

Mankind's Participation in a Culture of Defamation

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MERCY: Wyrschepyll sofereyns, I have do my propirté:

Mankynd ys deliveryd by my faverall patrocynye.

God preserve hym fro all wyckyd captivité

And send hym grace hys sensuall condicions to mortifye!

Now for Hys love that for us receyvdy hys humanité,

Serge your condicyons wyth dew examinacion.

Thynke and remembyr the world ys but a vanité.

Mankind, 903–909.¹

At the close of the play, *Mankind*, performed during the Shrovetide of 1471, the character Mercy explicitly conflated the play world and the real world by entreating the provincial audience to examine their personal moralities with the lines above. Since the performance had come to its end and Mercy had completed his task of delivering the play's eponymous protagonist, Mankind, from eternal damnation, all that was left to do was to remind the audience that they needed to apply this exemplar to their own moral 'condicyons' (*Mankind*, 908). They must search and examine themselves, think and remember that the world they lived in was as full of 'vanité' (*Mankind*, 909) as the allegorical play world in which they had just been immersed. Scholars have suggested that the play was performed either in a

The research for this article is part of a larger, on-going study of the performance of defamation in the medieval and early modern periods by the author and as such has been presented at several conferences. I would like to thank all those who have listened to the ideas in development and offered advice, but I would particularly like to thank Professor John J. McGavin, Professor Meg Twycross, Professor Sarah Carpenter and Dr Liz Oakley-Brown for their help at various stages of this work.

¹ *Mankind* edited Kathleen M. Ashley and Gerard NeCastro (Kalamazoo: Medieval Institute Publications, 2010). Subsequent references are to this edition and line numbers are given in parentheses.

guildhall or in a church, certainly this performance took place somewhere in East Anglia close to either Bishop's Lynn or Cambridge and it was thus to this real-world context that Mercy gestured when, with his final lines, he elided drama and reality.²

The closing epilogue above is just one example of the play's distinctive ability to make its audience complicit in the action of the drama by bridging the divide between the play world and the real world; other well-known examples include the Christmas song and the request for payment from the audience for the devil, Titivillus, to appear.³ However, Mercy's closing remarks, like so many other moments in the play, reward closer inspection, for they may be making a more pointed accusation than at first appears. If, as many scholars have noted, the play's often-quoted line 'O ye soverens that sytt and ye brothern that stonde ryght uppe' (*Mankind*, 29) distinguishes between the different social statuses of groups in the audience based on their locations in the playing space,⁴ then it is significant that Mercy's final speech is addressed solely to the 'wyrshpeyll sofereyns' (*Mankind*, 903). Of course, the whole audience was expected to take away a moral lesson from this kind of play and conventional social deference dictated that only superiors be directly addressed.⁵ It is also true that the play uses the term 'sovereigns' more frequently as its default address to the audience as a collective. However, in addition to line twenty-nine's distinction between the

² For the most detailed and convincing narrative of *Mankind's* dramatic context see John Marshall "'O ye Souerens that Sytt and ye Brothern that stonde ryght wppe": Addressing the Audience of *Mankind*' *European Medieval Drama 1* (1997) 105–119. See also Kathleen M. Ashley 'Introduction' in *Mankind* edited Kathleen M. Ashley and Gerard NeCastro (Kalamazoo: Medieval Institute Publications, 2010); Jessica Brantley and Thomas Fulton 'Mankind in a Year without Kings' *Journal of Medieval and Early Modern Studies* 36.2 (2006) 321–354; Lawrence M. Clopper 'Mankind and Its Audience' *Comparative Drama* 8 (1974) 347–355; John A. Geck "'On Yestern Day, in Feverere, the Yere Passeth Fully": On the Dating and Prosopography of *Mankind*' *Early Theatre* 12.2 (2009) 33–56; W. K. Smart 'Some Notes on *Mankind* – (Continued)' and 'Some Notes on *Mankind* (Concluded)' *Modern Philology* 14.1 and 14.5 (1916–1917) 45–58 and 293–313.

³ Pamela King 'Morality Plays' in *The Cambridge Companion to Medieval English Theatre* edited Richard Beadle and Alan J. Fletcher (Cambridge: Cambridge University Press, 2008) 235–262, at 246–247; Meg Twycross and Sarah Carpenter *Masks and Masking in Medieval and Early Tudor England* (Aldershot: Ashgate, 2002) 251.

⁴ Marshall 'Addressing the Audience'; Clopper 'Mankind and Its Audience'; John J. McGavin and Greg Walker *Imagining Spectatorship: From Mysteries to the Shakespearean Stage* (Oxford: Oxford University Press, 2016) 18; Ashley, *Mankind*, footnote 29.

⁵ Marshall 'Addressing the Audience' 191.

‘soverens’ who were seated and the ‘brothern’ who stood at performances, a later reference to the audience as ‘brother[s]’ (*Mankind*, 631) occurs when Nowadays pushes through some audience members as he re-enters the stage. The audience members that the vices would need to push through on re-entry were those same standing spectators distinguished previously as ‘brothern’. Moreover, in the play world, Mercy addresses Mankind as ‘brother’ and Mankind significantly is not an elite figure but is a farmer who tills his own lands, he is explicitly a representative of the rural labouring poor.⁶ Therefore, if the epilogue’s epithet ‘sofereyns’ distinguishes the upper classes from the ‘brothern’, then this closing address acts less as a plea for the general condition of mankind and more as a veiled accusation that those who sit, the nobles and their guests, in particular needed to beware of the vanities of their worldly conditions. Were these audience members, more so than the others watching the play, those whose ‘sensuall condicions’ (*Mankind*, 906) particularly required ‘dew examinacion’ (*Mankind*, 908)? This reading of the play’s epilogue relies on its performance context – it only functions as a coded accusation of the need for moral reform in certain people *if* it is directed only at one identifiable group amongst a larger, socially diverse body of spectators.

This article argues that another section of the play, lines 490–520, makes a similarly allusive accusation of vice in socially superior members of the local society (although not necessarily those present in the audience), which relies on performance context, the bridging of the play world and the real world, and the drawing of distinctions between identifiable groups of people. In lines 490–520 the three ‘distraction’ vices, New Guise, Nowadays, and Nought, name a group of real, local men whom they claim they will visit when the devil, Titivillus, asks them to go abroad and steal horses or whatever else they can. In this article, I argue that this section of the play aims allusively to slander the men that it names whilst

⁶ Ashley, ‘Introduction’.

deliberately and carefully engaging with late medieval practices surrounding the offence of defamation. Being dependent upon allusive, non-literal readings of this scene based on making connections between the play and a defamatory tradition, some of my interpretations in this article are necessarily speculative; however, this approach to the naming episode in the play is not without scholarly precedent and I endeavour to advance a convincing argument as to the plausibility of such interpretations.⁷ This episode in the play, I argue, demonstrates familiarity with the existence of two separate legal contexts for defamation: the moral offence tried in ecclesiastical courts and the criminal offence of *scandalum magnatum* (defamation of the monarch or magnates) tried in secular, royal courts. The play deploys its own, and presumably its audience members', familiarity with these legal contexts in order to distinguish between those men whom it is safe to accuse publicly of vice and those whose social status and official roles would make the three N's dub them 'noli me tangere' [Touch me not (John: 20:17)] (*Mankind*, 512).

It has been convincingly argued that the play was performed during the politically unsettled seven months of the Lancastrian Readeption when Henry VI temporarily reclaimed the throne from Edward IV.⁸ It has also been suggested, therefore, that the official roles and political allegiances of those high profile men named in the play would recently have been temporarily changed making their position in the context of national politics perhaps more prominent than usual in local consciousness at the time of performance.⁹ Bearing this in mind, the naming section of the play, just like the mock court record in lines 686–693, deliberately exploits the political disruption of the real world context in which it was performed. In light of the analysis of this section of the play in a context of defamation,

⁷ For equally metaphorical readings of the episode see Eleanor Johnson, *Staging Contemplation: Participatory Theology in Middle English Prose, Verse, and Drama* (Chicago: University of Chicago Press, 2018) 169–190; Paula Neuss 'Active and Idle Language: Dramatic Images in *Mankind*' in *Medieval Drama* edited Neville Denny (London: Edward Arnold, 1973) 41–67.

⁸ Brantley and Fulton 'A Year without Kings'.

⁹ Geck 'Dating and Prosopography' 49. Geck reads the play as 'overtly political to its original audience'.

however, I would argue that its opportunistic use of national disruption in official, governmental roles is aimed more at influencing local, provincial, communal relations than it is at satirising political allegiances at a national level. As well as rereading the naming section of the play and contextualising it in the late medieval culture of defamation as a legal offence, this article considers the impact of the section on the individual identities and communal relationships of its spectators.

