

THE ARREST AND TRIAL OF
ARCHBISHOP WILLIAM LAUD

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Archbishop William Laud was arrested on 18 December 1640, and specific treason charges were brought forward early in 1641. However he did not stand trial until 1644. This study aims to assess the charges; consider the reasons for the significant delay between the arrest and trial; review the law of treason pertaining at the time and how this was applied to Laud; analyse the condemnatory and often vindictive views of Laud within the public sphere as reflected in the pamphlets and newsbooks of the period; and assess in detail the trial itself.

Along with Thomas Wentworth, earl of Strafford, Laud was a principle counsellor to the king and a major hate figure for parliament who considered the two men responsible for leading the king astray during the period of the personal rule. Strafford's trial, however, has been comprehensively studied, whereas the trial of Laud has not received the attention from historians that might have been expected. This study intends to demonstrate that Laud received a thorough trial which reflected parliament's resolve that it could administer justice in accordance with the procedures of the time, despite the on-going conflict with the king.

DEDICATION

To Steph for her constant encouragement, to my daughters Jacqui and Suzanne, and to my granddaughter Kara and my grandson Harrison.

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ABBREVIATIONS

BL	British Library
CJ	<i>House of Commons Journals.</i>
CSPD	<i>Calendar of State Papers Domestic</i>
EEBO	<i>Early English Books Online</i>
HMC	Historical Manuscripts Commission
HMC, Braye, MS.	<i>The Manuscripts of the House of Lords</i> Vol. X1; <i>Addenda 1514 – 1714</i> , edited by Maurice Bond, 1962.
Laud, Works	<i>The Works of the most Reverend Father in God, William Laud, D.D.</i> ed. W. Scott & J. Bliss, (Oxford: John Henry Parker. 1847-1860) in seven volumes.
LJ	<i>House of Lords Journals</i>
NA	National Archive
ODNB	<i>Oxford Dictionary of National Biography.</i>
PLP	<i>Proceedings in the opening Session of the Long Parliament</i> , ed. Maija Jansson, (Rochester, New York & Suffolk: University of Rochester Press, 2000-2007), in seven volumes.
RHC	J. Rushworth, <i>Historical Collections</i> , in eight volumes, 1659 – 1701.

INTRODUCTION

I

On 10 January 1645, Archbishop Laud was executed at Tower Hill, bringing to an end the life of one of the most controversial characters of British seventeenth century history. This study intends to concentrate on the final years of Laud's life: his arrest, imprisonment, trial and execution. It will consider the public view of Laud, reflected in the contemporary pamphlets, treatises, ballads, corantos, and newsbooks. Also, it will review the trial process from both the prosecution and the defence standpoints, and consider the law of treason as it prevailed at the time. It will be argued that the trial was effective in reflecting publically the legitimacy of parliament's judicial procedures. It is a widespread view, expounded when it receives brief mention in civil war histories, that the trial was 'a travesty of justice'.¹ The insistence on the trial and beheading of Laud by parliament has been variously described as ruthless, and 'a stain on its cause'.² Laud's trial is judged to have 'gratified his more vindictive enemies'; however 'the prosecutors found that the law strictly interpreted could not be stretched to find the Archbishop guilty'.³ History's condemnation of the trial proceedings deserves a full reconsideration. The trial and execution for treason of the most senior prelate in England was clearly an extraordinary event and there are few precedents, especially given that Laud still had the support of the reigning monarch (although there is little

¹ ODNB biography of William Laud written by Anthony Milton, <http://www.oxforddnb.com/view/article/16112>, (accessed 18 April 2011).

² See I. Gentles, *The English Revolution and the Wars in the Three Kingdoms 1638-1652*, (Harlow: Pearson, 2007) p. 248; and A. Woolrych, *Britain in Revolution 1625-1660*, (Oxford: Oxford University Press, 2002), p. 295.

³ C.V. Wedgwood, *The King's War 1641-1647*, (London: Fontana, 1966), p. 361.

doubt that by this time Charles's support for his archbishop was somewhat lukewarm).⁴

The accepted view of the trial proceedings has been summed up by Michael Braddick;

Accusations of treason and the promotion of popery were manifestly untrue and the prosecution sustained its case by unfair means: interfering with witnesses, failing to detail in advance the evidence which would be used to sustain the charges and giving Laud only a limited time to prepare answers before each hearing. Prynne, given access to voluminous private papers and driven by vengeance, was unable to substantiate the charges. Laud was not always straightforward in his answers, though: he was innocent as charged but less than candid in answer.⁵

The prosecution of Laud focused on religious controversies, and the subversion of the law and the traditional rights of parliament. A re-examination of the arguments put forward in the trial, and Laud's rebuttal of those arguments, is overdue.

The controversy surrounding Laud's life is reflected in modern historiography. However there has been relatively little written of his final years, the public condemnation that accompanied his arrest, and his trial. Compared to the trial of Thomas Wentworth, earl of Strafford, in 1641, which has received far more attention both contemporaneously and subsequently, the trial of Laud was a lower key affair. In the foremost biography of Laud's life, Hugh Trevor-Roper pays scant regard to the trial. He comments briefly on the three main components of the prosecution's case;

⁴ The production of a pardon from Charles to Laud in January 1645 indicated that Charles showed some support for his archbishop although it should be borne in mind that the pardon was around 18 months old when it was presented.

⁵ M. Braddick, *God's Fury, England's Fire – A New History of the English Civil Wars*, (London: Penguin 2009, first published 2008), p. 359.

subversion of the fundamental laws and the introduction of arbitrary government, subversion of religion and the introduction of popish superstition, and subversion of the ancient rights of parliament, but gives little account of the proceedings itself.⁶ In his biography, Charles Carlton covers the trial in a little more detail, and Alan Orr's study of four trials, (including Strafford, Laud and the king himself) considers it from the perspective of the prevailing law of treason at the time, but does not greatly consider the public view of Laud as evinced in the popular press.⁷ Orr's focus on treason is interesting and the interpretation, perhaps distortion, of the statutes regarding treason in order to bring a successful prosecution against Laud is a subject to which this study will, inevitably, return.

It is not intended to give a detailed account of Laud's career; however it is important to understand the main issues that have been the subject of historiographical debate and also led to the level of antipathy shown towards him within the public sphere.⁸ Laud attracted considerable hostility during his arch-episcopate and this clearly contributed to the vindictiveness with which his enemies pursued him after 1641. In 1608, still at an early stage in his career, Laud became chaplain to Richard Neile, bishop of Rochester, and he quickly became integrated into the group of ecclesiastics known as the Durham House set, led by Neile but also including Lancelot Andrewes and John Buckeridge,

⁶ H. Trevor-Roper, *Archbishop Laud, 1563-1645*, (London: MacMillan, 1962-second edition), p. 420.

⁷ See D. Alan Orr, *Treason and the State: Law, Politics, and Ideology in the English Civil War*, (Cambridge: Cambridge University Press, 2002), in particular chapter 4.

⁸ The biographies of Laud by Trevor-Roper and C. Carlton, *Archbishop William Laud*, (London: Routledge, 1987), give a detailed review of Laud's life and works. Also for a briefer biography see the *ODNB* by Anthony Milton which provides an excellent introduction, <http://www.oxforddnb.com/view/article/16112>, (accessed 18 April 2011). Older biographies include W.H.Hutton's largely sympathetic portrayal entitled *William Laud*, (London: Methuen, 1896).

who were leaning towards the beliefs of Arminius.⁹ A Dutch theologian, Arminius questioned the strict Calvinist creed of predestination, believing rather that an individual's actions determined their ultimate salvation as well as solely the grace of God.¹⁰ Laud also had a vision of religion that encompassed greater ceremony and order, a credo better understood as 'Laudian' rather than Arminian. Laud, as his ecclesiastical career developed (becoming bishop of St David's in 1621; Bath and Wells in 1626; London in 1628; and ultimately archbishop of Canterbury in 1633) sought ecclesiastical conformity but it remains a subject of ongoing historical debate to what extent his beliefs constituted innovations in religious observance.¹¹

Nicholas Tyacke has articulated the argument that Laud's insistence on the importance of ritual and 'sacerdotalism, ceremonialism, Arminianism, and sacrament-centred piety' was a departure from the prevailing religious canon whereby 'England in the early seventeenth century was doctrinally a part of Calvinist Europe'.¹² Tyacke maintains that Laud 'deplored the political consequences of predestinarian teaching'; and pivotal to the 'Laudian' doctrine was the importance of the sacrament rather than the centrality

⁹ Neile was preferred to the see of Durham in 1617, and his London residence was Durham House. In 1628, Neile became Bishop of Winchester and subsequently, in 1632, archbishop of York. Prior to his preferment to Durham he had successively been Bishop of Rochester, Lichfield and Coventry, and Lincoln See *ODNB* biography by Andrew Foster, <http://www.oxforddnb.com/view/article/19861>, (accessed 15 March 2011).

¹⁰ D. MacCulloch, *Reformation, Europe's House Divided 1490 – 1700*, (London: Penguin, 2004), pp. 373-378,

¹¹ Indeed the debate on whether the religious changes were in fact innovatory was carried out contemporaneously (as will be seen in the analysis of the trial itself later in this study), as well as in the subsequent historiography.

¹² K. Fincham & N. Tyacke, *Altars Restored – The Changing Face of English Religious Worship, 1547 – c1700*, (Oxford: Oxford University Press, 2002), p. 284; N. Tyacke, 'Puritanism, Arminianism and Counter-Revolution', in *The Origins of the English Civil War*, Edited by C. Russell (London & Basingstoke: MacMillan Press, 1973 reprinted in 1978), p. 129.

of the Word along with a respect for formality in religious observance.¹³ For Fincham and Lake the innovations stemmed from James's reign, but 'the Caroline synthesis which emerged was recognisably different from what had gone before'.¹⁴ However, Kevin Sharpe, Julian Davies and Peter White are less convinced of the innovatory disposition of Laud, and his affinity with Arminianism, stressing Laud's desire for uniformity and conformity within religious observance rather than the introduction of new practices.¹⁵ Davies maintains that Laud's sacramental emphasis originated from 'the patristic reorientation and historical reinvestment of Anglicanism' rather than Arminianism.¹⁶ Sharpe does not see Laud as repressive or harsh or that he rode 'roughshod over tender consciences' whereas Tyacke argues that he was 'a leading architect of religious change'.¹⁷ Laud himself articulated his religious mission as maintaining 'orthodox truth' and desiring good church governance, along with 'reducing' the church 'into order' and upholding 'the external worship of God in it'.¹⁸ He did not consider himself an innovator (he accused religious radicals of being responsible for innovation) rather he saw himself looking to establish the church under 'the rules of its first reformation'.¹⁹ This view has been echoed by Laud's supporters

¹³ N. Tyacke, *Anti-Calvinists, The Rise of English Arminianism c. 1590 -1640*, (Oxford: Clarendon Press, 1987), p. 7.

¹⁴ See K. Fincham and P. Lake, 'The Ecclesiastical policies of James I and Charles I', pp. 23–24, in *The Early Stuart Church 1603 – 1642*, Ed. K. Fincham, (Basingstoke and London: Macmillan Press, 1993).

¹⁵ See K. Sharpe, *The Personal Rule of Charles I*, (New Haven and London: Yale University press, 1992), Chapter VI, passim; K. Sharpe, 'Archbishop Laud', in *History Today*, No 33 (August 1983), pp. 26–30; J. Davies, *The Caroline captivity of the church: Charles I and the remoulding of Anglicanism, 1625–1641*, (Oxford: Clarendon Press, 1992), this general argument runs through most of the book; P. White, 'The *via media* in the Early Stuart Church', pp. 211–230, in *The Early Stuart Church 1603 – 1642*; P. White, 'The Rise of Arminianism Reconsidered', in *Past and Present*, No. 101, (1983), pp. 34–54.

¹⁶ Davies, *The Caroline captivity of the church*, p. 54.

¹⁷ Sharpe, *The Personal Rule of Charles I*, p. 291; N. Tyacke, 'Archbishop Laud', in *The Early Stuart Church 1603 – 1642*, p. 70.

¹⁸ Laud, *Works*, Vol. VI, p. 42.

¹⁹ *Ibid.*, p. 42.

and apologists such as Peter Heylyn.²⁰ Regardless of the historiographical debate there can be no doubt that Laud's approach to religion ignited antagonism from mainstream Calvinists as well as religious radicals. His opponents considered the changes in ritual; the placement, and railing in, of the altar; kneeling at the rail during communion; the usage of religious imagery and ornaments such as candles, crucifixes, and superstitious pictures - so evocative to many of the hated mass; and the increased formality of the service; as a major step on the path back to popery. However, Judith Maltby has identified in her study of the Book of Common Prayer, that it would be wrong to equate opposition to 'Laudianism' as being equivalent to anti-episcopacy. There was an identifiable mainstream support for a liturgy based on the Edwardian and Elizabethan Prayer Book supported by a church led by the episcopate.²¹

A general revulsion to popery and fear of the Babylon of Rome was engendered within Caroline England and this fueled much of the anger against Laud. Since Elizabeth's reign the forces of Catholicism had been depicted as the enemy, and often the enemy in their midst.²² This was reinforced by major events which had become iconic for the Protestant mainstream in England such as the Gunpowder plot and the Armada. The repugnance shown towards popery has been explained in that it was viewed as 'the

²⁰ A. Milton, *Laudian and royalist polemic in seventeenth-century England; The career and writings of Peter Heylyn*, (Manchester: Manchester University Press, 2007), p. 83. Heylyn argued that the changes imposed by Laud did not constitute a revolution; rather they were a return to the practices of Elizabeth's time, and that the real innovations were coming from the puritans and religious radicals.

²¹ See J. Maltby, *Prayer Book and People in Elizabethan and Early Stuart England*, (Cambridge: Cambridge University Press, 1998), p. 84.

²² The statute 27 Elizabeth made it clear that Jesuits, Seminary, or other such, priests practising in England would be guilty of high treason; and anyone who harboured, supported or assisted Catholic priests would also be guilty of a capital felony. Such individuals were viewed as a Catholic fifth column at a time when the Queen was excommunicated by papal bull and any Catholic who could do her harm would be exonerated of mortal sin. An extract from the statute is reprinted in Laud, *Works*, Vol. IV, pp. 459-460.

debasement of Christ's teaching, a total and blasphemous perversion of Apostolic practice' and consequently more 'damnable than any form of paganism'.²³ Although Laud was no Catholic, he became associated with the potential for a return to, or at least a degree of amity with, Rome. Peter White has commented that Laud's supposed Arminianism was hardly mentioned at his trial and, although in fact there was reference made to it, his prosecutors were more concerned that his religious leanings were a prelude to the re-introduction of Catholicism.²⁴ His denigrators made much of the papal offer of a cardinalship, made through an intermediary, as indicative of him being in league with Rome. Laud himself recorded the two occasions that he was approached, in August 1633, both reported to the king – and both rejected although not forthrightly condemned.²⁵ The church that Laud controlled was viewed as crypto-papist and that was anathema not just to religious radicals but also many mainstream Protestants, as is witnessed by the almost universal censure of Laud in parliament at the time of his arrest.

The religious condemnation was coupled with Laud's, supposedly tyrannical, activities within Star Chamber and High Commission; the general charge being that he was excessively vindictive towards puritans but lenient towards Catholics. The treatment meted out to the puritan radicals, Prynne, Bastwick and Burton, for example, in Star Chamber, in 1637, was especially notorious largely because the three were to become part of puritan martyrology. Laud was almost certainly party to the verdict against

²³ See R. Clifton, 'Fear of popery', in *The Origins of the English Civil War*, p. 146.

²⁴ P. White, 'The Rise of Arminianism Reconsidered', p. 53; Also see below p. 145.

²⁵ Laud, *Works*, Vol. III, p. 219. Laud commented that he could not accept such an offer 'till Rome were other than it is'.

them: as he proclaimed ‘these ministers are punished...for preaching schism and sedition, many of their sermons being as bad as their libels’.²⁶ It has been argued that others suffered under Laud’s activities within the courts and he has been described as the ‘guiding force’ behind many prosecutions and that he harassed those who ‘did not want to belong to his group’.²⁷

Laud, along with Strafford, was a principal advisor to the king and was widely viewed as encouraging the king to rule without recourse to parliament, thereby subverting the fundamental laws and customs of the realm. It has long been a source of argument whether Laud advised and encouraged the king to follow the secular and religious path that led to the acrimony of the 1640s or whether he was the servant doing his master’s bidding. Charles clearly enabled the religious direction that was to be taken, through the appointment of anti-Calvinists to both ecclesiastical and secular positions of authority.²⁸ It seems likely that they depended upon each other; that Laud was able to bring clarity, shape and form to the general religious beliefs of his monarch. Kevin Sharpe has maintained that Charles gave direction and his servants refined and implemented his policy and Davies paints a picture whereby the king imposed his religious preferences – a Caesaro-sacramentalism.²⁹ However this does not deny that the two were in agreement. Laud and Charles have been described as sharing ‘a

²⁶ Ibid., Vol. VI, p. 69, taken from a speech made in Star Chamber at the censure of Prynne, Bastwick and Burton, by Laud in June 1637 and later published, according to Laud, at the order of the king.

²⁷ Carlton, *Archbishop William Laud*, pp. 79-80. Other puritans to suffer seriously under Laud in the courts include Dr. Alexander Leighton for publishing a tract against bishops and Henry Sherfield for iconoclasm.

²⁸ Fincham and Lake, ‘The Ecclesiastical policies of James I and Charles I’, in *The Early Stuart Church*, pp. 37-38.

²⁹ K. Sharpe, *The Personal Rule of Charles I*, p. 285; J. Davies *The Caroline captivity of the church*, in particular chapter 1 and p. 19; See also K. Sharpe, ‘Archbishop Laud’, p. 29.

common love of order and a belief in authority’ and the same ‘basic aims and assumptions’ and this enabled them to act in partnership – they were indeed ‘a practiced double act’.³⁰ Nevertheless it suited his opponents to depict Laud as the prime mover. Laud probably was dubious of parliaments and he believed that they were not impervious to error.³¹ However there is some doubt whether he actively discouraged the summoning of parliament; indeed in December 1639 he supported the recall of parliament remarking that, along with the marquis of Hamilton and Strafford, he was one of the ‘first movers to it’.³² Nevertheless, it benefited his antagonists to make the argument that Laud counselled against parliament as it deflected responsibility away from the king.

The primary reason for recalling parliament was the need for supply to undertake the war against Scotland. Laud had sought to impose the liturgy and rituals of the Church of England on an extremely unreceptive Scotland with its predominantly Presbyterian system of church governance. In particular the insistence that the revised prayer book should be used brought a storm of protest across Scotland that led to the Scottish invasion of Northern England, more latterly known as the Bishop’s Wars. Laud was in

³⁰ C. Carlton, *Archbishop William Laud*, p. 131; R. Cust, *Charles I, a political life*, (Harlow: Pearson, 2007), pp. 134 – 135; K. Fincham and P. Lake, ‘The Ecclesiastical policies of James I and Charles I’, in *The Early Stuart Church*, p.47, John Fielding comments that Charles’s ‘secular ideas coincided with the religious aims of the Arminians’; see J. Fielding, ‘Armianism in the Localities: Peterborough Diocese, 1603 – 1642’, p. 94, in *The Early Stuart Church*. Indeed it has been argued that Charles was so aligned with Laud that he was willing to leave all ecclesiastical matters to Laud; see W. M. Lamont, *Godly Rule, Politics and Religion, 1603 – 1660*, (London: MacMillan Press 1969), p. 57. An example of Charles and Laud both believing that the altar should be placed in the chancel and not the main body of the church can be seen in the legal case brought by parishioners of St Gregory’s in 1633, see NA, SP 16/499 f.159 & CSPD, Vol. CCCCXCIX, Charles I, 42, p. 531.

³¹ Laud, *Works*, Vol. III, p. 433. For an articulation of Laud’s alleged views on parliament see CSPD, Vol. CCCCXCIX, Charles I, 64/65, p. 542-545.

³² Laud, *Works*, Vol. III, p. 233.

no doubt that he was the primary target for the attacks. Writing in April 1638, he remarked:

The tumults in Scotland, about the Service-Book.....continued increasing by fits, and hath now brought that kingdom in danger. No question but there's a great concurrence between them and the Puritan party in England. A great aim there to destroy me in the King's opinion, &c.³³

It was clear that the authorities seriously misjudged the mood in Scotland and, on a personal front, it created an opposition to Laud amongst the Scottish Presbyterians (and he found few friends from elsewhere in Scotland). Laud's ability to make enemies, in particular the Scots and William Prynne, along with the general hatred of his religious reforms, contributed to his downfall.

II

This study will concentrate on the extant records of the arrest and trial, which demonstrate the manner in which the prosecution and the defence were framed. The most detailed account of the trial is inevitably jaundiced in its view. Volume IV of Laud's *Works* contains Laud's own account of the trial proceedings and, unsurprisingly, he magnifies the defence case and belittles that of the prosecution. In his closing address Laud articulated a number of specific concerns including; the 'generality' and 'incertainty' of the accusations made against him, the limited time given to him to respond adequately to the allegations of the prosecution, the acquisition of his private documents by William Prynne and that many of his accusers were 'suspected Sectaries

³³ Ibid., p. 230.

and Separatists from the Church'.³⁴ William Prynne also composed a testimony of the trial known as *Canterburies Doome*. Written shortly after the trial, and never completed, it consisted of the first part of his account and concentrated on religious matters. It was a highly prejudicial document where from the outset the author commented that 'this Arch-Prelates manifold Trayterous Artifices to Usher in Popery by Degrees, are cleerly detected'.³⁵ The third record of the trial was made by John Browne, the parliamentary clerk to the court and a puritan sympathiser.³⁶ It has been commented that Browne's account, despite him being no supporter of Laud, gives veracity to the archbishop's diary and that they 'speak with one voice'.³⁷ Hitherto largely neglected, a further important record was the considerable press coverage of the trial. The predominantly parliamentary press reported the proceedings in considerable detail and was significant as it provided a view of the trial through the lens of the public sphere. The reports usually accord with Laud's and Browne's accounts albeit with an extensive degree of popular spin. This study will refer extensively to the press reportage.³⁸ Also of importance are the official records from the Lords' and Commons' Journals; contemporary parliamentary diaries and surviving documents relating to the depositions acquired by the prosecution.

³⁴ Ibid., Vol. IV, pp. 370-373.

³⁵ W. Prynne, *Canterburies Doome or the first part of a compleat history, of the commitment, charge, tryall, condemnation, execution of William Laud late Arch-Bishop of Canterbury*, (London: John Maycock for Michael Spark, 1646) p. cover page.

³⁶ Browne's notes of the trial are available within the Braye manuscript at the House of Lords notated in this study HMC, *Braye, MS* (see abbreviations).

³⁷ W. M. Lamont, *Marginal Prynne 1600 – 1669*, (London: Routledge & Kegan Paul, 1963), p. 120.

³⁸ With the exception of the royalist *Mercurius Aulicus* which was edited by Sir John Berkenhead, the press in 1643-1644 was almost universally opposed to Laud. The information regarding the press used in this study is available on *EEBO*. See also J. Raymond, *The Invention of the Newspaper, English Newsbooks 1641-1649*, (Oxford: Oxford University Press, 1996).

Other contemporary documentary evidence demonstrated the enmity that surrounded Laud. Following Laud's arrest in 1640, there was a vituperative outpouring of scurrilous libels and pamphlets that were resolutely anti-Laud; a substantial expression of vindictiveness in the public sphere that can be seen as part of a campaign to exert influence on public opinion.³⁹ The perception of Laud was developed through the popular media portraying him as an 'evil counsellor' who led the king into tyranny and broke the acknowledged relationship of the monarch with his subjects, and of steering the Church of England towards popery - assuming an authority in ecclesiastical affairs above that of the king and parliament. Also Robert Baillie, a member of the Scottish Commission to England, in his *Letters and Journals*, took a major interest in the actions against Laud, going on to write, in 1641, *Ladensium Autokatakrisis*; a major polemical critique of Laudianism and Laud which underlined Baillie's opposition to the archbishop.

Those who were Laud's supporters and apologists became more in evidence after his execution. Much of the responsibility for the subsequent treatment of Laud as a martyr is attributed to Peter Heylyn who in his *Cyprianus Anglicus* produced an early eulogy of the life and works of the archbishop. Even prior to this he published in 1645 a polemic declaiming against the treatment that had been meted out to Laud describing the execution block as 'a Throne whereon he shortly was to receive a *Crowne*, even the

³⁹ However there is evidence that public opinion, in the capital at least, was already somewhat inflamed, Laud had been a principal target of London riots by workers and apprentices in May 1640. See Laud, *Works*, Vol. III, pp. 235–236; also V. Pearl, *London and the Outbreak of the Puritan Revolution: City Government and National Politics, 1625 – 1643*, (Oxford: Oxford University Press, 1961), pp. 107–108.

most glorious Crowne of *Martyedome*'.⁴⁰ Anthony Milton has highlighted the martyr cult that was created around Laud by Heylyn.⁴¹

III

The events between the arrest of Laud and his eventual trial in 1644 raise a number of questions which need to be addressed. Having been arrested at broadly the same time as Strafford, and given the widespread public vilification of him in 1640-41, why did his trial not follow on rapidly, or indeed precede, that of Strafford? Instead Laud seemed to become a largely forgotten figure, locked up safely in the tower. This begs a further question; given the exigencies of undertaking a war, why was the case against Laud exhumed by parliament in 1644 and the trial allowed to proceed? The nature of the trial also raises issues: was the accusation of treason feasible, given that Laud could argue loyalty to his king? Were the misdemeanours of Laud felonies or treasons? Why was the trial so protracted lasting for much of 1644 and involving a number of interruptions and adjournments? Also was the final verdict ever in doubt – a matter over which there is contention amongst historians? Indeed Laud's trial has been portrayed as a show trial where the result was essentially pre-determined, existing purely to reveal 'the heinousness of his crimes'.⁴² Another view is that it was dependent upon a 'conflation of treason with the lesser cause of praemunire'; an argument which would need to be

⁴⁰ P. Heylyn, *A briefe relation of the death and sufferings of the Most Reverend and renowned prelate, the L. Archbishop of Canterbury*, (Oxford, 1644), p. 15.

⁴¹ Milton, *Laudian and royalist polemic*. p. 128.

⁴² Carlton, *Archbishop William Laud*, p. 214.

made by the prosecution.⁴³ Alternatively, it has been maintained that ‘the prosecutors realized that Laud would almost certainly be acquitted on a treason charge’ therefore, presumably, it was not a foregone conclusion.⁴⁴ Chapter 1 will look more closely at the arrest of Laud in 1641 and the opposition ranged against him and will also consider why Strafford’s trial proceeded whereas Laud’s did not. Chapter 2 will develop a thematic analysis of the popular press and the printed material which conveyed the public vilification of Laud around the time of his arrest and incarceration.

The eventual trial of Laud commenced in March 1644 and there has been speculation amongst historians as to the reason why parliament decided to commence the trial proceedings when they did. It is appropriate to review the reasons why he came to trial at that time and its political relevance. For instance it has been mooted that Laud’s execution was intended to appease the Scots at a time when there were growing fissures in the strategically crucial alliance between the Scots and parliament, but this reading of events demands further scrutiny.⁴⁵ Clearly, the trial of Laud will be central to this study and it will be necessary to probe the details of the evidence presented by the prosecution, Laud’s rebuttal of those charges, and the basis for bringing a charge of treason. Chapter 3 will look briefly at the law of treason and its development during the Tudor and Stuart period and also at the trial preliminaries. It is clear that the House of Lords was conscious of the difficulties of proving treason, and Laud clearly depended upon his defence that he had always been a loyal servant to the king. Although a guilty

⁴³ Orr, *Treason and the State*, p. 139.

⁴⁴ W.G. Palmer, ‘Invitation to a Beheading: Factions in Parliament, the Scots, and the Execution of Archbishop William Laud in 1645’, in *Historical magazine of the Protestant Episcopal Church* LII, (March 1983), p. 26.

⁴⁵ *Ibid.*, p. 26.

verdict was expected and demanded, as was made evident in the contemporary newsbooks, it was also important for parliament to show respect for the sanctity of the laws of the realm and to be seen to be following due process. The degree of Prynne's centrality to the prosecution needs consideration having been described by Laud as the provider 'of all the evidence'; did he assist the prosecution in constructing a methodical and detailed case, or a 'tedious series of charges'?⁴⁶ The trial has often been depicted as a vindictive assault, with John Wilde, a member of the prosecution team, being described as launching an 'intemperate attack', whilst Laud was 'temperate and dignified'.⁴⁷ With modern day sensibilities it is tempting to side with the isolated man hounded by an intolerant and draconian state apparatus, but this is an anachronistic response. There were undoubted political motives for pursuing Laud but, from the point of view of the prosecution, he was the architect of a crypto-papist church, and a representative of a repressive regime that sought to rule without parliament. Also failure to bring Laud to justice could be seen to defy God's providence at a time when it was sorely needed. Chapter 4 will focus on the trial itself and will consider the motivations of his prosecutors and whether the execution of Laud was required purely for cynical political ends. It will also consider the structure of the trial process, the evidence that was produced, and the trial in the public sphere which formed an influential backdrop to the proceedings.

The overwhelming view at the time of the trial was that Laud's guilt was self-evident; the difficult problem was to prove that under contemporaneous law. It is interesting that

⁴⁶ Laud, *Works*, Vol. IV, p. 47; Trevor-Roper, *Archbishop Laud*, p. 422.

⁴⁷ Carlton, *Archbishop William Laud*, p. 219.

Laud, within the modern historiography, despite being depicted as insecure and limited in his capabilities, and as having been calamitous for the English church, is also believed to have been harshly dealt with in his trial.⁴⁸ The condemnation of the trial and verdict by modern commentators tends to forget the rigour of a process that consisted of over twenty sessions, lasted more than six months and sought to review in detail most elements of the charges brought against the accused. This was not a peremptory kangaroo court. An understandably biased Laud, in his diary, proclaimed his innocence, but this should not detract from a process that, despite its failings, was seeking to carry out the due process of law in a climate where a guilty verdict was eagerly anticipated both in the House of Commons and the public sphere.

⁴⁸ Ibid., pp. 228-229 also p. 2; Trevor-Roper, *Archbishop Laud*, p. 435; P. Collinson, *The Religion of Protestants : the church in English society 1559-1625*, (Oxford: Clarendon Press, 1982), p.90; Collinson is often quoted as calling Laud a calamity for the Church of England.

‘He, that intends to express a dishonest man, calls him a Machiavillian, when he might as justly say, a Straffordian, or a Cantibirian’¹

I

As this quotation demonstrates, Strafford and Laud were seen, together, to be chiefly responsible for the various grievances in church and state; the principal ‘evil counsellors’ who needed to be brought to account. However, in 1641, it was Strafford who was brought to trial and, subsequently, executed, whereas the proceedings against Laud stalled and he was not put on trial until 1644. It is true that members of both Houses perceived Strafford to be the more immediate and dangerous threat given his reputation and his influence within the king’s council. Also pressure from the Scots, with whom many in parliament were seeking appeasement, played a role (as Strafford himself remarked on 5 November 1640 ‘the Scotts have publicly declared me ther enemye, a publicke incendiary’).² However, the fact that conclusive action was taken against Strafford, begs the question of why Laud was not tried at the same time, given the similarity of attacks within the Commons and by the Scots. In this chapter, it is intended to assess the opening salvo made against Laud, specifically in regard to the details of the allegations and articles that were drawn up in 1640-41, along with Laud’s

¹ *The Atheistical Politician; or, a brief discourse concerning Nicholas Machiavell*, The Harleian Miscellany Vol. IV, (London, 1809), pp. 441–442.

² The quotation is taken from a letter sent to Sir George Radcliffe and is found in, *The Life and Original Correspondence of Sir George Radcliffe*, ed. by T.D. Whitaker, (London: John Nichols and Son, 1810), p. 214.

initial response to those allegations; and the reasons why his trial did not take place before the outbreak of war.

A febrile and extremely tense political atmosphere existed within the country in the period immediately preceding the civil war. The commencement of the Long Parliament resulted in grievances which had built up over the previous decade being debated; not least grievances relating to religion. Charles had recalled parliament in 1640 with an urgent need for supply in order to finance the army required to repulse the Scottish incursions into northern England. Parliament, however, was not minded to grant funds to the king without an opportunity to air its grievances; and it also wanted its continued and regular existence to be enshrined by legal statute. Historians have underscored the degree of nervousness during the early months of 1641, in parliament and the country, as the crisis of the relationship between Charles and the loose alliance of opposing commons members and lords, known as the 'Junto', steadily deteriorated.³ There was considerable disquiet amongst many members of both Houses about their future, and the targets of most of their concerns were the principal councillors surrounding Charles, most notably Laud and Strafford. The constitutional relationship of king and parliament was not under attack by the Junto. Rather it was his advisors

³ See C. Russell, *The Fall of the British Monarchies 1637-1642*, (Oxford: Oxford University Press, 1991), J. Adamson, *The Noble Revolt, The overthrow of Charles I*, (London: Weidenfield & Nicolson, 2007), A. Fletcher, *The Outbreak of the English Civil War*, (London: Edward Arnold, 1981), and D. Cressy, *England on Edge, Crisis and Revolution 1640 -1642*, (Oxford: Oxford University Press, 2006). At this time there were no actual political parties as would be recognised today. In the same way, it is too simplistic to suppose that all of parliament was in opposition to the crown. Within the house there were many shades of opinion with many members staying loyal, and subsequent comments regarding parliament should be read on the basis that parliament was not a homogenous body. The opponents of the king have often been referred to as the Junto with Pym, St John, Holles, Strode, Hampden, Hasilrig and Vane etc. within the Commons and Warwick, Essex, Bedford, Saye and Sele, Mandeville and Brooke etc. in the Lords. However even within the Junto there were many shades of opinion with some members more in favour of reaching accommodation with the king than others.

that were deemed to be most at fault, being perceived as having led the king astray from accepted good governance, in which the king ruled alongside and in conjunction with parliament. These unpopular advisors made ‘The poore King and subjects poore by ill counsell’.⁴ Also an assault on Laud and Strafford enabled the neutering of a major threat whilst allowing those who were leading the resistance to maintain their loyalty to the monarch. Indeed, Lord Digby went further (in January 1641) by thanking God that ‘we have so good a King under whom we may speak boldly of the Abuse of Ill Ministers, without reflection upon his Person’ thereby highlighting the distinction between Charles and his advisors.⁵ Consequently, the arrest and imprisonment of Strafford and Laud in 1640 were greeted as important successes for parliament and there was an expectation that they would be brought expeditiously to trial.⁶

Strafford was perceived as a serious threat and was suspected of plotting to use an army from Ireland to suppress rebellion on the mainland (in all likelihood the intention was to use forces from Ireland against the Scots, however there was a suspicion that once amassed such a force could also be used to suppress fractious factions in England). John Adamson has demonstrated that there was considerable apprehension amongst the nobles in parliament who were leading opposition to the government – such as Warwick, Essex, Bedford and Saye and Sele – and they were concerned that a resurgent Strafford would represent a very real peril to their lives. Laud did not present such a

⁴ *The Journal of Sir Simonds D'Ewes*, ed. W. Notestein, (New Haven; Yale University Press, 1923), p. 7.

⁵ *RHC*, Vol. IV, p. 147.

⁶ In a letter from Edward Swan to Henry Oxinden dated 7 February 1641, for instance, there is an expectation that ‘the Archbishopp.....will be found very deepe in Capitall Crymes’. See *The Oxinden Letters, 1607 – 1642, being the correspondence of Henry Oxinden of Barham and his circle*, ed. Dorothy Gardiner, (London: Constable & Co Ltd, 1933), p. 191.

physical menace, but the religious innovations that he had sponsored were abhorrent to not just the godly members of parliament. Laudian ecclesiology was construed as a slippery slope towards papism, 'a step on the road' as Robin Clifton puts it.⁷ Papists were often accused of being the instigators of plots and supporters of foreign enemies. It was also perilous to the spiritual health of the nation, not to resist manifestations of popery in all its forms and to fail to do so was to risk God's providential wrath, a serious matter in the seventeenth century. As such, it could be argued that Laud was an equal, if different, hazard that needed to be extinguished.

It was in the mind of the Junto in early 1641 to put the archbishop on trial. Indeed it has been suggested by Adamson that, in February 1641, this took precedence over proceeding against Strafford because there was a political necessity to offer up a scalp to assuage the Scots, and Laud was so hated that all elements of the Junto could agree to proceed against him.⁸ It is argued that the pursuit of Strafford, temporarily as it turned out, had stalled and it was viewed, probably accurately, that Charles was less attached to his archbishop than Strafford. Adamson comments that, 'Laud suddenly became expendable; and, in striking contrast to the king's devotion to his secular councillor, his abandonment of his highest-ranking prelate was heartless, cynical, and complete. By the first week of March, Laud himself realized that he had been cast adrift, and resigned himself to imminent martyrdom'.⁹ However, this is not really borne out by Laud's own record of events. Clearly, he was concerned and depressed by his imprisonment remarking on 'the great weakening of my aged body, and waste of my

⁷ Clifton, 'Fear of Popery', in *The Origins of the English Civil War*, p. 152.

⁸ Adamson, *The Noble Revolt*, p. 203.

⁹ *Ibid.*, p. 204.

poor fortunes' and worrying about 'how much longer they mean to keep me there'.¹⁰ Also, he may have been disconcerted by the voluble public ridicule, 'clamour and revilings, even beyond barbarity itself', that accompanied his transfer to the Tower on 1 March.¹¹ However, he maintained that this did not upset him unduly, looking to God rather than 'the tongues of Shimei and his children'; the reference, from the second book of Samuel, was of David, on his flight from Jerusalem, being stoned and cursed by Shimei - Shimei becoming a biblical byword for treachery.¹² Laud had reason to be optimistic about his prospects, having received a message on 21 January 1641 from an unnamed member of the House of Commons commenting that;

some lords were very well pleased with my patient and moderate carriage since my commitment; and that four earls, of great power in the House, should say, that the Lords were not now so sharp against me as they were at first; and that now they were resolved, only to sequester me from the King's counsels, and to put me from my archbishopric.¹³

Also he made no reference to any deterioration in his relationship with the king, although he was well aware of Charles's tangible support for Strafford.¹⁴ It is also difficult to make the case that the focus had shifted away from Strafford. The parliamentary journals show that the efforts to bring Strafford to trial sooner rather than

¹⁰ Laud, *Works*, Vol. III, p. 435.

¹¹ He was initially detained at the house of Black Rod, John Maxwell.

¹² Laud, *Works*, Vol. III, pp. 436–437; See also Samuel II, Chapter 16 v. 5–14. Shimei sought and received forgiveness from David on the latter's return from Jerusalem but was not to be trusted and was finally killed under orders of Solomon, See Samuel II, Chapter 19 v. 16–23 & Kings I Chapter 2 v. 36–46.

