



Female Sodomy: The Trial of Katherina Hetzeldorfer (1477)

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In this essay, I will disclose rhetorical strategies used to negotiate “female sodomy” in a legal document from the pre-Reformation German Empire. By *sodomy*, “that utterly confused category” (to invoke Foucault’s phrase), I mean the panoply of same-sex erotic activities among men and among women.¹ *Female sodomy*, however, is my own coinage, introduced into the terminological void to inform present-day readers about my project, whereas documents like the one edited and discussed here tend to rely on profuse description. The term is designed to resonate with medieval and Renaissance inscriptions of homoeroticism, often called sodomy from a theological or legal vantage point (although primarily applied to males). Yet by its imaginative qualification as female, *female sodomy* is coined to characterize a range of significations beyond the transgression of the sexual order and is meant to reach into the precarious domain of emotions, passions, and desires. There is another reason to introduce this neologism. *Female sodomy* illuminates precisely those highly significant moments when knowledge of female homoeroticism penetrated the male sphere. In these encounters, female homoeroticism was cast in masculine terms such as *sodomy*. By coining the term *female sodomy*, I want to call attention to the strategies used to represent women who erotically associated or were associated with their own sex, and to reveal a phenomenon which often escaped categorization in the relevant sources.

If the politics of silence in medieval and early modern Europe was severe regarding same-sex behavior among men, it was even more unyielding in the case of women. A recent contribution in the *Handbook of Medieval Sexuality* calls same-sex desire among women “twice marginal and twice invisible.”² Yet, rare though they may be, there are instances where same-sex activities among women surfaced.

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Previous investigations by feminists, literary critics, historians, and art historians have called our attention to the overarching “(in)significance” of lesbianism in cultures and societies of early modern Europe.³ The silence on lesbianism, once revealed, has inspired researchers to develop methodological approaches that make this silence audible or at least comprehensible. Ongoing research has brought to light a sparse but constant flow of material which has broadened our knowledge of how female sodomy was envisioned during the early modern period.⁴ The court case of Katherina Hetzendorfer will serve to unsettle even further “the myth of lesbian impunity,”⁵ “(in)visibility” (Patricia Simons) or “(in)significance” (Valerie Traub) and shift our attention to the various sites where, despite the politics of silence, female sodomy became legible in a multitude of ways.

One of the key locations where same-sex practices had to be articulated was the late medieval courtroom. In court records, secular authorities—that is, both city governments and territorial rulers, the main agents attempting to eliminate sodomy in the early modern period—represented verbally what was considered unspeakable. Situated at the intersection of moral, legal, and sexual discourse, trial documents provide important insights into premodern constructions of sexuality and the gradual fashioning of a vernacular discourse on sodomy. One of the earliest court cases in which a woman was charged for sexual relations with women involved Katherina Hetzendorfer from Nuremberg. For her crime (which bears no name in the proceedings) she was drowned in the imperial city of Speyer in 1477. In my reading of the Speyer document, the polyphonous nature of court documents in general and this document in particular emerges. A multiplicity of voices—the witnesses, the accused, the judges, the fragments of street conversations—points to multilayered responses among the participants shaping this event. In court, the recovery of a narrative about what had happened was channeled, however, through the investigative apparatus of Speyer’s civic authorities. Their investigation focused almost entirely on how Katherina Hetzendorfer was able to embody a masculine role, thus casting female homoeroticism in male terms.

The three-page document of Katherina Hetzendorfer’s trial (edited with translation in the appendix below), written in German in 1477 Speyer and covered with additions and corrections, contains a plethora of exceptional, fragmented tales.⁶ The text documents the accused transvestite’s slow breakdown under the weight of the investigation. Hetzendorfer first claims that the woman with whom she was associated is her “sister” (12r–14r); she then

concedes that her companion is not her sister but denies a sexual component in their relationship; finally giving in to the pressures of the trial, she confesses that “she had her ways with her” (13r), that is, that she had engaged in sex with her so-called sister. During the course of the interrogation, Hetzeldorfer has to give up her initial attempt to protect her companion from prosecution. One statement is replaced by the next. Since her “sister” does not show up in these working notes, however, one is led to assume that she was able to escape a trial, most probably by fleeing the city of Speyer.⁷

In the course of Hetzeldorfer’s trial, the accused not only confesses to having had a long-standing sexual relationship with the woman she had originally presented as her sister, but also to having made sexual advances to at least two other women in the city of Speyer. In their own accounts, the female witnesses interrogated present Hetzeldorfer as being like a man in both physique and behavior, a sexually aggressive character and a potent lover. Hetzeldorfer offered the substantial amount of eight florins to Else Muter to make her bend to her “manly will” (12r). She actively sought out her sexual partners, called on women in their homes, and jumped out of a window to escape. Consistently, these female voices, recorded in court, reveal concepts of sexuality which attribute all sexual activism to men, be they actual or in disguise like Hetzeldorfer. Else Muter asserts “that she did not know anything other than that men should be granted such roguery” (12r). Phrases such as “to have one’s will,” or, more pointedly, “to have one’s manly will,” just like “to commit an act of knavery,” project all erotic initiative onto men or, in the case of Katherina Hetzeldorfer, persons who presented themselves as such (12r). Whether these formulae originate from the scribe’s or from the witnesses’ minds, they express powerful and widely held beliefs about activity and passivity in sexual relations—beliefs that were shared sufficiently by women and men so as to provide the female witnesses with an ultimately successful defense strategy.⁸ In other words, women actively defended themselves with arguments based on notions of sexual passivity in order to escape imprisonment or the death penalty.

