

## In Pursuit of Truth

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# IN PURSUIT OF TRUTH

RACHEL E. HOLMES & TORIA A. JOHNSON

IN THE PAST FEW YEARS a wave of right-wing populism has swept the western world and we have seen emotions take the political helm. The voting booth triumphs of Donald Trump in the United States and Brexit in the United Kingdom were affective: they stoked racist, sexist and nativist sentiments while campaigning on social, economic and legal issues. In short: they moved the electorate, and thereby gained control. As Hillary Clinton explains, these tactics are designed to ‘keep people off balance and make them think that this will, if not make their lives better, make them *feel* better’ (emphasis ours).<sup>1</sup> We might therefore say that feelings brought Trump to power and propelled the Brexit campaign in Britain. We might equally suggest that they continue to drive these political and legislative agendas. The Trump administration has already demonstrated an unprecedented reliance on the executive order as an exercise of presidential will, issuing an abundance of executive actions – legally enforceable actions – that have predominantly targeted Muslims, immigrants, LGBTQI+ people, and women, groups who were also the focus of emotionally-charged, hateful rhetoric on the campaign trail.<sup>2</sup> Meanwhile, in the UK, the Brexiteers continue to insist, as they did throughout the referendum campaign to leave the European Union, upon the need to reclaim ‘sovereignty’. This is an amorphous concept which they characterize, in explicitly legal terms, as the act of taking jurisdiction (and thereby control) back from the courts of the European Union; in practice it has come to stand in popular parlance for a certain brand of nationalistic fellow-feeling.<sup>3</sup> Feelings also inform the forces resisting those agendas. Consider, for example, the crowd-sourced legal action to challenge the British government’s attempts to initiate Brexit without parliamentary involvement.<sup>4</sup> Or the countless immigration lawyers who waited for hours with fellow protesters in American airports following the issuance of Trump’s ‘travel’ ban, ready to represent those whose arrival in the country might be impeded.<sup>5</sup> These cases all dealt with constitutional issues, and even in the word ‘constitutional’, a word we have heard a great deal in recent months, we can see the interplay of emotional and legal connotations. This word encompasses a technical legal meaning in the notion of a country’s founding legal document or

principles, but it also bears the idea of a human constitution, a disposition or emotional make-up. Ours is a moment in which we are forcefully reminded of the emotional content of law.<sup>6</sup>

As the editors of the present collection of essays, we started out by wondering what we might gain – both as scholars and as citizens in a so-called post-truth society – from a re-examination of the idea that law is, and always has been, saturated with emotional humanity. Since Plato, the dominant cultural narrative about law and emotion across the west has enforced their binary opposition. This narrative figures law and lawmakers as explicitly rational and impartial, in contrast with emotions, which are (in this formulation) typically branded as irrational, unreasonable and unruly.<sup>7</sup> This is a legal and cultural fiction we buy into – both on an institutional and a personal level – for the reassurance and sense of order it offers. But to what extent is such a dichotomy useful? Should emotion be wholly isolated from law, and is this even possible? Are there ways in which acknowledging emotion's role in legal matters might be both desirable, and beneficial? As a result of the prevailing bias that situates emotionality outside the reasonable sphere of law, Susan A. Bandes explains, 'The legal system has long been inhospitable terrain for the study of emotion.'<sup>8</sup> Nonetheless researchers have, more recently, begun to acknowledge the relationship between law and emotion and to see the terms as productively linked, rather than mutually exclusive.<sup>9</sup> With this Special Issue, we join a growing body of scholarship that argues for 'the very real but often neglected reality of the emotional context that precedes, surrounds, and follows judgments and decisions in law and legal process', and attempts to bring emotion productively into legal studies.<sup>10</sup>

While we identify insight in emotion, our aim here is not to abjure concerns about the place of the passions in public life; we do, however, want to do away with the stark dichotomy between law and emotion in favour of a more nuanced understanding of their interrelation. By highlighting the extent to which emotional agents shape and interact with law, we mean to explore the competing aims and motivations that make legal concepts like 'truth' and 'justice' subjective and unstable; we refer to the human intentions that infuse law-making. We refer also to the human actors involved at all levels of legal process – whether judges, lawyers, jurors, lawmakers or lawbreakers – and the emotionality of their experience. Both the legal and the emotional spheres work towards truth in some way, trying to assert or to locate truth, to communicate truthfully (and to know if or when others are doing so),

and to preserve truth as an element that underpins stable society. These pursuits of truth are presumed to be independent, but – as we asked our contributors, and ourselves – in what contexts do legal and emotional truth-seeking intersect? In what contexts do these interrelations between law and emotion produce conflict? Or become dangerous and detrimental? What role does power play in determining these relationships and our perceptions of them? In which contexts might emotion play a productive and beneficial role in legal experience?<sup>11</sup> Are these interrelations historically and culturally specific, or transhistorical and universal? And how can literature contribute to these conversations?

Our motivation for bringing together this collection of essays is threefold. First, we establish the historical and cultural contingency of the interrelation of law and emotion by demonstrating the rich and varied contexts in which these spheres interact in early modern Europe. This was a period dealing with the after-effects of the Protestant Reformation, in which ideas of truth were particularly vexed, but early modern Europe was also a space and time that saw the creation of many of the legal and emotional precedents that shaped modern society. Both explicitly and implicitly, the material collected here speaks to our second aim, which is to suggest that gaining a better understanding of legal and emotional history can improve our understanding of our current emotional and legal climate. For example, exploring the early modern suspicion of rhetorical skill and the potential it holds for emotional manipulation goes some way to explaining why such suspicions about emotion continue to be ineradicable. Likewise, unpicking the longstanding historical association of passionate responses with rash action reveals the (often heavily gendered) assumptions about the risks of emotional decision-making. Finally – and perhaps most importantly – we demonstrate that there is a clear value in approaching all of these issues specifically through literature.

The resource represented by imaginative literature has thus far been largely overlooked by scholars working at the interdiscipline of law and emotion. With contributions from historicist literary scholars of England, Spain and France, this Special Issue of *Forum for Modern Language Studies*, ‘In Pursuit of Truth: Law and Emotion in Early Modern Europe’, brings together new scholarship that explores questions of legal and emotional truth-seeking and truth-telling.<sup>12</sup> The seven essays that follow consider how truth is defined, whether it can be determined, and how it is represented – with particular interest in literary representations. Our contributors

traverse the fallibility of human sensory experience, institutional attempts to regulate and control emotions, the use of language or rhetoric to establish emotional relationships in epistolary, poetic and political exchanges, the ease with which rhetoric's capacity for persuasion can be turned to manipulation in court and culture, and suggest that emotions might in fact hold a positive place in deliberation. The historical focus of this Special Issue is specific, but the ideas explored in these essays extend beyond their temporal and cultural bounds. As we establish at the opening of this Introduction, the issues pursued here are as resonant in contemporary debates as they are insights into the debates of the past.