In addition to the real world implications of the naming section, in engaging with slander the episode also contributes to what has been seen as the play's wider allegorical concern with the danger of words, and especially idle words, in the *psychomachic* battle for mankind's soul;¹⁰ the section plays with the supreme sinful and criminal use of words: defamation. This article will place the defamation episode within the play's broader thematic concern over the importance of the battle of words in mankind's fight between good and evil, especially considering the significance of the play's horse-stealing metaphor. The naming section functions as an accusation of vice in local people where socially superior men in official roles are designated as morally suspect but untouchable in terms of reputation on pain of hanging for defamation. Understanding the naming section in this way allows a reinterpretation of the direction of the play's final lines only to the 'wyrschepyll soferneys'; a final allusive suggestion of worldly vanity in the upper echelons of local society then appears as the ultimate expression of the naming section's accusations of vice under the guise of a socially reverent epilogue.

The play *Mankind*, preserved in the Macro manuscript alongside the moralities *Wisdom* and the *Castle of Perseverance*, offers tantalizing if inconclusive evidence of early

¹⁰ For the play as particularly concerned with good and evil words see Kathleen M. Ashley 'Titivillus and the Battle of Words in *Mankind*' *Annuaire Mediaevale* 16 (1975) 128–50; Neuss 'Active and Idle Language'.

dramatic conditions.¹¹ One of the most intriguing sections of the text, both in this regard and for the purposes of this article, is contained in lines 490–520; here the three distraction vices, New Guise, Nowadays, and Nought, name a group of real, local men, historically identified by W. K. Smart, and their places of residence in the region.¹² Before this point in the play, the character Mischief, who is the play’s principal vice, disrupts the conventional relationship established between Mankind and Mercy and is aided by New Guise, Nowadays, and Nought to tempt Mankind away from his life of diligent labour. New Guise, Nowadays, and Nought, however, fail in their first attempt at corrupting Mankind and instead receive a beating from his trusty spade for their endeavours. In reaction to this beating, the three worldlings summon a new devil, Titivillus, traditionally the devil of idle words who waits in the church to collect linguistic transgressions in his bag or in written form on his scroll ready for the Last Judgment, to aid them in their mischief.¹³ At this point, the three vices directly call upon the audience to pay for Titivillus to appear and presumably collect funds from audience members.¹⁴ Titivillus then appears and warns the audience to beware of his ‘abyll felyschyppe’ (*Mankind*, 477) who are ready to steal their horses. Having heard the three vices’ complaints at their prior beating from Mankind, Titivillus speaks these lines:

TITIVILLUS: [*to the audience*] Now I say yet ageyn, *caveatis!*

Her ys an abyll felyschyppe to tryse hem out of yowr gatys. [*steal them (your horses)*]

Now I sey, New Gyse, Nowadays, and Nought,

Go and serche the contré, anon yt be sowghte,

¹¹ See scholarship in note two plus Richard Beadle ‘Monk Thomas Hyngham’s Hand in the Macro Manuscript’ in *New Science Out of Old Books: Studies in Manuscripts and Early Printed Books in Honour of A. I. Doyle* edited Richard Beadle and A. J. Piper (Aldershot: Scholar Press, 1995) 315–341; Richard Axton *European Drama of the Early Middle Ages* (London: Hutchinson University Library, 1974); Gail McMurray Gibson ‘The Play of Wisdom and the Abbey of St. Edmund’ *Comparative Drama* 19 (1985) 117–135 and *The Theater of Devotion: East Anglian Drama and Society in the Late Middle Ages* (Chicago: University of Chicago Press, 1989); and Peter Happé ‘The Macro Plays Revisited’ *European Medieval Drama* 11 (2008) 37–57.

¹² Smart ‘Notes (Continued)’ & ‘Notes (Concluded)’.

¹³ For an account of Titivillus, or Tutivillus, and his tradition, see Lorna Hutson *The Invention of Suspicion: Law and Mimesis in Shakespeare and Renaissance Drama* (Oxford: Oxford University Press, 2007) 23–31.

¹⁴ Clopper ‘*Mankind* and Its Audience’ 347.

Summe here, summe ther, what yf ye may cache owghte.

Yf ye fayll of hors, take what ye may ellys . . .

Forth, and espye were ye may do harme.

Take William Fyde, yf ye wyll have ony mo.

I sey, New Gyse, wethere art thou avysyde to go?

Mankind, 490–495 & 502–504.

To which the vices reply:

NEW GYSE: Fyrst I shall begyn at Master Huntyngton of Sauston,

Fro thens I shall go to Wylliam Thurlay of Hauston,

Ande so forth to Pycharde of Trumpyngton.

I wyll kepe me to thes thre.

NOWADAYS: I shall goo to Wylllyham Baker of Waltom,

To Rycherde Bollman of Gayton;

I shall spare Master Woode of Fullburn,

He ys a *noli me tangere*. [Touch me not (John: 20:17)]¹⁵

NOUGHT: I shall goo to Wylllyam Patryke of Massyngham,

I shall spare Master Alyngton of Botysam

Ande Hamonde of Soffeham,

For drede of *in manus tuas* — qweke. [Into Thy hands (Luke 23:46)]

Felous, cum forth, and go we hens togethyr.

Mankind, 505–517.

¹⁵ Smart demonstrates that this phrase is applied to Wrath and Arrogance elsewhere by Lydgate and Gower (Smart 'Notes (Continued)' 50).

Smart and other scholars have since uncovered a great deal of prosopographical detail to identify those named in this passage.¹⁶ Some of those named were prominent, wealthy residents who had held official positions associated with local and national courts, and all were from clusters of locations to the east of Cambridge (Fulbourn, Bottisham, and Swaffham), to the south of Cambridge (Sauston, Hauxton, and Trumpington) and Norfolk (Walton, Gayton, and Massingham). In summary, Alyngton of Botysam is known to have been a Justice of the Peace frequently between 1461 and 1470 and again in 1473. Alyngton was also MP for Cambridgeshire and speaker of the House of Commons in 1472 and 1478. In 1479, he was a member of the Privy Council. Woode of Fullburn was a Justice of the Peace from November 1471 until 1479 and was associated with Alyngton and others in positions of authority via joint commissions before 1471. Hamonde of Soffeham was escheator for Cambridgeshire and Huntingdonshire from 1468–1469 and also closely associated with other authority figures in the locality. Significantly, these three men, Alyngton, Woode, and Hamonde, are those that the vices say they will ‘spare’. For the other men, the records are less extensive but Wyllyham Baker of Waltom was certainly of a landed family by evidence from 1495 and Huntynghon of Sauston was sheriff for Cambridgeshire and Huntingdonshire later in the century from 1479–1480. Pycharde of Trumpyngton was probably a member of a Cambridgeshire gentry family, but Wyllyam Thurlay of Hauston and Wyllyam Patryke of Massyngham appear in only once in extant records with little telling information. No extant information has yet been discovered for Rycherde Bollman of Gayton and William Fyde has only tentatively been linked with the location of Waterbeach, Cambridgeshire.¹⁷

¹⁶ Smart ‘Notes (Continued)’ & ‘Notes (Concluded)’; Geck ‘Dating and Prosopography’; Marshall ‘Addressing the Audience’.

¹⁷ Geck ‘Dating and Prosopography’ and Smart ‘Notes (Continued)’.

This information has been crucial to our knowledge of the play's context; at first, it was used by Smart to locate the play's performance geographically and by Bevington to suggest that it may have been a touring production moving between the clusters of locations named.¹⁸ The biographical information has also been used to corroborate the dating of the play. Most recently, the passage has been viewed as implying political support for the exiled king, Edward IV, by tracing the extended court connections of those that the vices avoid and, more broadly, it has been seen as a marker of the legal landscape for the play's contemporary society expressing a tension between ecclesiastical absolution and secular legal systems.¹⁹ But what if we were to read the naming episode as an early example of performed libel, or slander, in the legal context of defamation?²⁰ What if the passage seeks to ruin the good reputations of the men it names by accusing them of vice through allusive association with each of the worldlings? And what if its distinctions are based on the technical legalities of defaming different groups of people? In a play that is most chiefly concerned with the danger of idle words, this episode appears to have been intentionally designed to function as

¹⁸ Smart 'Notes (Concluded)'; David Bevington *From Mankind to Marlowe: Growth of Structure in the Popular Drama of Tudor England* (Cambridge, MA: Harvard University Press, 1962) 15.

¹⁹ For a reading of this section as political satire in support of those connected with Edward IV see Geck 'Dating and Prosopography'. John Marshall makes a similar case for reading aspects of *Wisdom* as political satire of an anti-Lancastrian bent in "'Fortune in the Worldys Worschyppe": The Satirising of the Suffolks in *Wisdom*' *Medieval English Theatre* 14 (1992) 37–66. For a reading which locates tensions between common law procedures and ecclesiastical penitence in this episode based on the worldlings' use of their 'neck-verse' to evade secular legal repercussions see Hutson *The Invention of Suspicion* 12–63.

