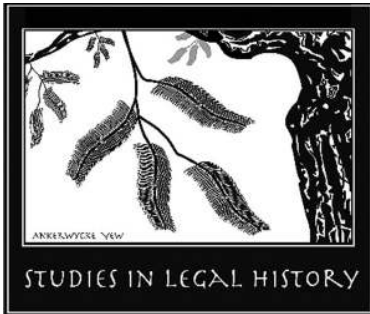


## Truth and Privilege

Truth and Privilege is a comparative study that brings together legal, constitutional and social history to explore the common law's diverging paths in two kindred places committed to freedom of expression but separated by the American Revolution. Comparing Nova Scotia and Massachusetts, Lyndsay Campbell examines the development of libel law, the defences of truth and privilege, and the place of courts as fora for disputes. She contrasts courts' centrality in struggles over expression and the interpretation of individual rights in Massachusetts with concerns about defining protective boundaries for the press and individuals through institutional design in Nova Scotia. Campbell's rich analysis acts as a lens through which to understand the role of law in shaping societal change in the nineteenth century, shedding light on the essential question we still grapple with today: what should law's role be in regulating expression we perceive as harmful?

Lyndsay Campbell is an Associate Professor in Law and History at the University of Calgary, and Associate Dean, Research in the Faculty of Law. She has co-edited two volumes, *Freedom's Conditions in the U.S.-Canadian Borderlands in the Age of Emancipation* and *Canada's Legal Pasts: Looking Forward, Looking Back*.



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# Truth and Privilege

*Libel Law in Massachusetts and Nova  
Scotia, 1820–1840*

LYNDSAY CAMPBELL

*University of Calgary*



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Contents

<i>List of Tables</i>	<i>page</i> ix
<i>Foreword – The Osgoode Society for Canadian Legal History</i>	x
<i>Acknowledgments</i>	xii
1 Introduction	I
Organizing the “Law of Libel”	7
Comparing Nova Scotia and Massachusetts	10
The Framework: “Libels,” Privilege and Truth	13
Strategies and Choices: Interpreting and Applying the Law	20
This Book	29
2 The Common Law’s Diverging Paths	32
Parliament and Courts	32
Privilege: The Sword of a Tyrant?	34
An Alternative: Prosecuting Libelers in Court	45
Limiting Legislative Privilege in Massachusetts: <i>Coffin v. Coffin</i>	48
Privilege in Nova Scotia and the Canadas	55
Privilege As a Shield for Reports	56
The Rise of Truth in the United States	62
Evidence of Truth in Massachusetts	68
Governance and the Morals of the Citizen	75
Conclusion: Law in Transition	80
3 The Transformation of Privilege	82
Introduction	82
Legislative Privilege in Nova Scotia and Massachusetts	83
The Emergence of the Qualified Privilege Defense	
in Massachusetts and Nova Scotia	109
Conclusion: Privilege and Institutions	159
	vii

viii		Contents
4	Truth, Privacy and Authority	162
	Introduction	162
	A Challenging Time	163
	Truth in Civil Suits	166
	Truth in Criminal Cases	178
	Conclusion: Power, Privacy, Truth and Motives	229
5	The Individual Conscience and Blasphemous and Obscene Expression	233
	The Backdrop: Establishment and Disestablishment	234
	The Emergence of Obscene Libel: <i>Fanny Hill</i> in Worcester and Boston	236
	Obscenity in Nova Scotia	241
	Blasphemy Law’s Diverging Threads	243
	The Stakes Rise in Massachusetts	247
	Conclusion: Dangers, Strategies and Rights	308
6	Private Defamation Suits: Courts in Everyday Life	314
	The Cases	314
	Writs and Strategies: <i>Miller v. Parish</i>	316
	Actionability	321
	Structural Factors	323
	The Suits	330
	Damages and Costs: The Incentives and Disincentives to Litigation	347
	Conclusion: Rights Claims and Courts	374
7	Conclusion	378
	<i>Appendix A: Sources</i>	393
	Archives	393
	Massachusetts Sample	393
	Nova Scotia Sample	394
	Jurisdiction of Massachusetts Courts	395
	Jurisdiction of Nova Scotia Courts	396
	<i>Appendix B: Cases</i>	400
	Nova Scotia	400
	Massachusetts	402
	<i>Bibliography</i>	415
	Secondary Sources	415
	Primary Sources	436
	<i>Index</i>	453

Tables

6.1 Civil defamation cases in the Nova Scotia sample	<i>page</i> 331
6.2 Civil cases in the Massachusetts sample	335
6.3 Outcomes of the Nova Scotia cases	348
6.4 Comparison of damage awards in Massachusetts and Nova Scotia	354
6.5 Progress of Worcester and Suffolk cases through Massachusetts courts	356
6.6 Outcomes in Common Pleas	363
6.7 Massachusetts women’s claims and their frequency	364
6.8 Claims of women who sued alone versus those of women accompanied by men	366

## Foreword – The Osgoode Society for Canadian Legal History

*Truth and Privilege* is a comparative study of the forces that drove the evolution of the body of law used for disciplining wayward presses and tongues in Nova Scotia and Massachusetts in the 1820s and 1830s. The book explores the interplay among legal and constitutional traditions, political and religious controversies, publishing practices, institutional logic and personalities, as these two deeply connected places worked through the implications of responsive democratic governance. Both places prized both good character and free expression, but courtrooms were far more often the site of these conflicts in Massachusetts. Professor Campbell's research on the defenses of truth and privilege demonstrates the similarities and differences between these jurisdictions in how the tensions around assertions of legislative power and claims to individual conscience and expression played out. She explores the unfolding of legal and popular thought on acceptable justifications for publishing objectionable expression and the incentives institutions offered to draw participants, including women, into court or to keep them out.

The purpose of the Osgoode Society for Canadian Legal History is to encourage research and writing in the history of Canadian law. The Society, which was incorporated in 1979 and is registered as a charity, was founded at the initiative of the Honourable R. Roy McMurtry, and officials of the Law Society of Upper Canada. The Society seeks to stimulate the study of legal history in Canada by supporting researchers, collecting oral histories, and publishing volumes that contribute to legal-historical scholarship in Canada. This year's books bring the total published since 1981 to 114, in all fields of

*Foreword*

xi

legal history – the courts, the judiciary and the legal profession, as well as the history of crime and punishment, women and law, law and economy, the legal treatment of Indigenous peoples and ethnic minorities, and famous cases and significant trials in all areas of the law.

Current directors of the Osgoode Society for Canadian Legal History are Constance Backhouse, Heidi Bohaker, Bevin Brookbank, Shantona Chaudhury, David Chernos, Paul Davis, Doug Downey, Linda Silver Dranoff, Timothy Hill, Ian Hull, Trisha Jackson, Mahmud Jamal, Waleed Malik, Rachel McMillan, Roy McMurtry, Dana Peebles, Paul Reinhardt, Paul Schabas, Robert Sharpe, Jon Silver, Alex Smith, Lorne Sossin, Mary Stokes, Michael Tulloch and John Wilkinson.

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xiii

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