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This Special Issue is grounded in the simple, but surprisingly contested belief that where we find law, we invariably find emotion, and where we find emotion, we also often find legal structures or ideas being invoked. As Richard Wiener, Brian Bornstein and Amy Voss asserted just over ten years ago, the study of law 'for too long [...] ignored the obvious and insisted upon studying eyewitness identification, jury decision making, compliance with the law, judicial decision making, and many other types of legal judgments, *as if they occurred in the absence of emotion and motivation*' (emphasis ours).<sup>13</sup> While scholars such as Martha Nussbaum have convincingly challenged the binary opposition between law and emotion, insisting that emotion plays an essential and often beneficial role in deliberation and decision making, such thinking continues to meet with resistance.<sup>14</sup> However, efforts to bring law and emotion together are now becoming increasingly popular in legal studies, in the behavioural sciences, and, most recently, in historical scholarship.<sup>15</sup> The essays collected here approach intersections between law and emotion for the first time from the vantage point of literary criticism, fusing the methodologies of the fields of law and literature, and emotions scholarship.<sup>16</sup>

Law and literature as an interdisciplinary has been characterized virtually since its inception by methodological diversity and perpetual redefinition but, with Bradin Cormack, we take the view that law and literature exist 'in a complex but not oppositional relation to one another'.<sup>17</sup> In his own work on the early modern period, Cormack situates literature as part of humanistic culture more broadly, within which we also place emotions. The early modern period has been a significant focus of much scholarship in law and literature and the history of emotions, but research in this area has not yet explicitly combined the two approaches.<sup>18</sup> It is our contention, however,

that imaginative literature offers a vital contribution to the interdiscipline of law and emotion as well as to each of those fields by illuminating some of the inherent messiness produced when law, emotion and humanity come together.

In part, the scepticism about emotion's impact on law – in which emotions are held to be 'individual, arbitrary, unanalysable, and ultimately a threat to the proper functioning of the legal system' – reveals a larger concern that has dominated emotions scholarship.<sup>19</sup> Since the field's inception, emotions scholars have worked to demonstrate the possibility of producing rigorous scholarship on a set of subjective and shifting concepts and/or experiences. This desire to avoid the appearance of 'subjective' analysis has led to a field-wide focus on sources and methodologies that seem capable of containing a concept as unwieldy as 'emotion'. As a result, and following the seminal work of Peter and Carol Stearns, scholars have tended to distinguish between 'emotional experience', which might involve inchoate, subjective, often inexpressible feelings, and the social, cultural, political and religious frameworks that typically surround these feelings. For Stearns and Stearns, 'emotionology' offers a way of accessing emotion through 'the attitudes or standards that a society, or a definable group within a society, maintains toward basic emotions and their appropriate expression'.<sup>20</sup> This move – intended as it was to push emotions studies towards concepts that could be identified and analysed in concrete terms, has since prompted many other emotional frameworks to facilitate research. After 'emotionology', William Reddy challenged the idea that emotion exists beyond the language used to express it. His work emphasized instead 'emotives' (the speech used to describe emotion) and traced the 'emotional regimes' (sets of emotional rituals and practices that support political regimes) they produce.<sup>21</sup> Barbara Rosenwein proposed that we think in terms of 'emotional communities', tracing groups with close social contact in order to decipher a shared set of emotional norms. Each of these frameworks has tried to find ways of balancing the multivalency and mutability of human emotion with the need for stable analysis, searching for something that is 'more accessible than emotional experience' while still contributing to our understanding of emotion's impact.<sup>22</sup> This methodological instinct has perhaps pushed scholars away from creative material and towards material that is sometimes imagined as more 'objective' in its recording of events (and emotions): material like legal records, chronicles, diaries or news media.

Literature has occupied similarly unsteady ground in legal scholarship precisely due to its imaginative nature. This is particularly evident in the early stages of the law and literature movement, where literature is frequently conflated with ‘the humane’. Richard Posner, a judge, like many others considers the only real benefits of a ‘literary sensibility’ to the legal imagination to be ‘enabl[ing] judges to write better opinions and lawyers to present their cases more effectively’.<sup>23</sup> Posner here is speaking about the benefits of rhetorical skill, but he further alludes to those who claim ‘that the study of literature in general [...] can humanize the practice of law and the outlook of judges’.<sup>24</sup> This perspective uses the word ‘humanize’ to signal compassionate imagination; it also conceives of this as something external to law, placing the burden of such imagining on the external literary influence. In these comments, Posner effectively feeds into a prominent strand of law and literature scholarship which Julie Stone Peters, following Jane Baron, terms ‘humanist’, and which uses literature as ‘the most human of the humane arts’ to challenge the perceived rigour and violence of law.<sup>25</sup> Following this line of thinking, literature is figured as an ethical supplement to law: it becomes ‘a source of truth which can help to analyze and criticize the law’.<sup>26</sup> The truth that literature allegedly speaks, because it is human, is assumed to be, at least in part, emotional, and this association between imaginative literature and emotion has survived the adapting taxonomies and methodologies of law and literature scholarship.<sup>27</sup> As a result of this assimilation of literature and emotion, the critical category of ‘emotion’ is, on the whole, as conspicuously absent from recent collections that track the presents and futures of law and literature as literature is from law and emotion scholarship.<sup>28</sup> Greta Olson asks whether law and literature has, in fact, become law and emotion, a question which itself perfectly encapsulates the continued assimilation of the literary and the affective.<sup>29</sup> However, such assimilation further elides the broader epistemological value of literature, itself a source and storehouse of knowledge not unlike any other historical or cultural text.<sup>30</sup>

Erin Sullivan has recently argued in favour of ‘the crucial role literary sources and methods can play in the field of emotions history’, while also noting that these sources and methods are often overlooked, much as they have been by lawyers and legal historians.<sup>31</sup> Sullivan notes that, ‘Fenced off as [literary sources] are from many of the cultural demands of “the real” – in particular the expectation that the opinions and beliefs voiced in a text will correspond directly with a particular historical person

or event – some scholars have perhaps seen them as less reliable sources.’<sup>32</sup> This emphasis on ‘the real’ as something that necessarily excludes imaginative literature has undoubtedly affected the status of literary material in emotions studies, just as it has in law and literature scholarship. Equally, this narrow perspective on the ‘reality’ or ‘truth’ of a text unnecessarily limits our picture of the overarching emotional and cultural landscapes in which these works are situated. It is reductive to assume that imaginative literature has no relation to the context of its production, or to the emotional or legal realities of its historical or cultural moment. Literature, like emotional humanity, like law, is embedded in and part of reality, and it has always been a site of exploration.