²⁰ I use both of the terms, libel and slander, deliberately in this instance because I wish to suggest that there is a relationship between early modern performed libels and this earlier instance of performed defamation. Although during both the medieval and early modern periods the terms libel and slander were not legally separated into written or spoken attacks as in our modern understanding, the term slander is more appropriate for the spoken *Mankind* instance because the early modern understanding of the term 'libel' is a much more specific and precisely defined one. Scholars have argued that although it was not statutory, the distinction between spoken and written attacks as those labelled slander and libel respectively appears to have been widely observed from an early stage. On the evidence of Star Chamber records for libel cases during the reign of James I, I do not believe such a clear distinction to have been widely observed in practice. However, hereafter the terms slander or defamation will be used in reference to the *Mankind* instance whereas the term libel will be used to refer to early modern examples. For further work on these later examples of libel see Adam Fox 'Ballads, Libels and Popular Ridicule in Jacobean England' *Past and Present* 145 (1994) 47–83 and *Oral and Literate Culture in England 1500–1700* (New York: Oxford University Press Inc., 2000), especially 299–334; for their performance qualities see Clare Egan "'Now fearing neither friend nor foe,/ To the worldes view these verses goe": Mapping Libel Performance in Early-Modern Devon' *Medieval English Theatre* 36 (2014) 70–103. For a concise explanation of the early modern legal definition of libels see David Ibbetson 'Edward Coke, Roman Law, and the Law of Libel' in *The Oxford Handbook of English Law and Literature, 1500–1700* edited Lorna Hutson (Oxford: Oxford University Press, 2017) 487–506.

defamatory verse, to rob the men named of their communal reputations through the performative power of words. It also appears to act as a commentary upon the legal punishment of such offences, which distinguished between the slander of those in public office and that of private individuals. The explicit association of defamation with the performance of communal morality in *Mankind* sheds new light on the ways in which the early dramatic tradition engaged with its socio-legal context. Furthermore, this reading of *Mankind* establishes a historic precedent for the early modern trend of performed libels and furthers our understanding of how such libels might have functioned in provincial communities.

Ostensibly, Titivillus initially talks of the ‘abyll felyschyppe’ (*Mankind*, 477) going abroad to steal men’s horses, but his command in lines 492–495 is actually rather vaguer: ‘Go and serche the contré . . . what yf ye may cache owghte. Yf ye fayll of hors, take what ye may ellys’. And again a few lines later: ‘Forth, and espye were ye may do harme’ (*Mankind*, 502). Whilst the satirical potential of this episode has been highlighted, scholars have tended to read this naming joke straightforwardly as indicating those who will be the targets of theft.²¹ They read the distinction between those in positions of authority (Master Woode, Master Alyngton, and Hamonde) who the vices claim they will not visit and the others (Master Huntynghon, Wylliam Thurlay, Pycharde, Wylllyham Baker, Rycherde Bollman, and Wylllyam Patrycke) that they will thieve from as an indication that one would not wish to steal from the former group for fear of their authority and social standing resulting in hanging for theft.²² This is an adequate explanation for the episode; its local circumstantiality and reference to individuals in positions of authority as those to be afraid of stealing from provides a coherent, sufficient explanation for the scene. However, if we read this section as

²¹ Geck ‘Dating and Prosopography’ 48 & 52.

²² Geck ‘Dating and Prosopography’ 41 & 48. Marshall describes those who are avoided as being ‘‘spared’ for reasons of judicial authority’ (‘Addressing the Audience’ 193).

slandering the men, then rather than planning actual theft of property, the implication is that Titivillus invites the vices, via their subsequent words, to plunder the good reputations of these men by associating them with the particular vices that name them. Although the legal context of theft from those in authority functions as an adequate explanation for the episode, this need not stop us from positing alternative possible explanations and contexts. What follows here is a thorough consideration of another possible socio-legal discourse in which the episode may participate: the defamatory tradition.

By allusion, then, Master Huntyngton, Wylliam Thurlay, and Pycharde are accused of overindulgence in the latest guise (or fashion), Wylllyham Baker and Rycherde Bollman live too much by the trends of nowadays, and Wylliam Patrycke is held to be nought.²³ In other words, if the abstract vices embodied within the play world were actually to be found anywhere at large in the real world surroundings of the play performance, they would be located causing harm in the domestic affairs of Huntyngton, Thurlay, Pycharde, Baker, Bollman, and Patrycke. Because the audience knew these men from their day-to-day lives, the cumulative effect of the whole episode is that Titivillus occasions a verbal event in which the idle words of the vices do real damage in the world by robbing local men of their good names. These men may already have been accused of similar faults in the real world, or something about their conditions or reputations may have made them particularly easy targets. Either way, both their inclusion in the play world and their implicit association with vice in the real world could cause laughter in the audience. The men's reputations may then either have been materially damaged by the play or, if they had already been subject to this kind of accusation in the real world, the players' use of easy targets may affirm pre-existing opinions through laughter. If the play triggers laughter at prominent local men being ridiculed then those in the audience who laugh would be inadvertently siding with Titivillus

²³ Marshall suggests that in places the text of *Wisdom* similarly 'invite[s] the audience to make a connection between the vices portrayed and the Suffolks' ('The Satirising of the Suffolks' 60).

and his vices.²⁴ I am not suggesting that everybody necessarily would laugh, as no two spectators are the same; however, this in itself might be a means of distinguishing different factions or social classes in the audience from one another based perhaps on who laughs, who frowns in offence, or who fails to react.²⁵

Why, then, if the names spoken by the worldlings allusively connect each man with the vice they represent, would the three N's bother to distinguish between those they will visit and those they will not? After all, those who are to be 'spared' are still named by the vice of which they are supposed to be guilty. If this section is understood in the legal context of defamation during the fifteenth century, rather than that of theft, there is a pressing reason to make this division of names. The laws of defamation that regulated language through the court systems of England underwent radical and fundamental change during the late sixteenth and early seventeenth centuries.²⁶ From its thirteenth-century origins in both ecclesiastical canons and royal statutes the medieval offence of defamation was understood in two distinct forms. When the defamatory action related to the ruin of an individual's reputation by accusation of a crime it was considered to be a moral offence, a transgression of religiously instituted communal norms, and so would be tried in a church court where the punishment at its most severe was excommunication, but in its more usual forms was public apology and penance.²⁷ This moral form of defamation, concerning private individuals, was rooted in the constitution of the English church courts, *Auctoritate Dei Patris*, authorised by the Council of Oxford in 1222, which stated:

²⁴ Meg Twycross and Sarah Carpenter argue that Titivillus draws the audience in as his accomplices elsewhere in the play, making them complicit whilst he tempts Mankind into vice (Twycross and Carpenter *Masks and Masking* 251 (see note 3)). Geck supposes that the episode would occasion laughter from an audience ('Dating and Prosopography' 38).

²⁵ On the 'fluid, corporeal' nature of spectatorship and the resulting cultural power of early drama in this respect see McGavin and Walker *Imagining Spectatorship* 7 (see note 4).

²⁶ R. H. Helmholz *Select Cases on Defamation to 1600* (London: Selden Society, 1985); W. S. Holdsworth *A History of English Law* 17 vols (London: Methuen and Co, Ltd., 1903–1924) 5 205–212; Debora Shuger *Censorship and Cultural Sensibility: The Regulation of Language in Tudor-Stuart England* (Philadelphia: University of Pennsylvania Press, 2006); Ibbetson 'Coke, Roman Law, and Libel' 487–506.

²⁷ Helmholz *Select Cases* xiv–cxi.

We excommunicate all those who, for the sake of hatred, profit, or favour, or for whatever other cause, maliciously impute a crime to any person who is not of ill fame among good and substantial persons, by reason of which purgation at least is awarded to him or he is harmed in some other manner.²⁸

This ruling specifies that a crime must have been maliciously imputed but in ecclesiastical terms this included sins rather than just secular crimes.

Helmholz notes that during the thirteenth century local courts, as well as ecclesiastical courts, exercised jurisdiction over this kind of defamation, but that by 1400 they had lost this jurisdiction almost completely to the ecclesiastical courts.²⁹ Helmholz then explains that after 1485, defamation cases which would usually all have been heard in church courts were beginning to be separated into those which alleged spiritual crimes and those which alleged secular crimes. Around this time, those alleging secular crimes were being moved to secular courts by royal statute so that cases were heard in both ecclesiastical and royal courts during the sixteenth century; this in turn led to a revival of local court defamation cases in the sixteenth century.³⁰ At the time of *Mankind's* performance, though, the moral offence was still largely the preserve of the ecclesiastical courts, although some discussion of the separation of secular and spiritual slanders must have been in the early stages of existence.

The other, criminal form of medieval defamation was legally termed *scandalum magnatum*, it related to the slander of the monarch and his magnates and was based on the Statute of Westminster from 1275:

Whereasmuch as there have been oftentimes found in the country tellers of tales whereby discord or matter of discord hath many times arisen between the King and

²⁸ Helmholz *Select Cases* xiv.

²⁹ Helmholz *Select Cases* lviii.

