

Introduction

Articulating women

Some of the first voices in English women's literary history sounded within the intensely arduous and rhetorical milieu of the church courts. This book explains the cultivation of these voices – from women's public teaching outside of trial, to the regulation and positioning of women's voices within ecclesiastical courtrooms, to women's own writing about their trials. I show how women adopted distinctly homiletic speech both in the courtroom and beyond. Many women deliberately chose the rhetoric of preaching, drawing on the academic authority of the clergy at a time when no formal, academic venues were accessible to women.

For these women, to speak in the heresy tribunal and defend articles of belief was to exercise a female spiritual authority that countered centuries of Christian tradition. Ordinarily women were not allowed to preach. "I do not permit a woman to speak in the congregation," Paul wrote; and the most generous defenses of the woman preacher in medieval tradition allowed it only in exceptional cases, often situated in the past.¹ By contrast, the heresy trial, in women's and men's written accounts of it, featured the contemporary woman preaching in church, for many trials took place in chapels, chapterhouses, and other ecclesiastical buildings. Interrogators, often some of the most powerful leaders in church administration, sat before women who preached.

Heresy trials were nothing short of terrifying for the woman forced to endure them. The power differential between interrogator and examinee was always extreme. Even male clerics on trial lost their vestments and livings once their beliefs were condemned, and could not plead immunity on the basis of their office. This rendered heresy suspects terribly vulnerable; a judgment of heresy, without an accompanying admission of error, usually led to death. Furthermore, from the perspective of the officials who conducted trials, every defendant was a potential heretic. Defendants were so gravely mistaken that they needed either to be corrected, or cut off from the church forever. Examiners would not have been receptive to

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the women before them; primarily, they were on their guard against false reasoning, evasion, “feminine” deception, and obstinacy. This does not mean, however, that women’s judges actively sought their death; rather, bishops hoped to attain a defendant’s submission to articles of faith so that she could be “reconciled” to the church.²

In spite of such radical differences in power, the legal examination of belief that was a part of heresy trial also unearthed, as well as created, a fascinating practice of testimony that privileged the words of the examinee. Both sides, because of the nature of what trial sought to prove, focused intently upon the words of the defendant and their meaning. As examiners read out articles of belief (derivative of the adjective “articulate,” and hence part of the meaning of my chapter title), defendants responded in their own words, though often their words were never copied, but summarized in Latin.³ Most significantly, the speech-conscious culture of trial gave rise to writing that might not otherwise have appeared, chiefly through the process of requiring written confession in court. The reading out of confessions by interrogators during trial sometimes led to alternate versions of belief drafted by the defendant – what I call “belief papers” in Chapter 1. Belief papers developed into trial narratives, or “examinations,” that gave first-person accounts of interrogation. It is no accident that trial narratives are among the first compositional genres that English women chose, and often the only texts they authored.

Principally, trial narratives provided a literary form that was flexible enough to authorize women’s resistant voices. The genre contained an instant hagiographical power to subvert the terrible legal event designed to bring a defendant’s submission. In this genre, women protagonists make inquisitorial procedure a theological debate. The examining bishop invites the woman on trial to proclaim and defend her belief so that the trial itself becomes a platform for demonstrating learnedness and true faith. In her version, the woman on trial is not guilty, but innocent, receiving unjust treatment at the hands of persecutors. Yet because this story depends so heavily on hagiographical trappings, women’s religious authority never becomes explicit. Speech delivered in court or on previous occasions cannot be identified as preaching. It is simple conversation or reading aloud to others. Margery Kempe avers that she uses “communication and good words” instead of homilies, and Anne Askew protests that she never enters pulpits.

The trial narrative also shrouded its protagonists’ bold opposition by immersing readers in specificity. Women merely “recorded” events that happened, and thus avoided any need to explain why they were writing.

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Male defendant writers sometimes used this strategy, but what differed for women was the status of their authority in the wider community. Male dissenters who became orthodox, or who led underground congregations, always had the possibility of being accepted as leaders of their religious community. Many male defendants were either clergy or recently deprived of their positions – either way, quite comfortable with commanding audiences. Women, on the other hand, could not be ordained and almost never took pastoral positions in dissenting religious communities. Women's male co-religionists, with the exception of some Lollards and sectarians in the Civil War period, did not accept that they had the authority to preach. Women therefore counted on the ambiguous form of trial both to convey and mask their homiletic abilities, as well as their public authority. Without claiming that they are writing as women and preaching as women, women nevertheless achieve both in their trial narratives.