The issues that we have outlined are some of the overarching and transhistorical claims of theoretical discussions of law and literature and emotions studies, but of course neither law, nor literature, nor emotions are universal or transcendental. One challenge to taxonomizing approaches is that they assume consistency across geographical boundaries and throughout time. Bradin Cormack suggests that works of imaginative literature ‘offer ways of attending to experience that expose possibilities in the operative historical forms’ of the context of their production.<sup>33</sup> Following this line of thinking, literary representation offers direct insights into – not reflections of – early modern thought, feeling, and understanding of the ‘possibilities’ of emotional humanity and legal experience. Cormack here in a sense collapses the distance between literature and ‘the real’, figuring the relation between the legal and literary as imaginative. By extension, then, literature provides a kind of space for exploring theories of social emotion and emotional reaction, exposing the possibilities of human interactions with legislative frameworks and practices. In what follows, we wish to turn our attention briefly, but more directly, to early modern Europe, and to give a more thorough consideration to some of the historical factors that combine to make the period so rich in questions of law, emotion and truth. The skepticism that we have traced in scholarly approaches to law and emotion – the insistence that emotions are ‘inconsistent with the very norms that govern and legitimate the judicial power and constitute its central disciplining measure: impartiality’<sup>34</sup> – is equally at work in early modern writings.

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Thomas Wright, an early modern Jesuit whose writing on the passions has always had a cross-disciplinary appeal to critics working on emotion, offers this legally-inflected



expression of the tension between passions and judgment in *The Passions of the Minde in Generall* (1604):

Wise men confesse, and ignorant men prove that Passions blind their judgements and reason: for (as Saint Basil saide) *Quemadmodum oculis turbatis, &c.* As when the eyes are troubled, wee can not perceive exactly the objects of our sight; even so, when the heart is troubled, no man can come by the knowledge of trueth.<sup>35</sup>

In his estimation, wise men ‘confesse’ their vulnerability to emotion, and recognize its capacity to influence ‘judgement’, whereas ignorant men ‘prove’ the same principle through their actions.<sup>36</sup> Wright suggests that human emotion interferes with ‘the knowledge of trueth’, which implies a ‘truth’ that exists beyond human agents, and beyond their fallibility. But for Wright, the threat of emotion sits not only in its capacity to trouble our hearts and thereby cloud our judgment: the larger threat is hermeneutic, rooted in the illegibility of emotions and our almost inevitable misperception. ‘As the motions of our Passions are hidde from our eyes,’ Wright explains, ‘so they are hard to bee perceived.’<sup>37</sup> Toria Johnson’s essay, “‘The Sinewes of Truth’: Binding Law and Emotion in Thomas Tomkis’s *Lingua*’, takes up the threat posed by the unreliability of sensory perception in English drama, demonstrating the dismissal and inadequacy of sensory evidence in Thomas Tomkis’s play *Lingua*, which charts its eponymous heroine’s suit to become a Sense. The play’s outcome, in Johnson’s reading, encapsulates Wright’s insistence that although there exists ‘a silent speech pronounced in [our] very countenances’, a mechanism by which ‘superiors may learne to conjecture the affections of their subjectes mindes’, there remains the risk of interpretative failure, a chance that emotional influencers will not be identified (and, therefore, will not be avoided).<sup>38</sup> As Johnson demonstrates, in both the emotional and legal spheres this bears very real consequences. Ultimately, law has no more effective means of accessing or reading emotions than we do. As Wright acknowledges, we can only ‘marke in other men, their words, gestures, and actions’:<sup>39</sup> we can only infer, conjecture, or construct their meaning and intention – but we can never know for certain.

This distrust of emotion, the preoccupation with the fallibility of speech (upon which we must nonetheless rely), and the worry about correctly perceiving other people are all manifestations of an age-old preoccupation with truth that haunted

Wright and his European contemporaries. Following the Protestant Reformation, the truth of people's words and convictions came under renewed scrutiny, becoming an area of conflict within and between Protestant and Catholic denominations, secular and ecclesiastical legal jurisdictions, and even families. Setting aside the foundational question about the ability of fallen man to perceive truth, truth claims were central to inter- and intra-denominational debates among Reformation and Counter-Reformation polemicists as truth and falsehood came to stand for each side of the religious divide.<sup>40</sup> Andrea Frisch's piece, 'Emotional Justice in Agrippa d'Aubigné's *Tragiques*', shows this rhetorical move at work in early modern French poetry. For Frisch, the poetics of justice that operates in the *Tragiques* invites empathy and compassion for those who have fallen victim to the French Wars of Religion and encourages spiritual meditation on the ethics of conflict. In addition to such religious debates, such factiousness and suspicion has also been located at the heart of narratives of secularization, which see the questioning of faith emblemized by the Reformation as symptomatic of a broader shift away from the divine.<sup>41</sup> Though a romanticized and contested vision, Stephen Greenblatt consequently sees the Renaissance as a turn towards the human and posits something of an epistemological cliff face between the interest of theologians and divines in truths beyond the worldly realm, and the unshackled explorations of natural philosophers, explorers and early economic thinkers that ensued.<sup>42</sup> Historians and philosophers of science have therefore paid a great deal of attention to this shift 'from Inquisition to inquiry' – that is, a shift away from theological towards quasi-scientific or investigative pursuits of truth and its epistemic relatives, namely certainty, fact, probability, and proof or evidence.<sup>43</sup> Barbara J. Shapiro has shown that these natural philosophical ideas about truth in early modern Europe were intimately bound in humanistic culture with those that we might otherwise consider to be exclusively spiritual, legal or emotional.<sup>44</sup> Disciplinary boundaries had not yet hardened into the impermeable divisions in which we specialize today. It is therefore in the context of such doubts and debates that we can situate the emphasis of early modern European humanists such as Sir Francis Bacon, Michel de Montaigne and Juan Lu  s Vives on truth and falsehood, as well as their interest in the interrelation of law and emotion.<sup>45</sup>

In his essay on truth, Bacon describes 'the Inquirie of *Truth*, which is the Love-making, or Wooing of it; The knowledge of *Truth*, which is the Presence of it; and the Beleeve of *Truth*, which is the Enjoying of it', as 'the Sovereigne Good of

humane Nature'.<sup>46</sup> Truth in this model is theological, but also philosophical and somehow vital. Though he imagines the 'Sovereign Good of humane Nature' in terms of living a good and honest life, as the best possible preparation for the final judgment, there exists also what Bacon terms the '*Truth of civill Businesse*'.<sup>47</sup> This kind of truth concerns worldly interactions more than spiritual observances. 'It will be acknowledged,' he insists, 'even by those, that practize it not, that clear and Round dealing' – which is to say 'the *Truth of civill Businesse*' – 'is the Honour of Mans Nature.'<sup>48</sup> Men should deal with one another fairly and honestly, but Bacon's discourse (like that of Montaigne and Vives) betrays a concern about the preponderance of, or at least the potential for, lies or untruths. 'If a lie had no more faces but one, as truth hath,' Montaigne asserts, 'we should be in farre better termes than we are: For whatsoever a lier should say, we would take it in a contrarie sence. But the opposite of truth hath many-many shapes, and an indefinite field.'<sup>49</sup> While Montaigne sees the 'real truth of the thing' as a force in itself to push out the lies, however, a greater degree of anxiety dominates both the essay itself, and an increasingly litigious and international early modern Europe preoccupied with proof, evidence and interpretation.