³⁰ Helmholz *Select Cases* xliii–xliv & lxiv–lxv. See also R. H. Helmholz 'Canonical Defamation in Medieval England' *The American Journal of Legal History* 15.4 (1971) 255–268.

his People or Great Men of this Realm, for the Damage that hath and may thereof ensue; it is commanded, That from henceforth none be so hardy as to tell or publish any false News or Tales whereby discord or matter of discord or slander may grow between the King and his People or the Great Men of the Realm.³¹

False news or scandalous rumours which targeted the monarch or their magnates were understood as tending to the destruction of the kingdom and so could be tried in the secular royal courts where they were punishable by death as a form of sedition.³² By the end of the fifteenth century, there is evidence that the category of *scandalum magnatum* in secular courts was being extended to include defaming those in local positions of authority as slandering government.³³ There is also evidence that during the fifteenth century, the only defamation cases tried in secular common law courts were those which constituted a form of contempt against town officials whilst all other cases of personal individual insult followed the first route to justice in the church courts.³⁴

Hence, when New Guise, Nowadays, and Nought label those men who had held, or were very close to holding, public office (as Justices of Peace and an Escheator) as untouchable for fear of being hung and distinguish them from those that they will visit, none of whom held official, local positions of authority or were connected to government office, the legal distinction between an individual moral offence of defamation and that of *scandalum magnatum* provides a very fitting explanation.³⁵ If trial for the crime of theft was what the three vices feared, in reality they should expect the same legal repercussions whomever it was they were stealing from, albeit perhaps more immediately if they were to

³¹ Ibbetson 'Coke, Roman Law, and Libel' 490.

³² Ibbetson 'Coke, Roman Law, and Libel' 490; Theodore F. T. Plucknett *A Concise History of the Common Law* (Boston: Little, Brown and Co., 5th edition 1956) 485–488.

³³ Helmholz *Select Cases* lxxvii–lxxviii; John C. Lassiter 'Defamation of Peers: The Rise and Decline of the Action for Scandalum Magnatum, 1497–1773' *The American Journal of Legal History* 22.3 (1978) 216–236.

³⁴ Helmholz *Select Cases* lx–lxi.

³⁵ Geck 'Dating and Prosopography', building on Smart 'Notes (Continued)', evidences that those to be avoided held public offices whereas those who were to be visited by the vices did not.

steal from a Justice of the Peace who could make sure that trial and punishment were swiftly conducted. However, if the real crime for which the three vices feared hanging was defamation under the Statute of Westminster's offence of *scandalum magnatum*, then they would have very good reason to distinguish between what the law called 'private' persons and those who held positions of governmental authority.

There is sufficient evidence from the period to demonstrate that these defamation offences and their legal distinctions were part of common consciousness. As early as 1418, a dispute between the Mayor, burgesses, and commonality and a group of scholars from the University of Cambridge took a distinctly similar form. The Mayor, burgesses, and commonality of Cambridge complained to the King's council that on the vigil of St. James the Apostle scholars had terrorised the town overnight and had 'affixed on the mayor's gate a certain schedule, to his great scandal, and so that the mayor and burgesses dared not preserve the peace'.³⁶ The schedule that the scholars were alleged to have attached to the Mayor's gate is a 32 line verse which names its targets in turn, ridicules them, and then warns them to expect further violence. The verse opens

Looke out here Maire with thie pilled pate,

And see wich a scrowe is set on thie gate;

Warning thee of hard happes,

For and it lukke thou shalt have swappes.³⁷

It goes on to ridicule 'the hosteler Bambour, with his goat's beard' and 'that harlot Hierman, with his calves snowte' whom it threatens with equally brutal beatings; the verse prays to

³⁶ G. G. Coulton *Social Life in Britain from the Conquest to the Reformation* (Cambridge: Cambridge University Press, 1918) 66.

³⁷ C. H. Cooper *Annals of Cambridge* 5 vols (Cambridge: Warwick and co., 1842) I 159-163, at 161.

‘God Almyth’ that ‘whatsoever zowe sppure,/ That metche sorowe to him bedith,/ And evill mote he fare’ and ends ‘Amen, quoth he, that beshrewed the Mair’s very visage’.³⁸ This case involved a mocking verse that ridiculed its targets by naming them and their associated moral flaws, whilst also threatening them with violent action – in this case not theft, but bodily harm. It also placed a caveat of evil wishing on those who were spared by God from the night’s violence and ridiculing threats. Because the verse and St. James’ night activities, which were referred to as ‘jetting’ or night walking in the records, targeted the civic officials of the town, the Mayor and burgesses were entitled to complain to the King’s council of the slanders.

A later example, that of William Collyngbourne, in 1484, demonstrates quite how seriously the scandal of monarchs and magnates could be taken. For his famous couplet ‘The Cat, the Rat, and Lovel our dog/ Rule all England under a hog’ (which referred to Richard III and three of his counsellors), posted on the doors of St. Paul’s, Collyngbourne was notoriously

Put to the moost cruell deth at the Tower Hylle, where for hym were made a newe payer of galowes. Vpon the whiche, after he hadde hangyd a shorte season, he was cutte downe, beygne alyue, & his bowellys rypped out of his bely, and cast into the fyre there by hym, and lyued tyll the bowcher put his hande into the bulke of his body.³⁹

³⁸ Cooper *Annals of Cambridge* 1 161.

³⁹ R. M. Wilson *The Lost Literature of Medieval England* (London: Methuen & Co., LTD., 1952) 194. The event was described in 1516 in Fabyan’s *New Chronicles of England & France* (VIII. 219v.): ‘The Catte the Ratte And Louell our dogge Rulyth all Englande under a hogge. The whiche was ment that Catisby Ratclyffe And the Lord Louell Ruled the lande under the kynge’. It also featured in Holinshed’s *Chronicles* (1586) (III. 746) ‘[Richard III executed] a poore gentleman called Collingborne [in 1484], for making a small rime of three of his counsellors, lord Louell, sir Richard Ratcliffe and sir William Catesbie. The Cat, the Rat, and Louell our dog, Rule all England vnder an hog. Meaning by the hog, the wild boare, which was the Kings cognisance’ (as quoted in *The Oxford Dictionary of Proverbs* edited John Simpson and Jennifer Speake (Oxford: Oxford University Press 5th edition, 2008).

Although this public display of brutality, a hanging made deliberately visible with a newly made gallows erected high on Tower Hill, was after *Mankind's* assumed performance date, it demonstrates how seriously the slander of monarch and magnates could be taken in a roughly contemporary period. It also provides evidence for the connection of this offence with the punishment of hanging in public consciousness.

In addition to these instances of defamation relating to the offence of *scandalum magnatum*, Bryan VanGinhoven has recently provided crucial context for our understanding of defamation as a moral offence in his analysis of *The Booke of Margery Kempe*.⁴⁰

VanGinhoven, quoting Helmholz, significantly notes that the church canon which was used as the basis for the moral offence of defamation was “read out to congregations in England’s parish churches, regularly warning them of the excommunication they would incur if they slandered their neighbours”.⁴¹ VanGinhoven therefore convincingly argues that defamation laws, and the moral offence tried in church courts especially, as well as their consequences were well known at all social levels during this period.

Moreover, in an even more tantalisingly specific possible context for the *Mankind* episode, John Marshall explains that one of the major concerns for the guild whom he argues were responsible for the performance was the regulation of language:

In the St Edmund guild statutes the very first regulation that applies to behaviour, rather than organisation, deals with the punishment to be incurred for speaking maliciously or contemptuously of another member in the presence of the alderman or

⁴⁰ Bryan VanGinhoven ‘Margery Kempe and the Legal Status of Defamation’ *Journal of Medieval Religious Cultures* 40.1 (2014) 20–43.

⁴¹ VanGinhoven ‘Margery Kempe’ 23.

brethren, and is followed by the same fine of vjd for anyone who is ‘rebele of his tonge’ against the alderman.⁴²

Whilst Marshall connects this ordinance generally to the play’s theme of concern over idle words and their consequences, it would seem to me that the guild’s regulation of malicious or contemptuous words in front of an audience argues even more strongly for the naming episode as participating in the wider culture of defamation and its legal technicalities.

It is also worth noting that in this reading of the naming episode, besides the separation of the named individuals into men to avoid and men to spare, one man’s name is set apart: William Fyde. Titivillus himself recommends William Fyde to the worldlings as a suitable companion for their ventures if they would have any more men to go with them. Titivillus, the play’s central devil, naming of a man fit to accompany the vices is, in fact, a more directly defamatory statement than the allusive connection between the men’s names and the vices who name them. We should, then, consider whether this section thus labels both the potential perpetrators (the worldlings and Fyde) and the ‘victims’ of the excursion (the other named men) as the subjects of defamation. Frustratingly, William Fyde, although tentatively connected with a man residing in Waterbeach, Cambridgeshire, has left no further trace of his position or identity. However, if the logic of the association between each specific vice and the men they name is followed, then Titivillus’s naming of William Fyde associates Fyde with the sin of evil or idle words, the sin which Titivillus represents. It also then follows that Titivillus would recommend Fyde as a suitable companion for the defamatory activities that the worldlings are about to engage in. If Fyde is guilty of the sin of evil words then he will be of great help to the worldlings when they steal from or defame other local men.