This book reads women's trial narratives as a tradition both in order to understand women's authorizing strategies across time, and to see how women's involvement in Catholic, Protestant, and radical religious communities affected their self-presentation, including their anticipation of how they would be received by co-religionists. Analyzing the interrogations of Margery Kempe, Anne Askew, Marian Protestant women, Margaret Clitherow, and Quakers Katharine Evans and Sarah Cheevers, the book examines the complex dynamics of women's writing, preaching, and authorship under regimes of religious persecution and censorship. Rather than viewing these texts primarily as martyrology, which concerns justification for suffering in the service of a confessional agenda, I focus on how the discourses of examination themselves generate writing. Women writers penned trial narratives as a consequence of enduring inquiry into their beliefs, and they wrote to justify their theological positions and teaching. Martyrologists who anthologized their work used women's texts for the altogether different purpose of confirming the truth of a confessional identity. Often studied separately by specialists working in the period in which each author wrote, these texts are recovered in a new context – that of trial – that explains the significance of women's voices in the courtroom as well as their writing beyond it.

Such a recovery depends upon the archives. The trial narrative is, after all, non-fictional prose, and by describing an historical event it encourages scholarly investigation of the remaining evidence for that particular moment in time. But there are very few court books containing records of heresy trial that have survived into the present.⁴ Moreover, what

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has survived is not always complete – abjurations might exist without depositions, or commissions appear without accompanying trial records. Only the last narrative discussed in this book, the trial of Katharine Evans and Sarah Cheevers at Malta, can be compared with original court documents from the Roman Inquisition. These court documents do not tell us what “actually” happened, since no single record can ever explain events that were shaped by several agents and perspectives. They do give us a sense of the institutional culture that inquisition produced along with the judgment process of particular examiners. To flesh out this culture I draw on extant records *contemporary* to the narratives for which court documents are missing.⁵

Throughout this book I give attention to rhetoric, plot, and dialogue in both women’s and men’s trial narratives, yet I also show, particularly in Chapter 1, how trial narratives derive from the legal genres produced by the ecclesiastical court. Heresy trial culture involved a complicated interaction between set genres, compositional forms, and modes of publication that often fall outside our common views of authorship and literary form. Without understanding this environment, we miss crucial evidence of what might be counted as women’s speech, writing, and authorship.

“Speech,” “writing,” and “authorship” function as multivalent terms in this study. Women’s speech in court and in writing was never separate from the discursive power of the ecclesiastical court. Trial narratives may resist, but they never fully escape, canon law’s ability to “ma[k]e people speak within a particular language and context of power,” as John Arnold shows for the depositions of fourteenth-century French Cathars.⁶ Though different from court-administered and court-recorded depositions, trial narratives adopt the language and basic structure of events in the court. Further, the agency accorded to speech in trial narratives is complicated by gender. As Christina Luckyj has observed, the basic claim of most criticism on early modern women writers is that women were discouraged from speaking publicly, and by extension, publishing, because of their gender.⁷ To speak or publish at all was therefore to resist this societal proscription, but, as Luckyj also notes, it could just as easily be true that women were forced to speak in public.⁸ Certainly the heresy trial qualifies as one such example.⁹ In trial, women’s speech or silence, whether conveyed orally or in writing, was mediated by male ecclesiastics who both elicited and recorded women’s speech. In women’s trial narratives, women’s speech and silence was again elicited and edited by the male co-religionists who compiled, wrote, or published women’s texts.