Montaigne, himself once a magistrate at the *Parlement* of Bordeaux, takes up the challenges inherent to the pursuit of truth at various points in the *Essays*. Most pertinent to our discussion is his allusion to the case of Martin Guerre which, as perhaps the most famous case of imposture in European history, sits at the juncture of law and emotion.<sup>50</sup> Martin Guerre went off to war and after a while returned to dwell with his wife Bertrande de Rols in their family home (or so everyone thought). Several years more went by before another man, claiming to be the real Martin, returned. And yet, the truth was not obvious: family, friends, doctors and cobblers gave conflicting testimony, and it remained unclear whether even Bertrande was fully aware of what had transpired. Had she been overwhelmed by loneliness in her husband's absence and willingly accepted a replacement? Had she been deceived or manipulated against her will? Which man did she know as her husband? Endless questions remained even at the point of judgment, and yet Arnaud du Tilh, the accused (the first man to return as 'Martin Guerre'), was still condemned to death. While Montaigne expresses philosophical outrage that a judgment was given in a case 'so wondrous strange and so far-exceeding both our knowledge and his owne who was judge', it is difficult to see a workable solution to the problem. It is not possible

for lawyers to emulate the Areopagites, as Montaigne suggests, and ask ‘the parties to come againe and appeare before them a hundred yeares after’, nor would even the passage of time make the case any clearer.<sup>51</sup> Our only way of knowing the truth – whether in casual human interactions or at law – is by parsing meaning through a system of language that is inherently emotional, shifting and unstable. So how can we tell the truth of an assertion? What if our bonds are created by false words, or empty (yet professed) emotion?

This anxiety about the multivalence of language is opened out by Jackie Watson’s discussion of early modern epistolary exchanges between Inns men, lawyers and courtiers in her essay “‘My lodging is so near the Star Chamber that my pens shake in my hand’: Letters, Truth, And Lawyers’ Fears’. Examining the letters of Sir Thomas Overbury in particular, a prominent English political and legal figure, Watson highlights the multivalence of letter-writing as at once affectively binding, evidential, and potentially misleading. Drawing on the dramatic deployment of letters in John Webster’s *The White Devil* (1612), she further demonstrates the importance of context in determining their emotional and legal truth value. Richard Stacey examines anxieties about the reliability of professed emotion in verbal, rather than written, exchanges. In ‘The vow is made’: Communal Swearing and Succession in *Titus Andronicus*, Stacey looks at the introduction and legal enforcement of the Oath of Allegiance, and shows how its effectiveness as an act of individual emotional subjugation was undermined by the impossibility of accessing the emotions and intentions that underpinned oath-making. Stacey consequently sees the communal acts of vowing in Shakespeare as politically powerful and transformative, as a result of the perceptible authenticity of such vows and their exploration of the idea that oath-making in Tudor England should properly be based in fellow-feeling.

Both Watson’s and Stacey’s essays (and to some extent, all of the essays collected here) trace a prevailing fear of dissembling, deception and emotional manipulation. This capacity for deception features prominently on the early modern stage: take Shakespeare, for example, and Lady Macbeth’s insistence that her husband ‘look like the innocent flower but be the serpent under’t’ (*Macbeth*, I. 5. 76), or Angelo’s sinister claim in *Measure for Measure* (1604) that ‘To have what we would have, we speak not what we mean’ (*Measure*, II. 4. 126).<sup>52</sup> While eminent English jurist Sir Edward Coke claims that ‘Logick teacheth a man [...] to discern between truth and falshood’, like Vives and Montaigne he must acknowledge that

‘Truth and falsehood have both alike countenances, their port, their taste and their proceedings semblable.’<sup>53</sup> The Renaissance of classical learning fostered a kind of intellectual scepticism that struck a chord with the doubts fuelled by the Reformation, and with this resurgence also came a heightened awareness, and suspicion, of rhetoric.<sup>54</sup> For if, as Aristotle says, a rhetorician ‘must disguise his art and give the impression of speaking naturally and not artificially’ because ‘[n]aturalness is persuasive’ and ‘artificiality is the contrary’, how could anyone really expect to tell truth from falsehood?<sup>55</sup> Rachel E. Holmes explores this quandary in ‘What’s the Matter? Murderous Husbands and “Adulterous” Wives in Early Modern English and Spanish Drama’. Holmes’s essay focuses on the epistemic gap of adultery and suggests that its unknowability leaves it vulnerable to the persuasive vividness of affective rhetoric. Jealous husbands fill in the gaps in their knowledge with suspicion. Exploring proof and emotional vulnerability, Holmes questions law’s capacity to regulate or discern, and its willingness to use, rhetorical effects.

If history of emotions scholarship (in particular, the enormous investment in locating a suitable methodological framework) has demonstrated anything conclusively, it is that emotional agents consistently prove themselves to be unreliable and uncontrolled. Perhaps this very truth about humanity necessitates law and legal structures, or at least propels them. But, paradoxically, it is also precisely the unreliability and elusiveness of emotion that threatens the very foundations of any regulatory structures that are imposed. The systemic hazards of emotion drive Michael Scham’s ‘Revenge and Its Attenuation: Honour and Affect in Cervantes and Alemán’. For Scham, the ‘rhetoric of honour’ in early modern Spain uneasily straddles law and emotion, propelling tensions between formal legal jurisdictions and their affective counterparts in the revenge plots of Mateo Alemán and Miguel de Cervantes.<sup>56</sup> However, Scham sees Cervantes and Alemán as productively negotiating the emotional fallout and divisiveness of honour culture through their emphasis on collaborative justice. Rounding off the collection, Todd Butler’s essay on ‘Emotion, Deliberation, and Authority in *The Roman Actor*’ also sees emotional and legal value in collaboration. Taking a Nussbaumian approach, Butler shows how Philip Massinger presents considered emotional reasoning as a beneficial political and legal alternative to rash, uninformed decision making. Butler suggests that Massinger’s play exposes the possibilities and promise of deliberative justice, thereby foreshadowing modern claims about the centrality of emotion to law. We end, then,

on a positive and forward-looking note, which reframes the suspicion of emotion which characterized the early modern period and which runs through this volume. In doing so, we return to our opening questions about whether there might be a positive place for emotion in our political and legal systems.

