

## A WHIPPER WHIPPED: THE SEDITION OF WILLIAM PRYNNE\*

MARK KISHLANSKY

*Harvard University*

ABSTRACT. 'A whipper whipped' is a thoroughly new account of the 1634 Star Chamber case against William Prynne for publishing the seditious work *Histrio-mastix*. It is based upon a hitherto unused manuscript account that provides previously undisclosed information about the proceedings and especially about the intentions of the prosecution. This case is one of the most celebrated events of the 1630s, often viewed as the watershed event in the history of Caroline censorship. It has also become a prime example of Archbishop William Laud's attack against puritan conformists. This article argues that Laud played little role in the case; that the issue before Star Chamber was primarily the charge of sedition; and that Prynne received every possible legal advantage during his hearing. Through a careful reconstruction of the legal proceedings, the case is seen in an entirely new light. Though historians and literary critics have accepted Prynne's self-serving accounts of his prosecution, this fuller record demonstrates their inadequacy.

---

Like Ajax when he fell mad, he whips all that come in his way. He doth not omit his sacred Majesty, nor his royal consort, not any magistrate; no officers of state escaped his rod.<sup>1</sup>

The image is arresting even in an age of spectacle. On a platform erected in Cheapside on Saturday, 10 May 1634, Michael Sparke stood on a stool with a paper in his hat declaring him the publisher of a seditious and scandalous libel, the thousand-page tome *Histrio-mastix*. He held a copy in his hands. Next to him was a pillory from which protruded the arms and head of William Prynne, formerly of Oxford University and Lincoln's Inn, but now degraded and expelled from both. Prynne, too, was adorned with a paper declaring in black

*Department of History, Robinson Hall, Harvard University, Cambridge MA 02138 mkishlan@fas.harvard.edu*

\* The author would like to thank collectively the numerous scholars who read and commented on drafts of this article.

<sup>1</sup> Harvard University, Houghton Library, Eng. (HEng.) MSS 1359, fo. 283v. Spoken by Secretary of State Sir John Coke. I am grateful to Peter Roberts for calling this manuscript to my attention. It is used in his 'William Prynne's *Histrio-mastix*: a puritan attack on the court and the stage during the personal rule of Charles I', in Klaus Malettke, Chantal Grell, and Petra Holz, eds., *Hofgesellschaft und Höflinge an europäischen fürstenthöfen in der frühen neuzeit (15.–18. Jahrhundert)* (Münster, 2001), pp. 447–57, but misidentified as HEng. MSS 835, at p. 449 n. 7.

letter type his crime as ‘seditious, libelous railing’.<sup>2</sup> Blood dripped from where, just after noon, a barber surgeon bribed by Prynne had carefully cropped his left ear.<sup>3</sup> On the other side of the Cheapside pillory stood an unmasked hangman whose task was not to wield an axe but to light a faggot. In front of the pillory was a heap of *Histrion-mastix*, as many as could be found. Hundreds of copies had been confiscated from booksellers and chapmen; even some individual purchasers surrendered them.<sup>4</sup> For the first time in England, the hangman publicly burned a book.<sup>5</sup> The fire released clouds of smoke ‘under his nose, which near had almost suffocated him’.<sup>6</sup> Prynne later claimed to have endured his fate ‘like a harmless lamb’ and not once opening ‘his mouth to let fall any one word of discontent’.<sup>7</sup> That would come later.

## I

There were many moderate puritans in Caroline England, but William Prynne was not among them. If there was a London puritan underground where ministers and respected laymen veiled intramural religious disputes from the prying eyes of the ecclesiastical authorities, William Prynne did not participate in it.<sup>8</sup> Nor did he fit into the shadow world of professors that depended on prophesying, sermon gadding, and devotional exercises. He seems to have imbibed his puritanism undiluted by listening to the sermons of John Preston and teasing out their logical conclusions. He was doctrinally rigid and morally upright; an old school puritan who believed in the Manichean struggle between the saved and the damned. He was also fearless. By day, Prynne was a respected

<sup>2</sup> Houghton Library, HEng. MSS 1359, fo. 314r-v.

