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Treasonous Silence: The Tragedy of Philotas *and Legal Epistemology [with illustrations]*

In 1605 something curious happened in the world of elite theater. Samuel Daniel, a writer of rare and wide-ranging talent, with years of experience navigating high-profile patronage networks, made a major blunder. He allowed an edgy political play originally composed as a closet drama to get dragged onto the stage at court. The play, *The Tragedy of Philotas*, told the story of the title-character, a successful but problematically ambitious military commander who fails to report a treasonous plot against the life of Alexander the Great and whose reticence causes him to become implicated in that plot. Philotas' trial in Act 4 of the play leads ultimately to his conviction and death, as well as his condemnation by a moralizing chorus in Act 5. But the trial scene itself sets Philotas up as the victim of political paranoia and the opportunistic persecution of Alexander's conniving adviser, Craterus. After the performance, Daniel was promptly summoned to appear before King James's Privy Council where he was accused of using Philotas to dramatize sympathetically certain aspects of the career and downfall of Robert Devereux, second Earl of Essex, who had been executed for high treason four years earlier after a failed insurrection against Queen Elizabeth. No records of this appearance survive, but two letters by Daniel—one to the Secretary of State, Robert Cecil, the other to his patron, Charles Blount, Lord Mountjoy—as well as an "Apology" which appears to have been written directly following the

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incident lead us to understand that he vigorously denied the charges.[1] In the end Daniel escaped serious punishment, but the incident put him permanently out of favor with the new King.

This essay does not delve into the baffling—and, finally, unanswerable—question of how someone as savvy as Daniel let all this transpire. It does, however, take seriously his claim in both the letter to Cecil and the printed "Apology" that his play had been grossly "misconceiu[ed]" (p. 253); not because he intended no allusion whatsoever to Essex, but because his interest in the Earl, especially the aftermath of his ill-fated march on London in 1601, had less to do with Essex himself than with the type of crime he committed: treason. *The Tragedy of Philotas* is centrally concerned with the unique legal-epistemological issues raised by treason, Renaissance England's most capital yet most elusively defined crime.[2] In Daniel's play Philotas is convicted of treason not for an action or an utterance but for quite the opposite: his silence. The question at the heart of the play is, does silent knowledge of treason constitute an actual treasonous act? This question—probing as it does the harried relationship between thinking and doing, apathy and consent—connects *Philotas* to a key sixteenth-century legal problematic concerning how to define, detect, and prosecute treason.

This essay explores that connection to demonstrate the need for a more pluralistic, less rigidly local, approach to the imaginative relationship between Daniel's play and the historical context within which it was produced. Criticism devoted to *Philotas* has been too narrowly focused on the figure of Essex himself, with the result that the play's broader legal and philosophical investments have been largely overlooked. As a corrective, I consider Philotas' downfall against a more expansive backdrop, one that includes sixteenth- and seventeenth-century treason legislation as well as the trials of other famous traitors,

1. Both letters are printed in H. Sellers, "A Bibliography of the Works of Samuel Daniel," *Oxford Bibliographical Society Proceedings and Papers* 2 (1927), 51–52. Daniel's "Apology" was written around the time of his troubles with the Privy Council but it did not appear in print until four years after his death when it was included along with the play in *The Whole Workes of Samuel Daniel* (1623). Privy Council records for the years 1601–1613 are lost.

2. E.g., Katherine Eisaman Maus's pioneering *Inwardness and Theater in the English Renaissance* (Chicago, 1995), esp. ch. 4, and Karen Cunningham's *Imaginary Betrayals: Subjectivity and the Discourses of Treason in Early Modern England* (Philadelphia, 2002). On *The Tragedy of Philotas* as a play of broad legal interest, see John Pitcher's discussion of the Folger Shakespeare Library's unique copy of the play annotated by the London lawyer Sir Anthony Benn in "Samuel Daniel and the Authorities," *Medieval and Renaissance Drama in England* 10 (1998), 113–48.

such as Thomas More, Nicholas Throckmorton, and Essex's secretary, Henry Cuffe. In a broader perspective, *Philotas* provides unique access to an as-yet-untold story about the curious way in which the intellectual history of silence and the political history of treason came to intertwine in Renaissance England. *Philotas* can be read as an index to the age's conflicting ideas about the limits of policeability and the nature of disobedience.

Two things should be established from the outset: the extent to which Essex *is* relevant to Daniel's play, and where precisely the Essex paradigm begins to fall apart. The thin, although steady, trickle of critical discussion devoted to *Philotas* has returned again and again to the question of whether or not Daniel intended his main character to summon up the career and downfall of Robert Devereux.[3] The answer is almost certainly, yes.[4] Daniel's connections to Essex and his associates throughout the 1590s are well attested. Not only did he write commendatory verse for Essex confidants Thomas Egerton and Henry Wriothesley, Earl of

3. Alexander B. Grosart believed that Daniel's play had been misunderstood by the Jacobean authorites and that he was free from guilt. See Samuel Daniel, *The Complete Works in Verse and Prose*, ed. A. B. Grosart, 5 vols. (London, 1895–1896), 1, xxii. In his edition of Samuel Daniel, *Poems and "A Defense of Rhyme"* (Cambridge, Mass., 1930), A. C. Sprague settled on a more equivocal conclusion. "The good faith of [Daniel's] statements," he argues, "is not . . . to be questioned." Nevertheless, "the seriousness of the charges comes out when the resemblances between Essex and Philotas are perceived" (p. xxvi). A little over a decade later Brents Stirling made a convincing argument for Daniel's guilt in "Daniel's *Philotas* and the Essex Case," *Modern Language Quarterly* 3 (1942), 583–94, and this was soon followed by Laurence Michel's lengthy presentation of evidence in support of an Essex-*Philotas* link in his edition of the play (New Haven, 1949). G. A. Wilkes argued against both of them in "Daniel's *Philotas* and the Essex Case: A Reconsideration," *Modern Language Quarterly* 23 (1962), 233–42. Cecil Seronsy, on the other hand, maintained the Stirling-Michel position in his literary biography, *Samuel Daniel* (New York, 1967), pp. 52–57, as did B. N. de Luna in *Jonson's Romish Plot: A Study of "Cataline" in its Historical Context* (Oxford, 1967), p. 32n. 7. More recently, in " 'Those grave presentments of antiquitie': Samuel Daniel's *Philotas* and the Earl of Essex," *Review of English Studies* 51 (2000), Hugh Gazzard has shown how the case for a link between *Philotas* and the Essex affair is strengthened considerably when we attend to how Daniel transformed his classical sources (423–50). Finally, scholarship devoted to issues of censorship has, not surprisingly, been consistently interested in Daniel's intentions with *Philotas*. Richard Dutton, e.g., concurs with Michel in *Mastering the Revels: The Regulation and Censorship of English Renaissance Drama* (Basingstoke, 1991), p. 169. In "*Arte made tongue-tied by authority": Elizabethan and Jacobean Dramatic Censorship*, 2nd ed. (Manchester, 1999), Janet Clare, likewise, finds deliberate references to Essex in the play "highly probable" (p. 151).

4. Gazzard's essay is as close to decisive as we can get on such an issue. As John Pitcher puts it (commenting on the work prior to publication), "the case Gazzard presents makes it impossible to believe any longer that the connections and parallels between the play and the earl's trial and execution were unintended" (p. 119n. 9).

Southampton (the latter being Essex's closest ally and his second-in-command on the day of the 1601 insurrection), but he also prefaced his own *Civil Wars* (1595) with a eulogistic address to Essex. In the "Apology" Daniel wrote in response to the Privy Council's condemnation of *Philotas*, he even confessed that he had throughout his career been "perticularly beholding to his [Essex's] bounty" (p. 256).[5] Within the play itself, there are some general characterological parallels between Philotas and Essex—for example, both are ambitious and reputable military leaders and both hold the position of Master of the Horse—and these characterological parallels are reinforced by close verbal correspondences between statements made by Philotas in the trial scene in Act 4 and those made by Essex during his own real-life trial in 1601.[6]

Nevertheless, there remain important aspects of Philotas' fall from grace that depart noticeably from the Essex paradigm, and these have gone largely unaccounted for.[7] Most significantly, Philotas is not accused of treason as the result of a physical or verbal act, whereas Essex actually marched on London with an armed retinue. It is Philotas' silence and lack of action that get him into trouble. Philotas fails to pass on crucial information concerning a plot to murder Alexander, and this is taken as confirmation of his own aspirations of royal usurpation. While this has little to do with Essex's openly displayed act of rebellion there are other trials that could have served as sources of inspiration. Henry Cuffe, Essex's secretary, for example, was executed along with the Earl in 1601 for a treason that was committed neither in word nor in action, but in silence. The secretary was in his study reading when Essex and his followers marched on London, but in the aftermath of the botched insurrection Cuffe was accused of failing to prevent a conspiracy he had full knowledge of.[8] The point here is not to replace a one-to-one correspondence between Philotas and Essex with a

5. For discussion, see Michel, pp. 42–45, and Gazzard, 436–38.

6. This is reviewed exhaustively by Michel, pp. 45–66.

7. Gazzard makes the thrilling, if somewhat myopic, suggestion that "the intermittent abandonment of the crucial parallel [i.e. with Essex]" is "a parallax deployed to deflect the potentially hostile gaze of authority from recognizing too readily the covert subject of the play" (436). I am arguing that the "intermittent abandonment" simply means something else.