¹³ Laud, *Works*, Vol. III, p. 395.

¹⁴ *Ibid.*, pp. 440 – 445.

later remained of paramount importance.¹⁵ Indeed the secondary nature of the action against Laud, and his being of lesser importance, is hinted at in a letter of 7 January 1641 from Sir John Temple, which declared that ‘Concerning my Lord of Canterbury, there is now *altum silentium*, so inconsiderable he is as no man that I heare once mentions his name’.¹⁶

It would be wrong completely to devalue the effort to bring Laud to account. In late 1640, there were voices in the Commons that described Laud as the chief architect of the problems suffered by the country. In a powerful speech to parliament, in December 1640, subsequently released in print, Sir Harbottle Grimston, described as a member of the more moderate strand of views in the commons, urged the house ‘to strike whilst the Iron is hot’ and proceed directly to the Lords with an accusation of high treason.¹⁷ He described Laud as a ‘viper’ and as the author of all the ‘Ruines, Miseries, and Calamities, we now groane under’ and that he was ‘like a busie and angry Waspe, his sting in the Tayle of every thing’.¹⁸ Laud is depicted as being at the country’s helm over the previous ten years and as being responsible for the bringing on to the political and religious scene various *bêtes noires* as Strafford, Windebank, Wren and Mainwaring.¹⁹

¹⁵ The Journal of the House of Lords (*LJ*, Vol. IV) for this period has repeated references to the need to bring forward witnesses for the impending action that was planned against Strafford. Similarly, in *RHC* it is clear that the case against Strafford remained top of the agenda; the importance being underlined by Vol. VIII being almost exclusively focussed on the proceedings and trial.

¹⁶ *The De L’Isle manuscripts*, HMC, (No 77, 1966) Vol. VI, p. 360.

¹⁷ *Mr. Grymstons speech in Parliament upon the accusation and impeachment of William Laud Archbishop of Canterbury upon high treason*, (1641), p.5; Russell, *The Fall of the British Monarchies*, p. 182.

¹⁸ *Mr. Grymstons speech in Parliament*, pp, 2, 4 & 5; *RHC*, Vol. IV, p.122.

¹⁹ *Mr. Grymstons speech in Parliament*, pp. 2-3. For Mainwaring’s preferment also see *CSPD*, Vol. CCCCXCIX, Charles I, 59, p. 540, NA, SP 16/499 fo. 170.

Sir Simonds D'Ewes commented in his diary on the nature of Grimston's speech.²⁰ Similarly, in November 1640, Sir Edward Dering wanted action to be taken against the archbishop, describing him as being at the epicentre of the nation's woes: 'For our manifold Grievs do fill a mighty and vast circumference; yet so, that from every part our Lines of Sorrow do lead unto him, and point at *him* the *Center*, from whence our Miseries in this Church, and many of them in the Commonwealth, doth flow'.²¹ Furthermore, it is suggested by David Smith that Laud was also deeply unpopular amongst those who would later become Constitutional Royalists and supporters of the king in the ensuing conflict. For example, Culpepper and Strangeways supported attacks on Laudian policies and expressed their concerns about signs of popery; again, demonstrating a real concern that the Laudian innovations could pave the way for a return to Catholicism.²²

Where the Constitutional Royalists came to differ with others in parliament was in their steadfast support for episcopacy and the prayer book. Debates were intensifying on the appropriateness of episcopacy within the church, but many still accepted that it was an essential element of the ecclesiastical hierarchy. Benjamin Rudyerd, in December 1640, wished for the reformation of the bishops rather than their abolishment; Latimer and Ridley being the model rather than a 'Proud *Becket* or *Woolsey*'.²³ Nathaniel Fiennes, in a speech some six weeks later, took the opposing

²⁰ *Proceedings in the Opening Session of the Long Parliament*, Edited by M. Jansson, (Rochester, New York & Suffolk: University of Rochester Press, 2000-2007), Vol. I, p. 658; D'Ewes, *Journal*, p. 169.

²¹ *RHC*, Vol. IV, p. 40.

²² D.L.Smith, *Constitutional Royalism and the Search for Settlement, c. 1640-1649*, (Cambridge: Cambridge University Press, 1994), pp. 68-69.

²³ *RHC*, Vol. IV, p. 111.

view and argued that the evil of bishops derived from the very existence of the office itself and held that all authority should stem from the magistracy without any preeminent ecclesiastical judiciary.²⁴ This debate, between the more conservative elements who attacked certain individuals within the church rather than seeking fundamental change and those looking for root and branch reformation, was to rumble on through the next few years of the parliament.

II

The commencement of the Long Parliament was accompanied by a torrent of petitions from around the country, airing local and national grievances, and often raising issues relating to church governance, liturgy and ceremony. The religious clauses within the petitions were usually directed against the Laudian innovations and their impact on local communities, especially regarding zealous or officious local ministers. Many such petitions were sent to the Commons committee for scandalous ministers and it has been estimated that there may have been as many as 800.²⁵ Petitions were received from the representatives of individuals, such as the spouses of Bastwick and Burton, and Prynne's servant, John Brown; from towns such as Scarborough and Boston; and from county organisations: Yorkshire, Hertfordshire, Lincolnshire, Wiltshire, Westmorland, Worcestershire, Rutland, Norfolk, Essex and Shropshire.²⁶ Pym summarised the grievances as being under three heads; the privilege of parliament, the liberty of the

²⁴ Ibid., p. 174-183.

²⁵ W.A. Shaw, *A History of the Church During The Civil Wars and Under the Commonwealth*, (London: Longmans, Green & co, 1900), Vol. II, p. 177.

²⁶ *RHC*, Vol. IV, pp. 20-21; D'Ewes, *Journal*, pp. 4-5.

subject, and matters of religion. Laud was to be held partly responsible for the first two of these, being blamed for encouraging the king to resist calling parliament and for impinging on freedoms through judgments in the High Commission and Star Chamber. However it was the religious grievances which pertained in particular to Laud, and these were well rehearsed; encouragement of popery, innovations in liturgy, endorsement of popish ceremony, discouragement of true Protestants and the encroachment of ecclesiastical jurisdiction and courts. Most serious however was the assumption of episcopal authority *jure divino* (an authority which stemmed directly from God albeit subordinate to the divinely countenanced monarch), and the desire for overarching authority so that the clergyman may '*do what he will* with us'.²⁷ These petitions enabled the Commons to make political capital out of the supposed religious abuses of the preceding decade and they allowed members to give their personal bugbears an airing. They also provided a degree of legitimacy for the allegations that were to be brought against Laud. The alleged usurping of powers by the prelacy was denounced in speeches made on 7 November 1640 by Sir Benjamin Rudyerd, Edward Bagshaw and Sir John Holland (despite himself shortly afterwards being accused of being a papist). Lord Digby in presenting the Dorsetshire petition orally, on 9 December 1640, commented that 'Doth not every Parliament Man's Heart rise to see the *Prelates thus to usurp to themselves* the grand preeminence of Parliaments'.²⁸

²⁷ *RHC*, Vol. IV, pp. 21-23.

²⁸ *Ibid.*, pp. 24-31. In this sense the comment regarding parliament's heart rising had a somewhat different connotation than it would do today; Digby was suggesting that parliament's hearts would rise up in opposition. See also p. 58 which refers to Holland being accused of popery.

The pressure on Laud was maintained through the highly significant London petition, presented on 11 December 1640, which re-iterated the catalogue of religious complaints that were now becoming commonplace. The church hierarchy was held responsible for the increase in ‘idle, lewd and dissolute, ignorant and erroneous Men’ who had been brought into the ministry, with their superstitions, crypto-papist ceremony, disinclination to preach the true word of God, prophanation of the Sabbath, plurality and corruption.²⁹ The Kent petition of 12 January 1641 reprised many of these themes but was oriented more towards denigrating episcopacy. It concluded by praying that ‘this Hierarchical Power may be totally abrogated, if the Wisdom of this Honourable House shall find it cannot be maintained by God’s Word, and to his Glory’.³⁰ The appointment of the parliamentary committee of thirty-nine members to draw up the charge sheet against Laud in mid-December 1640 would have been influenced by these petitions and they fueled the developing impetus to bring him to trial.³¹

Petitions personally directed towards him prompted the formal charges against Laud. The three ‘martyrs’, Bastwick, Prynne and Burton, and the Scottish commissioners all presented accusations against him in mid-December 1640. John Bastwick petitioned the commons regarding the perceived injustices of his own case.³² Specifically he complained that his house had been searched and ransacked by the authorities, under

²⁹ Ibid., pp. 93–96. It has been estimated that this petition received between 10,000 and 20,000 signatures and it was presented by ‘a delegation of respectable well-to-do citizens’, see Pearl, *London*, p. 214.

³⁰ *RHC*, Vol. IV, pp. 135–136.

³¹ Ibid., p. 113. Many leading parliamentarians with puritan leanings featured in the committee, notably John Pym, Denzil Holles Nathaniel Fiennes, Robert Harley and Oliver St John. It also contained some more conservative members such as Sir John Strangeways and Sir Edward Dering.

³² *PLP*, Vol. I, p. 638–640. See also *RHC*, Vol. IV, pp. 79–80. See also D’Ewes, *Journal*, pp. 240–241.

the auspices of the Court of High Commission (a court closely associated with Laud), and that he was subsequently prosecuted, fined and imprisoned. The accusation against him was in regard to his publication of *Elenchus Religionis Papisticae*; an anti-papist tract which Bastwick averred did not object to bishops who assumed that their authority was derived from rulers, rather to the claim that episcopacy derived from a higher authority. He maintained that it was 'better to overthrow the papal usurpation over Christian princes' and denied the episcopacy's 'supremacy over other ministers to be by divine institution'.³³ However, Bastwick maintained, Thomas Chouney of Sussex wrote a book favouring the Church of Rome which he dedicated to Laud who gave him his support. Furthermore, Laud was accused of declaring that the Church of Rome was a true church 'and that it erred not in fundamentals', and of abusing 'reverent Mr. Calvin'.³⁴ To affirm his innocence Bastwick published *Apologeticus ad Praesules Anglicanos* but was, as a result, tried and found guilty in Star Chamber and consequently fined, pilloried, imprisoned, and suffered the abscission of his ears. Laud was seen as responsible for securing the prosecution and sentence against Bastwick, a sentence described as especially cruel, and harsher than that given to 'Turkes and heathens'.³⁵ Similar accusations were brought by Prynne who also believed that Laud led the campaign, through legal action in the High Commission, to sentence him to mutilation, the pillory, a fine, and life imprisonment. In his petition he denounced the 'malicious Practices' of Laud.³⁶ The Commons committee assessing Prynne's claims,

³³ *PLP*, p. 639.

³⁴ *Ibid.*, pp. 639-640.

³⁵ *Ibid.*, p. 640. D'Ewes, *Journal*, p. 400.

³⁶ *RHC*, Vol. IV, pp. 74-77.

on 15 December, came to the same conclusion that Laud was personally involved.³⁷ Burton also pointed towards Laud for the treatment that he received.³⁸ These accusations, along with others received from aggrieved individuals, brought together many of the strands of the indictment against Laud; his supposed connection with popery and rejection of the true reformed church, his view that the episcopate were *jure divino*, and his overweening use and abuse of the church courts to assert his dominance.³⁹

Similarly a set of charges against Laud (and Strafford) was presented on 17 December by the Scottish Commissioners. Robert Baillie, in London at the time serving as one of four ministers supporting the Scots Commissioners and relaying details of the progress of Scots negotiations with parliament to his homeland, confirmed they had been ready some five days earlier.⁴⁰ As Bulstrode Whitelocke commented, the Scots considered Laud and Strafford as ‘incendiaries in the national differences’.⁴¹ The disastrous efforts to impose the revised prayer book, based on the English model, on the Kirk was core to Scottish opposition to Laud. The 1640 charge against Laud cited ‘[In]novations in

³⁷ D’Ewes, *Journal*, pp. 158-159.

³⁸ *RHC*, Vol. IV, pp. 78-79; *CSPD*, Vol. CCCCXCIX, Charles I, 76, p. 548.

³⁹ Further examples that implicated Laud, to a greater extent or lesser extent, were received regarding the popish activities of Dr Heyward, erstwhile chaplain to Laud, and three parishioners of St Bartholomew’s London who received unlawful treatment in the High Commission court; See D’Ewes, *Journal*, pp. 281-282.

⁴⁰ R. Baillie, *The Letters and Journals of Robert Baillie in three volumes*, edited by David Laing (Edinburgh 1841-42), Vol. I, p. 280. The Commissioners consisted of the eight men who had previously negotiated with Charles at Ripon; Henderson, Wariston, Loudoun, Dunfermline, Douglas, Hepburne, Smith and Wedderburne. They were joined in London by Rothes, Drummond and Kennedy and were accompanied by four ministers of the Kirk; Robert Baillie, Robert Blair, John Smith and George Gillespie. See D. Stevenson, *The Scottish Revolution 1637 – 1644*, (Edinburgh: John Donald, 1973 & 2003). pp. 212 & 214; See also *ODNB* for Robert Baillie by David Stevenson; <http://www.oxforddnb.com/view/article/1067>, (accessed 21 April 2011).

⁴¹ Bulstrode Whitelocke, *Memorials of the English Affairs from the beginning of the reign of Charles the first to the happy restoration of King Charles the second*, (Oxford: Oxford University Press, 1853) Vol. 1, p. 114.

religion which are universally acknowledged to be the main cause of commotions in kingdoms and states, and are known to be the true cause of our present troubles now amongst us, many and great'.⁴²

The charges presented by the Scots were predominantly religious in their makeup and were grouped into three articles, covering church ceremony and doctrine, the imposition of the Book of Canons and the introduction of the Scottish prayer book; the first two of these mirrored complaints in England whereas the third was more specific to Scotland. Underlying all of the complaints was a fear of a return to popery. On matters of church ceremony reference was made to 'fourteen letters subscribed "W. Canterbury"' which insisted on the wearing of English clerical garments by bishops and also the reciting of the English service.⁴³ Laud, it was claimed, also upbraided the bishop of Edinburgh for 'preaching the sound doctrine of the reformed Kirk' and for his too mild disputation against fasting on the Sabbath; an activity for which Laud purportedly censured the Kirk as it was, by Laud, deemed to be 'opposite to Christianity itself'.⁴⁴ The Scots also made reference to the re-arrangement of the internal structure of churches to make space for altars at the east end, rather than in the body of the church.⁴⁵

⁴² *PLP*, Vol. I, p. 640.

⁴³ *Ibid.*, p. 641.

⁴⁴ *Ibid.*, p. 641.

⁴⁵ *Ibid.*, pp. 641- 642. Reference was also made to Lord Balmerino who was imprisoned and under sentence of death for supporting and circulating a petition against the introduction of the English prayer book. The death sentence was later commuted by the king.

They complained of the efforts to impose the *Book of Canons* on the Kirk, expressing the concern that this would give the prelacy a ‘tyrannical power’ over the Scottish church and would dismantle the control over church governance and discipline currently held by the presbyteries and the provincial and general assemblies.⁴⁶ Certain complaints against the Canons were more specific; maintaining that reformed doctrine and discipline required princely approval, revised canons should not be derived from synods but through the prerogative of the monarch, and there was an explicit threat of excommunication against those who objected to the Canons. Indeed they abhorred the introduction of arbitrary, rather than specific, penalties against wrongdoers. To the Scottish Commissioners, the Canons were the work of Laud; commenting ‘That Canterbury was master of this work is manifest’ and that he inveigled the warrant and approval of the king.⁴⁷

The Scottish covenanters were repelled by the papist sentiment that they observed in the Laudian innovations and they protested; the lack of opprobrium against popery and papist superstitions (such as adoration of the sacrament); the prescribed placement of altars and fonts; the emphasis on good works being a route to salvation; and the establishment of ‘auricular confession and popish absolution’.⁴⁸ In particular the hated Book of Common Prayer, the introduction of which sparked the Scottish tinderbox, was littered with regressions to popery: being ‘repugnant’ to the Presbyterian Scots because it contained ‘many popish errors and ceremonies, and the seeds of manifold and gross

⁴⁶ Ibid., p. 642.

⁴⁷ Ibid., p. 642.

⁴⁸ Ibid., p. 642 - 643.

superstition and idolatry'.⁴⁹ Laud was identified as integral to the printing and publishing of the Prayer Book in Edinburgh and for the Scots this underlined the archbishop's 'popish spirit and wicked intentions'.⁵⁰ Furthermore, because Charles had maintained that the variances between the Scottish and English prayer books were sufficiently minor that the Scots could accept them; the Scots contended that it must have been Laud, without the king's knowledge, who inserted the hated popish elements.⁵¹ Although almost certainly not the case, this argument was consistent with condemning the counsellors to the king whilst maintaining loyalty to Charles himself, and also added to the accusation that Laud usurped monarchical power with the intention of establishing himself in a pseudo-papal role. The liturgical elements of the Prayer Book were matters of complaint; including the corporeal presence of Christ in the sacrament and kneeling at the altar during the adoration of the host. Negative comparisons were made with the Edward VI Prayer Book and Laud was held responsible for the hated innovations (the Scots neatly ignoring the five articles of Perth, introduced by King James in 1617, which required kneeling at communion, holy day observance, confirmation by bishops and private communion and baptism).⁵² The complaints against Laud were concluded with a general imprecation, holding him responsible for kindling 'war against us', for continuing to accuse the Scots of being 'rebels and traitors' even after the pacification of Berwick, for his continued criticism of the Scottish Covenant and national assembly in front of the king and, mostly, for

⁴⁹ Ibid., p. 643.

⁵⁰ Ibid., p. 644.

⁵¹ Ibid., p. 644.

⁵² Ibid., p. 645-646; see also G. Donaldson, 'The Scottish Church 1567-1625', in *The Reign of James VI and I*, Edited by A.G.R. Smith, (London and Basingstoke: MacMillan Press, 1973), p. 55.

returning the church to popery, so much so ‘that if the Pope himself had been in his place he could not have been more popish’.⁵³

The four main themes of complaint against Laud; the introduction of ecclesiastical innovations redolent of popery, his iniquitous influence over Charles, his draconian interference in legal matters and the naked appropriation of crypto-papal power were fundamental to both the Scottish and English accusations against him. The Scots were vigilant against popery, it being considered anathema to true religion, and also because of the potential personal risk to the covenanters should there be a return to Catholicism. Nevertheless, there is a sense of the Scots seeking to introduce any potential shred of accusation against Laud, under the time honoured principle that if you throw enough mud, some will surely stick. Baillie clearly believed that the Scottish accusations were of central importance to parliament’s action against Laud. Writing in December 1640, he commented on Laud and Strafford, ‘The Parliament hold off to meddle with these two men till we be readie till joyne’ and that the attack on episcopacy would follow the downfall of Laud.⁵⁴ Baillie, at this time, demonstrated great optimism; remarking on the increasing isolation of Laud, he believed that ‘God is makeing here a new world’.⁵⁵ The prospects for success of the Scottish Commissioners’ main objectives; getting rid of Laud and Strafford, a satisfactory settlement of the conflict with England (including financial compensation), and progress towards a common, reformed form of worship between the two countries, certainly looked rosy.

⁵³ *PLP*, Vol. I, pp. 646–648.

⁵⁴ Baillie, *Letters and Journals*, Vol. I, p. 280. See also *ODNB* for Robert Baillie, <http://www.oxforddnb.com/view/article/1067>, (accessed 21 April 2011).

⁵⁵ *Ibid.*, p. 283.

The Scots were, consequently, impatient for action against Strafford and Laud but around the end of January, there were hints from Charles that Junto members would be granted senior roles in the administration if they were less insistent on executing Strafford and ecclesiastical 'root and branch' reform.⁵⁶ Baillie summed up the prevailing serpentine arguments that abounded at the end of January 1641 regarding the delay;

For the secret reason why the cause of the Lieutenant and Canterburie is so long delayed, some guesses one and some another; the most thinks, that more by witness long agoe is deponed than might take many heads; yet they desyre more, frae more daylie be coming in. Some thinks, their death would facilitat the overthrow of Episcopacie, and the thorough reformation of Church and State. Others feares, that diverse grit men, if these two were execute, would be freed of their feare, and become hopefull of their place, and desireous more to pacifie the irritat Prince, and to comply with his desyre in keeping up Bishops and other things: so that the House, of purpose, keeps these men alive, to make their feare, so long as they live, a band knitt all together for the common good: However, verie shortlie the Lieutenant is expected on the stage, and the Bishop at his back.⁵⁷

Baillie presumed here that either parliament was awaiting more evidence or for further witnesses to come forward. One contention was that, by keeping Strafford and Laud alive, the fear of a potential return to power by them was a spur to the fence-sitters in

⁵⁶ J. Adamson, *The Noble Revolt*, p. 169.

⁵⁷ Baillie, *Letters and Journal*, Vol. I, p. 291.

parliament to continue to support religious and constitutional change. With their execution, leverage would be lost, and members of the nobility would seek subsequently to make their peace with Charles by resisting further root and branch reformation and by accumulating positions of authority, having removed the perceived greatest threats. Alternatively, some felt that the death of Laud and Strafford would be the necessary first step leading ultimately to further reformation in the English church. It is clear that the Scots were concerned about the potential for machinations behind the scenes.

On 4 January 1641 Pym approached the Lords for a joint conference, agreed to by the Lords, to discuss the Scots' allegations, the Scottish commissioners having been asked to produce their witnesses and evidence; whilst two days earlier the Lords requested the establishment of a commission for examining witnesses.⁵⁸ During January the committee on Laud looked to gain more evidence, for instance through investigation of the Bastwick complaint, and through the receipt of further anti-episcopal county petitions, from Kent, Suffolk, Gloucestershire, Buckinghamshire and Norfolk.⁵⁹ Specific petitions related to Laud were also considered by the committee such as that received from the parishioners of St Ethelburga, London, on 21 January.⁶⁰ The committee was key to the development of the charge sheet against the archbishop with the intent of building a convincing treason case. By the end of January, the case against Laud was near completion with Prynne promising to 'hasten the Articles for the charge

⁵⁸ D'Ewes, *Journal*, p. 215; *LJ*, Vol. IV. p. 123. Around this time a number of committees were established to deal with many of the issues of the day; see D'Ewes, *Journal*, pp. 242 – 243.

⁵⁹ D'Ewes, *Journal*, p. 240 – 241, & p.283; *RHC*, Vol. IV, pp. 134-135.

⁶⁰ *RHC*, Vol. IV, p. 150.

of the Archbishop of Canterbury'.⁶¹ The committee on Laud met on 10 February and 22 February and, although we do not have details of any discussion, we can suppose that it finalised the draft of the articles to be brought against him as they were presented to the Commons two days after this second meeting.⁶²

Pym taking a personal lead in the campaign against the archbishop presented the articles against Laud first on 24 February prior to their engrossment.⁶³ Pym proceeded to compare Laud and Strafford; 'both endeavoured to subvert religion and the fundamentall lawes of the realme', were 'ambitious, proud and insolent', and he expressed 'the hainousnes of both ther crimes'.⁶⁴ The articles were read again on 26 February in order to receive approval to pass them to the Lords. Pym, in his speech accompanying this reading, attacked Laud's pride 'which exalts it self above all that is called God' and with fervent hyperbole described him as 'a Traytor against his Majesty's crown, an Incendiary against the Peace of the State; he will be found to be the highest, the boldest, and most impudent Oppressor that ever was, an Oppressor both of King and People'.⁶⁵ The articles detailed the complaints that were intended to be used to indict Laud for treason. Laud's role as counsellor, his interference in the legal process, and his hated religious reforms, revealed how he oppressed the people and

⁶¹ D'Ewes, *Journal*, p. 305.

⁶² *CJ*, Vol. II, pp.81,82,89,90; D'Ewes, *Journal*, p. 388.

⁶³ Engrossment involved the making of a fair copy on parchment for formal enactment, see G.R. Elton, *Policy and Police, The enforcement of the Reformation in the age of Thomas Cromwell*, (Cambridge: Cambridge University Press, 1972), p. 272.

⁶⁴ D'Ewes, *Journal*, pp. 394; *CJ*, Vol. II, p. 92.

⁶⁵ *RHC*, Vol. IV, p. 199.

provoked discord. However proving treason, given Laud's undoubted loyalty to Charles, would prove demanding.⁶⁶

The articles were derived from the accusations brought by the Scots, the various petitions, and the views expressed by members of parliament - pent up grievances now being given an opportunity to be overtly expressed. D'Ewes commented on the unanimity of feeling within parliament by remarking that 'All the articles weere voted without anie one No' and this collective unity prevailed when the Commons sent the engrossed articles to the Lords.⁶⁷ Many of the points raised echo Pym's summary of the petitioners in November 1640.⁶⁸ The articles dealt with accusations that Laud sought to subvert the law and parliament. He was accused of wanting to introduce an arbitrary and tyrannical government and of advising Charles to override the need for parliament.⁶⁹ He supposedly authorised sermons to question the authority of parliament and in support of the royal prerogative. He was charged with perverting justice by influencing and corrupting judges to make false judgments, of selling judicial offices, and, within the court of High Commission, of accepting bribes that led to corrupt verdicts. Indeed, as William Abbott has recently argued, there was a view that for

⁶⁶ The articles are covered in detail in *PLP*, Vol. II, pp. 529-539; reference is made in this volume to the diaries of John Moore, BL. Harl. 476, Symonds D'Ewes, BL. Harl. 162, & Framlingham Gawdy, BL. Add. 14828. In the following analysis of the articles on-going reference will be made to these sources. See also *RHC*, Vol. III, pp. 1365-1367.

⁶⁷ D'Ewes, *Journal*, p. 395, see also p. 412.

⁶⁸ *RHC*, Vol. IV pp. 21-24.

⁶⁹ Strafford wrote in a letter to Laud in 1633 'I am confident that the King, being pleased to set himself in the Business, is able, by his Wisdom and Ministers, to carry any just and honourable Action thorough all imaginary Opposition, for real there can be none: that to start aside for such panick Fears, phantastick Apparitions, as a *Prynne* or an *Elliot* shall set up'. This has been argued (albeit not at this time) as a suggestion that the king could rule without parliament although, in truth, the words are sufficiently enigmatic as not to be clear on the subject. See, *The Earl of Strafforde's letters and dispatches with an essay towards his life by Sir George Radcliffe*, Vol. I, ed. William Knowler (London: William Bowyer, 1739), p. 173.

clerics to be involved in legal matters – especially legal matters that led to physical punishments – deflected them from their natural, and divine, pastoral role. Abbott quotes a comment by Pym, concerning Laud, bemoaning the power that he wielded as a prosecutor within the High Commission; and in his speech he claimed that the judiciary was ‘corrupted by ‘Fear and Sollicitation’ and that Laud was ‘a malicious prosecutor’.⁷⁰

Ecclesiastical complaints were dealt with. Laud was criticised for sponsoring the introduction of the Book of Canons without due authority and against the fundamental laws of the realm. The argument was that the church synod was only entitled to introduce Canons that were not ‘repugnant to the law’, and by assuming a higher authority was guilty of praemunire.⁷¹ The Canons were generally despised, especially as they encompassed the hated ‘Etcetera oath’ which required all in holy orders to swear to uphold the order and governance of the established church in England. Many speeches were made complaining against the Canons, such as Grimston’s speech of 9 November 1640, and the petitions often featured grievances against them.⁷² Laud, himself, had misgivings concerning the Canons; writing to his friend John Selden on 29 November 1640, he proposed cancelling them;

⁷⁰ See W.M.Abbott, ‘Anticlericalism and Episcopacy in Parliamentary Debates, 1640-1641: Secular Versus Spiritual Functions’, in *Law and Authority in Early Modern England*, Ed. B. Sharp and M.C. Fissel, (Newark: University of Delaware Press, 2007), in particular p. 168; *RHC*, Vol. IV p. 200; D’Ewes, *Journal*, p. 413.

⁷¹ D’Ewes, *Journal*, p. 426. Praemunire is accused when clergy assume a degree of responsibility over and above their legitimate right; D’Ewes compares the issue of the canons with the allegations against Wolsey in the previous century.

⁷² *RHC*, Vol. IV, pp. 34-36 & 95; Laud’s biographer has described the canons as a ‘formulation of objectionable doctrines, see Trevor-Roper, *Archbishop Laud*, p. 391.

May not these unfortunate Canons be suffered to die....., without blemishing the Church,.....If this may be, I here promise you, I will presently humbly beseech his Majesty for a licence to review the Canons, and abrogate them.⁷³

Debate in parliament in December 1640 argued that the oath was abhorrent and that bishops who had imposed the oath were particularly blameworthy.⁷⁴ Laud was deemed, with the introduction of the Canons and the oath, to have assumed a crypto-papal authority over ecclesiastical and secular matters in contempt of his majesty. The indictment was intended to establish the formulation of a treasonable action maintaining that, although the authority was derived from the monarch, Laud assumed a degree of authority in excess of that sanctioned by the crown. This was seen as a real concern as it put overweening power in the hands of the archbishop, as Sir Edward Dering observed in November 1640 ‘A Pope at *Rome* will do me less hurt than a *Patriarch* may do at *Lambeth*’.⁷⁵ The often repeated allegations over Laud’s supposed desire to return religion in England to popery were fundamental to parliament’s case. He was criticised for enforcing doctrines of superstition and idolatry and of seeking reconciliation with Rome. Furthermore the allegations insinuated that he connived with ‘popish priests and Jesuits’ and was in secret communication with the papacy. The fear of a return to papacy, or the establishment of an English papacy, was a recurrent theme in parliamentary speeches of the period.⁷⁶ He was accused of preferring chaplains and clerics who were disaffected with elements of the reformed church and who were

⁷³ Laud, *Works*, Vol. VI, p. 589.

⁷⁴ D’Ewes, *Journal*, p. 162.

⁷⁵ *RHC*, Vol. IV, p. 55.

⁷⁶ For instance Benjamin Rudyerd and Lord Falkland on 9 February 1641 raised the issues of popery; and the notion that there had been a desire to bring in an English papacy was in Lord Falkland’s speech, see *RHC*, Vol. IV, p. 183–186.

sympathetic to Roman Catholicism; assuming to himself a level of authority, above the king and the nobility, to nominate unsuitable persons to ecclesiastical office. In addition he suppressed godly and orthodox preachers (and the French and Dutch stranger churches) using deprivation and excommunication to enforce his corruption of true religion.⁷⁷ Several articles dealt with the recent Scottish war and held him responsible for promoting conflict by encouraging Charles to declare war once Laud's religious innovations were rejected by the Scots.⁷⁸ He was accused of continuing with his warmongering attitudes after the pacification of Berwick and of counselling Charles that the peace was dishonourable, this being traitorous as it potentially put the king at an unnecessary personal risk if he pursued a needless conflict.

The final article sought to address the ticklish problem of how a treason charge could be made to stick. It averred that Laud endeavoured to subvert the accustomed rights of parliament through his counsel with Charles and sought to alienate the king from the rightful representatives of the king's subjects. As archbishop he had accepted an oath of office to carry out his activities faithfully, and that he broke that oath when he encouraged the severing of the link between the monarch and his subjects – this was deemed to be treasonable being detrimental to the king and good governance. As Pym commented;

He hath sought to deprive the King of the Love and Counsel of his People, and of that Assistance which he might have from them; and likewise to deprive the

⁷⁷ An example of the suppression of a Dutch minister was reported in NA, SP 16/499 fo. 86.

⁷⁸ See also BL. Add. MS 14828, *The diary of Framlingham Gawdy*, fo. 5r. Gawdy commented about the 'dyvision' caused between the Scots and the English over matters of religion.

People of that Relief of Grievances which they most humbly expect from his Majesty⁷⁹

The king was deemed to be both an individual and also, acting in the role of monarch, the living embodiment of the state; and these two elements were indivisible where treason was concerned. The nature of treason in the early Stuart period will be discussed further in chapter 3, but suffice it to say that the statutory definition of treason was being stretched.

III

Laud, conscious of the case against him, resisted many of the claims that had been made. On 22 December 1640 he was promised a copy of the Scottish accusations, and the next day, in a petition to the Lords, he expressed regret for any offence that he may have given.⁸⁰ On 26 February 1641, he was summoned to the bar of the House of Lords to hear the articles drawn up against him. He acknowledged the 'heavy charge' made against him, and offered that 'I must be unworthy to live, if it can be made good against me; for it makes me against God, in point of religion; against the king, in point of allegiance; and against the public, in point of safety, under the justice and protection of law'. He proceeded then to give a degree of credence to the crucial issue of what constituted treason, and the indivisibility of monarch and state, by saying;

the King and his people are so joined together in one civil and politic body, as that it is not possible for any man to be true to the King, as King, that shall be

⁷⁹ *RHC*, Vol. IV, p. 201.

⁸⁰ *LJ*, Vol. IV, pp. 114 & 116. His petition also requested that he be allowed to take the air whilst under captivity with Black Rod; a request that was granted.

found treacherous to the State established by law, and work to the subversion of the people.⁸¹

In this initial response to the articles he addressed two key elements of the charges. He refuted, firstly, that the Canons had been drawn up through ‘coercion or fraud’ in contravention of the law or the king’s prerogative.⁸² He spent more time however addressing the popery allegation and argued rather that he had discouraged individuals from turning to Rome and that he was considered by many papists, both home and abroad, as their enemy. He maintained that, having no dependents, he would have had no motivation to remain in England if he were a papist; that he had not had any ‘intelligence’ with the Pope or his agents or tried to alter the true religion in the country. He asserted that ‘nothing could make him go agt Conscience’.⁸³

He made a more detailed denial of the articles in his personal journal well before his eventual trial.⁸⁴ The nature of his rebuttal of the articles are relevant to the defence that he presented at his trial - the case he made was extensive and will be considered in detail in chapter 4, however, it is pertinent briefly to summarise the further points raised by Laud. He denied subverting the fundamental laws of the realm or, through inappropriate intervention in cases brought in front of the High Commission, perverting justice. He did not accept that he denied the rights of parliament within the law and, rebutted vehemently the accusation of taking bribes.⁸⁵ Laud refuted that he sought to

⁸¹ Laud, *Works*, Vol. III, p. 396.

⁸² BL, Harl. MS 6424, *Diary of Bishop Warner*; fo. 41r.

⁸³ Ibid., fo. 41r–42v.

⁸⁴ Laud, *Works*, Vol. III, pp. 398–435. The date in the margin indicates that the full responses had been drawn up by February 1642; it is reasonable to assume that they were drawn up in the preceding months.

⁸⁵ Laud, *Works*, Vol. III, pp. 398–404, & p. 420.

return the Church of England to Romish superstitions and doctrines; however he made no apology for desiring to reduce the degree of profanity in God's house and for wanting to keep 'the external worship of God in this Church.....in uniformity and decency, and in some beauty of holiness'.⁸⁶ Laud maintained that he had not abused the power vested in him to nominate persons to ecclesiastical office, and, furthermore, made the reasonable point that the nomination of the king's chaplains was indeed an appropriate archiepiscopal duty.⁸⁷ On the allegation that Laud acquired 'Papal and tyrannical power' he maintained that he had not assumed Charles's authority in secular or religious matters; however he did confirm his belief that episcopal jurisdiction was 'by Divine apostolical right, and unalterable.....in the Church of Christ'.⁸⁸ His belief in *jure divino* was core to Laud although he insisted that this did not infringe upon temporal or secular authority.⁸⁹

Laud asserted that, rather than stir up conflict against the Scots, he was an advocate for peace within the Privy Council, wishing to resolve issues more 'by ink than by blood'.⁹⁰ Furthermore he refuted the allegation that he had tried to overturn the pacification of Berwick, saying that he had advised Charles to maintain his army a few days longer in order to achieve 'more honourable conditions of his Scottish subjects'.⁹¹ Where the introduction of religious innovations into Scotland was concerned, Laud maintained the king instructed him to assist the Scottish bishops in making changes to

⁸⁶ Ibid., pp. 407–408.

⁸⁷ Ibid., pp. 409–410.

⁸⁸ Ibid., pp. 406–407.

⁸⁹ J. P. Sommerville, *Royalists & Patriots, Politics and Ideology in England, 1603 – 1640*, (Harlow: Pearson, 1999), pp. 196–199.

⁹⁰ Laud, *Works*, Vol. III, p. 426.

⁹¹ Ibid., p. 429. Not that, as Laud goes on to say, the conditions achieved were dishonourable 'but only.... less honourable than it might have been', see p. 430.

the liturgy in Scotland. He vehemently denied that this liturgy was popish or superstitious but instead was in line with the Perth articles. Nonetheless, he was clearly influential on the religious settlement imposed in Scotland and the notion that he was not responsible defies credulity. There is a certain irony that both Laud and the Covenanters had the aim of introducing conformity in religious practice between England and Scotland; although the nature of that conformity was very different.⁹²

Laud concluded by reasserting that he was not ‘guilty in the least degree of high treason against our sovereign Ld the King, his crown and dignity’ and, although he upheld the principle of the king ruling with parliament, it was still possible that ‘Parliaments may sometimes, in some things, by misinformation or otherwise, be mistaken’.⁹³ Although parliaments were the rightful upholders of law they were also capable of being corrupted by malignants, and such corruption of an esteemed body was so much the worse. His final request was for a fair trial and it seems that he believed that his trial would be held some time during 1641.

With the detailed articles presented against Laud, Pym was keen to proceed expeditiously. On the 26 February, accompanied by Sir Henry Vane (the younger), he requested a joint parliamentary conference with the Lords to advance the charge of high treason against the archbishop, having urged the Lords for ‘a quick way of proceeding,

⁹² K.M. Brown comments that ‘Archbishop Laud quite clearly was engaged on a campaign to bring the Scottish church into line with that of England’; see ‘Courtiers and Cavaliers’, in *The Scottish National Covenant in its British Context*, ed. J. Morrill, (Edinburgh: Edinburgh University Press, 1990), p. 180. For the Covenanters part, during their negotiations with parliament during the 1640s, Baillie and others often expressed their dream of seeing conformity between England and Scotland of a reformed Presbyterian church.

⁹³ Laud, *Works*, Vol. III, pp. 432-433.

that these great and dangerous Crimes, together with the Offenders, may be brought to a just Judgment'.⁹⁴ However the end of February appears to be the high watermark of any direct action against Laud and the impetus within the Commons to act against Laud decreased during the spring. The clear reason was that progress was being made to bring Strafford to trial, and this matter dominated political activity until Strafford's eventual execution. On 3 February Strafford was given fourteen days to answer charges against him.⁹⁵ On 17 February a further week was granted; and, on 24 February with the king present in the House, he made his response which for D'Ewes 'came exceedinglie shorte of my expectation'.⁹⁶ As for the Commons, their impatience can be seen in a motion looking to expedite Strafford's trial which was raised on 15 February; followed by a conference with the Lords four days later.⁹⁷ As commented in correspondence to the earl of Leicester in mid-March 1641, all the emphasis was focused on Strafford rather than Laud; 'my Lord of Straffords businesse hath so wholly taken up both houses since it begann, as there hath bin litle done but what concernes his Lordship'.⁹⁸

⁹⁴ *PLP*, Vol. II, p. 566; *RHC*, p. 202.