<sup>3</sup> British Library, Thomason Tracts (hereafter E.) E. 420 (1). *A speedy hue and cry* (London, 1647), p. 6.

<sup>4</sup> The privy council had ordered that the book be recalled and declared it an offence to possess it. S. R. Gardiner, *Documents relating to the proceedings against William Prynne in 1634 and 1637* (Camden Society, n.s. 18, 1877), pp. 58–60. They were still being relinquished in 1637. Jason Peacey, ‘The paranoid prelate: Archbishop Laud and the puritan plot’, in B. Coward and J. Swann, eds., *Conspiracies and conspiracy theory in early modern Europe* (Burlington, VT, 2004), p. 123.

<sup>5</sup> Francis Lord Cottington, who spoke first, acknowledged the innovation: ‘I condemn the book to be burnt publicly, and most disgracefully by the hand of the hangman, which is a custom in other places.’ HEng. MSS 1359, fo. 270r.

<sup>6</sup> William Knowler, ed., *The earl of Strafforde’s letters and dispatches* (London, 1739), 1, p. 261.

<sup>7</sup> A. W. Pollard and G. R. Redgrave, eds., *A short-title catalogue of books printed in England, Scotland and Ireland, and of English books printed abroad, 1475–1640* (2nd edn, revised and enlarged, begun by W. A. Jackson and F. S. Ferguson, completed by K. F. Pantzer, London, 1988–91) (hereafter STC) 41407. Henry Burton, *A divine tragedy* (London, 1636). The last few pages of this tract appear to have been written by Prynne himself. They were deleted from the second edition that Burton published in 1642. E. 176 (1). *Oxford dictionary of national biography* (ODNB), Frances Condict, s.v. ‘John Bastwick’.

<sup>8</sup> Peter Lake and David Como, ‘“Orthodoxy” and its discontents: dispute settlement and the production of “consensus” in the London (puritan) “underground”’, *Journal of British Studies*, 39 (2000), p. 34.

Lincoln's Inn barrister renowned for his prodigious learning. But by night he was a fiery religious controversialist. In 1628, Prynne was summoned before High Commission for violating the royal declaration against the publication of unlicensed books on religion, but his patrons in Lincoln's Inn obtained a prohibition against the cause being heard there and it evaporated.<sup>9</sup> Further publications followed, each attracting attention from the authorities but no sanctions.<sup>10</sup> He published attacks upon Arminians, challenging Charles's ban on the public discussion of the doctrine of predestination.<sup>11</sup> Prynne also proved himself a spirited moral reformer. His tract *Healthes sickness* was provocatively dedicated to the king, although it came perilously close to blaming Charles for the drunken behaviour of his subjects.<sup>12</sup> *The unloveliness, of lovelockes*, an attack upon a fashionable male hairstyle, was equally offensive as it was the king's own coiffure.<sup>13</sup> Prynne's style was distinctive. He was a master of vituperation, of unqualified condemnation and unadulterated contempt. Typical was the blast against men who style their hair: 'if we once begin to play and dandle with small and petty vices ... they will quickly draw us on to scandalous, great, and heinous sins at last ... that we shall sooner sink down into Hell under their weight'.<sup>14</sup> If the Lord had cast his enemies into a pit of darkness, who was William Prynne to beam them up?

By 1630, Prynne was the acknowledged author of six unlicensed tracts and was twice before High Commission. He existed on the fringes of the 'literary underground' that propagated subversive tracts in defiance of the regulation of the book trade. His publisher was the radical printer, Michael Sparke, who produced four of Prynne's first seven tracts.<sup>15</sup> Sparke was examined and fined with some regularity by High Commission. When in 1630 Prynne had readied a new work he naturally turned to Sparke to publish it. The consequences were momentous.

Nevertheless, for decades the historiographical consensus has been that 'in the period between 1626 and 1640 Prynne was a moderate'.<sup>16</sup> This

<sup>9</sup> STC 20472. William Prynne *The perpetuities of a regenerate man's estate* (London, 1627); H1700. Peter Heylyn, *Cyprianus anglicus* (London, 1671), p. 148.

