Journal of British Studies 53 (April 2014): 334–355. doi:10.1017/jbr.2014.51
© The North American Conference on British Studies, 2014

Martyrs' Tales

Mark Kishlansky

Abstract This article recounts the legal proceedings against those Puritan activists who challenged the government of Charles I in the 1630s. It demonstrates that most of our knowledge of these events has come from the highly colored accounts written by the defendants themselves. Closer examination demonstrates that Leighton, Prynne, Bastwick, Burton, and Lilburne set out to challenge the government, first by writing incendiary tracts about religion and then by refusing to recognize the jurisdiction of the courts into which they were brought. While they saw their causes as cases of conscience, Caroline officials saw them as attacks upon the legal and political system. They were convicted in formal legal proceedings, and while the penalties they received appear barbaric to our sensibilities, they were typical in such cases.

> Consider how most barbarously they persecuted God's people . . . in cutting off those three worthy men's ears, Mr. Burton, Dr. Bastwick and Mr. Pryn and then fining them and banishing them to perpetual imprisonment, which was against the laws of God and men: for they were not found guilty of anything. . . . [I]t was most cruel dealing, not like Christians, but as dogs. And also good Dr. Layton that hath been both branded and whipped, and his nose slit, and imprisoned. And Mr. John Lilburne that hath been whipped and gagged, and fettered, and pilloried, and imprisoned. And so many others of God's children did the lordly prelates prosecute and tyrannize over.[1]

Remarkably, the famous religious martyrs of the reign of Charles I all lived to tell their tales. Though they suffered in their darkened cells—"I thought I should have died in a sudden fit of pain when none was with me," John Lilburne lamented—they were all able to drag their broken bodies into the sunshine of the 1640s.[2] Indeed, given the tribulations they described, they were remarkably long-lived. Alexander Leighton, imprisoned in 1630 when he was sixty-one, survived another eighteen years; Henry Burton and William Prynne reached the age of sixty-nine, and John Bastwick, fifty-nine, more than respectable longevity for the mid-seventeenth century. Only Lilburne, in his early

Mark Kishlansky is the Frank B. Baird Professor of English and European History at Harvard University.
This essay was first presented at the Pacific Coast Conference on British History in April 2013, and the author is grateful to Ethan Shagan for the invitation and his many kindnesses. He is also grateful to Noah Millstone, Scott Sowerby, and reviewers for the *Journal of British Studies* for their assistance.

[1] Anon., *England's Rejoicing at the Prelate's Downfall* (1641), [E3023], B_2. Publication dates are given with the year reckoned to begin on 1 January. All places of publication are London unless otherwise specified. Spelling and punctuation have been modernized in titles and quotations. Printed books are identified by their catalog numbers: Short Title Catalogue (STC) (number only); Wing (capital letter and number); Thomason Tracts (E.).

[2] John Lilburne, *The Poor Man's Cry* (Amsterdam, 1639), [15598], 10.

https://doi.org/10.1017/jbr.2014.51 Published online by Cambridge University Press

twenties when first incarcerated, did not endure to fifty, though he lived vigorously after prison, fought in numerous battles as a parliamentary officer, was captured by the royalists, and barely escaped hanging.[3] Indeed, their survivals fortified the legends that they had created through a series of scintillating jailhouse narratives.[4] Each in his own inimitable voice related chilling tales of persecution, prosecution, and punishment. Even if they lacked combustible endings, their experiences were harrowing enough: physical assaults, psychological torture, and disfiguring penalties that branded them forever. Though betrayed by faithless confederates, convicted by vengeful judges, and tormented by merciless jailers, they purported to accept their fates stoically. In their tales, they compared their sufferings to that first martyred generation of Protestants. No seventeenth-century Foxe could have told them better.[5]

Contemporaries, too, fortified the martyrs' myths. Though Prynne and Burton were accompanied on the road to exile by well-wishing assemblages of their co-religionists, this beggared comparison to their triumphant return to London. In 1640 they were welcomed home as conquerors of old, on flower-strewn paths amid jubilant throngs. Among the early acts of the Long Parliament was to release these men from captivity, reverse the legal judgments against them, and provide compensation for what were deemed the injustices they had endured. Pressmen sang their glory. "For now the lord hath brought home those three worthies . . . contrary to all expectations for few thought to have seen them all here alive again."[6] Their association with miraculous occurrences shimmered into print, like that of the man who "whilst he was cursing Mr. Prynne, Burton and Bastwick his ears fell a bleeding."[7] Prynne's portrait adorned antiprelatical pamphlets, and the Latin verses he scrawled upon his prison walls were transcribed, translated, and preserved as if they were holy relics.[8] The martyrs added to their notoriety with republications of their own

[3] Lilburne, who may not have known his age (or exaggerated his youth for effect), gave it as "about 20 years" in his first examination in 1637. John Lilburne, *The Christian Man's Trial* (1641), [E. 181 (7)], 6. His engraved portrait published in 1641 as a frontispiece to both *Christian Man's Trial* and John Lilburne, *A Light for the Innocent* (1641), [L 2138], gives it as 23. Modern scholarship makes him three years older, born in 1615. Andrew Sharpe, "John Lilburne (1615?–1657)," *Oxford Dictionary of National Biography*, ed. H. Colin, G. Matthew, and Brian Harrison (Oxford, 2004), http://www.oxforddnb.com/view/article/16654 (hereafter *ODNB*).

[4] The list of their tracts is extensive because they wrote copiously and reprinted often. The central works are Alexander Leighton, *An Appeal to the Parliament* (1640), [L1022]; *An Epitome . . . of the many great troubles that Dr. Leighton Suffered* (1646), [E. 354 (2)]; John Bastwick, *The answer of John Bastwick, Doctor of Physic, to the information of Sir John Banks Knight* (Amsterdam, 1637), [1568]; Henry Burton, *An Apology of an Appeal* (Amsterdam, 1636), [4135]; [Henry Burton], *A Divine Tragedy* (1636), [4140], 43–44; Henry Burton, *A Narration of the Life of Mr. Henry Burton* (1643), [E. 94 (10)]; William Prynne, *A New Discovery of the Prelate's Tyranny* (1641), [E. 162 (1)]; William Prynne, *A Brief Relation of Certain Special and Most Material Passages* (1641), [E. 162 (2)]; Lilburne, *Christian Man's Trial* [E. 181 (7)]; John Lilburne, *The Work of the Beast* (Amsterdam?, 1638), [15599].

[5] The Foxian strains of some of these writings have been analyzed in John Knott, *Discourses of Martyrdom in English Literature* (Cambridge, 1993). The similarities were more than echoes. As Lilburne wrote: "I have read a great part of the Book of Martyrs, with some histories of the like kind." Lilburne, *Poor Man's Cry* [15598], 5.

[6] Anon., *England's Rejoicing* [E3023], B_2 (unpaginated 4).

[7] *A Relation of a Strange Apparition in an Ale-house Next Door to the White Horse* (1641), [R795], 5.

[8] Henry Walker, *A Terrible Out-cry Against the Loitering Exalted Prelates* (1641), [W389]; Anon., *Comfortable Cordials Against Discomfortable Fears of Imprisonment* (1641), [P3927].

https://doi.org/10.1017/jbr.2014.51 Published online by Cambridge University Press

modestly titled tracts such as *A Divine Tragedy*, *A Christian Man's Trial*, or *A Decade of Grievances*.[9] They thought like martyrs, behaved like martyrs, and were received as martyrs.

Common strands ran through these unique cases. Initially, they involved the illegal publication and distribution of books in violation of the Star Chamber decrees of 1586. Ultimately, however, all except Lilburne were charged with sedition. Although they did not constitute a group, these men were curiously connected. Leighton and Bastwick had lodged together in Holland.[10] One of the more potent charges against Prynne in his 1634 case was that he had recommended the writings of Leighton described in the information as "a factious separatist tending to the introducing of anarchy."[11] Burton visited Prynne regularly in prison, and they coauthored *A Divine Tragedy* in 1636.[12] Lilburne, who was to be accused of distributing Bastwick's outlawed publications, was so frequent a visitor to the imprisoned physician that the doctor claimed him as nearly an adopted son.[13] Prynne appears to have advised Burton and Bastwick, his codefendants in 1637, on legal strategy, and while Bastwick denied that the three were intimates, he affirmed that they "have been of long acquaintance."[14] All the men had come to the attention of the authorities prior to their main convictions; indeed, Burton and Prynne wrote the tracts for which they were indicted in 1637 while jailed. Nevertheless, their paths to punishment each had their own characteristics, and it is useful to review the details of their cases before analyzing them.

Alexander Leighton, whom Joseph Mead described as a "fiery Scotsman," was an ordained minister who undertook medical training in Holland, where he imbibed radical Protestant ideas in the English gathered congregations there.[15] He resettled in England but was refused a medical license. While illicitly practicing medicine, he joined the semiseparatist church of Henry Jacob and began writing religious tracts that were published in Amsterdam. In 1624 he wrote the strongly anti-Episcopal book *A Looking Glass for a Holy War*, which was openly distributed in London without a license. He narrowly escaped High Commission pursuivants by ducking out of a window and clambering over rooftops. After this, he fled back to Holland. Archbishop Laud recalled that James I was so incensed by the tract, especially its commentary on Charles's prospective marriage, that the king exclaimed, "whensoever he could catch him he would hang him."[16] By 1628 Leighton was back in London gathering signatures for an anti-Episcopal petition to be presented to

[9] Burton, *Divine Tragedy* (1642), [E. 176 (1)]; Alexander Leighton, *A Decade of Grievances Presented and Approved* (1641), [L1023].