Whereas Hetzeldorfer’s appropriation of a masculine identity seems to have gone unnoticed until the case came to court, rumors and whispers in the city had already raised suspicions about the true relationship between her and her companion after the two had immigrated to the city some two years before the legal proceedings. Ennel Helmstat, a female witness, had questioned Katherina Hetzeldorfer and had passed on what she learned to Hans Welcker. When interrogated in court, Welcker, like Helmstat, confirmed having heard that the accused “abducted her whom she calls a sister

from a noble and is not her sister" (14r). Both testimonies reveal that Hetzeldorfer had admitted the sexual nature of a relationship whose façade was de-eroticized by a term referring to a sibling, *sister*. On the quiet and to fellow citizens in whom she confided, she seems to have constructed herself as a "husband" (12r) and to have shared at least part of her secret with individual members of Speyer's urban community. Speaking the truth in this matter may well have caused her arrest and subsequent downfall, for once the civic authorities were alerted to the urban *fama* about her, they were forced to act. Hetzeldorfer herself seems to have been aware of the imminent danger because she asked Else Muter to remain silent about their encounter. Hetzeldorfer's "sister," whose voice cannot be heard directly, enters the proceedings by way of the manifold conversations about the couple. In a private conversation transmitted in our court document, Hetzeldorfer is recorded as saying that she "had deflowered her [sister] and had made love to her during two years" (12r). In the end, the scribe proclaims, Katherina Hetzeldorfer was drowned in the river Rhine. Drowning was considered an extremely degrading death sentence, mostly imposed on women.⁹

Channeled through the scribe's perspective, the document discloses many insights into the mentality of the officials. The judges, whose exact number, names, or social positions are unknown, were preoccupied with the dividing line between the sexes both physiologically and behaviorally. In addition to those directly involved, other members of the community were called to the witness stand to testify to the exact nature of Hetzeldorfer's masculine behavior.¹⁰ Hetzeldorfer, for instance, was made to describe in detail her "instrument" and its fabrication, but her clothing remained outside the authorities' concerns. One of the witnesses, Else Michel (?), confirmed "that during carnival she saw that she who stands in the dock stood, whored like a man, and she grabbed her just like a man" (12r). "Just like a man" is a description that comes up over and over again: "With hugging and kissing she [Hetzeldorfer] behaved exactly like a man with women," the same witness adds to her account (12r). What might have been "like a woman" about Hetzeldorfer remains completely absent from the proceedings.

Particularly telling is the addendum to Else Muter's confession, who, since she confessed to having been seduced by Hetzeldorfer, was inescapably implicated. Scribbled on the left margins of the page and hard to decipher, these notes demonstrate how the officials repeatedly dug deeper when interrogating the witnesses about their perception of Hetzeldorfer's sex. During the trial, Muter denied any perception of or complicity with Hetzeldorfer's reversal of her feminine sex—a defense strategy that was sub-

mitted to rigorous questioning by the judges. Instead, she presented herself as the victim of a successful gender hoax, bolstering her position by supplying physiological observations about Hetzeldorfer's sexual performance. Effective in her use of rhetoric, this witness fed the interrogators' phallic predisposition. Her deposition abounds in carefully recorded exaggerations. In graphic terms, Muter states that "she [Else Muter] grabbed it [the (artificial) penis] and felt that it was a huge thing, as big as half an arm" (12r). She claims to have seen Hetzeldorfer urinate through her "instrument" (13r). After additional questioning, she adds "that her semen is so much that it is beyond measure, that one could grab it with a full hand" (12r). Apparently, the scribe seems to have been stunned by this revelation, just as a modern reader might be, and underlined this passage. Yet, to whatever degree Hetzeldorfer's trial fueled urban gossip, the graphic insights as transmitted in the official document were inaccessible to readers outside the civic chancery and the magistrate. It is likely that, according to common practice, the trial, unlike the execution, was held behind closed doors.

In the trial document, Hetzeldorfer is consistently referred to by the feminine personal pronoun *she*—despite the confusion about her mannish body and behavior—but at the same time the record reveals considerable linguistic wavering. A consistent narrative of past events was forged with difficulty. Repeatedly, the scribe alters the present-tense wording (the level of gender axioms and sexual normativity) in order to use the past tense (the narration of the legally relevant events that led to Hetzeldorfer's arrest).¹¹

In the end, however, the judges seem to have believed in Muter's and Schreckenspönn's claims that they had not been aware of Hetzeldorfer's womanhood. Both were banished ten miles from the city, a rather mild punishment in light of Hetzeldorfer's own punishment and one which was often later revoked. The city officials waited, however, until after Katherina Hetzeldorfer's death to pronounce judgment on Else Muter, in order to find out "whether Katherina wanted to absolve her for not knowing anything other than that she took her for a man" (13r). It is not recorded whether Hetzeldorfer exonerated either or both of these two women in the time between her deposition and her execution, by authenticating these women's ignorance about Hetzeldorfer's biological sex. Nor is it entirely clear for which misdemeanor Muter and Schreckenspönn were punished.

Multilayered narrations emerge from this single document, each representing a specific yet telling perspective on the events that finally resulted in Hetzeldorfer's execution. Many questions remain unanswered, however: Who were Hetzeldorfer and her "sister," and why did these two

women come to Speyer? One may speculate on the basis of their relatively high visibility within the urban community that they held a position of some social prominence. The amount of money offered to Else Muter in return for sexual favors confirms such an impression. Hans Welcker expanded Ennel Helmstat's account of errant gossip by adding that the "sister" had been abducted from a "noble" in Wertheim. Whether this fragment of information belongs to the realm of gossipy fiction or not, the evidence indicates that the couple were not members of the lower class, nor patricians for that matter. Yet the official document resists further interpretation of their social status. Moreover, we do not know how this case caught the authorities' attention. Most likely, the urban rumors around Hetzeldorfer and her companion—well evidenced in the proceedings—led to a legal investigation.

Interpretation is further complicated by the fact that Hetzeldorfer's crime has no name in the proceedings. Just as the two other women's transgression evades a clear term (adultery? mere implication in this somewhat ambivalent case?), we are left in the dark about the exact nature of the crime for which she was executed. Significantly, neither *sodomy* nor any other term for Hetzeldorfer's misdeed is mentioned. Was Hetzeldorfer tried for transvestism, sexual acts with members of her own sex (by manual stimulation as well as by using a dildo), or for her overall appropriation of a male role which would include all of the above transgressions? The lack of conceptual terms renders an answer to these questions difficult. Yet the largely descriptive evidence leaves no doubt as to the sexual nature of her crime.

Furthermore, this lack of a term is not atypical for court documents before the Reformation, that is, before the German reception of Roman law, the extended training of government officials, and the professionalization among lawyers, legal advisors, and civil servants—developments that had a profound impact on the wording of court documents. In Hetzeldorfer's case, as in other fifteenth-century court cases, the linguistic evidence indicates that there was no established legal discourse in the vernacular for same-sex activities before the Reformation, especially not when it came to female sodomy.¹² Katherina Hetzeldorfer's account is transmitted with minute attention to details of sexual role-play, including a manual-like description of how she made a dildo, an instrument which allowed her to pass as a man: "she made an instrument with a red piece of leather, at the front filled with cotton, and a wooden stick stuck into it, and made a hole through the wooden stick, put a string through, and tied it round" (13r). The tool which enabled Hetzeldorfer to enact the gendered, culturally highly determined

code of a sexually aggressive male might have enraged civic authorities or fascinated the popular mind. Certainly, the language is descriptive and explores the evidence rather than clouding the facts in opaque legal or moral terminology. In Hetzeldorfer's case, as in other early (female) sodomy cases, the prosecutors fabricated narratives in German, in greater or less detail, in order to represent events deemed inexpressible in other contexts.