⁹⁵ *LJ*, Vol. IV, pp. 149-150.

⁹⁶ *Ibid.*, pp. 162, 164-165, 171; D'Ewes, *Journal*, p. 407.

⁹⁷ *CJ*, Vol. II, pp. 86, 89.

⁹⁸ *De L'Isle manuscripts*, HMC Vol. VI, p. 396. Relationships with the Scots remained a strategic issue, with the need to seek an accord without, as far as the more conservative were concerned, compromising too much in regard to religion.

IV

As John Adamson has highlighted, Strafford was perceived, from the start of the Long Parliament to 12 May 1641, as the manifest threat by the Junto.⁹⁹ Pym's concern was reported in the original impeachment proceedings in November 1640 and he was keen quickly to neuter Strafford's power.¹⁰⁰ The Strafford threat was significant (and Laud, although generally despised, was viewed as secondary in importance); he was closely allied with the king who, in all likelihood, would resist action against such an important minister of the government - indeed saving him was, in the spring of 1641, a crucial issue for Charles.¹⁰¹ Strafford had, as already mentioned, a menacing military power base in Ireland. Also, if he survived the impeachment proceedings he would, in all probability, seek retribution in the future. On 16 February 1641, Pym underlined the threat in a petition to the Lords, expressing concern for the authority that Strafford had acquired; anxiety that his supporters may be encouraged to rise up and 'break out into flames'; and that the general fear of the people had resulted in accusations from all three kingdoms.¹⁰² The Scots were keen that the English parliament should pursue the impeachment with dispatch (after all, it was against the Scots that Strafford had advocated the use of Irish forces); but some members of the Junto had second thoughts about the efficacy of continuing with the impeachment and trial. The earl of Bedford, in particular, was disinclined to remove the leverage that Strafford represented with the king during the ongoing negotiations on action over grievances in exchange for supply; and when relations had cooled somewhat with the Scots, 'the promise of leniency

⁹⁹ 12 May was the date of Strafford's execution.

¹⁰⁰ J. Adamson, *The Noble Revolt*, p. 109.

¹⁰¹ Cust, *Charles I*, p. 281.

¹⁰² *LJ*, Vol. IV, p. 163; BL, Harl. MS 6424, *Diary of Bishop Warner*; fo. 21v.

towards Strafford provided him with his most valuable bargaining counter'.¹⁰³ Baillie had surmised as much, and also noted that the possibility of rapprochement between Charles and the Scottish party, largely due to the efforts of Hamilton as an intermediary, had led to rumours that the Scots were prepared not to push for proceedings against Laud and Strafford or for an end to episcopacy – rumours that Baillie, who clearly believed that the commissioners' objectives had not wavered, represented as dangerous lies.¹⁰⁴ Baillie commented that the execution of Strafford remained the main objective even though negotiations continued to bring conformity in religion between the two nations.¹⁰⁵

Ironically, however, the performance of Strafford in the Lords on 24 February during his rebuttal of the impeachment articles against him, and the very public support shown by Charles, made it clear that the likelihood of him coming to heel was virtually non-existent and that he needed to be removed. According to his friend, Sir George Radcliffe, Strafford was well aware of the negative effect of the king's public support and, in a rare criticism of his king, Laud also believed that this 'hastened the Earl's death', going on to remark that Charles should have stuck to his principles and conscience, it being 'far more regal' to reject the attainder bill.¹⁰⁶ However, Adamson argues that the Bedford faction remained interested in an arrangement where Strafford's life would be spared (with life imprisonment and loss of all offices); in return for the

¹⁰³ Adamson, *The Noble Revolt*, p. 176-177. Bedford was never the most radical of the Junto and was seeking a constitutional settlement with the king which would encompass the king ruling in conjunction with parliament and the rule of law.

¹⁰⁴ See pages 33-34 above, and Baillie, *Letters and Journals*, Vol. I, p. 305.

¹⁰⁵ Baillie, *Letters and Journals*, Vol. I, p. 309. Russell, *The Fall of the British Monarchies*, p. 198-199.

¹⁰⁶ *Strafforde's letters, (appendix)*, Vol. II, p. 432; Laud, *Works*, Vol. III, p. 441; Adamson, *The Noble Revolt*, pp. 204-205; For the king's speech in support of Strafford see *RHC*, Vol. IV, p. 239.

Junto leadership assuming the main offices of state.¹⁰⁷ The trial against Strafford formally commenced on 22 March and compounded the increasing animosity between Charles and parliament. The trial has received considerable comment both contemporaneously and subsequently; Baillie, for example, whilst in London, proceeded to report back to Scotland, at great length, on the progress of the trial and its outcome.¹⁰⁸ The ongoing concern about the pre-eminent threat of Strafford, during April/May was fueled by the allegations of a papist plot, part of which involved changing his guard at the Tower so as to connive in his escape – Laud, however does not seem to have been included in this escapade.¹⁰⁹ On 3 May, there was growing public anger at the introduction of this new guard, not being comprised of loyal Tower Hamlets Men.¹¹⁰ The threat of tumults against the government, in early May, heightened concern and continued until Charles gave his assent to the attainder on 9 May.¹¹¹ This eventual agreement to Strafford's execution caused him more angst than just about any other issue during his reign.¹¹²

Laud simply did not present the same threat as Strafford and, therefore, there was less urgency to proceed with his trial. As Baillie remarked in his report back to the Presbytery at Irvine on 15 March 1641, action against Laud was not of such critical importance; 'poor Canterburie he is so contemptible that all casts him by out of their

¹⁰⁷ Adamson, *The Noble Revolt*, pp. 217-219.

¹⁰⁸ Baillie, *Letters and Journals*, Vol. I, p. 313-350.

¹⁰⁹ *RHC*, Vol. IV, pp. 240-253.

¹¹⁰ *Ibid.*, p. 249-250.

¹¹¹ *Ibid.*, p. 249-253 & 261. Also, *Strafforde's letters (appendix)*, Vol. II, p. 432; Adamson, *The Noble Revolt*, p. 300; Cust, *Charles I*, p. 287; Pearl, *London*, pp. 216 – 217.

¹¹² It was such a key matter for Charles that he referred to it specifically when on the scaffold himself. See Cust, *Charles I*, pp. 462 & 468.

thoughts as a pendicle at the Lieutenant's eare'.¹¹³ It is, though, surprising that given the almost universal antipathy towards Laud, there was no trial and, instead, he seemingly faded quickly from the national consciousness. The momentum that was building during the late winter and spring of 1641 seemed to dissipate as the year progressed. It has been suggested that the threat of a trial against Laud remained 'right through to the Grand Remonstrance', and theoretically this may be true, although there was little evidence of any impetus to act.¹¹⁴ Lord Saye and Sele, motivated by a wish to rebut Laud's allegations that he was a separatist, made a stinging attack on Laud; criticising his 'mean' birth and lack of breeding, his 'wasplishness and proud Carriage' and his responsibility for the difficulties within the church.¹¹⁵ Apart from the House of Lords allowing certain clerics, such as the bishops of Winchester, Rochester and London, leave to visit Laud in the Tower in June, and assigning him defence counsel in March, there was precious little ongoing activity.¹¹⁶ In the Commons, the committee created to pursue the case against Laud met periodically through the summer of 1641, and on the 26 June Pym wanted a committee jointly with the Lords to bring formal charges and to examine witnesses, taking the matter to the Lords two days later.¹¹⁷ Nevertheless any urgency seemed to be lacking. Negotiations with the Scots had progressed and resulted in the preparation of a peace treaty by August 1641; and, in the summer of 1641, the Scots Commissioners went home to prepare for Charles's visit in

¹¹³ Baillie, *Letters and Journal*, Vol. I, p. 309.

¹¹⁴ Russell, *The Fall of the British Monarchies*, p. 268.

¹¹⁵ BL, Harl. MS 6424, *Diary of Bishop Warner*; fo. 44r–44v.

¹¹⁶ *LJ*, Vol. IV, p. 174–176. The order in the journal was as follows 'Hereupon it was Ordered, That Mr. Herne, Mr. Hales, Mr. Newdigate, Mr. Wyndham, and Dr. Merricke, be assigned Counsel for the Lord Archbishop of Cant. and may have Liberty to have them for Counsel'. Also *LJ*, Vol. IV, pp. 269 & 272.

¹¹⁷ *CJ*, Vol. II, pp. 189–190. The *Commons Journals* list a number of orders for the committee to meet during May – July.

August, thereby removing from the scene one of the groups likely to push for an expeditious outcome.

Laud resigned his Chancellorship of Oxford University but continued to ordain ministers whilst in the Tower; temporarily ignored by parliament who, in June, argued that the best way to prevent this continuing was 'to hasten the Proceedings for his Tryal'.¹¹⁸ There must have been a change of heart by October 1641, because, as Laud reported, he was instructed by the Lords that he should not award any further benefices without first notifying the house.¹¹⁹ Indeed this order showed that the Lords viewed the case against Laud as pending, maintaining that this impingement on his duties was 'until he shall be convicted or acquitted of the charge of high treason'.¹²⁰ Speeches were made reminding parliament of the need to proceed to try him, for example Sir Nathaniel Coppinger, on 24 October 1641, remarked 'let us not deferre or procrastinate the businesse any longer but call him to an *Answer*, with all possible expedition'.¹²¹

The assault on episcopacy was still high on the agenda of the Presbyterian element within parliament. The Commons passed the bill to remove bishops from their role in the legislature, a bill that the Lords, when sent to them in May, rejected albeit with a

¹¹⁸ *RHC*, Vol. IV, p. 280.

¹¹⁹ Laud, *Works*, Vol. III, p. 242 & p. 451.

¹²⁰ *Ibid.*, Vol. III, p. 451. Laud copied within his History the order from the Lords signed by the clerk, John Browne.

¹²¹ N. Coppinger, *A Seasonable Speech by Sir Nathaniell Coppinger Spoken in the High Court of Parliament, October 24. 1641*, (London; printed by B A for T. Bates, 1641), p. A3v; there is no record of any reaction to this speech in the House and the date that it was purported to have been made seems unlikely given that it was a Sunday.

sizable minority of twenty-five voting in favour.¹²² This was followed at the end of the year by the arrest of twelve bishops on treason charges. The bishops had been the subject of increasing opposition from the London crowds, who ‘came down in heaps, if either the Lords or the King denied anything which the House of Commons affected’, and were dissuaded through fear from taking their seats in the Lords.¹²³ This culminated in the twelve bishops presenting a petition to the house, via the king, seeking protection and rejecting all votes that had been passed during their enforced absence. This backfired spectacularly. The Lords were aggravated and viewed the call for the rejection of votes as a breach of privilege in what has been seen as ‘due to a change of heart, rather than to differential absence among the lay peers’.¹²⁴ Laud recorded that, early the next February, the Lords approved the bill denying bishops a vote in parliament, an ancient right that they had held ‘ever since there was any use of Parliaments in England’ and, somewhat ruefully, also remarked on the popular support for this bill.¹²⁵ However the increasing action against episcopacy did not result in any stimulation of specific action against Laud.

Despite the seemingly popular clamour, most especially in the capital, against episcopacy in general and Laud in particular, the conclusion that must be drawn is that the arrest and imprisonment of Canterbury was sufficient for the moment. During 1642

¹²² Russell, *The Fall of the British Monarchies*, p. 343; Woolrych, *Britain in Revolution 1625 -1660*, p. 174. There was still a rearguard action by the traditionalists, Dering made a speech in June where he argued in favour of abolishing the existing episcopacy and a return to a ‘Pure Primitive Episcopal Presidency’. Also, a petition received from the University of Oxford followed a similar theme. See *RHC*, Vol. IV, pp. 293–296; 270-272.

¹²³ Laud, *Works*, Vol. III, p. 452.

¹²⁴ Russell, *The Fall of the British Monarchies*, p. 443.

¹²⁵ Laud, *Works*, Vol. III, p. 243 & pp. 456-7. Laud commented that there were public celebrations following the passing of the bill.

there was an increasing impulsion for people to choose sides and the leaders in parliament needed to be careful not to push waverers into the royalist camp. Also other events; the Catholic uprising in Ireland in autumn 1641, Charles's ill-fated attempt to install Lunsford in the important post of Lieutenant of the Tower, and the failed attempt to arrest the Five Members and Lord Mandeville; were of greater imperative. Proceeding with treason trials at this time was simply not the main priority and as the battle lines became further drawn later in the year, and given that Laud was safely ensconced in the tower, it is not surprising that his trial had become a matter of lesser concern. Consequently the question that follows is why was the matter of Laud's trial disinterred in 1643-44, given the exigencies of the war, an issue to be considered further in chapter 3.

CHAPTER 2 THE PAMPHLET CAMPAIGN AGAINST LAUD

‘I see the multitudes of paper sheets,
Sent from the Presse, and thus they cry them still
Come buy a booke concerning little Will.’¹

I

The period following the arrest of Laud witnessed a plethora of printed material condemning his governmental role and severely critical of his religious direction. Laud’s imprisonment engendered a massive growth in the amount of published pamphlets and newsletters, largely vituperative in content, in particular during the period between his arrest and the execution of Strafford. An analysis of the themes of these tracts helps us build an image of the degree and nature of the popular anger against Laud. The material poses certain issues worthy of further consideration: did the publications fuel the public mood or did they reflect it; why did the degree of written opposition appear to dissipate from the middle of 1642; and to what extent did the publications reflect real opinion within the country? The libels took several forms; polemical tracts, pamphlets, verses, rhymes, ballads, and imagined narrative discussions. Some were meant to be humourous being frequently scatological; others preached, and highlighted that providence always caught up with miscreants in the end, with God’s natural order prevailing. Often pictures were used to reinforce the points

¹ *The Deputies Ghost: or an Apparition to the Lord of Canterbury in the Tower. With his complaint unto the wall after the Ghosts departure Being an Acrostick Anagramme of his Name*, (London; Anon 1641). The source for much of the material used in this chapter is the collection at EEBO; other sources include *Early Stuart Libels*, based on *Early Stuart Libels: an edition of poetry from manuscript sources*. ed. Alastair Bellany and Andrew McRae, *Early Modern Literary Studies* Text Series I, (2005).

made. This chapter will consider the themes presented against Laud; how they reflected the popular claims against him, both ecclesiastical and secular; how the lack of a public trial for Laud was replaced by a 'trial' within the popular media; and how after this initial outburst the clamour subsided in late 1642 and 1643.

On the question of whether the pamphlets truly reflected popular opinion, significant opposition to Laud can be assumed despite the limited amount of material left to posterity. Much of the material comes from the Thomason collection and historians have debated the completeness of the collection and whether Thomason's own political views influenced what he collected.² It has been argued that 'Thomason's interests have coloured interpretations of the events of 1641' and that it is erroneous to suppose that his collection 'did not reflect his own political or religious interests'.³ Others have been less certain, and maintain that Thomason's political attitudes are not clearly delineated through his collection of tracts.⁴ It is believed that Thomason collected between one third and one half of printed pamphlets between 1641 and 1642 and it can be argued that this represented a reasonable sample.⁵ The collection itself provides us with an invaluable insight into the popular politics of the time, although it has been, somewhat unfairly, described as 'tardy, protean and incomplete'.⁶ The existence of a groundswell of popular opinion, reflected in the press, can be seen by the increasing pressure from

² J. Raymond, *The Invention of the Newspaper, English Newsbooks 1641-1649*, p.13.

³ J. Raymond, *Pamphlets and Pamphleteering in Early Modern Britain*, (Cambridge: Cambridge University Press, 2003), p. 163.

⁴ Braddick, *God's Fury, England's Fire*, p. 584.

⁵ Cressy, *England on Edge*, p. 292.

⁶ Raymond, *Pamphlets and Pamphleteering*, p. 194.

the urban mob on Charles to proceed with the attainder ordinance against Strafford and against the potential threats of popish plots.

Poetic libels had become increasingly common during the early Stuart reigns, and targets included (amongst many) Archbishop Bancroft and the duke of Buckingham.⁷ The outpouring of scurrilous attacks on Laud through 1641 in tracts and pamphlets were in a similar, if considerably stronger, vein and paint a picture of popular plebeian opposition and hatred both for him personally and also for his office as archbishop. The link between the urban public and the parliamentary campaign hostile to Laud was maintained by the publication of the articles brought against him in 1640.⁸ The tracts articulated a providential certainty of his perceived guilt to the charges brought against him, and the inevitable punishment that would follow. This providential aspect underlined the rightfulness of the parliamentarian cause; and Laud's demise would be an addition to the testaments of God's approval manifested to the reformed religion in England which included, salvation from the Armada, the Gunpowder plot, and the

⁷ The website *Early Stuart Libels* highlights a number of libellous poems and anagrams. The poem regarding Bancroft (B20; BL MS Harley 3991, fo. 126r), an epitaph following his death, is interesting as it was clearly anti-papal in sentiment;

'Bancroft Was for Playes
Lean Lent and holy-dayes
But now under-goe's their Doome:
Had English Ladies store
Yet kept open a Back dore
To let in the Strumpet of Rome.'

Alastair Bellany has highlighted the libel attacks that were perpetrated on Buckingham along with a general account of the history of early Stuart libels; see A. Bellany, 'Rayling Rymes and Vaunting Verse': Libellous Politics in Early Stuart England, 1603 – 1628', in *Culture and Politics in Early Stuart England*, Ed. K. Sharpe and P. Lake, (Basingstoke: MacMillan press, 1994), pp. 285–310.

⁸ *Articles exhibited in Parliament against William Archbishop of Canterbury*, (London, 1640). A more detailed consideration of the articles appears in chapter 1. Similarly the fuelling of public opinion against Strafford, through the publication of the articles drawn up against him, contributed to the popular enmity that existed against him, See T. Kilburn and A. Milton, 'The public context of the trial and execution of Strafford', in *The Political World of Thomas Wentworth, Earl of Strafford 1621 -1641*, Ed. J. F Merritt, (Cambridge, Cambridge University Press, 1996), p. 232-233.

accidental death of a Catholic congregation during a mass officiated by a Jesuit priest at Blackfriars in 1623.⁹ The libels highlighted the numerous accusations against Laud, mirroring the articles presented in parliament against him; his subversion of the law, government and religion, and his false counsel designed to separate the king from his loyal subjects. They parodied his comparatively humble upbringing, his overweening ambition and his pride and acquisitiveness. Indeed there were few aspects of his life and career that were not treated with derision and with a certainty of his guilt.

Helen Pierce has considered some pamphlets mainly from the perspective of their visual impact. She points out that the satires were accompanied by engravings, many using the Wenceslaus Hollar etching as the basis for the main depiction of Laud; Hollar having business links with the print seller, Peter Stent.¹⁰ Hollar himself produced an early cartoon of Laud discharging a canon that backfires, in front of other members of the episcopacy and three puritan divines or ministers. The cartoon demonstrated the inevitable failure of Laud's ecclesiastical Canons in regard to church governance and their expected impact upon the clergy.¹¹ Helen Pierce has analysed some of the pamphlets and reminds us that the pictorial representations were often as important as the verbal libels and that the printed material should be viewed in its totality. As she comments, 'A closer reading of the visual elements to such material can only enrich our understanding of the consumption and reception of ephemeral news, propaganda and

⁹ A. Walsham, *Providence in Early Modern England*, (Oxford: Oxford University Press, 1999). pp. 265–280.

¹⁰ H. Pierce, 'Anti-episcopacy and graphic satire in England 1640 -1645', in *The Historical Journal*, 47, 4 (2004), pp. 817-818.

¹¹ *Ibid.*, pp. 821-823.

This Canons seald, well forgd, not made of lead,
Give fire, O noe, it will breake and strike vs dead.

That I. A. B. doe sweare that I doe approve the Doctrine and Discipline or Government established in the Church of England, as containing all things necessary to Salvation; And that I will not endeavour by my selfe or any other, directly or indirectly to bring in any Popish Doctrine, contrary to that which is so established: Nor will I ever give my consent to alter the Government of this Church, by Archbishops, Bishops, Deanes, and Arch-Deacons, &c as it stands now established, and as by right it ought to stand: Nor yet ever to subject it to the usurpations and superstitions of the Sea of Rome. And all these things I doe plainly and sincerely acknowledge and sweare, according to the plain and common sence, and understanding of the same words, without any equivocation or mentall evasion, or secret reservation whatsoever. And this I doe heartily, willingly and truly, upon the faith of a Christian: So help me God in Iesus Christ.



Prime, lay the Trayne, thus you must mount, and leuell,
then shall we gett the day, *but freind the Devill.*
Turne, wheele about, take time, and stand your ground,
this Canon cannot faile, *but tis not sound,*
Feare not, weel cast it, tis a desperate case,
weel sweare it, and enioyne it, *but tis base,*
The Mettalls brittle, and tis ram'd so hard,
with an *Oath* &c: that hath fowly marr'd
All our designs, that now we have no hope
but in the service of *our Lord the Pope,*
Dissolve the Rout, each man vnto his calling
which had we kept, we had not now beene falling

(Fig. 1. Wenceslaus Hollar, *Archbishop Laud discharging a cannon*).

information in early modern England'.¹² The visual representations served to reinforce, to perhaps an untutored audience, the force of the anti-Laudian message.

Throughout the 1630s and 1640s books and other printed material were required to be licensed by 'some publicly appointed authority'.¹³ Indeed, Laud himself, as archbishop of Canterbury, was active in implementing the licensing regulations and enforcing control of the press, especially in relation to religious material.¹⁴ The 1637 Star Chamber decree required that seditious, schismatic or otherwise offensive books were to be brought before either the archbishop, the bishop of London or the High Commission so that the offender could be tried in Star Chamber and appropriately punished (potential offences were further clarified to include publications that were contrary to the 'doctrine and discipline of the Church of England').¹⁵ The recall of parliament has been seen as a period when there was a relaxation of legislation curbing the press; however it has also been argued that parliament sought to impose its own licensing regulations against seditious propaganda.¹⁶ Nevertheless, the flourishing market for pamphlets, tracts and newsletters meant that an increasing number of publications were unlicensed and there was a growth in the underground press, fueled by an ever more voracious public ready to consume its publications.¹⁷ Cyndia Clegg has indicated that in the early 1640's it was the 'changing tastes of English readers' and the fundamental alteration in the 'nature of authority' that led to a change in the nature

¹² Ibid., p. 848.

¹³ J. Peacey, *Politicians and Pamphleteers: Propaganda During the English Civil Wars and Interregnum*, (Aldershot: Ashgate, 2004), p. 132.

¹⁴ J. Raymond, *The Invention of the Newspaper*, p. 85.

¹⁵ C.S. Clegg, *Press Censorship in Caroline England*, (Cambridge: Cambridge University Press, 2008), p. 203.

¹⁶ Peacey, *Politicians and Pamphleteers*, pp. 134-139.

¹⁷ Braddick, *God's Fury, England's Fire*, p. 108.

of such publications.¹⁸ Many of the printed pamphlets of this period were published anonymously, most probably to avoid prosecution. Also anonymity for satirical reasons, or to hide the identity of more than one author, may have been necessary in the unattributed tracts against Laud, as they often mimic a real speaker, such as Laud himself, or Strafford, or a functionary such as a physician or a scrivener. Star Chamber ruled, in 1637, that all published material should have an author identified, legislation which was supported by parliament in 1641.¹⁹ Complaints started to be received in parliament regarding the ‘great abuse of Printing scandalous and fictitious Pamphlets’ and parliament attempted to reassert authority with a parliamentary order on licensing in June 1643.²⁰ The tenor and subject matter of the publications chimed with the prevailing mood of the public, reflected in the tracts against Laud, but must have been repugnant to the king and his government. The similarity of the nature of some of the pamphlets; for example, those that dramatised a discourse between Laud and Strafford, would lead one to suppose a common authorship, or a considerable degree of plagiarism.

¹⁸ Clegg, *Press Censorship*, p. 226.

¹⁹ Raymond, *Pamphlets and Pamphleteering*, pp. 64-65 and J. Peacey, *Politicians and Pamphleteers*, p. 134. This Star Chamber ruling had been prepared by Laud’s lieutenant, Sir John Lambe. Dr. Raymond has postulated on the various reasons why an author may have chosen not to acknowledge authorship; the author’s name has simply been lost; that the graphic nature of the content led to an embarrassed anonymity; that the author’s name was irrelevant in that the text had its own weight or that the revealing of the true identity of the author would undermine it.

²⁰ *Diurnall occurrences, or, The heads of severall proceedings in both houses of Parliament*, (London, 1641/2), Thomason / 35:E.201[14], p. A2; Clegg, *Press Censorship*, p. 226.

II

In an analysis of the themes running through the various tracts against Laud, published in 1640 and 1641, probably the most prevalent was the accusation that he intended to return the church to Rome. There was a burgeoning polemic against popery along with a fear that changes in the liturgy and ceremony of the English church were moving it towards a rapprochement with the papacy. Dr. Clifton has commented that after 1642, pamphlets and news-sheets routinely blamed Catholics for the outbreak of hostilities, and he highlights that, in autumn 1641, there were reports of treasonous plots and of a summit meeting at the Vatican to debate the end of heresy in England.²¹ Professor Lake has likened the perception of the growth in Arminianism for many as tantamount to a Catholic fifth column.²² Despite his denials, Laud was accused of being at the epicentre of the popish conspiracy, of being the main protagonist for a return to Rome, and of introducing ecclesiastic and liturgical innovations that caused deep suspicion. As one tract articulated, it was Laud who was seen as preparing the way for ‘Popish wolves to suck thy blood’.²³ He was described as having an ambition to become ‘some Cardinall or little Pope’, and there was satisfaction in that, being imprisoned, he could no longer have ‘confabulation with his hakney Jesuit and Papist,’ or learn, ‘how the affaires go with his reverend Father at Rome’.²⁴ The vivid rhetoric of anti-popery was repeated often, with the papacy described as ‘a ravening wolfe’, the ‘Antichrist’ and the ‘whore

²¹ R. Clifton, ‘Fear of Popery’, in *The Origins of the English Civil War*, pp. 144-145.

²² P. Lake, ‘Anti-popery: the structure of a prejudice’, in *The English Civil War*, ed. R. Cust and A. Hughes, (London: Arnold, 1997), p. 197.

²³ *Canterburies Conscience convicted: or His dangerous projects and evill intents, tending to the subversion of Religion detected: as also some particulars of those Treasons whereof he is now attainted, lying prisoner in the Tower this present. 1641*, (London, 1641).

²⁴ *Mercuries message or a copy of a letter sent to William Laud late Archbishop of Canterbury, now prisoner in the tower*, (London; Anon 1641), p. [A2v]. and, *Romes ABC, being a short perambulation, or, rather articvlar Accvsation of a late tyrannicall Oppressour with a Petition to the Archbishop of Canterbury, now prisoner in the Tower*, (London, 1641), p. 2.

of Babylon'.²⁵ One tract purported to be an epistle from the pope to Laud, whilst in the tower, lamenting that the two men had not achieved their joint desire to return the English church to Rome, expressing hope that their true designs would be fulfilled by the Irish and concluding with the papacy supposedly hoping for Laud's release or, failing that, the wish that he should die a canonised martyr for Rome.²⁶ This tract identified Laud as an agent of the pope who sought to insinuate popery back into the English church.

As has been articulated, Laud believed deeply in the sanctity of the church service and had worked to bring a greater degree of ceremony and order to the liturgy and ritual.²⁷ The positioning, and railing off, of the altar and the prevalence of ceremonial accoutrements such as candles, crucifixes, and icons were roundly attacked for being one step away from popery – and a short step at that. The Laudian reforms were abused and the altars with their candles were described as 'superstitious Romish relicks base'.²⁸ Laud's opposition to what he viewed as the misuse of churches, and his concern for the lack of reverence towards them, was also criticised. A traveller looking for rest in the

²⁵ *Canterburys Will. With a serious Conference betweene His Scrivener and Him. Also a loving Admonition to his Brethren the Bishops*, (London, 1641), p. 6.

²⁶ *A Copie of a letter vvritten from his Holinesse court at Rome, to His Grace of Canterburies palace now in the tower. Deploring his sequestration from his liberty, but commending him for his late care in performing his Holinesse desires*, (London, 1641), pp. 1-4.

²⁷ See above pp. 4-6.

²⁸ Thomas Barlow, *A Christian admonition or friendly exhortation, sent to William Lawd, lace (i.e..late) Arch-bishop of Canterbury, now prisoner in the Tower*, (London; 1641), p. [6], n.b. The page is marked as page 4 in the pamphlet in error by the printer. There are two pages marked as page 4 and the page referred to here would have been page 6.

porch of a church was told to move on because the archbishop had given instruction 'that none should put the consecrated Temple to common uses'.²⁹

A related but more specific issue was the observance of the Sabbath and objection to the approval of sports played on the holy day. Laud was seen as a prime mover in the proposal to reissue the Book of Sports in 1633 and in its recommendation to Charles.³⁰ It is suggested that, despite Laud's personal disregard for frivolous exercises, the Book of Sports enabled Laud to insist on conformity both in England and Scotland.³¹ Whether the movement to ban sports on a Sunday was popular (being for many the only day when such recreation was possible) there was no doubt that, for staunch puritans, the playing of sports on a Sunday was sacrilegious and this was echoed in the tracts of 1641. For example a rhyme expressed that:

.....the Sabbath day in your esteeme

Is kept too strictly, this a fault you deeme

And continued;

You did perswade the King by Proclamation

To give his subjects leave to sport and play

In spite of all gainsayers on that day:³²

In one pamphlet, Laud was given a potion, 'a vomit', by his physician and Laud vomited up various items that charted his multifarious errors. Amongst them was a

²⁹ *All to Westminster: Newes from Elizium, or, A Packet of Wonders brought over in Charons Ferry-Boat last Spring Tyde*, (London, 1641), p. A2r.

³⁰ J. Taylor, *Mercuries message Defended, against the vain, foolish, simple, and absurd cavils of Thomas Herbert a ridiculous Ballad-maker*, (London, 1641), p. 7.

³¹ K.L. Parker, *The English Sabbath, A study of doctrine and discipline from the Reformation to the Civil War*, (Cambridge: Cambridge University Press, 1988), p. 189.

³² *Mercuries message*, p. [A2v].

book which allowed ‘lawful recreations on the Sunday’; duly frowned upon by the anonymous author.³³ It has been suggested that such emetics were regularly prescribed in order to restore balance to the four humours that supposedly formed the basis for all ailments, and here we see the analogy with the imbalance caused by Laud to the body politic and the true religion of the nation.³⁴

The attacks on Laud, in his archiepiscopal role, were often accompanied with attacks on the episcopacy as a whole. The pamphlets of 1641 demonstrated a link with traditional anti-clericalism depicting greed and arrogance amongst the bishops. The prelates were compared unfavourably with the apostles; their motivation being painted as a desire for gold, silver and other riches; a love of food and drink; a disinclination to preach, and certainly not in the afternoon of the Sabbath. They were described as persecutors of others, supposedly, in the name of Christ, and lovers of the trappings of episcopacy – caps, mitres, surpluses, altars, crucifixes and the seals associated with their titles. The apostles, in comparison, were poor, humble, hungry and thirsty, prepared to preach daily, persecuted and suffered in Christ’s cause, and inclined towards equality with others of God’s people.³⁵ The Calvinist focus on the paramount importance of preaching and the Word of God was an important theme that ran through the rhetoric of the time. The Laudian innovations were accused of emphasising the ceremonial and physical manifestations rather than the message. Prelates and ministers that followed

³³ *The Bishops Potion – Or, A Dialogue betweene the Bishop of Canterbury, and his phisition, wherein he desireth the Doctor to have a care of his Bodie, and to preserve him from being let blood in the neck, when the signe is in Taurus*, (London, 1641), pp. 2-3.

³⁴ Raymond, *Pamphlets and Pamphleteering*, p. 219.

³⁵ *Englands Glory in her Royall King and Honorable Assembly in the high Court of Parliament, above her former usurped Lordly Bishops Synod. VVith a discourse betwixt Master John Calvin and a Pre-laticall Bishop whereunto is added the Bishop of Canterburies Dreame*, (London, 1641), p. [A1r]

Laud were held to account in putting the beauty of the temple before the scriptures.³⁶ The Calvinist case was articulated in a mock discourse between Calvin and a bishop in which Calvin poured scorn on the bishop's office calling them 'scarbudges set up by the Devill, to bleare the eyes of the ignorant'.³⁷ The Presbyterian argument that the role of bishop was established by man, not God, was reprised and Calvin, according to the author, went on to criticise the hierarchy and overarching pride of the prelates who 'vaunt themselves in their gewgawes'.³⁸ The sin of pride was especially emphasised and Laud, in an ironic mock will, admonished 'the Episcopacy' to 'beware especially of pride, which is a vice so horrid in the sight of God, that for it he made *Lucifer* which was a shining Angel in heaven, to be a damned fiend in hell'.³⁹ The episcopalian church structure was portrayed as heading for its downfall being 'a house that Built upon the Sand'.⁴⁰ The end of their 'rule like petty Kings' was presaged.⁴¹

Laud as persecutor of the Godly was another prevalent theme running through the tracts and pamphlets of 1641, as was the treatment by Laud of the puritan martyrs, Prynne, Burton and Bastwick. The imprisonment of Laud broadly coincided with their release, towards the end of 1640, and all three returned to London to popular acclaim,

³⁶ *Canterburie[s] pilgrimage [i]n the testimony of an accused conscjenc[e] for the bloud of Mr. Burton. Mr. Prynne. and Doctor Bastwicke. [A]nd the just deserved sufferings he lyes under: shewing the glory of Refo[r]mation, above prelati[c]all tyranny. [W]herein is laid open, the reality of the Scottish nation with the kingdome of England*, (London: Printed for H. Walker, 1641). p. A2v.

³⁷ *Englands Glory in her Royall King and Honorable Assembly*, p. A2r.

³⁸ *Ibid.*, p. A2r.

³⁹ *Canterburys Will. With a serious Conference betweene His Scrivener and Him*, p. 7.

⁴⁰ *Mercuries message or a copy of a letter*, p. [A4r].

⁴¹ *Ibid.*, p. [A3r].

accompanied by a large crowd of well-wishers.⁴² The attacks on Laud described his cruelty to the three and others such as the radical John Lilburne;

and who dare out-face my will, if the Puritans and Burton crosse my humour, or Bastwicke disturbe me, if Laiton, Lilborne, or any such fellowes rise against me i'le prime their eares, whip them, i'le gag them, imprison and correct them severely for it, and they shall know who, & what I am.⁴³

In the pamphlet describing the items vomited by Laud, another article spewed up was the Star Chamber order against the three martyrs which purportedly incriminated Laud in the action brought against them.⁴⁴ In another, Laud's antipathy to the three was lampooned as he requested an unusual ersatz meal, the ears of a Doctor, a divine and a lawyer – a clear reference to Bastwick, Burton and Prynne.⁴⁵ A further victim of Laud, according to the tracts, was Thomas Bensted, the self-proclaimed leader of the Lambeth Palace riots of May 1640, at which a crowd of demonstrators besieged the official home of the archbishop (who happened to be absent) and damaged its orchard and garden. Bensted was subsequently arrested, tried and executed for his role in the riot.⁴⁶ The 1641 pamphlets latched onto the plight of Bensted and again held Laud accountable for his execution calling him 'a murtherer for the death of *Thomas Bensteed*'.⁴⁷ Laud's fear of meeting Bensted in the afterlife was also described (although it was pointed out that, as Bensted the martyr was, undoubtedly, in heaven, it would be a considerable time

⁴² A. Woolrych, *Britain in Revolution*, pp. 168-169; Braddick, *God's Fury, England's Fire*, p. 120.

Prynne and Burton were released on 28 November 1640, with Bastwick being set free two weeks later.

⁴³ *All to Westminster*, p. [A4r].

⁴⁴ *The Bishops Potion*, p.3.

⁴⁵ *A new play called Canterburie his change of Diot. Which sheweth variety of wit and mirth: privately acted neare the Palace yard at Westminster*, (London, 1641), p. [A2v].

⁴⁶ K. Lindley, *Popular Politics and Religion in Civil War London*, (Aldershot: Scolar Press, 1997), pp. 4-8, 27, 34. Bensted was probably a mariner but has also sometimes been described as a tailor or a cobbler.

⁴⁷ *Canterburys Will. With a serious Conference betweene His Scrivener and Him*, p.5.

before Laud came into contact with him again).⁴⁸ The privations suffered by radicals, Presbyterians and puritans during the personal rule were laid at Laud's door in 1641 rather than the king's. Charles's responsibility was not overtly accepted by a populace overwhelmingly supportive of monarchical government - but his counsellors were fair game.

Popular politics of the early 1640s in England were underscored by a visceral fear of Ireland, and a degree of popular support for the Scots, and Laud's involvement in affairs relating to Scotland and Ireland was highlighted in the popular pamphlets of 1641. Popular sentiment was increasingly sympathetic to the Scots in their campaign to protect the reformed Presbyterian Kirk, and in their disapproval of the Laudian liturgy being imposed upon them. On the other hand there was a general, and increasing, fear of a largely Catholic, backward Ireland, accentuating the general alarm regarding popish plotting and insurrection. This fear was to explode into a mass hysterical panic following the uprising in Ireland in 1641-42, whipped up by a frenzied popular press eager to report terrible atrocities.⁴⁹ Laud was seen as accountable for the imposition of English forms of worship into the Scottish church, despite not having direct metropolitan responsibility for Scotland. Laud's direct involvement in Ireland was less clear, however his close association with Strafford, who had been Lord Lieutenant of Ireland, was sufficient to tar Laud with the same brush – and the popular tracts of the

⁴⁸ *The Deputies Ghost*.

⁴⁹ For details of the effect of propaganda resulting from the Irish rebellion, see E.H. Shagan, 'Constructing Discord: Ideology, Propaganda, and English responses to the Irish Rebellion of 1641', in the *Journal of British Studies*, Vol. 36, No. 1, (University of Chicago Press, January 1997), pp. 4-34; D.A. O'Hara, *English Newsbooks and the Irish Rebellion, 1641-1649*, (Dublin: Four Courts Press, 2006), pp. 27-54; See also Braddick, *God's Fury, England's Fire*, pp. 167-168.

time were keen to accept any excuse to implicate Laud. The pretend missive from the pope to Laud sardonically described the Scots (in the pope's eyes) as 'Hereticall' and expressed the hope that 'in Ireland wee hope our deare children will perpetrate all the good they can devise'.⁵⁰ Another pamphlet specifically accused Laud of encouraging the king to take up arms against the Scots through a supposed confession by a contrite Laud.⁵¹ The plight of the Scots was combined with that of the puritan English, both being victimized:

Because the Scot his Lawes would not accept,
And Protestants in England them reject.⁵²

Alexander Brome composed an ardently anti-papal lampoon based on a Chaucerian Canterbury tale, the pun on Canterbury being obvious. Added to the tract there was a piece about a Scots pedlar who displayed the wares that he carried in his pack. Amongst them was supposed evidence of papist influence in the attempted deposing of the three kingdoms in Britain;

For Reliques, here's the hand of Signior Con
The fingers of a Spanolized Don,
Who pointed out three Kingdomes overthrow.⁵³

(The reference to Father George Con, a Scottish Catholic closely associated with the queen and with papal links, was important as it demonstrated the deep distrust of

⁵⁰ *A copie of a letter written from his Holinesse court at Rome to His Grace of Canterburies palace*, pp. 2-3.