Our contributors are far from unanimous in their broader conclusions about law, emotion, and their interrelations. For us, though, the variety of work here does more than just showcase that the intersection between law, literature and emotion is a rich, relatively unmined, site for scholarly enquiry. The possibilities outlined by our contributors suggest, above all, that the material and methodology of literary studies offer both a critical framework and a vast body of imaginative and exploratory material capable of pushing beyond the ground already established by colleagues in cognitive and social sciences. This Special Issue attends to the urgency of Reformation and Counter-Reformation anxieties about truth and intention from an interdisciplinary and transnational perspective, and sees ‘truth’ – the spectre that haunts motive, intention and appearance – as a productive way of bringing together History of Emotions studies, and Law and Literature scholarship. Whether to determine the veracity of a claim or to evaluate the sincerity of professed feeling, both law and emotions seek to impose regulatory structures on human interactions, but while Michel de Montaigne suggests that truth has ‘no more faces than one’, we argue that human relationships with truth are anything but straightforward.<sup>57</sup>

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#### NOTES

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<sup>1</sup> Hillary Clinton, ‘The Interview: Hillary Clinton’, *The Sunday Times Magazine*, 8 October 2017, p. 11. Researchers at the Australian Research Council Centre for the History of Emotions (ARCCHE) have recently advocated for more scholarship sensitive to the roles

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played by emotions in politics. Josh Pallas, 'Emotions Come Up Trump', *Histories of Emotion: From Mediaeval Europe to Contemporary Australia* (blog), 20 January 2017. Accessed at <<https://historiesofemotion.com/2017/01/20/emotions-come-up-trump/>> [last accessed 10 October 2017].

<sup>2</sup> Chris Cillizza and Sam Petulla, 'Trump Is on Pace to Sign More Executive Orders Than Any President in the Last 50 Years', *CNN Politics* (blog), 13 October 2017. Accessed at <<http://edition.cnn.com/2017/10/13/politics/donald-trump-executive-orders/index.html>> [last accessed 27 October 2017]. Trump's comments on the campaign trail and his comments and actions since taking office are well documented. For those about Muslims, see "'I think Islam hates us': A Timeline of Trump's Comments about Islam and Muslims", *The Washington Post*, 20 May 2017. Accessed at <<https://www.washingtonpost.com/news/post-politics/wp/2017/05/20/i-think-islam-hates-us-a-timeline-of-trumps-comments-about-islam-and-muslims/>> [last accessed 24 October 2017]. His vocal targeting of LGBTQI+ persons and issues is widespread but has not been collated by reputable sources; for an account of his pertinent actions, see Michael D. Shear and Charlie Savage, 'In One Day, Trump Administration Lands 3 Punches Against Gay Rights', *The New York Times*, 27 July 2017. Accessed at <[https://www.nytimes.com/2017/07/27/us/politics/white-house-lgbt-rights-military-civil-rights-act.html?\\_r=0](https://www.nytimes.com/2017/07/27/us/politics/white-house-lgbt-rights-military-civil-rights-act.html?_r=0)> [last accessed 24 October 2017]. For comments on women, see Claire Cohen, 'Donald Trump sexism tracker: Every offensive comment in one place', *The Telegraph*, 14 July 2017. Accessed at <<http://www.telegraph.co.uk/women/politics/donald-trump-sexism-tracker-every-offensive-comment-in-one-place/>> [last accessed 24 October 2017].

<sup>3</sup> For a discussion of sovereignty and the EU Referendum, see Peter Foster, 'What Would Brexit Mean for British Sovereignty?', *The Telegraph*, 8 June 2016. Accessed at <<http://www.telegraph.co.uk/news/2016/05/19/how-does-the-eu-impinge-on-british-sovereignty-and-if-the-uk-vot>> [last accessed 28 October 2017].

<sup>4</sup> Owen Bowcott, 'Who Are the Claimants in the Article 50 Law Case?', *The Guardian*, 5 December 2016. Accessed at <<https://www.theguardian.com/politics/2016/dec/05/who-are-the-claimants-in-article-50-court-case>> [last accessed 20 November 2017].

<sup>5</sup> Jonah Engel Bromwich, 'Lawyers Mobilize at Nation's Airports After Trump's Order', *The New York Times*, 29 January 2017. Accessed at <<https://www.nytimes.com/2017/01/29/us/lawyers-trump-muslim-ban-immigration.html>> [last accessed 20 November 2017].

<sup>6</sup> The question of law's involvement with emotion has also made it in to mainstream media, which suggests the question is, perhaps unsurprisingly, at the forefront of the cultural imagination. See Lisa Feldman Barrett, 'Law's Emotion Problem', *The New York Times*, 11

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March 2017. Accessed at <[https://www.nytimes.com/2017/03/11/opinion/sunday/the-laws-emotion-problem.html?\\_r=0](https://www.nytimes.com/2017/03/11/opinion/sunday/the-laws-emotion-problem.html?_r=0)> [last accessed 28 October 2017]. It also became a topic on the NPR podcast *Invisibilia*. ‘Emotions Part 1’, 1 June 2017. Accessed at <<http://www.npr.org/templates/transcript/transcript.php?storyId=530928414>> [last accessed 28 October 2017].

<sup>7</sup> This perspective can be traced to Plato’s distinction between the rational and irrational soul, particularly as it manifests in the *Republic*. Plato, *Republic*, ed. and trans. by Chris Emlyn-Jones and William Preddy, 2 vols, Loeb Classical Library (Cambridge, MA: Harvard University Press, 2013), x. 604a–b.

<sup>8</sup> Susan A. Bandes, ‘What Roles do Emotions Play in the Law?’, *Emotion Researcher* (July 2016), paragraph 1. Accessed at <<http://emotionresearcher.com/what-roles-do-emotions-play-in-the-law/>> [last accessed 28 July 2017]. By ‘emotionality’, we refer specifically to the ‘emotional character, disposition, or behaviour’, a term most frequently used in psychological studies of emotion, which emphasizes the kinds of observable behaviour that makes emotion apparent to external viewers. *Oxford English Dictionary* [online], ‘emotionality’, <<http://www.oed.com.ezproxyd.bham.ac.uk/view/Entry/61254?redirectedFrom=emotionality+&eid>> [last accessed 27 November 2017].

<sup>9</sup> For an account of the emergence of the law and emotion movement, see Susan A. Bandes, ‘What Roles Do Emotions Play in the Law’, esp. paragraphs 6–7.

<sup>10</sup> Richard L. Wiener, Brian H. Bornstein and Amy Voss, ‘Emotion and the Law: A Framework for Inquiry’, *Law and Human Behavior*, 30.2 (2006), 231–48 (p. 232). For critical overviews of the field of Law and Emotion from a legal standpoint, see: Susan A. Bandes and Jeremy A. Blumenthal, ‘Emotion and the Law’, *Annual Review of Law and Social Science*, 8 (2012), 161–81; Laura E. Little, ‘Negotiating the Tangle of Law and Emotion’, *Cornell Law Review*, 86.4 (2001), 974–1001; Martha Nussbaum, ‘Emotions and Law’, in *Hiding from Humanity: Disgust, Shame, and the Law* (Princeton, NJ: Princeton University Press, 2006), pp. 19–70; Carol Sanger, ‘The Role and Reality of Emotions in Law’, *William & Mary Journal of Women and the Law*, 1.8 (2001), article 5; and Robin West, ‘Law’s Emotions’, *Richmond Public Interest Law Review*, 19.4 (2016), 339–62.