Many normative legal texts remained completely silent on the issue of lesbianism. Article 116 of the *Constitutio Criminalis Carolina* from 1532, the empire's criminal law code for centuries to come, was one of the few codes to criminalize impurity among men *and* women.¹³ Imperial city codes, with the exception of early-sixteenth-century Bamberg—the immediate model for Charles V's *Constitutio*¹⁴—passed over the issue of sexual relations between women. Like other imperial cities, Speyer had no law which mentioned sexual acts between women (or men for that matter), although customary law as well as Roman law might have filled the void. Yet the lack of formal legislation on sodomy before 1532 did not prevent civic authorities from punishing lesbian practices. “Imperial law punishes this shameful sin severely and contends that storms and plagues originate from it,” writes Ulrich von Pottenstein in his catechetical *summa* around 1400, obviously alluding to Justinian's *novellae*.¹⁵ Though a firm belief in the existence of sodomy legislation may have rested on the somewhat shaky, though common, assumption that the Roman Empire had never ceased to exist, the relevant articles of Roman law were never quoted.¹⁶ In the German-speaking lands, standard terminology in the civic, legal, and moral discourses on sodomy emerges more visibly only in the sixteenth century. In the fifteenth century, whenever such a case arose, city officials tried to come to terms with the so-called unspeakable without reference to Roman legal precepts.

Hetzeldorfer's court case is to date one of the earliest records of a woman tried for the crime of sodomy, though this crime is given no name in the proceedings. Nevertheless, Hetzeldorfer's extraordinary fate has hardly been mentioned since. When her case first entered the realm of historiography, it did so not only in an almost casual way—despite its exceptional nature—but also in an entirely distorted fashion. In a legal history of Speyer, Theodor Harster introduced Hetzeldorfer as a prostitute, an interpretation revealing more about his fin-de-siècle sensibility than what her documented trial in fact suggests.¹⁷ The few researchers who have mentioned Hetzeldorfer's trial since apparently have not returned to the archival record, but followed Harster or later accounts instead.¹⁸ This case, with its multitude of voices, thus entered history as an instance of the execution of a prostitute.

Although often coded with the same legal term *sodomia*, the *crimen contra naturam* among women came much less often to court than the same crime among men. "Among the hundreds if not thousands of cases of homosexuality tried by lay and ecclesiastical courts in medieval and early modern Europe, only a few involved sexual relations between women," writes Judith Brown.¹⁹ Michael Rocke, after reviewing "thousands of Florentine sodomy cases . . . from a period of nearly two centuries, . . . found not a single case of sexual relations between women."²⁰ Since "sexual relations between women were not illegal," states Randolph Trumbach, speaking of England, "there are no detailed descriptions of sex between women in the legal sources that parallel those for sodomy between men."²¹ In her study of early modern Seville, Mary Elizabeth Perry draws the conclusion that the "possibility of lesbianism evidently did not preoccupy [the] officials, who saw women as sexually dependent on men, for few commented on sexual activity between women."²² Yet based on scattered evidence, Lyndal Roper insists in her monograph on Reformation Augsburg that lesbian sex was known to exist, though was rarely acknowledged. Whereas "impure acts" among women were required to be punished in the Holy Roman Empire, at least after the criminal code of 1532, the civic archives do not contain case records during the sixteenth century.²³ In other words, even after the *Constitutio Criminalis Carolina* was promulgated in 1532 and sexual encounters between members of the same sex were to be punished, no upsurge in female sodomy cases appears to have followed.²⁴

In other cities north of the Alps the situation was slightly different, however. Of at least ninety executions for the crime of sodomy in Bruges between 1385 and 1515, seven involved women. Furthermore, they cluster around the years 1482/83, only six years after Katherina Hetzeldorfer's trial.²⁵ Among the amply documented court cases in Geneva, E. William Monter cites at least one example of the legal prosecution of lesbianism during the early modern era (1568). Like Katherina Hetzeldorfer, the offender was drowned.²⁶ According to Dirk J. Noordam, four Dutch women were prosecuted for "homosexual acts" between 1570 and 1679.²⁷ In eighteenth-century Amsterdam, "twelve women were prosecuted for these kinds of acts, which represented approximately 5 percent of the total number of people prosecuted for same-sex acts in Amsterdam between 1730 and 1811." Again, just as in fifteenth-century Flanders, trials cluster around certain years: "between 1795 and 1798, the number of women involved in such trials amounted to 28 percent of the cases (eleven of a total of thirty-nine)."²⁸ As

far as one can tell from these isolated instances, northern European powers were more active than Mediterranean societies in penalizing female sodomy.²⁹

In the few sodomy cases from the German Empire that have come to light so far, political circumstances seem to contribute to the prosecution of same-sex activities. In the following case, for instance, a clash between civic and clerical jurisdictions can be observed. In Rottweil in 1444 two women—one recluse, Katharina Guldin, and one unnamed lay woman—were incriminated. Only a short and hardly legible transcript of a letter from the vicar general to the deacon of Rottweil survives.³⁰ Because of the women's different legal status, two jurisdictions became involved. Apparently, the city officials complained that Guldin had practiced the "vice against nature which is called sodomy."³¹ The vicar general ordered the local deacon to conduct an investigation of the religious woman and afterwards to transfer the case to the bishop's court in Constance. What happened to either the laywoman or her religious partner is not known. Typically for cases of sodomy in this period, city officials became active in the matter and forced ecclesiastical authorities to take proceedings against a subject under their jurisdiction. Atypically, however, two females were embroiled in the scandal.

