeehouse discourse and coffeehouse papers were carefully monitored for signs of sedition’ in both Restoration and Hanoverian periods.<sup>34</sup> Several coffee houses were licensed in Durham and Sunderland between 1679 and 1681. When Ralph Middleton gentleman, was given a licence for a place which served chocolate, coffee and tea in the city of Durham in July 1680, he was exhorted to

Use his utmost endeavours to prevent and hinder all scandalous papers, books and libells concerning the government or the public Ministers thereof from being brought into his house or to be there read perused and divulged and to prevent and hinder all and every person and persons from declaring uttering and divulging in his said house all manner of false and scandalous reports of the government or any of the Ministers thereof and in case any papers books or libells shall be brought into his said house and there openly read perused or divulged or in case such false and scandalous reports shall be there openly declared uttered or divulged if the said Ralph Middleton shall within two days respectively next ensuing give Information thereof to one his Majesty's principall Secretaries of State or to some one of his Majesty's Justices of the Peace.

Operating in the North Bailey, Durham City, near the jail, he was also ordered to ‘suffer no evill rule or discord to be kept in his house’.<sup>35</sup>

Anonymous paper, when it was discovered in circulation, caused great anxiety. In 1715, John White yeoman (in fact the printer of the *Newcastle Courant*) was indicted ‘for a printed paper in which there is [sic] blasphemous words’ (for which he was acquitted). Even rumours of possession of suspicious printed material caused alarm: as noted earlier, Newcastle spinster Barbara Harrison was prosecuted in 1718 for possessing an unnamed book ‘reflecting upon His Majesty and His Government’.<sup>36</sup> Sometimes the distribution and reprinting of London-derived criticisms of government in provincial newspapers caused local clampdowns. The monitoring of the press outside London was a new feature of the late 1720s, when funds were allocated for the purchase of provincial newspapers for the Treasury Solicitor to keep an eye on them. In 1731 in Newcastle the reproduction in the *Newcastle Courant* of a section of *The Craftsman* – a supposed letter from the Hague on foreign affairs – provoked the arrest of printer John White. As Jeremy Black notes, ‘the moves against the provincial newspapers can therefore be seen as part of a campaign against the leading opposition London newspapers’. It had led to the successful prosecution and imprisonment of the *Craftsman*’s editor Richard Francklin the same year. White was summoned to the King’s Bench with Samuel Farley of Bristol for reprinting the ‘false and scandalous remarks’, and, though he had been accustomed to republish London articles for and against the *Craftsman*, including some direct extracts, he ceased to reprint *Craftsman* articles thereafter.<sup>37</sup> Reprinting pieces from the *Craftsman* and by those who responded to them was scarcely unique to the *Newcastle Courant*. The *Gentleman’s Magazine* in the 1730s was a frequent source for the public interested in the original articles and responses during many debates. Indeed, it seems to have invited the controversies.<sup>38</sup> The provincial press, though, had rarely been the object of central efforts at control, despite anxieties which went back to the late seventeenth century. By the mid-eighteenth, however, the London authorities were expert at putting pressure on local magistrates to suppress the reprinting of pamphlets or stories that they thought

sedition. Certainly this happened in places such as Edinburgh in the 1750s when the arrival of the pamphlet concerning the sufferings of Alexander Murray (a failed and disappointed parliamentary candidate) led the London authorities to instruct the magistrates of the city to search the printers' premises and seize all copies. Investigation revealed that several were on the point of publishing it, with little idea of who had written it or why. Print culture was increasingly a many-headed hydra, as printers grew in numbers everywhere and professional plagiarism was the essence of their technique for feeding the growing local markets for news. The attempts at control were, in England, directed by a central government increasingly accustomed to offering legal and technical advice to local authorities trying to suppress protest and disorder.<sup>39</sup>