<sup>11</sup> We choose to use the term ‘experience’ here rather than ‘practice’ in order to convey both the institutional contexts of law and broader experiential interactions with those structures. This preference for a more expansive definition of law aligns with Elizabeth S. Anker and Bernadette Meyler’s insistence that ‘the object called “law” is constituted differently when examined in light of either its scopic or its performance-based aspects, as opposed to its strictly doctrinal and textual elements.’ Elizabeth S. Anker and Bernadette Meyler,



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‘Introduction’, in *New Directions in Law and Literature*, ed. by Anker and Meyler (Oxford: Oxford University Press, 2017), pp. 1–30 (p. 20).

<sup>12</sup> It is common practice in *Forum for Modern Language Studies* to cite material first in the original language of publication, followed by a translation. However, in order to reach the widest possible audience and preserve the flow of the prose, we and our contributors cite in English and include the original in brackets or endnotes.

<sup>13</sup> Wiener, Bornstein and Voss, ‘Emotion and the Law’, p. 245.

<sup>14</sup> Martha Nussbaum, *Upheavals of Thought: The Intelligence of Emotions* (Cambridge: Cambridge University Press, 2003), especially pp. 354–400.

<sup>15</sup> At the time of writing, there are at least three other journal special issues in print or preparation taking intersections of law and emotion as their subject. These range in focus from a consideration of the role(s) of compassion in modern legal practice, to a cross-cultural and cross-period examination of emotions in the courtroom, to a *longue durée* historicization of legal emotions. See: Dermot Feenan (ed.), *Law and Compassion* (= *International Journal of Law in Context*, 13.2 (2017)); Laura Kounine (ed.), *Emotions, Mind, and Body on Trial: A Cross-Cultural Perspective* (= *Journal of Social History*, 51.3 (Forthcoming Spring 2018)); Merridee Bailey and Kimberley-Joy Knight (eds.), *Histories of Law and Emotion* (= *Journal of Legal History*, 38.2 (2017)). See also: Mortimer N. Sellers, *Law, Reason, and Emotion* (Cambridge: Cambridge University Press, 2017).

<sup>16</sup> This is not to suggest that affective considerations have had no bearing upon scholarship of Law and Literature to date, but rather that such work has not been explicitly theorized as belonging or contributing to debates about Law and Emotion. See, for example, the following books by William I. Miller: *Bloodtaking and Peacemaking: Feud, Law, and Society in Saga Iceland* (Chicago, IL: University of Chicago Press, 1990); *Humiliation: and other Essays on Honor, Social Discomfort, and Violence* (Ithaca, NY: Cornell University Press, 1995); and *An Eye for an Eye* (Cambridge: Cambridge University Press, 2006).

<sup>17</sup> Bradin Cormack, *A Power to Do Justice: Jurisdiction, English Literature, and the Rise of Common Law* (Chicago, IL: University of Chicago Press, 2007), p. 2. For recent accounts of the history and state of the field of law and literature, see: Anker and Meyler, ‘Introduction’, pp. 1–30; Lorna Hutson, ‘Introduction: Law, Literature, and History’, in *The Oxford Handbook of English Law and Literature, 1500–1700* (Oxford: Oxford University Press, 2017), pp. 1–19.

<sup>18</sup> Significant recent works in early modern law and literature include: Bradin Cormack, Martha Nussbaum and Richard Strier (eds.), *Shakespeare and Law: A Conversation Among Disciplines and Professions* (Chicago, IL: Chicago University Press, 2009); Lorna Hutson (ed.), *The Oxford Handbook of English Law and Literature, 1500–1700* (Oxford: Oxford

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University Press, 2017); Lorna Hutson, *The Invention of Suspicion: Law and Mimesis in Shakespeare and Renaissance Drama* (Oxford: Oxford University Press, 2007); Christopher N. Warren, *Literature and the Law of Nations, 1580–1680* (Oxford: Oxford University Press, 2015). The field is largely dominated by early modern English Studies, but has become more popular in other areas of Renaissance Studies. For hispanic law and literature, see Susan Byrne, *Law and History in Cervantes' 'Don Quixote'* (Toronto, ON: University of Toronto Press, 2012); for French, see Laetitia Dion, *Histoires du mariage: Le mariage dans la fiction narrative française, 1515–1559* (Paris: Classiques Garnier, 2017). Much Italian work in law and literature is concentrated in the mediaeval period, but has resonances in early modern Europe. See for example: Justin Steinberg, *Dante and the Limits of the Law* (Chicago, IL: University of Chicago Press, 2013); Justin Steinberg, 'Mimesis on Trial: Legal and Literary Verisimilitude in Boccaccio's *Decameron*', *Representations*, 139.1 (2017), 118–45. Early modern Europe has also been of vital importance to emotions studies, serving as the primary site of exploration for the field's original (and largest) research centres. There are currently major research centres focusing on the History of Emotions in the United Kingdom, Germany, the Netherlands and Australia. These include: the QMUL Centre for the History of Emotions, London; the Max Planck Institute for Human Development, Berlin; the Amsterdam Centre for Cross-Disciplinary Emotion and Sensory Studies (ACCESS); and the Australian Research Council Centre of Excellence for the History of Emotions 1100–1800 (ARCCHE), a multi-node centre operating at the Universities of Adelaide, Melbourne, Sydney, Queensland and Western Australia, which further launched a research cluster on law and emotion in 2017. Two of the most significant methodological works in current History of Emotions scholarship focus their studies within pre-modern Europe: see William Reddy, *The Navigation of Feeling: A Framework for the History of Emotions* (Cambridge: Cambridge University Press, 2001) and Barbara H. Rosenwein, *Generations of Feeling: A History of Emotions 600–1700* (Cambridge: Cambridge University Press, 2015). See also: *Early Modern Emotions: An Introduction*, ed. by Susan Broomhall (Abingdon: Routledge, 2017), which attributes the 'vast' amount of early modern emotions scholarship, in part, to Reddy and Rosenwein.

<sup>19</sup> Susan A. Bandes, 'What Roles Do Emotions Play in the Law?', *Emotion Researcher* (July 2016), paragraph 1. Accessed at <<http://emotionresearcher.com/what-roles-do-emotions-play-in-the-law/>> [last accessed 28 July 2017].

<sup>20</sup> Peter N. Stearns and Carol Z. Stearns, 'Emotionology: Clarifying the History of Emotions and Emotional Standards', *The American Historical Review*, 90.4 (1985), 813–36 (p. 813).

<sup>21</sup> William Reddy, *The Navigation of Feeling*.

<sup>22</sup> Stearns and Stearns, 'Emotionology', p. 825. For more on 'emotional communities', see Barbara Rosenwein, 'Worrying about Emotions in History', *The American Historical Review*,

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107 (2002), 921–45; *Emotional Communities in the Early Middle Ages* (Ithaca, NY: Cornell University Press, 2006). For an overview of recent historiographical work on emotions, see: Susan J. Matt, ‘Current Emotion Research in History: Or, Doing History from the Inside Out’, *Emotion Review*, 3.1 (2011), 117–24; Erin Sullivan, ‘The History of Emotions: Past, Present, Future’, *Cultural History*, 2.1 (2013), 93–96; and Jan Plamper, *The History of Emotions: An Introduction* (Oxford: Oxford University Press, 2015).