8. T. B. Howell, ed., *A Complete Collection of State Trials and Proceedings for High Treason and Other Crimes and Misdemeanors from the Earliest Period to the Year 1783* (1816), 1, 1411–12. See also, Alan Stewart, "Instigating Treason: The Life and Death of Henry Cuffe, Secretary," in *Literature, Politics, and Law in Renaissance England*, ed. Erica Sheen and Lorna Hutson (Basingstoke, 2005), pp. 50–70.

one-to-one correspondence between Philotas and Cuffe (or any other Renaissance traitor) but, rather, to insist on the limitations of the Essex paradigm, especially its inability to account for the specific type of treason Philotas commits. As interested as early moderns were in precise forms of political topicality, *The Tragedy of Philotas* is not engaged solely with the viability of the justice dealt out to a single man. It also speaks to a much larger legal-epistemological crux in Renaissance England: the problem of how to identify and prosecute a crime which could be committed in a conceptual space prior to action and prior to language, the problem of what I am calling "treasonous silence."

II

Interiorized criminality—non-physical and non-linguistic—was built into the very definition of treason in England. The Edwardian statute of 1352, which eventually found its way into Edward Coke's *Institutes* (1644), defined treason as, "when a man doth compasse or imagine the death of our lord the king."[9] The key terms here for our purposes are "compasse" and "imagine." They enter the English statute as literal translations from the original Law French—*compasser* and *imaginer*—and occur in no other legal statute. Their effect within the statute of treason is to cast realized action as a consequence of a crime that has already taken place in the mind. That is, as an *effect*, which may or may not actually be produced. Monarchs and judges quickly learned how the category of "imagined treason" might be stretched and extended to embrace a wide variety of offenses, often having to do with written or spoken words of a purportedly malicious, or otherwise anti-monarchical, nature. With the exception of charges arising from levying war against the king (something not uncommon during the political upheavals ushered in by Richard II), "imagined" treachery—treachery planned, spoken of, or alluded to—was the dominant source of indictment between the years 1352 and 1485.[10] Only in the Tudor period, and in particular the reign of Henry VIII, do we find a

9. Edward Coke, *The Third Part of the Institutes of the Laws of England* (1644), sig. B3v. On the Edwardian statute and the medieval context of treason more generally, see John G. Bellamy, *The Law of Treason in England in the Later Middle Ages* (Cambridge, Eng., 1970) and Richard Firth Green, *A Crisis of Truth: Literature and Law in Ricardian England* (Philadelphia, 1999), pp. 206–47.

10. John G. Bellamy, *The Tudor Law of Treason: An Introduction* (London, 1979), pp. 10–11. This whole section relies heavily on Bellamy's foundational research.

concerted effort to define exactly what imagined treason might entail. Whereas between 1352 and 1485 ten new treason statutes were enacted, the period 1485 to 1602 saw a staggering sixty-eight treason statutes enacted (p. 12). This succession of legislative interventions—what amounts to a sustained dialogue with the original Edwardian statute—focused on particularizing that vague notion of the "treasonous imagination," testing its conceptual boundaries, and doing so in a way that permitted it to be more efficiently mobilized as a category of criminality.

That Henry VIII's reign is the most significant period in the history of English Renaissance treason is in some ways hardly surprising. Given Henry's complete overhaul of the established structure of obedience and obligation, it is only logical that treason, a type of offense whose official existence was largely aimed at safeguarding that structure, would receive a similar overhaul. Between the years 1530 and 1542 a series of acts intended to defend Henry's religious policies and matrimonial arrangements resulted in a newly detailed model of the scope of treason. The first Succession Act (25 Hen. VIII c.22),[11] for instance, attempted preemptively to safeguard Henry's marriage to Anne Boleyn by making explicitly treasonous not only deeds which imperiled the King, but written or printed words that slandered him or his marriage.[12] This met with swift retaliation from Henry's legal advisors who urged, at the very least, the demotion of spoken words to the lesser crime of "misprision of treason." They were unsuccessful. The 1521 trial of the Duke of Buckingham set precedent against them. At Buckingham's trial, Chief Justice Fineux distinguished between felony and treason thus: whereas the former always required some kind of act to be committed, the latter required nothing more than *intention* to kill the king and this, Fineux maintained, could be sufficiently proven by words alone (p. 32). The 1534 Treason Act (26 Hen. VIII c.13) drove this point home by making "treason by words" its focal point. Moreover, now not only were written and printed words deemed treasonous, *spoken* words, too—pronouncing the King a heretic, a schismatic, a tyrant, an infidel, an adulterer—were taken as definitive marks of a

11. For ease of reference, statutes are cited parenthetically. Details for all statutes can be found in *Statutes of the Realm, 1101–1713*, 11 vols. (1810–1828).

12. This specifically verbal component of treason, which emerged explicitly for the first time during Henry's reign, is the focus of Rebecca Lemon's book, *Treason by Words: Literature, Law, and Rebellion in Shakespeare's England* (Ithaca, 2006).

traitor, and this was reiterated in the second Succession Act (28 Hen. VIII c.7).

The most sensational piece of Henrican treason legislation was the act passed in 1541/42 (33 Hen.VIII c.23) dealing with women the King intended to marry. This act stated that if the monarch pursued marriage with a woman under the assumption that she was chaste and she later proved to be otherwise, she would be found guilty of treason. The act is explicitly concerned with monitoring the body, but it is also concerned with monitoring the mind. A woman indicted under this act is not just guilty of a sexual infraction; she is also guilty of withholding information, of having knowledge of a certain state of affairs and not providing the authorities with access to that knowledge. Consistent with this logic, under this act, any other subject who happened to know of the woman's sexual status and failed to report it would also be guilty of treason. This is a bizarre and despotic piece of legislation, to be sure, at once a testament to Henry's own manic single-mindedness and a significant landmark in the cultural history of sexual surveillance. However, the act of 1541/42 also tells us something important about changes in the metaphysics of crime in Renaissance England. In this act a crime becomes something that can take place prior to, or irrespective of, instantiated words or acts. It therefore constitutes an important extension of the territory of treason beyond the materialized into the realm of thoughts themselves.

Henry VIII's solutions to immediate political problems tended to have rather long-term effects, and his acts of treason are no exception. Edward, Mary, and Elizabeth each oversaw new treason statutes, and each wave of legislation had its own characteristics. But as Bellamy concludes, all three reigns are typified by a more general pattern of optimistically rolling back Henry's punitive legislation shortly after ascension only to reinstate it when the task of governing started to get thorny (p. 51). As a result, Henrican definitions of treason—pinpointing, in turn, written words, spoken words, and, finally, silent knowledge as policeable phenomena—came to have a formative influence on sixteenth-century notions of treason more broadly. The non-physical forms of the crime signaled implicitly in the 1352 statute were made explicit in the Henrican acts, transforming the crime from an enacted affront to something that might more accurately be thought of as a psychological terrain, a cognitive space from which words and actions merely have the *potential* to issue.

III

The notion of a fully interiorized version of treason, then, was firmly established by the middle of the sixteenth century. But it goes without saying that treasons which produced outwardly manifested evidence remained much easier to prove. The successful prosecution of imagined treason frequently involved creating such evidence. Written or spoken words, witness testimony, even marks on the suspect's body could be taken as indicators of a fully-formed mental plot to harm the monarch.[13] Equally important, and something that has yet to be broached in scholarly work on treason, was the ability of judges to manipulate persuasively certain cultural associations of the idea of silence. This was certainly the case at the trial of Henry Cuffe in 1601, as it was at the much more famous trial of Thomas More in 1535. At More's trial, the King's Attorney General, Christopher Hales, asserted in no uncertain terms, "Even though we should have no word or deed to charge upon you, yet we have your silence, and that is sign of your evil intention and sure proof of your malice."[14] So, while the fates of More, of Cuffe, and, within the fictional world of Daniel's play, of Philotas are understandable in the context of sixteenth-century treason legislation, they are also products of the complex cultural history of silence.

In our own time silence has a more stable meaning than it did in the Renaissance or before. Liberal democracy has at its core a constitutional imperative that guarantees each individual a "voice" in the workings of government and the regulation of society.[15] Silence in the context of this sort of political culture suggests a loss of liberty, or at the very least a voluntary withdrawal: at any rate, disempowerment and disenfrachisement.[16] The social movements that have arisen from this political culture, largely in the twentieth century, have been fundamentally concerned with giving a "voice" to those who have been silenced

13. A major item of evidence used against Katherine Howard in 1542 was a mark on her body. The trial of Mary, Queen of Scots (1586) turned on the authenticity of an encrypted group of letters. At Sir Walter Ralegh's trial, on the other hand, a great deal of importance was vested in the accused's spoken words (1603). For discussion, see Cunningham, *Imaginary Betrayals*, pp. 13–15.