## VII.

Cases of prosecutions for spoken words of sedition declined steeply in the local courts in English counties after the early 1700s. This was also true of London. Old Bailey figures suggest that from 38 cases in the last quarter of the seventeenth century, the number of sedition prosecutions declined to 23 in the first quarter of the eighteenth: three of them involved Dryden's satire on sedition. After the 1720s, there were few cases of prosecution for sedition or seditious words – none at all from 1726 to 1750, and only one in the quarter-century thereafter. While the Old Bailey saw a combination of cases which in other places would have been divided between the quarter sessions and the assizes, what evidence there is from lower courts suggests a similar pattern. The 1690s represented the last period of serious persecution of sedition in Middlesex's quarter sessions, with a dozen prosecutions, while in the first decade of the eighteenth century there were three. In the North Riding of Yorkshire, a similar pattern can be seen, with at least 38 indictments for sedition and another 13 for clear contempt of authority in the last quarter of the seventeenth century, and only ten sedition cases in the first quarter of the eighteenth. There were also many personal insults against

those in authority which were not treated as seditious. Patchy evidence from elsewhere suggests that there were flurries of cases at times of regime change, or challenge, so that in Shropshire there were a few cases in 1688 and 1689, and then none until the aftermath of the Jacobite rising in 1715. The Welsh Great Sessions only saw eleven in the whole of the eighteenth century, five of them concerned with the Dean of St. Asaph and his Wrexham bookseller in 1783.<sup>40</sup> The pattern in the North East was similar, with many cases of prosecuted speeches in the seventeenth century and then very few except in the waves of repression during the Jacobite risings, particularly in Newcastle; after that there were few until the revolutionary panic of the 1790s. The intermittent occurrence of local cases may well reflect national anxieties, though not an eagerness to exact exemplary fines or impose severe punishments. Remarkably few – none in Newcastle – resulted in any penalties at all. In North Yorkshire, magistrates were more willing to impose fines on those who committed the ordinary offence of defaming their neighbours than on those allegedly producing seditious speeches. As in other areas of local prosecution in the period, the purpose of the cases may have been intimidatory rather punitive, an attempt to prevent any recurrence rather than exact retribution for past actions. The decline in sedition cases in the criminal courts after 1700 accompanies a parallel decline in these defamation cases, and it is possible that people were taking their private grievances elsewhere, to the poorly-recorded processes of summary justice conducted by local magistrates.<sup>41</sup> Though outside the strict scope of this article, it is worth noting that there was a return to prosecutions for spoken sedition in the revolutionary panic of the 1790s, and again in the early nineteenth century in the decade after the 1815 peace, a time of great agitation, rumoured conspiracies and government reaction.<sup>42</sup>

The general decline in prosecutions for spoken words may have reflected a redirection of national priorities towards the suppression of print. Like the Star Chamber a century before, the London government's pursuit of printers and writers in the early eighteenth

century set a precedent for provincial authorities to follow. Certainly there are signs of increasing anxieties about libel - printed challenges to the government and its officers - and of declining interest in spoken words, by the mid-1700s. A second factor may have been the increasing reluctance of magistrates to deal with defamation in general, of which seditious words were just a part. There may also have been a genuine decline in seditious insult, perhaps a neglected by-product of the 'civilising process', particularly among the political classes. Most of those prosecuted were men and, though many are hidden from us behind the vague category of 'yeoman', a substantial minority were designated 'Esq' or 'gentleman', or had respectable trades. To some extent at least these prosecutions reflect squabbles *within* a political class rather than between social classes, let alone forms of resistance from below. As the respectable became more self-controlled and more reconciled to one another's differences, prosecutions may have declined. It is just about possible to envisage a society which was more at ease with itself and less prone to bursts of insult and vilification. Finally, as Richard Burn had noted, defamation is often a matter of interpretation, and sedition was always a slippery concept, an important point in its final abolition as a common-law crime in the early twenty-first century. It was at the local level, and in very personal political differences, that seditious mutterings were discovered and suppressed: any changes in the sociability of the politically active members of a locality would change the way sedition cases were created. Throughout the period, the intermittent presentation of seditious speech in the criminal courts reflected official insecurities, producing a series of 'control waves' by which, with a mixture of persuasion and intimidation, vocal political opposition was stifled.<sup>43</sup> Political conflict and change were both the cause and the consequence of the rise and fall of sedition, therefore, and as a result the seventeenth century might be termed with little exaggeration the golden age of seditious speech.