⁴² Marshall ‘Addressing the Audience’ 195.

In this reading of the episode, Fyde is labelled both as a perpetrator of defamation and made a victim of defamation in that he is defamed for being a defamer. During the medieval period, if somebody brought a case for defamation specifically to an ecclesiastical court and it turned out to be false or malicious then they, initially claiming to be the victim of slander, in fact, became the perpetrators by the false accusation of their would-be opponents. Legally speaking the status of perpetrator and victim in the medieval offence of ecclesiastical defamation were always explicitly and complicatedly tied together; ‘in theory, the positions of plaintiff and defendant could be reversed at any time’.⁴³ This paradox, that the roles of victim or perpetrator in cases of slanderous words were interchangeable dependant on the truth or falsity of the words, reveals the fundamental vulnerability of language to misinterpretation and ‘debasement’. Indeed, Eleanor Johnson stresses that the naming episode in *Mankind* seeks to reveal this very vulnerability of language to its audiences.⁴⁴ Thus, not only does the naming episode distinguish between two separate legal contexts for defamatory acts, the criminal and the moral, it also raises the specific dangers of the ecclesiastical context, which incorporated the reversible and reflexive nature of slander. Again, if the audience knows William Fyde they may be able to judge for themselves whether he is a slanderer or falsely accused by this episode and so a victim of slander; or the episode might sufficiently defame him so as to cause him to be considered a defamer by a local audience. In this reading, the play’s naming episode allows for Fyde, a perpetrator of slanders, and the other men, as the subjects of the vices’ activities, to be defamed in different ways, and it highlights the fundamental linguistic paradox of offences of the tongue.

Of course, the men labelled as ‘to be avoided’ are still named in the play and so the audience understands that if they *were* going to be accused of any kind of vice it would be

⁴³ Lindsay Kaplan *The Culture of Slander in Early Modern England* (Cambridge: Cambridge University Press, 1997) 14–15, see also chapter one ‘The Paradox of Slander’, 12–33.

⁴⁴ Johnson *Staging Contemplation* 181 (see note 7).

that of ‘nowadays’ in Woode’s case and ‘nought’ in the case of Master Alyngton and Hamonde, even if this was technically qualified by their ostensible exclusion. Indeed, the use of the phrase ‘noli me tangere’ to describe Master Woode (*Mankind*, 512) may even have further associations with vice characters: Smart notes that this phrase is applied to Wrath and Arrogance elsewhere by Lydgate and Gower respectively.⁴⁵ In this instance, whilst the vice characters of *Mankind* cannot directly claim Master Woode as one of their own due to his official authority, they can allude to other external examples where the kinds of characters associated with this particular phrase are notorious vices. The episode subtly manipulates the legal specifics of whom one could explicitly slander as a moral offence and whom one could only target in a qualified, defensible way, whilst still achieving its goal of associating all those it names with a particular vice to an informed audience. Geck argues that those named as to be avoided were temporarily out of favour with national politics given their connections to nobles siding with the exiled king Edward and emphasises that traces of the three men not to be visited by the vices disappear from the records during the Readeption.⁴⁶ Perhaps their temporary loss of judicial positions in the changed national situation momentarily exposed them to public ridicule, whilst their previous office-holding would have made them targets to be very wary of publicly humiliating for fear of committing the offence of *scandalum magnatum*; hence they are included in the worldling’s lists, but only in a qualified way.

To understand *Mankind*’s naming episode in this manner – as carrying an allusive, non-literal meaning that links it to the defamatory tradition – is, in essence, speculative; the connection between the play and a context of defamation rests on a metaphorical reading of the naming and horse-stealing instruction. However, reading this scene and the naming of local men in this manner has been convincingly urged by other scholars of the play. Eleanor Johnson, for example, asserts that, at this moment of the play ‘Titivillus names the local

⁴⁵ Smart ‘Notes (Continued)’ 50.

⁴⁶ Geck ‘Dating and Prosopography’ 38.

people whom the Worldlings should tap for assistance in the seduction of Mankind'.⁴⁷ Once Titivillus has named William Fyde, the worldlings name those they will visit and those they will spare because the worldlings are 'afraid of their legal power'.⁴⁸ Johnson stresses that this scene succeeds in

Bringing eerily home to the audience their own social proximity to the staged drama before them. After all, the help that Titivillus and the Worldlings seek is financial support; the people they plan to tap are thus cast not only as coconspirators but also as victims who fall prey to sinful temptations themselves.⁴⁹

Johnson refers to this episode as the 'calling out of the specific complicit men' and argues that when the play does this, it does so in order to remind the audience 'that by giving in to the Titivillian predilection . . . for the debasement of language, they are, themselves, sinners who contribute to the debauchery of Mankind'.⁵⁰ This metaphorical understanding of the passage as marking out the named men as coconspirators with the vices, labelling them as those who have 'fallen prey to sinful temptations', strengthens the connection drawn in this article between the naming scene and a defamatory tradition.

Allowing for a non-literal understanding of the scene, then, and bearing in mind that an audience watching *Mankind* at the end of the fifteenth century would be embedded within the culture of differentiated types of defamation outlined above; this audience in totality acted as witnesses to the play's public slanderous speech. The play thus implicates the audience in its potentially defamatory content; their mere presence constitutes this as offensive language. If spoken in private the words would not significantly damage the men's reputations, whereas uttered in public they become widely enough known that they threaten to represent an

⁴⁷ Johnson *Staging Contemplation* 181.

⁴⁸ Johnson *Staging Contemplation* 181.

⁴⁹ Johnson *Staging Contemplation* 182.

⁵⁰ Johnson *Staging Contemplation* 182.

established rumour. In this period, the existence of a rumour of wrongdoing was considered sufficient evidence for the courts to question the conduct of the subject of the rumour.⁵¹

Whether individuals hearing these lines laugh, express disapproval, gasp in shock, or do not react at all, they have heard the words and so the play succeeds in involving its audience in potentially dangerous acts of idle, low, or excessive talk as opposed to diligent labour by their presence as spectators.⁵² Moreover, the play is deliberately calling the audience's attention to this reaction and participation:

Up until now it has been possible and even probable to laugh at Mankind, to enjoy the malefactions of the Worldings, Mischief, and Titivillus . . . But now, with this conspicuous reminder of the interpenetration of the world of the play and the world of the audience, the proverbial rug is jerked out from under our feet: we can no longer participate in the verbal fun of the bad guys without being aware that we are becoming one of them, that we are vulnerable to their seductions, and that this vulnerability – if not guarded against – will play out badly for us.⁵³

The naming episode happens at a crucial moment of the play, just before Mankind falls to temptation because he mistakenly believes that Mercy has been hanged for stealing a horse, exactly the same action that the three vices are supposedly out committing. But if the three vices' 'robbery' is really of reputation rather than the actual theft of horses, then we, as modern readers, might have always misunderstood this section in exactly the same way as Mankind 'falls' for Titivillus' lie about Mercy being hung for theft of a horse. And, indeed, perhaps in the very same way that those audience members who were wealthy enough to have good horses might also have misunderstood Titivillus' warning by being concerned over

⁵¹ Kaplan *Culture of Slander* 12–15.

⁵² Pamela King argues that the worldlings' persuasion of the audience to join in with their rude Christmas Song at lines 331–334 has the same result (King 'Morality Plays' 246–247 (see note 3)).

⁵³ Johnson *Staging Contemplation* 182.

theft of their livestock. If so, then the episode tricks the audience on different levels. When the men named are associated with vice, the audience members who laugh because they understand the defamation joke or because they are not part of the ridiculed social class are guilty of vice for endorsing and thereby participating in defamation. However, the audience members who express concern rather than laughing, presumably some of the wealthy who own valuable horses or whose peers are targeted, are just as guilty; they reveal themselves to be as naive as Mankind (and possibly us as modern readers) because they are more concerned about the consequences of the theft of their horses or other belongings. They are too worried about a potential loss of material possessions to realise that it is, in fact, their reputations as morally upstanding members of society that are under threat of exposure. If their chief concern is for their material possessions, as Titivillus tries to convince them it should be, rather than their good name, they show themselves to be guilty of a lack of care for their moral conditions.

Beyond the literal reading of the threat of horse stealing in the play, Paula Neuss has highlighted the metaphorical interpretation of this allusion. Neuss emphasises Mercy's earlier use of the horse as a metaphor for man's regulation of his moral condition in the lines:

MERCY Yf a man have an hors and kepe hym not to hye,
He may then reull hym at hys own dysyere.
Yf he be fede overwell he wyll dysobey
Ande in happe cast hys master in the myre.

Mankind, 241–244.