<sup>10</sup> STC 20455. William Prynne, *A brief survey and censure of Mr Cozens his cozening devotions* (London, 1628); STC 20465. William Prynne, *Lame Giles his haltings* (London, 1630). Prynne relates that he was several times before High Commission. E. 162 (1). William Prynne, *A New discovery of the prelates tyranny* (London, 1641), p. 7.

<sup>11</sup> STC 20457. *The Church of England's old antithesis to new arminianisme* (London, 1629); STC 20458. *Anti-Arminianisme* (London, 1630), which is the second edition 'much enlarged' of *The Church of England's old antithesis*.

<sup>12</sup> STC 20462. *Healthes sickness* (London, 1628), Epistle Dedicatory.

<sup>13</sup> STC 20477. *The unloveliness, of lovelockes* (London, 1628). A lovelock was a long tress worn on the left side. It is prominent in most van Dyck portraits of the king.

<sup>14</sup> STC 20477. *Unlovelinesse, of lovelockes*, p. A<sub>3</sub>.

<sup>15</sup> Alastair Bellany, 'Libels in action: ritual, subversion and the English literary underground, 1603–1642', in Tim Harris, ed., *The politics of the excluded* (Basingstoke, 2001); Henry Plomer, 'Michael Sparke, puritan bookseller', *The Bibliographer*, 1 (1902), p. 414.

<sup>16</sup> William Lamont, *Marginal Prynne* (London, 1963), p. 13.

counter-intuitive description of a man twice convicted of sedition, twice pilloried and mutilated, imprisoned for life, and exiled to the farthest reaches of Charles I's realm relies upon a special meaning of moderate and a subtle reading of one of the least subtle of puritan controversialists. Certainly, there was nothing moderate about Prynne's attacks upon his self-proclaimed enemies, nothing moderate about his language or the means by which he made his views known. 'For the manner, he confesses he is sorry that his style is so tart and offensive, yea and so foul and his imputations so ill limited.'<sup>17</sup> There was nothing moderate in his attitude toward violating proclamations and decrees governing publishing. What is meant by describing Prynne as a moderate is that until 1641, despite attacks on individual bishops, assaults upon the legality of the Commission for Ecclesiastical Causes, and public charges of praemunire against the church hierarchy, he was not yet a Presbyterian. His attack on Episcopacy was not all encompassing.<sup>18</sup>

Prynne's 1634 Star Chamber case is one of the most notorious heard in that Court.<sup>19</sup> Among historians and literary critics it was a watershed of censorship: 'The turning point came in 1634 when the court of Star Chamber came down heavily against William Prynne's *Histrio-mastix*.'<sup>20</sup> It proved the prime example of 'the ways in which Charles' government was using the prerogative court more aggressively than had his predecessors'.<sup>21</sup> It has even been asserted that 'by making Prynne a martyr, Charles took an irrevocable step toward civil war'.<sup>22</sup> Prynne's cause is ordinarily studied within the context of censorship, and there are good reasons for this. It is rich in detail and seemingly provides grist for every miller. For those who believe that the Caroline regime kept a tight lid on heterodox ideas there is the fact that Prynne was twice unable to obtain a licence to have his work printed.<sup>23</sup> Yet those who emphasize the incapacity of seventeenth-century government to censor can point to the ease with which

<sup>17</sup> HEng. MSS 1359, fo. 244v.

<sup>18</sup> Lamont, *Marginal Prynne*, p. 21.