14. Thomas Stapleton, *The Life and Illustrious Martyrdom of Sir Thomas More* [1588], tr. Philip E. Hallet (London, 1928), p. 192.

15. On this topic, see Christina Luckyj's insightful observations in *"A Moving Rhetoricke": Gender and Silence in Early Modern England* (Manchester, 2002), p. 3.

16. One important exception to this is, of course, the Fifth Amendment. See Leonard Levy, *Origins of the Fifth Amendment: The Right Against Self-Incrimination* (Oxford, 1968).

by the political status quo. Thus Hélène Cixous characterizes "woman's *seizing* the occasion to speak" as "her shattering entry into history."[17] She urges women to emancipate themselves from patriarchal oppression by "tak[ing] up the challenge of speech" and "break[ing] the snare of silence" (p. 151). Similarly, Luce Irigaray recommends women "defend their desire notably by their speech."[18] For both, silence is a form of erasure, of passivity intense enough to become complete absence. Jacques Derrida attributes a similar significance to silence, but extends it beyond the social and political specificities of gender dynamics to the realm of phenomenology and its universal claims about the relationship between speech and consciousness: "When I speak it belongs to the phenomenological essence of this operation that *I hear myself at the same time* that I speak. The signifier, animated by my breath and by the meaning-intention . . . is in absolute proximity to me. The living act, the life-giving act, the *Lebendigkeit*, which animates the body of the signifier and transforms it into meaningful expression, the soul of language, seems not to separate itself from itself, from its own self-presence."[19] Within the economy of value outlined by Derrida, with speech being "the living act, the life-giving act," silence stands as the ultimate form of erasure, the ultimate absence: death itself.

Of course this connotation of silence is not specifically modern, and certainly not specifically phenomenological. Hamlet's last words, "the rest is silence" (5.2.358),[20] is a reference both to his own death and to the way in which his death acts as a threshold beyond which the story of his exploits turns into a narrative absence—literal silence. However, there is a fundamental difference between Hamlet's silence and the silence of Cixous, Irigaray, and Derrida. For all the dissimilarities between them, these three philosophers share a common, and specifically modern (or post-Enlightenment) cultural inheritance which places speech and silence on the opposite sides of a binary that codes the former active, the

17. Hélène Cixous, "The Laugh of Medusa," tr. Keith Cohen and Paula Cohen, in *New French Feminisms*, ed. Elaine Marks and Isabelle de Courtivron (Amherst, 1980), p. 250. See also Cixous' "Castration or Decapitation," tr. Annette Kuhn, *Signs* 7 (1981), 44–55.

18. Luce Irigaray, "This Sex Which Is Not One," tr. Claudia Reeder, in *New French Feminisms*, p. 160.

19. Jacques Derrida, "The Voice That Keeps Silence," in *Speech and Phenomenon: And Other Essays on Husserl's Theory of Signs*, tr. David B. Allison and Newton Garver (Evanston, 1973), p. 77.

20. All quotations from Shakespeare are from *The Riverside Shakespeare*, ed. G. Blakemore Evans, 2nd ed. (Boston, 1997) and will be cited parenthetically.

latter passive; the former presence, the latter absence; the former essentially good, the latter essentially bad. While they are radical in many ways, Cixous's, Irigaray's, and Derrida's perspectives on speech and silence are part of a dominant ideology. They issue from the cultural and philosophical mainstream of the twentieth century. By contrast, Hamlet's silence extends just one of several distinct strands of meaning available in Renaissance England. Shakespeare and Daniel's culture, unlike ours, did not have a dominant account of silence. Instead silence was a site for competing narratives and multiple significances, the collectivity of which reflect a long and perplexed intellectual history.

If we take humanism, with its grounding in classical rhetoric, to be the defining intellectual force within Renaissance culture, then the sixteenth century quickly emerges as a period characterized by intense linguistic optimism.[21] Thomas Wilson closes his *Arte of Rhetorique* (1553) with the simple formulation, "the good will not speake evill: and the wicked can not speak well" (fol. 113.) The latter part of the statement, in particular, asserts the benevolence of speech by equating verbal prowess with moral integrity, whereas the verbal degeneracy of those who cannot "speak well" or cannot (or do not) speak at all, points to a corresponding moral degeneracy. For Wilson, this idea is embedded within a specifically Christian myth in which Man's status as God's favored creation is explicitly linked to the uniquely human gift of language, the sole means through which Man has redeemed himself in the postlapsarian world. In the famous preface to the 1560 edition of *The Arte of Rhetorique*, Wilson describes this triumph over the chaos of nature:

> [After the Fall] all thinges waxed savage, the earth untilled, societie neglected, Goddes will not knowen, man against man, one against an other, and all against order. Some lived by spoile, some like brute Beastes, grased upon the ground, some went naked, some roamed like Woodoses, none did anythinge by reason, but moste did what they could, by

21. John O. Ward calls "the pursuit of eloquence" the "keynote of Renaissance culture." "Renaissance Commentators on Ciceronian Rhetoric," in *Renaissance Eloquence: Studies in the Theory and Practice of Renaissance Rhetoric*, ed. James J. Murphy (Berkeley, 1983), p. 126. See also Hanna H. Gray, "Renaissance Humanism: The Pursuit of Eloquence," *Journal of the History of Ideas* 24 (1963), 497–514; Arthur F. Kinney, *Humanist Poetics: Rhetoric, Thought, and Fiction in Sixteenth-Century England* (Amherst, 1986); Brian Vickers, *In Defense of Rhetoric* (Oxford, 1989); Thomas M. Conley, *Rhetoric in the European Tradition* (Chicago, 1990); and Wayne Rebhorn, *The Emperor of Men's Minds: Literature and the Renaissance Discourse of Rhetoric* (Ithaca, 1995). Recently, Carla Mazzio has challenged the cultural primacy of humanist rhetoric in her provocative study, *The Inarticulate Renaissance: Language Trouble in an Age of Eloquence* (Philadelphia, 2009).

> manhode. None almost considered the everlyving God, but all lived moste commonly after their own lust. By death they thought that all thinges ended, by life thei looked for none other living. None remembered the true observation of Wedlocke, none tended the education of their children, Lawes were not regarded, true dealing was not once used. For vertue, vyce bare place, for right and equitie, might used authoritie. And therefore where as man throughe reason might have used order, man throughe follie fell into erroure. And thus for lacke of skill, and for want of grace, evill so prevailed, that the Devyll was mooste estemed, and God either almost unknowen emong them all, or elles nothing feared emong so manye. Therefore even nowe when man was thus paste all hope of amendemente, God stille tenderinge his own workmanship, stirred up his faithfull and elect, to perswad with reason, all men to societye. And gave his appointed ministers knowledge both to se the natures of men, and also granted them the gifte of utterance, that they might with ease wynne folke at their will, and frame them by reason to all good order.[22]

The "gifte of utterance" is the gift of divine election, the path to both spiritual renewal and social order. It is also directly linked to reason. Following the lead of Aristotle, most Renaissance philosophers saw reason as the faculty that separated humans from animals.[23] According to Aristotle's three-tier model, humans have a "rational soul," the fount of reason, as well as a "sensitive soul" and a "vegetative soul." Animals have only the sensitive and vegetative souls, and plants have the vegetative soul exclusively. Language, then, is not only what makes us spiritually privileged and socially equipped, it is what makes us human. "Herein it is," Henry Peacham explains in *The Garden of Eloquence* (1577), "that we do so far passe and excel all other creatures, in that we have the gift of speech and reason, and not they" (sig. A2). Similarly, Thomas Palmer underwrites his emblem "Force of Eloquence," which features Orpheus among the animals, with the lines, "So speche doth sever us from beastes, / fine speche from man and man."[24] There is, accordingly, something distinctly sub-human about those who do not, or cannot, speak, like the "salvage man" of Spenser's *Faerie Queene* who communicates by making

22. Thomas Wilson, *The Arte of Rhetorique* (1560), sigs. A6v-A7. Clarke Hulse discusses this passage in "Tudor Aesthetics," in *The Cambridge Companion to English Literature, 1500–1600*, ed. Arthur F. Kinney (Cambridge, Eng., 2000), pp. 40–41.

23. See Aristotle's *De Anima* and, for discussion, Erica Fudge, *Brutal Reasoning: Animals, Rationality, and Humanity in Early Modern England* (Ithaca, 2006), ch. 1.

24. Thomas Palmer, *The Emblems of Thomas Palmer: Two Hundred Poosees, Sloane MS 3794*, ed. John Manning (New York, 1988), pp. 15–16.