This image is used again later when Mercy warns: 'Yf ye dysples Gode, aske mercy anon,/ Ellys Myscheff wyll be redy to brace yow in hys brydyll' (*Mankind*, 305–306). Neuss explains that then 'when Titivillus tells the audience to beware lest their horses are stolen he

is speaking metaphorically: the Vices' idle language is the chaff that will feed the horses (their flesh) too well (with many words) and thereby gain control of their souls'.⁵⁴ When the naming section is understood as engaging in discourses surrounding defamation a further dimension is added to the metaphorical control of the vices over men's souls. Neuss explains that Titivillus' plan culminates in engineering Mankind into Mischief's 'bridle', the noose. I believe this analysis can be extended further: if Titivillus' command to the vices to 'steal men's horses' and the naming words of the worldlings actually defame the men they name (claiming them to be guilty of each vice by allusion), then the episode in effect has already braced each man in the bridle of his associated vice. The performative power of the words in the vices' slanderous verse is all that is needed in this context to effectively harness men's horses/bodies to get at their souls; by naming them the vices have taken the reputations they may have had, or have been expected to have, for being in possession of morally upstanding 'condicyons' (*Mankind*, 908). The audience being warned about having their horses stolen should understand that in listening to the idle words of the vices they are metaphorically being fed chaff that will overnourish their bodies and so entice them to surrender their souls to vice. However, at the very same time, in the vices' discussion of the act of whose horses they will steal the naming words they use actually defame men, in the real world, under the guise of the act of going to steal their horses. Metaphor is translated, in a way, back into literal meaning because the words in themselves commit an action: not horse theft, but defamamation. The vices' words steal souls by taking away reputations for impeccable morality; just as the worldlings' act of physically going off stage supposedly to steal horses could literally deprive the men of their possessions or just as Titivillus' verbal warning could metaphorically alert the men to beware of listening to idle words in case their flesh is too well fed.

⁵⁴ Neuss 'Active and Idle Language' 60 (see note 7).

I would argue that the threat of horse stealing is designed to function both literally and metaphorically at the same time and that the defamatory content is designed to add another layer to this complex set of threats; ambiguity or confusion over which meaning is paramount seems deliberately incorporated in order to challenge an audience so that they must choose how to interpret the scene. The different interpretations of the passage and therefore the differing reactions to it in the audience could distinguish between those audience members who take it literally, those who heed Mercy's earlier metaphorical reading, and those who prioritise the defamatory aspect of the episode. Here, we might further imagine a scenario in which some of the audience laughs and some do not. If some laugh at the prospect of the 'horse-stealing', the section then has the potential to reveal complex layers of identity and social alliance within its individual audience members. In laughing or not laughing, the spectators must consider whether their moral conditions have already been corrupted by idle words of vice, or whether they feel or express some concern for the state of their souls. Those who laugh at the vices ridiculing real men of high status, presumably a tempting source of laughter, show themselves to have succumbed to the corruption of idle words. Whereas those who understand the horse-stealing threat metaphorically and are in possession of a good soul not yet stolen by idle words could choose not to condone the worldlings' actions by not laughing along with their actions. As part of the audience hearing the words, though, they cannot escape the enactment of this shaming defamation, whether they are forewarned about its impact or not. However, it is possible that the presence of differing reactions in parts of the audience could serve to further tensions between spectators by heightening the sense of immorality in those who are laughing. If all laugh the audience shares a common identity, but if some laugh whilst others do not the controversy of the statement is affirmed and the audience might feel more divided. It would seem that a large portion of the audience, in deliberately different ways, fall for the temptation of malicious

words just moments before the protagonist similarly falls for the idle, deceitful words of Titivillus that claim that Mercy has been hung for horse stealing. This use of defamatory language, the ultimate immoral, criminal use of words, is key to the play's central moment of temptation and fall for the audience, just as much as it is for the play's protagonist.

All or, indeed, none of the audience reactions imagined in the paragraph above may, in actuality, have been part of the Shrovetide performance of *Mankind* in 1471 – we can scarcely ever hope fully to recover an ephemeral moment of performance and spectatorship, especially one at such historical distance and without surviving witness accounts. However, the mere existence of so many possible ways to understand this passage – literally, metaphorically, defamatorily – argues for a diverse range of audience interpretations and possible reactions based on the differing identities, social statuses, alliances, and material possessions of each individual audience member. Naming real local men in an allegorical morality play during the devil and vice scenes is in itself provocative and controversial; the play is confronting the audience with a collapsing of the distinction between play world and real world. Thus it is possible that in this moment spectators might also be spectating the reactions of their fellow audience members, as well as the actors of the play, simply because the audience's reactions are *not* homogeneous. A moment of subconscious reaction to a provocative topical joke, such as laughter, could reveal something about an audience member to their fellow spectators; this part of the play has the capacity to expose and even alter both individual and communal relations in the real world context of this provincial society. Perhaps most importantly, though, the audiences' attention is drawn to their own reaction:

Titivillus's role is not simply that of a tempter, it is also that of an enforcer, or even whistle-blower: he reminds all present that they accede to living in a world . . . in which the powerful few invite, in effect, despair and malefaction into the larger social realm . . . the calling out of the specific complicit men and our own complicity with

them signals that the play has ambitions not only to reform the soul for better contemplative participation but also to reform the social world.⁵⁵

The naming episode jars the spectator into an acute awareness of their individual conditions *and* their place within the wider social community in order to effect change.

It is also important to consider that the play itself offers a retrospective view of the defamation scene when the vices reappear onstage having been out on their ‘stealing’ mission. That an audience, at the moment of the naming episode were made to realise the complicity of their fellow community members and themselves in vice, is further reinforced by the play’s staging of the aftermath of the excursion. Johnson notes that Mankind’s temptation by Titivillus whilst asleep and the revelation of his vulnerability to despair having sinned functions ‘retroactively’ to shed light on earlier scenes deliberately to reveal to the audience how they had been ‘invited to participate in them’.⁵⁶ In the play’s equally ‘retroactive’ perspective on the defamation scene, at lines 612–649, New Gyse comes back on stage reporting that he and Mischief have been caught by the authorities and nearly hanged. New Gyse claims that he escaped because the hangman’s noose broke whilst he was upon the gallows, whereas Mischief was imprisoned rather than hanged because he could recite his ‘neck verse’ – a Latin verse meant to prove that one was a cleric who could claim the benefit of clergy not to hang for a first offence. Luck, or craft, saves New Gyse and the feigning of clerical Latin saves Mischief from the secular courts. New Gyse, having related all this, then remarks: ‘Alasse, he [Mischief] wyll hange such a lyghly man, and a fers,/ For stelynge of an horse, I prey Gode gyf hym care’ (*Mankind*, 621–622). This last remark affirms the literal reading that the pair had been stealing horses when they were caught and nearly hanged. Nowadays then also returns reporting: ‘I have laburryde all this nyght; wen

⁵⁵ Johnson *Staging Contemplation* 182.

⁵⁶ Johnson *Staging Contemplation* 181.

shall we go dyn?/ A chyrche her besyde shall pay for ale, brede, and wyn' (*Mankind*, 632–633). These lines have been understood as indicating that Nowadays has stolen from a nearby church, either the properties of the church, perhaps the Eucharist and wine, or cash or goods that will furnish them with money for food and drink. New Gyse remarks that Nowadays is a better merchant than he. Nought, appropriately, returns with nothing complaining that he will die if he cannot get some of the food that Nowadays has mentioned. Mischief then re-enters boasting of murder and manslaughter having killed his jailer and ravished the jailer's wife, but makes no mention of why he was imprisoned in the first place.

I would argue that this retrospective reporting of the night's activities also leaves room for both literal and metaphorical interpretation. Literally, Mischief and New Gyse stole a horse and were nearly punished at law, Nowadays stole from a church and Nought came home with nothing; all then profit by the food and drink that Nowadays gets from the church. However, New Gyse's lines about horse stealing are an exclamatory remark contrasting the seeming extremity of hanging with the slightness of stealing a horse; they fall short of a direct and detailed report of the offence, which we do get of the legal repercussions that New Gyse and Mischief suffer at the hands of the court. New Gyse's lines leave room for doubt, as do Nowadays' claim that he has 'laburryde' all night and will now sustain his endeavours through the church. It is significant, given the distinction in the naming episode between the secular criminal offence of defamation and the moral, ecclesiastical offence with their respective punishments of hanging or, at the most extreme, excommunication, that one vice returns having been through the secular legal system and one comes back unscathed and in profit from a church. New Gyse was the only worldling who named three men he would visit and *did not* name anyone he would spare. If the reference to being hung for horse stealing is still also read metaphorically, his defamatory actions, in avoiding no one, have resulted in him being tried for slander. It may then be significant that the first man New Gyse named,

Huntyngton of Sauston, was recorded as Sheriff of Cambridgeshire and Huntingdonshire later in the century between 1479–1480. Huntyngton was not yet in an official position of authority that we know of at the time of the play’s performance; however, he was close to it, being of a social status and prominence to take up an official position in the near future. Perhaps the play’s retrospective explanation of New Gyse’s activities suggests that he trod too close to the line of who could and who could not be ‘safely’ defamed. It may highlight that where the other two were careful to name those they would spare, New Gyse did not state anyone he would avoid and included a borderline social superior first on his list of coconspirators. Nowadays’ list also included a man on the very cusp of official power, Woode of Fullburn, who became a Justice of Peace in November of 1471, the year of the play, but Nowadays knew to avoid him as a ‘touch me not’.