<sup>19</sup> There are numerous sources. Rushworth's account was reprinted with changes by Cobbett and are supplemented by the one printed by Gardiner. Manuscript records include Huntington Library 80, Bodleian Library, Tanner MSS 299, British Library, Egerton MSS 253, Stowe MSS 159, and HEng. MSS 835 which derive from one source and largely replicate each other. Bodleian Library, Douce MSS 173, and Cambridge University Library, MSS D.d.6.23, contain briefer excerpts than the foregoing. By far the fullest account is HEng. MSS 1359, fos. 180–318, which covers all six sessions and provides a wealth of hitherto unknown detail. Donald Wing, ed., *Short-title catalogue of books printed in England, Scotland, Ireland, Wales, and British America, and of English books printed in other countries, 1641–1700* (3 vols., London, 1972) (hereafter Wing) R.2318A. John Rushworth, *Historical collections: the second part* (1686), II, pp. 220–41; William Cobbett, *Cobbett's complete collection of state trials* (34 vols., London, 1809–28), III, pp. 562–86; Gardiner, *Documents relating to Prynne*, pp. 1–28.

<sup>20</sup> David Cressy, 'Book burning in Tudor and Stuart England', *Sixteenth Century Journal*, 36 (2005), p. 369.

<sup>21</sup> Randy Robertson, *Censorship and conflict in seventeenth-century England* (University Park, PA, 2009), p. 57.

<sup>22</sup> Annabel Patterson, *Censorship and interpretation* (Madison, WI, 1984), p. 115.

<sup>23</sup> Frederick Seibert, *Freedom of the press in England, 1476–1776* (Urbana, IL, 1952), p. 126.

Prynne and his publisher evaded the licensing process.<sup>24</sup> The argument that early Stuart censorship was a 'benign' process of negotiation rather than a ceaseless reign of surveillance and prohibition can be supported by the fact that parts of Prynne's text were corrected while in press and an agreement over when to publish the work was achieved with the clerical licenser.<sup>25</sup> Those who view censorship as an integral component of seventeenth-century government rather than an illiberal suppression of free speech have allies in the Star Chamber judges, each of whom made clear that they believed Prynne's book posed a fundamental threat to the rule of Charles I.<sup>26</sup> Finally, those who see censorship as an infrequent last resort only used against the most aggressive and quarrelsome authors have evidence for their view on nearly every page of *Histrio-mastix*.<sup>27</sup> Prynne's case conforms to all the interpretations advanced to explain censorship in seventeenth-century England. Moreover, book and author suffered stringent penalties: they were censored.

As much as *Histrio-mastix* has been seen within the context of Caroline censorship, it has equally been viewed as an episode in the history of libel or what is sometimes called seditious libel.<sup>28</sup> This was how contemporaries understood authors such as Prynne, as they were unacquainted with modern ideas about free expression. To them, *Histrio-mastix* was a 'voluminous invective against all manner of interludes', a libel against general classes of English society: noblemen who supported companies of players or produced shows for their own entertainment; magistrates who failed to enforce the statutes against vagrant actors; Sabbath breakers who gamboled and gambled rather than attend afternoon sermons.<sup>29</sup> It was also a libel against the queen. Near the time that *Histrio-mastix* was published, Henrietta-Maria was acting, in English as a Christmas present for the king, in the masque, *The shepherd's paradise*. Thus, Prynne's index entry 'women actors, notorious whores' became an instant headline. The earliest public comments on the tract emphasized this scandalous implication: 'it is thought by some [it] will cost him his ears' or see him 'heavily punished and deeply fined'.<sup>30</sup>

Prynne would later find it convenient to foreground this aspect of his Star Chamber drama. In each of his subsequent accounts he stressed the alleged

<sup>24</sup> Sheila Lambert, 'Richard Montague, arminianism and censorship', *Past and Present*, 124 (1989), p. 58.

<sup>25</sup> Anthony Milton, 'Licensing, censorship and religious orthodoxy in Stuart England', *Historical Journal*, 41 (1998), p. 629. See also Arnold Hunt, 'Licensing and religious censorship in early modern England', in Andrew Hadfield, ed., *Literature and censorship in Renaissance England* (New York, NY, 2001), pp. 143-4.

<sup>26</sup> Debora Shuger, *Censorship and cultural sensibility* (Philadelphia, PA, 2006).

<sup>27</sup> Cyndia Clegg, *Press censorship in Caroline England* (Cambridge, 2008).