[10] For the details of Leighton's life, see Frances Condick, "Alexander Leighton (c.1570–649)," *ODNB*, http://www.oxforddnb.com/view/article/16395.

[11] Mark Kishlansky, "A Whipper Whipped: The Sedition of William Prynne," *Historical Journal* 56, no. 3 (2013): 12. An information was the equivalent of an indictment.

[12] Kenneth Gibson, "Henry Burton (1578–1647/48)," *ODNB*, http://www.oxforddnb.com/view/article/4129; Henry Burton [and William Prynne], *A Divine Tragedy* (1636), [41407].

[13] John Bastwick, *A Just Defense of John Bastwick* (1645), [E. 265 (2)], 11–31 (mispaginated).

[14] John Bastwick, *The Answer of John Bastwick* [1568], 5.

[15] Thomas Birch, ed., *The Court and Times of Charles I*, 2 vols. (1848), 2:61.

[16] Houghton Library, Harvard University, Eng. MSS 1359, f. 233r. This was recalled by Laud during Prynne's 1634 trial. See Mead's remarkable gloss of the phrase "a daughter of Heth." Birch, *Court and Times*, 2:62–63.

https://doi.org/10.1017/jbr.2014.51 Published online by Cambridge University Press

Parliament. He returned to Holland ostensibly to have the petition printed but instead turned it into a full-scale treatise titled *An Appeal to the Parliament or Sion's Plea against the Prelacy.*

Shortly after returning to London in 1630, Leighton was arrested on a warrant from the High Commission for writing both *A Looking Glass* and *Sion's Plea*. At his hearing, he refused to answer questions on the grounds that the High Commission had no legal authority to examine him.[17] This removed the case to the Star Chamber, and after Leighton was examined by Attorney General Sir Robert Heath, an information was brought against him for sedition—"to slander and traduce the King by his ministers"—charging that he endeavored to alienate the people from both prelacy and monarch.[18] In his answer, he confessed himself the author of *Sion's Plea* but asserted, seemingly in mitigation, that it was written abroad. He maintained throughout that he had no knowledge of how the tract was published and imported, despite having personally sent copies to members of the Parliament of 1628.[19] On the specific charges, however, he justified rather than denied the allegations: "a fair and full confession, and the worst of all confessions, a justification of so foul a crime."[20] As was customary in the Star Chamber (and in all civil law courts), judgment was reached based upon the written record of examinations, information, and answer. Having pled guilty, Leighton was sentenced to be degraded from holy orders, fined £10,000, imprisoned for life, whipped, pilloried, and mutilated by having his ears cut off, his nose slit, and his check branded.[21]

William Prynne, as befit his voluminous nature, was twice sentenced by the Star Chamber. A Lincoln's Inn barrister renowned for his learning, Prynne came under the influence of the great Puritan preacher John Preston and began writing tracts on religion and morality that he published without license. He was haled before the High Commission on two occasions in the 1620s but avoided censure both times. This was not to be the case, however, after the publication of *Histrio-Mastix* in 1633.[22] He was arrested, imprisoned, and charged with libel and sedition. Prynne pled not guilty, and the full-scale hearing of his case that ensued in the Star Chamber lasted for six sessions: "[H]e has had more time in the court for trial than I have ever known any," Francis Lord Cottington marveled.[23] Prynne was convicted by the unanimous opinion of twenty-one judges and received a sentence similar to that of Leighton's, with whom he was compared. He was stripped of his Oxford degree, disbarred, pilloried, fined, imprisoned, and lost his ears, though his nose was left intact and his check unblemished.

Prynne's imprisonment did not quell his pen. He continued to author provocative tracts, which he managed to smuggle out to London publishers through his visitors

[17] Alexander Leighton, *An Epitome or Brief Discovery* [E. 354 (2)], 3–4.

[18] S. R. Gardiner, ed., "The Speech of Sir Robert Heath, Attorney-General in the Case of Alexander Leighton," *Camden Miscellany* 7 (1875): 1.

[19] Condick, "Alexander Leighton," *ODNB,* http://www.oxforddnb.com/view/article/16395.

[20] Leighton, *An Epitome or Brief Discovery* [E. 354 (2)], 16–29; Gardiner, "Speech of Sir Robert Heath," 3.

[21] Gardiner, "Speech of Sir Robert Heath," xi.

[22] For an account of Prynne's 1634 cause, see Kishlansky, "Whipper Whipped," 1–25.

[23] Houghton Library, Harvard University, Eng. MSS 835, f. 18v–19r.

https://doi.org/10.1017/jbr.2014.51 Published online by Cambridge University Press

and servants. While in prison, he reconnected with John Bastwick and Henry Burton. Bastwick, like Leighton, had studied medicine in Holland where he too joined radical English congregations.[24] However, Bastwick's earliest publications were more scholarly than polemical, and the second edition of his *Elenchus Religionis Papisticae* was licensed before it was published in London. His troubles began when Leighton returned to England in 1628. The two were closely associated, and after Leighton fled to avoid prosecution for *Sion's Plea*, suspicion fell on Bastwick as a sympathizer if not a collaborator. This suspicion only deepened when Bastwick issued another edition of *Elenchus* in 1634 with a new appendix arguing that Episcopal authority was subsumed under civil authority. The original licenser of the book initiated a complaint in the High Commission, and Bastwick was summoned to explain himself. Rather than taking the path of least resistance, Bastwick not only refused to retract his assertions, but as he stated, "I resolved to die rather than by baseness of submission to make myself an offender."[25] His behavior in court exacerbated his punishment, and he was fined £1,000 and imprisoned until he recanted. This sentence served only to radicalize him further. A new edition of *Elenchus*, now called *Flagellum pontificis et epiccoporum Latialium*, was avowedly anti-Episcopal. The *Letany* followed, a more dangerous assault in that it was written in English and its scatological derogation of bishops was aimed at a broader audience. In 1637 Bastwick was charged in the Star Chamber as author of the *Letany* and an earlier tract, the *Apologeticus*, both of which bore his name. He refused to take the *ex officio* oath or to plead to the information in a form acceptable to either his counsel or the court. Consequently, he was judged to have confessed, and was fined, pilloried, mutilated, imprisoned, and exiled.

Henry Burton had been clerk of the closet to Charles when he was Prince of Wales, but he resigned his court post after he was not promoted at the new king's accession. He wrote a scathing attack on bishops Laud and Neile that he personally delivered to Charles and resumed his duties as parish minister of St. Matthew's, Friday Street. He published a number of anti-Arminian tracts in violation of the royal decree against writing about predestination and was examined by the High Commission for the first time in 1626. He wrote prolifically against Catholicism and anything that he felt was tinged by it. He was again examined in the High Commission in 1627 for writing the *Baiting of the Pope's Bull* and in 1629 for publishing *Babel no Bethel*. In the first instance, he was merely cautioned, but in the second he produced a prohibition against the jurisdiction of the High Commission that so infuriated Bishop Laud that he had Burton arrested for ceremonial irregularities. In all, he had made five appearances at the High Commission without formal censure before he preached the 5 November sermons that landed him in prison in 1636.[26] When news reached the authorities about the anti-Episcopal content of his two sermons, published as *For God, and the King*, Burton was again summoned for examination in the High Commission. Not only did he refuse to obey, he barricaded himself in his house and prepared the sermons for publication. He was arrested when agents of the commission

[24] For Bastwick, see Frances Condick, "John Bastwick (1595?–1654)," *ODNB*, http://www.oxforddnb.com/view/article/1659.

[25] John Bastwick, *A More Full Answer of John Bastwick* (1637), [1575], 5.

[26] Henry Burton, *A Narration of the Life of Mr. Henry Burton* (1643), [B6169], 7–10. For the details of Burton's life, see Gibson, "Henry Burton," *ODNB*, http://www.oxforddnb.com/view/article/4129.

https://doi.org/10.1017/jbr.2014.51 Published online by Cambridge University Press

assisted by the sheriff of London broke down his door and seized his person. He denied the authority of the commission, refused to take the *ex officio* oath, and his case was removed to the Star Chamber, where it was tied to those of Bastwick and Prynne. He, too, refused to enter an acceptable plea or to be examined on oath and was therefore, like the others, convicted *pro confesso*. He lost his ears on the pillory with his codefendants, and was fined, imprisoned, and exiled in 1637.

Prynne's prosecution in 1637 promised to be more interesting than that of his codefendants. Having learned his lesson in 1634, Prynne carefully kept his name off of the tracts he was charged with writing.[27] In his initial interviews, he denied authorship, but, like his codefendants, he would not take the oath and would not submit an answer to the information in a suitable form. Because he was a practiced Star Chamber barrister, his efforts to tie the court into procedural knots must be judged deliberate. He, too, was taken to have pleaded *pro confesso*. As a repeat offender, his punishment was more severe. His ears, which had only been cropped in 1634, were now completely removed, and he was branded with the initials SL (seditious libeler) on his cheeks. His fine was supererogatory, because he had been unable to pay the first one, and, like Burton and Bastwick, he was sent into exile, ultimately to the Isle of Jersey.