⁵¹ *Canterburies Conscience convicted*.

⁵² *Lambeth Faire's ended, or, A description of the Bishops holy ghost lately set to sale at Lambeth Faire*, (London; Anon 1641), p.4. The reference to 'His' in this case related to Laud.

⁵³ Alexander Brome, *A Canterbury Tale, translated out of Chaucers old English into our now vsvall language, Whereunto is added the Scots pedler*, (1641), p. [A4r]. Brome was a minor poet who became a supporter of the king's cause and a critic and satirizer of the king's enemies. See *ODNB* entry by Roman Dubinski, <http://www.oxforddnb.com/view/article/3501>, (accessed 15 February 2011).

potential papal influence at the king's court). The printed confession of John Browne, an accused Jesuit, further detailed Laud's involvement in the establishment of a liturgical and ecclesiastical form in Scotland intended to align it more closely with England. He maintained that Laud introduced 'his innovations by setting up of Altars, Episcopall robes and Organs' in Scotland, and also transformed the church in Edinburgh into a cathedral and appointed a bishop 'where was never any before'.⁵⁴

Laud's supposed cruel treatment of proper God fearing ministers and his favouritism towards those who conformed to the Laudian innovations were articulated, with some of his main supporters also lampooned: - Matthew Wren, Dr Arthur Ducke, and Sir John Lambe.⁵⁵ Wren, bishop of Ely, and subsequently Norwich, was, with Laud, roundly despised by puritans. Ducke assisted Laud in the administration of the office of archbishop and has been described as ubiquitous and indispensable.⁵⁶ Lambe was appointed by Laud as dean of the Court of Arches and, supported Laud in legal matters. He has been painted as loyal and tenacious, but also extremely ambitious, a bully and hated by his opponents.⁵⁷ He was a longstanding member of the list of civil lawyers and, as Brian Levack has established, there was growing resentment between the civil

⁵⁴ *A Discovery of the Notorious proceedings of William Laud, Archbishop of Canterbury, in bringing innovations into the Church, and raising up troubles in the State, his pride in riding in his Coach when the King himselfe went along on foot, and being reprov'd would not alight. With his tyrannicall government both in himselfe and his Agents. Confessed by John Browne a Prisoner in the Gatehouse, twice examined by a Committee of six from the Honourable House of Commons. And now brought to the view of the world, October 15. 1641.* (London; Henry Walker 1641), p. A2r.

⁵⁵ An example of a lampoon of Wren, Lambe and Ducke can be found in *The organs eccho To the tune of the cathedrall service*, (London: Anon 1641). They were accused of covetousness in *A true Description, or rather a parallel betweene Cardinall Wolsey, Arch-Bishop of Yorke and William Laud Arch-Bishop of Canterbvry*, (London, 1641), p. 7.

⁵⁶ Carlton, *Archbishop William Laud*, pp. 106-107. In 1628 Ducke was given the role of chancellor of the diocese of London and in 1635, Bath and Wells. He was also qualified as a Doctor of Civil Laws.

⁵⁷ *Ibid.*, p. 106.

and common lawyers during the 1640s.⁵⁸ Levack describes Lambe as pledging ‘absolute subservience’ to Laud and criticism of Lambe impacted on Laud by association.⁵⁹ Again referring to the ‘vomit’ of Laud, he was portrayed as spewing up a bundle of papers in which he supposedly gave church benefices to ‘some journey-man Curate’ who did not preach appropriately within their ministry.⁶⁰ Thomas Barlow severely criticised the suspension of ministers undertaking God’s proper duties, such as preaching and admonishing the sins of their parishioners, and their replacement with unworthy substitutes who would just ‘cringe & bow And sing a Masse’. In addition, he accused Laud of not caring about the fate of the displaced ministers and their families.⁶¹ The tracts also made sarcastic comment on the poor quality of the priesthood and their fear at potentially losing their benefices having become idle and incapable of anything except living off of their parishioners;

It’s now so long, since we forsooke the trade
Of cobling, weaving, thatching and the spade,
That for to worke our bodies are unfit;
Nor can We bring our hearts at all to it.
If we therefore must let our Priest-hood fall,
This then we beg most humbly of you all.
That still we may enjoy our belly cheare;

⁵⁸ See B. P. Levack, *The Civil Lawyers in England 1603-1641*, (Oxford: Oxford University Press, 1973), in particular pp. 122-157.

⁵⁹ *Ibid.*, p. 188.

⁶⁰ *The Bishops Potion*, p. 3.

⁶¹ Barlow, *A Christian admonition or friendly exhortation*, p. 4.

And idly live, without all worke or care.⁶²

Again, Laud was connected to the long-established anti-clerical sentiment being, as archbishop, responsible for failing ministers with some specific ministers also held to account: such as Dr. Walton, minister of St Martins Orgar, Canon Street.⁶³

Laud's supposed greed and harshness was attacked along with using his position and power to his own advantage. His involvement in the government during the imposition of unpopular taxes, especially ship money, are noted; and he was accused of using the courts to his own ends; 'his chiefe trafficke was in justice, which he sold by whole sale in the high Commission Court'.⁶⁴ His administration of the ecclesiastical courts was condemned and his officers, principally Ducke and Lambe, were accused of 'extortion and exaction' and the court was described as the most 'corrupt Court in the world'.⁶⁵ He was likened to Cardinal Wolsey in his tyrannous use of Star Chamber and also in his overweening ambition, both having insinuated themselves 'into the breasts of the Privie Counsellours'.⁶⁶ Like Wolsey, he was accused of wanting to be 'a Patriarch in these Kingdomes' because 'he could not be Pope at Rome' and that he sought to

⁶² *A Reasonable Motion in the behalfe of such of the clergie, as are now questioned in Parliament for their places. Together with the conference betwixt the two great associates, William Arch-bishop of Canterbury, and Thomas late Earle of Strafford*, (London, 1641), p. [A2v].

⁶³ *The articles and charge proved in parliament against Doctor Walton, Minister of St. Martins Orgars in Canon Street. Werein his subtile tricks, and Popish Innovations are discovered; as also the consultations, and assistance he hath had therein by the Archbishop of Canterbury, the Bishop of Rochester, Mr Brough and Mr Baker to effect the same*, (London, 1641), pp. 3, 4 & 7. Walton was censured for setting up the Altar in the East wing of the church; for refusing to preach and catechise on a Sunday afternoon; and under Lambe's auspices, for profiting extortionately from, and consequently depriving, the parish.

⁶⁴ *Romes ABC*, p. 2.

⁶⁵ *A Discovery of the Notorious proceedings of William Laud*, p. A3v.

⁶⁶ *A true Description, or rather a parallel betweene Cardinall Wolsey, Arch-Bishop of Yorke and William Laud Arch-Bishop of Canterbvry*, p. [5]. Through a printing error page 5 is headed as page 2. There are two pages numbered 2.

establish a 'Vatican at Lambeth' with all the trappings of semi-regal authority.⁶⁷ A further author imagined a dream where Laud, whilst in the Tower, was visited by Wolsey, underlining the comparison between the two within the public consciousness.⁶⁸ He was also attacked for trying to further his own wealth especially through malfeasance related to tobacco patents.⁶⁹

During the 'personal rule', he endeavoured to bring the Dutch and French stranger churches into conformity with the established church - under appropriate episcopal jurisdiction - wishing them to use the authorised prayer book and church ceremony.⁷⁰ The stranger churches were distributed within many of the urban centres of southern England, notably London, Norwich, Canterbury and Southampton and the original refugees that had established the churches were not naturalised English men and women. In 1634, Laud had ordered that the offspring of these refugees, being subjects of the king, should be required to conform to the liturgy of the established church. After some opposition, the process of conformity took place over the remainder of the decade.⁷¹ Consequently, he was castigated for this activity after his arrest; 'Canterburie would have exil'd both our Dutch and French Church out of the Kingdome'.⁷²

⁶⁷ *A Discovery of the Notorious proceedings of William Laud*, pp. A3r & A3v.

⁶⁸ *Canterburies Dreame*, (London, 1641). N.B. This has been attributed to John Milton on *EEBO* but it seems unlikely that he was the author.

⁶⁹ *The Bishops Potion*, pp. 2-3; also *Romes ABC*, p. 3.

⁷⁰ Laud, *Works*, Vol. VI, pp. 22-28; see also *ODNB* extract for William Laud, section entitled 'Foreign churches and the Scottish crisis', by A. Milton, <http://www.oxforddnb.com/view/article/16112>, (accessed 18 April 2011).

⁷¹ Trevor-Roper, *Archbishop Laud*, pp. 197-202.

⁷² *A True description or rather a parallel betweene Cardinall Wolsey, Arch-Bishop of Yorke and VWilliam Laud Arch-Bishop of Canterbury*, p. 6.

Laud's close association with Strafford received the highest criticism from the tracts, with them often depicted having a conversation in the Tower about their misdemeanours.⁷³ They were starkly portrayed as the chief architects of the problems that had befallen the kingdom;

Our Counsellors were together knit
So close, so even, they did goe
To worke the Common weale its woe.⁷⁴

So intimately did the two work together that it was difficult to determine which 'plot' was attributable to which individual; they were perceived as intertwined in their guilt.⁷⁵ Following his arrest, and especially at the time of his trial, there had been a similar outburst of written condemnation of Strafford within the public sphere and it has been stated that Strafford's trial 'was carried out as much in the public domain as in Parliament'.⁷⁶ This resonated with the accusations against Laud; they were viewed as a pair, equally reprehensible and responsible for the worst excesses of the personal rule. A further poem underscored this combination of the two men in the public consciousness. Through 13 verses it catalogued their misdemeanours, highlighting their plots to bring in papism and to subvert the crown and country; Laud leading the ecclesiastical plot and Strafford the secular: 'Tom doth the Commons racke & teare,

⁷³ Some artistic licence was used for those pamphlets that were published after Strafford's execution.

⁷⁴ *A reasonable motion in the behalfe of such of the clergie*, p. [A3v]. See also *The Discontented Conference Betwixt the two great Associates, Thomas late Earle of Strafford and William Archbishop of Cantorbvry*, (London, 1641).

⁷⁵ *The Discontented Conference*.

⁷⁶ Kilburn and Milton, 'The public context of the trial and execution of Strafford', in *The Political World of Thomas Wentworth*, p. 231.

and Will. the Clergies skull up reare which weighs downe all with Pride.’⁷⁷ The first verse set the theme:

Landless Will: of Lambeth strand
and blacke Tom Tyrant of Ireland
like Fox and wolfe did Lurke
with many Rookes and madgepies
to picke out good King Charles his eyes
and then be Pope and Turke.

This verse showed Laud (Will) and Strafford (Tom) as a fox and wolf, with their henchmen, preying on the king to further their plots to become pope and tyrant (Turk).⁷⁸ The dating of this ballad is attributed to between the Short and Long Parliament but the final verse indicated that it may well be subsequent to their arrest as it referred to the failure of their plots and identified a sorry end at the scaffold; ‘the triple Tree must fitt’.⁷⁹

The disparagement of Laud seemed to be especially vituperative because of his rise from a relatively humble upbringing, born in the provincial town of Reading, to a position of seniority.⁸⁰ There was a latent snobbishness in the tone of the pamphlets; he rose up due to unacceptable ambition and therefore his subsequent fall was greater and

⁷⁷ *Landless Will: of Lambeth Strand*, v.4, BL MS Harl. 6947, fo. 210r-v, taken from *Early Stuart libels*.

⁷⁸ *Ibid.*, v.1, the reference to rooks and magpies, as members of the carrion eating crow family, was indicative of creatures who feast on carcasses i.e. profit from the misfortune of others. N.B. characters in Ben Jonson’s *Volpone*.

⁷⁹ *Landless Will: of Lambeth Strand*, v.13.

⁸⁰ Carlton, Archbishop *William Laud*, pp.1–4. His father was a clothier, albeit a relatively affluent one. His mother had also been married to another clothier, before being widowed and subsequently marrying Laud’s father.

appeared to give, concomitantly, greater satisfaction; his opponents could see ‘how high in pride he soar’d’.⁸¹ Laud’s background being of the ‘middling sort’ was consequently demeaned; ‘Hast thou forgot the place of thy meane birth’.⁸² The denigration of his lowly beginnings can be compared to similar smears of Wolsey and reflected both anti-clericalism and distaste that talented individuals of the ‘middling sort’ could ascend to positions of authority; ‘They were both the sonnes of meane and Mechanick men, *Wolsey* of a Butcher, *Laud* of a Clothworker’.⁸³ The nature of Laud’s common upbringing could potentially impact upon the final means of his retribution; hanging, drawing and quartering, and not beheading - a factor not lost on the pamphleteers. This was brought out starkly in a comment, purportedly from Strafford, relating to their potential alternative forms of execution;

But in conclusion there must be

A Rope for you, an Axe for me.⁸⁴

The likelihood that because he was ‘a Clothworkers son’, he would not ‘grace the Block’ is reprised in another tract.⁸⁵

An important theme within the structure of certain of the tracts and pamphlets was the seemingly contrite attitude attributed to Laud. Many of the pamphlets described Laud as regretting his activities and expecting due retribution both in this life and the next. We can assume that the authors were predominantly Calvinist in their beliefs or were

⁸¹ *Canterburie[s] pilgrimage*, p. A3r.

⁸² Barlow, *A Christian admonition or friendly exhortation*, p. 3.

⁸³ *A True description or rather a parallel betweene Cardinall Wolsey, Arch-Bishop of Yorke and VVilliam Laud Arch-Bishop of Canterbury*, p. 3.

⁸⁴ *A reasonable motion in the behalfe of such of the clergie*, p. [A4r]. See also *The Discontented Conference*.

⁸⁵ *Mercuries message*, p. [A3r].

arguing from an anti-court perspective. However, one can detect varying gradations of radicalism in the various voices that came through these documents. One can also suppose that they would consider that Laud was not predestined to enjoy the glories of heaven, although it was deemed important that Laud should seek expiation for his sins. The maintenance of social balance was assisted when miscreants admitted their guilt and the importance given to the recantation of sin at the point of execution was clear. Dr. Sharpe has highlighted the importance of scaffold speeches which gave the guilty party an opportunity to admit his sins and crave forgiveness before being executed and also for society to witness that right prevails in the end. Also Peter Lake has emphasised the providential importance, articulated in pamphlets, of murderers being brought to justice sometimes through almost supernatural means.⁸⁶ At the execution of Strafford, two 'speeches' were published, one supposedly given at the scaffold where Strafford continued to express his innocence, and one purportedly made in the Tower before he was taken to the block, which followed the more traditional form of admittance of guilt and expiation.⁸⁷ As Laud was incarcerated, rather than tried and executed, the opportunity for a death scene recantation was removed however this did not inhibit many of the tracts from reflecting a similar sentiment. Laud's supposed plea for repentance is articulated in his request for forgiveness for being the shepherd who did not guard his flock against the incursion of papist wolves.⁸⁸ In the production of his

⁸⁶ J. A. Sharpe, 'Last Dying Speeches': Religion, Ideology and Public Execution in the Seventeenth Century', in *Past & Present*, No. 107 (May, 1985), pp. 144-167; P. Lake, 'Deeds against Nature: Cheap Print, Protestantism and Murder in Early Seventeenth-Century England' in *Culture and Politics in Early Stuart England*, pp. 269-274.

⁸⁷ T. Kilburn and A. Milton, 'The public context of the trial and execution of Strafford', *The Political World of Thomas Wentworth*, pp. 244-250.

⁸⁸ *Canterburies Conscience convicted*.

mock will Laud was shown in a remorseful light and his prayers bequeathed to the nation speak of contrition;

My admonition to future Judges, that they forsake and contemne bribery, and love and cherish equitie. My counsell to the Hierarchy; that they be humble minded, tender hearted, piously affected, industrially to their studies bended, preaching painfully and purely, that it may prove to the edification and salvation of the people: let my falling by sinne, be a cause of their rising by grace.⁸⁹

The above extract is interesting as it suggested that in repayment for Laud's rightful punishment for the sins he was deemed to have committed, others could rise in grace. Others also sought to encourage Laud to reflect on his activities so that he could experience true remorse;

Into your heart, as now might cause you make
A narrow search, and a strickt notice take
Of that foule, blacke, mishappen ugly sin
Which you these many yeares have lived in!⁹⁰

Again, contrition and acceptance of the appropriate punishment was urged on Laud;

You'l find this truth, wages of sinne is death;
Did you expect my Lord a yeare ago,
To see your glorious light extinguish'd so;
Did you once dreame of this disaster sad,
Sure no, y'ad liv'd much better if you had,⁹¹

⁸⁹ *Canterburys Will. With a serious Conference betweene His Scrivener and Him*, p.7.

⁹⁰ Barlow, *A Christian admonition or friendly exhortation*, p. [6.]

⁹¹ *Mercuries message*, p. [A3v].

Or more succinctly, Laud accepted the inevitable retribution; ‘I did offend, and therefore I must dye’.⁹²

III

Perhaps the most idiosyncratic of the pamphlets published in 1641, which sought to denigrate Laud, was *Archy's Dream*; purportedly written by Archy Armstrong, the king's jester during the 1630s. Enmity had arisen between Armstrong and Laud, which one of Laud's biographers attributed to his being ‘destitute of humour and devoid of tolerance’.⁹³ In 1638, matters came to a head and, possibly under alcoholic intoxication, Armstrong was abusive towards Laud, referring in particular to the Scots rejection of the English prayer book. Laud complained and Armstrong was subsequently dismissed from court, so the publication of *Archy's Dream* was the jester's opportunity to exact revenge against Laud.⁹⁴ The dream purported to foretell Laud's arrest; Armstrong having supposedly only been informed that Laud had been imprisoned when relaying details of the dream to an associate.⁹⁵ Mention was made that those who offended Laud risked losing their ears, a reference to Prynne, Bastwick and Burton.⁹⁶ There was censure of Laud's lack of enthusiasm for preaching.⁹⁷ Laud, in the dream, was presented with the petition of complaints against him and was described as ‘more like a

⁹² *The Deputies Ghost*.

⁹³ Trevor-Roper, *Archbishop Laud*, p. 364.

⁹⁴ See Trevor-Roper, *Archbishop Laud*, pp. 364-365; Carlton, *Archbishop William Laud*, pp. 154-155. Presumably the abuse was deemed to have gone beyond any licence extended to the court fool.

⁹⁵ A. Armstrong, *Archy's Dream sometimes jester to his maiestie but exiled the Court by Canterburies malice*, (London: 1641), p. [A4r].

⁹⁶ *Ibid.*, p. A2r.

⁹⁷ *Ibid.*, p. [A3v].

spirit come out of purgatory, then (*sic*) one ready, to receive the Papall diadem'.⁹⁸ Appalling apparitions of Wolsey and Bonner appeared; 'dancing a galliard, whipt forward by a company of Hellish hagg's'; and judgment was cast on Laud that he 'should be forever banished *Elizium* because the law for his hainous offences did require the same'.⁹⁹ Armstrong made a moralistic comment on his erstwhile enemy; 'though a man be never so Honorable, Puissant, Rich or Learned, yet if his vices Obnubilate his vertues, he shall not be respected, but farre more contemned and abhorred'.¹⁰⁰

The arrest of Laud was the catalyst for his many opponents to voice their condemnation of him both officially, and also through the medium of scurrilous pamphlets tracts and ballads. However these tracts may not represent the only view of the Laudian innovations. Throughout the country there had been opposition to the return to a more ritualistic and sanctified form of worship, as evidenced by the recorded disputes between certain priests and their church wardens over the placing and railing off of altars. But there were also supporters who wished to see the maintenance of the English prayer book and a more ordered church ceremony; however their voice is unheard in the pamphlets and tracts that have survived. Nevertheless, in microcosm, the considerable concern over the religious changes introduced by Laud can be perceived from these tracts, articulated through the polemic and rhetoric of the period. Indeed

⁹⁸ Ibid., p. [A3v].

⁹⁹ Ibid., pp. [A3v]–[A4r]. Bishop Bonner was a conservative bishop who served under Henry VIII and was active against supporters of reformed religion. He was depicted as the most vicious exponent of the Marian burnings by Foxe in *Acts and Monuments* acquiring the name of 'Bloody Bonner' thereafter.

¹⁰⁰ Ibid., p. [A4r].

some opponents of Laud expressed their disparagement in a more detailed form, notably Robert Baillie and William Prynne.

Robert Baillie, in the *Ladensium Autokatakrisis*, of 1641, a strongly worded anti-Arminian and anti-papist polemic, which was to be reprinted in 1643 as *The life of William now Lord Arch-Bishop of Canterbury examined*, heavily criticised Laud and the innovations of the Laudians. He did not confine his criticism to Laud but listed others who held some responsibility for the religious shift towards popery; however there was no doubt that Laud was his principal target.¹⁰¹ In a frontal attack on the introduction of the prayer book in Scotland, Baillie described it as containing ‘the seeds of superstition, heresie, idolatrie and antichristian tyranny’ and that the expected Laudian response would be that ‘No such thing is meant; and that wee may upon the like occasion blame the service Booke of England’.¹⁰² Baillie maintained that the Prince should protect the nation from popery and that anyone spreading popery should be ‘severely punished by the King’.¹⁰³ He proceeded, in minute detail, to analyse the state of religion; commenting on the growth of Arminianism with the ‘*Arminian* ensigne fairly now displayed in *England*’; and that the followers of Arminianism, led by Laud, ‘persecute with all extremity’ with Laud personally complicit in defending against

¹⁰¹ R. Baillie, *Ladensium Autokatakrisis, the Canterburians Self Conviction: OR, An evident demonstration of the avowed Arminianisme, Poperie, and tyrannie of that faction, by their owne confessions*, (London, 1641), p. [A1r]. Amongst others he includes Bishop Montague of Chichester, Bishop Hall of Exeter, Peter Heylyn and Dr Pocklington as members of the Laudian group. See also R. Baillie, *The life of William now Lord Arch-Bishop of Canterbury examined*, (London, 1643), p. [A1r].

¹⁰² Baillie, *Ladensium Autokatakrisis*, p. 2.

¹⁰³ *Ibid.*, p. 5.

anything that ‘seemes crosse to *Armianisme*’.¹⁰⁴ Baillie sought to highlight the Laudian plan to develop rehabilitation with Rome:

They will have us to understand though wee and the Papists differ in some things, yet that this very day there is no schisme betwixt Papists and Protestants, that Protestants keepe union and communion with the Church of Rome in all things required for the essence of a true Church and necessary for salvation, that though they communicate not with some of her doctrines and practices yet this marres not the true union and communion of the two Churches both in faith and charity. That these who passe harder censures on Rome are but zelots.¹⁰⁵

The desire to move the church closer to Rome was evinced by the assumption of many of the idolatries of Rome, with Laud especially responsible for worshipping at the altar.¹⁰⁶ Baillie also commented on the heretical dogma, idolatry, and return to superstition of the Arminians and asserted that the Laudians embraced the Mass so ‘beloved by papists’ and so ‘hated by Protestants’.¹⁰⁷ He concluded by considering the obligation not to foment resistance against a monarch and how this became problematic where the king and his ministers ‘destroy the true religion’, and support the tyranny of the church, so that subjects were being required to resist God’s law.¹⁰⁸ Baillie was a major critic of Laud and in his role with the Scottish Commissioners he helped to maintain the pressure against him. The re-publication of the tract in 1643 may well have been intended to reassert that pressure, however when he returned to England in

¹⁰⁴ Ibid., pp. 19, 21 & 24.

¹⁰⁵ Ibid., p. 43.

¹⁰⁶ Ibid., p. 52.

¹⁰⁷ Ibid., p. 90.

¹⁰⁸ Ibid., p. 129.

November 1643 there was scant mention of Laud in his *Letters and Journals* despite the fact that his second sojourn in London coincided with Laud's trial.

The other importunate critic of Laud in print was William Prynne; indeed Prynne's vendetta against Laud was to result in him being a persistent presence during the trial. However his publications tended to be produced in 1640-41. In November 1640 he entered the debate on whether episcopacy was *jure divino* clearly articulating that as no apostle had authority over any other, that 'Arch-Prelates' have 'therefore no Jurisdiction by divine Institution'.¹⁰⁹ His publications of 1641 tended however to be directed more personally at Laud. In *Canterburies Tooles* he proceeded to itemise the elements of Laudian religious governance which were 'after the fashion of Rome'; the book of Canons, the 'etcetera' and other oaths, the liturgical innovations including 'some bad things taken out of the masse book', and changes in ceremony.¹¹⁰ He concluded by remarking that 'tis pittie but that Bishops and Ceremonies should both be sent packing to Rome the place of their originall'.¹¹¹ In the same year he had published a jaundiced biography of Laud entitled *Rome for Canterbury* which highlighted the many well-rehearsed condemnations of the archbishop. Prynne discussed the comparatively lowly birth of Laud, albeit not in wholly disparaging terms, and went on to identify Laud's perceived unjust role within Star Chamber, especially against Prynne

¹⁰⁹ W. Prynne, *Lord Bishops none of the Lords Bishops or a short discourse wherein (sic) is proved that Prelaticall jurisdiction, is not of divine institution, but forbidden by Christ Himselfe, as heathenish and branded by his Apostles for Antichristian*, (1640) p. A4r.

¹¹⁰ See W. Prynne, *Canterburies Tooles, or, Instruments wherewith he hath effected many rare feats, and egregious exploits, as is very well known, and notoriously manifest to all men*, (1641), p. 1-6.

¹¹¹ Ibid., p. 6.

himself, Bastwick, Burton and Bensted.¹¹² The tract also mentioned the suppression of the stranger churches; that Laud failed to sufficiently punish those undertaking jesuitical or crypto-papist activities; his intention ‘to bring Poperie into the Kingdome’ and that the introduction of the Scottish prayer book was the ‘incendiary of all these late troubles between the two Kingdomes’.¹¹³ The tract also picked up the theme of Laud’s repentant conduct following his incarceration. Laud was reported as describing himself as ‘a childe of wrath, a vessell of dishonour’ and that he would ‘summe up all my offences’ and ‘confesse my vilenesse’.¹¹⁴ Here again the recorded penitence of the sinner is important to demonstrate providence’s demand that right must triumph. Towards the end of Laud’s trial, Prynne was to publish other material with the express intent of influencing the final verdict of the Lords. *A breviat of the life of William Laud, Arch-bishop of Canterbury* was a heavily distorted and annotated extract from Laud’s dairy which had been taken by Prynne from Laud during his imprisonment. The impact of this will be considered later, but it demonstrated the determination of Prynne to ensure Laud’s guilt.

IV

The public condemnation of Laud in popular print in 1640-41 reflected the Long Parliament’s determination to take concrete action against the king’s counsellors. The tracts and libels fuelled public antipathy which in turn sparked further attacks in print.

¹¹² W. Prynne, *Rome for Canterbury: or, a true Relation of the Birth, and Life of William Laud, Arch-bishop of Canterbury*, (1641), p. 3.

¹¹³ *Ibid.*, pp. 4-5.

¹¹⁴ *Ibid.*, p. 5.

The publication of attacks continued into 1642 but became less prevalent in 1643. Some of the 1642-43 tracts continued in the same vein as those discussed above. For instance, an imagined discussion between the arch-bishops of Canterbury and York was the basis for a tract by Laurence Price; which the author immodestly described as ‘well worth the Reading’.¹¹⁵ The discourse considered Laud’s popish credentials and that he should suffer the same penalty as other popish miscreants, but also should seek remittance for his sins.¹¹⁶ The theme of recantation of sin was repeated in *Farewell myter or, Canterburies meditations* by Richard Newrobe and he also underlined the breadth of opposition against Laud; ‘the winde blowes and whispers nothing but the newes of a chill and cold guilt which like qualmes possesse and overcome my vitall parts, The peoples curse and dayly exclamations against me’.¹¹⁷ It is quite possible that libel ballads continued to be written during the period of Laud’s trial and execution, although it is difficult to be certain of the provenance of the dating for these libels. Two examples can be found which are supposedly from the period 1644-45 but could well have been composed earlier. One anti-episcopal ballad presaged Laud’s death:

Take with you Bishop Lad, (*sic*)

That’s Canterberrie

Trotting upon a Jade

Soone to that ferrie

Advance ye Charon

¹¹⁵ L. Price, *A new Disputation Betweene the two Lordly Bishops, Yorke and Canterbvry*, (London, 1642), p. A1r. The tract was first published on 2 February 1642 and was reprinted and extended just two weeks later.

¹¹⁶ *Ibid.*, pp. 2-7.

¹¹⁷ R. Newrobe, *Farewell Myter or, Canterburies meditations. And Wrenn’s syllogisms*, (London, 1641/2), p. A2r.

With a good fraught
When ye are everyone
To his boat brought¹¹⁸

Another, again purporting to be from this period, marked the downfall of Laud and his henchmen, Wren and Finch, and the likely end of Laud; ‘Give Laud to the Devil and praise to God’. The likelihood that this libel was of earlier origin is supported by lines which indicated that Laud would lose his status as archbishop as well as his place in heaven.

Your little Grace for want of grace
Must lose the patriarchal place
And have no grace at all’¹¹⁹

The fear of Rome was widespread, an imprinted paranoia which referred to the Spanish influence in the reign of Mary, the alarm of 1588 and the plot of 1605. This was highlighted in a partly anti-Laudian tract in 1642 which related to the appointment of Thomas Lunsford, an alleged papist sympathiser, as Lieutenant of the Tower by Charles in December 1641. His appointment, it was argued, presaged an intent to free Laud, Wren and other clerics from captivity so that they could flee to Spain, where

¹¹⁸ NA, SP16/506 fo.54–55. Charon was the boatman who ferried the dead across the river Styx to whatever afterlife awaited the traveller. The anti-episcopal nature of this libel can be seen in a preceeding verse:

‘These Prelates presumtuously,
By Usurpation
Of Laws and Liberty
Would ruin this Nation’.

¹¹⁹ NA, SP16/506 fo. 56. John Finch was another hate figure for the puritans. Former speaker of the house, he followed a judicial career that included the ship money case and, in Star Chamber, the case against Prynne. He became Lord Keeper in 1640 and was impeached by the Long Parliament, largely due to his relationship with Strafford, from which he fled to the Netherlands. See *ODNB* biography by Louis A. Knafla, <http://www.oxforddnb.com/view/article/9438>, (accessed 3 November 2011).

uninhibited they could trumpet their support for Rome and ‘where the one should have bin made a Cardinall, & the other Sainted’.¹²⁰ However the barrage of abuse against Laud had waned and diminished by 1642-43 and the printed documentation tended to report Common’s speeches and Ordinances or other incidents (such as Quartermain’s self-righteous report of his attack on the court of High Commission which took place in October 1640, duly reported by Quartermain in 1642).¹²¹ It is most likely that the reduction in published libels attacking Laud was due to two factors: his incarceration had removed him from mainstream politics and out of sight was out of mind; also the outbreak of hostilities meant that the exigencies of war became paramount.

Nevertheless, the symbiotic nature of the popular press and the prevailing public view of Laud no doubt supported the parliament in its campaign to put Laud on trial for treason. The press reflected the public mood, a ready and willing market, and the public showed an appetite for this material. Similarly the parliamentary campaign against Laud gave a lead and produced a climate that gave the public smears a level of credence and authority. Real concern was expressed that Laud would return the church to Catholicism along with the re-introduction of a panoply of popish superstition and ceremony. Associated with anxieties over religion was the disquiet of the political situation and it was the accepted view that Charles must have been led astray by evil and self-serving counsel, chiefly from Laud and Strafford; and this was tantamount to treason. In the public sphere the publications held Laud to account, despite the absence

¹²⁰ *A Terrible plot against London and Westminster discovered*, (London, 1642), p. [A3r].

¹²¹ See R. Quartermain, *Qvatermayns conqvest over Canterbvries covrt. Or a brieft declaration of severall passages between him and the Archbishop of Canterbury*, (London, 1642). See also Trevor-Roper, *Archbishop Laud*, p. 396.

of a showcase trial similar to that carried out against Strafford. The nature of the legal case for treason would be complex but in the popular rhetoric of 1641, Laud was depicted as ‘a *Traytor* convicted by the *High Court of Parliament*, and lying under the heavy *sentence of death*’, and that it was treason to seek ‘to subvert the fundamentall Lawes and Government, Confirmed by the course of Parliament’.¹²²

¹²² *Canterburie[s] pilgrimage*, p. [A4v]; and *The Deputies Ghost*.

CHAPTER 3 BRINGING LAUD TO TRIAL AND THE LAW OF TREASON

‘Whether the endeavour to subvert the Fundamentall Lawes Etc and to sett upp an Arbitrary Governmmt be treason’¹

I

Over three years passed between Laud being taken into custody and his trial, and his opponents had not been completely idle in gathering evidence during that time. It remained significant however that, given the vilification of Laud around the time of his arrest, there had been such a delay in bringing him to trial. There is evidence to suppose that he was also preparing himself and that he was aware of the nuances of the statute and common law of treason as it existed in the early 1640s. The quotation above is taken from a note, thought to be in Laud’s hand, which was passed to Strafford to assist him in his rebuttal of the charges made against him at his trial. The note posited three further potential lines of defence; whether single testimony is sufficient evidence in cases of treason, whether the fifteenth article against Strafford can be construed as levying war against the subject and whether offences committed in Ireland can be legitimately tried in England. The first two questions would also be relevant to Laud’s own trial. The note concluded that peers of the realm should be tried before the Lord High Steward and that ‘The Wittnes must bee present in person, if he that is to bee tried require it’. What is especially noteworthy however is that, in the preamble to the four defence questions, there was a list of the statute of treason and its revisions under the

¹ NA, SP 16/476 fo. 254.

Tudors. The author was clearly *au fait* with the law. This chapter will consider the state of treason legislation and common law prior to Laud's trial in order to establish the legal basis for the case made by parliament.

The core statute for high treason was established in the reign of Edward III in 1352 (25 *Edw III*, *Stat.5*, c.2) and it is arguable that in a straightforward reading of this law that the notion of Laud's guilt would be preposterous. It stipulated that compassing or imagining the king's death, or that of his queen or eldest heir; violating the king's consort, queen, his unmarried eldest daughter or his male heir's wife; levying war on the king within his realm; adhering to the king's enemies; murdering the chancellor, treasurer or the king's justices whilst carrying out their duties; and counterfeiting the king's coin, great seal or privy seal, or bringing into the realm counterfeit coin, constituted examples of high treason.² Prior to the codification of the law there was at best only a vague distinction between cases of felony and treason. The 25 *Edw III* statute sought to bring clarity as 'judges had been tampering with the scope of treason' for some time prior to 1352 especially in the area of accroaching or usurping royal authority.³ The law of treason changed little until the accession of the Tudors.

By the sixteenth century treason legislation became a tool for asserting royal authority rather than simply marking the distinction between common felony and acts against the

² Orr, *Treason and the State*, pp. 11-12; L. Steffen, *Defining a British State. Treason and National Identity, 1608 – 1820*, (Basingstoke and New York: Palgrave, 2001), p. 10.

³ See J. G. Bellamy, *The Law of Treason in the Later Middle Ages*, (Cambridge: Cambridge University Press, 1970), pp. 61-63. Bellamy details the case of Sir John Gerberge in 1347 who, armed and dressed in a warlike manner, was accused of murder, robbery and kidnap for ransom. He and his valets were tried for treason however, because his behaviour was considered as tantamount to levying war and that this was an arrogation of the king's authority. The death penalty would have been the result whether the case was a felony or treason; however the manner of death for treason was far more severe.

reigning monarch. Henry VII clarified the distinction of a king *de facto* and a king *de jure* recognising that there should be no persecution of Yorkist supporters if they had given allegiance to the king *de facto*, that is the king ruling at the time.⁴ However significant changes were enacted under Henry VIII largely resulting from the legal furore surrounding his second marriage and the consequential split with Rome. In 1534 the statute 26 *Henry VIII, c.13*, was passed and has been called ‘a candidate for the most unpopular act ever passed by a parliament in England’.⁵ The law made it treasonable to put into writing (or indeed spoken word or unspoken imagining) that the king was a heretic, schismatic, tyrant or usurper. The significance of this new statute was to reinforce the king’s supremacy in ecclesiastical matters and also it allowed the administration to proceed with the dissolution bringing financial benefits to the crown, especially as the act allowed the forfeiture of all of a traitor’s estate.⁶

The future Tudor monarchs’ stance on the Henrician statute oscillated through the remainder of the century with successive administrations seemingly torn between the severity and unpopularity of the statute and the need to quell opposition. Under Edward VI, Somerset’s regency government repealed the Henrician statute, returning to the original Edward III law, with some exceptions.⁷ However the Northumberland administration reversed this position re-installing much of Henry’s draconian law. To write, print, carve, paint or engrave statements that described the king as ‘an heretic,

⁴ Steffen, *Defining a British State*, p. 15; J. G Bellamy, *The Tudor law of Treason*, (London: Routledge and Kegan Paul Ltd, 1979), p. 16-17.

⁵ Orr, *Treason and the State*, p. 19.

⁶ G.R. Elton, *Policy and Police, The enforcement of the Reformation in the age of Thomas Cromwell*, (Cambridge: Cambridge University Press, 1972), p. 290.

⁷ Treason by word still remained should the perpetrator deny the king’s position as supreme head of the church or make comment doubting the king and his heirs right to the crown and other titles but only once the offence had been committed three times. See Bellamy, *The Tudor law of Treason*, pp. 48–49.

schismatic, tyrant, infidel or usurper' was once again classified as treason.⁸ Similarly when Mary came to the throne she returned to the Edward III statute; this time without any adjustments. However by 1554 a revised act was introduced which stipulated that writing or printing statements denying the rights of the queen and her consort was treason even at the first offence.⁹

Elizabeth I commenced by repealing the elements of the Marian laws that were supportive of Roman Catholicism. She restored monarchical supremacy of the church and, by 1563, refusal to acknowledge the supremacy by oath was considered treason. The papal bull of 1570, which excommunicated the queen and sanctioned opposition to her reign, needed to be explicitly addressed and consequently treason legislation was further tightened in 1571. Again it was treason to deny her right to the throne, or to call her usurper, heretic or schismatic. Although this was a return to the unpopular 1534 legislation, the threat to the queen was now very tangible and personal, thereby justifying the need for greater austerity. More specific laws followed, for instance to discourage the incursion of Jesuits and other agents of the Counter Reformation from inculcating papist activity and propaganda in the country. This has been described as a conflating of the laws of treason and praemunire; the fear of a pseudo-papal authority threatening the religious supremacy of the crown was close to treason.¹⁰ This was a construction which would resonate at Laud's trial in the next century.