<sup>28</sup> The classic work is P. Hamburger, 'The development of the law of seditious libel and the control of the press', *Stanford Law Review*, 37 (1985), pp. 661-765, though it mostly concerns the period after the abolition of Star Chamber.

<sup>29</sup> Thomas Birch, *The Court and times of Charles I* (London, 1848), II, p. 219.

<sup>30</sup> *Ibid.*, II, p. 224.

slander against the queen as the cause of his prosecution. He did this because he believed he had an airtight case against this accusation. 'This book was written four years, licensed almost three, printed fully off a quarter of a year, and published 6 weeks before the Queen's Majesty's Pastoral against which it was falsely voiced to have been principally written.'<sup>31</sup> In his eyes, this exonerated him from the charge even though the pastoral had been in rehearsal since the summer and the queen had acted in prior productions.<sup>32</sup> Moreover, the index entry that aroused consternation had been added at the very end of the printing.<sup>33</sup> Calling attention to the possible slander of the queen also deflected attention from Prynne's undeniable sedition against the king. Neither during his defence nor his later accounts did Prynne directly address this evidence. He claimed that passages had been misconstrued and deliberately misinterpreted but he never specified which they were or how this was done. His oft-repeated defence was that he was 'without any thought or suspicion of giving the least offence . . . to the king's most excellent Majesty'.<sup>34</sup> Instead, he emphasized the charge 'that Master Prynne had purposely written this book against the Queen & her pastoral'. He even amplified the relationship between *Histrion-mastix* and Henrietta-Maria by asserting that 'the queen (whom it most concerned) earnestly interceded to his Majesty to remit its [Prynne's sentence] execution'.<sup>35</sup> Accepting responsibility for unintentionally offending the Queen, 'there being some passages in this book against women-actors' seemed to strengthen his claim 'of the innocency of these misconstrued and perverted passages'.<sup>36</sup>

Prynne's prosecution has also been viewed as part of Archbishop Laud's campaign against puritans and the government's suppression of religious dissent. The case is treated by Lamont in a chapter entitled 'Laud's revenge' and subsequent historians and literary critics have stressed this theme.<sup>37</sup> It was Prynne who first made this allegation, though he never provided any direct

<sup>31</sup> STC 41407. Burton, *A Divine Tragedy* (London, 1636), p. 43.

<sup>32</sup> For Charles and Henrietta-Maria's acting, see J. Bruce and W. D. Hamilton, eds., *Calendar of state papers domestic series of the reign of Charles I, 1625-1626* (London, 1858), p. 273; Colin Rice, *Ungodly delights* (Alessandria, 1997), p. 155.

<sup>33</sup> Although this charge made for spectacular headlines, it did not figure largely in the prosecution. 'The authorities construed the book to be both libelous and insulting to Queen Henrietta-Maria', Cressy, 'Book burning', p. 369; 'he had indeed denounced female actors at the same time as Queen Henrietta Maria was participating in a court masque'. William Lamont, 'Prynne, William (1600-1669)', *ODNB*. The most careful analysis of the question can be found in Robertson, *Censorship and conflict*, pp. 45ff.

<sup>34</sup> STC 41407. Burton, *Divine tragedy*, p. 43.

<sup>35</sup> E. 162 (1). Prynne, *New discovery*, pp. 8, 11. Though modern commentators repeat this claim, no independent evidence exists to substantiate it. Cressy, *Travesties and transgressions* (Oxford, 2000), p. 221; Clegg, *Press censorship*, p.166; Robertson, *Censorship and conflict*, p. 58.

<sup>36</sup> E. 162 (1). Prynne, *New discovery*, pp. 8, 11.