Let us once more return to Katherina Hetzeldorfer. In her case, as in others, the fact that the transvestite is not a native of Speyer—the city where she was taken to court and executed—helps to explain why she was apprehended. Geographic mobility provided a small number of women with opportunities to reinvent themselves, including as members of the opposite sex. Rudolf M. Dekker and Lotte C. van de Pol have uncovered a "tradition of female transvestism in early modern Europe"—a "tradition" which, according to their interpretation, is largely motivated by the lack of gainful employment for women and only to a lesser degree by the lure of female-female eroticism.³² Yet, mobile people, and especially mobile women, were exposed to all kinds of suspicion and mistrust.³³ When Count Froben Christop of Zimmern related the curious case of the servant-girl Greta in his sixteenth-century chronicle and *Hausbuch*, he stated, "There also was at the time a poor serving-girl at Messkirch, who *served here and there*, and she was called Greta. . . . She did not take any man or young apprentice . . . but loved the young daughters."³⁴ The two lesbians who are known to have been executed in the early modern German Empire, Ilsabe Buncke in Hamburg in 1702 and Catharina Margaretha Linck in Halberstadt in 1721, were both wayfaring women, torn between multiple social and religious identities as women and "men," "husbands" and lovers, religious dissenters and transgressors of the urban order.³⁵

Thus Hetzendorfer's case provides the "tradition of female transvestism" with a medieval prelude. Her downfall was precipitated by an isolation from urban social networks. This isolation must have triggered the whispers around her relationship with her "sister." Significantly, however, our story, as it emerges from the documents, diverges from Dekker and van de Pol's thesis that until "the end of the eighteenth century the existence of sexual feelings of women for other women was nearly inconceivable."³⁶ As much as this observation bears out a widespread stance among early modern authorities, the document at hand definitely allows for a different interpretation. As a woman in male disguise, Katherina Hetzendorfer desired other women. As a woman's "husband," she protected her companion from prosecution. For the confined usage of the officials, lesbian desire, fickle as it may appear, may be said to have entered the realm of the written word. These ambiguous emotions of the past, veiled by courtroom strategies and concealed by the legal concerns of the document, however, have been marginalized by academic disciplines which favor unambiguous stories. "We are," as Martha Vicinus reminds us, "excessively concerned with knowing for sure."³⁷

Above all, it was the fact that Hetzendorfer infiltrated the ranks of men by dressing as a man and by appropriating a phallus that made her a victim of harsh retribution. In late medieval Speyer, there was a growing anxiety about cross-dressing. The magistrate prohibited women from wearing men's clothes, and, later, men from wearing women's clothes.³⁸ Although this statute is irrelevant to our case—one would not have been sentenced to death for a violation of this kind—it gives evidence of civic attempts to regulate the troubled dividing line between the sexes. Over and over again during the course of the trial, Hetzendorfer's judges returned to the question of how she was able to leave the confines of her female sex and appropriate a male gender identity. To the inhabitants of Speyer, her highly visible execution reinscribed the "right" gender on her body and thus publicly legitimized urban rulers in their attempt to ensure a supposedly natural order of creation.

I have proposed that we surrender notions of an overarching silence on sexual relations between women during the early modern period, an assumption held unquestioned by many critics. Rather than a notion of overall silence on lesbianism, the linguistic lacunae, the euphemisms as well as the specific rhetorical strategies around female-female desire, have served as my starting-point for this investigation. Silences originate, at least in part, in the nature of textual genres and their particular functions. Subsequently, these

silences can be understood as a result of textual or social conventions, interventions by individual actors, and as stemming from the intricate structures of early modern communicative practices. Boundaries of communication and linguistic lacunae therefore serve as a guideline to how sexual behavior was configured and represented throughout history. Put differently, medieval silences were crafted, and the suggestion of the unspeakable is, above all, a powerful metaphor cast in words themselves and meant to have an impact on words yet unspoken. In that sense, silences can be made legible and deciphered.

Moreover, patterns of legal, literary, and academic communication prove to be a source of historical insight. They can be productively used in order to further our understanding of how silences were effected and how silence relied on agents who actively silenced. Whereas the late medieval body of fiction, poetry, and drama in the German language hardly ever brought up the topic of female same-sex desire, legal discourse, by definition protected from wide dissemination by dint of its limited accessibility, was characterized by its relative explicitness.

The document of Katherina Hetzeldorfer's trial does not provide us with insight into the whole range of what female homoerotic relations might have meant in early modern Europe; it primarily testifies to male perceptions about women who engaged in sex with other women. The term *female sodomy* precisely circumscribes one of those rare moments when knowledge about such relations surfaced under the conditions of a male-dominated discourse. Instead of focusing on the fact that patriarchal control limited the discursive expression of woman's desire for woman, I have investigated the various ways in which patriarchy effected silence as well as explicitness in this particular court case. Therefore, I would like to advance a notion of the politics of silence on female homoeroticism—a concept which relies on agents effecting silence and on a concept of silences brought about in particular acts of interrogating, reading, writing, or translating rather than on an abstract understanding of silence.

Read in this context, the significance of the Speyer document from 1477 can hardly be exaggerated. To be sure, it is, thanks to many research efforts, one text in a rapidly growing body of material on female same-sex sexuality, testifying to a heightened awareness of female-female eroticism during the early modern period. As one of the earliest examples of the punishment of lesbianism in the secular realm, the Speyer proceedings (together with the case of Laurence and Jehanne of 1405³⁹ and the proceedings of 1444 in Rottweil as related above) inaugurated an era in which women who engaged in sex with

other women were at times severely persecuted. Urban communities, particularly northern cities like Speyer, were the driving force in this development toward prosecuting female-female eroticism—a sporadic persecution that was part of a larger campaign to discipline behavior perceived as deviant. More significantly even, Katherina Hetzendorfer's execution is the earliest death sentence known to date for a crime that remains unnamed in the proceedings, though the transgression clearly pertains to a sexual offense.

As a court document accessible only to the city's political elite, this fifteenth-century text offers profuse description instead of legal categorization. Paraphrases of witness accounts stand in for the precise naming of the punishable offense. In other words, the catch-all realism of legal categories is entirely absent from the document. Among other factors, this absence is due to the fact that a modernized legal and professional discourse in the vernacular—the language in which civic documents had long been drafted—is only about to filter into civic chanceries during this time period. Though the transcripts do not name the criminal behavior for which Hetzendorfer was ultimately executed, they do speak about it, and eloquently so. But how do we recognize that which is not named, even though it might be spoken about? The unease with which Katherina Hetzendorfer fits into lesbian history reminds us of how much of lesbian history is built on legal categories—categories that have an uneasy relationship with the historic formation of sexual identities. If historians want to leave these terminological constraints behind, we have to immerse ourselves in the polyphony of such texts' narrations, in their own terms and linguistic structures, and allow them to speak rather than remain silent.