⁸ W. K. Jordan, *Edward VI: The Threshold of Power, The dominance of the Duke of Northumberland*, (London: George Allen & Unwin Ltd, 1970). p. 336; Bellamy, *The Tudor law of Treason*, p. 51.

⁹ Steffen, *Defining a British State*, p. 16; Bellamy, *The Tudor law of Treason*, p 54, & 58–60. The Marian act also stipulated that adverse words spoken, again at the first offence, could lead to loss of goods, land and life imprisonment. Mary also produced other treason legislation forbidding praying for the queen to either change religion or pass away; and also for the importing of counterfeit foreign coinage.

¹⁰ Orr, *Treason and the State*, pp. 22–24; See also Steffen, *Defining a British State*, pp. 16–17.

Treason legislation was to change little between the 1570s and 1640s although there were discernible changes in the interpretation of what constituted treason relating largely to three factors: the definition of monarchy and its role within the body politic, praemunire, and encroaching upon the authority of the king. The trial of Laud for treason required parliament to build a case predicated on a much wider construction of the law than had traditionally been the case and it would need to stretch the Edward III statute considerably. The chief mechanism utilised was to attempt to establish that behaviour that sought to sever the umbilical link between the king and his people was tantamount to treason. This argument required that although the king may be the head of the body politic, the health of the nation was only ensured if the head was not disunited from the trunk and limbs. Therefore advisors who sought to recommend that the king should take actions that were not deemed to be in the interest of the commonweal were likely to upset the relationship between the king and his people. Such action could be construed as putting the king at risk, both theoretically and personally, and thus came close to treason.

Linked with this extension of the concept of treason were the related issues of praemunire and accroachment, both relevant to an understanding of the political theory that would help to enable Laud's trial. Here the accusation was that the counsellors to the king were seeking to acquire a level of authority which encroached on the prerogatives of the king and, through the advice given, were leading the monarch in a direction which would allow the counsellors to assume unauthorised powers. The principal legislation relating to praemunire was introduced during the reign of Richard

II in 1392 and was intended to limit the authority of the pope and to protect the rights of the crown within the church. It stipulated that to purchase or pursue in the court of Rome, any translations, or sentences of excommunications, bulls, or other legal instruments would be punished. Essentially praemunire became a crime that limited the influence of the papacy and the church should it try to encroach upon the authority of the crown. The law became more prominent under Henry VIII due to his 'ruthless deployment of it in bringing the clergy to heel' and resonated in the trial of Laud especially in regard to the accusations relating to alleged links with the papacy and specifically in the initiation of the Canons for which he was accused of derogation of the king's authority.¹¹

Accroaching the king's prerogative was similar to praemunire in that it related to the assumption of authority that rightfully belonged to the king. The baronial efforts to oust the king's favourites, Gaveston and the Despencers, during the reign of Edward II, were based on accusations that they were seeking to usurp sovereign authority. It is noted that accroachment was omitted from the Edward III statute but it provided the antecedent for the crime of misprision which enabled impeachment and attainders against those who misused the powers of their office.¹² Misprision has been described as 'misusing the king's delegated powers or simply seizing power for some illegal purpose'. Such accusations contributed to the impeachment of Thomas Cromwell, for example, and also Empson and Dudley in the early years of Henry VIII reign.¹³ Amongst the charges brought against Laud was his alleged assumption of crypto-papal

¹¹ Orr, *Treason and the State*, p. 22.

¹² Bellamy, *The Law of Treason in the Later Middle Ages*, p. 96.

¹³ Bellamy, *The Tudor law of Treason*, p. 42 & p. 21.

authority, construed as a usurpation of the king's supremacy and that his counsel was designed to further his own ambitions and power.

Nevertheless, to bring a successful charge of treason against Laud it was necessary to show that he had encompassed the death of the person of the king or, more critically, the office of the king. One convoluted argument was that to recommend to Charles that he should command an army against the Scots could conceivably lead to his death. However it was not really feasible to develop a case that suggested that Laud sought to endanger the corporeal king. It was his crimes against the office of the king which were the focus of parliament's allegations. There were two distinct but related elements of early modern political theory that impinge on this issue. The first was the metaphorical notion of the body politic where the king was the head and the parliament and the clergy were the body; both being integral and necessary for the health of the nation. James I, shortly after coming to the throne, in his objective to unite Scotland and England, wrote 'I am the Head, and it is my body; I am the Shepherd and it is my flocke'.¹⁴ As Dr. Mendle commented without the king as head 'the parts were helpless. They were unintelligent, and without wills of their own. It was monstrous....for organs to behave like the head; it was also treason.'¹⁵ However it was the interdependency of the parts of the body politic which was of especial relevance. Within England, parliament cherished a crucial role as part of the legislature within the three great estates of the realm – King, Lords and Commons. The seventeenth century was to see

¹⁴ *The Political Works of James I*, Ed. C.H. McIlwain, (Cambridge, Mass: Harvard University Press, 1918), p. 272.

¹⁵ M. J. Mendle, 'Politics and Political Thought 1640 – 1642', in *The Origins of the English Civil War*, p. 219.

the Commons supplanting the Lords spiritual – the episcopate and clergy – as a crucial leg of the tripod of government. Furthermore Pym sought to articulate the importance of the king ruling in contiguity with parliament. He did not doubt ‘the great prerogative of the King; which is, that *the King can do no wrong*’ but wished to elevate the position of parliament within the political organism from body to soul, able to detect and cure ailments within the body politic. He said that:

A Parliament is that to the Commonwealth, which the Soul is to the Body, which is only able to apprehend and understand the Symptoms of all such Diseases, which threaten the Body Politick. It behoves us therefore, to keep the Faculty of that Soul from Distempers.¹⁶

The evolution of parliament’s self-perception of it being necessary for good government was conjoined with the need for the king to rule with parliament. This concept had further germinated during the Personal Rule, along with many grievances that had been bottled up. Given that the king could, theoretically, do no wrong it was inevitable that parliament’s aim would centre on his chief advisors and that, by their intervention between the king and his parliament - thereby jeopardising sound government, their actions were essentially treasonous.

The second strand that is relevant here was the concept of the ‘king’s two bodies’; his corporeal body and his body in government (which participated as an inherent part of the body politic and continued indivisibly to his successor when his physical body died). Ernst Kantorowicz analysed the analogy of the king being head of the nation with

¹⁶ Taken from *RHC* Vol. III, pp. 1131-1136; also reprinted in *The Stuart Constitution 1603 – 1688; Documents and Commentary*, Ed. J. P. Kenyon, (Cambridge: Cambridge University Press, 1966), p. 198.

Christ being the head of the church, thus bestowing a mystical pseudo-divinity on the monarch. He also considered the position of the king as being, paradoxically, both under and above the law in early modern Europe. However he singled out England in regard to the corporate identity of kingship: the belief that although the individual king or queen was mortal, the office was continuous in endorsing a sempiternal quality to the monarchy. This continuity was considered fundamental to the welfare of the nation in order to stave off sectarianism and anarchy and so theorists ‘started to interpret consistently the relation between the individual king and his immortal Dignity by means of the metaphor of the ‘two Bodies’’: hence the hackneyed phrase *the king is dead, long live the king*.¹⁷ This issue was magnified during succession disputes and had recent relevance with the accession of the Stuart House, following Elizabeth’s prevarication over the succession settlement. Consequently James needed to establish his true right to the throne through the inherent continuity of the office.¹⁸ Again, parliament would seek to argue that Laud wished to subvert the office of the king in its legislative relationship with parliament; and by interfering with the appropriate government of the sempiternal, undying king he was as guilty of treason as if he had attacked the corporeal, mortal king. The office of the king enabled parliament to maintain the artifice of supporting the king even after having taken up arms against

¹⁷ E.H. Kantorowicz, *The King’s Two Bodies, A study in Mediaeval Political Theology*, (Princeton: Princeton University Press, 1957 – reprinted 1997), p. 446. Professor Kantorowicz’s work looks in significant detail at the whole political and theological development of the philosophy and culture surrounding the concept of the king’s two bodies across Western Europe in the mediaeval and early modern period.

¹⁸ For a detailed discussion on the accession of James I through the prism of the theory relating to the king’s two bodies, see M. Axton, *The Queen’s Two Bodies, Drama and the Elizabethan Succession*, (London: Royal Historical Society, 1977). pp. 11-25.

him.¹⁹ Indeed Kantorowicz sees the execution of Charles for treason as being an act against the mortal king but not the king's office.²⁰ This enabled the immortal body of the king to remain intact (thereby easing the path of the Restoration).

It is then through Laud's alleged desire to divorce the king from his people - the head from the body - and to subvert the procedures inherent in the office of the crown; along with his untrammelled ambition to acquire power, in particular within the church where he wanted pseudo-papal authority in contravention of the monarch's position as Supreme Head, that we can see the basis of parliament's treason charge. Treason law had evolved but it still meant that the allegations were tenuous. It was in the course of the trial itself where the arguments were played out - sometimes through the minutiae of petty complaints and grievances and at other times in the articulation of more significant allegations.

II

As previously postulated, one of the reasons for the delay in bringing Laud to trial was because of the urgent necessities of carrying out the war. Quite simply the war was the paramount issue of the time and Laud's trial was of secondary importance; this became evident as the trial developed given the frequent occasions when planned hearing days

¹⁹ Russell, *The Fall of the British Monarchies*, pp. 507-510, Russell discusses the way the theory of the king's two bodies was used to justify the resistance of Hotham at Hull in 1642 and the Militia Ordinance. Charles argued that the taking up arms against the king was *ipso facto* treason, but parliament's argument was that they were acting to protect the sovereignty of the monarchy which had been led astray by evil counsel.

²⁰ Kantorowicz, *The King's Two Bodies*, p. 23.

were postponed due to more pressing matters. Sergeant Wilde, at the outset of proceedings, confirmed that one of the reasons for the delay was the ‘distractions of the time’; which Laud acknowledged had increased, although he commented that no such distractions existed when he was first imprisoned.²¹ In addition, the anticipation that had been generated at the time of Laud’s arrest had dissipated; he featured rarely in the popular press during 1642 and the first half of 1643. However the Commons had not completely forgotten Laud and in May 1643 instructed a committee to collect evidence so that the proceedings against Laud could be accelerated.²² Indeed it was suggested, purportedly by Robert Harley in the Commons, and reported in the popular press, that one potential sentence was that Laud (with Wren) would be banished in perpetuity to New England although this possibility seemed not to gain much traction, and in any case would still have required a formal trial.²³ In the period between May 1643 and March 1644 this committee certainly endeavoured to find witnesses and take statements although, again, other matters meant that the process was protracted. A second reason posited, by Wilde, was ‘the death of some persons’ which Laud dismissed as credible, because if those now deceased individuals were potential witnesses then the delay was counter-productive to the prosecution; ‘unless Mr. Sergeant had some hope, the resurrection might have been by this time, that so he might have produced them’.

²¹ Laud, *Works*, Vol. IV, p. 54. For brief details on Wilde see p. 119 below.

²² *CJ*, Vol. III, p. 68. The Committee appointed included Sergeant Wilde, Francis Rous, Alexander Rigby, Sir Robert Harley, Samuel Browne, Bulstrode Whitelocke, John Maynard, Sir Peter Wentworth, Sir Henry Vane (younger), Gilbert Millington, Sir William Strickland, John Corbett, John Lisle, John Selden, Robert Hill, Young, Robert Nicholas, Cornelius Holland, and, still taking a major interest, John Pym. The committee was also tasked to accelerate the planned proceedings against Wren.

²³ D’Ewes, *Parliamentary Diary*, BL Harl. MSS 164, fo. 382v; Laurence Whitaker, *Parliamentary Journal*, BL Add. MSS 31116, fo. 47r, there is a slight discrepancy on dates between the two journals, Whitaker’s entry being for April 25 1643 and D’Ewes for May 3 1643; *Certaine informations from severall parts of the kingdome*, No. 16, BL. Thomason / 18:E.101[2], (May 1643), p. 127; *A perfect diurnall of the passages in Parliament*, No. 47, BL. Thomason / 43:E.249[2], (May 1643), p. [A1r], *A continuation of certaine speciall and remarkable passages*, No. 44, BL. Thomason / 43:E.249[4], (May 1643), p. 5.

However Wilde was, very probably, referring to Pym, who passed away the previous winter, having been one of the chief instigators of the campaign to bring Laud to trial. The third reason for the delay, according to Wilde, was the catch-all of ‘other impediments’; which Laud chose to interpret that there was no man who was malicious enough to ‘search into such a forsaken business’.²⁴ That was until William Prynne made himself available for the role.

Nevertheless, although explaining the delay, Wilde’s statement did not explain why the trial actually took place early in 1644. The crucial Solemn League and Covenant, bringing the Scots into the conflict, had only been finalised the previous summer and the outcome of the war was still in the balance. A Scottish delegation, including a somewhat unwilling Robert Baillie, was instructed in August 1643 to go to Westminster to negotiate with parliament.²⁵ The relevance of the Covenant is that it has been supposed, as part of the deal, that the Scots wanted Laud to be brought to trial and found guilty of treason. It included a clause that required the discovering of incendiaries and malignants who had hindered the Reformation and had divided the king from his people; desiring to bring them to ‘public trial’ and ‘condign punishment’.²⁶ Also a subsequent Declaration put by the Scots, concurred with by parliament in January 1644, was that ‘None of the grand Incendiaries and fomenters of

²⁴ Laud, *Works*, Vol. IV, pp. 54-55.

²⁵ Stevenson, *The Scottish Revolution*, p. 285. The delegation was made up of Alexander Henderson, Robert Douglas, Samuel Rutherford, George Gillespie, the earl of Cassillis, Lord Maitland, and Johnston of Wariston. Baillie’s reluctance to be a member of the party can be seen in his letter to George Young in spring 1643, see Baillie, *Letters and Journals*, Vol. II, p. 61.

²⁶ Kenyon, *The Stuart Constitution*, pp. 264-265. Kenyon reprints the full text of the Solemn League and Covenant, pp. 263-266.

this warre, to have any mercy shewed them’²⁷ and that they should ‘be proceeded against as Traytors, for terror and example to others’.²⁸ However the treaty did not mention Laud in person, although he had been identified as an incendiary in the earlier negotiations leading to the Treaty of London in 1641.²⁹ For parliament the reason for a deal with Scotland was clear – they sorely needed the Scottish troops. The covenanters, however, sought a common religious ideology based on a Presbyterian church governance model and closer political union; but further causes of alarm were the prospects for Monro’s army in Ireland, the threat of invasion by royalist forces in northern England and evidence of plotting by Scottish royalists against the covenanters.³⁰

William Palmer has asserted that Laud’s execution was a bargaining chip in the continuing problematic relationship between the covenanters and parliament and that Oliver St John and Henry Vane had contrived Laud’s execution ‘for the Scots’ benefit’.³¹ Palmer’s views regarding Scottish influence seems to have become generally accepted amongst historians: Alan Orr has stated that Laud’s trial may not have occurred without Scottish pressure and Julian Davies has maintained that Laud’s trial and execution was ‘to satiate the appetite above all of the Presbyterian Scots and as an

²⁷ *The Kingdomes weekly intelligencer*, No. 41, BL. Thomason / 6:E.30[19], (January 1644), p. 320.

²⁸ *A perfect diurnall of some passages in Parliament*, No. 28, BL. Thomason / 43:E.252 [19], (January 1644), p. 218.

²⁹ Russell, *The Fall of British Monarchies*, pp. 147–205.

³⁰ Braddick, *God’s Fury, English Fire*, p. 309; Woolrych, *Britain in Revolution*, p. 271; I Gentles, *The English Revolution*, p. 205.

³¹ Palmer, ‘Invitation to a Beheading’, p. 26.

expendable pawn in the royal negotiations leading to Uxbridge'.³² There are though serious issues with the evidence that Palmer has produced for his theory; firstly he seemed to rely solely on the royalist newsbook *Mercurius Aulicus* dated January 1645 which had its own reasons for smearing the covenanters, (previous issues of *Mercurius Aulicus*, it should be noted, had largely ignored the trial).³³ This speculation was later picked up by Peter Heylyn who espoused the view that the article relating to incendiaries in the Solemn League and Covenant was directed at Laud: 'Which Article seems to have been made to no other purpose but to bring the Archbishop to the Block'.³⁴ There are also major contextual problems with the evidence produced. Palmer maintains that *Mercurius Aulicus* believed that Laud was executed because 'things in Scotland could never remain the same if Canterbury remained alive' but neglects to point out, as *Mercurius Aulicus* does, that this comment was attributed to Alexander Henderson, a Scots commissioner, probably around 1641. He goes on to quote *Mercurius Aulicus* as saying that Strode, St John and Grimston, with others, should 'undertake to dispatch' Laud; but ignores the crucial next sentence which said 'For which purpose the Close Committee Ordered *William Prynne* ('twas he) to Plunder the Arch-Bishops papers in the *Tower*'.³⁵ As we know from Laud's diary, this took place on 31 May 1643, over 18 months before Laud's execution, and cannot therefore be used as proof that the Scots connived in the final sentence against him.³⁶ Palmer does

³² Orr, *Treason and the State*, p. 112; Davies, *The Caroline captivity of the church*, p. 305; Carlton, *Archbishop William Laud*, p. 215.

³³ Palmer, 'Invitation to a Beheading', p. 26.

³⁴ P. Heylyn, *Cyprianus Anglicus, or, The history of the life and death, of the most Reverend and Renowned prelate William, by divine providence, Lord Archbishop of Canterbury, Primate of all England*, (London, 1668), p. 510.

³⁵ Palmer, 'Invitation to a Beheading', p.26, *Mercurius Aulicus*, BL. Thomason / 5:E.27[7], (January 1645), p. 1332.

³⁶ Laud, *Works*, Vol. IV, p. 24. Also see below p. 105.

not produce any tangible or authoritative evidence, from parliament or the covenanters, to support his claim; indeed Baillie, a renowned opponent of Laud (who, as we have seen, had published vehemently against him - rarely missing an opportunity to pour damning invective on the archbishop, and who was still in London as part of the Scottish delegation), seemed to make no mention at all in his *Letters and Journals* about the proceedings against Laud, apart from to comment in February 1644 that 'Canterbury every week is before the Lords for his tryall; but we have so much to doe, and he is a person now so contemptible, that we take no notice of his process'.³⁷ Contrast this to his detailed and lengthy reports of Strafford's trial. This is most surprising and, in a negative way, somewhat illuminating - the dog that did not bark. Indeed during 1644 Baillie was far more concerned with the rise of the Independents, who he regarded as no better than Anabaptists and Antinomians, than with his old Arminian adversary.³⁸ Clearly, the covenanters would not be sorry to see the back of Laud but that does not mean that he was a pawn in the on-going negotiations between parliament and the Scots, and it is unfortunate that Palmer's version has become accepted when it relies on such negligible and contextually inaccurate evidence. One

³⁷ Baillie, *Letters* Vol. II, p.139.

³⁸ As we have seen, Baillie detailed at length in a message to the Presbytery of Irvine the passage of Strafford's trial; see Baillie, *Letters* Vol. I, pp. 313-350. During 1644 he only made one further reference to Laud and that was tangential; writing about a certain Mr. Maxwell of Roffe who had published a malicious invective against Scottish Presbyteries and Assemblies, Baillie commented that 'I could hardlie consent to the hanging of Canterburry (sic) himselfe, or of any Jesuite, yet I could give my sentence freely against that unhappie lyer's life'. In other words he would rather sentence Maxwell than Laud. See Baillie, *Letters* Vol. II, pp. 207 -208. Throughout 1644 Baillie wrote of his frustration with the process of parliament, commenting on the 'unamendable prolixitie of these people' (Baillie, *Letters* Vol. II, p.164.) However, by the end of 1644 and the beginning of 1645 he was in a more positive mood following the agreement to the new Directory of Service and the rejection of episcopacy and the hated Service book. As David Stevenson reminds us, the Scots wanted closer political union with England and to see established in England a Presbyterian system that mirrored that of Scotland; see D. Stevenson, *Revolution and Counter-Revolution in Scotland, 1644 – 1651*, (Royal Historical Society: London, 1977) p. 13. It seemed that Baillie believed that these objectives were brought a step closer in December 1644 due to the agreement on the Directory rather than the sentence against Laud. The events of the subsequent ten years were to prove him to be sadly mistaken.

further point indicated that the trial and execution were not carried out to appease the Scots. The thirteenth article accusing Laud of plotting to foment war in Scotland was not raised in any significant way during his trial.³⁹ Laud's argument that Scottish affairs were not admissible following the Act of Oblivion (annexed to the treaty of London in August 1641) seemed to carry weight as he commented that on or about 2 September 1644 the Commons agreed that he was covered under the Act.⁴⁰

So if pressure from the Scots does not explain the trial taking place at this time we must consider alternative reasons. One would be the providential element - the need to proceed with requiring Laud to answer for his crimes; that until God could be appeased the tribulations of war would inevitably continue. As one newsbook put it:

Certainly the sparing of him hath beene a great provocation to heaven, for it is a signe that we have not been so carefull to give the Church a sacrifice.....we have been slow and behind in revenging the cause of God upon *Canterbury*, hee having corrupted our Religion; banished the Godly, introduced superstitions, and embrewed both Kingdomes at first in a tincture of blood, and all this unnaturall warre of ours hath its rise and growth from that unhappy seedtime of his designes.⁴¹

³⁹ *PLP*, Vol. II, p. 538.

⁴⁰ Laud, *Works*, Vol. IV, p. 368. This ruling by the Commons is not confirmed in the *Commons Journal* however.

⁴¹ *The Compleate Intelligencer and Resolver*; No. 3, BL, Thomason/13:E.75[32]; (November 1643). pp. 44-45.

This belief in God's righteous anger that Laud had not been brought to justice continued to be prevalent and lack of action 'hath kept the wrath of God upon this kingdom since the wars begun'. Until Laud and the episcopate were dealt with God would not give his 'compleat blessing'.⁴² Indeed at Laud's execution it was widely reported that the sun shone, on an otherwise cloudy morning, at the exact moment of his beheading and this was deemed to signify heavenly rejoicing at such justice and that the light of the Gospel could now shine forth.⁴³ It also implied that God would now smile on parliament's cause, a grievous wrong having been put right.

This helps to explain the ongoing need to bring Laud to trial but not the specific timing. Although the importance of Laud had diminished in the public consciousness the relatively low-key government activity in relation to the case and the persistence of Prynne explains why the trial took place when it did. The evidence tends to support a premise that the Commons always intended to pursue a trial against Laud but that, unlike with Strafford, there was no hurry. The demands of the war, and Scottish diplomacy, were the priority (which also explains why the trial became extended and required numerous adjournments), but the committee investigating Laud continued to

⁴² *Mercurius Britanicus*, No. 27, BL. Thomason / 7:E.37[27], (March 1644), p. 214.

⁴³ *Mercurius Civicus*, No. 86, BL. Thomason / 5:E.24[23], (January 1645), p. 784. See also; *Perfect occurrences of Parliament*, No. 3, BL. Thomason / 44:E.258[14], (January 1645), p. [C1v] and *The kingdomes weekly intelligencer*, No. 88, BL. Thomason / 5:E.24[18], (January 1645), p. 706. Heylyn, however, reported the appearance of the sun somewhat differently and consequently put an alternative spin on the matter. He maintained that 'while our *Martyr* prayed upon the *Blocke*, the Sunne which had not showne it selfe all the day till then, did shine directly on his face, which made him looke most comfortably (that I say not gloriously) but presently as soone as the Blow was given, withdrew behinde a cloud againe, and appeared no more, as we are credibly advertised by good hands from *London*, though it be otherwise reported in their weekly Pamphlets'. This comment indicated that providential signs were as important to the royalist cause as to the parliamentarians. See Heylyn, *A briefe relation of the death and sufferings of the Most Reverend and renowned prelate, the L. Archbishop of Canterbury*, p. 26.

meet, evidence was gathered, witnesses interviewed and further articles were presented. In October 1643 ten additional articles of impeachment were produced following similar themes to the original articles of indictment. These encompassed charges of subverting the fundamental laws of the realm and seeking to introduce arbitrary government based on the king's personal prerogative; of advancing the power of the church over the law, forcing conformity and making alteration to the established Protestant church and encouraging popery and superstition, including giving support to papists and Jesuits; calling a synod or convocation of the church in May 1640 with the express intention of introducing canons and ecclesiastical regulations 'contrary to the Laws of this Realm, the Rights and Privileges of Parliament, the Liberty and Property of the Subject, tending also to Sedition, and of dangerous Consequence'; taking legal action against the Feoffees of impropriations; and 'maliciously' advising the king to dissolve parliament.⁴⁴

Depositions had been gathered from a variety of potential witnesses: for example, on the opening day of the trial, a statement from Sir Henry Vane (senior) was referred to, in which he maintained that Laud commented in privy council that, as Parliament had refused supply, Charles should make use of his own power; a blatant example of proposing that the king should use his prerogative above the laws and customs of the land.⁴⁵ Other depositions were collected in December 1643 and on 9 January 1644 to support the prosecution, and 'a Committee of both Houses met in the Lords House, &

⁴⁴ *LJ*, Vol. VI, pp. 267–268; *RHC*, Vol. III, pp. 1367–1370.

⁴⁵ *LJ*, Vol. VI, pp. 467–468, See also *CSPD*, Vol. CCCCXCIX, Charles I, 64/65, p.542–545.

spent a great part of the day about examining of witnesses about the Archbishop of *Canterbury*'.⁴⁶ The process followed was that, to garner evidence, witnesses were interviewed and made statements to the authorities and subsequently may be called to re-iterate that evidence in court. For example, Elizabeth Gray and John Cooke described how John Gray (Elizabeth's husband) had apprehended a Jesuit, John Fisher, in 1634, who, although briefly imprisoned, was later seen at liberty with a warrant of safety signed by Secretary Windebank. John Gray took the matter before Laud who, supposedly, was not interested in such 'trifling matters'. When Gray complained, saying 'he sawe now how the game went', he was himself brought before Laud and imprisoned in the Fleet. When his spouse brought a petition for Gray's release before him, Laud 'flung it away in an angry manner, saying hee would have nothing to doe with a preist-catching (*sic*) knave'.⁴⁷ A similar accusation was presented by Thomas Thrasher and Francis Newton of lenient treatment towards Henry Morse described as 'a Grand Jesuit and great Seducer of his mats Subts'.⁴⁸ These allegations were put to Laud towards the end of the trial in support of Article ten (which accused Laud of seeking reconciliation with Rome and consorting with Catholic priests and Jesuits) and supported the notion that Laud showed sympathy towards papists. The process does demonstrate that the parliamentary authorities were prepared to take pains systematically to gather evidential material prior to the trial.

⁴⁶ *A perfect diurnall of some passages in Parliament*, No. 25, BL. Thomason / 43:E.252 [16], (January 1644), p. 197. See also *The true informer*, No. 17, BL. Thomason / 14:E.81[31], (January 1644), p. 131, and *The kingdomes weekly post*, No. 9, BL. Thomason / 14:E.81[17], (January 1644), p.[70]. N.B. The page is numbered 58 but this seems to be in error and running consecutively would actually be page 70.

⁴⁷ NA, SP 16/500 fo. 17–18; NA, SP 16/500 fo. 23–25.

⁴⁸ NA, SP 16/500 fo. 28–29; NA, SP 16/500 fo. 26–27.

William Prynne had continued to be committed to the cause and was foremost in seeking to ensure that Laud was not completely forgotten. The resolve to proceed with the trial emanated largely from his single minded and personal vendetta against the arch-bishop. In May 1643 it was Prynne who led the search of prisoners in the Tower, under warrant from both houses, whereby he gave personal priority to Laud ensuring that Laud's pockets were 'sufficiently ransacked', and taking away 'twenty and one bundles of papers' prepared as part of his defence; along with personal letters from Charles, a Scottish service book, and a personal diary.⁴⁹ The publication of *Romes master-peece* in August 1643 kept up the pressure by implicating Laud in the Habernfeld popish plot, commenting that Laud would 'farre sooner hugge a Popish Priest in his bosome than take a *Puritan* by the little finger; an absolute Papist in all matters of Ceremony, pompe and externall worship'.⁵⁰ Prynne insinuated that Laud was involved in the plot – even though Laud was personally threatened by it. He also raised the allegation of overtures by the Roman Church to Laud involving the proposition of a cardinalship, this being an opportunity to woo the archbishop as part of a greater design; '*for the Scorpion sought an Egge*'.⁵¹ Laud's rueful view was that the publication of Prynne's treatise at this time was 'to drive the people headlong into mischief, whose malice against me needed not his setting on. After this the Diurnal and other pamphlets began to mention me'.⁵² Indeed there was some increase in interest in Laud during the autumn and early winter of 1643 but this was probably as much due to

⁴⁹ Laud, *Works*, Vol. IV, pp. 24-26.

⁵⁰ W. Prynne; *Romes master-peece. Or, the Grand Conspiracy of the Pope and his Iesuited Instruments*, (August 1643; London; printed for Michael Sparke Senior); BL. Thomason / 43:E.249[32]; p. 29. See also C. Hibbard; *Charles I and the Popish Plot*; (North Carolina: University of North Carolina Press, 1983); pp. 240-241. For details of the plot see pages pp. 157-162.

⁵¹ W. Prynne, *Romes Master-Peece*, p. 16.

⁵² Laud, *Works*, Vol. IV, pp. 31-32.

increasing activity from the committee investigating Laud as to '*Romes master-peece*'. Prynne was to take an active role in the prosecution itself during the trial. The importance of Prynne's role cannot be over-exaggerated and it is likely that in addition to unfinished personal business he also felt that the continued delay in bringing Laud to book would be providentially damaging. Indeed Laud himself viewed William Prynne as his chief antagonist and referred to him as his 'implacable enemy'.⁵³ The intention to bring Laud to trial had always remained on the Commons' agenda, hence the actions of the Commons committee, and Prynne persevered to bring it back near the top.

⁵³ Ibid., p. 24.

‘You see how much ado there is, to bring one notorious Delinquent to triall.’¹

I

The trial of the archbishop commenced finally on Tuesday 12 March 1644 with Laud being brought to the Bar of the House and required to kneel ‘as a Delinquent, until he was commanded to stand up’.² The approach of parliament was to give the proceedings against Laud legalistic and judicial credence. The charges, as iterated in the articles drawn up by the Commons, were systematically explored and witnesses given full hearing. The main argument that will be proposed is that it was important for parliament to demonstrate its legal authority and even though there was a deep rift within the executive – between the king and parliament – that judicial proceedings should still adhere to the correct form, structure and procedure. Parliament sought to establish and confirm both its credibility and legitimacy. As activity against Laud increased in late 1643-early 1644, he appeared in front of the Lords and was notified of the additional articles of impeachment which were portrayed as ‘treason and high crimes and misdemeanours’. He requested an interpretation of which indictments were deemed to be treasonous and which were misdemeanours – a crucial distinction considering the penalties that would follow conviction.³ The response was that it was for his counsel to advise him although time would be given to consider his request.

¹ *The Kingdomes weekly intelligencer*, No. 76, BL. Thomason / 3:E.12[23], (October 1644), p. 608.

² *LJ*, Vol. VI, p. 466; Laud, *Works*, Vol. IV, p. 53. The trial commenced with a condemnatory speech by Sergeant Wilde, see above pp. 96-97.

³ Laud, *Works*, Vol. IV, p. 37.

However by January 1644, when he was required to make his formal plea, the distinction was still unclear. His counsel had been assigned to him in late 1643 and consisted of John Hearn, Chaloner Chute, Matthew Hale, and at Laud's own request, Richard Gerrard. The defence counsel was largely in place to deal with matters of law only.⁴ Hale was to become well-renowned, being appointed a justice of the court of common pleas by Cromwell in 1654 and chief baron of the exchequer in 1660. A noted writer on English law, he managed to steer a course through republican and restoration England, and gained a reputation for being a 'virtuous lawyer' and an 'incorruptible judge'. Hearn was also a reputed and respected lawyer, and Chute was to become speaker in Richard Cromwell's Parliament in 1659.⁵

The proceedings commenced with something of a false start. Laud was to re-appear in front of the Lords on 16 January 1644 but the hearing was poorly managed and it transpired that Laud had not given a plea on the first articles, only the additional articles.⁶ This oversight was substantiated by one contemporaneous report, although another maintained that Laud had not responded because he had a 'weak memory, and

⁴ See BL Add. MS 18779, *Walter Yonge's Diary of Proceedings in the House of Commons 1642-1645*, fo. 75r & 75v; my thanks to the transcript of the dairy made by Christopher Thomson held at the History of Parliament, London.

⁵ Laud, *Works*, Vol. IV, pp. 34-41. See also *ODNB*; biography for Matthew Hale by Alan Cromartie, <http://www.oxforddnb.com/view/article/11905>, (accessed 20 October 2011); for John Hearn (also spelt Herne) by D. Alan Orr, <http://www.oxforddnb.com/view/article/13085>, (accessed 20 October 2011); and for Chaloner Chute by Christopher Brooks <http://www.oxforddnb.com/view/article/5412>, (accessed 20 October 2011). Chute's career under Richard Cromwell was swiftly cut short due to his death in 1659.

⁶ The original order had been for the 8 January but Laud was granted an extension of time. At the hearing on the 16 January Laud noted that he was kept waiting for four hours before the trial commenced; see Laud, *Works*, Vol. IV, p. 42. See also BL Add. MS 18779, *Walter Yonge's Diary* fo. 48v.

was old'.⁷ Indeed he had already requested forbearance due to his lack of legal skill and knowledge, especially given his age (he was now 70 years old) and the three years of his imprisonment.⁸ He made his formal plea to all charges on 22 January despite complaining that his counsel had not been given leave to speak on the 'generality and uncertainty of the original Articles'.⁹ As previously mentioned, for article thirteen, relating to the Scottish conflict, Laud maintained his exemption from prosecution due to the Act of Oblivion. To the other charges, unsurprisingly, he maintained that he was 'not guilty of all or any such matters by the said Articles charged'.¹⁰ Even though parliament needed to be seen to be managing the trial rigorously, many of the newsbooks were already convinced of his guilt. They referred to him as a 'notorious Delinquent and prime Incendiary' and commented on his 'treacherous and malicious endeavours'.¹¹ One report referred to him as the 'Beshit of Canterbury' proceeding to say that 'he thought to be Englands Pope, but his pride is falne' and facing his potential trial looked 'pale, as if he looked for death, which he deserved'.¹² Indeed the popular reports throughout the trial often underlined the public view that Laud's guilt was certain, would become demonstrable, and would require providential repentance from Laud. He was routinely referred to as little; a comment both on his actual stature but

⁷ *The Scottish Dove*, No. 14, BL. Thomason / 5:E.29[14], (January 1644), p. 109; *The Parliament Scout*, No 30, BL. Thomason / 5:E.29[13], (January 1644), p. 253.

⁸ Laud, *Works*, Vol. IV, p. 38.

⁹ *Ibid.*, pp. 43–44. As Laud commented, failure to plead at this stage would have left him *pro confesso*; i.e. guilty through failure to plead.

¹⁰ *Ibid.*, pp. 44–45. For the act of oblivion and pacification see Stevenson, *The Scottish Revolution*, pp. 234–235. Contemporaneous news-books also referred to Laud's plea, see *A perfect diurnall of some passages in Parliament*, No. 27, BL. Thomason / 43:E.252[18], (January 1644), p. 210; & *The Scottish Dove*, No. 15, BL. Thomason / 6:E.30[10], (January 1644), p. 117.

¹¹ *Mercurius Civicus*, No. 34, BL. Thomason / 5:E.29[12], (January 1644), p. 366, N.B. There are two successive issues of this newsbook numbered 34; this quote comes from the second; *A perfect diurnall of some passages in Parliament*, No. 27, BL. Thomason / 43:E.252[18], p. 210.

¹² *Mercurius cambro-Britannus, the Brittish mercury, or, The Welch diurnall*, No. 7, BL. Thomason / 14:E.81[30], (January 1644), p. A3r.

also redolent of his recent fall from grace and authority. It is difficult to gauge the extent to which public opinion was reflected by the news reporting of the trial during 1644 although Terence Kilburn and Anthony Milton, in their review of the public context to Strafford's trial, comment on a better informed public opinion being linked to the availability of printed news.¹³ However, in 1643 and 1644 news coverage had increased considerably, and Laud's trial, despite the overriding importance of the war, was highly relevant to the public.

With the pleadings recorded and the preambles observed, the path was clear to proceed to the formal trial. The general practice during the early Stuart period was for peers of the realm to be tried, certainly for capital offences, in front of the House of Lords with the senior judges in attendance.¹⁴ In the case of Lord Audley, earl of Castlehaven, indicted for rape and sodomy in 1631, the question was posed to the judges by the king's attorney general, whether a peer could waive the right to be heard by the Lords. Their response was that he could not as it was not a privilege but the law enshrined in Magna Carta. Also the attendance of peers could not be challenged (as a juror might be), as they judged on their honour as opposed to on oath.¹⁵ There never seemed any

¹³ See Kilburn and Milton, 'The public context of the trial and execution of Strafford', *The Political World of Thomas Wentworth*, pp. 230–231.

¹⁴ For example see T.B. Howell, *Cobbett's Complete Collection of State Trials*, Vol. II, (London: Hansard, 1809), pp. 951–1022, for the murder trial of Robert Carr, earl of Somerset and Frances, countess of Somerset,

¹⁵ *State Trials*, Vol. III, (London: Hansard, 1816), p. 402. Lesser crimes may be heard in the appropriate court, as was the case of the earl of Bedford and others who appeared in Star Chamber for the publishing of scandalous writing. Similarly John Williams, bishop of Lincoln, was brought before Star Chamber in 1637 on a charge of spreading false rumours, revealing state matters contrary to his oath and for tampering with witnesses, although there were a number of peers sitting in judgement in this case. See, pp. 387–400 & pp. 769–824.

doubt that Laud would be tried in front of the Lords; indeed in 1641, when Pym presented the original articles he established that the role of the Commons would be to examine witnesses and establish the prosecution's case.¹⁶ This was typical procedure, established in the fourteenth century, for impeachments; the Commons would initiate the case, develop the charges to be faced and gather evidence, and then present it to the Lords who would sit in judgement, although the Commons could propose a punishment if the defendant was found guilty.¹⁷ This process, having declined somewhat, was revitalised during the early Stuart period and John Selden in *Of the Judicature in Parliaments* established that the process for impeachment of delinquents could involve an initial accusation from the Commons alone.¹⁸ He also stated that bishops were included as peers of the realm by statute and that there were 'divers Presidents also of the Tryal of Bishops by their Peers in *Parliament*' (using the impeachment of Thomas Arundel, archbishop of Canterbury during the reign of Richard II, as an example).¹⁹

The layout, structure and procedure of the court for Laud's trial were similar to that of Strafford's. Both suffered impeachment by the Commons, who acted as prosecutors, and trial in front of the Lords. At Strafford's trial there was a throne set for the king, the Lords were seated next in seniority with the attending judges on the woolsack. There

¹⁶ *State Trials*, Vol. IV, (London: Hansard, 1816), p. 324.