John Lilburne was the youngest of the martyrs. He was a second son from a landed Durham family, writing, "I am the son of a gentleman and my friends of rank and quality," and apprenticed to a London clothier.[28] He joined a separatist congregation, gadded to sermons throughout the city, and read deeply in Protestant literature, especially Foxe's *Book of Martyrs*. Sometime in 1636 John Wharton, a dealer in unlicensed books, took him to meet Bastwick, who was imprisoned in the Gate House for his anti-Episcopal writings. Lilburne's apprenticeship had ended, and he was looking for a business opportunity. On one of his many visits to Bastwick, he proposed printing a run of Bastwick's *Letany* because "he doubted not but he should get money enough by them."[29] Lilburne sailed to Holland, had two of Bastwick's English works printed, and quickly turned a profit. He then organized a larger run of the *Letany* that he intended to import into England. However, he was betrayed by one of his confederates. The books were seized at the dock and burned, and Lilburne was arrested upon his return.[30] He was imprisoned in December 1637 and examined on multiple occasions during the next month. His tactic during his examinations was to deny with great precision one element of a charge while evading any response to another. Because the examiners were especially interested in ascertaining who had conspired with him, they were willing to allow this to play out. But when things turned serious, Lilburne simply refused to be examined on oath. He was brought into the Star Chamber on at least two occasions and carefully denied elements of the charges against him, but ultimately he asserted that the *ex officio* oath was illegal.[31] Thus his case for printing, importing, and distributing unlicensed

[27] There seems to be little doubt that he was coauthor of *A Divine Tragedy*, but his role in penning *News from Ipswich* remains contested.

[28] T. B. Howell, ed., *A Complete Collection of State Trials*, 21 vols. (1816), 3:1338. For the details of Lilburne's life, see Andrew Sharpe, "John Lilburne (1615?–1657)," *ODNB*, http://www.oxforddnb.com/view/article/16654.

[29] Bastwick, *Just Defense* [E. 265 (2)], 10.

[30] Ibid., 11 (mispaginated as 31).

[31] Lilburne, *Christian Man's Trial* [E. 181 (7)], 7–8.

https://doi.org/10.1017/jbr.2014.51 Published online by Cambridge University Press

books was never heard. Instead, he was punished for "high contempt" of court. Because this was done to prevent others from adopting the same tactic, an "offense of dangerous consequence and evil example," the punishment was a public one. In April 1638, Lilburne was whipped through the London streets and pilloried in Westminster. He was fined £500 and remanded to prison until he "conformed [himself] in obedience to the orders of this court."[32] Like the others, the Long Parliament released him in 1640.

The martyrs' tales had all the elements of a Christian morality play, and the martyrs themselves rarely tired of repeating them. They were cast down into darkness and raised up into light. The Lord worked in mysterious ways. As they rose, their persecutors fell: Bishop Wren was imprisoned for eighteen years (a term nearly twice as long as that served by Alexander Leighton); Archbishop Neile only escaped his just deserts by extreme evasive action. According to Prynne, he went to tormenting fires "to prevent all questioning; at the approach of this present Parliamentary Assembly [he] fell sick and died, being now gone to answer all his Episcopal extravagancies before a greater Tribunal."[33] Archbishop Laud, after four years in prison and a rigged trial, was sent to his death, the first Protestant to be executed for his religious beliefs in the reign of Charles I.

Generations of historians have perpetuated these myths.[34] Reading the many accounts of these events, one would believe that the martyrs were persecuted rather than prosecuted. Their blood enemies, like Archbishop Laud, singled them out for exemplary punishment and brought the full rigor of the law down upon their modest transgressions. Steven Foster believed that "Laud was doing his best to crush a phantom conspiracy by means which discredited episcopacy and turned his victims into real conspirators."[35] William Lamont labeled the prosecution of Prynne, Bastwick, and Burton as "Laud's revenge" and, unlike Prynne's own lawyers, believed he was innocent of the crimes charged against him in 1634.[36] According to these historians, the defendants were victimized for speaking truth to power. Ripped from the bosoms of their families or the quiet of their studies, they were subjected to harsh physical and psychological torment in an effort to break their will. Not only were charges trumped up and witnesses suborned, but they were denied ordinary due process. Cyndia Clegg has argued that the Caroline regime created a new class of criminal acts to trap libelers and has suggested that the courts did not even follow their own procedures in trying them.[37] Their convictions were preordained. Their offenses were light, their punishments heavy. "The sentence of the court was extravagant in its brutality," Gardiner judged, and his view has echoed until the present.[38] Some were whipped through the streets, others had their foreheads and cheeks branded or their ears removed, and all were

[32] Howell, *State Trials*, 3:1327. Lilburne's codefendant was John Wharton, whom it was believed had financed his original venture.

[33] William Prynne, *The Antipathy of the English Lordly Prelacy* (1641), [P3891A], i, 224.

[34] A notable exception is Kevin Sharpe, *The Personal Rule of Charles I* (New Haven, 1992), 758–65. Sharpe's interpretive perspective is similar to the one presented here.

[35] Stephen Foster, *Notes from the Caroline Underground* (Hamden, CT, 1978), 45.

[36] William Lamont, *Marginal Prynne* (1963), 28–48, and William Lamont, "William Prynne (1600–1669)," *ODNB* http://www.oxforddnb.com/view/article/22854.

[37] Cyndia Clegg, *Press Censorship in Caroline England* (Cambridge, 2008), 166.

[38] S. R. Gardiner, *History of England, 1603–1642*, 10 vols. (1884), 7:333.

https://doi.org/10.1017/jbr.2014.51 Published online by Cambridge University Press

subjected to the public humiliation of the pillory. They suffered with great dignity, and the examples that the government hoped to set proved counterproductive as the martyrs garnered adherents to their cause and the government disgust for its actions. Then as now, torture was worse than ineffective.

Given the fact that much of our knowledge of these events comes from the tales the martyrs themselves told, it is noteworthy that historians have accepted their accounts so uncritically. For example, there has been much emphasis on the barbarity of subjecting "gentlemen" to humiliation on the pillory and mutilation by the common hangman. The legend that the Caroline authorities inflicted these penalties upon a clergyman, physician, and lawyer has proved strangely durable considering that the Star Chamber took elaborate pains to ensure that none were so credentialed at the time their sentences were executed. A less-sensitive regime might simply have made them examples *pour encourager les autres* to keep men of the professions in line. Instead, the execution of Prynne's sentence in 1634 was delayed for two months while Lincoln's Inn cast him from the bar and then Oxford University stripped him of his degree. Both, it should be noted, were organizations independent of the regime.[39]

Nor, in the context of seventeenth-century penal practice in which theft of property valued at more than five shillings was a capital offense, were their penalties particularly harsh or unexpected. London newsletter writers predicted Prynne would lose his ears even before he was arrested in 1633 for writing *Histrio-mastix*. Bastwick anticipated this fate for himself as he was composing one of his seditious tracts.[40] Joseph Mead believed Leighton's *Sion's Plea* "to contain such vile matter as [may] . . . cost him his life."[41] It must be remembered that the Star Chamber was less an arm of governmental prosecution than a court for party-to-party adjudication. Only a small percentage of prosecutions were initiated by the government, so penalties like those meted out to the martyrs cannot be expected to be as typical as hangings or drawing and quartering were in common-law cases. As Barnes observed:

> When seen against two local lay justices of the peace putting a country wench to the lash in a market place if she was so unfortunate as to bear an illegitimate child, or against the felon whose hand was severed and nailed to the gallows (upon which he was soon after hanged) for having thrown a stone at the judge of assize, or cast against the monotonous

[39] Prynne awaited his punishment until the Society of Lincoln's Inn could cast him from the bar on 24 April 1634 and the University of Oxford could strip him of his degree three months later. Both did so unanimously. This was no formality. The Privy Council was sensitive to the privileges of these professions and in Leighton's case stated "and this court for reverence of that calling doth not use to inflict any corporal or ignominious punishment upon any person so long as they remain in orders." Gardiner, "The Speech of Sir Robert Heath," xi. John Bruce, ed., *Calendar of State Papers Domestic Series of the Reign of Charles I, 1633–34* (1863), 575 (hereafter *CSPD*); W. P. Baildon, ed., *Records of the Honourable Society of Lincoln's Inn: The Black Books* (1897–1902), 2:318. Burton was defrocked by the High Commission on 27 June. Folger Library, MSS V.a.248, f. 51r. I owe this reference to Noah Millstone. Bastwick's case was more complicated because his medical degree came from abroad. He was stripped of his license and suspended from the practice of medicine after his first conviction in 1635. Francis Condick, "John Bastwick," *ODNB*, http://www.oxforddnb.com/view/article/1659.

[40] Birch, *Court and Times*, 2:219; Bastwick, *The Answer of John Bastwick* [1568], 25."What he himself hath done, he is ever resolved to seal with his best blood and to justify and make good whatsoever he shall accuse the Prelates of."