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## NOTES

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2. C. Mazzio, ‘Sins of the Tongue in Early Modern England’, *Modern Language Studies*, XXVIII, (3/4) (Autumn, 1998), 93-124.
3. Ellen Meiksins Wood and Neal Wood, *A Triumph of Seditious: Political Theory and the Rise of Capitalism, 1509-1688* (1997); Samuel Rezneck, ‘Constructive Treason by Words in the Fifteenth Century’, *Am.Hist.Rev.*, XXXIII (3) (1928), 544-552; Roger B. Manning, ‘The Origins of the Doctrine of Seditious Libel’, *Albion*, XII (2) (1980), pp. 99-121, p.99; see also Philip Hamburger, ‘The Development of the Law of Seditious Libel and the Control of the Press’, *Stanford Law Review*, XXXVII (1985), 661-765; Debora Shuger, *Censorship and Cultural Sensibility: The Regulation of Language in Tudor-Stuart England* (Philadelphia, PA, 2006), p.80 on the shift to ideology.

4. Manning, *Albion*, XII. For Coke, see *The Reports of Edward Coke Kt*, 6 vols, eds J.H.Thomas and J.F. Fraser (1826), vol.III, pp.254-6; William Hudson, *A Treatise on the Star Chamber*, written before 1635, in *Collectanea Juridica* vol.II, pp.100-4, p.103; *The Works of John Selden* (1726), vol. III, pp.1938-54 (case of 1628).
  
5. Cressy, *Dangerous Talk*, p.237, and pp.54-8 and 62-4 (legislation); Richard Burn, *The Justice of the Peace and Parish Officer*, 10th Ed., 4 vols (London: H. Woodfall and W. Strachan, 1766), vol.III, pp.93-6 and vol.IV, pp.123-4; also Joel Samaha, 'Gleanings from Local Criminal-Court Records: Sedition among the "Inarticulate" in Elizabethan Essex', *Journal of Social History*, VIII (4) (1975), 61-79; Adam Fox, 'Ballads, Libels and Popular Ridicule in Jacobean England', *Past and Present*, CXLV (1994), 47-83; Alastair Bellany, 'The Embarrassment of Libels: Perceptions and Representations of Verse Libelling in Early Stuart England', in Peter Lake and Steven Pincus eds, *The Politics of the Public Sphere in Early Modern England* (Manchester, 2009), pp.144-67.
  
6. Shuger, *Censorship and Cultural Sensibility*, pp,71-2.
  
7. M. Lindsay Kaplan, *The Culture of Slander in Early Modern England* (Cambridge, 1997), p.33; *Decree of the Star Chamber Concerning Printing* (1637); Randy Robertson, *Censorship and Conflict in Seventeenth-Century England: The Subtle Art of Division* (Pennsylvania, 2009); Shuger above; Nigel Wheale, *Writing and Society: Literacy, Print and politics in Britain 1590-1660* (1999), pp.67-8; on Star Chamber cases involving sedition outside the printed word, see Alastair Bellany, 'Railing Rhymes Revisited: Libels, Scandals, and Early Stuart Politics' *History Compass*, V/IV (2007), 1136-79, and 'Singing Libel in Stuart England: The Case of the Staines Fiddlers, 1627', *The Huntington Library Quarterly*, LXIX (1) (2006), 177-93; Adam Fox, 'Rumour, News and Popular Political Opinion in Elizabethan and Early Stuart England' *The Historical Journal*, XL (3) (1997), 597-620; C.W.

Brooks, *Law, Politics*, p.178.