¹⁷ C.G.C. Tite, *Impeachment and Parliamentary Judicature in Early Stuart England*, (London: Athlone Press.), p. 9.

¹⁸ J. Selden, *Of the Judicature in Parliaments*, (London: 1681), p.11. Tite postulates that the treatise was completed by no later than 1626; see Tite, *Impeachment and Parliamentary Judicature*, p. 37.

¹⁹ Selden, *Of the Judicature in Parliaments*, pp. 4-5. Arundel was impeached, in 1397, by the Commons and tried by the Lords – although the king also wished to see the back of him. He was found guilty of treason and was sentenced to exile. He returned in 1399 with Bolingbroke – the future Henry IV; see ODNB entry by Jonathan Hughes, <http://www.oxforddnb.com/view/article/713>, (accessed 15 June 2011).

was also considerable seating made available for the attendees from the Commons but the bishops declined to attend; it was the norm that bishops did not participate in treason trials being matters of blood.²⁰ Strafford's trial elicited considerable public interest although reports vary on the size of the crowds that attended.²¹ Laud's trial was also held in front of the Lords with his Commons' accusers in attendance. One contemporary report described the courtroom;

...there at the Barre in the House of Lords, is a place Railed in, purposely made for him to stand in, in the middle of the House, just as the same place where the Barre is, and on the left hand are his Councell to sit, together with the witnesses that are to give in evidence against him, and on his right hand, is another place prepared for the Members of the House of Commons to sit in, who bring up the Charge against him. The House of Lords are to sit in their Parliament Robes as Judges, in their severall places...²²

Judges were in attendance but declined from their normal practice of assisting the Lords on matters of law: 'they could deliver no opinion in point of treason by law except what was particularly to be treason in the act 25 E. III'. The application of this fairly specific legislation was to be left to the Lords to determine and, as discussed

²⁰ Adamson, *The Noble Revolt*, pp. 220 – 226. Because the outcome of successful treason trials would be execution of the defendant; bishops generally excused themselves from such trials.

²¹ Valerie Pearl has stated that some 5000 belligerent demonstrators were in attendance around the time leading to the bill of attainder, whereas another report has maintained that the crowd 'was neither great nor troublesome'; see Pearl, *London*, p. 216, & *State Trials*, Vol. III, pp. 1413–1417. Although there was a throne allocated for the king he chose to follow the proceedings from an adjacent closet, out of sight, presumably to distance himself from the trial and its potential outcome. Clearly, the king was not in attendance at Laud's trial.

²² *Occurrences of certain speciall and remarkable passages in Parliament*, No. 3, BL. Thomason/5:E.29[17], (January 1644), pp. [A1v] & A2r.

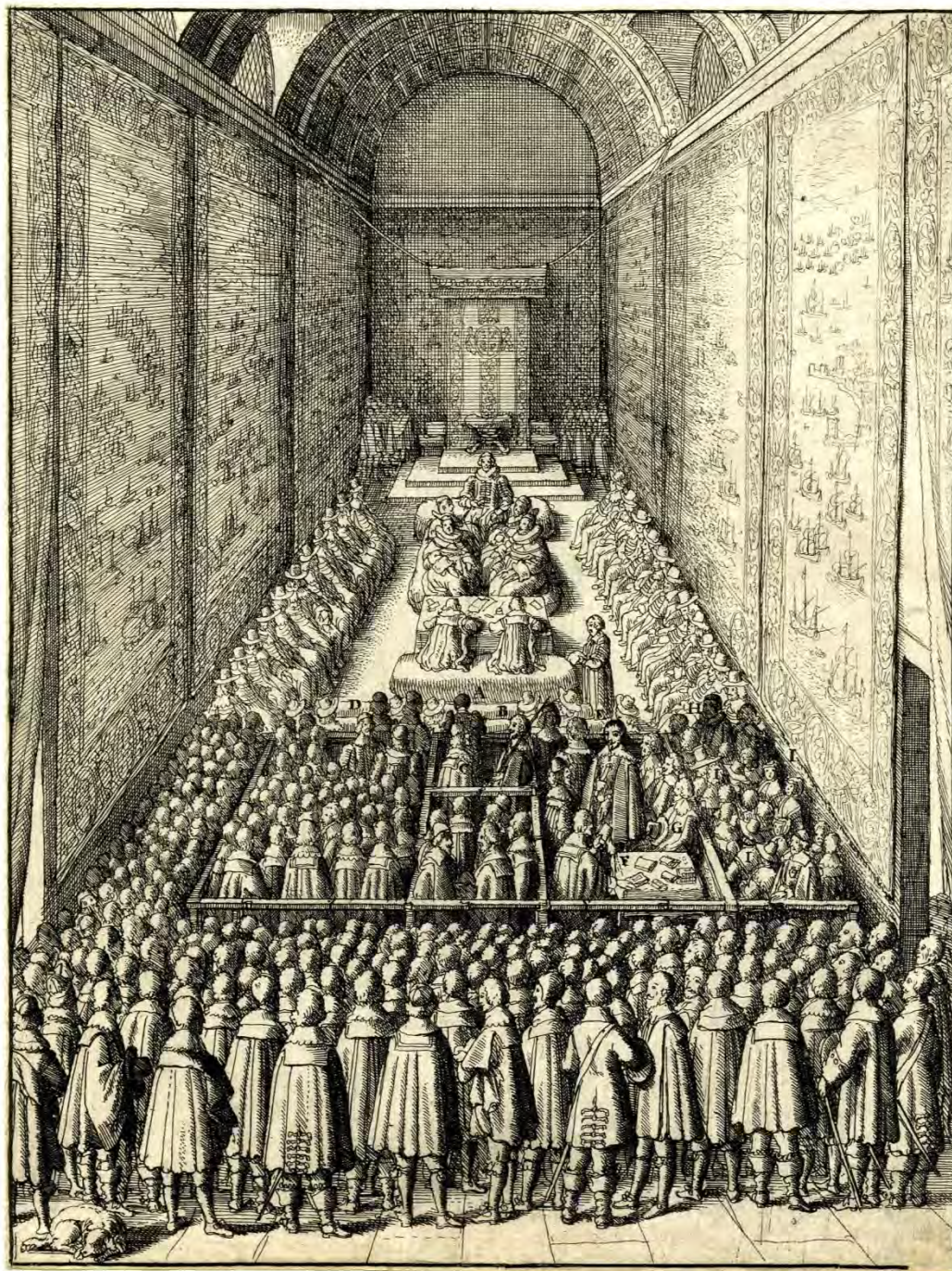
above, would prove to be a significant obstacle.²³ Unlike Strafford, Laud was not tried in Westminster Hall, 'but in the smaller chamber of the House of Lords'; indeed as Adamson points out it was Strafford's trial that was the exception, with the trial being switched to the larger venue to accommodate more people.²⁴ With presumably less public interest a smaller venue was sufficient for Laud (Hollar's print seemingly over-exaggerated the popularity of the trial and certainly the number of peers in attendance).

One of the notable features of the trial was the vagaries of the attendance of peers during its process. Laud himself noted how few Lords were actually in attendance; 'at the greatest presence that was any day of my hearing, there were not above fourteen, and usually not above eleven or twelve'. Also he estimated that one third of these sat for only part of each day of the trial and that the Lords that were in attendance when the prosecution was making its charges were not necessarily the same ones who heard Laud's comments in his defence. Only Baron Grey of Warke was in full attendance; and that was because he was Speaker and without him the Lords would be unable to sit.²⁵ An analysis of the attendance records from the *Lords' Journals* largely supports Laud's assertions. The maximum attendance in any single day would appear to be 16 on 4 May 1644, although a similar number attended at the prosecution's response to Laud's recapitulation on 11 September. The average attendance over the course of the

²³ E. Read Foster, *The House of Lords 1603 – 1649, Structure, Procedure and the nature of its business*, (Chapel Hill & London: University of North Carolina Press, 1983), pp. 80 & 178.

²⁴ Carlton, *Archbishop William Laud*, p. 214; Adamson, *The Noble Revolt*, p. 220 & 222. Adamson maintains that this decision enabled a greater public awareness of the proceedings via printed accounts etc.

²⁵ Laud, *Works*, Vol. IV, pp. 49 – 50.



(Fig. 2. Wenceslaus Hollar, *Trial of Archbishop William Laud*).

Table 1.**Attendance by Members of the House of Lords on the days of Archbishop Laud's Trial.**

Member of House of Lords		Full Day	am only	pm only	Total days of attendance (Counting am/pm only as 0.5 of a day)
Baron Grey of Warke, Lord Speaker	William Grey	23			23
Earl of Bolingbroke	Oliver St John	21	1	1	22
Earl of Denbigh	William Fielding	4			4
Earl of Kent	Henry Grey	17			17
Earl of Lincoln	Theophilus Clinton (Fiennes)	20			20
Earl Of Northumberland	Algernon Percy	11	6		14
Earl of Nottingham.	Charles Howard	13	5	1	16
Earl of Pembroke.	Philip Herbert	20			20
Earl of Rutland.	John Manners	17	3	1	19
Earl of Salisbury	William Cecil	19	2		20
Earl of Stamford	Henry Grey	9	6	1	12.5
Earl of Suffolk	James Howard	2	5	1	5
Earl of Warwick, Lord Admiral.	Robert Rich	6	1		6.5
Earl of Essex, Lord General.	Robert Devereux	7	1		7.5
Baron Dacre	Francis Lennard	3	4		5
Baron Berkeley	George Berkeley	7		3	8.5
Baron Bruce.	Thomas Bruce	7	7	2	11.5
Baron Howard of Escrick	Edward Howard	15	7		18.5
Baron Hunsdon.	John Carey	4	8		8
Lord Maynard of Estaines	William Maynard	1			1
Baron Mountagu	Edward Montagu	3			3
Baron North	Dudley North	7	2		8
Baron Wharton.	Philip Wharton	12	6		15
Lord Willoughby of Parham	William Willoughby	6	2	1	7.5
Viscount Saye & Sele.	William Fiennes	3	8	2	8

Taken from Lords' Journals. N. B. The trial lasted for 20 days, plus two days of summing up and one day of legal questions,- 23 days altogether. In order to balance the total with the columns it is necessary to multiply the 'am only' and 'pm only' columns by 0.5.

trial was circa 13 and the lowest was 10. Only Oliver St John, earl of Bolingbroke, attended pretty much the whole trial; although Salisbury, Pembroke, and Lincoln attended most of the proceedings, the latter only missing the recapitulation and summings up. In contrast Saye and Sele seems to have mainly listened to the prosecution's arguments, being largely absent after lunch when Laud gave his responses.²⁶ It should not be assumed however that the attendance records indicated that the Lords did not attach importance to the trial; on the contrary it is argued that parliament was keen to ensure a rigorous and legitimised process. However the war necessarily took precedence and some of the Lords were involved militarily; Essex and Warwick for instance, as Lord General and Lord Admiral respectively. Also there was no especial urgency to conclude the trial (except perhaps from Prynne). Additionally it should not be forgotten that the Lords itself was heavily depleted, with many peers at Oxford with the king; and furthermore it is reasonable to assume that the majority that did remain were largely hostile towards Laud.

Laud maintained that the structure of a typical day was that the charges against him would be outlined in the mornings until 2:00 pm. There would be a recess at which he could consider the arguments presented, without the assistance of his counsel, and the trial would re-convene at four o'clock until around 7:30 pm at which he was required to give his response and call witnesses who although not sworn could give testimony. Interestingly there is little record of anyone actually speaking in Laud's defence although any potential witnesses were probably with the king and therefore unavailable.

²⁶ See Table 1.

A response would be made by a member of the committee before the close. The *Lords' Journals* supported Laud's description of the process as did Prynne in *Canterburies Doome*.²⁷ Browne's record, for each day, listed Laud's response to allegations alongside the prosecution's case so did not specify any period of time between the prosecution and the response. Laud mentioned in his journal that he would complete the day weary and hot, but that his health remained robust without 'so much as half an hour's headache, or other infirmity, all the time of this comfortless and tedious trial'.²⁸ According to Laud's account, the trial was spread over twenty days, from 12 March to 29 July 1644; and on 2 September, Laud was allowed to sum up (his recapitulation), with a response from the prosecution on 11 September. Some further points of law were raised on 11 October. However in Browne's record the 16 and 18 March are conflated as, contrary to general practice, the prosecution only was heard on 16 March with Laud's response two days later. One other oddity reveals itself on dates; both Laud and Browne reported on-going trial activity on 20 May, and in all likelihood they were correct, although the *Lords' Journal* maintained that the trial had been deferred on that day.²⁹ The management of the trial was reasonably systematic in that the articles drawn up against Laud were dealt with methodically through the process. This chapter will therefore follow the main accusations and articles against Laud which coincided broadly, but not entirely, with the sequence of events during the trial. Prynne's incomplete, and somewhat singular, record of the trial, *Canterburies Doome* did not follow any specific chronology although, after a lengthy denunciation of Laud's

²⁷ Prynne, *Canterburies Doome*, p. 50-51.

²⁸ Laud, *Works*, Vol. IV, p. 50.

²⁹ *LJ*, Vol. VI, p. 561; HMC, *Braye MS*, pp. 409-411. Laud, *Works*, Vol. IV, pp. 197-208.

ecclesiastical activities, Prynne did consider the evidence relating to religion raised during the trial.

The public scrutiny from the popular press, and the nature of the press commentary, probably reflected the public mood. The trial took place during a major increase in the publication of printed news and it was deemed sufficiently important to warrant substantial news coverage.³⁰ The reports of the trial were surprisingly accurate, and in some instances very detailed, and therefore constituted an invaluable record of many aspects of it.³¹ John Dillingham, who edited the *Parliament Scout*, was actually called as a witness during the trial.³² The newsbooks showed no restraint in commenting on Laud's guilt, which they did not doubt, and they were convinced by the veracity of the testaments made by the witnesses without feeling any obligation to concern themselves with establishing that what was said was actually germane or truthful. Comments such as, his actions were 'equivolent with the highest Treason', that 'manifold and transcendent crimes have beene proved against him' and that he was guilty of 'Capitall offences, the reward wherof would render more satisfaction, than any more Comentaryes upon his crymes' were legion.³³ Despite this certainty of Laud's guilt, there was no suggestion that parliament should not conduct a proper trial. Certainly the

³⁰ It should be noted that the Royalist press was largely quiet on the process of the trial.

³¹ For example see *The true informer*, No. 39, BL. Thomason / 1:E.2[26], (July 1644), p. 283-286. The writer went into considerable detail, covering almost four pages of a ten page periodical on the examination within the trial of articles ten and twelve.

³² HMC, *Braye MS*, p. 391; Laud, *Works*, Vol. IV, p. 136; J. Raymond, *The Invention of the Newspaper*, p. 29.

³³ *The Parliament Scout*, No 49, BL. Thomason / 9:E.49[33], (May 1644), p. 396; *A diary, or, an exact iournall faithfully communicating the most remarkable proceedings in both houses of Parliament*, No. 3, BL. Thomason/ 43:E 252[39], (May/June 1644), p. 22; *The weekly account*, No. 45, BL. Thomason/10:E.54[24], (July 1644), p. [A4r].

press showed some impatience and the newsbooks observed, with proofs stacking up against Laud, that a guilty verdict was inevitable. There was a clear eagerness to see the archbishop brought to book; but there was an acceptance that due process should be followed and that the enormity of Laud's supposed crimes should be displayed. It was felt that Laud had been given ample opportunity to present a defence; 'he hath as faire play as ever *Prelate* had, and he hath had time enough to prove himself *innocent*'.³⁴ Ultimately, however, for the press his guilt was transparent and, more importantly, proven; the prosecution 'had proved every tittle thereof' and it all amounted to high treason.³⁵

Prynne actively supported the prosecution which was led by the Commons appointed Committee. They consisted of John Wilde, Samuel Browne, John Maynard, Robert Nicholas and Robert Hill. Wilde, MP for Droitwich, had been active in the attainder against Strafford and was twice chief baron of the exchequer, in 1643 and 1660. He was also an assize judge but was removed by Cromwell in 1653. Browne, a Devon MP, was also to become a justice of the King's Bench but resigned during the interregnum following the trial of the king, returning as a Justice of Common Pleas at the Restoration. Similarly, Maynard, a moderate Presbyterian and MP for Totnes, kept a low profile at the regicide and was an early supporter of the Restoration. Another to become a judge (in 1649) Nicholas, MP for Devizes, had also been involved in the trial and attainder of Strafford. He became baron of the exchequer in 1654, barely escaping

³⁴ *Mercurius Britannicus*, No. 45. BL. Thomason /1:E.3[20], (July 1644), p. 351.

³⁵ *A Perfect Diurnall of some passages in parliament*, No. 59. BL. Thomason / 43:E.256[3], (September 1644), p. 468.

a royalist uprising the following year.³⁶ Hill, MP for Bridport, also became baron of the exchequer. Laud viewed his prosecutors in a varied light, he considered Maynard to be forceful but fair in his approach; whereas he deemed that Nicholas, although making sense, used ‘virulent and foul language’ and Wilde whilst polite demonstrated ‘little or no sense’.³⁷

Laud’s defence to the charges made against him followed a consistent pattern and most charges were rebutted using a mixture of legalistic or theological arguments. He often contended that a charge was brought singly by a witness and that there was not the necessary corroboration from a second witness to give the accusation veracity. Similarly he commonly maintained that the testimony of witnesses was hearsay and therefore open to considerable doubt. He regularly made the point that many decisions were made in committee and that he could not be held personally and solely responsible for what were effectively collective decisions. On other occasions he maintained that he was following orders, usually from Charles, and therefore could not be charged with treason if doing the king’s bidding. He also used the obverse of this argument; where a subordinate was named as carrying out an action under his orders, it was that subordinate who should be held responsible. On any matter relating to Scotland he

³⁶ Laud, *Works*, Vol. IV, p. 47. See also *ODNB* for John Wilde by Robert Zaller, <http://www.oxforddnb.com/view/article/29399>, (accessed 8 August 2011); for Samuel Browne by James S. Hart Jnr, <http://www.oxforddnb.com/view/article/3697>, (accessed 8 August 2011); for John Maynard by Paul D. Halliday, <http://www.oxforddnb.com/view/article/18439>, (accessed 8 August 2011); for Robert Nicholas by D. Alan Orr, <http://www.oxforddnb.com/view/article/20100>, (accessed 8 August 2011). Hill is described as playing a largely inactive role. See also BL add 18779, *Walter Yonge’s Diary*, fo. 40r. My thanks also to the History of Parliament, London, who kindly shared their biographies of Wilde and Nicholas and noted Wilde’s absence from part of the trial due to illness.

³⁷ Laud, *Works*, Vol. IV, p. 231.

invoked the Act of Oblivion to automatically exonerate him. When charged with having crypto-papist books and belongings found in his home he argued that owning something did not necessarily signify agreement to the views espoused, making the point that 'I had also the Alcoran in divers copies' so 'why do they not accuse me to be a Turk'.³⁸ He repeatedly maintained that his religious innovations were not novel but were in continuity with the accepted ceremony and liturgy of Elizabeth's and James's time. Similarly he would, on occasion, invoke Calvin and maintained that his views were not necessarily inconsistent with the *Institutes* - particularly in relation to the role of episcopacy in the English Church, and that foundations of Christianity existed within the Roman Catholic church.³⁹ When being castigated regarding the book of sports, he maintained that 'Beza after praiers in the church yard; did through at bowles, & then the people did bowles'.⁴⁰ At times he would conflate a number of these arguments, for example Joseph Hunscoth gave evidence that a proclamation to be printed regarding peace with the Scots was summarily stopped and burned. Laud responded by saying:

First, Mr. Hunscoth is single in this charge. Secondly, whatsoever was done in this, was by order of the Council: and himself names an order, which could not come from me. Thirdly, he charges me with nothing but that I sent word the proclamation was to be stayed: which if I did, I did it by command. Howsoever, this concerns the Scottish business, and therefore to the Act of Oblivion I refer myself.⁴¹

³⁸ Ibid., p. 203.

³⁹ Ibid., p. 336.

⁴⁰ HMC, *Braye MS*, p. 422.

⁴¹ Laud, *Works*, Vol. IV, p. 185.

Of course he also pleaded his innocence to some of the charges and asserted that it was unreasonable to admonish him when he took a justifiable action. One example was where he censured the masters of a printing house following the printing of errors in an edition of the bible; one major fault being the mis-printing of the seventh commandment, which declared ‘Thou shalt commit adultery’. Laud, not unreasonably, felt justified in censuring such an obvious and risible mistake.⁴² He also pointed out the lack of clarity that existed within some allegations as to whether they equated to treason or some lesser misdemeanour.

II

The fundamental difficulty for the prosecutors was to construct a credible treason case, within its existing statutory definition, and their core approach was to endeavour to demonstrate that Laud’s actions were against the sovereignty of the monarchy and its government through deliberate subversion of the rights of parliament, perversion of justice, and the introduction of religious innovations designed to supplant the rightful authority of the king within the church. The prosecution needed to make the case that Laud sought to promote the prerogative of the king over parliament and the law, as their argument was that he was a traitor to the government of the king in his executive role of reigning through parliament according to the fundamental laws of the realm, rather than to the person of the king alone. However for parliament it was also necessary to demonstrate that the legal and judicial processes remained intact, despite

⁴² Ibid., pp. 165-166.

the on-going conflict, and that a properly constructed trial legitimised the rule of parliament even if the king was not present in person.

The first matters to be considered were the claim that Laud had subverted fundamental laws and introduced arbitrary government. These were the first and second Articles and the second additional. Laud, in notes preceding the trial, indicated that the notion he had sought to subvert the laws was unfounded. He believed that a fundamental subversion of the law could not just be a breach of one or two laws but ‘the whole frame of the law’ and would need to be established using military power. This seems specious however as it was quite plausible that alteration of a few significant rights could be construed as subversion and that monarchical authority could supply the force required. He refuted any intent to bring the Irish army into England to provide the necessary force, it was only considered for Scotland alone.⁴³ Also, in further notes collected for his defence, he maintained that he ‘hath been zealous for all the Laws especially Mag. charta and the Act of uniformity in Religion’.⁴⁴ However the parliamentary case was that Laud subtly sought to subvert law through the advice given to the king and by his actions in Star Chamber and High Commission.

Many of the accusations related to the archbishop promoting Charles’s prerogative in matters such as the collection of ship money and other tax payments. For instance

⁴³ *CSPD*, Vol. CCCCXCIX, Charles I, 54, p. 539.

⁴⁴ NA, SP 16/499 fo. 65.

Alderman Atkins maintained that he was brought in front of the council and Star Chamber for not collecting arrears of ship money and also on a separate occasion he maintained that he was pressurised by Laud to lend the king money. Similarly Samuel Sherman was imprisoned for the non-collection of ship money having maintained that, Dedham in Essex was not a maritime town.⁴⁵ Although Laud maintained that he was operating with the council, his accusers felt that there were ‘No man soe violent’ as the archbishop, whereas he described himself as being ‘serious and zealous...in his Majesty’s service’.⁴⁶ News reports were certain that the witnesses had proven the point against Laud regarding the ‘illegall Tax of Ship money’.⁴⁷ Laud was also accused of allowing the reprinting of John Cowell’s *The Interpreter* which maintained that the king had absolute power above the law and parliament; thereby substantiating Laud’s support for the king’s prerogative. Laud maintained that the printer was not one used by him and, in any case, the printing was already too far gone for him to stop it – a thin argument as he clearly had the authority to command withdrawal of an unlicensed book and demand that all copies were pulped.⁴⁸

The matter of royal prerogative reappeared during the trial, in particular in relation to the coronation oath sworn by Charles. It was alleged that Laud had materially altered the words of the oath to underscore the king’s prerogative, and also removed the phrase

⁴⁵ HMC, *Braye MS*, p. 367; *LJ*, Vol. IV, p. 468. For further information on Alderman Atkins see V. Pearl, *London*, pp. 311–313.

⁴⁶ HMC, *Braye MS*, p. 367; Laud, *Works*, Vol. IV, p. 74.

⁴⁷ *Britaines Remembrancer*, No 1, BL. Thomason / 7:E.38[1], (March 1644), p. A3r.

⁴⁸ HMC, *Braye MS*, p. 369; Laud, *Works*, Vol. IV, p. 79. See also Sommerville, *Royalists and Patriots: Politics and Ideology in England, 1603 – 1640*, pp. 114–119.

quos populus elegerit which implied a degree of popular election. Laud maintained that the oath was the same as that used at James's coronation and that 'I was but minesteriall to the Arch-bishop who did performe the ceremonie...& gave the king the oath'.⁴⁹ During the evidence gathering process Prynne made a deposition that the oath had been deliberately altered, maintaining that he had discovered books in Laud's possession regarding the rites and ceremony surrounding the coronation, and also that the form used at James's coronation was that he would rule in a manner 'agreeable to the ancient customs of the realm and the prerogatives of the Kings thereof' whereas the phrase 'ancient customs of the realm' was omitted at Charles's coronation.⁵⁰ The issue of the oath was important in that it presented, viewed from the hindsight of 1644, a portent of the reign to come. It was not just a legal rite, rather a commitment made before God. In the context of Laud's trial however it was an accusation designed to demonstrate that the king was being vaunted to a position of overarching authority by the evil counsellors who supported him, for their own design. There was also disquiet shown in the methodology of the coronation, in that it resembled a Catholic mass with a crucifix on the altar and with Charles on his knees 'at the unction'; although Laud again maintained that the ceremonial form used was that which had been accepted in the past.⁵¹ Laud complained that, once this allegation had been aired in court, word spread throughout the city that he had amended the oath, despite his earnest protestations of innocence.⁵² Indeed, there was considerable newsbook coverage of this issue, accusing

⁴⁹ HMC, *Braye MS*, p. 413; Indeed, the *Braye MS* commented that Laud had maintained that there had been no change 'from the coronacion of Queen Elizabeth', but in his diary Laud refers to the coronation of King James, see Laud, *Works*, Vol. IV, p. 212.

⁵⁰ NA, SP 16/499 fo. 97-98; *CSPD*, Vol. CCCCXCIX, Charles I, 19, p. 523.

⁵¹ HMC, *Braye MS*, p. 412.

⁵² Laud, *Works*, Vol. IV, p. 212.

him of ‘adding’ to the oath, and ‘abstracting from it’; that he ‘jugled... in omission and commission’ and that he was a ‘Mountebanke’ who would ‘swear the King to what he had a minde to have him observe’.⁵³ These allegations against Laud seem contrived, becoming convenient during his trial, there being no record of objection to the coronation when it took place. Nevertheless the newsbook coverage indicated the importance of the oath, made before the almighty, within the public consciousness.

The trial was to return to the matter of arbitrary government on 29 July, the last day of evidence, concerning itself with the fourteenth article which maintained that Laud had endeavoured to subvert, and maliciously to counsel the king against, parliament. Laud’s views had been previously portrayed to suggest that parliament should not meddle with the church, should not become involved in personal prosecutions and that the provision of subsidies to the king was part of God’s law.⁵⁴ Testimony was heard that a paper had been seen, signed by Laud and given to Sir Sackville Crowe, saying that parliament was ‘a company of factious Puritans’ that treated Charles as though he were still ‘in his minority’ taking away his ‘monarchicall power’; and that consequently Laud recommended the dissolution of parliament in June 1626.⁵⁵ Laud denied any knowledge of such a letter, dismissed the witness as biased, and maintained that, as he was bishop

⁵³ *The weekly account*, No. 39, BL. Thomason/9:E.49[36], (May 1644), p. [A4r]; *Perfect Occurrences of Parliament*, No. 23, BL. Thomason/43:E.252[36], (May 1644), p. [A3r]; *The Parliament Scout*, No. 49, BL. Thomason/9:E.49[33], (May 1644), p. 396, this newsbook maintained that the alteration of the oath was the ‘highest presumption that ever was’ which, even allowing for the typical flights of rhetoric in which these publications engaged, does demonstrate the importance of this issue in the public psyche. See also *Mercurius Civicus*, No. 53, BL. Thomason/9:E.49[34], (May 1644), pp. 520–522.

⁵⁴ *CSPD*, Vol. CCCXCIX, Charles I, 64/65, p. 543. Whether these actually were Laud’s views is less clear; he would argue that, in all probability, they were not, although his accusers would take a different view.

⁵⁵ HMC, *Braye MS*, p. 454.

of St David's in 1626 and signed documents 'Guil. Meneven', not W. Laud; thereby casting doubt on the provenance of the letter.⁵⁶ The allegations went on to specify other papers supposedly from Laud in which he outlined his distaste for parliaments, saying that they meddled in the church, that the God given authority of the king meant that parliament should not demur from agreeing aid and supply, and complaining about parliament's impingement upon the king's prerogative.⁵⁷

The newsbooks were vitriolic about the allegations that Laud had sought to limit and reduce the authority of parliament. One depicted Laud's behaviour as being an attack on Magna Carta itself, portraying the 'great Charter' as the bulwark of the Subject's rights and that he was 'the breaker, and not caller of Parliaments'.⁵⁸ *The Weekly Account* made a hyperbolic assault on what it viewed as Laud's pivotal role in traducing the authority of parliament and the rights of the individual:

he was the principall instrument that sought to make obstructions in justice, to alter the Law, hinder the course of Parliaments, bring in an Arbitrary Government, and put His Majestie out of liking with His Great Councell, and so was a meanes of drawing him away; and consequently of all the Evils which of late yeares hath hapned in this Kingdome.⁵⁹

⁵⁶ Laud, *Works*, Vol. IV, pp. 354-355.

⁵⁷ HMC, *Braye MS*, p. 455. Some of these comments were taken from marginal notes made by Laud regarding a speech made in 1628 by Sir Benjamin Rudyerd.

⁵⁸ *The Parliament Scout*, No. 58, BL. Thomason/ 1:E.4[2], (July 1644), p. 465.

⁵⁹ *The Weekly Account*, No. 48, BL. Thomason 1:E.3[23], (July 1644), p. [233], N.B. the numbering of the Newsbook has two pages numbered 232, this quotation is taken from the second of these.

For his own part Laud resolutely resisted these allegations, although he was on record as indicating that ‘one waye of Government is not fitt for all tymes’ and that the king needed to adjust the severity or mildness of his rule depending upon the circumstances of the time.⁶⁰ Historians today differ widely on whether Laud supported arbitrary government; although his views espousing the divine ordinance of episcopacy would tend to endorse the view that he supported the divine ordinance which buttressed monarchical prerogative. For some however the belief in the divinity of bishops meant putting episcopacy beyond the authority of the crown.⁶¹ However to some extent this was irrelevant; what was important was that parliament believed that he had sought to subvert its rightful authority, through poisonous counsel given to the king, and that this view was reflected in much of the public sphere.

III

The subversion of the legal process was akin to the subversion of parliament as evidence of treason against the fundamental laws of the body politic. Therefore, on the 18 March, the prosecution progressed to the allegations that Laud had perverted the course of justice both in secular and ecclesiastical courts, seeking to demonstrate that

⁶⁰ NA, SP 16/499 fo. 79. See also Laud’s dedication to Charles preceding the speech in Star Chamber censuring Prynne, Bastwick and Burton, Laud, *Works*, Vol. VI, p. 40.

⁶¹ The two main modern protagonists on the subject of arbitrary government and absolutism in the early Stuart period hold differing views. Glenn Burgess does not see a link between ‘the crypto-popery of Laudianism’ and ‘theories of absolute or arbitrary rule’; whereas Sommerville maintains that ‘Laudian tracts naturally defended royal absolutism’. See G. Burgess, *Absolute Monarchy and the Stuart Constitution*, (New Haven and London: Yale University Press, 1996), p. 213; Sommerville *Royalists and Patriots*, p. 49. See also Laud, *Works*, Vol. VI, p. 43. At the trial of Prynne, Bastwick and Burton, Laud argued that the bishop’s divinity ‘takes nothing from the King’s right or power over us’. In his speech to Saye and Sele in 1641 he also maintained that supremacy within the church remained with the king; see Laud, *Works*, Vol. VI, p. 145.

interference in the due process of the law was tantamount to treason. The articles relating to this were the third original and third and fifth additional which accused Laud of depriving individuals of their lawful rights, wrongfully punishing and victimising the accused in the courts and of raising ecclesiastical authority over and above the law. In addition Laud also faced accusations, which he resisted steadfastly, of personal corruption and accepting bribes, one example being receiving two butts of sack from some accused 'Chester-men' in order to mitigate their fine (he was, consequently, lampooned as loving 'sack well').⁶² However it was the issue of the elevation of ecclesiastical power that was of especial significance as it related to the accusation of praemunire. There was considerable overlap here with the arrogation of an arbitrary subversion of the laws and the wider issues of religious malfeasance which were to be covered in much of the rest of the trial. In his defence Laud had previously gathered the testimony of Mr. Lades, described as a 'Gent of the Temple', regarding the care that Laud took in the court of High Commission; however Mr. Lades was not called formally to give evidence.⁶³

Laud was faced with witnesses who complained about the arbitrary nature in which he had caused homes and businesses to be destroyed to enable the repair of St Paul's cathedral. Laud argued that the decision was taken in committee, that compensation

⁶² HMC, *Braye MS*, p. 395; Laud, *Works*, Vol. IV, p. 143–145; *Britaines remembrancer*, No 3, BL. Thomason / 7:E.40[11], (March 1644), p.18. In his record of the proceedings Laud piously reflected on his innocence and compares himself to P. Rutilius who was accused of bribery but was innocent, the accusations resulting from envy; see Laud, *Works*, Vol. IV, p. 142. A further example of supposed bribery can be found in NA, SP 16/499 fo. 156.

⁶³ NA, SP 16/499 fo. 65.

was given, the necessary repair of the cathedral was his responsibility as bishop of London, and in any case this could not be construed as treason.⁶⁴ Maynard, for the prosecution, later replied ‘Though to repayre Pauls is no treason, yet to offend against the lawes in the doing of it is..... an extrajudiciall proceeding’.⁶⁵ Again the prosecution attempted to show that treason incorporated any action against a coalescence of authority including the crown, parliament and the law - and that treason against one was treason against all. The rights of the individual were sacrosanct and Laud was deemed to have transgressed those rights. Testimony was heard of the case of Thomas Foxley whom Laud had prosecuted, ‘imprisoned, and cruelly used’.⁶⁶ Foxley had refused to take the *ex officio* oath, a crime for which he was summarily incarcerated in the Fleet for twenty weeks.⁶⁷ Others also gave evidence that Laud had imprisoned them for such matters as refusing to pay tonnage and poundage; and in particular the fifth additional article referred to a specific incident involving Sir John Corbet of Stoke. Corbet was charged with claiming in the local assize court that the Petition of Right affirmed that the raising of the muster master fee relating to the county militia was a grievance. For this he was arraigned to appear in Star Chamber and was imprisoned in the Fleet for ‘diverse monthes’ with the ‘Archbishop’s hand’ on the warrant.⁶⁸ Laud dismissed these claims, largely maintaining that as the judgments were made either by Counsel, or in Star Chamber, others were as liable as he was.

⁶⁴ HMC, *Braye MS*, p. 375; Laud, *Works*, Vol. IV, p. 93; NA, SP 16/499 fo. 101.

⁶⁵ HMC, *Braye MS*, p. 384.

⁶⁶ *Occurrences of certain speciall and remarkable passages in Parliament*, No. 13, BL. Thomason /7:E.38[17], (March 1644), p. [A4r].

⁶⁷ HMC, *Braye MS*, p. 377.

⁶⁸ *Ibid.*, pp. 378–379; See also *ODNB* entry by R. Cust, <http://www.oxforddnb.com/view/article/6288>, (accessed 15 December 2011).

Inevitably, given Prynne's proximity to the trial, the Star Chamber procedures that were taken against him, Burton and Bastwick, were reviewed as evidence that Laud had sought to subvert the legal rights of the individual. The complainants objected to the judgment that had been brought against them and the harsh treatment meted out. Typically Laud responded by maintaining that the judgment, and subsequent punishment, was by order of the court and that he should not be held individually responsible. Prynne however identified Laud as the principal antagonist, maintaining that Laud had exerted pressure on Attorney General Noy to prosecute Prynne in Star Chamber in 1633 following the publication of *Histriomastix*. The archbishop was also accused of being behind the seizure of Prynne's books and of depriving Prynne of 'Pen Inke & Paper' when he was incarcerated.⁶⁹ Clearly Prynne was motivated by personal malice and spite towards Laud - who himself noted that Prynne 'made a long relation of the business, and full of bitterness against me' - and Prynne's enmity to the archbishop provided a crucial impetus to the proceedings.⁷⁰

Accusations of Laud influencing the justices or the courts, especially the ecclesiastical courts, within the legal system continued throughout the trial and there seemed to be a reasonably meticulous effort to obtain as much evidence as possible from the depositions of witnesses. For example he was accused of supporting the authorities in the legal hearing against the parishioners of Beckington in Somerset who rioted

⁶⁹ HMC, *Braye MS*, pp. 380- 381. See also *ODNB* entry by James S. Hart Jnr <http://www.oxforddnb.com/view/article/20384>, (accessed 15 December 2011). It was likely that Noy may not have been averse to seeing Prynne punished and appeared to be on good terms with Laud. The three martyrs complained that the right of their spouses to visit them during their detention was denied.

⁷⁰ Laud, *Works*, Vol. IV, p. 107.

following the relocation and railing in of the altar as required by the bishop of Bath and Wells. William Longe, the foreman of the jury that indicted the rioters, testified that the local parson encouraged the judge to bring an immediate verdict. Another witness, George Longe, maintained that when the rioters were excommunicated, the matter was brought in front of Laud who gave the appellants short shrift. A third witness, John Ashe, who at the time of Laud's trial was MP for Westbury in Wiltshire, maintained that Lambe indicated that only the archbishop could hear an appeal. He went on to testify that Justice Finch intimated that he was under pressure from above, presumably Laud, when those indicted were to be fined and the original jury who refused to agree the indictment was discharged.⁷¹ A similar accusation was made by Samuel Burroughs that he had brought an indictment against his priest for denying him the sacrament having refused to accept it at the altar rail. For bringing the indictment he was arrested, imprisoned and fined, and he alleged that this came via a warrant from Laud specifically. Laud, in response, maintained that a warrant could not come from him alone but from the Court of High Commission and therefore he was not solely responsible.⁷² Other witnesses brought similar accusations of Laud's interference within the justice system; John Ward, a minister ejected from his living, declared that the archbishop intervened in High Commission against him; Ferdinando Adams was excommunicated for writing in church that it had become a den of thieves and when he brought a case against his accuser, which was upheld, Laud made it clear that he did not support the legal decision; George Huntley was deprived, and fined in High Commission, for failing to preach a visitation sermon and consequently brought a suit

⁷¹ Ibid., pp. 121-124; HMC, *Braye MS*, pp. 386-387. See also *ODNB* entry on John Ashe by John Wroughton, <http://www.oxforddnb.com/view/article/66499>, (accessed 15 December 2011).