Furthermore, if we read Nowadays’ return to the stage metaphorically too we might understand that he avoided the secular criminal offence and was not tried or nearly hung for it but we might consider that he successfully defamed those private individuals who would only have recourse to ecclesiastical courts for redress. Hence, it would be fitting that Nowadays went to a nearby church but was not punished, rather he walked away in profit from his activities. Nought returns hungry but unscathed by any punitive measures relaying no information about his activities and is revived by Nowadays’ profit from the church. It is possible that these outcomes offer a commentary on the discrepancy in punishment meted out by the two legal contexts for defamation, in which the leniency of the church or the ease with which it can be exploited is critiqued. The feigned benefit of clergy saved Mischief from his offence in a secular court and Nowadays’ visit to a nearby church, albeit perhaps unbeknownst to the church, sustains the actions of the vices collectively thereafter. That they come back from their excursions hungry and likely to die for lack of food might also symbolically relate to the premise of the horse-stealing metaphor. As observed above, in the

horse-stealing metaphor the vices' idle language symbolically was the 'chaff' that overfed the horses/men's' flesh too well and thereby gained control of the horses/men's souls. That the vices come back hungry and without food then symbolises the accomplishment of their activities literally and metaphorically – their mischief has been managed by giving out their food/idle words.

If stealing from a church, or metaphorically getting away with the moral offence of defamation in the church court context, is what sustains the vices then the play suggests that the regulation of sins in the moral world is not functioning sufficiently. This message also suggests an earlier, parallel scene worth investigating: the other explicit instance of defamation in the play, when Nought ridicules 'Pope Pokett' (*Mankind*, 143). Early on in the play, when the worldlings first meet Mercy, they ridicule him for his use of 'Englysch Laten' (*Mankind*, 124) and Nowadays asks Mercy to adjudicate in a 'batell' between Nowadays and his wife, Rachel. Nought chips in that Rachel won the battle and he would venture a bet on it. Nowadays reacts angrily to this and tells Nought to kiss his ass in Latin. Nought's next lines, which Kathleen Ashley glosses as addressed to Mercy, are:

NOUGHT Lo, master, lo, here ys a pardon bely-mett.

Yt ys grawntyde of Pope Pokett,

Yf ye wyll put yowr nose in his wyffys sockett,

Ye shall have forty days of pardon.

Mankind, 143–146.

Jambeck and Lee's 1977 article convincingly demonstrates that although this reference is possibly just 'a conventional, albeit indelicate, jibe at papal avarice', it is much more likely to be a reference to a contemporary figure: John Poket, elected prior of Barnwell Abbey, near

Cambridge, in 1444, an office he held until his death in 1464.⁵⁷ Interpreting this as a reference to Prior John Poket is supported by the geographical proximity of Barnwell to the assumed location of the play's performance and the fact that on at least one occasion 'Prior Poket is directly linked in a judicial proceeding with another of the contemporary figures mentioned in the play – a 'Master Alyngton of Botysam''.⁵⁸ Jambeck and Lee also note that

The appellation 'Pope', however ironical its intended purpose, appears to have been justified, for during the tenure of his office at Barnwell, Poket served as papal representative in several actions.⁵⁹

This is another complex episode – Nowadays has just addressed Nought about an offensive remark that Nought made about his wife, Rachel. Ashley glosses Nought's following speech as addressed to Mercy, however, Jambeck and Lee understand the reference to Prior Poket as 'embedded . . . in the scurrilous exchange between Nought and Nowadays'.⁶⁰ Mercy has not spoken before this point in the debate between Nowadays and Nought and Nought has no reason to protest to Mercy that he has a pardon whereas he does have a reason to rebut Nowadays' offensive put down that Nought is an unwise fool and so should kiss his ass instead of talking. I would therefore argue, with Jambeck and Lee, that the line is a retort from Nought directed at Nowadays. What further complicates this episode is that it insults Poket on two counts: it implies that he corruptly sells indulgences to evil people but it also suggests that sleeping with the Prior's wife is a way to get a forty day pardon. This second jibe seems to parallel the joke that Nought has just made at Nowadays' expense: that Rachel, his wife, bests him in 'batell'. This episode, then, stages an offensive exchange ridiculing Nowadays and 'Pope Pokett' for the conduct of their wives which Nought, the would-be

⁵⁷ Thomas J. Jambeck and Reuben R. Lee "Pope Pokett" and the Date of *Mankind* *Mediaeval Studies* 39 (1977) 511–513, 511.

⁵⁸ Jambeck and Lee 'Pope Pokett' 512.

⁵⁹ Jambeck and Lee 'Pope Pokett' 512.

⁶⁰ Jambeck and Lee 'Pope Pokett' 511.

offender, claims he has a pardon for granted by Poket himself. Presumably, at this point Nought brandishes a stage prop to indicate that he has a pardon. An insulting exchange is characteristic of defamatory offences and the use of mock official documents is ubiquitous in the defamatory tradition. Furthermore, Mercy's commentary on the exchange, directed at Nought, explicitly labels it a sin of the tongue and questions the efficacy of the pardon: 'Thys ydyll language ye shall repent' (*Mankind*, 147).

This episode is, in effect, a more direct and explicit defamation scene than the later naming section in that it does not rely as heavily on an allusive association between vice figure and named man; here Nought directly insults Prior Poket. Except that, if we accept the scholarly dating of the play to the period 1464–1471, then by the time the play was performed Poket was dead. It was not until the early modern period that defamation law was changed so that defaming a dead person was an offence; before then, at common law it was held that the offense died with the person.⁶¹ Nought can technically legally get away with insulting Prior Poket if he is dead; besides which, he claims to have a pardon absolving him of sins in an ecclesiastical context. Mercy refutes this by telling Nought he will still have to *repent* for his idle words. It is significant that it is Nought who names 'Master Alyngton' as someone he will spare for fear of hanging given that Poket was directly linked in judicial proceedings to Alyngton. It is also striking that Poket was associated with papal level authority in the locality:

Aside from the commonplace right conferred upon a prior to grant minor ecclesiastical posts to worthy clerks, a right granted to Poket by Nicholas V on at least

⁶¹ Alastair Bellany 'A Poem on the Archbishop's Hearse: Puritanism, Libel, and Sedition after the Hampton Court Conference' *Journal of British Studies* 34.2 (1995) 137–164; Holdsworth *History of English Law* 5 206–207 (see note 26).

two occasions, the pope also placed a good deal of trust in Poket's ability to evaluate and judge upon diocesan issues which were locally sensitive.⁶²

The link between Poket and Alyngton in real life judicial contexts supports the reading of the Poket scene and the later naming scene as connected; in other words, it argues for the vices' naming scene as a defamatory one directly related to the defamatory naming of 'Pope Pokett'.

The Poket scene also provides a possible explanation for why Nought comes back from 'horse-stealing' with nothing when New Gyse was tried in a secular court and Nowadays profited from a visit to a nearby church: Nought has a pardon supposedly granted by an important church official, whether or not it is a forgery, which he can apparently claim as absolving him from sins of the tongue, as he does in his retort to Nowadays. Nought also insulted a dead person and so whilst he succeeds in labelling the church as corrupt, he is not technically liable in a defamatory sense. In the later naming scene, Nought agreed that he would avoid Alyngton, the Justice of Peace, and Hamonde, the escheator, and 'go' only to Patryke, a defamatory act but one for which he claims to have a pardon. The above interpretation of the naming episode and the play's retrospective explanation of it argues for Nought being the most shrewdly aware of the legal contexts of defamation and thus the one who would get away with no redress from his 'stealing' or insulting excursions. If corrupt church practices appear to provide Nought with some means of escape from punishment, as Mischief's use of the neck verse also did, and if Nowadays profits from his church 'visit', perhaps we can understand these defamatory episodes cumulatively as condemning the ecclesiastical system for aiding and abetting the vices in their sins of 'ydyll language'.

⁶² Jambeck and Lee 'Pope Pokett' 512.

The significance of words to the wider moral message of the play has been recognised by scholars such as Paula Neuss and Kathleen Ashley. Indeed, Ashley has argued that the play is ‘thematically and dramatically structured by a “battle of words” – where the “confrontation between good and evil is dramatized as a battle of good words . . . against misleading or evil ones”’.⁶³ Ashley notes the stylistic embodiment of this battle in the diction and rhyme schemes used by the opposing characters. Other scholars have highlighted the many other embedded textual and verbal forms included in the play, we might also add to this the visual reference to a defamatory tradition in the mock pardon that Nought brandishes whilst ridiculing ‘Pope Pokett’ (*Mankind*, 144).⁶⁴ The syntax and rhyming of the naming episode as well as the deliberately balanced patterns of numbers of men (six to be visited, three to be avoided, with two to be visited and one avoided by Nowadays, then one to be visited and two to be avoided by Nought) and grouped locations (six in Cambridgeshire, with two groups of three clusters, and three in Norfolk) argue for this as a carefully constructed embedded verse.⁶⁵ Whilst this may be part of the general urgency with which the play seeks to bring its moral message home to its local audiences, it is also possible that it has been intentionally designed with a specific function in mind, just as the mock court roll is in the episode which follows shortly after. As such, its resemblance to the kind of slanderous verse fixed to the Mayor’s gate in the 1418 Cambridge dispute complained of to the King’s council, for example, is significant.⁶⁶

⁶³ Ashley ‘Introduction’; Ashley ‘Titivillus and the Battle of Words in *Mankind*’ 139; Neuss ‘Active and Idle Language’ 41–67 (see note 7).