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In fact, every narrative discussed in this book relied in some way upon a male editor. While this raises questions of authenticity, it also provides a context in which to cultivate a more precise understanding of medieval and early modern authorship. Several scholars have pointed to the necessity of revising an anachronistic view of authorship which supposes that authors were “the sole originators of their texts.”¹⁰ Writing specifically of medieval women authors, Jennifer Summit has shown that “the often collaborative nature of medieval textual production makes it difficult to assign sole responsibility for a text or texts to individual women.”¹¹ Intervening scribes recorded, published, and legitimated the texts of medieval women visionaries, for instance. Similarly, Jeffrey Masten and Margaret Ezell have revealed the collaborative nature of authorship in the contexts of the early modern theater and seventeenth-century manuscript circulation, respectively. Playwriting, Masten has shown, was frequently practiced by a group of male writers who together made additions and corrections to a script. And manuscript authorship was, in Ezell’s phrase, “social” – created in response to readers’ suggestions; achieved in collaboration with other authors; or performed in the process of reading, and thereby editing, another author’s material.¹² Arthur Marotti and William Sherman, as well, have demonstrated the authorial role that copyists and readers took to “improve” texts.¹³ Medieval and early modern practice simply did not conform to “the modern idea of the author as a single, creative individual.”¹⁴ In the context of women’s trial narratives, even though male editors could have excised parts of a trial script that did not accord with their theology or gender ideology, they still worked as agents in the production of women’s texts and therefore collaborated with women to produce texts. In several cases, too, men wrote biographies of women on trial. These narratives can legitimately be understood as women’s “writing” provided that we account for the levels of mediation present in the text. Throughout this book I refer to texts by and about women on trial while recognizing that these texts are themselves collaborations where women never had full, or even partial, control over the production of their texts. Especially in cases where women were illiterate and/or incarcerated, collaboration with co-authors and editors was a necessary precondition of authorship.

Enriching women’s literary history involves recognition of heretofore neglected genres whose importance has been underestimated. The trial narrative in late medieval and early modern England deserves a central place in literary history generally, recovering its importance to contemporary readers. The Lollard William Thorpe’s 1407 trial account survived

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into the Henrician period and was re-published by evangelicals, along with examinations of John Oldcastle's 1413 trial.¹⁵ The sheer popularity of trial narratives by the Marian period, and in the early years of Elizabeth's reign before John Foxe published the *Rerum*, is astounding. Certainly the trial narrative needs to be a central feature of work in English reformation literature, and bears further study in relation to its sister genres of polemic and dialogue.¹⁶ Heresy trial narratives have received some attention by critics working on Lollardy, martyrology, and religious persecution. Important studies by Rita Copeland, Fiona Sommerset, Joanna Summers, Ritchie Kendall, Elaine Beilin, Alec Ryrie, Susannah Monta, and John Knott have commented on the rhetorical features of trial accounts or other martyrological texts, showing how select authors used the genre either to perform martyrdom or register their theological dissent.¹⁷ But there has been no direct discussion of the trial narrative as its own genre, nor have there been book-length studies of the generic features of heresy trial writing, including in-depth assessment of how the narrative works, how it compares with trial records, and how it emerged under certain historical conditions. Similarly, historians of gender, heresy, and martyrdom, most notably Shannon McSheffrey, Megan Hickerson, and Anne Dillon, analyze women's relative authority in dissenting communities as well as their gendered status in the ecclesiastical court.¹⁸ But until this book, no one has traced the role that trial narratives and court procedures play in the formation of English women's writing or the history of women's preaching.

Heresy Trials and English Women Writers provides an adjacent field for existing work on women's trials in the church courts outside of heresy, and on trial narratives based on cases in the common law courts. Laura Gowing and Tim Stretton have analyzed existing depositions and studied the amount of litigation women brought to the church courts, in particular.¹⁹ Frances Dolan has linked the written practices of the common law and criminal courts with a variety of texts written by seventeenth-century women. Women either penned, or had someone pen for them, petitions to the courts of common law; they wrote their own account of their trials, and they created "parallel legal universe[s]" that "imagin[ed] courts in which they were not only successful plaintiffs but judges, clerks and attorneys."²⁰ Dolan has brought two important trial accounts by women in 1680 – that of Mary Clark and Elizabeth Cellier – to critical attention; both originated in criminal cases in the common law courts.²¹ These studies of women in the courts of law suggest that heresy trials alone, of those conducted in the church courts, represented women as authoritative

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religious leaders.²² In no other kind of trial was it possible to contest religious doctrine, scriptural interpretation, or the authority of priests to preach and administer the sacraments.²³ In defamation and sexual offense cases, to name two frequent reasons for which women appeared in the church courts, the authority of the clergy was never an issue. The actions or experiences of women in these cases were defined in terms of existing slander, marriage contract, and domestic abuse categories of canon law. But in cases of heresy, women's ability to believe and teach doctrines (charges for heresy frequently used the verb "teach" to describe the action of defendants) directly challenged the prerogatives of the clerical profession. This key difference opened up a situation in which the trial narrative could emerge.