⁷² HMC, *Braye MS*, p. 385; Laud, *Works*, Vol. IV, pp. 118-119.

against the court; Laud was accused of putting pressure on the courts, reportedly maintaining that Huntley's attorney should have his ears removed for supporting such a case.⁷³ Much of this evidence was hearsay and circumstantial and clear interference from Laud was difficult to establish; however given the level of authority that Laud could wield, the courts may well have been reticent to act in a way that could be considered contrary to his will. For his own part Laud maintained that he had followed the practices established during James's and Elizabeth's reigns and that no treason could be construed from such accusations.⁷⁴ However, for his accusers subversion of the law was treasonous as it assumed a prerogative within the judicial process. As Alan Orr asserts interference in the courts 'constituted the erection of a sovereign jurisdiction standing apart, against, and potentially above that emanating from the crown' and if proven was effectively treason.⁷⁵

The prosecution underlined their belief in the treasonable element of the subversion of the law in the area of prohibitions (a writ, ordered by a common law judge, which required ecclesiastical courts, or indeed other civil law courts, to transfer a case to the secular common law court).⁷⁶ Witnesses (including Prynne) were produced who articulated the archbishop's vehement opposition to prohibitions, asserting that he said

⁷³ HMC, *Braye MS*, pp. 389 – 392; Laud, *Works*, Vol. IV, pp. 128 – 132 & 135 – 136; *Britaines remembrancer*, No 3, BL. Thomason / 7:E.40[11], (March 1644), p. 17. Huntley and Laud had more than one legal dispute, see *CSPD*, Vol. CCCCXCIX, Charles I, 74, p. 547, & 75, p. 548.

⁷⁴ Laud, *Works*, Vol. IV, p. 136.

⁷⁵ Orr, *Treason and the State*, p. 125.

⁷⁶ Prohibitions were one of the main areas of conflict between the civil and common law lawyers in England and much of the dispute was centred on whether the non-payment of ecclesiastical tithes were to be held in civil or common law courts. See Levack, *The Civil Lawyers in England*, pp. 72–81 & 142–144.

that he would break the back of prohibitions or '*they shall break myne*'.⁷⁷ He was also reported as saying '*He would see what Judges durst grant Prohibitions. And would have them to know, that he hoped to have all Courts in Subjection to the High Commission Court*'.⁷⁸ This allegation was important as it indicated that Laud sought the pre-eminence of ecclesiastical courts within the judicial system and therefore coveted an authority for the church over the law. This supported the contention of praemunire and/or treason; placing the head of the church above the king, in whose name the judicial system operated. Laud responded by stating that when the senior ecclesiastical authority had emanated from Rome, a clear need for prohibitions existed; but following the Reformation, the king, 'the fountain of justice in both courts', had ultimate authority over both clerical and secular courts and therefore the need for prohibitions had diminished. Also he maintained that he wished to establish the limits of a court's jurisdiction to ensure that 'the subject might not, to his great trouble and expense, be hurried, as now he was, from one court to another'.⁷⁹ In the public reports this argument did not wash. His response was mocked;

when the Popes power was casheered, or rather his *Grace* was Pope, and lived at Lambeth, there was no need of Prohibitions.....there was right to be had in time of Popery and an Appeale from a wicked, and unjust Court, or Sentence, but when the Popes power is throwne off, there is no reason a poore English free-borne Subject, subject to no Laws but his owne making, should have the

⁷⁷ HMC, *Braye MS*, p. 393. Similarly it was recorded that in the case of John Burges of Sutton Coldfield that he would break his back or 'break the neck of these prohibitions', see *CSPD*, Vol. CCCCXCIX, Charles I, 83, p. 551. The numbers of witnesses that quoted a similar comment tend to indicate the veracity of Laud's fierce opposition to prohibitions.

⁷⁸ *Britaines remembrancer*, No 3, BL. Thomason / 7:E.40[11], (March 1644), p. 18.

⁷⁹ Laud, *Works*, Vol. IV, pp. 137 & 141

benefit of those Laws; and this was like my Lord of *Canterbury* as could be, and made good his unparalleled tyranny during his reign.⁸⁰

This was the point for the prosecution. By seeking to limit prohibitions, Laud was assuming a crypto-papal authority, and to exercise that authority it was necessary to hold sway in the ecclesiastical courts and to ensure a wide number of cases came under its umbrella. If this case could be made that would be tantamount to treason.

IV

The allegations against Laud in regard to his religious policies took up the lion's share of the proceedings against him. The nature of these allegations had been well aired; outrage at Laudian innovations, promotion of the archbishopric to a pseudo-papal authority, closer links with the Babylon of Rome, persecution of dissidents and non-conformists, and denial of the reformed church. Again, though, the difficulty faced was whether these offences constituted a plausible charge of treason. The Commons' case was that, in endeavouring to elevate the influence of the church, Laud created a non-secular power base that threatened the rightful authority of the king in his role as supreme head of the Church of England. The derivation of episcopal licence, whether directly divine or via the divinity of the king, went to the heart of the parliamentary case. The clerical innovations, judicial interference and softening of relations with Rome, it was argued, were designed to support this acquisition of power. Indeed the

⁸⁰ *The Parliament Scout*, No. 41, BL. Thomason/ 7:E.40[19] , (March 1644), p. 342.

charge went further, accusing Laud of seeking a return to Rome through subversive means, thereby subjecting the English crown once more to an external authority which had been problematic for centuries. Laud, not unnaturally, resisted this and rejected the notion that he sought an accommodation with Rome; or that his innovations were intended to be subversive – rather that they were designed to restore the sanctity of religion from its serious decline.

The first articles in this area were introduced in April, being the fifth and sixth original and the ninth additional. These covered the unlawful introduction of the Book of Canons; the assumption of a crypto-papal and tyrannical authority and the derivation of archiepiscopal power; and the unlawful calling of a synod of the Church of England.⁸¹ The issues raised in regard to the introduction of the Canons were that it was illegal for bishops to sit and introduce ecclesiastical laws once parliament was dissolved, and that Laud instigated the initiation of the Canons. Laud rebutted this by declaring that ‘His Majesty tould him he had received it from the Lords that the Convocation might sitt after the parliament’; in other words, as Charles sanctioned the Convocation, it could hardly be construed as illegal.⁸² Laud also defended the Canons themselves maintaining that they were intended to benefit the church and if any errors existed they were not

⁸¹ Laud, *Works*, Vol. IV, pp. 150–152; *LJ*, Vol. VI, p. 520; HMC, *Braye MS*, pp. 398–399.

⁸² HMC, *Braye MSS*, p. 399. Julian Davies supports Laud’s claim that Charles gave his approval for the continuation of the Convocation and that Charles maintained that it was part of his prerogative to allow Convocation to sit, see Davies, *The Caroline captivity of the church*, chapter 7 and in particular p. 254. This is supported in notes preceding the trial which were prepared on behalf of Laud’s defence in which it was stated that the clergy would not ‘presume to assemble in their convocations without the Kings writt’, see NA, SP 16/499 fo. 66.

deliberate.⁸³ Of particular concern was the oath to be sworn in support of the Canons which was construed by one newsbook as elevating the clergy; ‘every man in the Kingdome be made submissive to the Clergy, for if he be excommunicated, which they would soone doe for any trifling occasion, then they must kneele down before the Prelates and sweare to obey the commands of the Bishops’.⁸⁴ In Laud’s defence notes preceding the trial the point was made that oaths for clergy were unremarkable; there was ‘Nothing more frequent in former times yⁿ for the Clergy in their convocations, Synods, or Councells to enjoyne an oath’.⁸⁵ As Orr points out the oath in the Canons was against popery and also to confirm approval of the established doctrine, discipline, and governance of the church and to accept episcopal authority. This was not just a threat to the ‘usurpations and superstitions of the See of Rome’ but also to any Presbyterian settlement within the church and a caution to Calvinists.⁸⁶ Nevertheless discussion on the Canons was curtailed by Nicholas, on behalf of the prosecution, because in a Commons vote, in December 1640, the Canons had already been declared contrary to the king’s prerogative, the law, the rights of parliament, the liberty of subjects, and were seditious and of dangerous consequence.⁸⁷

⁸³ Laud, *Works*, Vol. IV, pp. 153–154.

⁸⁴ *Mercurius Civicus*, No. 47, BL. Thomason / 8:E.43[10], (April, 1644), p. 473.

⁸⁵ NA, SP 16/499 fo. 64.

⁸⁶ Orr, *Treason and the State*, p. 130; J.P. Kenyon, *The Stuart Constitution*, p. 169.

⁸⁷ Laud, *Works*, Vol. IV, p. 155; *Mercurius Civicus* reported that the prosecutor was Maynard whereas Laud was very clear that the lead for the prosecution had now switched to Nicholas, for whom, as has been commented, Laud was very contemptuous. The newsbook also dated the Commons vote as 14 December 1641. This showed that some of the detail in the reports were inaccurate; see No. 47, BL. Thomason / 8:E.43[10], (April, 1644), p. 473. For details of the Commons vote see *CJ*, Vol. II, p. 52.

The assumption of papal power was a major plank of the treason allegations as it entailed an encroachment upon monarchical power. The prosecution sought to establish that titles in Latin, indicating a divinely ordained spirituality and sanctity, were granted to Laud by Oxford University implying his assumption of a crypto-papal authority.⁸⁸ These claims were largely insubstantial and were rebutted by Laud; indeed this was an area where Laud's expertise trumped that of his prosecutors. He did however accept that some of the phrases used, such as *Quo rector non stat regula*, were hyperbolic.⁸⁹ The press however was convinced that 'he assumed the Title of the Pope of Rome, and was a little Pope in England' and that another title used, *Maximus Pontifex* was a designation attributable only to a pope.⁹⁰ The assumption of a papal authority was associated with attempts to interfere with the legal system; in particular that members of the clergy should not be subject to temporal jurisdiction. Witnesses were produced to testify that Laud had sought to protect the clergy from the secular magistracy and to ensure that the clergy were elevated to temporal positions of authority. The Mayoral ceremonies were resisted in London, York and Shrewsbury, allegedly by Laud, and he was quoted as remarking that the clergy were more fit to govern than the city magistrates.⁹¹ He was also criticised for promoting the candidature of Bishop Juxon to the role of Lord Treasurer and was quoted as commenting 'that if the Church held not up its head now, hee had done what hee could'.⁹² Laud was also accused of protecting a drunken clergyman, with the secular magistrate examining him ending up in front of

⁸⁸ A considerable number of examples can be found in NA, SP 16/499 fo.151.

⁸⁹ Laud, *Works*, Vol. IV, p. 159; HMC, *Braye MS*, p. 399.

⁹⁰ *A perfect diurnall of some passages in Parliament*, No. 38, BL. Thomason / 43:E.252[29], (April 1644), p. 299.

⁹¹ HMC, *Braye MS*, pp. 400–401; specifically the ceremony involved was the carrying of the sword by the mayor in church. See also *CSPD*, Vol. CCCCXCIX, Charles I, 78, p. 550.

⁹² *A continuation of certain speciall and remarkable passages*, No. 16, BL. Thomason / 8:E.43[12], (April, 1644), p. 5; HMC, *Braye MS*, p. 401.

the High Commission for meddling with matters relating to members of the Holy Orders.⁹³ The press compared Laud to Wolsey and Beckett, who had also sought to supplant lay authority in ecclesiastical matters, consequently prompting the wrath of their sovereign. In particular, comparisons with Wolsey, and his ‘supream arrogance’, identified these allegations with those of praemunire.⁹⁴ As one newsbook put it, Laud’s alleged policy was ‘*The Temporall Courts must downe, The Church must up*’. Laud maintained that he indeed wished to end the debasement of the role of the clergy, but that differed from releasing them from the rightful authority of the civil magistrate. In the elevation of Juxon he hoped that the church would gain honour and there was no treason as Juxon would be operating under the auspices of the king.⁹⁵

It is clear that the prosecution believed that the assumption of clerical power, exempt from the civil magistracy, was a productive matter to pursue in making a treason charge stick. Nicholas returned to this area in early May and Laud, in his diary, gave an interesting insight into how he viewed his current plight; maintaining that he sought to protect, not increase, the rights of the clergy, thereby comparing his treatment to Cicero. Laud had spent his life seeking to defend the church and clergy just as Cicero had devoted his career to defending the Roman citizens. However, in both cases when they needed support in their own defence it was not forthcoming:

⁹³ HMC, *Braye MS*, p. 401.

⁹⁴ *The weekly account*, No. 38, BL. Thomason/ 9:E.49[9], (May 1644), p. A2r; *A continuation of certain speciall and remarkable passages*, No. 16, BL. Thomason / 8:E.43[12], p. 4; *The Kingdomes weekly intelligencer*, No. 51, BL. Thomason / 8:E.44[1], (April 1644), p. 410; *Mercurius Civicus*, No. 47, BL. Thomason / 8:E.43[10], (April, 1644), p. 473.

⁹⁵ *Mercurius Civicus*, No. 47, BL. Thomason / 8:E.43[10], (April, 1644), p. 475; Laud, *Works*, Vol. IV, pp. 161 & 164.

no man took care to defend him (Cicero) that had defended so many; which yet I speak not to impute anything to men of my own calling, who, I presume, would have lent me their just defence, to their power; had not the same storm which drove against my life, driven them into corners to preserve themselves.⁹⁶

Laud clearly believed that, were it not for the war, witnesses would have come forward to support him. However at his arrest there was general condemnation of Laud, not solely from puritans, and it is unlikely that he could have raised much support; however he appeared to maintain a misconceived belief in the good that he had tried to do.

In an outburst of hyperbole, the prosecution accused Laud of increasing the power of High Commission by absorbing additional powers which restricted the freedom of the subject under Magna Carta and assuming some of the power of the ‘temporall sword’.⁹⁷ He was likened to Pope Boniface VIII, an archetype for the papal desire to supplant the authority of princes. Boniface had espoused the belief that the laity was subordinate to the clergy and that the papacy should be able to instruct and control the magistracy. His bull *Unam Sanctam* has been described as a ‘programme of universal domination’ and remained unamended until the nineteenth century.⁹⁸ Comparing Laud to Boniface underscored the conviction that he wished not only to elevate the clergy but to supplant the legitimate authority of the crown. Laud sought to puncture the prosecution’s charge

⁹⁶ Laud, *Works*, Vol. IV, pp. 168-169.

⁹⁷ HMC, *Braye MS*, p. 405. The man who sought to assume both ‘swords’, that is both temporal and spiritual authority together, was considered to be the antichrist and this informed the Protestant hatred of the papacy when the pope sought to encroach on sovereign rights.

⁹⁸ F. Heer, *The Medieval World: Europe 1100 – 1350*, (London: Weidenfeld & Nicolson and Phoenix, 1961, reprinted in 1998), p. 273; Orr, *Treason and the State*, pp. 131 – 132; HMC, *Braye MS*, p. 405.

by demonstrating that the supposedly new powers had been in earlier commissions. He reported that Nicholas was ‘startled’ at this but once confronted continued with the charge only in ‘higher and louder terms than are before expressed’.⁹⁹ Endeavouring to make the case that Laud sought an authority for episcopacy above the sovereign power of the king, was a fundamental charge for the prosecution to pursue, as was a more forensic investigation of the innovations that Laud allegedly introduced.

Undoubtedly Prynne saw Laudian religious innovations as fertile ground for the prosecution. Much of *Canterburies Doome* concentrated on disparaging them, describing them as ‘Popish, Arminian Soul-destroying Errors, Superstition, Innovations, Prophanations’.¹⁰⁰ However the prosecution needed to identify such matters, although unpopular, as treasonous; despite Charles fully supporting his archbishop in endeavouring to introduce the changes. The charge was the seventh original article which maintained that Laud had sought to ‘alter and subvert God’s true religion’ and had victimised those who would not conform. Importantly, for identifying where the potential for treason lay, the article described the alterations as introducing popish doctrines, idolatry and superstitions; the implication being that they were a portent to the re-introduction of Roman/papal power and an impingement upon royal

⁹⁹ Laud, *Works*, Vol. IV, p. 179.

¹⁰⁰ Prynne, *Canterburies Doome*, p. [b1r]. This comment was in the epistle which preceded the main work. Clearly *Canterburies Doome* was published after the conclusion of the trial and rather than being a clear depiction of the trial it concentrated on presenting the ‘evidence’ against Laud particularly in relation to popery and innovations.

authority.¹⁰¹ As Wilde described it there was an inexorable progression from connivance to toleration to subversion.¹⁰²

There was no shortage of witnesses to give evidence against Laud on these issues. For example Daniel Featley, formerly chaplain to Archbishop Abbot until 1625, testified that at Laud's chapel at Lambeth, the communion table was altar wise and that idolatrous accoutrements, such as crucifixes and candelsticks were in evidence.¹⁰³

Prynne characterised Featley's evidence as demonstrating that 'the Arch-bishop was so mad upon Images, Pictures and their worship'.¹⁰⁴ Further evidence was given by Nathaniel Brent and Henry Mildmay indicating that crypto-popish items were incorporated by Laud in sacerdotal ceremonies that smacked of the mass, and that popish pictures and hangings remained in the king's chapel and in Laud's study at Lambeth.¹⁰⁵ Laud fell back on his standard defence that both Elizabeth and James accepted the usage of such paraphernalia, and therefore should not be construed as 'introductions for Popery'. He also defended bowing to God in church as part of his campaign against profanity in religion.¹⁰⁶ Whether Laud was truly innovatory or was harking back to the ecclesiastical rituals of Elizabeth's day has long been the subject of

¹⁰¹ *PLP*, Vol. II, p. 537; Laud, *Works*, Vol. IV, p. 197.

¹⁰² Laud, *Works*, Vol. IV, p. 197.

¹⁰³ HMC, *Braye MS*, p. 409; Laud, *Works*, Vol. IV, p. 198; for details of Featley see *ODNB* entry by Arnold Hunt, <http://www.oxforddnb.com/view/article/9242>, (accessed 15 December 2011). The positioning of the altar had been the subject of a legal case regarding St Gregory's in London in which Laud insisted on the siting of the altar in the Chancel rather than in the main part of the church. Charles, it appears, agreed. See NA, SP 16/499 fo.159; *CSPD*, Vol. CCCCXCIX, Charles I, 42, p. 531.

¹⁰⁴ W. Prynne, *Canterburies Doome*, p. 108.

¹⁰⁵ HMC, *Braye MS*, p. 410.

¹⁰⁶ Laud, *Works*, Vol. IV, p. 201.

debate.¹⁰⁷ Even Nicholas Tyacke, who certainly regards Laud as an innovator, does acknowledge that the ‘intellectual roots ran back to the Elizabethan period’.¹⁰⁸ Of course, where Laud’s trial was concerned the distinction was important; it was necessary to show that Laud had strayed from the rightful path of the Reformation; whereas Laud’s defence was contingent on demonstrating that he had simply continued ceremonies that had existed for the last century or so. It is not important here to determine whether Laud was truly innovatory; but to accept that his accusers believed him to be so.¹⁰⁹ The public press was in no doubt that he sought to subvert the true Protestant religion by causing ‘superstitious Pictures, Images and Crucifixes to be set up in many Churches, and in the Kings Chappell’.¹¹⁰

The rituals followed by Laud were subject to criticism by the prosecution; again the administering of the sacrament, and the ceremonial nature of the Caroline coronation being akin to the mass, were condemned. Laud’s defence remained that the ceremony used had been approved by his predecessor and had not been altered since the coronation of James.¹¹¹ Laud was accused of changing the ceremonials at Oxford University thereby bringing in popish idolatry. Again Nathaniel Brent was a principle accuser maintaining that ‘there were no Altars in Oxon. untill the Archbishop came to

¹⁰⁷ See above pp. 4-6.

¹⁰⁸ Tyacke, ‘Archbishop Laud’, in *The Early Stuart Church 1603 – 1642*, p. 70

¹⁰⁹ As William Lamont indicates, it was Prynne’s clear view that ‘bishops like Laud.... were deviating from the principles of the Elizabethan Church’; see Lamont, *Godly Rule*, p. 35.

¹¹⁰ *A perfect diurnall of some passages in Parliament*, No. 43, BL. Thomason / 43:E.252[35], (May 1644), p. 339.

¹¹¹ Laud, *Works*, Vol. IV, p. 211; HMC, *Braye MS*, pp. 412 - 413.

be Chancellor. That of late, crucifixes & Images have bin lately set up in colledges'.¹¹² It was further maintained that he supported the introduction of prayers in Latin at St Mary's College in 1637; a charge which Laud resisted by asserting that Latin had been in use before his involvement in the University and also his correspondence to the University makes clear that he encouraged the speaking of Latin to assist the students in their degrees.¹¹³ Nevertheless Prynne believed that he also sought to introduce his innovations into Cambridge and that Laud 'still lyes under the guilt of this intire charge concerning the Popish Innovations in our Vniversities'.¹¹⁴ However these matters could scarcely be construed as treason except that they contributed to the welter of accusations regarding an insidious return to Rome. It would appear that the strategy of the prosecution was to present numerous examples of the usage of crypto-papal rituals so that the defence would suffocate under the weight of evidence. The 6 June hearing date consisted entirely of witnesses who testified on matters such as the prevalence of superstitious images in churches, the positioning of the altar, the book of sports and disregard for the Sabbath, and genuflecting towards the crucifix and idols. The point being that, as Wilde indicated, this was a reversion to times when popish ritual was predominant in the church and that 'the Bishops did too much usurpe in those tymes'. The removing of the King's arms from a window at Tothilfields chapel to be replaced with his own, supported by angels, demonstrated Laud's emphasis on the authority of bishops.¹¹⁵ On 11 June, Mildmay alleged that, some spoke well of Laud at Rome and

¹¹² HMC, *Braye MS*, p. 413.

¹¹³ *Ibid.*, p. 414; Laud, *Works*, Vol. IV, p. 221 & Vol. V, p. 172.

¹¹⁴ W. Prynne, *Canterburies Doome*, p. 478.

¹¹⁵ HMC, *Braye MS*, p. 416; *A perfect diurnall of some passages in Parliament*, No. 45, BL. Thomason / 43:E.252[41], (June 1644), p. 358. See also *CSPD*, Vol. CCCCXCIX, Charles I, 71, p. 546 which mentioned the replacement of the window and that the new window had the archbishop's arms 'supported by Seraphim'. Tothilfields was part of Westminster.

hoped that ‘he would be a meanes to bring our church nearer to them’.¹¹⁶ This was supported by the evidence of Mr Chaloner who testified that many Catholics on the continent were hopeful that Laud would lead the English Church back to Rome and that they ‘prayed for the good successe of his designes’.¹¹⁷ The innovations were portrayed as designed to lead to a treasonous reassertion of papal authority over the rights of the sovereign.

The prosecution was to return to the alleged support that Laud received from overseas and the hope abroad that he would presage the end of the reformed church in England. In a letter, supposedly discovered in Laud’s study, a Jesuit articulated ‘that the Excellent Drugg of Arminia[ni]sme is planted in England, which is hoped will purge the Puritans’.¹¹⁸ Arminianism was a fifth column that would instigate a schism in the English church, as the letter went on – ‘OVR FOVNDATION IS ARMINIANISME: the Arminians affect mutation.’¹¹⁹ Support for the argument that Laud promoted an irenic approach towards Rome was evidenced, according to the prosecution, by the literature that received Laud’s backing – or, alternatively, his reproval. Richard Montague’s treatise *New Gagg for an Old Goose* was seen as supporting Arminianism and Laud, it was alleged, later preferred Montague to the bishopric of Chichester.

¹¹⁶ HMC, *Braye MS*, p. 420. Laud believed, that Mildmay had said, that he was generally hated at Rome and at the trial Mildmay indicated that there were some opponents to the archbishop in Rome; see Laud, *Works*, Vol. IV, p. 244.

¹¹⁷ *Mercurius Civicus*, No. 55, BL. Thomason / 9:E.50[34], (June, 1644), p. 534; W. Prynne, *Canterburies Doome*, pp. 414–415; HMC, *Braye MS*, p. 420.

¹¹⁸ HMC, *Braye MS*, p. 430; The letter is partly reproduced by Prynne who quoted it as saying that ‘*NOW WE HAVE PLANTED THE SOVERAIGNE DRUGG ARMINIANISME, which we hope will purge the Protestants from their Heresy*’, see W. Prynne, *Canterburies Doome*, p. 159.

¹¹⁹ Prynne, *Canterburies Doome*, p. 160.

Similarly, Robert Sibthorpe's sermon *Apostolike Obedience*, in support of the forced loan, was licensed with Laud's approval despite being initially refused by Abbott.¹²⁰ Francis Sales had a book licensed with 'passages of Popery in it' that were not removed.¹²¹ On the other side of the coin, Laud was accused of numerous incidents of forbidding the printing of books and expunging sections of printed material that were against popery and Arminianism. For example Michael Sparke, a printer, maintained that he had some bibles seized because they contained 'notes in the Geneva print'; instructions were issued to limit the importation of printed books from Holland; and Prynne, adding his voice, testified that he was brought in front of the High Commission for authoring a 'booke against the Arminians'.¹²² It was Laud, the prosecution maintained, that was behind the censorship, and the public press agreed, commenting that he permitted 'divers Popish, and scandalous Books against the Protestant Religion'.¹²³ In his diary Laud, rebutted the specific allegations and expressed his distaste for differences in religion, without confirming any personal papist leanings; commenting that: 'I do heartily wish these differences were not pursued with such heat and animosity, in regard that all Lutheran Protestants are of the very same opinions, or with very little difference from those which are now called Arminianism'.¹²⁴ Indeed in his sermon of February 1625 he preached against schism between the church and state, 'For divide Christ in the minds of men, or divide the minds of men about their hope of

¹²⁰ HMC, *Braye MS*, p. 431. It was actually licensed by Bishop Montaigne of London, see *ODNB* entry on Sibthorpe by J. Fielding, <http://www.oxforddnb.com/view/article/25511>, (accessed 3December 2011).

¹²¹ HMC, *Braye MS*, p. 436. Francis Sales was St Francois de Sales and the existence of popish passages in the book was not a surprise; however the English translation of these offending passages were not removed. I am grateful to Anthony Milton for this information.

¹²² *Ibid.*, pp. 426, 427, 429, & 433.

¹²³ *The true informer*, No. 36, BL. Thomason / 9:E.53[4], (June 1644), p. 258.

¹²⁴ Laud, *Works*, Vol. IV, p. 268.

salvation in Christ, and tell me what unity there will be'.¹²⁵ Laud liked order and discipline and abhorred non-conformity.

To underline Laud's papal links, the prosecution turned to the tenth article which referred to his supposed participation in a plot to restore the church of Rome, and that he consorted, and kept contact, with 'divers Popish priests and Jesuits'.¹²⁶ Evidence was forthcoming with reports overseas maintaining that Laud was a closet papist and would restore popery to England 'by degrees'.¹²⁷ He allegedly gave support to Sancta Clara, a Franciscan friar close to Queen Henrietta Maria's circle, by allowing his treatise, *Deus, Natura, Gratia*, which intimated that differences between Rome and the Church of England were minimal. Such a work was inimical to puritans and incidentally did not find particular favour with Rome. Laud denied giving aid in the printing and distribution of the book, or giving it a licence; arguing that it was printed in Lyons, therefore outside of his jurisdiction.¹²⁸ Laud was also accused of befriending Monsieur St Giles, but Laud commented that Charles had expressly instructed him to support St Giles and in any case St Giles had committed not 'to meddle..... with the

¹²⁵ Taken from his sermon of preached at Westminster before the opening of parliament; See Laud, *Works*, Vol. I, p. 71.

¹²⁶ *PLP*, Vol. II, p. 537.

¹²⁷ HMC, *Braye MS*, p. 445. This particular statement was reported to come from France.

¹²⁸ Laud, *Works*, Vol. IV, pp. 326–327, HMC, *Braye MS*, pp. 446–447; Trevor-Roper, *Archbishop Laud*, p. 309; *ODNB* entry by A. P. Cambers, <http://www.oxforddnb.com/view/article/7199>, (accessed 15 December 2011). Sancta Clara was the adopted religious name for English born Christopher Davenport. His uncle (or as is sometimes maintained, his brother) was John Davenport, a prominent puritan. Although not banned in Rome, his book was placed on the *Index expurgatorius* in Spain. It would seem that encouragement for Sancta Clara in England stemmed more from the king and queen than from Laud. The particular complaints in regard to Sancta Clara were the subject of the seventh additional article brought against Laud.

controversies of the time’;¹²⁹ (when posing legal questions at the end of the trial, Laud’s defence team pointed out that under Elizabethan statute, the harbouring of priests and Jesuits born overseas was a felony rather than treason).¹³⁰ Various books, by Cosin, Butterfield, Pocklington, Heylyn and Shelford, which minimalised the differences between Rome and England, supposedly countenanced by Laud, were raised to which he gave his characteristic response ‘I gave none of these power to doe this, those as are alive may answere for themselves’.¹³¹ The prosecution asserted that he had refused to regard the pope as the antichrist, and at Bastwick’s trial he contended that the church in Rome did not differ in any fundamental issues. Laud’s response was that he did not deny the Catholic Church but believed it was in error in some aspects: ‘The Church of Rome is a true church, as a man may be true man, though a theife. Soe she may be a true church in fundamentalls, though there be errors in it’.¹³² His position was, inevitably, interpreted differently in the press, which portrayed him as maintaining that the pope was the head of the church and ‘that such a Sympathy is between the Protestant Religion, and the Romish that they were one and the same and if one were false the other were so too’.¹³³ Evidence was produced of sympathetic treatment given by Laud to papists and Jesuits but it proved difficult to tie him to any plots – largely because, as he said, ‘I was to be Kild in the plott’.¹³⁴ It was important for the

¹²⁹ Laud, *Works*, Vol. IV, pp. 329. At one point there was confusion in the trial as St Giles was thought to be one of Sancta Clara’s aliases. St Giles had committed simply to become a scholar and Laud previously explained at length his relationship with him and that he was acting under instruction from Charles; see *CSPD*, Vol. CCCCXCIX, Charles I, 62, p. 541 -542 & 63, p.542.

¹³⁰ Laud, *Works*, Vol. IV, p. 397. Of course Sancta Clara was actually English born so it is arguable that treason could still have applied in the case of anyone found guilty of harbouring him.

¹³¹ HMC, *Braye MS*, p. 449.

¹³² *Ibid.*, pp. 448-449.

¹³³ *A Perfect Diurnall of some passages in Parliament*, No. 52, BL. Thomason / 43:E.254[7], (July 1644), p. 413.

¹³⁴ HMC, *Braye MS*, p. 453.

prosecution to link Laud to such plots as this would clearly indicate treason, however it is questionable whether they succeeded (although Prynne believed that the prosecution had made its case that Laud had conspired to conceal papist plots and that his ‘confederacy with the Pope’ was manifest from the evidence produced).¹³⁵

Laud’s core religious beliefs on such matters as transubstantiation, purgatory and penance were a target for attack. In particular his alleged preference for the altar rather than the pulpit was described as inferring a belief in transubstantiation thus demonstrating his affinity with Rome. Laud’s rebuttal was that the prosecution was confusing transubstantiation with the existence of the real presence which he asserted was consistent with Calvinist ecclesiology. Laud did not resist the accusation that he considered the holy table – where the Eucharist was performed - as being at the heart of Christianity; he commented that ‘the touchstone of religion was not to hear the word preached, but to communicate’.¹³⁶ In his speech to Star Chamber during the trial of Bastwick, Burton and Prynne, he iterated his view that the body of God deserved greater reverence than the word of God.¹³⁷ However he did not believe that this was inconsistent with Protestantism or indeed was innovatory. Nevertheless Laud was accused in the press of ‘malignancie against the very Bible it selfe’ and that he sought

¹³⁵ W. Prynne, *Canterburies Doome*, pp. 459–460.

¹³⁶ Laud, *Works*, Vol. IV, pp. 284–285.

¹³⁷ Laud, *Works*, Vol. VI, p. 57. The argument was centred on the relative importance of *Hoc est corpus meum*; ‘This is my body’ and *Hoc est verbum meum*; ‘This is my word’. This was central to Laud’s ecclesiological views as it demonstrated why reverence was due to the altar and its positioning. Order was also encouraged if God’s house and God’s table were treated with reverence.

‘to deprive the poore people of the light thereof’, evidence that the paramountcy for puritans of the Word was reflected in the newsbooks.¹³⁸

Laud’s religious practices were further tested during the court proceedings. He was accused of preferring ‘popishly affected or otherwise unsound’ clerics to senior positions within the church; of appointing to his personal chaplaincy men who were ‘notoriously disaffected to the reformed religion’; and that he ‘silenced, suspended, deprived, degraded, excommunicated, or otherwise grieved and vexed’ those preachers who claimed orthodoxy with the reformed religion. He suppressed the Feoffees of impropriations; and created discord between the Church of England and other reformed churches.¹³⁹ Examples were presented of ‘unsound’ preferments and Laud, in his diary, identified Manwaring, Montague, Pierce, Corbet, Wren, and Lindsell as all being promoted to the episcopate during his time. In his defence, Laud argued that their elevation was more due to others than his personal intervention, for example Corbet was preferred by the duke of Buckingham and Lindsell by Lord Treasurer Portland. His response in regard to Wren was more disingenuous: if Laud did prefer him, then it was when no issues were raised against him; and that if Wren was subsequently responsible for actions making him unworthy of preferment, then he should answer for it personally.¹⁴⁰ This argument was typical Laud - being clearly aware of Wren’s religious leanings at his episcopal appointment. The appointments for which Laud was criticised

¹³⁸ *Perfect occurrences of Parliament*, No. 27, BL. Thomason / 43:E.252[49], (June 1644), p. [A4r].

¹³⁹ These were respectively the eighth, ninth, eleventh, sixth additional and the twelfth articles. See *PLP*, Vol. II, pp. 537–538; *RHC*, Vol. III, pp. 1366–1367 & 1369.

¹⁴⁰ Laud, *Works*, Vol. IV, pp. 292 – 293. See also NA, SP 16/499 fo. 170.

were not solely episcopal, and included other promotions and preferments of clerics who were not deemed of acceptable religious orthodoxy.

Laud was accused of impeding the preaching of ministers; for example Nathaniel Barnard was arraigned in High Commission, and subsequently fined, censured, excommunicated and incarcerated until he died, for preaching ‘against Images, & Innovacions & against reconcilliation with the church of Rome in doctryne & discipline’.¹⁴¹ Characteristically, Laud maintained that any sentence was an act of the whole court, that Barnard may have been guilty of other offences, and that he must have deserved his punishment.¹⁴² Laud was less defensive on the issue of the Feoffees of impropriations, claiming that they were designed by the puritan laity effectively to interfere with, and undermine, church governance. He accepted that he sought to suppress them ‘but conscientiously’ judiciously and legally, not ‘maliciously’ as the article against him maintained. Given his position, the indictments seemed to lack teeth; for instance William Kendall testified that he overheard the archbishop thanking God that he had ‘overthrowen the busines of Impropiacions’ – a comment from which Laud did not demur; believing the Feoffees to be pernicious, Laud was simply doing his duty.¹⁴³ Prynne, unsurprisingly, believed differently as for him the Feoffees were a ‘most pious work’, that the notion that they would supplant established church

¹⁴¹ HMC, *Braye MS*, p. 441.

¹⁴² *Ibid.*, p. 441; Laud, *Works*, Vol. IV, p. 302.

¹⁴³ Laud, *Works*, Vol. IV, p. 303; HMC, *Braye MS*, p. 441; W. Prynne, *Canterburies Doome*, p. 388. Prynne commented that ‘he did not only subvert this pious project to propagate the preaching of the Gospell, but boasted of it’.

governance was a ‘false surmise’, and that their overthrow was by Laud’s ‘owne act and designe’.¹⁴⁴

Although Laud was accused of seeking an accommodation with Rome he did not extend that same irenic attitude towards the brotherhood of international reformed religion and those stranger churches that had become established in England. Laud, in his defence against the allegation of victimising the stranger churches, cited the Elizabethan law that second descendants, born in England, should conform to the doctrine and liturgy of the Church of England, rather than live ‘in an open separation, as if they were an Israel in Egypt’.¹⁴⁵ He was accused of believing that bishops were necessary for a church; so ‘*all forraigne Churches that have no Bishops are no true Churches*’, that ‘he endeavoured to make us and them not to be esteemed as of the same Religion’.¹⁴⁶ The evidence produced concentrated largely on Laud’s belief in the importance of episcopacy; but he was also upbraided for interfering in the brief presented on behalf of Elizabeth, wife of the Elector Palatine and Charles’s sister, for a collection for distressed ministers in the Palatinate; and also for the seizure of a book on discipline and doctrine in the Palatinate because it did not accord with Arminian principles.

¹⁴⁴ W. Prynne, *Canterburies Doome*, p. 538.

¹⁴⁵ Laud, *Works*, Vol. IV, p. 312-315; HMC, *Braye MS*, pp. 443-444.

¹⁴⁶ *The true informer*, No. 39, BL. Thomason / 1:E.2[26], (July 1644), p. 283.

Laud's trial was managed and administered following due process and it was clear that Laud was given ample opportunity to speak in his defence – an opportunity that he was not slow to take. Indeed concluding submissions from the prosecution and Laud were heard and his defence team was permitted subsequently to seek clarification on points of law. The notion that this was a fabricated trial, a kangaroo court, is demonstrably not the case given the effort that was expended. Rather the trial demonstrated that parliament wished to show that the rule of law had not fractured, even during a civil war and whilst in opposition to the king. Given that Laud was being accused of allegedly subverting law it was important that parliament did not itself subvert judicial procedure. The Commons, however, moved to convict Laud of treason via a bill of attainder which was ultimately, albeit with seeming reluctance and after further consideration of the evidence, passed by the Lords. The popular press, Prynne and much of the Commons were never in any doubt of Laud's guilt and it is almost inconceivable that he would have been found innocent; however with the Commons choosing to debate an attainder bill after such a protracted trial, there were concerns whether the Lords would consider Laud guilty of treason or of a lesser charge.¹⁴⁷ However Prynne intervened to ensure that the right result was achieved.

Laud's submission, or recapitulation, presented on 2 September 1644, and allowed as part of due process, sought to sum up his case and cover the main points of the defence.

¹⁴⁷ See pages 118-119 above for examples of press certainty of his guilt.