[41] Birch, *Court and Times*, 2:61.

https://doi.org/10.1017/jbr.2014.51 Published online by Cambridge University Press

> regularity with which felons, some of them the pettiest of petty criminals, decorated the gallows twice yearly at assizes, Star Chamber's punishments appear somewhat less barbarous both by reason of incidence and severity.[42]

There was nothing innovative in the sentences the martyrs received. Indeed, there were numerous cases of mutilations and pillorying in the reigns of James and Charles. In Fourde's case (1604), the convicted defendant was sentenced to have placards placed around his neck proclaiming his crime while riding backward on a donkey. He was then to be pilloried, have his ears removed, and be fined and imprisoned for life.[43] In the famous case of Lewis Pickering, who was convicted of slandering a dead man, the punishment was similar, despite the fact that he was a gentleman: fine, imprisonment, and three separate stints in the pillory where his ears were to be nailed to the yoke.[44] That ear mutilation was an ordinary part of Star Chamber punishments is illustrated in the decision in the case of the Three Alderman of Gloucester (1608) in which, after a long discussion, the judges spared their ears on the grounds of their gentle birth and the fact that they were "very young."[45] Indeed, in 1621 *The Mother's Blessing* offered this advice: "For the Star-Chamber is a dangerous court. / And wisemen say, it much more credit bears / To be held simply plain without disgrace,/ Then to be counted witty without ears, /With shoulders lashed, or stigmatized face,/ Or head in hole, in public market place."[46] In fact, the judges, who might have known better, believed that in the cases of Leighton, Bastwick, Burton, and Prynne, the defendants could have been charged with treason at common law and been hanged for their offenses.[47] Yet the martyrs maintained the position articulated by Prynne, that they had been persecuted "without any just cause or provocation in my part," an astonishing revision of the historical record.[48]

Following the martyrs' own refusal to recognize that the acts they committed were crimes, modern historians have consistently downplayed the seriousness of the challenge these men posed to the Stuart church and state. They were not quibbling about ceremonies or debating the finer points of perseverance. In fact, when they had done this in various ways during the 1620s, they had only been admonished. Theirs was a full frontal assault on the foundation of English ecclesiastical government. Neither Elizabeth nor James tolerated attacks upon the Episcopacy, and Charles followed

[42] Thomas Barnes, "Star Chamber Mythology," *American Journal of Legal History* 5 (1961): 7.

[43] W. P. Baildon, ed., *John Hawarde, Les Reports del Cases in Camera Stellata, 1603–1609* (1894), 176–77. In the end, this sentence was commuted.

[44] For Pickering, see Alastair Bellany, "Lewis Pickering (bap. 1571)," *ODNB,* http://www.oxforddnb.com/view/article/62363.

[45] Baildon, *Hawarde, Les Reports*, 373.

[46] Nicholas Breton, *The Mother's Blessing* (1621), [3670], B_8. This stanza is not in the original edition of 1604.

[47] In Hugh Pyne's case (1627), the judges decided that words do not "of themselves make treason." The National Archives (TNA): State Papers (SP) 16/86/50, Judgment in Star Chamber 22 November 1627; Howell, *State Trials,* 3:359–67; David Cressy, "Hugh Pyne (1569/70–1628)," *ODNB*, http://www.oxforddnb.com/view/article/94296. Nevertheless, both Sir Robert Heath, who delivered this opinion to Charles I, and Chief Justice Richardson, who was one of the judges deciding the case, explicitly said in 1634 that had Prynne been tried at common law, he would have been found guilty of treason. Houghton, Eng. MSS 1359, f. 276r, 279r.

[48] Prynne, *Antipathy of the English Lordly Prelacy* [P3891A], i, 158.

https://doi.org/10.1017/jbr.2014.51 Published online by Cambridge University Press

suit. The martyrs began by disparaging individual bishops but soon advanced to assailing episcopacy as an institution. When called to account for their libels, they turned on the legal system and the legitimacy of the courts. Though their cases originated in their opinions about the nature of episcopacy, none of them came to be decided on these issues. They were not seen as simple opponents of the structure of the church. "We sit not here to meddle with matters of religion," Lord Keeper Coventry informed Burton at his Star Chamber hearing.[49] The Privy Council that heard these causes saw its purpose as maintaining order in the state against challenges to royal government. To challenge the legitimacy of royal courts was to challenge the legitimacy of the monarchy.

Early claims by Burton and Bastwick that Charles was simply unaware of the perdition into which his bishops were leading him could not be taken at face value by the mid-1630s, at which point they constituted little other than a preemptive defense against charges of treason. Indeed, it is hard to regard the many statements of loyalty to the monarchy contained in their various treatises as anything other than shrewd protection against common-law prosecution. Burton titled his offending sermons *For God, and the King* and used for an epigraph, "Fear God. Honor the King."[50] Prynne stressed in his 1634 interrogatories that he had twice taken the Oaths of Supremacy and Allegiance.[51] Bastwick, in dedicating to Charles I his published answer to the information against him, averred, "he would ever pray for your Majesty's happy reign and long life."[52] Such disclaimers brought their cases first into the High Commission or the Star Chamber and kept them out of the common-law courts where the law of treason was still evolving. Thus, the martyrs survived through their own intention.

Nor was this their only premeditation. No matter the vigilance of Caroline authorities, books were published too frequently and from too many venues for censorship to be fully effective. Perhaps a third of the books printed in England during the 1630s were unlicensed, as were all of those imported legally and illegally from abroad.[53] Because most were printed in small quantities and had short shelf lives, it was not uncommon for heterodox views altogether to escape notice of the regulators. Not so with the works of the martyrs. They were resolved that their challenges to church government be confronted head-on. Leighton's *Sion's Plea*, which was first conceived as a petition to Parliament before it ballooned into a tract of 344 pages, was being distributed gratis to former members of the Parliament of 1628 before Leighton's arrest and the seizure of his stock. Prynne boldly presented *Histriomastix* to Attorney General Noy who, upon reading it, promptly imprisoned him. Bastwick sent copies of the 1634 edition of his *Elenchus* to the divinity scholars of Cambridge, and when they were confiscated, he protested "as if they had all been novices or the books knives in the hands of little children"[54] The first copies of Burton's 5 November sermons were being secretly printed and presented to

[49] William Prynne, *A Brief Relation of Certain Special and Most Material Passages* [E. 162 (2)], 139.
[50] Henry Burton, *For God, and the King* (1636), [4142].
[51] He asserted that he had "no wicked purpose or design" or any intention to "traduce, defame, dishonor, or scandalize his Majesty." Houghton, Eng. MSS 1359, f. 196v, 197v.
[52] Bastwick, *Answer of John Bastwick* [1568], 2.
[53] S. M. Towers, *Control of Religious Printing in Early Stuart England* (Woodbridge, Suffolk, 2003), 9.
[54] John Bastwick, *The Letany of John Bastwick* (1637), [1572], 15.

https://doi.org/10.1017/jbr.2014.51 Published online by Cambridge University Press

members of the Privy Council while pursuivants from the High Commission were battering his door. No one was more brazen than Lilburne. He, alone among the martyrs, was not punished for what he wrote but rather for refusing to be examined under oath about the printing, importing, and distributing tracts written by Bastwick. After he was whipped through the London streets, he reached into his ample pockets, and "while he stood upon the pillory he scattered three books of Doctor Bastwick's amongst the people."[55]

The martyrs not only broadcast their writings but also publicized themselves. Clarendon described their behavior as "marvelous insolence," and so it was.[56] Leighton, who had fled to Holland after the publication of his first anti-Episcopal tract in 1624, secured a brief reprieve at the change of monarchs. But when *Sion's Plea* appeared, he was summoned before the High Commission. He refused to attend voluntarily and then resisted arrest. The sexagenarian held out stoutly. A constable and six men "were forced to carry him upon their shoulders" while simultaneously dragging his clinging wife through the streets behind him.[57] Burton, too, refused to answer a summons to appear at the High Commission. In order to have time to prepare his sermons for unlicensed publication, he shut himself up in his house "as in my prison" for nearly two months to evade arrest. Finally, a warrant from the Privy Council authorized the sheriff of London to seize him. "With pickaxes [they] fell a breaking up my doors," Burton objected, proud that the portal "held them work until eleven o'clock at night."[58] This took place on a crowded London street whose congestion was increased by curious onlookers. Lilburne also resisted arrest, but he was seized by "two great fellows" while a third, he recounted, "pulled my cloak across over my arms that so though I had my sword half drawn, yet by no means could I get it out."[59] He, too, was dragged into captivity.

This obstreperous behavior made it impossible for the authorities to downplay the defendants' cases or to use the court of the High Commission for its intended purpose of correction rather than punishment.[60] Indeed, the martyrs made it nearly impossible for the government to use the High Commission at all. Leighton was carried "with a huge multitude of bills and staves to Newgate," where he tells us in compelling detail that "they cast me into a nasty dog-hole, full of rats and mice, no light almost but from the uncovered roof, no place but the ruins of an old chimney for fire, affording me neither meat, drink, nor bedding."[61] When Sir Henry Martin came from the commission to examine him, Leighton refused to answer any questions on the record, claiming, "[T]he laws of God and the King do forbid them to

[55] Examination of John Lilburne, May 17, 1639, Banks MSS 18/21, Bodleian Library, Oxford University. I am grateful to Noah Millstone for this reference. Lilburne, *Christian Man's Trial* [E. 181 (7)], 31.