37

Notes

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- 1 Michel Foucault, *The History of Sexuality*, vol. 1, *An Introduction*, trans. Robert Hurley (New York: Random House, 1978), 101. See Jonathan Goldberg, *Sodometries: Renaissance Texts, Modern Sexualities* (Stanford: Stanford University Press, 1992).

- 2 Jacqueline Murray, "Twice Marginal and Twice Invisible: Lesbians in the Middle Ages," in *Handbook of Medieval Sexuality*, ed. Vern L. Bullough and James A. Brundage (New York: Garland, 1996), 191–222.
- 3 Valerie Traub, "The (In)Significance of 'Lesbian' Desire in Early Modern England," in *Queering the Renaissance*, ed. Jonathan Goldberg (Durham: Duke University Press, 1994), 62.
- 4 Lillian Faderman, *Surpassing the Love of Men: Romantic Friendship and Love between Women from the Renaissance to the Present* (New York: William Morrow, 1981); Judith C. Brown, *Immodest Acts: The Life of a Lesbian Nun in Renaissance Italy* (New York: Oxford University Press, 1986); Emma Donoghue, *Passions between Women: British Lesbian Culture, 1668–1801* (London: Scarlet Press, 1993); Joan Cadden, *Meanings of Sex Difference in the Middle Ages: Medicine, Science, and Culture* (Cambridge: Cambridge University Press, 1993), 224–25; Patricia Simons, "Lesbian (In)Visibility in Italian Renaissance Culture," *Journal of Homosexuality* 27 (1994): 81–122; Mary Lindemann, "Die Jungfer Heinrich: Transvestitin, Bigamistin, Lesbierin, Diebin, Mörderin," in *Von Huren und Rabenmüttern: Weibliche Kriminalität in der Frühen Neuzeit*, ed. Otto Ulbricht (Cologne: Böhlau, 1995), 259–79; Valerie Traub, "The Psychomorphology of the Clitoris," in *GLQ* 2 (1995): 81–113; Patricia Crawford and Sara Mendelson, "Sexual Identities in Early Modern England: The Marriage of Two Women in 1680," *Gender and History* 7 (1995): 362–77; Catalina de Erauso, *Lieutenant Nun: Memoir of a Basque Transvestite in the New World*, trans. Michele Stepto and Gabriel Stepto, with a foreword by Marjorie Garber (Boston: Beacon Press, 1996); Katharina Simon-Muscheid, "Frauen in Männerrollen," in *Arbeit—Liebe—Streit: Texte zur Geschichte des Geschlechterverhältnisses und des Alltags*, ed. Dorothee Ripmann et al. (Liestal: Verlag des Kantons Basel-Landschaft, 1996), 102–21; Katharine Park, "The Rediscovery of the Clitoris: French Medicine and the Tribade, 1570–1620," in *The Body in Parts: Fantasies of Corporeality*, ed. David Hillman and Carla Mazzio (London: Routledge, 1997), 171–93; Lise Leibacher-Ouvrard, "Tribades et gynanthropes (1612–1614): Fictions et fonctions de l'anatomie travestie," *Papers on French Seventeenth-Century Literature* 24, no. 47 (1997): 519–36; Kathryn Babayan, "The 'Aqā'īd al-Nisā: A Glimpse at Savafi Women in Local Isfahani Culture," in *Women in Medieval Islam: Power, Patronage, and Piety*, ed. Gavin Hambly (New York: St. Martin's, 1998), 349–81.
- 5 Louis Crompton, "The Myth of Lesbian Impunity: Capital Laws from 1270 to 1791," in *The Gay Past*, ed. Salvatore J. Licata and Robert P. Petersen (New York: Harrington Park Press, 1985), 11–25.
- 6 Stadtarchiv Speyer, 1 A 704/II, fols. 12r–14r. Further references to this document will be given parenthetically; translations are my own. See also Helmut Puff, "Männergeschichten/Frauengeschichten: Über den Nutzen einer Geschichte der Homosexualitäten," in *Geschlechtergeschichte und Allgemeine Geschichte*, ed. Hans Medick and Anne-Charlotte Trepp (Göttingen: Wallstein, 1998), 138–39.
- 7 It is possible that the woman named Schreckenspönn is identical with the so-called sister. This, however, seems highly unlikely, since she confessed to having had sexual intercourse with Hetzeldorfer only three times, whereas Katherina Hetzeldorfer and her "sister" had been a couple for two years. The officials, however, do not seem to question Schreckenspönn's confession.