"great mone," or the quasi-human Caliban who has to be taught language by Prospero, the elite European settler.[25]

Humanist rhetoricians like Wilson and Peacham emphasized the irreducible benevolence of speech. But if one delves back through the history of rhetoric, there emerges equally laudatory appraisals of silence. The source of this "good silence," at least in the context of Western thought, is Pythagorus, who imposed a strict period of silence on his disciples as a way of orienting their minds toward truth.[26] In the Pythagorean tradition silence is the necessary prerequisite to knowing one's soul. It conveys enlightenment and wisdom, and exerts a force equal to, and in some cases stronger than, words. Thus Philostratus, speaking of Apollonius of Tyana's devotion to Pythagorean doctrine, recounts a story in which Apollonius quells the wrath of a famine-stricken citizenry simply by standing before them mute.[27] It is in a Pythagorean context, too, that we must view Pindar's advice that "silence is often the wisest thing / for a man to observe" or Plutarch's much later declaration that "silence is something profound and awesome and sober."[28] Pythagorean wise silence also underpins the proverbial observation—variously ascribed by Roman writers to Simonides and Xenocrates—that one may oftentimes regret speaking but never holding one's tongue.[29] Isocrates elaborates with more detailed, practical recommendations: "Always when you are about to say anything, first weigh in your mind; for with many the tongue outruns the thought, Let there be but two occasions for speech—when the subject is one you thoroughly know and when it is one on which you are compelled to speak. On these occasions alone is speech better than silence; on all others, it is better to be silent than speak."[30]

As well as casting silence as a manifestation of discretionary wisdom, Isocrates' injunction presents silence as one of the tools of conversation.

25. Edmund Spenser, *The Faerie Queene*, ed. A. C. Hamilton (Harlow, 2001), VI.4.11–12; William Shakespeare, *The Tempest*, 1.2.

26. G. S. Kirk and J. E. Raven, *The Pre-Socratic Philosophers* (Cambridge, Eng., 1957), pp. 220–21.

27. Philostratus, *The Life and Time of Appolonius of Tyana*, tr. Charles P. Eells (Stanford, 1923), I, 15.

28. Pindar, *Nemean Odes, Isthian Odes, Fragments*, ed. and tr. William H. Race (Cambridge, Mass., 1997), p. 49; Plutarch, "Concerning Talkativeness," in *Moralia*, ed. W. C. Helmbold (Cambridge, Mass., 1935), VI, 407.

29. See, e.g., Plutarch, "Concerning Talkativeness," p. 515 and Valerius Maximus, *Memorable Doings and Sayings*, ed. and tr. D. R. Shackleton Bailey (Cambridge, Mass., 2000), II, 98.

30. Isocrates, "To Demonicus," in *Isocrates*, tr. George Norlin (London, 1928), I, 29.

Accordingly, he gestures not only to Pythagorus, but also to Plato, whose attacks on sophistry, Raymond Waddington explains, "shift[ed] the locus of silence from the quasi-religious intimation of philosophical truth to the directly rhetorical context of silence as a form of eloquence."[31] That the goal of rhetoric was persuasion, Plato and the sophists could agree. But whereas the sophists saw persuasion as making things seem true, Plato insisted that there could be no persuasion if there was not genuine truth at its core. If one were not enlightened by truth, one would not be capable of persuasion. When Socrates says in the *Phaedrus*, "Since it is the function of speech to lead souls by persuasion, he who is to be a rhetorician must know the various forms of the soul," Plato is arguing for a rhetoric grounded in Pythagorean truth which includes silence as part of its idiom.[32] The underlying conviction is that if silence codes wisdom, then silence can be persuasive and eloquent. Philostratus' anecdote about Apollonius of Tyana standing silently before the angry mob bears out this point.[33]

The Renaissance was no stranger to Pythagorean-Platonic silence and its various Roman incarnations. In *Lingua* (1525), for example, Erasmus follows Plutarch closely in attacking garrulousness and assigning silence a key role within the larger economy of good speaking. "No one speaks properly," he maintains, "unless he has first learned to be silent."[34] Stefano Guazzo's *Civile Conversation*, translated into English by George Pettie in 1581, reminds readers of the applicability of Pythagorean doctrine to contemporary conversational etiquette, which requires a balance between speaking and listening: "It was therefore that Pithagoras bounde his scholars to keepe silence, for the space of three yeeres, considering that by their diligent giving eare unto him, they should be advertised of their owne ignorance, and printing in their hearts the profoundnesse and gravitie of his sentences, they should feele the profite of their patience: according to the old saying, that to a diseased minde, the witty woordes of others, serve for a Phisition: and in the end they should know, that it is no less admirable, to know how

31. Raymond Waddington, "The Iconography of Silence and Chapman's Hercules," *Journal of the Warburg and Courtauld Institutes* 33 (1970), 252.

32. Plato, *Plato*, tr. Harold North Fowler (Cambridge, Mass., 1914), p. 553.

33. Even Cicero, the most famous proponent of the *genus grande*, concedes, "for my own part I should prefer wisdom lacking power of expression to talkative folly" (Cicero, *On the Orator*, bk. 3, tr. H. Rackham [Cambridge, Mass., 1942], p. 113).

34. Erasmus, *Collected Works of Erasmus*, *vol. 29*, ed. Elaine Fantham and Erika Rummel, (Toronto, 1989), p. 360.

to holde one's peace, then to know how to speake. For, as words wel uttered shewe eloquence and learning, so silence well kept, sheweth prudence and gravitie."[35] The combination of both the "prudence and gravitie" of silence and the "eloquence and learning" of speech is crucial for Guazzo, as for other rhetoricians and writers of conduct literature.[36] Wisdom and learning would otherwise be too easy to fake, something Ben Jonson grumbles about in *Timber* when he comments, "It is wittily said upon one that was taken for a great and grave man, so long as he held his peace: this man might have been a councilor of the state, till he spoke: but having spoken, not a beadle of the ward."[37] Pythagorean-Platonic silence, then, is valuable specifically as part of rhetoric. It functions as a corollary to, even a version of, speech; for like speech, its main virtue lies in its ability to teach and to persuade.

And yet it is equally common in Renaissance England to find silence being valorized for precisely the opposite reason: because it offers an alternative to speech. Running current with Humanism's admiration of linguistic prowess was a deep-seated suspicion of language as manipulative and coercive, depraved and deceptive.[38] Shakespeare registers this line of thought with his haunting series of evil rhetoricians: Richard III, Angelo, Edmund, Lady Macbeth, and, perhaps most of all, Iago. Silence—a specifically anti-rhetorical and anti-social silence—could provide an escape from the linguistic abuses of a fallen world. This position was adumbrated most forcefully within the philosophy of Ramism and the polemic of radical Protestantism. Peter Ramus (1515–1572), among other things a fiercely outspoken critic of Cicero, pointedly undercut the value of speech. For him, such things were mere

35. Stefano Guazzo, *The Civile Conversation of M. Steeven Guazzo* (1581), II, 7.

36. See, e.g., Abraham Fraunce, *The Arcadian Rhetoricke* (1588), which discusses the effective combination of speech and silence from a technical perspective.

37. Ben Jonson, *The Complete Poems*, ed. George Parfitt (Harmondsworth, 1975), p. 386. Commenting in *The Merchant of Venice* on those that "only are reputed wise / For saying nothing; when I am very sure / If they should speak, would almost damn those ears / Which hearing them would call their brothers fools" (1.1.96–99), Graziano expresses a similar sentiment. The idea was commonplace.

38. See Brian Vickers, "'The Power of Persuasion': Images of the Orator, Elyot to Shakespeare," in *Renaissance Eloquence*; Thomas Sloane, *Donne, Milton, and the End of Humanist Rhetoric* (Berkeley, 1985); Heinrich F. Plett, "Shakespeare and the *Ars Rhetorica*," in *Rhetoric and Pedagogy: Its History, Philosophy, and Practice: Essays in Honor of James J. Murphy*, ed. Michael Leff (Mahwah, N.J., 1995), pp. 243–59; and Peter G. Platt, "Shakespeare and Rhetorical Culture," in *A Companion to Shakespeare*, ed. David Scott Kastan (Oxford, 1999), pp. 277–96.

ornamentation, prosthetics to the pure and silent thoughts which were of real value.[39]

For Pythagorus, Plato, and their followers, as well as for Humanists like Wilson and Peacham, rhetoric was a direct outgrowth of thoughts and ideas, whereas for Ramus and his followers rhetoric was merely elocution and delivery, and, therefore, purely cosmetic.[40] Fittingly, Ramus preferred silent reading to oratory as a way of cultivating mind and spirit. These ideas were attractive to Puritan polemicists like William Perkins and George Webb, both of whom issued their own invectives against Man's squandering of the God-given gift of speech. In *A Direction for the Government of the Tongue* (1593), Perkins laments the "abuse of the tongue among all sorts and degrees of men." "It would make a man's heart to bleede," he opines, "to heare and consider how Swearing, blaspheming, Cursed speaking, Railing, Backbiting, Slandering, Chiding, Quarelling, Contending, Jesting, Mocking, Flattering, Lying, dissembling, Vaine and Idle talking overflow in all places, so as men which feare God had better be anywhere, then in the companie of most men."[41] Perkins is not denying the virtuous ends to which speech may be put, but rather Man's limited propensity for doing so in a fallen world. If "holy speech" is no longer something within our grasp, then "godly silence," which "is as excellent a vertue," must take its place (p. 59).