[56] W. D. Macray, ed., *The History of the Rebellion and Civil Wars by Edward, earl of Clarendon* 6 vols. (Oxford, 1888), 1:267.

[57] Francis Condick, "Alexander Leighton," *ODNB*, http://www.oxforddnb.com/view/article/16395; Birch, *Court and Time*, 2:61; Leighton, *An Epitome or Brief Discovery* [E. 354 (2)], 3, in which he claims "they had almost killed my wife."

[58] Burton, *Narration of the Life* [E. 94 (10)], 11.

[59] Lilburne, *Christian Mans Trial* [E. 181 (7)], 12.

[60] That the High Commission preferred chastisement to punishment is evidenced by the fact that all of the martyrs had previously appeared there without being punished. See Ussher's account of the normal workings of the court in R. G. Ussher, *The Rise and Fall of the High Commission* (Oxford, 1913).

[61] Leighton, *An Epitome or Brief Discovery* [E. 354 (2)], 3.

https://doi.org/10.1017/jbr.2014.51 Published online by Cambridge University Press

meddle with the body or goods of the subject."[62] While he would answer on a warrant directly from the king, he would not recognize the High Commission, on which the bishops sat as judges. When he was later called before the commission to be stripped of his ministerial license, he refused to remove his hat.[63] His case was transferred to the Star Chamber. Prynne and Burton were both summoned to appear before the High Commission in 1627, but Prynne's successful application for a writ of prohibition saved them.[64] Burton, who labeled the High Commission "the English Inquisition Court," also denied its power to imprison him, claiming "right and privilege of a subject, according to the Petition of Right."[65] He too landed before the Star Chamber. Though John Bastwick was equally provocative, the High Commission refused to be baited by him. His 1634 edition of *Elenchus* attacked the bishops, whom he described as "the little toes of anti-Christ," and charged them with *praemunire*.[66] When brought before the High Commission, he challenged the *ex officio* oath, "defamed the witnesses produced against him," and defied the court itself.[67]

The refusal of the martyrs to accept the jurisdiction of the High Commission or cooperate with its procedures stemmed from their stated belief that bishops had no power to judge them. They disputed their ecclesiastical office and claimed that their assertion of judicial power was a violation of the royal prerogative. Leighton and Bastwick both asserted that they could not be judged in the High Commission because the bishops were parties in their suits. Because they were being charged with traducing the episcopacy, the bishops should have been disqualified from deciding their cases. Leighton further denied the court's jurisdiction to strip him of his ministerial degrees, a step taken so that he could be physically punished for his crimes.[68] Their attacks upon the High Commission escalated the offenses of the martyrs and brought them into the Star Chamber, where they could hope for greater notoriety, but risked stiffer penalties, and where the religious origins of their disputes fell away.

The troubles of the martyrs all began with books. The importation of books from overseas had been illegal since the Star Chamber decrees of 1586 and involvement in this trade was prima facie evidence of guilt. This was among the crimes initially charged against Leighton and Lilburne. The writing, publishing, or distributing of unlicensed books was equally criminal, though it was not until the royal declaration of 1626 that authors acquired the same liability as printers.[69] These were the initial allegations that brought Prynne, Bastwick, and Burton before the High Commission, though their conduct there and the content of their writings ultimately led to charges of sedition that were heard before the Star Chamber. That they all sought

[62] Ibid., 4.

[63] Birch, *Court and Times*, 2:62, 80.

[64] Peter Heylyn, *Cyprianus Anglicus* (1671), 148.

[65] Burton, *Narration of the Life* [E. 94 (10)], 8, 10.

[66] John Batswick, *A More Full Answer of John Bastwick* (Leiden, 1637), [1575], 7.

[67] Bastwick, *Answer of John Bastwick* [1568], 11.

[68] Leighton, *An Epitome or Brief Discovery* [E. 354 (2)], 81: "whose degrees (to let other things pass) did exempt him from any such punishment."

[69] *A Proclamation for the establishing of the Peace and Quiet of the Church of England* (1626), [8824]. This proclamation banned the expression of "new" opinions and empowered the use of ecclesiastical courts to suppress them. It is sometimes confused with the Declaration of 1628 that banned discussion of predestination.

https://doi.org/10.1017/jbr.2014.51 Published online by Cambridge University Press

their confrontations is plain. All were already in prison when they wrote the tracts that led to further prosecution in 1637. All but Prynne took title-page credit for their provocative writings. Prynne, who had learned his lesson in 1634 for being the acknowledged author of *Histrio-mastix*, did not lay public claim to *News from Ipswich* or *The Divine Tragedy,* in which, thinly disguised, he penned an attack on Attorney General Noy.[70]

Their conduct before the Star Chamber was of a piece with their behavior in the High Commission. They abused its servants and officers, tested the patience of its judges, and taunted the court itself. First, everything was done to delay ordinary process. Leighton refused to consult with the counsel assigned to him and attempted to defend himself. Prynne and Bastwick continually postponed meeting their counsel and therefore put off submitting pleas to the charges against them. Upon examining the record in Bastwick's case, the historian of the High Commission concluded, "[T]he length of the suit and its expense were due, apparently, to his own contumacy, and that, in reality, he was treated with unusual leniency."[71] In 1634 it took the Privy Council almost three months to get Prynne's reply to the information against him, while in 1637 the pleas submitted by the defendants were considered seditious in themselves. Burton's answer was said to have run eighty sheets before the judges reduced it to "some half a dozen lines," excising the rest from the record.[72] Bastwick, too, produced an answer in an unacceptable form—"four yards long and a yard broad, close written."[73] Coventry admonished him: "[Y]ou tendered in too large an answer which, as I heard, is as libelous as your book."[74] Prynne's own counsel refused to sign his plea, one of them fleeing the city as the deadline for submission neared and the other declaring "he would not do it for £100."[75] This led to a legal tangle when Prynne petitioned the court to compel his counsel's signature, a power the court did not possess. The result was a robust argument at his sentencing as to whether in such circumstances he could satisfy the requirement of pleading.[76] Prynne reveled in exposing this loophole in the court's proceedings.

Prynne, who was professionally adept in probing legal soft spots, used all his wily tricks. Though the evidence is inconclusive, it seems likely that he instructed his many codefendants in the arts of obstruction. During his 1634 trial, he submitted over one thousand pages of exhibits, provided illiterate witnesses to authenticate his Latin texts, and swore an affidavit that his counsel could not be instructed "in respect of

[70] Burton, *Divine Tragedy* [4140.7], 43–44. Prynne's contribution to the end of this work was excised in the edition published in 1642. Burton, *Divine Tragedy* (1642), [E. 176 (1)]. The question of whether Prynne was the author of *News from Ipswich* is aired by Henry Plomer, "Michael Sparke, Puritan Bookseller," *Bibliographer* 1 (1902): 415–16, but most modern authorities accept the attribution.

[71] Ussher, *Rise and Fall of High Commission*, 265.

[72] Estimates differ about the length of the reply; Prynne claimed it was forty sheets; Bastwick, eighty. It was stated in court that it was "five skins and a half of parchment close written." Prynne, *New Discovery* [E. 162 (1)), 42; Burton, *Narration of the Life* [E. 94 (10)], 11; Howell, *State Trials*, 3:715.

[73] S. R. Gardiner, ed., *Documents Relating to the Proceedings Against William Prynne in 1634 and 1637* (Camden Society, new series 18, 1877), 75. In an earlier examination, part of Bastwick's answer was disallowed for being "scandalous, frivolous, and impertinent." *CSPD*, *1634–35*, 547.

[74] Howell, *State Trials*, 3:722.

[75] Ibid., 3:716.

[76] Ibid., 3:720. Prynne seemed to believe that he had a valid argument on this point and submitted a petition to the king asserting that "he had not been refractory in answering." Gardiner, *Documents Relating to William Prynne*, 89.

https://doi.org/10.1017/jbr.2014.51 Published online by Cambridge University Press

the generality of the charge" brought against him.[77] He also refused to acknowledge authorship of the copy of *Histrio-mastix* produced in evidence. Attorney General Noy protested, "[H]is meaning is to leave so much upon record as he can to clamor against the justice of the court."[78] His tactics in 1637 were equally sophisticated. He and his codefendants filed a countersuit against the bishops for usurping the royal prerogative. Though Laud sought to have the suit dismissed, it was the opinion of the attorney general that it was legally filed and that the case could go forward.[79] Then Prynne attempted to have Laud and Juxon removed from the Star Chamber bench on the grounds that they were party to the suit against him. Lord Keeper Coventry described this as "a sweet motion" and admonished Prynne: "[I]f you should thus libel against all the Lords . . . you would have none to pass sentence on you for your libeling because they are parties."[80] This behavior clearly frustrated the court and angered the judges. It was disrespectful provocation, as Prynne, who practiced before the Star Chamber, well knew.