- 8 For similar rhetoric, see Lyndal Roper, "Will and Honour: Sex, Words, and Power in Augsburg Criminal Trials," in *Oedipus and the Devil: Witchcraft, Sexuality, and Religion in Early Modern Europe* (London: Routledge, 1994), 53–78.
- 9 Richard van Dülmen, *Theatre of Horror: Crime and Punishment in Early Modern Germany*, trans. Elisabeth Neu (Cambridge, Mass.: Basil Blackwell, 1990), 80, 88–91; R. Liebenwirth, "Ertränken," in *Handwörterbuch zur deutschen Rechtsgeschichte*, ed. Adalbert Stammer and Ekkehard Kaufmann, 4th installment (Berlin: E. Schmidt, 1967), cols. 1009–10. See also William E. Monter, "Sodomy and Heresy in Early Modern Switzerland," in *The Gay Past*, 46.
- 10 Curiously, however, the husbands or legal representatives of the two women implicated were not heard.
- 11 On the document, the scribe corrected "as a man acts," for instance, to "as she in fact did it with her once" (12r).
- 12 See Helmut Puff, *Narrating the Unspeakable: Representations of Sodomy in Early Modern Germany, 1400–1600* (in preparation).
- 13 J. Kohler and Willy Scheel, eds., *Die peinliche Gerichtsordnung Kaiser Karls V. Constitutio Criminalis Carolina* (Halle a.S., 1900), §116 (*Straff der Vnkeusch, so wider die Natur beschicht*). English translation in Crompton, "The Myth of Lesbian Impunity," 18. See also Warren Johansson, "Sixteenth-Century Legislation," in *Encyclopedia of Homosexuality*, ed. Wayne R. Dynes, vol. 2 (New York: Garland, 1990), 1198–1200.
- 14 Brigitte Spreitzer, *Die stumme Sünde: Homosexualität im Mittelalter mit einem Textanhang* (Göppingen: Kümmerle, 1988), 21.
- 15 Kalocsa, Föszékese gyházi Könyvtár, Ms 629, fol. 198va–b: "Die schämleichen sünde pessern kayserleicheu recht gar swaerleich mit dem fewr vnd halden, das das vngewitter vnd schelmig sterben dauon chömen." For information and bibliographical notes on Ulrich, see Gabriele Baptist-Hlawatsch and Ulrike Bodemann, "Ulrich von Pottenstein," in *Verfasserlexikon: Die deutsche Literatur des Mittelalters*, ed. Kurt Ruh, vol. 10 (Berlin: de Gruyter, 1996), cols. 9–17.
- 16 Gerald Strauss, *Law, Resistance, and the State: The Opposition to Roman Law in Reformation Germany* (Princeton: Princeton University Press, 1986), 70–71. Roman law was more widely applied only after 1500, partially fueled by the Reformation. See James Q. Whitman, *The Legacy of Roman Law in the German Romantic Era: Historical Vision and Legal Change* (Princeton: Princeton University Press, 1990), 3–4.
- 17 Theodor Harster, *Das Strafrecht der freien Reichsstadt Speyer* (Breslau: M. u. H. Marcus, 1900), 194: "1477 wird eine Dirne aus Nürnberg wegen mehrfach verübter lesbischer Unzucht im Rhein ertränkt." On the contrary, Hetzeldorfer herself offered the considerable amount of 8 florins to a woman for having sex with her.
- 18 Rudolph His, *Das Strafrecht des deutschen Mittelalters*, vol. 2 (Weimar: Böhlau, 1935), 168; Crompton, "Myth of Lesbian Impunity," 17; Annette Hug, "Von den Unbewachten," in *Emanzipation* 8 (July/Aug. 1991): 6; Lindemann, "Die Jungfer Heinrich," 262, 270.
- 19 Judith Brown, "Lesbian Sexuality in Medieval and Early Modern Europe," in *Hidden from History*, ed. Martin B. Duberman, Martha Vicinus, and George Chauncey Jr. (New York: NAL Books, 1989), 68, 498–99 n. 42.

- 20 Michael Rocke, *Forbidden Friendships: Homosexuality and Male Culture in Renaissance Florence* (New York: Oxford University Press, 1996), 258 n. 23.
- 21 Randolph Trumbach, "London's Sapphists: From Three Sexes to Four Genders in the Making of Modern Culture," in *Third Sex, Third Gender: Beyond Sexual Dimorphism in Culture and History*, ed. Gilbert Herdt (New York: Zone Books, 1994), 126.
- 22 Mary Elizabeth Perry, *Gender and Disorder in Early Modern Seville* (Princeton: Princeton University Press, 1990), 123. She adds (124), "With one exception, all of the reports of sodomy in this city involved males only" (however, this is a case of heterosexual sodomy). For the workings of the Inquisition, see André Fernandez, "The Repression of Sexual Behavior by the Aragonese Inquisition between 1560 and 1700," *Journal of the History of Sexuality* 7 (1997): 469–501. According to Fernandez, nine women were accused of sodomy in Aragon. However, only one case seems to have involved female homosexuality: "one couple in 1656" (494).
- 23 Lyndal Roper, *The Holy Household: Women and Morals in Reformation Augsburg* (Oxford: Clarendon Press, 1989), 257–58.
- 24 Isabel V. Hull, *Sexuality, State, and Civil Society in Germany, 1700–1815* (Ithaca: Cornell University Press, 1996), 69; Helmut Puff, "Policing Sodomy in Reformation Germany and Switzerland" (in preparation).
- 25 Marc Boone, "Le tres fort, vilain et detestable criesme et pechié de zodomie: Homosexualité et répression à Bruges pendant la période bourguignonne (fin 14e–début 16e siècle)," in *Beleid en bestuur in de oude Nederlanden: Liber amicorum Michel Baelde*, ed. Hugo Soly and René Vermeir (Ghent: Vakgroep Nieuwe Geschiedenis Universiteit Gent, 1993), 15.
- 26 Monter, "Sodomy and Heresy," 46.
- 27 Dirk J. Noordam, *Riskante relaties: Vijf eeuwen homoseksualiteit in Nederland, 1233–1733* (Hilversum: Verloren, 1995), 58.
- 28 Theo van der Meer, "Tribades on Trial: Female Same-Sex Offenders in Late-Eighteenth-Century Amsterdam," *Journal of the History of Sexuality* 1 (1991): 425. The total amount of prosecutions for same-sex offenses in the Netherlands "involved somewhere between six hundred and eight hundred people" (425).
- 29 See, however, Judith Brown, *Immodest Acts*.
- 30 Erzbischöfliches Archiv Freiburg, Liber conceptorum, B (1441–1446), Sign. Ha 315, fol. 131v. This case has previously been published in my article "Localizing Sodomy: The 'Priest and Sodomite' in Pre-Reformation Germany and Switzerland," *Journal of the History of Sexuality* 8 (1997): 182–83.
- 31 Ibid.
- 32 Rudolf M. Dekker and Lotte C. van de Pol, *The Tradition of Female Transvestism in Early Modern Europe* (London: Macmillan, 1989), 49–72. Cf. Trumbach, "London's Sapphists," 114: "it is . . . likely that most women who dressed and passed as men for any length of time did not seek to have sexual relations with women." See, however, qualifying remarks on 522 n. 12 and 128: "The women so far described were also likely to have sex with both women and men. It is true that in some cases marriage and sex with men were forced on them by economic necessity. But in most cases they are described as genuinely desiring both men and women, although they sometimes preferred one or the other." Particularly interesting in this respect is Catalina de