George Webb makes largely the same point in *The Arraignment of an Unruly Tongue* (1619), observing that no organ does better when used well and none more evil when used wrongly than the tongue. At Creation, Webb reminds his readers, "God made all things good. The tongue was a glorious trumpet to sound out the praises of the Creator, a faithful interpreter of the hidden Man, faire Secretarie of a most faire heart." But "as Man continued not long in his Innocencie, so neither the Tongue in its Integritie."[42] Webb is convinced that the tongue was the first and still the most potent corrupting instrument: "By the tongue of the serpent was Eve seduced, and her tongue did seduce Adam; and since that time the tongue among our members hath beene the most unruliest, defiling the whole body, and setting on fire the

39. See further, Walter Ong, *Ramus, Method, and the Decay of Dialogue: From the Art of Discourse to the Art of Reason* (Cambridge, Mass., 1958).

40. Terence Hawkes, *Shakespeare's Talking Animals: Language and Drama in Society* (London, 1973).

41. William Perkins, *A Direction for the Government of the Tongue* (1593), sig. A2.

42. George Webb, *The Arraignment of an Unruly Tongue* (1619), pp. 5, 7.

whole course of Nature" (p. 8). Perkins and Webb agree with Thomas Wilson that speech itself derives from God and originally served Man's quest for salvation. Where they depart from Wilson is on the matter of Man's use of language. In this, Perkins and Webb insist, we were instructed by the devil.

For the radical Protestants that Perkins and Webb were speaking to and for, silence was not a force of good for the way it served speech, but for the way it undermined it. Silence was not an elevated form of receptive or contemplative participation in the spiritual or civic realm, it was a form of withdrawal, of disaffection.[43] It is from this galaxy of associations that the larger link between silence and political threat in English Renaissance culture emerges, and it is within this context that the idea of "treasonous silence" and, by extension, the fate of Philotas make the most immediate sense. What I want to do at this point, then, is to zero in on the nexus between silence and disobedience in Daniel's time and bring this to bear on the events that take place in *The Tragedy of Philotas*.

IV

If, as Thomas Wright pointed out, it is "thorow our voices . . . [that] the world will pierce and thorowly perceive how we are affected," then silence shuts the world quite out, hiding from the view of others our opinions, tastes, ideas, and knowledge.[44] This can be disconcerting for those like government officials who make it their business to know such things. Thus, built into the very definition of "silence" in the sixteenth and seventeenth centuries is the idea of secret menace. In addition to expectable glosses like "quietness," "no noyse making," and "stilness," English Renaissance dictionaries and lexicons—both in English and Latin—link "silence" to terms like *obscuro* and *reticentia*.[45] Thomas Thomas's 1587 *Dictionarium*, for instance, defines *obscuro* as, "To cloak, to

43. Mid-seventeenth-century English Quakers were, perhaps, the most programmatic in their application of this ethics of silence. See Richard Baumen, *"Let Your Words Be Few": Symbolism of Speaking and Silence among Seventeenth-Century Quakers* (Cambridge, Eng., 1984), and more generally Patrick Collinson, *The Elizabethan Puritan Movement* (Oxford, 1982).

44. Thomas Wright, *The Passions of the Mind* (1601), p. 174. The notion was commonplace. See also, e.g., Robert Cleaver, *A Godlie Form of Household Government* (1598), pp. 105–06, and Webb, p. 5.

45. These observations were facilitated by *LEME: Lexicons of Early Modern English*, ed. Ian Lancashire (Toronto, 2009), date consulted: December 2, 2008 <leme.library.utoronto.ca>.

Figure 1: Emblem of Silence, from Andrea Alciato, *Emblemata* (1531). Courtesy of Glasgow University Library, Special Collections. SM18.

hide, to keep in silence, or from the knowledge of men," and *reticentia* as, "Silence, when one holdeth his peace, and uttereth not the thing that he should tell: a concealing or keeping of counsel."[46] The iconography of silence carries similar suggestions of malice. In emblem books, for example, figures representing silence deployed the stock gesture of the Roman god of silence, Harpocrates: a finger placed on the lips, a sign we still use today (Figures 1 and 2). In the sixteenth and seventeenth centuries, however, this gesture was almost indecipherable from the sign for revenge: a finger placed between the teeth (Figure 3).[47] Is there any discernable difference between the gesture we see in G. P. Valeriano Bolzani's emblem "Meditation or Revenge" and, say, Andrea Alciato's emblem "Silentium" (Figures 3 and 4)? And why is the title of Bolzani's image "Meditation or Revenge," as if the two words, or ideas, were synonymous? The point of course is that from one perspective meditation—silent thought—and revenge are synonymous, or at least have the potential to be. The silent reflection of Alciato's More-like or Cuffe-like scholar may be innocent enough, but his reading could also

46. Thomas Thomas, *Dictionarium Linguae Latinae et Anglicanae* (1587), sigs. 2Q5v, 3E5v. See Luckyj, p. 2.

47. Stephen Orgel has drawn attention to the ambiguity of the gesture as part of a deft reading of Giulio Romano's drawing, "Orpheus, a Youth, and a Maenad" (Stephen Orgel, "Gendering the Crown," in *Subject and Object in Renaissance Culture*, ed. Margreta De Grazia, Maureen Quilligan, and Peter Stallybrass [Cambridge, Eng., 1996], pp.141–49).

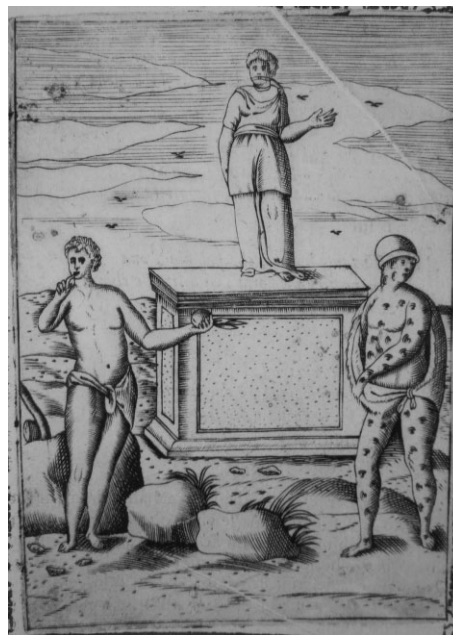

Figure 2: Personifications of Silence (Harpocrates on the left), from Vincenzo Cartari, *Le Imagini degli Dei* (1608). Courtesy of The British Library Board. 1492.a.8.

Figure 3: "Meditatio vel Ultio" (Meditation or Revenge), from Valeriano Bolzani, *Hieroglyphica* (1610). Courtesy of The British Library Board. C.76.h.1.

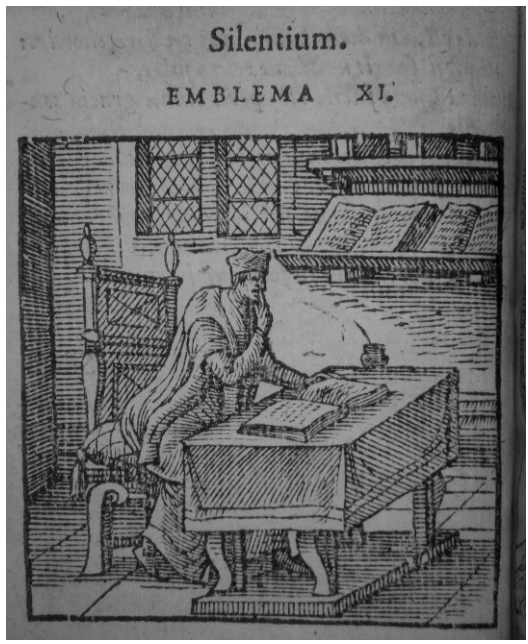

Figure 4: "Silentium," from Andrea Alciato, *Emblemata* (1591). Courtesy of The British Library Board. 246.a.41.

be cultivating subversive political ideas.[48] The scholar's vague gesture (is his finger on his lips or between his teeth?) allows this darker significance to weigh in and, like the dictionary entries, reminds us that silence could easily connote active deceit: intention and agency rather than absence and stasis.