Delays in the process of pleading were but a prelude to the main tactic of obstruction used by the martyrs. In 1630 Leighton entered what was known as a special plea of guilty, that is, an admission with an explanation. The explanation was a repetition of passages in his work that were deemed seditious. His name was on the title page of *Sion's Plea*, and he had been arrested with copies in his possession. The case was straightforward, and the authorities hoped to induce him to name his confederates with offers of leniency. Though he did not balk at taking the *ex offico* oath, he violated it by refusing to answer all inquiries truthfully. In 1634 Prynne also took the oath; indeed, a principal part of his defense was that he had sworn on oath that he had not intended to defame the king or to stir sedition. The whole point of the *ex officio* oath was to determine guilt and innocence. It was believed that in cases in which penalties did not extend to life and limb, suspects would not forswear themselves. Statements on oath were therefore presumed true unless perjury was charged, as it was in Prynne's case.

By 1635, however, when Bastwick and Burton were first incarcerated, they viewed the oath as another means by which to challenge the legal process. As Bastwick argued, "[I]t is an oath against the law of nature, the law of nations, the law of God and the law of the land," adding "the very heathens condemned no man but by sufficient witnesses."[81] Refusal to take the *ex officio* oath ground proceedings to a halt. The martyrs used it in the first instance as a delaying tactic as the clerks who administered the oath scurried back to the officers who conducted the examinations to report that they could not complete their charge. Then the examining officers appeared in the jails to plead with the defendants to change their minds; the accused might even be brought into court to persuade him to take the oath, as was Lilburne, who was given ten chances to take the oath before the Star Chamber ran out of patience. Prynne, using the pseudonym of his servant, Nathaniel Wickens, produced an eighty-page tract of "the sixteen reasons which induce me . . . to refuse to take the oath Ex Officio," one of which, improbably, was that it violated

[77] Houghton, Eng. MSS 1359, f. 180r, 239r, 202v; Kishlansky, "Whipper Whipped," 12.
[78] Houghton, Eng. MSS 1359, f. 239r.
[79] Howell, *State Trials*, 3:714.
[80] Prynne, *New Discovery* [E. 162 (1)], 4.
[81] Bastwick, *Answer of John Bastwick* [1568], 28.

https://doi.org/10.1017/jbr.2014.51 Published online by Cambridge University Press

the Petition of Right.[82] When John Lilburne declined the oath, he claimed it was because "I am ignorant what belongs to an examination." He delayed his proceedings nearly two months with similar asseverations and then, unsworn, denied the charges against him when brought to the bar of the Star Chamber. His continued rejection of the oath gave him yet another week's reprieve, but when his case was finally heard, he made his real objection plain: "which oath I know to be unlawful; and with all, I find no warrant in the word of God."[83] Lilburne was punished for "refusing to take a legal oath" and whipped and pilloried "to the end that others may be the more deterred from daring to offend in the like kind."[84] As did all the others, he compared his case to that of St. Paul.[85]

Though the martyrs objected to the jurisdiction of these courts and disparaged their rules, they nevertheless insisted on every iota of their legal rights. Leighton, who had pled guilty, protested that he was denied bail, prevented from explaining his formal answer, betrayed by his counsel, and not allotted the legally specified time to present his defense.[86] In 1634 Prynne complained in a petition to the king that he had been imprisoned for six months without his case being heard, though much of the delay had resulted from his own unruly conduct. He protested that the charges against him were improperly drawn, his exhibits suppressed, his words twisted, and his defense undermined by "tampering underhand with some of his counsel."[87] In his 1637 case, he took exception to the charge that he had authored any of the books in question as well as to the fact that his counsel would not submit his plea.[88] Burton caviled that he was not given the customary two weeks to respond to the subpoenas filed against him and then that he was not allowed to meet with his codefendants to make reply.[89] When his long written answer was disallowed, "he hearing of this impingement, refused to be examined."[90] Bastwick had similar complaints. His counsel refused to defend him in the High Commission or to submit his plea in the Star Chamber. Perjured witnesses were presented, and in his Star Chamber case, the clerk, as Bastwick claimed, "hath so murdered my Latin in the reading, as he hath made nonsense of it."[91]

These trenchant procedural objections served to obscure the fact that in all but Prynne's 1634 prosecution, the defendants either pled guilty or refused to plead at all. Leighton admitted authorship of *Sion's Plea*, arguing only that, according to his conscience, his attack upon episcopacy was not seditious. Bastwick refused to recognize the jurisdiction of the High Commission when questioned about the publication of *Elenchus* in 1634, and Burton refused to answer two summonses to appear before the court, for which he was suspended from his

[82] Nathaniel Wickens [William Prynne], *Woodstreet-compters-plea for its Prisoner* (1638), [25587]. This tract was probably written by Prynne for the reasons specified by John Bruce. Gardiner, *Documents Relating to William Prynne*, 103.
[83] Lilburne, *Christian Man's Trial* [E. 181 (7)], 14.
[84] John Rushworth, *Historical Collections*, 8 vols. (1721), 2:466.
[85] John Lilburne, *The Work of the Beast* (1638), [15599], 13.
[86] Leighton, *An Epitome or Brief Discovery* [E. 354 (2)], 11, 16, 29, 81.
[87] *CSPD, 1633–34*, 225; Burton, *Divine Tragedy* [4140.7], 43.
[88] Prynne, *Brief Relation* [E. 162 (2)], 8.
[89] Prynne, *New Discovery* [E. 162 (1)], 17.
[90] Ibid., 43.
[91] Bastwick, *Answer of John Bastwick* [1568], 10; Prynne, *New Discovery* [E. 162 (1)], 19–20.

https://doi.org/10.1017/jbr.2014.51 Published online by Cambridge University Press

parish cure.[92] The famous 1637 case of Prynne, Bastwick, and Burton was thus no case at all. All three ultimately refused either to plead or to submit to interrogatories under oath. Therefore, the law took them to have confessed their guilt, and judgment was passed before their appearance for sentencing. Lilburne originally denied the allegations against him but refused to sign his examination because it required him to take the *ex officio* oath. He first demurred from taking the oath when in prison, and he refused it a second time when summoned to appear before Attorney General Banks. He declined it a third time when brought to the Star Chamber office; a fourth and fifth time "before Mr. Goad when given a bible to swear on"; a sixth, seventh, and eighth time when again brought into the Star Chamber and pressed by Lord Keeper Coventry. He was then returned to prison, where he was given yet another opportunity, which he again rebuffed. His tenth and final chance came a week later in his third appearance before the Star Chamber, when an exasperated Coventry berated him, "[T]hou art a mad fellow, seeing things are thus, that thou wilt not take thine oath and answer truly."[93] He was punished for this rather than the importation of illegal books.

Thus the High Commission and the Star Chamber could not judge the charges laid against the martyrs; it could only punish them for their contumacy. During their cases, they provoked their judges at every turn, as much as daring them to issue savage sentences. It is not just that they got what they deserved: they got what they demanded. Supplication was the ordinary form of defense before these courts in causes in which the church or the Crown were plaintiffs. Defendants would plead guilty and sue for mercy, offering pledges not to repeat their offending behavior. Most of the fines issued by the High Commission were transmuted into bonds for specific performance, and most jail terms were commuted. The final day of each High Commission term was known as the day of mitigations, when the court's exemplary sentences were meliorated.[94] The Star Chamber, too, reduced its fines and penalties in much the same way, though it frequently also required the apologetic defendant to allocute his offense. When in 1634 Prynne refused the advice that "an humble submission would do better than a defense or justification," he was specifically denied the opportunity to recant: "To make his submission I will not enjoin him, not thinking fit he should have so much honor," the Earl of Manchester argued at sentencing."[95] Nevertheless, in 1634 Prynne seemed to believe he would not be made to suffer the penalties laid upon him, which he inaccurately described as "the heaviest censure that this latter age hath known." Following ordinary expectations, it was "thought by most that heard the cause to be meant only in *terrorem* without any intention at all of execution."[96] Alexander Leighton, who also

[92] Bastwick, *Answer of John Bastwick* [1568], 11; Kenneth Gibson, "Henry Burton," *ODNB*, http://www.oxforddnb.com/view/article/4129.

[93] Lilburne, *Christian Man's Trial* [E. 181 (7)], 5–13.

[94] Ussher, *High Commission*, 265. "The regular practice was to fine heavily *in terrorem*, and then, at Mitigations, when some evidence of compliance with the Court's order had been shown, to reduce the fine by one-half, by three-fourths, or even to remit it altogether. In the same way deprivations, suspensions, excommunications were lightened for those who showed themselves amendable and repentant."

[95] Houghton, Eng. MSS 1359, f. 240v–241r, 293r.