⁶⁴ Ashley ‘Introduction’. The play’s uses of Latin have been the subject of scholarly criticism, for example: Janette Dillon ‘*Mankind* and the Politics of “English Lateness”’ *Medievalia et Humanistica* 20 (1994) 41–64; Charlotte Steenbrugge “‘O, Yowr Louely Wordys’: Latin and Latinate Diction in *Mankind*’ *Medieval English Theatre* 31 (2009) 28–56. Brantley and Fulton ‘A Year without Kings’ (see note 2) and Hutson *The Invention of Suspicion* (see note 13) address the multiple uses of legal documents within the play. Other forms that feature in the play are the sermon, songs, and the writing Mankind hangs around his neck, for example.

⁶⁵ Marshall disagrees with Smart’s suggestion that the names and locations could be altered to fit different areas of performance for a touring company based on the impact such a change would have on the ‘metrical consistency’ of the passage (Marshall ‘Addressing the Audience’ 193).

⁶⁶ Brantley and Fulton ‘A Year without Kings’.

I believe that it is significant for our understanding of early drama that *Mankind's* performed, allusive, and implicit style of public ridicule in moral terms, which exploits precise knowledge of the nuances of both communal relations and legal contexts for avoiding defamation charges, is strikingly similar to the later examples of provincial libel found in the records of Star Chamber. By the end of the sixteenth century, defamation law had been redefined so that the libelling of any individual, private or holding public office, was understood as a criminal offence. The kind of libel which had previously been tried in church courts as moral offences could then be tried, alongside those previously seen as *scandalum magnatum*, at the most high profile prerogative court in the country: the Star Chamber. Under this redefinition, anyone complaining of being libelled could sue the accused for monetary damages, providing real financial as well as reputational incentive for taking the libeller to court. Thus during the seventeenth century the numbers of libel cases brought to Star Chamber from all levels of society increased dramatically, with James I's reign witnessing the height of a libel epidemic.⁶⁷ During the early modern period, provincial libel developed its own genre and it is significant that this involved performance; whether the libel took the form of a verse read aloud, a mock ceremonial or ritual enactment, or a symbol posted up in public these cases involved varying elements of performance and theatricality.

One example from 1601 will serve to suggest some of the similarities in form and content that might be found between the *Mankind* naming episode and this later phenomenon of performed provincial libel. In the case of *Lincoln v Dymoke*, Henry Clinton, the second Earl of Lincoln, took his two nephews, Sir Edward and Tailboys Dymoke, and others to Star

⁶⁷ Steven W. May and Alan Bryson *Verse Libel in Renaissance England and Scotland* (Oxford: Oxford University Press, 2016) 6; Fox 'Ballads, Libels and Popular Ridicule in Jacobean England' and *Oral and Literate Culture in England 1500–1700* (see note 20).

Chamber for libelling him in their performance of a stage play ‘termed the death of the Lord of kyme’.⁶⁸ The Earl of Lincoln complained that

The said Talboys Dymocke Roger Bayard Iohn Cradocke the elder and Iohn Cradocke the younger vppon a Grene neere adioyning to the howse of the said Sir Edward Dymocke at kyme...hard by A Maypole standing vppon the said greene did...present and acte an enterlude or play...dyvers persons of the Neighbour Townes therevnto adioyning and of the howshould servantes of the said Sir Edward being then ^r & there assembled to heare & see the same In which play the said Talboys Dymocke being the then principall actour therein did first...Counterfeite and tooke vppon him to represent the person of your said Subiecte [the Earl] and his speaches and gesture and then & there in the said play tearmed & named your said...Subiect the Earl of lincolne his good vncler in Scornefull manner and as an actor then tooke vppon him to represent the person of your said Subiecte and in such sorte representing the person of your said Subiecte in the said play was there fetcht away by the said Roger Bayard who acted and represented...in the said playe the person and place of the divell.⁶⁹

Here we have a provincial play performance acted before an audience made up of the local community under the auspices of the traditional summer games of South Kyme, which came to a close with the dramatic staging of the death of their elected mock lord. Within this play, we are told, a local man of considerable wealth and status who was part of an on-going local dispute at the time,⁷⁰ was impersonated, named, and then ‘fetcht away’ by the character playing the devil – these elements of the play were considered libellous in content. Although there is no evidence that the three N’s of *Mankind* impersonated the men they named, though

⁶⁸ *The Records of Early English Drama: Lincolnshire* edited James Stokes, 2 vols (Toronto: University of Toronto Press, 2009) 1 271.

⁶⁹ *REED: Lincolnshire* 1 271.

⁷⁰ Edward Dymoke and others were alledged to have riotously broken into the parsonage at Horncastle, which was owned by Lincoln, on the 26th of July (a month before the play performance) to claim ‘divers duties of right’ belonging to Lincoln (*REED: Lincolnshire* 1 271).

it is of course possible that they did, they certainly named those men and made out to take the men's 'possessions' for the devil. Just one step away, one could argue, from actually taking away an impersonation representing the men themselves.

The Earl of Lincoln further complained that

The said Roger Boyard in an other parte of the said playe did then and there acte & represent the parte of the ffoole and the parte of the vyce...and then and there actinge the said parte did declare his last will & testament and...in hearing of all the persons assembled to see and heare the said playe did bequeathe his wooden dagger to your said Subiecte by the name of the Earle of lincolne and his Cockscombe & bable vnto all those that would not goe to Hornecastle with the said Sir Edward Dymocke against him [the Earl of Lincoln].⁷¹

Not only did the play libel the Earl by having the devil take away the character impersonating him, it also associated him with the vice and fool character by bequeathing him the vice's dagger. This is a material possession bestowed upon the target, rather than a horse taken away from him, but the object still serves to connect the man with the vice who names him in the play. This account also demonstrates a similar kind of emphasis on the audience's role in the libel as I have tried to suggest for the *Mankind* episode. Here, the audience are specifically invoked as witness to the libel: the last will and testament of the vice/fool is explicitly done 'in the hearing of all the persons assembled to see and heare the...playe'.⁷² Their identity as an assembly to see and hear a play is one thing but they also *all hear* the libellous elements of it and this is a subtly different function to their merely being gathered to spectate a play. Moreover, they are directly implicated in the action by the content of the vice/fool figure's last will and testament: all those who would not go with the group of

⁷¹ REED: *Lincolnshire* 1 271.

⁷² REED: *Lincolnshire* 1 271.

libellers to riot and occupy Lincoln's house and grounds at Hornecastle, in other words those who did not take the side of the libellers in the dispute, were labelled as foolish by being bequeathed the fool's cockscomb and bauble. As an audience member, if you were not on the side of the actors then you were on the side of the Earl and thereby also associated with folly and vice. The audience was being asked to react, to pick sides in this libellous performance and their reaction would dictate how they were viewed by the rest of the community, both the actors and their fellow audience members.

Lincoln also complained that one of the actors played a minister and delivered a mock sermon whilst drinking a pot of ale at the end of the play; that the actors also sang a dirge song naming 'known lewde & licencious woemen'; and that they fixed a written verse libel about him to the maypole on stage directly below a picture of a bull, which represented his coat of arms. These last elements extend and diversify the libellous contents of the play and they take this example somewhat beyond the potentially slanderous episode in *Mankind*. However, they do indicate a similar inclusion of a mixture of written, oral, and visual forms – the sermon, song, written verse, and coat of arms – as we find used throughout *Mankind* and, in fact, in another Macro play, *Wisdom*.⁷³

The case of the 'Death of the Lord of Kyme' is from a different time period and social context to that of *Mankind*: by 1601 libelling anyone whether private individual or public official was a criminal offence and hence the case came to be tried in the court of Star Chamber. The case is also post-Reformation and specific to the local politics of provincial South Kyme, Lincolnshire. However, the existence of a libel case involving a stage play which names its target and accuses them of vice through association with the devil and vice/fool characters, as well as pushing its audience to endorse the libel or be ridiculed

⁷³ Marshall argues that *Wisdom* satirises the Suffolks based, amongst other things, on the play's use of their heraldic badge as part of the livery of the vices (Marshall 'The Satirising of the Suffolks' 45–46 (see note 19)).

themselves, suggests that the *Mankind* naming episode might also be understood as engaging in similar ways with its own culture of defamation. That the early modern methods of performing libel might be traced back to medieval dramatic traditions should also prompt us to reconsider the significance of libel cases as records of performance.

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