LAW COURTS AND THE HISTORY OF PROSECUTION
FOR BELIEF

There are still further ways of perceiving how heresy trials were distinctive, so I will map here some of the major differences between English courts, followed by a brief history of the legal prosecution of belief from 1400 to the Restoration. Fundamentally, heresy trials differed from other kinds of ecclesiastical cases, and the church courts, which were comprised of several parts, differed from other courts of law. The church courts oversaw marriage, sexual offense, defamation and probate cases in addition to cases of heresy. In the church courts, such as the consistory and commissary courts, married women were allowed to sue in their own names without their husbands, and as a result women actually brought more suits than men in some areas.²⁴ Yet because the church courts followed canon and not common law procedures, there were no juries and no defense counsels. In cases of heresy, the defendant had no representation and the judge was also the prosecutor. Further, since heresy trials were mandated by Parliamentary statute, it was by state authority that heresy trials took place in the church courts.

The common law courts, such as the Court of Common Pleas and the Court of King's or Queen's Bench, oversaw criminal cases such as treason, witchcraft, murder, and debt, as well as civil cases such as probate, property, trust, and trade disputes.²⁵ Common law cases included juries; the Star Chamber, a court of royal prerogative rather than common law, excluded juries and imposed penalties such as imprisonment, branding, and mutilation, but never death. Especially under Charles I, Star Chamber heard cases of religious dissent and libel, notably the trials

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of Puritans John Bastwick, Henry Burton, and William Prynne and, following shortly thereafter, John Lilburne. But at least one case of heresy, brought by neighbors of a defendant, appeared before the Henrician Star Chamber.²⁶ Normally, however, heresy was never handled in Star Chamber or common law courts. The courts of equity, such as the royal prerogative courts of Chancery and Exchequer, had jurisdiction of property and trust cases and thus competed with the jurisdictions of the church commissary courts. The narratives I discuss in this book come most frequently from English heresy examinations in the church courts, with the exception of Margaret Clitherow's trial, which took place in the York Assize for violation of a statute against priest harboring.

Trials for heresy were by nature high-level trials that were heard in courts usually devoted to appellate cases. John F. Davis has found that nearly all heresy trials conducted in sixteenth-century England took place in the Bishop's Court of Audience, which was the highest level of a bishop's diocesan jurisdiction and one where the bishop personally heard cases.²⁷ Normally a bishop delegated his powers to either his official principal or chancellor, who oversaw consistory cases, or to his commissary general, who oversaw cases in commissary.²⁸ Bishops who heard heresy cases differed from their Continental counterparts in that their primary job was not that of inquisitor, but rather diocesan administrator. Bishops made regular visitations to parishes in their diocese and inquiry into heresy was one of several areas they examined.²⁹ Canon law held that it was the bishop who used his office to "inquire into" suspected heresy, and who officially brought charges of heresy against the defendant.³⁰ It was also the bishop who decided the case and selected a penance if the suspect abjured. Thus, heresy cases would have constituted an infrequent but still critical part of a bishop's duties, and bishops donned the role of inquisitor in these trials. Both defendants and bishops would have recognized the seriousness of a case by virtue of the fact that it was being "heard," *viva voce*, before the bishop.³¹

At various points between 1400 and 1612, when the last trial for heresy took place, exceptions can be found both for the methods of inquiring into heresy, and for the officials who interrogated defendants. This includes the category of heresy itself, which, officially, was not prosecuted after James but which was still regulated, post 1612, under different terminology (for example, sedition) through courts of common law and royal prerogative. In what follows I place the narratives of this study in relation to key legislative changes in the prosecution of heresy. Additionally, I discuss prosecutions for which we have no trial narratives – namely those of Edwardian and Elizabethan Anabaptists.