This is something that all the characters in *The Tragedy of Philotas* seem to understand, except for Philotas himself. The first scene of the play builds toward a series of interplays between silence and verbal revelation. The pivotal moment comes with the frantic entry of the soldier Cebalinus, who recounts to Philotas the news he has just heard of a plot to murder Alexander. The information has come to Cebalinus by way

48. The latter is precisely what Cuffe was accused of. See Paul Saenger, *Space Between Words: The Origins of Silent Reading* (Stanford, 1997), pp. 264–76, who shows how silent reading could be viewed as a breeding ground for insurrection, and Richard Rambuss, *Spenser's Secret Career* (Cambridge, Eng., 1993), pp. 29–61.

of his brother, Nichomachus, whom one of the plotters, Dymnus, had lured into a temple in order to disclose his secret machinations. Dymnus reportedly says to Nichomachus:

> Sweet, lovely youth, ah should I not impart
> To thee the deepest secrets of my hart,
> My hart, that hath no lock shut against thee,
> Would let it out some-times unwares of me.
> But as it issues from my faithfull love,
> So close it up in thine, and keep it fast.
> Sweare to be secret deere *Nichomachus*. (sig. B4v)[49]

The exchange between Nichomachus and Dymnus is political and, for Dymnus at least, erotic as well. The currency of the exchange is knowledge. The bond between the two young men is to be sealed through the transfer of privileged information and, importantly, through the subsequent concealment of that information. However, when Nichomachus hears what the secret is, he knows immediately that he has to reveal it. Not to do so would amount to precisely the sort of silence invoked in Thomas' definitions of words like *obscuro*, *reticentia*, and *obticeo*: shameful and malicious concealment and, ultimately, treason. Nichomachus declares defiantly, "I'll tell. / Friend or friend not, I'll tell" (sig. B4v).

The opening scene of *The Tragedy of Philotas* makes a clear connection between silence and treason, and given this correspondence, it is only appropriate that a series of urgent disclosures follow close on the heals of Dymnus' leaking of the plot: first, Nichomachus' disclosure to Cebalinus, and then Cebalinus' disclosure to Philotas. However, the last and most crucial disclosure—Philotas' to Alexander—never takes place, and for this reason Philotas becomes implicated in the conspiracy. He responds to Cebalinus, "Well fellow, I have heard thy strange report, / And will finde time t'acquaint the King therewith" (sig. B5v). Philotas does not "finde time" quickly enough. Alexander gets wind of the conspiracy, and when he discovers that Philotas had been informed and never warned him, he immediately assumes his general to be a

49. There are two "modern" editions of *Philotas* available: Alexander B. Grosart's in Volume III of his *Complete Works in Verse and Prose* and Laurence Michel's. Neither of these editions was prepared in accordance with current editorial principles. (Both, e.g., take the 1623 version of the play, published after the author's death under the supervision of his brother, as their copy-text). Quotations in this essay are from the first printed edition of the play in Daniel's *Certain Small Poems* (1605) and will be cited parenthetically. I have modernized orthography, but not spelling or punctuation.

conspirator and eventually has him hauled before a tribunal. Daniel's treatment of silence is consistent with dictionaries and emblem books from roughly the same period in so far as the general concept of silence, in all cases, teeters on the brink of the more specific concept of secrecy, something which from a political perspective is almost invariably threatening.[50]

In Daniel's time secretive silence would have been especially associated with religious dissimulation. This link was to a large extent created several decades before the performance of *Philotas* by the Elizabethan religious settlement. In stark contrast to the inquisitional policies of Catholic Spain, the 1559 Act of Uniformity required only outward conformity to Protestantism. This prioritization of phenomena over essences, actions over beliefs, simplified the matter of religious regulation significantly, but it also created a distinct epistemological problem: how can one know what others truly believed if outsides, acts, are all that is policed?[51] Silence—the absence of externally manifested evidence—becomes particularly vexing in this context. George Wither exploits this anxiety in his emblem, "In Silentio et Spe" (Figure 5). The image depicts a friar holding a closed book in one hand and an anchor in the other. The lines below the image read:

> The clasped-Booke, doth warne thee, to retaine
> Thy thoughts within the compasse of thy breast;
> And, in a quiet silence to remaine,
> Untill, thy minde may safely be exprest.
> That Anchor, doth informe thee, that thou must
> Walke on in Hope; and, in thy Pilgrimage,
> Beare up (without despairing or distrust)
> Those wrongs, and sufferings, which attend thine Age.
> . . .
> Hee, that then keeps his Tongue, may keepe his Life,
> Till Times will better favour Innocence.

50. One thinks of the opening scene of Ben Jonson's *Sejanus*, also from 1605, which conveys the mounting political turmoil at court have various factions whispering secrets among themselves on stage. In *James I and the Politics of Literature: Jonson, Shakespeare, Donne, and Their Contemporaries* (Baltimore, 1983), Jonathan Goldberg has observed how King James treated secretiveness as something that should properly remain a function of monarchy (ch. 2). See also Rambuss.

51. See Peter Lake, "Religious Identities in Shakespeare's England," in *A Companion to Shakespeare*, ed. Kastan, pp. 57–84; Robert Watson, *Back to Nature: The Green and the Real in the Late Renaissance* (Philadelphia, 2006), p. 11; and, more generally, Lowell Gallagher, *Medusa's Gaze: Casuistry and Conscience in the Renaissance* (Stanford, 1991).

Figure 5: "In Silentio et Spe," from George Wither, *A Collection of Emblemes* (1635). Courtesy of The British Library Board. C.70.h.5.

> Truth spoken where untruth is more approved,
> Will but enrage the malice of thy foes.[52]

Here ideas, thoughts, and beliefs constitute a form of criminality, and the figure of the friar casts this criminality as specifically Catholic. While silence is associated with patience, strength, and hope—a form of well-advised withdrawal from a dangerous (Protestant) world—it also offers a way of arming oneself for confrontation with that world. It represents the surest means of survival in a time when "untruth is more approved" than truth.

52. George Wither, *A Collection of Emblems* (1635), p. 73.

More complex forms of deception allowed Catholics to remain silent on the question of their faith even while appearing to address it. The doctrine of equivocation, for example, urged Catholics under the threat of recusancy laws to profess adherence to Protestantism in language which, while not constituting an outright lie, was vague enough so as to accommodate the opposite sentiment ("I am a devout Catholic"), which would be held inwardly but known to God.[53] Equivocation was an especially challenging form of subterfuge because it was paradoxically a speaking secret. It achieved the effects of silence through the mechanics of language and in this way preserved the mind as a haven for subversive ideas.

At the turn of the seventeenth century, equivocation was increasingly being correlated to the specific crime of treason. Christopher Bagshaw and William Watson, both of whom were themselves Catholics, joined a chorus of likeminded criticism when they condemned equivocation as "secret concealed treason."[54] Such appraisals were validated by the series of events that followed the unsuccessful Gunpowder Plot, a conspiracy carried out in the same year that *Philotas* was performed and first printed. A search of the chambers of one of the chief conspirators, Francis Tresham, turned up a copy of *A Treatise of Equivocation* (1598) by the Jesuit Henry Garnet in which he upheld the legitimacy and utility of the practice.[55] Predictably, this led to equivocation's immediate

53. This may seem unnecessarily convoluted, but as per Augustine's *De Mendacio* and *Contra Mendacio*, outright lying was still considered a sin. This is one context in which to view the vast culture of religious dissimulation that arose in Renaissance Europe during the sixteenth and seventeenth centuries, a period marked by deep confessional rifts both between and within kingdoms. Just as there were Catholics who sought to avoid detection in Protestant England, there were crypto-Protestants who sought to avoid detection on the Catholic mainland and in England during Mary's reign. The seminal study of these matters is Perez Zagorin's *Ways of Lying: Dissimulation, Persecution, and Conformity in Early Modern Europe* (Cambridge, Mass., 1990). See also Janet Halley, "Equivocation and the Legal Conflict Over Religious Identity in Early Modern England," *Yale Journal of Law and the Humanities* 3 (1991), 33–52; Olga Valbuena-Hanson, *Subjects to the King's Divorce: Equivocation, Infidelity, and Resistance in Early Modern England* (Bloomington, 2003); and Arthur F. Kinney, *Lies Like Truth: Shakespeare, Macbeth, and the Cultural Moment* (Detroit, 2001), pp. 230–41.

54. Christopher Bagshaw, *A Sparing Discoverie of Our English Jesuits* (1601), pp. 7–8, 11–12; William Watson, *A Decacordon of Ten Quodlibetical Questions Concerning Religion and State* (1612), p. 66.