In his journal he attempted to give a verbatim version of his recapitulation, whereas in Browne's record Laud's summing up is considerably abridged. He reiterated many of the points made during the trial; that documents taken by Prynne whilst he was incarcerated hampered his ability effectively to defend himself; that the actions of others had been 'heavily charged' against him; that matters aired in the privy council, Star Chamber and High Commission were viewed as examples of treason by Laud but others in attendance had no case brought against them.¹⁴⁸ He requested that the Lords view witnesses, such as Prynne, Burton and Huntley, as dubious being non-conformists against whom Laud had overseen legal proceedings, claiming that 'no scismatickes are to be witnesses against Bishops'.¹⁴⁹ He defended rigorously his desire to maintain a sense of holiness and reverence in religion, and expressed scorn that 'the Anabaptists, Brownists, and other sectaries' seemed to believe that any respectful worship of God was 'accounted a kind of Popery' and that if their kind held sway 'that God would be turned out of churches into barns'.¹⁵⁰ He concluded his recapitulation by putting his fate in the peers' hands along with that of providence; having maintained that no proof of actual treason, according to statutory law, had been forthcoming.¹⁵¹ His defence was probably best summed up with this statement:

in all matters which came before me, I have done nothing, to the uttermost of my understanding, but what might conduce to the peace and welfare of the kingdom, and the maintenance of the doctrine and discipline of this Church

¹⁴⁸ Laud, *Works*, Vol. IV, pp. 371 & 374–375.

¹⁴⁹ HMC, *Braye MS*, p. 457; Laud, *Works*, Vol. IV, p. 373.

¹⁵⁰ Laud, *Works*, Vol. IV, p. 376. It should be noted that Laud indicated volume IV of his *Works* that Maynard prohibited him from reading out all of his diatribe against non-conformism before he had 'read one-third part of it'.

¹⁵¹ *Ibid.*, pp. 382–383.

established by law; and under which God hath blessed this State with so great peace and plenty, as other neighbouring nations have looked upon with admiration.¹⁵²

A little over a week later the prosecution, through Samuel Browne, conducted its closing submission; covered in detail in John Browne's record but receiving just a brief note in Laud's. Browne recapitulated the prosecution's case in full. Laud had not suppressed popery, or acknowledged that the pope was the antichrist; he brought in popish ceremonies and retained idolatrous images; he obstructed legal proceedings and tampered with judges; he laboured 'to subvert, the course of parliaments, & in incensing the King against them'.¹⁵³ The prosecution submission became increasingly hyperbolic. Browne declared that 'The Pope never offered such violacion to the fundamentall lawes of this Kingdome as the Archbishop hath done'; that Laud exceeded 'all his predecessors in his crymes'; he was worse than Wolsey; he broke the trust invested in him by the king and the law, and his oath as a counsellor to the king, and no-one 'more opposed the Instructing of the people in the law of God'.¹⁵⁴ It was the totality of these crimes that amounted to treason as far as the prosecution case was concerned. Unsurprisingly, the popular press agreed. Browne had articulated indubitably and clearly 'the hainousnesse of his crimes' and treason had been proven

¹⁵² Ibid., pp. 373-374.

¹⁵³ HMC, *Braye MS*. The notes of Samuel Browne's recapitulation are covered in pages 457-464. The specific quote is on page 463. John Browne, in his record of the trial put the prosecution's recapitulation alongside Laud's in column format.

¹⁵⁴ Ibid., pp. 461 & 463-464. See also *Mercurius Civicus*, No. 69, BL. Thomason / 2:E.9[7], (September 1644), pp. 648-650.

with Laud making ‘no defence but what was impertinent, and did not lessen his Treasonous practices’.¹⁵⁵

The defence team sought to exploit the weaknesses in the prosecution’s case through a request from Laud, subsequently granted, that his legal team approach the Lords on specific matters of law impinging on the crucial question of whether the crimes for which Laud was accused constituted treason under existing statute. Hearn, on behalf of Laud, on 11 October, gave a masterful review of the law of treason and the additions made during the Tudor period and subsequently repealed.¹⁵⁶ He declared that the law of treason was specific and not open to construction, maintaining that it had been the position of parliament and the judiciary that ‘this Act must be literally construed, and not by inference or illation’.¹⁵⁷ This directly attacked parliament’s case which was based on a construction of treason being against the sovereign ruling within legal precedence and with parliament. The point was made that subversion of the law was too wide an accusation and ultimately could mean that anyone breaking the law was effectively subverting it and therefore guilty of treason.¹⁵⁸ This argument was somewhat specious however as the crime for which Laud was indicted was interference with the judicature, resulting in fairness being removed from justice. Wolsey was cited

¹⁵⁵ *Mercurius Civicus*, No. 69, BL. Thomason / 2:E.9[7], (September 1644), p. 650; *A Perfect Diurnall of some passages in parliament*, No. 59, BL. Thomason / 43:E.256[3], (September 1644), p. 468. This latter newsbook was in error regarding the date of the prosecution recapitulation, indicating that it took place on the 10 September rather than the eleventh.

¹⁵⁶ Laud, *Works*, Vol. IV, p. 390-391. See also chapter 3 above. Hearn’s legal arguments were reported in detail in *The true informer*, No. 49, BL. Thomason / 3:E.12[17], (October 1644), p. 365-368.

¹⁵⁷ Laud, *Works*, Vol. IV, p. 391.

¹⁵⁸ This argument had been rehearsed in notes prepared by Laud before the trial, see *CSPD*, Vol. CCCCXCIX, Charles I, 54, p. 539.

as an example whereby, despite similar allegations, he was proceeded against on the lesser charge of praemunire. Tudor statutes were again utilised to argue that subversion of religion, even attempting to alter religion by force, was a felony rather than treason; heresy may subvert the established religion, and bring severe punishment, but was not treasonous. This did not address the central point however that the re-introduction of papal authority would impinge on the sovereign authority of the king as supreme governor of the English church. To that end, the defence referred to Jacobean legislation which considered it treasonous to put in practice any reconciliation between the see of Rome and the king's subjects. This was countered semantically by stating that the charge against Laud was that he had endeavoured a reconciliation, not that he had put it into practice; and also that Laud was accused of reconciling the church of England with the *church* of Rome rather than the *see* of Rome which was fundamentally different as it possibly could result in the Roman church becoming aligned with the existing church in England – an outcome to be welcomed.¹⁵⁹ The thrust of the argument put forward was ultimately twofold; that although many crimes have been alleged none can be raised to treason, and that however many felonies or misdemeanours may have been committed 'they cannot make a treason by putting them together' or as Herne is reported as saying 'I never understood....that two hundred couple of black rabbits would make a black horse'.¹⁶⁰ This did not accord with public sentiment –*The True Informer* insisting that it was 'solely left to the Parliament to

¹⁵⁹ Laud, *Works*, Vol. IV, pp. 394-397. My italics.

¹⁶⁰ Ibid., p. 397. See also *State Trials*, Vol. IV, p. 586. The Hearn quote was in an exchange with Wilde.

determine, declare, and absolutely resolve what is Treason' and essentially it was parliament that made the final decision in Laud's case.¹⁶¹

The move towards the enactment of a bill of attainder seemed to emanate from around the date of Laud's recapitulation. Indeed the first order to consider an attainder ordinance was mooted in the House of Commons on 3 September.¹⁶² Laud had noted that the Peers were in possession of a book, purported to be printed by order of the committee of the House of Commons, entitled *A Breviate of the Life of William Laud, Archbishop of Canterbury* which had recently been circulated by Prynne. This consisted of extracts from Laud's dairy (annotated and including a damning commentary by Prynne), published 'to disgrace' him.¹⁶³ In truth there was not much new in the accusations that Prynne made; Laud's popish ceremonies, persecution of Protestants, evil counsel, and parliamentary tyranny were reprised. However he also related Laud's dreams, in particular one regarding a scholar of humble birth, who rose to great eminence in church and state, but was ultimately hanged, a dream mentioned by Nicholas in his summing up. Providentially the first part had come to pass and the second would 'in all probability like to be speedily accomplished upon the close of his Tryall',¹⁶⁴ The revelatory nature of Laud's dreams and other omens received public

¹⁶¹ *The true informer*, No. 49. p. 368.

¹⁶² *CJ*, Vol. III, p. 616.

¹⁶³ Laud, *Works*, Vol. IV, p. 369.

¹⁶⁴ W. Prynne, *A Breviate of the Life of William Laud, Archbishop of Canterbury*, (London, August 1644), pp. 33–35. Laud refuted the nature of this dream but the earl of Pembroke gave evidence that Laud had indeed related the dream to him. Laud attributed this to Pembroke's 'spleen' against him; see Laud, *Works*, Vol. IV, p. 365–366.

mention portraying Laud's rise and fall as a providential morality tale.¹⁶⁵ The distribution of the *Breviate* was a naked attempt to influence the Peers in their deliberations and it was clearly directed at them.¹⁶⁶ It was also designed to stir up the public mood and to influence and mobilise public opinion; with the Commons already considering attainder, a petition was delivered on 28 October from 'many Thousand Citizens of *London*' requiring justice to be done to Laud – which Laud believed had been organised by Prynne.¹⁶⁷

A committee of the House of Commons, chaired by Nicholas, had been monitoring the situation and this led to the formal bill of attainder receiving its first and second readings on 31 October; unfortunately the contemporary parliamentary journals remain silent on any debate surrounding the attainder ordinance.¹⁶⁸ The formal charges were presented to Laud two days later at the bar of the House of Commons, by Samuel Browne, to which Laud requested more time to consider his responses, being denied legal counsel. According to D'Ewes and Whitaker, two charges were concentrated upon; altering religion to bring in popery and encouraging tyranny through subversion of the law; and these were to become the main planks of the attainder ordinance along

¹⁶⁵ *The Kingdomes weekly intelligencer*, No. 71, BL. Thomason / 2:E.8[24], (September 1644), p. 570; *A Perfect Diurnall of some passages in Parliament*, No. 58, BL. Thomason / 43:E.254[29], (September 1644), p. 459. The Perfect Diurnall reiterated that a picture fell in Laud's study which was thought to presage his own fall. It also made mention of other omens without specifying them.

¹⁶⁶ This is clear from the title page and opening epistle.

¹⁶⁷ *CJ*, Vol. III, p. 680; Whitaker, *Parliamentary Journal*, BL Add MSS 31116, fo.170v; Laud, *Works*, Vol. IV, p. 399; Heylyn did not specify Prynne as the instigator of the petition but did comment that 'some who were fit for any mischief, imployed themselves to go from door to door' to obtain signatures to the petition; see Heylyn, *Cyprianus Anglicus*, p. 526.

¹⁶⁸ *CJ*, Vol III, pp. 628, 631& 682. The committee included; Maynard, Browne, Selden, Nicholas, Whitlock, Widdrington, Lisle, Goodwyn, D'Ewes, Wilde, White, and Prideaux. Regrettably D'Ewes, Yonge and Whitaker, in their respective journals, make no mention of any debate.

with subverting, and counselling the king against parliament (D'Ewes seemed impressed by Laud's ability to deal with the matters put in front of him despite being '70 yeares old' and reading without needing spectacles).¹⁶⁹ He reappeared on 11 November to address the House, which he did at length, re-iterating much of what was covered during the trial and maintaining his innocence.¹⁷⁰ Nevertheless the bill received its third reading and was formally passed two days later, requesting the full penalty for treason. It was sent to the Lords who committed to give it consideration.¹⁷¹

The Lords appeared to prevaricate, and the Commons sought to expedite the matter with further requests for a decision on 28 November receiving a request for a

¹⁶⁹ Ibid., p. 685; D'Ewes, *Parliamentary Diary*, BL Harl. MS 166. fo.152r; Whitaker, *Parliamentary Journal*, BL Add MS 31116, fo.171r.

¹⁷⁰ Laud, *Works*, Vol. IV, pp. 401-412; D'Ewes, *Parliamentary Diary*, BL Harl. MS 166. fo.164r. Whitaker, *Parliamentary Journal*, BL Add MS 31116, fo.173v.

¹⁷¹ *CJ*, Vol. III; pp. 694–695. The attainder bill read as follows: 'Whereas the Knights, Citizens, and Burgesses, of the House of Commons, in this present Parliament assembled, have in the Name of themselves, and of all the Commons of *England*, impeached *William Laud* Archbishop of *Canterbury*, for endeavouring to subvert the fundamental Laws and Government of the Kingdom of *England*; and, instead thereof, to introduce an arbitrary and tyrannical Government against Law; and to alter and subvert God's true Religion, by Law established in this Realm; and, instead thereof, to set up Popish Superstition and Idolatry; and to subvert the Rights of Parliaments, and the ancient Course of Parliamentary Proceedings; and, by false and malicious Slanders, to incense his Majesty against Parliaments: For which the said Archbishop deserves to undergo the Pains and Forfeitures of High Treason: Which said Offences have been sufficiently proved against the said Archbishop upon his Impeachment: Be it therefore *Ordered* and *Ordained*, by the Lords and Commons, in this present Parliament assembled, and by Authority of the same, That the said Archbishop, for the Offences aforesaid, stand, and be adjudged attainted of High Treason; and shall suffer the Pains of Death; and shall incur all Forfeitures both of Lands and Goods, as a Person attainted of High Treason should or ought to do. Provided, that no Judge or Judges, Justice or Justices whatsoever, shall adjudge or interpret any Act or Thing to be Treason, or hear or determine any Treason, nor in any other Manner, than he or they should or ought to have done before the making of this Ordinance; and as if this Ordinance had never been had or made. Saving always, unto all and singular Persons, and Bodies Politick and Corporate, their Heirs and Successors (others than the said Archbishop, and his Heirs, and such as claim by, from, or under, him), all such Right, Title, and Interest, of, in, and to, all and singular such of the said Lands, Tenements, and Hereditaments, as he, they, or any of them, had before the First Day of this present Parliament; any thing herein contained to the contrary notwithstanding. See also *LJ*, Vol. VII, pp. 66–67, and Whitaker, *Parliamentary Journal*, BL Add MSS 31116, fo. 174r.

conference between the two houses on 24 December.¹⁷² In this period the Lords had repeatedly considered the issues, even to the extent of requiring a review of the evidence against Laud.¹⁷³ On 17 December a vote was taken regarding whether Laud was guilty of subverting religion, the law and parliament and on each count the Lords returned an affirmative; however they remained uncertain over the attainder because of enduring doubt whether the crimes committed constituted treason.¹⁷⁴ The Lords were prepared to resist Commons pressure, as reported on 26 December, saying that until they received ‘further Satisfaction, they cannot so freely consent unto the Ordinance’.¹⁷⁵ Also responding to the Commons threat that, if the Peers continued to procrastinate, the multitude will wish to exact its own justice the Lords responded that they knew how to ‘punish such Disorders’.¹⁷⁶ The Commons articulated its rationale for classifying Laud’s misdemeanours as treason in a conference with the Lords on 2 January 1645, and in a report to the Lord–Admiral representing the Lords, using case law and legal precedence. It maintained that there existed treasons under common law which were not covered by statute, that treason could be against the realm as well as the king and that parliament had historically ‘adjudged, declared, and enacted divers Things to be Treason’ that were not specifically within the statute. Furthermore

¹⁷² *CJ*, Vol. III; p. 707 & p. 734. It should be borne in mind that this was a very active period for both houses given that there were potential, but ultimately unsuccessful, peace negotiations taking place with the king’s party at the time. In the Lords the matter was put under review of a committee. The committee consisted of 11 members who had been active during the trial proceedings; see *LJ*, Vol. VII. p. 72.

¹⁷³ *LJ*, Vol. VII, pp. 80, 87, 89, 90, 91, 95, 100. Heylyn also ventured to comment that some of the Lords found themselves ‘compassionate’ of Laud’s ‘Condition’ suggesting that some of the Peers, should they fall out of favour with ‘the Grandees of that *Potent Faction*’ could find themselves in a similar predicament to Laud; see Heylyn, *Cyprianus Anglicus*, p. 527.

¹⁷⁴ *LJ*, Vol. VII, p. 102. See also, *The Parliament scout*, No. 78, BL. Thomason / 4:E.21[30], (December 1644), p. [627]; *Perfect Occurrences of Parliament*, No. 19, BL. Thomason/ 44:E.258[4], (December 1644), p. T3r; *A Perfect Diurnall of some passages in Parliament*, No. 73, BL. Thomason / 44:E.258[5] (December 1644), p. 580.

¹⁷⁵ *CJ*, Vol. IV, p. 2.

¹⁷⁶ *LJ*, Vol. VII, p. 76; Whitaker, *Parliamentary Journal*, BL Add MSS 31116, fo.177r.

examples were cited from earlier times, such as the Despensers, to support parliament's position.¹⁷⁷ It is evident that the Commons endeavoured to exert public opinion and pressure to obtain the attainder ordinance. The newsbooks reflected the need for a speedy decision but also commented that the Lords would not act outside of the law and some patience was required; further evidence of a respect for due process.¹⁷⁸ Nevertheless that patience in the public mood appeared to grow thin during December and although the Lords were respected for managing affairs justly, there remained no doubt in the press of Laud's guilt and they wanted matters to 'be speedily done'.¹⁷⁹ There was some concern about the potential final outcome; 'Many think the *old Fire-work* will not be extinguished'.¹⁸⁰ However after further debate and deliberation between the two houses the decision to execute Laud for treason by bill of attainder was finalised on 6 January; 'The Lords not willing to part the refiner and his mettle, did likewise find the Ordinance against my Lord of *Canterbury*, and sentenced him to die the death of a Traitor'.¹⁸¹ Being agreed on Laud's guilt, the Lords just needed to be convinced concerning the treason charge and the late conference over legal precedence

¹⁷⁷ *The Parliamentary or Constitutional History of England from the earliest times to the Restoration of King Charles II*; Vol. XIII, (London, 1753), pp. 365–369; Whitaker, *Parliamentary Journal*, BL Add MSS 31116, p.184r; The Despensers, father and son, were royal favourites of Edward II who were deeply unpopular with the barons. They were exiled at the baron's insistence and, having returned, were both executed as traitors in 1326 for having attempted to usurp royal power. The charge of treason was despite their continuing loyalty to the king. See *ODNB* entries by J.S. Hamilton, <http://www.oxforddnb.com/view/article/7553> and <http://www.oxforddnb.com/view/article/7554>, (viewed 8 November 2011).

¹⁷⁸ *The Parliament scout*, No. 75, BL. Thomason / 4:E.19[5], (November 1644), p. 602; *Perfect Occurrences of Parliament*, No. 16, BL. Thomason / 43:E.256[42], (November 1644), p. [Q2v].

¹⁷⁹ *Mercurius Civicus*, No. 83, BL. Thomason / 4:E.22[12], (December 1644), p. 765. See also, *Mercurius Britanicus*, No. 60, BL. Thomason / 4:E.21[8], (December 1644), p. 476; *The Parliament scout*, No. 77, BL. Thomason / 4:E.21[15], (December 1644), p. 616; *Perfect passages of each dayes proceedings in Parliament*, No. 8, BL. Thomason / 4:E.21[13], (December 1644), p. 59.

¹⁸⁰ *Mercurius Britanicus*, No. 61, BL. Thomason / 4:E.21[23], (December 1644), p. 484.

¹⁸¹ *The Parliament scout*, No. 81, BL. Thomason / 5:E.24[10], (January 1645), p. 648. The mettle referred to the prayer book which was also abolished at this time - the refiner being Laud; see p. 168 below.

(and perhaps also being cognisant of public opinion) helped them cross that final Rubicon.

This leaves the question of whether the trial outcome was a foregone conclusion. Historians generally believe that the decision to impeach and execute Laud for treason was unjust but this tends to be based on an anachronistic view of the process.¹⁸² Laud's contemporaries tended to be split in their views according largely to their religious and political allegiances. Prynne, for example, believed that the trial was fair; Heylyn disagreed. No-one, however, could really have been in doubt, even Laud himself, that he was likely to be found guilty.¹⁸³ At the very outset of the trial he had commented that 'foreseeing how full of reproaches my trial was like to be; I had a strong temptation in me, rather to desert my defence, and put myself into the hands of God's mercy, than endure them'.¹⁸⁴ However for parliament the verdict was not the only matter of importance. It was fundamental for parliament's view of its own legitimacy that it tried Laud following proper judicial procedures and, to that end, the care and trouble that were taken was evident. Witnesses were heard in detail and evidence taken, Laud was able to rebut that evidence, generally when he requested more time it was granted, both parties were given opportunity to sum up their arguments and Laud's legal team were allowed to enter legal argument. The verdict of the Lords taken by vote confirmed his guilt although they remained doubtful about the treason charge, but even then the Lords took care to review the evidence and deliberate carefully on the matter before agreeing

¹⁸² See above pp. 1-2.

¹⁸³ Prynne, *Canterburies Doome*, p. 50; Heylyn, *Cyprianus Anglicus*, pp. 520 & 524- 525.

¹⁸⁴ Laud, *Works*, Vol. IV, p. 49. Perhaps it would be unwise to read too much into this comment – it is very likely that Laud was always determined to fight his case and justify his actions.

to the attainder and the Commons sentence, a process described by Prynne as ‘this most serious review’.¹⁸⁵ To a large extent the sentence is not the crucial issue; for parliament, as much as the outcome mattered, more important was the process.

¹⁸⁵ W. Prynne, *Canterburies Doome*, p. 49.

CONCLUSION

I

For parliament only one decision remained; the manner of Laud's execution. The traditional method for treason was to hang, draw and quarter, a particularly brutal form of execution. The Commons were prepared to pursue that method, to Laud's considerable distress.¹ In the meantime, Laud made one further, somewhat forlorn, attempt to forestall his capital punishment by producing a pardon from the king which he had received some two years earlier. As the *Lord's Journal* on 7 January 1645 starkly put it the pardon was read; 'but nothing ORDERED thereupon'.² This 'last, hopeless card' played by Laud was noted in the press and only confirmed for them, especially considering its timing, his guilt; 'a pardon is most proper when a man is Convicted; to pardon before, is to presume a guilt'.³ On 4 January, the Lords having agreed the bill of attainder, the expectation was that Laud would suffer a traitor's death, but Laud petitioned parliament to mitigate the sentence, pleading that 'in regard to his age, his calling, and that he hath had the honour to sit in sundry Parliaments', he should instead be beheaded.⁴ Given the barbarity of the traditional traitor's death it is not surprising that Laud wanted the sentence mitigated; indeed press accounts suggested an

¹ Whitaker, *Parliamentary diary*, BL. Add. MS 31116, fo. 184v; *CJ*, Vol. IV, p. 12; The *Commons Journal* stated that it was prepared to 'adhere' to the existing judgment within the attainder ordinance in regard to the manner of execution.

² *LJ*, Vol. VII, pp. 127–128; D'Ewes, *Parliamentary Diary*, BL Harl. MS 166. fo. 173v–174r.

³ Trevor-Roper, *Archbishop Laud*, p. 427, *The Kingdomes weekly intelligencer*, No. 88, BL. Thomason / 5:E.24[18], (January 1645), p. 704; *A perfect diurnall of some passages in Parliament*, No. 76, BL. Thomason / 44:E.258[12], (January 1645), p. 601. Clarendon, in his brief review of the trial discussed at length the background to the preparation of the pardon; see Edward Hyde, earl of Clarendon, *The History of the Rebellion and Civil Wars in England*, Edited by W. Dunn Macray, (Oxford: Clarendon Press, 1888, reprinted 1958), Vol. III, pp. 466–467.

⁴ Laud, *Works*, Vol. IV, pp. n424; Whitaker, *Parliamentary diary*, BL. Add. MS 31116, fo. 185r.

unlikely (and morbidly amusing) reason for commutation of the sentence, reporting that Laud had damaged a hamstring so could not climb a ladder to the noose and therefore should be decapitated instead.⁵ On 7 January the Lords conceded and ordered that Laud should be beheaded, but the Commons were yet to be convinced only succumbing to the Lord's proposal on the following day, just two days before the execution, surely to Laud's relief.⁶

His scaffold speech followed a typical structure. Laud acknowledged his sins, as was appropriate for someone soon to meet his maker, however he still indicated his innocence to the treason charge; having 'ransacked every corner' of his heart. He believed himself blameless of any offence 'which deserves death by any known law of this kingdom'.⁷ It was normal for scaffold speeches to include an acceptance of guilt, both for the sake of the convicted man's soul as well as a lesson to others.⁸ Laud however chose to re-iterate his defence of issues important to him. He defended the king as a sound Protestant and not a papist; he fulminated against those who incited the London populace and decried the popular movement against him; he expressed his concern for the fate of the established Church of England; and he confirmed that he had lived and would die a committed Protestant, 'in the bosom of the Church of England established by law'. He maintained that he was not an enemy of parliament, but that it could become corrupted. He also argued that the Reformation was in danger from the

⁵ *Perfect passages of each dayes proceedings in Parliament*, No. 12, BL. Thomason / 5:E.24[4], (January 1645), p. 96; *A diary, or, An exact iournall faithfully communicating the most remarkable proceedings in both houses of Parliament*, No. 34, BL. Thomason/5:E.24[11], (January 1645), p. [F4v].

⁶ *CJ*, Vol. IV, p. 13; Whitaker, *Parliamentary diary*, BL. Add MSS. 31116, fo. 185v; *RHC*, Vol. V, p. 780.

⁷ Laud, *Works*, Vol. IV, p. 431.

⁸ See Sharpe, 'Last Dying Speeches', pp. 144-167.

profusion of sects and these could lead to a backlash that would allow the pope to return. Ultimately he returned to his consistent theme that he ‘never endeavoured the subversion of law and religion’.⁹ Sir John Clotworthy reportedly barracked Laud during his scaffold sermon.¹⁰

The reflection in the popular press was generally exultant and unimpressed by Laud’s expressions of innocence. The decision to behead would bring appropriate retribution; giving ‘satisfaction for eight Eares which he illegally cut off, by his two Eares and head together’.¹¹ His avowal that he died a Protestant was ridiculed; after all ‘was it ever heard that a Cardinal’s Hat was offered to a Protestant?’ and also Laud had encouraged the sending of ‘Jesuites and Friers’ to Charles to undermine his religious beliefs.¹² The implication being that it was Laud who wilfully influenced Charles to take the wrong religious path and confirming that the king was malevolently counselled.¹³ *Perfect Occurrences* was particularly damning in its report of the scaffold speech, describing why it should be treated with considerable doubt; it was Jesuitical, prayers were made in ‘the Popish manner’ facing east, Laud turned aside as if displeased when asked whether he had made his peace with God, he refused to accept a Godly divine to pray for him on the scaffold, and he made a ceremony of his final prayers by putting his

⁹ Laud, *Works*, Vol. IV, pp. 432-435; *The Scottish Dove*, No. 65, BL. Thomason / 5:E.25[5], (January 1645), pp. 505–510; *The weekly account*, No. 2, BL. Thomason / 5:E.24[21], (January 1645), pp. [B2r] – [B3r].

¹⁰ Trevor- Roper, *Archbishop Laud*, p. 428; *Mercurius Aulicus*, BL. Thomason / 5:E.27[7], (January 1645), p. 1334; *RHC*, Vol. V. pp. 786–787. Rushworth actually reported an exchange between Clotworthy and Laud.

¹¹ *The Scottish Dove*, No. 64, BL. Thomason / 5:E.24[12], (January 1645), p. 504. The reference being to Prynne, Bastwick and Burton.

¹² *The Parliament Scout*, No 82, BL. Thomason / 5:E.24[24], (January 1645), p. 655.

¹³ *Ibid.*, p. 655. Interestingly, even though at war, the comment in *the Parliament Scout* regarding the king’s choice of favourites was that the king had not been swayed by those influencers; it was ‘a wonder that he hath not been turned; yea, almost a miracle, considering his temptations’. It would appear that in 1645 there was still confidence that the situation with the king was recoverable.

hand on his breast. More bizarrely, it commented that even though he had called other honest men roundheads, his own head, once severed, ‘did trundle once or [t]wice round about like a balle’.¹⁴ As previously mentioned, the press reports of the immediate appearance of the sun at the moment of his decapitation, symbolised the providential dividend that could be expected from the death of Laud.¹⁵ It was also significant that his sentence coincided with the abolishment of the prayer book (and the establishment of the directory of worship) which would undoubtedly be approved of by God; ‘thus the *Dad* and the *Darling*, were both condemned together, both guilty of *high –Treason*, the one against the *State*, the other against *God*’.¹⁶ He was criticised for having ‘aspersed the Parliament’ and was accused of striking ‘at the very root of Parliaments to destroy them totally’ believing that ‘an order from the Councell, was equall or above any Act of Parliament’.¹⁷

Not all of the press was so condemnatory. He was reported as showing empathy towards his servants on the way to the scaffold, telling them to be ‘*of good cheere and not to let his death to trouble them*’ and that he went to his death in a contented frame of mind.¹⁸ Naturally *Mercurius Aulicus*, mouthpiece for the royalists, in a protracted report of the execution, eulogised Laud:

¹⁴ *Perfect occurrences of Parliament*, No. 3, BL. Thomason / 44:E.258[14], (January 1645), pp. [C1] – [C1v].

¹⁵ See above p. 102.

¹⁶ *Mercurius Britanicus*, No. 65, BL. Thomason / 5:E.24[16], (January 1645), p. [517]; *LJ*, Vol. VII, pp. 121-122; *CJ*, Vol. IV, p. 9-11.

¹⁷ *The kingdomes weekly intelligencer*, No. 88, BL. Thomason / 5:E.24[18], (January 1645), p. 706. *The Scottish Dove*, No. 65, BL. Thomason / 5:E.25[5], (January 1645), pp. 509–510

¹⁸ *Perfect passages of each dayes proceedings in Parliament*, No. 13, BL. Thomason / 5:E.25[17], (January 1645), pp. 98-99.

he stood a most glorious patterne of Christian Magnanimity, such a serene, unbroken cheerfulness, manifesting his integrity, praying for his persecutors, vindicating His Sacred Majesty, (which he did before also through the whole course of his triall with admirable zeale and fidelity to his Royall Master). Discerning betwixt the boards some that stood under the Scaffold, he said M. Sheriffe, *I beseech you remove those from under the Scaffold, for I would have none of my blood fall upon their heads*; in which Calme he continued, fixed and immutable.¹⁹

Although it is not the intention to debate Laud's legacy, there is no doubt that the seeds of martyrdom were being sown. Laud, when comparing himself to Cicero, presaged the notion of his potential martyrdom for standing steadfast in the defence of the church.²⁰ Also the nature of his scaffold sermon, where he prayed to God for the preservation of the church; along with his last Will and Testament in which he granted forgiveness to those who had caused him offence and lamented 'the grievous distractions of the Church of Christ', were intended to assert his righteousness.²¹ *Mercurius Aulicus* was already prepared to proclaim him a martyr:

Thus dyed the *King's* and the *Churche's Martyr*, a man of such Integrity, Learning, Devotion, and Courage.....impartiall Posterity will know how to value him.....the pulling downe this great Pillar of our Church; which if you duly consider, is the most groundlesse, malicious, solemne, studied Murther, that ever was committed in this wretched Island.²²

¹⁹ *Mercurius Aulicus*, BL. Thomason / 5:E.27[7], (January 1645), p. 1334.

²⁰ See above pp. 139 - 140.

²¹ Laud, *Works*, Vol. IV, pp. 436, 441, 442, 450.

²² *Mercurius Aulicus*, BL. Thomason / 5:E.27[7], (January 1645), p. 1340.

Heylyn perpetuated the exaltation of Laud in his biography *Cyprianus Anglicus*. In the final paragraphs he wrote a panegyric of Laud, praising his piety and fidelity. He continued by saying that his virtues will remain ‘in the Annals of succeeding ages’, that he will be remembered for his zealousness against puritans and the Scots covenanters, and that the date of his execution will be commemorated as the ‘day our *Laud* ascended from the Scaffold to a Throne of Glory’.²³ This phrase is interesting as it inferred on Laud an almost Christ-like grace; not ‘our Lord’ but ‘our Laud’. Even some of the parliamentary press was concerned that Laud’s execution would turn him into a martyr. Showing remarkable prescience, it was commented that by expressing his innocence Laud expected ‘som honour to be don unto him from another age, in whose Almanacks he would shine in Rubrick, and be canonized for some saint, or at least be crowned for a Martyr’.²⁴ There was an understanding at the time that posterity would make its own judgment on whether Laud died a traitor or a martyr.

II

The political atmosphere in 1644 was very different to 1641-42 as was reflected in the respective trials of Strafford and Laud. Strafford was considered a real danger to many members of parliament and in an uneasy climate it was necessary to proceed rapidly with his trial, a trial that was of such popular interest that a significant number sought to witness personally the downfall of one of the most hated members of Charles’s inner sanctum. Laud, equally vilified, did not represent such an immediate threat and the

²³ Heylyn, *Cyprianus anglicus*, p. 543.

²⁴ *A diary, or, an exact iovrnall faithfully communicating the most remarkable proceedings in both houses of Parliament*, No. 35, BL. Thomason/ 5:E.25[2], (January 1645), p. [G2v].

necessity for his trial was less urgent. The outbreak of hostilities meant that dealing with Laud remained a lower priority. However, he was not forgotten entirely and there was on-going low level interest in bringing him to a formal trial, with Prynne in the forefront of any activity. Although the Scots were foremost in formalising complaints against Laud when he was arrested, from the available evidence it would appear that by the time of his trial their interest had waned and the proceedings against him received scant attention, despite there being a Scots Commission in London at the time.

From around the time of his arrest there was an outpouring of public vituperation against Laud with pamphlets and libels parodying him in often scabrous terms. These publications indicated the prevailing view of Laud within the public sphere and linked the societal viewpoint with the political. Criticism of Laud appeared to be general; even politicians who were to become allied to the king's cause in the war were condemnatory of him. With a nascent, yet burgeoning, press the trial of Laud was held under media scrutiny in a way that few trials had previously been. The newsbooks followed the progress of the trial closely and reported regularly. Many of the reports were accurate, albeit with considerable spin, but Laud's guilt was never doubted by the newsbooks and the reportage was arranged to reinforce the prosecution's position. Statements such as 'his hereticall opinions were unfoulded and proved', and descriptions of his 'hainous crimes', his 'manifold and transcendent crimes' and his 'papisticall spirit', left no doubt that in the public sphere he was guilty of treason and deserved the full punishment contingent on such offences.²⁵ The influence of public

²⁵ *A perfect diurnall of some passages in Parliament*, No. 52, BL. Thomason/ 43:E.254[7], (July, 1644), p. 413; *A perfect diurnall of some passages in Parliament*, No. 44, BL. Thomason/ 43:E.252[38], (May,

opinion, both reflected and fuelled by the press, was important – as shown by the collection of a petition within the capital, used by the Commons to put pressure on the Lords to come to a decision on the attainder.²⁶ The Lords, during the trial, were in no doubt of the verdict that they were expected to reach.

As has been argued a guilty verdict was always likely, but did the crimes amount to treason? The relevant treason statutes stipulated particular threat to the monarch and his immediate family; although the notion of the king's two bodies – the corporeal, and the sovereign authority which descended to the king's heirs after his death - was well accepted at the time. This meant that any rebellion, even if not directly menacing to the king, constituted treason as it threatened the king's sovereignty.²⁷ For the prosecution to make a treason charge stick against Laud, given his evident personal loyalty to Charles, it was necessary to demonstrate that he was attacking the fundamental process of government, enshrined as the king governing with parliamentary consent.²⁸ Their approach was threefold, subversion of parliament, the laws and the church. He was accused of counselling Charles to govern without parliament and of elevating the arbitrary power of the king; of undermining the legal system giving undue authority to the courts of Star Chamber and High Commission; and of papistical innovations in the

1644), p. 345; *A diary, or, an exact iovrnall faithfully communicating the most remarkable proceedings in both houses of Parliament*, No. 3, BL. Thomason/ 43:E.252[39], (June 1644), p. 22; *Occurrences of certain speciall and remarkable passages in Parliament*, No. 7, BL. Thomason/ 6:E.32[9], (February 1644), p. A2r.

²⁶ See above p. 159.

²⁷ See D.Alan Orr, 'The Juristic Foundation of Regicide' in *The Regicides and the Execution of Charles I*, Edited by J. Peacey, (Basingstoke: Palgrave, 2001) pp. 118–121.

²⁸ Initially it was mooted that the king's actual body had been threatened because by provoking conflict with Scotland through the introduction of the prayer book, the king was put in harm's way. This line of reasoning however did not surface at the trial – perhaps the prosecution realised that it was far too tenuous an argument.

church thereby seeking to lead the English church back to Rome. As has been seen, a truncated, and inevitably biased, House of Lords agonised when considering the attainder ordinance during December 1644; not over whether Laud was guilty of his crimes but whether they constituted treason. Parliament argued for and assumed the right to determine what signified treason – ‘the *Parliament* (according to the fundamentall rule) reserved a power in themselves (being the *supreame Court* of the Kingdom) to declare what was *Treason*, though not particularized in that statute’.²⁹

In the final analysis the trial of Laud was important to parliament for political and providential reasons. There was a belief that whilst Laud was spared, God would not fully smile on the parliamentary cause in the war. Laud’s sins had been so great against God that they needed to be expiated. However it was important that parliament was seen to be following the due process of the law if it was to accuse Laud of subverting it. In this they were largely successful. The conduct of the proceedings and the diligence undertaken in the management of evidence and witnesses was meticulous along with allowing Laud to mount a full defence. The trial was protracted not just because of the ongoing war but also to ensure that all of the evidence could be covered. Parliament needed to undertake the trial in accordance with judicial process in order to confirm its legitimacy under the law. Ruling effectively without the king, albeit in his name, during the war put stress on the procedures of parliament and one method of demonstrating its legitimacy was to observe the correct judicial processes and not descend into tyranny. Laud’s trial – a model of seventeenth century judicial procedure – should be viewed in this light.

²⁹ *Mercurius Britanicus*, No. 65, BL. Thomason / 5:E.24[16], (January 1645), p. [518].

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N.B. During 1643/4 some newsbooks had very similar titles but differing content. For instance Samuel Pecke edited one version of *A continuation of certain speciall and remarkable passages* whereas another was published by Robert Wood. Also there were editorial changes. John Berkenhead took over from Peter Heylyn as editor of *Mercurius Aulicus* and Marchamont Nedham was joint editor of *Mercurius Britanicus* with Thomas Audley but later became sole editor.

Britaines Remembrancer.

Certaine informations from severall parts of the kingdome.

The Compleate Intelligencer and Resolver.

A continvation of certain speciall and remarkable passages.

A continuation of certaine speciall and remarkable passages.

A diary, or, an exact iovrnall faithfully communicating the most remarkable proceedings in both houses of Parliament.

Diurnall occurrences, or, The heads of severall proceedings in both houses of Parliament.

The kingdomes weekly intelligencer.

The kingdomes weekly post.

Mercurius Aulicus.

Mercurius Britanicus.

Mercurius cambro-Britannus, the Brittish mercury, or, The Welch diurnall.

Mercurius Civicus.

Occurrences of certain speciall and remarkable passages in Parliament.

The Parliament Scout.

A perfect diurnall of some passages in Parliament.

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The true informer.

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