[96] Burton, *Divine Tragedy* [4140.7], 44. Leighton's sentence had included slitting his nose and branding his forehead, penalties recommended for Prynne by some judges but rejected. Prynne actually received the mildest penalty proposed by members of the court. See also Prynne, *New Discovery* [E. 162 (1)], 11.

https://doi.org/10.1017/jbr.2014.51 Published online by Cambridge University Press

complained of "a heavy and unheard of censure," believed that his "degrees did exempt him from any such punishment" and that in inflicting sentence, "there must be a consideration had of the person and qualities thereof."[97] He was stripped of his degrees before his punishment was exacted, but that was not the reason there was no mitigation. Two days before he was to be pilloried and mutilated, he exchanged clothing with a visitor to his cell and calmly bolted. A manhunt ensued "for a man of low stature, with a fair complexion, yellowish beard, and a high forehead." Once he was recaptured, he suffered the full extent of his sentence, though "some of the lords said that had he not made an escape, his majesty was graciously inclined to have pardoned all his corporal punishment."[98] Instead, Leighton was whipped through the streets of London "with a treble-cord [that] brought away the flesh which I shall feel to my dying day. I being put thereafter on the pillory an hour and a half in frost and snow."[99]

Even if the martyrs publicized their offenses, sought their prosecutions, and welcomed their punishments, they were not above decrying their treatment. Leighton complained that his house was entered on an illegal warrant and its occupants menaced: "[Y]ea one of them threatened a young child by holding a charged pistol to his head."[100] He was held in prison without food for two days and, after he refused to be deposed by the High Commission, endured sixteen weeks of "hard imprisonment and cruel usage."[101] Prison conditions were so dire that "all his hair and skin came off."[102] After execution of his sentence, "the officers of the Fleet sent me up into the common jail, by forty-seven dark steps to a woeful dog-hole."[103] In his petition to the Long Parliament, he described "much harsh and cruel usage for the space of eight years . . . (having not a bit of bread, nor drip of water allowed)." He contended that his jailers starved, poisoned, and robbed him.[104] Bastwick lamented that he had been kept a "close prisoner a year and a half, after they have first robbed him of all he hath, to the starving of him and his."[105] During his time in the Gate House, he was deprived of all company and never "saw any citizen in London." His pregnant wife was turned out of their home and forced on the charity of friends: "[I]f my poor wife could purchase one roast joint of meat in the week, we thought ourselves happy, and our little children . . . would cry out one to another roast meat, roast meat, that it would draw tears many times from my wife's eyes."[106]

Burton seemed affected by every deprivation of his imprisonment. At Lancaster Castle, he was put in a room "where none had lain for almost twenty years, where was nothing but bare cold walls." Drafts made it impossible to keep a fire in the winter, and the irregular floor prevented exercise: "A prison it was where for

[97] Leighton, *An Epitome or Brief Discovery* [E. 354 (2)], 81.
[98] Condick, "Alexander Leighton," *ODNB*, http://www.oxforddnb.com/view/article/16395; Birch, *Court and Times*, 2:83.
[99] Leighton, *An Epitome or Brief Discovery* [E. 354 (2)], 85.
[100] Ibid., 17.
[101] Ibid., 14.
[102] Ibid., 89.
[103] Ibid., 85.
[104] Ibid., 89.
[105] Bastwick, *Letany* [1572], 12.
[106] John Bastwick, *Just Defense* [E. 265 (2)], 9–10.

https://doi.org/10.1017/jbr.2014.51 Published online by Cambridge University Press

the extreme coldness of it I could not in all likelihood have out lived one winter."[107] His reprieve was only temporary, for he was then embarked upon a boat that was lashed by wind and seas for twenty-eight days in the Irish Channel: "I was extremely seasick both from England to Ireland . . . even nigh unto death." His accommodations on Guernsey were less dangerous but no more hospitable. He was placed in a low room with a boarded window that allowed little light and less air, writing, "as I was glad to stand upon a form to suck in a little breath through a broken pane."[108] Prynne, too, protested a harrowing sea voyage: "[Y]our petitioner was embarked among Papists in a bruised shipwrecked vessel full of leaks, and after fourteen weeks voyage in the winter season through dangerous storms and seas, which spoiled most of his stuff and bedding and threatening often shipwreck to him."[109] Lilburne wrote the *Christian Man's Trial* to expose the "cruel and grievous sufferings imposed upon him." Though he freely admitted that he refused to take the oath and welcomed his fate, he reported every imagined slight in his punishment. The tipstaff who tied him to the cart removed his hat on an especially warm morning. He also instructed the driver to proceed up the Strand slowly so that he would suffer the sun as well as the lash.[110] His address to the crowd that gathered around him was deemed so offensive that a cloth was stuffed in his mouth. He later related, "[I]n all Paul's sufferings, I never read that ever his mouth was gagged."[111] After he was pilloried, he was put into solitary confinement and refused medical treatment for his wounds.[112] His conduct on the pillory, especially his distribution of Bastwick's forbidden tracts, earned him still harsher treatment. The Fleet porter informed him that "the Lords have ordered that you must be put into the wards, and kept close prisoner there and lie in irons and none must be suffered to come at you to bring you anything, but you must live upon the poor man's box."[113] In his subsequent petition to the Privy Council, he described his condition, shackled hand and foot, kept in solitary confinement, and "as full of extremity and bodily pain that I can neither get ease sitting nor lying."[114]

For all of the affecting detail of discomfort and misery—Bastwick related the pathetic scene in which he caught a final glimpse of his dying young daughter—the main purpose of these accounts was to express the rapture of sacrificing for conscience sake.[115] "As I reflected on the cause for which I suffered all these things, my heart leaped for joy," Burton rhapsodized. "My two supporters (next unto God) were the nobleness and pure innocency of the cause, and the uprightness and integrity of my conscience."[116] Bastwick proclaimed that he was "resolved to seal the truth with my blood" and added that "if I die in that battle so much the sooner, I shall be sent in a chariot of triumph to heaven"[117] Despite Lilburne's depiction of his pitiable

[107] Burton, *Narration of the Life* [E. 94 (10)], 5–17.
[108] Ibid., 20.
[109] *The Several Humble Petitions of D. Bastwick, M. Burton [and] M. Prynne* (1641), [E. 207 (4)], 9–10.
[110] Lilburne, *Christian Man's Trial* [E. 181 (7)], 20.
[111] John Lilburne, *Come Out of Her my People* (Amsterdam, 1639), [15596], 30.
[112] Lilburne, *Christian Man's Trial* [E. 181 (7)], 34.
[113] Ibid., 37.
[114] Lilburne, *Poor Mans Cry* [15598], 5.
[115] Burton, *Narration of the Life* [E. 94 (10)], 17.
[116] Ibid., 13, 20.
[117] Bastwick, *Letany* [1572], 19.

https://doi.org/10.1017/jbr.2014.51 Published online by Cambridge University Press

condition chained to the prison wall, he contended, "I am as merry as Paul and Silas were, when they were in the stocks, and in prison, who sung psalms and praises at midnight so that the prisoners heard them."[118] Each of the five martyrs recorded having palpable religious experiences as they awaited their physical punishment. "I confess it was the very finger of God that upheld me," Leighton effused.[119] He spoke "much comfort to himself, being, he said, assured that in his suffering the Spirit of Glory rested upon him." When his neck was placed in the pillory, he was heard to say, "[T]his is Christ's yoke." When his ear was taken off, he said, "Blessed be God. If I had a hundred, I would lose them all for the cause. He said his wounds were Christ's wounds."[120] Burton "was filled with a mighty spirit of courage and resolution, wherewith I was carried up far above my self, even as it were upon Eagle's wings."[121] Lilburne raved that on the day of his punishment his "soul was that morning exceedingly lifted up with spiritual consolation" because he now knew that he was one of God's "chosen ones."[122] He induced an ecstatic state "so that when the first stripe was given I felt not the least pain . . . and at the giving of the second I cried out Hallelujah, Hallelujah" and was persuaded that "the lord had hardened my back."[123] As had Burton before him, Lilburne compared his punishment to a marriage: "And this I counted my wedding day in which I was married to the Lord Jesus Christ."[124]

When Lilburne was chastened, there were throngs of well-wishers to stiffen his resolve, and even if his own account of their numbers and their euphoria is slightly wishful, there can be no doubt that the progression of cases was matched by a progression of support. These were all public events, spectacles deliberately staged for heuristic exemplary purposes though nevertheless possessing entertainment value. Crowds gathered to see Leighton mutilated in 1630, but observers offered few comments that would suggest he had a following or that his punishment aroused much resentment. Perhaps it was his ill-advised escape to avoid his fate that damped down enthusiasm; as Joseph Mead heard, "[T]his flight of his hath given a great blow to the cause."[125] Four years later, Prynne's twin mutilations also drew small crowds and little contemporary comment. Some, like Sir Symonds D'Ewes, fretted that such a fate could befall a gentleman who had practiced at the bar, but most accounts were descriptive rather than judgmental.[126] If these first two cases did not put an end to anti-Episcopal screeds, nor did they appear to whip up sympathy for Puritan sufferers. Even if the authorities had had a choice in 1637, they had no reason to

[118] John Lilburne, *Come Out of Her my People* [15596], 7.
[119] Leighton, *An Epitome or Brief Discovery* [E. 354 (2)], 86.
[120] Birch, *Court and Times*, 2:81, 83.
[121] Burton, *Narration of the Life* [E. 94 (10)], 12.
[122] Lilburne, *Christian Man's Trial* [E. 181 (7)], 18.
[123] Ibid., 19.
[124] Prynne, *Brief Relation* [E. 162 (2)], 54: "for this is my wedding day"; Lilburne, *Christian Man's Trial* [E. 181 (7)], 21.
[125] Birch, *Court and Times*, 2:80.
[126] John Bruce, ed., *Letters and Papers of the Verney Family* (Camden Society, old series, 56, 1853), 157–58; William Knowler, ed., *The Earl of Strafforde's Letters and Dispatches*, 2 vols. (1739), 1:261; J. O. Halliwell, *The Autobiography and Correspondence of Sir Symonds D'Ewes*, 2 vols. (1845), 2:105. Cf. David Cressy, *Travesties and Transgressions* (Oxford, 2000), 221. Cressy's citations of the reactions of Henry Burton and Nehemiah Wallington are unwittingly quotations from Prynne himself.