55. The *Treatise* was published anonymously and Garnet's identity as the author was not at that time known. He was executed for other forms of complicity with the plot. See Kinney, *Lies Like Truth*, pp. 236–38, as well as Frank L. Huntley, "*Macbeth* and the Background of Jesuitical Equivocation," *PMLA* 79 (1964), 390–400, and A. E. Maloch, "Father Henry Garnet's Treatise of Equivocation," *Recusant History* 15 (1981), 387–95.

disrepute and its entrenched association with the treasonous imagination. During the conspirators' trials, Attorney General Edward Coke condemned "perjurious Equivocating" and Garnet's treatise in particular as "a very labyrinth to lead men into error and falsehood" by persuading them not only "to conceale or denie an open trueth, but Religiously to averre, to protest upon salvation, to sweare that which themselves know to be most false, and all this by reserving a secret and private sense inwardly to themselves."[56] The mandatory oaths of allegiance that King James instated in 1606 and 1610, largely as a response to the Gunpowder Plot, were designed to lay bare the workings of subjects' minds by forcing them not only to swear loyalty to the King, but also to swear that they were doing so unequivocally.[57] Measures like these were only partially successful. There were always new ways to dissimulate. And there was also the advice proffered in Wither's emblem: silence. Many simply refused to take the oaths.[58]

Given the culture within which Daniel composed *Philotas*, it is not surprising that the title-character's silence leads to his downfall. And that Philotas ends the play as a traitor is in keeping with the particular politico-religious threat non-disclosure seemed to pose during this period. Nevertheless, if in the last moments of the play Philotas is condemned unwaveringly—"*This all his former straines of worth doth marre*" (sig. F5v)—the rest of the play is far more ambivalent. This makes *Philotas* more than a conventional tragedy of political ambition. Much of its energies are invested in reflecting on the legal status of silence, with the result that the play's ethical agenda is divided between condemning a traitor and condemning a legal concept, treasonous silence, which serves to propagate both political paranoia and political opportunism (represented in the persons of Alexander and his chief

56. *A True and Perfect Relation of the Whole Proceedings Against the Late Most Barbarous Traitors* (1606), sigs. H4v, I1.

57. In *A Briefe Treatise of Oaths Enacted by Ordinaries and Ecclesiastical Judges* (1593), the Puritan Lawyer James Morris condemned this sort of oath-taking as illegal even before James's controversial use of it (p.18). The issue is addressed by Roland G. Usher, *The Rise and Fall of the High Commission* (1913, rpt. Oxford, 1968); Geoffrey Elton, *The Tudor Constitution* (Cambridge, Eng., 1982), pp. 218–32; and Zagorin, pp. 224–33, who calls the sixteenth and seventeenth centuries "the age par excellence of the English state's use of oaths and subscriptions as compulsory tests of belief and obedience" (p. 224).

58. See Usher, pp. 127–28; Levy, p. 165; Zagorin, p. 232; and, for a smart reading of Elizabeth's Carey's *Mariam* is the context of the Catholic tradition of silent heroism, Nandra Perry, "The Sound of Silence: Elizabeth Carey and the Christian Hero," *English Literary Renaissance* 38 (2008), 106–41.

counselor, Craterus, respectively). The central question in the trial scene has to do with whether silence constitutes a crime per se or merely provides grounds (valid or invalid) for suspicion. For Alexander and Craterus, silence is a form of participatory consent tantamount to actual insurrection: "His silence shews deceipt," Alexander concludes, "And tels he was content it should be done, / Which, though he were no party, makes him one" (sig. D8). It "makes him one" because, as Craterus explains, the law of treason:

> doth the will correct,
> With the like severenes as it doth th'effect:
> Th'affection is the essence of th'offence,
> The execution onely but th'accidence,
> To have but will'd it, is t'have done the same. (sig. E3v)

In devaluing the criminal act in favor of the criminal "will," prioritizing *mens rea* over *actus reus*, Craterus aligns Philotas' alleged infraction with the treasonous imagination, that which is *compassed* rather than enacted and, therefore, that which is committable in silence and in stasis. Philotas accuses Craterus of reductiveness. Silence can point to treason, but it can also point to any number of other, lesser crimes. In the case of Philotas, this lesser crime is, according to him, disbelief: he doubted the credibility of the story Cebalinus told him, and belief, Philotas contends, is entirely nonvolitional:

> I did not erre in will, but in beliefe,
> And if that be a traitor, then am I the cheefe.
> . . .
> Beliefe turnes not by the motions of our will
> And it was but the event that made that ill. (sig. E3v)

According to Philotas, what needs to be established, then, is not his silence, but his actual treason. The latter is a capital offense, the former, only grounds for suspicion. "Mere suspect by law condemneth none," Philotas protests to his accusers, "They are approved facts for which men die" (sig. E3v).

The spectacle of Philotas standing before an unsympathetic court, rationally demanding that genuinely incriminating evidence be produced reminds us again of More, whose silence condemned him even though in the words of the Attorney General, there was "not one

word or deed . . . to object against [him]."[59] Similarly, during Nicholas Throckmorton's 1554 treason trial for allegedly "compassing" to deprive the Queen of her crown, the accused lashed out, "Where doth appear the open deed of any compassing or imagining the Queen's death?"[60] Most of all, though, Philotas' predicament recalls the trial of Henry Cuffe. As in Daniel's portrayal of Philotas' trial, the conviction of Henry Cuffe depended on the prosecutors' ability to deploy successfully a version of treason that is neither linguistically nor physically inscribed. And like Philotas himself, extant records show Cuffe's defense to be firmly rooted in an alternative notion of treason as action. As far as Cuffe was concerned, since he was not present at the attempted insurrection, he was not culpable. The mind, for Cuffe, was policeable only by God, not by the sovereign and not by the sovereign's judges. The thoughts that were running through Cuffe's head on the day of the insurrection as he was sitting quietly in Essex House reading were, in his own words, "no more treason than the child in a mother's belly is a child."[61] Solicitor General Thomas Fleming saw things differently. Even if Cuffe had not accompanied Essex on the day of the rebellion, he appeared to have been intellectually complicit with the republican political ideas that bolstered Essex's ill-fated plan. That he remained silent at Essex House while all of this was going on was taken as proof of this complicity. Accordingly, Fleming argued, Cuffe was guilty not for acting out against the Queen, but for "compassing the queen's Destruction." This, he maintained, was "Treason in the very thought and cogitation."[62] For Fleming, Cuffe was the finger-biting scholar reading silently at his desk.

There remains an important difference between the story of Philotas and the story of someone like Cuffe. The "audience" that watched Cuffe's case unfold seems to have been fairly certain of the guilt of the accused.[63] It is not at all clear that this would have been the case for

59. Stapleton, p. 192.

60. Quoted from Bellamy, *Tudor Law*, p. 55.

61. Howell, I, 1411.

62. Howell, I, 1412.

63. In the flood of printed accounts of the Essex affair that rolled off the presses, Cuffe was consistently demonized as the arch-manipulator of the Essex circle (see Stewart, p. 52). The fact that he (very untypically) did not repent on the scaffold probably contributed to his subsequent vilification. In a scaffold speech that came to be widely disseminated in print and manuscript, Cuffe declared defiantly, "I do here call God, his angels, and my own conscience to witness, that I was not the least concerned therein, but was shut up that whole day within

audiences watching or reading Daniel's play. As I pointed out earlier, *Philotas* is characterized above all by the ambivalent stance it takes on the question of its title-character's guilt. Some evidence does seem rather condemnatory. In the opening scene, for example, Philotas clearly does not like the advice he receives from his father to stop ostentatiously flouting his popularity with the soldiers. At the very least, then, he is recklessly arrogant, and both Alexander and his counselor, Ephestion, say as much in 2.1 even before any question of treason arises. Alexander accuses Philotas of receiving his favor ungraciously, as if it were "rather his desartes, / Than the effects of my grace" (sig. C1), and Ephestion describes Philotas' "carriage / In such exceeding pompe and gallantry, / And such a world of followers; did presage / That he affected popularity" (sig. C1v). We also know that Philotas resents what he perceives as Alexander's youthful obliviousness to the foundational role played by the military campaigns of his father, Parmenio, in securing his subsequent success as a ruler: "Parmenio *without* Alexander *much hath wrought / Without* Parmenio, Alexander *hath done nought*." Philotas makes this claim to his Persian lover, Antigona, adding,

> But let him use his fortune whilst he may,
> Times have their chaunge, we must not still be lead.
> And sweet *Antigona* thou mayst one day
> Yet, blesse the howre t'have known *Philotas* bed. (sig. B6v)

Is this an allusion to some kind of plot in the making? It seems tantalizingly close. Then again, it could just as easily be the reassuring wisdom of a man who has seen empires rise and fall, or in as much as Philotas has just returned from the field, a simple case of adrenaline-induced, post-battle boasting.

For all that Philotas is haughty and discontented, the play gives us many reasons not to think he is a criminal. The chorus at the end of Act 1, for instance, acknowledges his vanity but is careful not to translate that characteristic into some grander form of political disobedience:

> *We see* Philotas *acts his goodness ill,*
> *And makes his passions to report of him*

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the house, where I spent the time in very melancholy reflections"; "I am here adjudged to die for plotting a plott never acted [and] for acting an act never plotted" (Howell, I, 1412; *State Papers*, 12/279, 36.).