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10. Northumberland Archives (henceforth NLA), QSI/4/12, 13, 14, 18, and 19 Michaelmas 1677, both true bills, but without any record of outcomes. See also Peter Rushton, 'Women, Witchcraft and Slander in Early Modern England: Cases from the Church Courts of Durham, 1560-1675', *Northern History*, XVIII, (1982), 116-132.
  
11. Wall, *Power and Protest*, p.102 and Henrik Langelüddecke, "'Patchy and Spasmodic'?: The Response of Justices of the Peace to Charles I's Book of Orders', *English Historical Review*, CXIII (454) (1998), pp. 1231-1248.
  
12. Tyne and Wear Archives (TWA), MF300, Newcastle upon Tyne QS Order Book 1691-1719, unpaginated, Cockburn, 18 November 1706 and Watson, 29 January 1705/6; see also John Anderson, 20 August 1707; NLA, QSO/2 f.50 (Matthew Armstrong).
  
13. J.C. Atkinson, *Quarter Sessions*, vol.III, (London: 1885 for the North Riding Record Society), p.270 (1626/7), and vol. VII p.75, Thirsk, 28 April 1685 and vol. VIII, pp.162-3, 28 July 1719. Edmund Tew, *The Justicing Notebook of Edmund Tew, 1750-1764*, Gwenda Morgan and Peter Rushton eds (Surtees Society vol.XXV, Woodbridge, 2001), p.72.

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15. The National Archives (TNA) PRO, ASSI 44/13 1665; John Sixton of Bowes CL, oculist; on malice, see Shuger, *Censorship and Cultural Sensibility* , p.120 and 130; TNA: PRO, ASSI 44/32 (1684).
  
16. H. Gee, ‘The Derwentdale Plot, 1663’, *TRHS*, XI (1917), 125-142; Raine, *Depositions*, pp.40; 242; 296 and 273).
  
17. Raine, *Depositions*, pp.40; 242; 296 and 273.
  
18. NYCRO MF100, October 1669, Richard Warne in contempt of the justices, and April 1672, a man and his wife speaking in contempt of the authority of a Whitby pilot; Wall, *Power and Protest*, p.139.
  
19. Shuger, *Censorship and Cultural Sensibility*, pp.37-8, commenting on Adam Fox *HJ*, XL.
  
20. J. Raine, *Depositions*, pp.3-4 (25 January 1640-1), p.39 (January 1650/1); see also pp.39-40 George Holroyd, clerk, for a seditious sermon in the same year; p.238-9; Shuger *Censorship and Cultural Sensibility*, pp.30-1 and 52-3 and Tim Harris, ‘The Bawdy House Riots of 1668’, *The Historical Journal*, XXIX (3) (1986), 537-556.
  
21. Raine, *Depositions*, p.268, 19 Feb 1685, case against Peter Rayning; Raine, *Depositions* pp.273-4, and 277-8 (for the ‘What news?’ and quotation); J.C. Atkinson,

*Quarter Sessions*, vol.V, pp.91-2.

22. Wall, *Power and Protest in England*, p.13.
23. Atkinson, *Quarter Sessions* vol. V, p.92; not g. (1652) ; Atkinson, *Quarter Sessions* vol.VI (London: 1888) p.18, Richmond, 18 Jan 1659, Robert Myles of Marsk, gentleman.
24. Atkinson, *Quarter Sessions*, vol.VI p.42, Thirsk, 8 Oct 1661, 42-3; DRO Q/S/OB/2, p.122, Jabez Waller.
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26. Atkinson, *Quarter Sessions*, vol.VII, p.12, Richmond, 23 July 1673.
27. Atkinson, *Quarter Sessions*, vol. 7, p.77, 14 July 1685; ASSI 44/35, George Jackson of Swinton, Yorks, yeoman; p.97, 16 July 1689; pp.98, 30 July 1689; p.108, 29 April 1690 and p.154, 13 July 1695.
28. Atkinson, *Quarter Sessions* vol. VII p.108, 29 April 1690 and p.142, 9 Jan 1694; p.157 21 April 1696.
29. NA: PRO, ASSI 44/37 – 1689; Pauline Croft, ‘Libel, Popular Literacy and Public Opinion in Early Modern England’, *Historical Research*, LXVIII (167) (1995), 266-85, p.270; on the 1690s economy, see A.B. Appleby, ‘Grain Prices and Subsistence Crises in England and France, 1590-1740’, *Journal of Economic History*, XXXIV (4) (1979), 865-887, pp.877-79.