<sup>23</sup> Richard Posner, *Law and Literature: A Misunderstood Relation* (Cambridge, MA: Harvard University Press, 1988), p. xi. Since this first edition was published, Posner has heavily revised subsequent editions, which are now appended with a critical introduction open to the possibilities of law and literature scholarship. Posner now sees the risks of law and literature scholarship as ‘amateurishness’ resulting from the ‘plague of interdisciplinarity’. Posner, *Law and Literature: A Misunderstood Relation*, 3<sup>rd</sup> edn (Cambridge, MA: Harvard University Press, 2009), p. 6.

<sup>24</sup> Posner, *Law and Literature* (2009), p. xii. For an outline of this ‘humanistic’ model of law and literature scholarship, see Julie Stone Peters, ‘Law, Literature, and the Vanishing Real’, *PMLA*, 120.2 (2005), 442–53 (pp. 444–45).

<sup>25</sup> Stone Peters, ‘Law, Literature, and the Vanishing Real’, p. 445; Jane Baron, ‘Law, Literature, and the Problems of Interdisciplinarity’, *Yale Law Journal*, 108 (1999), 1059–85 (pp. 1063–66).

<sup>26</sup> Harold Suretsky, ‘Search for a Theory: An Annotated Bibliography of Writings on the Relation of Law to Literature and the Humanities’, *Rutgers Law Review*, 32 (1979), 727–40 (p. 728).

<sup>27</sup> See also Jane Baron, ‘Interdisciplinary Legal Scholarship as Guilty Pleasure: The Case of Law and Literature’, in *Law and Literature*, ed. by Michael Freeman and Andrew D. E. Lewis (Oxford: Oxford University Press, 1999), pp. 21–45 (p. 45).

<sup>28</sup> When Elizabeth S. Anker and Bernadette Meyler describe a ‘long tradition of law and literature criticism that examines the relevance of different emotions to law’, they are describing the humanistic tradition of deploying literature to mitigate the savageness of law rather than explicit contributions to law and emotion. Describing Ravit Reichman’s contribution to their volume, the only essay that tackles law and emotion directly, the editors cautiously insert distance, drawing attention to the article’s grounding in affect theory rather than feelings per se (Anker and Meyler, ‘Introduction’, p. 23); Ravit Reichman, ‘Law’s Affective Thickets’, in *New Directions in Law and Literature*, ed. by Anker and Meyler, pp. 109–22. Likewise, the following works track many arcs of law and literature without explicitly attending to the category of ‘emotion’: Austin Sarat (ed.), *Law and the Humanities*:

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*An Introduction* (Cambridge: Cambridge University Press, 2014); and the book series *Law and Literature*, ed. by Klaus Stierstorfer and Daniela Carpi (Berlin: De Gruyter, 2011–).

<sup>29</sup> Greta Olson, 'Futures of Law and Literature: A Preliminary Overview from a Culturalist Perspective', in *Recht und Literatur im Zwischenraum: Aktuelle inter- und transdisziplinäre Zugänge / Law and Literature In-Between: Contemporary Inter- and Transdisciplinary Approaches*, ed. by Christian Hiebaum, Susanne Knaller and Doris Pichler (Berlin: De Gruyter, 2015), 37–69 (pp. 49–51).

<sup>30</sup> Through placing emphasis on the 'humanity' of the humanities, such assimilation also suggests a transhistorical, transnational association which is problematized by early modern humanistic thought. For more on early modern understandings of 'humanism', particularly in the context of a set of discursive philological skills, see M. J. Pincombe, *Elizabethan Humanism: Literature and Learning in the Later Sixteenth Century* (London: Longman-Pearson, 2001).

<sup>31</sup> Erin Sullivan, *Beyond Melancholy: Sadness and Selfhood in Renaissance England* (Oxford: Oxford University Press, 2016), p. 5. Sullivan's comment here speaks to a much broader tendency, in the field of emotions scholarship, to overlook literary studies. For example: since 2011, *Emotion Review*, the journal of the International Society for Research on Emotion, has had a regular review article series entitled 'View from a Discipline'. With each article aiming to review emotion research in a single field, the first published piece focused on History.

Since then, *Emotion Review* has published 'View from a Discipline' articles on:

Psychophysiology, Political Science, Sociology, Language Science, Behavioural Neuroscience, Philosophy, Anthropology, Linguistic Anthropology, Health Behaviour Science, Cognitive Neuroscience, Cultural Neuroscience, Social Psychology, Music Psychology, English Linguistics, and Social Neuroscience. As of the current issue (October 2017), there has yet to be a discipline focus on any branch of literary studies.

<sup>32</sup> Sullivan, *Beyond Melancholy*, p. 8. On this, see also Frances E. Dolan, *True Relations: Reading, Literature, and Evidence in Seventeenth-Century England* (Philadelphia, PA: University of Pennsylvania Press, 2013).

<sup>33</sup> Cormack, *A Power to Do Justice*, p. 11.

<sup>34</sup> Owen M. Fiss, *The Law As It Could Be* (New York: New York University Press, 2003), p. 217.

<sup>35</sup> Thomas Wright, *The Passions of the Minde in Generall* (London: 1604), sig. D8<sup>v</sup>. Accessed at Early English Books Online (EEBO) <<http://eebo.chadwyck.com/>> [last accessed 21 November 2017].

<sup>36</sup> We have made an editorial decision to use the American spelling of one noun and its variants throughout: judgment. In British spelling, there is a distinction between 'judgement'

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(the expression of aesthetic or wilful opinion) and ‘judgment’ (the technical legal sense of the verdict handed down by a judge); to our minds, this distinction erases the overlap of legal and emotional decisions. The American spelling imports flexibility and allows the spectre of legal judgment to haunt affective decisions such as whether or whom to marry, or vice versa, in leaving space for affect firmly in the courtroom.

<sup>37</sup> Wright, *The Passions of the Minde*, sig. D7<sup>r</sup>.

<sup>38</sup> Wright, *The Passions of the Minde*, sig. E7<sup>r</sup>.

<sup>39</sup> Wright, *The Passions of the Minde*, sig. F8<sup>r</sup>.

<sup>40</sup> For more on these debates, see: Tim Stuart-Buttle and Subha Mukherji (eds.), *Literature, Belief, and Knowledge in Early Modern England: Knowing Faith* (Houndsmills: Palgrave Macmillan, forthcoming 2018); Stefania Tutino, *Shadows of Doubt: Language and Truth in Post-Reformation Catholic Culture* (Oxford: Oxford University Press, 2014); and Ulinka Rublack, *Reformation Europe* (Cambridge: Cambridge University Press, 2017), especially pages 1–55, and 211–42, which cover emotional, legal and theological truth-seeking.