- Erauso's fate. In addition to joining the military, this former nun adopted "heterosexual" erotic interests and pursued women as a cross-dressing conquistador (*Lieutenant Nun*, 3–80).
- 33 Monter, "Sodomy and Heresy," 44: "Nearly all the homosexual defendants in Calvin's Geneva were recent political refugees from France. . . . Virtually none came from Geneva or its vicinity." Monter sees the prevalence of sodomy among foreigners more as an outcome of a shortage of women and not as an expression of tense relations or of fantasies between different social groups.
- 34 Quoted from Roper, *Holy Household*, 257 (emphasis added). *Die Chronik der Grafen von Zimmern: Handschrift 580 und 581 der Fürstlich Fürstenbergischen Hofbibliothek Donaueschingen*, ed. Hansmartin Decker-Hauff and Rudolf Seigel, vol. 2 (Konstanz/Stuttgart: Jan Thorbecke, 1967), 210: "So ist auch der zeit ain arme dienstmagdt zu Mösskirch gewesen, hat hin und wider gedienet, ist genannt worden Greta, am Markt. Die hat sich keiner mann oder jungen gesellen angenommen oder denen zu pank steen wellen, sonder hat die jungen dächter geliept, denen nachgangen und gekramet, auch alle geperden und maniern, als ob sie ain männlichen affect het, gebraucht."
- 35 For Ilsabe Buncke, see Lindemann, "Die Junger Heinrich," 259–79; also Jakob Michelsen, "Von Kaufleuten, Waisenknaben und Frauen in Männerkleidern: Sodomie im Hamburg des 18. Jahrhunderts," in *Zeitschrift für Sexualforschung* 9 (1996): 226–27. For Catharina Margaretha Linck, see Brigitte Eriksson, "A Lesbian Execution in Germany, 1721: The Trial Records," in *The Gay Past*, 27–40.
- 36 Dekker and van de Pol, *The Tradition*, 69. "Sex was seen as an exclusively heterosexual act, for which the penis was indispensable" (69).
- 37 Martha Vicinus, "Lesbian History: All Theory and No Facts or All Facts and No Theory?" in *Radical History Review* 60 (1994): 69.
- 38 J. Bruckner, *Strassburger Zunft- und Polizei-Verordnungen des 14. und 15. Jahrhunderts* (Strassburg, 1889), 292: "Es sol ouch keine frowe keinen kürtzer mantel noch knabenmentel tragen danne ein viertel einre elen obe den knuwen angonde, lenger mügent sie sie wol tragen; welhe das brichet die beszert v lib" (14th cent.); see p. 293 (1493) for men. See also Valerie R. Hotchkiss, *Clothes Make the Man: Female Cross-Dressing in Medieval Europe* (New York: Garland, 1996), 11–12.
- 39 Cadden, *Meanings*, 224–25.

Appendix

The Trial of Katherina Hetzendorfer (1477) Stadtarchiv Speyer, 1 A 704/II, fols. 12r-14r

The volume in which Katherina Hetzendorfer's trial is transmitted is comprised of a number of urban documents from the second half of the fifteenth century. Originally, they were not bound together, although the binding is roughly contemporary. This also explains why the sequence of folios is disrupted in the volume's present makeup. In this edition, following the logical sequence of events, folio 14r follows folio 12r and precedes folio 13r. Folios 13v and 14v contain transcripts of documents unrelated to Hetzendorfer's case. Besides Katherina Hetzendorfer's case, the volume consists mainly of promissory notes as well as trials on debts and thefts. The original document is in Early New High German.

For this edition, capitalization has been regularized. The few abbreviations in the text are silently expanded. Loss of text is indicated by an ellipsis, and editorial alterations and notes are bracketed. My own paragraphing follows testimony given by individual witnesses. For greater readability, frequent scribal errors have been omitted, though it should be kept in mind that they testify to the document's character as working notes. The marginal note on folio 12r has been represented as such, however, as well as the scribe's underscoring of one passage. In addition, cancelled parts of the text have been retained and enclosed within parentheses whenever they represent the scribe's earlier formulations that were replaced during the proceedings.

Text

[fol. 12r]

Anno etc. lxxvij

Elß, Wendel Muters fraw, sagt vnder andern fil worten, daz by den iiiij wochen vngeuerlich vergangen, daz die uf dem dorn lyt zu jr jn jr huß komen sye, da maß jr man nit daheimen wer, vnd klopfft an, biß so lang sie sie zu jr jn ließ. Vnder anderm, da sie zu samen kemen, het sie sie jn eyner sunder bet gelegt. Da wer die uf dem torn lyt zu jr jn jr bet gelegen vnd vnder fil hendeln wer sie uf Elß obgemelt gesessen vnd sie vnderstanden zuuersuchen vnd mit ir manlichkeit zu tryben.* Also het sie jr dar gegriefen vnd gefüelt, daz ez eynn vngefug dinck wer alß groß als eynn halber arme. Daz wer, alß sie beducht, hörnen vnd fornenn spietz vnd hinden wýt, damit sie sich jr kumen erwert. Vnder anderm het sie sich von jr emprochen vnd da wer die uf dem thorn lyt zu jrm stoben fenster vß gesprongen. Sie sagt auch, alß sie zu jr kem, het sie jr denn dußnig¹ gezeigt vnd mit jr jrn willn versucht vnd jr viii gulden gepotten zugeben. Sie sag[t] auch, daz sie durch daz selbe ding harn. Sie sagt auch, daz jr die jhenn uf dem torn lyt verboten hab, sie hab auch jr jr truwen geben, solichs nemat zusagen. Sie sagt auch, daz die jhennen, die jr swester sin sol, jn kurts zu jr gesagt hab, daz die jhen uf dem torn lyt sie entmeydelt vnd vngeuerlich ij jar gebult hab. Sie het auch gesagt, daz sie nit anders wust, dan daz die mann also vngefuge haben solten.

*
als sie auch eynn mal mit jr (recht vnd nature) als eynn mann (tut) getann hat. Sie sagt auch, daz sie solich werck, ob jr daz verhengt wurd, j stunt an drybe. Sie sagt auch, daz sie der naturen so fil laß, daz uber die maß sye, daz man es mit hant fol uf hüß.

Elß, Henck [?] Michels [?] fraw, sagt daz sie hab gesehen . . . fastnacht, daz die uf dem tornn lyt stunde vnd hur als eynn man. Sie hab jr auch darnach gegriefen. Sie sagt auch, daz sie mit helsen vnd kußen ge vnd lichken gepor als eynn mann mit den frawen, als sie daz ges[agt].

Ennel Helmstetner sagt, daz sie uf eyner zýt von der uf [dem] torn swester (gehört hab als sie sie) erfahrung getann . . . gefragt hab wie ez kem daz sie jr swester . . . sie jr elicher mann wer spro . . .