30. Raine, *Depositions*, pp.118-9, John Lyley of Bradford, seditious words, in March 1663/4; Raine, *Depositions* p.95, Charles North, gentleman, 8 August 1662.
31. TWA MF300 - QS Order Book 1691-1719, *unpaginated*, 5 and 27 October 1715; 9 and 13 February 1715/6 (24 men), 11 June 1716 (11 men); 13 June and 10 July; Atkinson, *Quarter Sessions*, vol. VII, p.243, Helmsley, 10 Jan 1716, a Yarm gentleman. See L. Gooch, *The Desperate Faction? The Jacobites of North-East England, 1688-1745* (Hull, 1995).
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33. NA: PRO, ASSI 45/23/2/101B-F, John Shearer Newcastle Assizes 1746; NA: PRO, ASSI 45/23/2/103C; NA: PRO, ASSI 45/23/4/16B-C, 1748 (Northumberland); NA: PRO, ASSI 45/24/4/109 1752 Northumberland warrant to arrest one Radcliffe; case of Timothy Cecilion, NA: PRO, SP 36/136/1; fols.3, 4 and 30, warrant of discharge; all abbreviations have been spelled out. For the politics of Maria Theresa, the 'Queen of Hungary', see Jeremy Black, *Parliament and Foreign Policy in the Eighteenth Century* (Cambridge, 2010), pp.76 and 171.
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38. *The Gentleman's Magazine*, vol. VI, for 1736 for example (1737).
39. NA: PRO, SP 54/41/13A [State papers, Scotland]. The spread of pamphlets from England to Ireland had been a problem in James II's reign in the 1690s: see T. C. Barnard, 'Athlone, 1685: Limerick, 1710: Religious Riots or Charivaris?', *Studia Hibernica* XXVII (1993): 68-69.
40. Old Bailey online, electronic search 1 September 2010; Middlesex, *Calendar of Sessions Books, 1689 to 1709*, by W. J. Hardy (Westminster: 1905); Atkinson, *Quarter Sessions*, vol.V: 1887; VI: 1888; VIII: 1889, and NYCRO survey of QSM Minutes Books

(MF 98, 99, 100, 101, 102) and QSB indexes, 1661-1733; *Abstract of the Orders made by the Court of Quarter Sessions for Shropshire, vol.1, 1638-1709*, edited by R. Lloyd Kenyon (Shropshire: no date), three in 1688-9, then one in 1716; Welsh Great Sessions, see [http://www.llgc.org.uk/sesiwn\\_fawr/index\\_s.htm](http://www.llgc.org.uk/sesiwn_fawr/index_s.htm) , accessed 3 September 2010; Sharon Howard, 'Crime, Communities and Authority in Early Modern Wales: Denbighshire, 1660-1730' (Unpublished Ph.D., University of Wales, Aberystwyth, 2003), pp. 152 ftn 41 and 153.

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43. Jason Ditton, *Contrology: Beyond the New Criminology* (Houndmills, Basingstoke, 1979); Shoemaker, *Past and Present*, CLXIX. Office of Public Sector Information, at [http://www.opsi.gov.uk/acts2009/ukpga\\_20090025\\_en\\_6](http://www.opsi.gov.uk/acts2009/ukpga_20090025_en_6) accessed 1 March 2010, now at <http://www.legislation.gov.uk/ukpga/2009/25/section/73> accessed 24 January 2015, Coroners and Justice Act 2009 (c.25), section 73 'Abolition of common law libel offences etc.', sedition, seditious libel, defamatory and obscene libel.