> *Worse than he is: and we doo feare he will*
> *Bring his free nature to b'intrapt by them.*
> *For sure there is some ingin closely laide*
> *Against his grace and greatnesse with the King:* (sigs. B8-B8v)

Philotas is self-righteous, the chorus suggests, but he is not a traitor. The trouble foreshadowed will be the result of "*some ingin*," a political plot designed to remove him from favor with Alexander, rather than his own conniving. In the trial scene itself Philotas is the voice of logic and procedural formality—"I am not to b'adjudgd in law you know / By testimony, but by witnesses" (sig. E2v)[64]—while Craterus, his chief interrogator, is portrayed as manipulative and politically self-interested, as he is throughout the play.[65] Accordingly, courtiers Attaras and Sostratus lead off Act 4 with a dialogue that frames Philotas' sudden downfall not in terms of any actual criminality, but in terms of the arbitrariness of court politics:

> [*Sostratus.*] Can there be such a sudaine change in Court
> As you report? Is it to be believd,
> That great *Philotas* whom we all beheld
> In grace last night, should be arraignd to day?
> *Att.* It can be: and it is as I report
> For states of grace are no sure holds in courts. (sig. D5v)

Later in this exchange, Attaras provides a description of Philotas' arrest which, again, weighs in heavily on the side of his innocence:

> I with three hundred men in armour chargd
> Had warrant to attach and to committ
> The person of *Philotas* presently:
> And coming to his lodging where he lay,
> Found him imburied in the soundest sleepe
> That ever man could bee. where neither noice
> Of clattring weapons, or our rushing in

64. Daniel highlights this injunction with a unique marginal note: "*non testimoniis, sed testibus*." This is the only note in the 1605 edition that is not a source reference, and since it also does not appear in either of his two main sources, Thomas North's translation of Plutarch's *Lives of the Noble Grecians and Romanes* (1579) and John Brende's translation of *The Historie of Quintius Curtius* (1592), it may be taken as an emphatic intervention by the author himself.

65. On Craterus as an evil-counselor figure (possibly with an allusion to Robert Cecil), see Curtis Perry, *The Making of Jacobean England: James I and the Renegotiation of Elizabethan Literary Practice* (Cambridge, Eng., 1997), pp. 85–92.

> With rude and trampling rumour, could dissolve
> The heavie humour of that drowsie brow. (sig. D6)

The question that would likely spring to the minds of early-seventeenth-century audiences is the same one Sostratus himself immediately asks: "*Attaras*, what can treason sleepe so sound?" (sig. D6). The answer, for most, would have been, no. The guilty mind, early moderns held, found little rest; Lady Macbeth's sleepwalking testifies to this credo in theatrically striking terms.[66] As the Doctor in that famous scene puts it, "infected minds / To their deaf pillows will discharge their secrets" (5.1.62–63). The Philotas of Attaras' narrative has no secrets to discharge.

Philotas is a play that pulls us in two directions. It presents a character fully capable of treason but never allows us to believe entirely that he commits it. It offers a confession in its last moments, but makes that confession at least partially unreliable by having it issued under torture. There are ways to address this ambivalence in terms of the play's peculiar and politically tumultuous inception. As I have mentioned, Daniel initially conceived of *Philotas* as a closet drama and one may plausibly speculate that in its originally intended form it would have been ideologically more coherent, most likely more uniformly sympathetic to Philotas.[67] The inconsistent play that we have been left with instead could be the result of hasty revision in light of an impending and unplanned staged performance before important members of the political elite. Alternatively, or additionally, we may imagine Daniel carrying out revisions after his run-in with the Privy Council, subsequent to the performance of the play but before its first printing.[68] In the absence of any concrete evidence on this matter all we can do is conjecture. That the surviving texts of *Philotas* only partially represent the play as it was originally conceived is certain though for now the precise nature of this

66. Consider also how Iago convinces Othello of Cassio's guilt by inventing a story of the latter's restless, self-incriminating sleep during which he relives amorous moments with Desdemona (3.3.410–26). See further, Thomas Nashe, *The Terrors of the Night* (1594), sigs. B3, C3v, and Carol Levin, *Dreaming the English Renaissance: Politics and Desire in Court and Culture* (Basingstoke, 2008), pp. 45–49.

67. In his "Apology," Daniel says of the play that he intended "to have had it presented in Bath by certaine Gentlemens sonnes, as a private recreation" (*Whole Works*, p. 254). See also, Gazzard, 428.

68. I should note, though, with regard to the latter hypothesis, that we cannot be entirely certain that the play had not already gone to print at the time Daniel appeared before the Privy Council. See Pitcher, "Samuel Daniel," p. 121.

disparity must remain obscure. The larger point to be made is that if we choose to view *Philotas*' inconsistencies from this kind of historical perspective, they become symptoms of local political pressures, examples of what Annabel Patterson has described as the functional ambiguity of works composed under the conditions of censorship and the ever-present threat of punishment.[69]

All of this may be true. But *Philotas*' ambivalence makes sense from a thematic point of view as well. Much more important to me than the political and material vagaries to which Daniel's play (like so many others) was subjected is the fact that the version of *Philotas* that we have been left with—the inconsistent, ambiguous, unfocused one—also became the one that Daniel did want to circulate and want to be read. After all, Daniel allowed the play to go through four editions in his lifetime,[70] often with his own close oversight and editorial guidance. In the versions of the play which appear in the 1607 and 1611 editions of *Certaine Small Workes* he made a number of revisions, but none that augment the play's fundamental indecisiveness on the subject of Philotas' guilt.[71] Regardless of what he set out to write in the first years of the seventeenth century, in the end Daniel—the perfectionist, the incessant reviser—produced a play that made no clear argument and he stood by it. This *Philotas* is a play which must be read not as a statement but as a question, not as argumentation but as speculation. This *Philotas* is invested in the problem of treason at least as much as the problem of ambition. Its interests are juridical and epistemological as much as political. There is ample evidence in the play for both a guilty and an innocent Philotas. In the end it is imperative that he be both. For the

69. For Patterson, "functional ambiguity" refers to the intentionally vague ideological posturing that writers deployed for the purposes of artistic and political survival. See her *Censorship and Interpretation: The Conditions of Writing and Reading in Early Modern England* (Madison, 1984), p. 18. Janet Clare uses the concept in her short commentary on *Philotas* (p. 151). It should be said that as the official licenser of the Children of the Queen's Revels, the company that mounted *Philotas*, Daniel was not officially answerable to the Master of the Revels for his play, although in his letter to Charles Blount he claims that he asked Edmund Tilney to peruse it, all the same. Daniel was, however, answerable to the King and the Privy Council, as well as to his own patrons. See R. E. Brettle, "Samuel Daniel and the Children of the Queen's Revels, 1604–5," *Review of English Studies* 3 (1927), 162–68; Dutton, pp. 165–71; and Lucy Monro, *Children of the Queen's Revels: A Jacobean Theatre Repertory* (Cambridge, Eng., 2005), pp. 18–23.

70. Samuel Daniel, *Certaine Small Poems* (1605); *The Tragedie of Philotas* (1607); *Certaine Small Workes* (1607); *Certaine Small Workes* (1611).

71. For a textual analysis of revisions in the 1607 and 1611 editions of *Philotas*, see Michel, pp. 82–92.

play is not ultimately about Philotas (the man, the courtier, the military leader) at all. It is about treasonous silence, something which, like Philotas' legal status, can only be defined paradoxically: a presence denoted by an absence, an act which is entirely passive. Treasonous silence is therefore a unique kind of guilt, one that signifies almost categorically as innocence and which consequently confounds conventional juridical categories and the knowledge-making practices which serve them. Treasonous silence can never be entirely proven just as it can never be entirely belied. And so Philotas, literature's great silent traitor, must always hover purgatorially between guilt and innocence.

V

Let me return to a recurring question in studies of *The Tragedy of Philotas*: did Samuel Daniel want to evoke the career and downfall of the Earl of Essex with his play? At this point it should be clear enough that this is the wrong question to be asking. It is at the very least an unnecessarily reductive one. In his printed "Apology," Daniel says that attempts to read his play in terms of Essex's career and downfall are the result of "wrong application, and misconceiving," and while, admittedly, it would have been politically reckless for Daniel to say otherwise, I still see no reason not to take this claim at face value, especially given what we have seen of the play's broader legal-epistemological concerns. This is not to say that Essex's downfall was not one of the imaginative forces behind the play, nor is it to say that links between Philotas and the executed Earl are purely coincidental. However, the investments of the play cannot be reduced to this single source of inspiration, and some of its most fascinating characteristics extend beyond the pale of the Essex-paradigm and even beyond the politics of the turn of the seventeenth century. *The Tragedy of Philotas* makes its most compelling claim to our critical attention in hosting a collision between the intellectual history of silence and the political history of treason, and in doing so it reveals itself to be a play of far more wide-ranging cultural significance than has previously been acknowledged. Like many of the most dense and robust pieces of Renaissance literature, *The Tragedy of Philotas* is not just a text to read, it is also a text to read *with*: that is, it helps us recover elusive aspects of English Renaissance culture which are crucial for a nuanced understanding the period. The figure of the silent traitor is a case in point.

It is important that we continue to read Renaissance plays in a way that is responsive to local forms of political topicality. Not to do so would risk falsifying some of the contemporary effect they had on their audiences. But it is equally important that we do not stop asking questions once the matter of local topicality seems to be satisfactorily accounted for. This has never been a problem with Shakespeare, a writer with a uniquely diverse and expansive critical heritage, whose plays have placed exceptional interpretive mandates on succeeding generations. With Samuel Daniel, on the other hand, our work has only just begun.

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