[fol. 14r] Hannß Welcker sagt vnder andern fil worten, daz er von Ennel von Helmstat gehört habe, daz sie spreche, daz sie von der, die uf dem thorn lyt, die eynn mann sin soll, daz sie die jhenne, die sie jr swester nennet, eym edelmann empfuert habe vnd nit jr swester sye.

[fol. 13r]

Katherina Hetzelderferin von Nurnberg

Sie sagt, daz sie es am ersten mit eym finger darnach mit zw[en] vnd darnach mit dryen vnnd am lesten mit dem holtz, daz sie zwischen jr pein gehalten het, geton habe, jnmaß sie vor maß

gesagt vnd erkant habe. (Sie sagt, daz die by jr² gewest jr swester ist vnd sie nutzit mit jr zu thun hab. Daruf woll sie sterben.) Sie sagt, daz die yhenn by jr gewest ist, nit jr swester sye vnd sagt daz sie die selb zu Wertheim uf gewegt vnd alher bracht (habe, aber sie hab sie nit gepult noch mit ir vnerlichs geton) vnd mit jr zuschafen gehapt hab. Vnnd sagt auch darnach, daz sie eyn instrument gemacht habe mit eym roden loschen ledder vnd fornnen mit baumwoll gefult vnd daruf eyynn holts gestossen vnd eyynn loch durch daz hölts gemacht mit eyner snwer dar durch gezogen vnd also vmb sich gebu[n]den vnnd da mit jr gefert mit den zweyn wibern vnd die jr swester sin soll geschafft.

Sie ist erdrenckt worden, requiescat jn pace, uf frytag vor deposicionis Sancti Widonis.³

Als die Schreckenspönn solichs von jr gesagt vnd daz behart, daz sie nit anders gewist, dan daz sie eyynn man gewest vnd mit jr zum drytten mall die buberÿ geupt hat, darumb hat man sie lassen ligen, biß die gemelt Katherina gericht, ob (man) Katherina sie wolt entschuldigen, daz sie nit gewust anders, dan das sie sie für eyynn mann erkent hab. So sel sie x miln von der stat sweren. Dez glichen ist Elß, Wendel Muters fraw, auch verlieben ligen, mit der sie eyynn mal zuthun gehapt. Vnd uf samstag darnach haben sie beyde x millen fur die stat gesworen.

Anno domini M^occccxxvij uf frytag nach Judeca.⁴

Translation

[fol. 12r]

1477

Else, wife of Wendel Muter, says, among many other things, that around four weeks ago she who stands in the dock [i.e., the accused] came to her at her house when her husband was not at home. She knocked on the door so long that in the end she let her in. Among other things, [she says] when they were together she put her up in a different bed. Then [however] she who stands in the dock lay down in bed with her and, during many quarrels, sat down on top of the above-mentioned Else, and tried to seduce her and to have her manly will with her.* She grabbed it [the penis] and felt that it was a huge thing, as big as half an arm. She thought it was like a horn and pointed in front and wide behind. She could hardly ward her off. Among other things, when she broke loose she who stands in the dock jumped out of the window. She also says when she came to her she showed her the penis⁵ and tried to have her will with her and offered to give her eight florins. She also says that she urinates through this thing. She also says that she who stands in the dock prohibited her [from telling others], and she promised not to mention it to anybody. She also says that she who is supposed to be her sister said to her in brief that she who stands in the dock had deflowered her and had made love to her during two years. She also said that she did not know anything other than that men should be granted such roguery.

*

As she in fact did it with her once just like a man. She also says that if she is to be punished she did it once. She also says that her semen is so much that it is beyond measure. that one could grab it with a full hand.

Else, wife of Henck [?] Michel [?], says that during carnival she saw that she who stands in the dock stood, whored like a man, and she grabbed her just like a man. She also says that with hugging and kissing she behaved exactly like a man with women, as she said.

Ennel Helmstetner says that once upon a time she asked the accused for information about her sister . . . asked how it came that she . . . her sister . . . she was her husband. . . .⁶

[fol. 14r] Hannß Welcker says, among other things, that he had heard from Ennel Helmstat⁷ that she said that she who stands in the dock and who is supposed to be a man—that she abducted her, whom she calls a sister, from a noble and is not her sister.

[fol. 13r] Katherina Hetzelderferin from Nuremberg She says that she did it at first with one finger, thereafter with two, and then with three, and at last with the piece of wood that she held between her legs to the extent she said and confessed before. (She also says that she who was with her is her sister and

that she has nothing to do with her [i.e., has had no sex with her]. She was ready to die for that [i.e., it is really true].) She says that she who was with her is not her sister and says that she encountered her in Wertheim and took her here [to Speyer] (she did not court her nor do anything dishonest with her) and had her ways with her. And she also says thereafter that she made an instrument with a red piece of leather, at the front filled with cotton, and a wooden stick stuck into it, and made a hole through the wooden stick, put a string through, and tied it round; and therewith she had her roguery with the two women and her who is supposed to be her sister.

She was drowned—requiescat in pace—on Friday before the deposition of Saint Guido.

When the Schreckenspönn said such about her, and when she insisted that she did not know anything other than that she was a man and committed an act of knavery with her three times, she remained arrested because of that until the aforementioned Katherina was executed, [in order to find out] whether Katherina wanted to absolve her for not knowing anything other than that she took her for a man, and [in that case] ban her ten miles' distance from the city. Similarly Else, wife of Wendel Muter, with whom she had to do once [i.e., had sex with her once], remained arrested. And on the following Saturday they both swore ten miles from the city [i.e., they were exiled ten miles from the city].

Friday after Judica, 1477.



Notes

- 1 *Pfälzisches Wörterbuch*, ed. Ernst Christmann and Julius Krämer, vol. 2 (Wiesbaden: Franz Steiner, 1969–75), col. 365, s.v. *Dose* (2 b ß): “male genitals,” “cock.” Also refers to “can,” “nose,” “female genitals.” Cf. vol. 5 (Stuttgart: Steiner, 1987–93), col. 1552.
- 2 The document has *swester* between *jr* and *gewest*, probably a scribal error (see the following *swester*).
- 3 14 May 1477.
- 4 28 March 1477.
- 5 The original wording *dußnig* refers to both male *and* female genitalia (as well as nose and can). The translation *penis* makes best sense in this context.
- 6 The damaged condition of the paper makes it impossible to decipher the last couple of words of the last three lines on this page.
- 7 Despite different spelling, this is the same person as the above-mentioned Ennel Helmstetner.