https://doi.org/10.1017/jbr.2014.51 Published online by Cambridge University Press

anticipate the popular response to the fate of "the puritan triumvirate." There was nothing different in these cases than those that came before except reaction to them. It was reported at Burton's mutilation: "[W]hen the blood ran streaming down upon the scaffold, which divers persons standing about the pillory seeing dipped their handkerchiefs in as a thing most precious."[127] When the martyrs went to their separate exiles, Sir Kenelm Digby described the "great flocking of the people . . . to accompany Mr. Prynne and Mr. Burton's pilgrimage to their stations in the country." He added mockingly: "[T]he puritans keep the bloody sponges and handkerchiefs that did the hangman service in the cutting off their ears. You may see how nature leads men to respect relics of martyrs."[128] After Prynne arrived in Chester during his journey into exile, not only was he fêted, his portrait was painted and copies were to be distributed until the authorities ordered them confiscated and burned.[129]

Even so, surviving contemporary commentary was more in line with the newsletter writer Edward Rossingham's assessment: "[S]ome wept, some laughed and some were very reserved."[130] The sense of universal support was projected back from 1641 rather than forward from 1637. When it came to Lilburne, lessons were quickly learned. He was publicly punished for his refusal to take the oath, but only with lash and pillory. When this attracted notoriety, the Privy Council backed off from further public display. His refusal to take the oath was compounded by tossing illegal, forbidden books into the crowd, mocking the courts and the church, and inviting further retribution. But this came privately. His jailors subjected him to the full rigors of the prison: he was placed in solitary confinement, chained to a wall, allowed support only from the poor box, and denied (though not very effectively) pen, paper, and ink.[131] They "covet a kind of puritanical martyrdom or at least a fame of punishment for religion," one of Viscount Scudamore's correspondents assessed, and by 1637 they had attained it.[132]

Though historians and literary scholars have variously interpreted both the culpability and the extremism of the martyrs, there is near universal agreement that their so-called trials were decisive in turning people against Caroline ecclesiastical and civil government. In assessing the long-term impact of Leighton's punishment, Gardiner opined: "And so was begun that list of barbarous and inhuman punishments, which did as much to shake the throne of Charles as the exaction of ship-money."[133] Annabel Patterson asserted, "[B]y making Prynne a martyr, Charles took an irrevocable step toward civil war."[134] David Cressy, among many others, described the 1637 case as "a show trial," implying not only corruption of the legal process for purposes of propaganda but also leaving the otherwise

[127] Anon., [William Prynne], *A Brief Relation of Certain Special and Remarkable Passages* (Amsterdam, 1637), [1569], 30. This tract, much enlarged, was reprinted in 1641. Sharpe attributes it to Bastwick without explanation. Sharpe, *Personal Rule*, 761, n.199.

[128] *CSPD, 1637*, 332. Digby was a recent Catholic convert.

[129] Jason Peacey, "The Paranoid Prelate: Archbishop Laud and the Puritan Plot," in *Conspiracies and Conspiracy Theory in Early Modern Europe,* ed. Barry Coward and Julian Swann (Aldershot, 2004), 125.

[130] Newsletter of Rossingham, 6 July 1637, The National Archives: State Papers 16/363/80.

[131] Lilburne, *Christian Man's Trial* [E. 181 (7)], 37.

[132] Sharpe, *Personal Rule*, 760.

[133] Gardiner, "Speech of Sir Robert Heath," xx.

[134] Annabel Patterson, *Censorship and Interpretation* (Madison, WI, 1984), 115.

https://doi.org/10.1017/jbr.2014.51 Published online by Cambridge University Press

near-universal impression that it was the authorities and not the perpetrators who brought about these conflicts.[135] One recent account complacently argued that "Burton would not have become an overtly oppositional figure if the state had not determined to confront him."[136] If Burton was not an "overtly oppositional" figure when he preached his two inflammatory sermons on 5 November, did he not become one when he barricaded himself into his house rather than answer a summons from the High Commission to discuss what he had said, or when he surreptitiously organized the printing of the offending sermons? Did he not become oppositional when, finally brought to be questioned in the church court, he refused to acknowledge its jurisdiction and traduced its judges? Was it the state that was determined on confrontation or was it the martyrs? And if there was no show in these events, there was little trial either. Setting aside the pedantic point that trials were only held at common law in which witnesses confronted the accused, in the cases of the martyrs, the only cause that was heard was Prynne's sedition case for writing *Histrio-mastix*. Leighton pled guilty in 1630; Prynne, Bastwick, and Burton declined to plead in various ways in 1637, and Lilburne was punished for refusing to take the oath. While the government was scrupulous in following procedure and precedent, the martyrs imaginatively disrupted it at every turn. It might be instructive to know that despite Prynne's antics in 1634—submitting nearly one thousand pages of exhibits, denying he wrote the copy of *Histrio-mastix* brought to court, and providing illiterate witnesses to authenticate his Latin texts—his defense won every motion it made to the court, including a nearly unprecedented two-day delay after the prosecution rested its case so that his counsel could prepare a response.[137]

Considering all this, we might, for a moment, ponder the government's options. Sir Robert Heath may have persuaded the judges in Leighton's case that "a blind zeal and a misled conscience are no excuse for a seditious pamphlet. All the heretical schematics, and all of the traitors in the world may say the like," but his words have had no echo in the passages of history.[138] Recent historiography makes Laudians revolutionaries and Puritans moderates, and even if radical Puritanism is beginning to be taken more seriously in historical writing, its disruptive impact on the Caroline state is still thought to be the element that makes it praiseworthy.[139] From our

[135] Cressy, *Travesties and Transgression*, 219. See also Clegg, *Press Censorship*, 122, 164; Michael Hawkins, "The Government: Its Role and Its Aims," in *The Origins of the English Civil War*, ed. Conrad Russell (1973), 61; William Lamont, *Puritanism and Historical Controversy* (1996), 20; Elizabeth Skerpan-Wheeler, *The Rhetoric of Politics in the English Revolution, 1642–60* (Columbia, MO, 1992), 125; Richard Cust, *Charles I: A Political Life* (Harlow, 2005), 169.

[136] Andrew McRea, "Stigmatizing Prynne: Seditious Libel, Political Satire, and the Construction of Political Opposition," in *The 1630s: Interdisciplinary Essays on Culture and Politics in the Caroline Era*, ed. I. Atherton and J. Sanders (Manchester, 2006), 178. See especially Reverend Canon Blomefield, "Puritanism in Chester," *Journal of the Architectural, Archaeological, and Historic Society for the County and the City of Chester and North Wales* 3 (1885): 271–88.

[137] Kishlansky, "Whipper Whipped," 12–13, 17–18.

[138] Gardiner, "Speech of Sir Robert Heath," 4.

[139] See, for example, Nicholas Tyacke, *The Fortunes of Puritanism* (1990), 4: "How far the Puritan majority was at this time truly moderate remains open to question." See also Tyacke, "The Puritan Paradigm of English Politics, 1558–1642," *Historical Journal* 53, no. 3 (2010): 527–50; David Como, "Radical Puritanism, 1558–1660," in *The Cambridge Companion to Puritanism*, ed. John Coffey, Paul Lim, and Chang-Ha Paul (Cambridge, 2008), 241–58; Michael Winship, "Freeborn (Puritan) Englishman," *English Historical Review* 124, no. 510 (2009): 1050–74.

https://doi.org/10.1017/jbr.2014.51 Published online by Cambridge University Press

new historiographical perspective, it is only natural to think that it was Charles's government that was driving events and upsetting a careful Jacobean equipoise. One can hardly imagine any longer that James I, who famously declared "no bishop, no king," had defended episcopacy when it came under attack during his reign. The men who confronted Caroline government with a program to abolish the ecclesiastical hierarchy, make laymen equal to clerics, and lecture the monarch on his rights and responsibilities were fire breathers who sought to burn the established church to the ground. They were resolute; they initiated confrontation and saw it through to the end. Driven by conscience, they were heedless of consequence. An activist government weeding out moderate dissent did not beset them; paranoid prelates hunting ghosts did not chase them. The martyrs charged headlong into an imagined future without regard for any law to which they felt they could not conform. As their own metaphors reveal, they were fighting a holy war as soldiers in the army of God. They reflected from the mountain so all souls could see it, and they knew their song well before they started singing. Then, as now, in the face of such unwavering tenacity, established institutions were mostly helpless. It was not the brutality of the Caroline regime that was on display in the cases of the martyrs but its mercy. Neither prison nor exile could silence these men. Indeed, when it came their turn to lead in the 1640s, they demonstrated that this was a lesson learned: "Stone dead hath no fellow."

Remarkably, the famous religious martyrs of the reign of Charles I all lived to tell their tales.

https://doi.org/10.1017/jbr.2014.51 Published online by Cambridge University Press