<sup>41</sup> See, for example, C. John Sommerville, *The Secularisation of Early Modern England: From Religious Culture to Religious Faith* (New York: Oxford University Press, 1992). For a helpful overview of the secularization debate, see Philip S. Gorski, ‘Historicizing the Secularization Debate: Church, State, and Society in Late Medieval and Early Modern Europe, ca. 1300 to 1700’, *American Sociological Review*, 65.1 (2000), 138–67. While such narratives treat a general move away from religious influence, secularization in the early modern period took on particular forms such as a jurisdictional shift in English law away from ecclesiastical courts to their secular counterparts. For more on this, see Martin Ingram, *Church Courts, Sex, and Marriage in England, 1570–1640* (Cambridge: Cambridge University Press, 1990), especially pp. 1–26.

<sup>42</sup> Stephen Greenblatt, ‘Preface’, in *Swerve: How the Renaissance Began* (London: Vintage, 2012), pp. 1–13 (p. 11).

<sup>43</sup> The phrase ‘from Inquisition to Inquiry, 1500–1700’ was the subtitle of a conference hosted by the Centre for Seventeenth- and Eighteenth-Century Studies at the University of California, Los Angeles in 2016. The conference was primarily concerned with the ‘Quest for Certainty in Early Modern Europe’, where certainty might be understood, as Lorraine Daston suggests along Foucauldian lines, as the dominant episteme of truth in the early modern period. Lorraine Daston, ‘Objectivity versus Truth’, *DAIMON: Revista de Filosofía*, 24 (2001), 11–21.

<sup>44</sup> Barbara J. Shapiro, *Probability and Certainty in Seventeenth-Century England: A Study of the Relationships Between Natural Science, Religion, History, Law, and Literature* (Princeton, NJ: Princeton University Press, 1983), p. 271. See also two articles by Barbara J.

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Shapiro: 'To a Moral Certainty: Theories of Knowledge and Anglo-American Juries 1600–1850', *Hastings Law Journal*, 38.1 (1996), 153–93; and 'The Concept "Fact": Legal Origins and Cultural Diffusion', *Albion*, 26.1 (1994), 1–26.

<sup>45</sup> See: Francis Bacon, 'Of Truth', in *The Essaies or Counsels, Civill and Morall* (London: 1625), sig. B1<sup>r</sup>–B3<sup>v</sup>. Accessed at Early English Books Online (EEBO) <<http://eebo.chadwyck.com/>> [last accessed 21 November 2017]; Michel de Montaigne, 'Of Lyers', in *Essays written in French by Michael Lord of Montaigne*, trans. by John Florio (London: 1613), sigs. C2<sup>r</sup>–C3<sup>r</sup>. Accessed at Early English Books Online (EEBO) <<http://eebo.chadwyck.com/>> [last accessed 21 November 2017]; and Juan Lu s Vives, *De ratione dicendi* (1533), ed. and trans. by David Walker (Leiden: BRILL, 2017), III. 4.

<sup>46</sup> Bacon, 'Of Truth', sig. B2<sup>r</sup>.

<sup>47</sup> Bacon, 'Of Truth', sig. B3<sup>r</sup>.

<sup>48</sup> Bacon, 'Of Truth', sig. B3<sup>r</sup>.

<sup>49</sup> Montaigne, 'Of Lyers', sig. C3<sup>r</sup>.

<sup>50</sup> See: Michel de Montaigne, *An Apology for Raymond Sebond*, ed. and trans. by M. A. Screech (London: Penguin, 1988); and Natalie Zemon Davis, *The Return of Martin Guerre* (Cambridge, MA: Harvard University Press, 1983). For an early modern account of the trial by a French lawyer, see Jean de Coras, *Arrest m morable du Parlement de Tholose* (Paris: 1572). Accessed at Gallica <<http://gallica.bnf.fr/>> [last accessed 26 October 2017].

<sup>51</sup> Michel de Montaigne, 'Of the Lame or Cripple', in *Essays written in French by Michael Lord of Montaigne*, trans. John Florio (London: 1613), sigs. Fff1<sup>v</sup>–Fff4<sup>r</sup> (sig. Fff3<sup>r</sup>). Accessed at Early English Books Online (EEBO) <<http://eebo.chadwyck.com/>> [last accessed 21 November 2017].

<sup>52</sup> William Shakespeare, *The Tragedy of Macbeth*, and *Measure for Measure*, in Folger Shakespeare Library, *Shakespeare's Plays* from Folger Digital Texts, ed. by Barbara Mowat, Paul Werstine, Michael Poston and Rebecca Niles. Accessed at Folger Digital Texts <[www.folgerdigitaltexts.org](http://www.folgerdigitaltexts.org)> [last accessed 21 November 2017].

<sup>53</sup> Edward Coke, *An Abridgement of the Lord Coke's Commentary On Littleton* (London: 1651), sig. p2<sup>v</sup>. Accessed at EEBO <<http://eebo.chadwyck.com/>> [last accessed 21 November 2017]. Montaigne, 'Of the Lame or Cripple', in *Essays*, sigs. Fff1<sup>v</sup>–Fff4<sup>r</sup> (sig. Fff2<sup>r</sup>). Montaigne's comparison of truth and falsehood draws on the following Ciceronian maxim: 'ita enim finitima sunt falsa veris eaque quae percipi non possunt eis quae possunt [...] ut tam in praecipitem locum non debeat se sapiens committere' ['for things false lie so close to things true, and things that cannot be perceived to things that can (assuming there are such things, which we shall see soon), that it is the duty of the wise man not to trust himself to such a steep slope']. Cicero, *Academica*, ed. and trans. by H. Rackham, Loeb Classical Library

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(Cambridge, MA: Harvard University Press, 1933), II. 68. Vives draws on the same maxim in *De ratione dicendi* (1533), III. 4. For a broader study of lying in early modern England, see Andrew Hadfield, *Lying in Early Modern English Culture* (Oxford: Oxford University Press, 2017).

<sup>54</sup> For a comprehensive, multilingual overview of academic scepticism, see Plínio Junqueira Smith and Sébastien Charles (eds.), *Academic Skepticism in the Development of Early Modern Philosophy* (Amsterdam: Springer, 2017).

<sup>55</sup> Aristotle, *Art of Rhetoric*, ed. and trans. by J. H. Freese, Loeb Classical Library (Cambridge, MA: Harvard University Press, 1926), III. 1404b. Accessed at <<http://www.perseus.tufts.edu/>> [last accessed 10 November 2017].

<sup>56</sup> The term ‘rhetoric of honor’ is borrowed from Scott K. Taylor, *Honor and Violence in Golden Age Spain* (New Haven, CT: Yale University Press, 2003), p. 9.

<sup>57</sup> Montaigne, ‘Of Lyers’, sig. C3<sup>r</sup>.

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