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At the turn of the fifteenth century, burning was first prescribed as the punishment for heresy (though it had been used sporadically in England before).³² Six years later, investigation of heresy proceeded according to a broader set of guidelines, or *Constitutions*, promulgated in 1407 through 1409 by Archbishop Thomas Arundel. The Lollard William Thorpe's 1407 *Testimony* was the first full narrative to describe an examination of heresy, though fellow Lollard Richard Wyche had also written a letter regarding his examination in 1404. After the political rebellion purportedly led by John Oldcastle, Parliament, in a statute of 1414, mandated investigative cooperation between secular and ecclesiastical officials.³³ Notably, justices of the King's Bench, JPs, and justices of assize were given power to arrest suspects, examine them for heresy, and hand them over to a bishop. Two years later Archbishop Chichele put investigation of heresy back into the hands of bishops by introducing "large-scale pre-emptive inquiries into heresy" into the regular visitation of bishops to churches in their dioceses. Up to this point inquiry concerning heresy had been reactive and sporadic rather than continuous.³⁴ *The Book of Margery Kempe*, whose composition began around 1420, narrates examinations before Thomas Peverel, bishop of Worcester, along with interrogations administered by the mayor of Leicester and the archbishop of York, likely occurring in 1417.³⁵ Kempe's *Book* marks the beginning of women's trial narratives in English and was surely written in response to her tumultuous and repeated experiences of examination.

Later, under Tudor rule, the procedures for the investigation of heresy changed with the implementation, under Henry VIII's supremacy, of heresy commissions.³⁶ These bodies, consisting of both laymen and clerics, further contributed to the development of trial accounts by generating additional levels of examination. Like the powers conferred to magistrates and JPs in 1414, lay councilors under Henry VIII were authorized to question defendants for heresy, but their powers exceeded those granted their Lancastrian counterparts because they were allowed to sit in judgment with bishops. Commissions and statutes became the most common forms of inquiry into heresy during this period, and the church courts also continued to investigate heresy through the bishop's *ex officio* powers.³⁷ This is important for understanding Anne Askew's trial narrative. Askew's trials in 1545 and 1546 were not technically for heresy, but for violation of a statute, the Act of Six Articles. Any violation of the act led to trial by royal commissioners or indictment before twelve jurors.³⁸ Askew's examination before members of the Privy Council, which ended in her condemnation and sentencing to death at Guildhall, was likely under royal commission. Her accounts of her examinations, the only to be written by a woman

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during Henry's reign, became more popular than any trial narrative written at the time. The Reformation also witnessed an increase in the number of examinations conducted for heresy, and the greater frequency of these hearings, whether or not they eventuated in formal trial, created more opportunities for the writing of trial narratives. As we have seen, William Thorpe's examinations were re-published in 1530 along with John Oldcastle's; additionally, John Frith, John Lambert, Robert Barnes, and John Lascelles all circulated manuscripts, several of which were printed, regarding their trials.

In 1547 Edward's parliament repealed all previous statutes that had authorized burning for heresy, but by the following year Edward issued royal commissions for arrest and prosecution of Anabaptists.³⁹ Notably, Joan Bocher, whom Robert Persons named as a friend of Askew's, refused to abjure. Over the duration of a year after her condemnation for heresy Bocher withstood several attempts by leading churchmen to achieve her conversion. Some of the men who had tried to persuade her, such as Roger Hutchinson, penned refutations of Anabaptist beliefs.⁴⁰ Bocher and the Flemish George van Parris were the only individuals executed for heresy during Edward's reign. Catholic clergy who refused to subscribe to Edwardian doctrine were deprived of their offices and imprisoned.

Trials for heterodox belief continued under Mary, who executed nearly 300 Protestants under the reinstatement of the 1401 and 1414 heresy legislation.⁴¹ Leading clerics such as John Philpot, Nicholas Ridley, Hugh Latimer, and John Bradford wrote accounts of their trials from prison which were published separately, and before Foxe's *Rerum* in 1559 (excepting Bradford's, published in 1560). John Foxe preserved these and hundreds of other trial narratives from the Marian period, though it remains unclear whether any texts of women's trials during this time were self-authored. Foxe's accounts of the trials of Alice Driver, Elizabeth Young, and Agnes Prest, which I discuss in Chapter 4, clearly detail their homiletic speech before interrogators, demonstrating that women continued to preach in court.

Elizabeth repealed Mary's Lancastrian heresy statutes, and it is famously said of her that she "would not make windows into men's souls" to examine their beliefs.⁴² Yet Elizabeth's bishops undertook heresy investigations into Anabaptism and Anti-Trinitarianism that resulted in the burning of six men.⁴³ She imprisoned and executed both Catholic priests and laity, after 1585 declaring it treasonous either to be, or harbor, a Catholic priest. Catholic trials were therefore common law trials whose death sentence required not burning but hanging, drawing, and