<sup>37</sup> Lamont, *Marginal Prynne*, pp. 28-48. Most of this chapter deals with Prynne's 1637 prosecution. See also Stephen Foster, *Notes from the Caroline underground* (Hamden, CT, 1978), p. 41; Cressy, *Travesties and transgressions*, p. 218; Ethyn Kirby, *William Prynne* (New York, NY, 1931), p. 25.

evidence of its truth. He accused Laud of poisoning the king and queen against him and of using his 'minion', Peter Heylyn, as a cat's paw to mask Laud's personal vendetta.<sup>38</sup> This is an interpretation difficult to reconcile with the surviving contemporary evidence. First, Laud explicitly rebutted the accusation that he was behind the 1634 prosecution both in his contemporaneous diary and in subsequent testimony at his trial.<sup>39</sup> Heylyn, too, denied that Laud played any role in his digest of *Histrio-mastix*, testifying before a parliamentary committee in 1640 that it was his patron, Secretary Sir John Coke, who gave him the assignment.<sup>40</sup> Moreover, he told the same story to his own biographers many years later, long after Laud had been executed and when an admission could have done him no harm.<sup>41</sup> Nor did Laud's conduct at the time offer any support for Prynne's claim that this was a result 'of personal vindictiveness'.<sup>42</sup> Laud played no special role in the prosecution and was one of twenty-two judges who found Prynne guilty. Indeed, he dissented from the mutilation of his ears.<sup>43</sup> Moreover, it was Laud alone who opposed further prosecution in High Commission. Similarly, when Prynne landed back in Star Chamber in June 1634 it was Laud who urged mitigation of his sentence. 'I shall notwithstanding desire for him that he may have books . . . and let him have liberty to come to the church', the Archbishop pleaded. 'If he hath done anything against me, God forgive him, and I do. I am sorry for him.'<sup>44</sup> Such outspoken leniency is hard to reconcile with 'Laud's Revenge'.

Thus, Prynne's case has been viewed through the lens of censorship, of libel, and of the persecuting proclivities of Archbishop Laud. More powerful magnification, however, reveals that at its root this was a case of sedition. The Information charged that Prynne 'had moved and stirred' the king's subjects 'to disobedience, discontent, and sedition'.<sup>45</sup> In *Histrio-mastix* he 'hath therein written diverse incitements to your people to sedition and to infuse dangerous opinions into them that there are just causes for which they may lay violent hands upon the sacred persons of Princes'. To achieve this purpose he was

<sup>38</sup> E. 162 (1). Prynne, *New discovery*, pp. 8–9; STC 41407. Burton, *Divine tragedy*, p. 44. Lamont calls Heylyn 'Laud's devoted follower' but this relationship developed after 1633. Lamont, *Marginal Prynne*, p. 29.

<sup>39</sup> William Scott and James Bliss, eds., *The works of Archbishop William Laud* (7 vols., Oxford, 1847–60), III, p. 221, IV, pp. 85, 107.

<sup>40</sup> Maija Jansson, ed., *Proceedings in the opening session of the long parliament* (7 vols., Rochester, NY, 2000–7), I, p. 529; Wing H1700. Heylyn, *Cyprianus anglicus*, p. 218. 'One of the enduring myths about Heylyn is that he was Laud's chaplain'. Anthony Milton, *Laudian and royalist polemic in seventeenth-century England: the career and writings of Peter Heylyn* (Manchester, 2007), p. 233.

<sup>41</sup> Wing V248. George Vernon, *The life of the learned and Reverend Dr. Peter Heylyn* (London, 1682), pp. 50–1; Wing B854A. John Barnard, *Theologo-historicus* (London, 1683), pp. 141–2.

<sup>42</sup> Foster, *Caroline underground*, p. 41.

<sup>43</sup> HEng. MSS 1359, fos. 303v–304r.

<sup>44</sup> HEng. MSS 1359, fos. 301v, 317r; see also Rushworth, *Historical collections*, II, p. 248.

<sup>45</sup> HEng. MSS 1359, fo. 183v. An Information was the civil law equivalent of an indictment at common law. Strictly speaking, there were no trials in Star Chamber. I owe these points and much wise advice to Professor J. H. Langbein.

alleged to have attacked the king's magistrates, his household, and his royal consort all in order to satisfy 'factious and disobedient contemnors of the present government'. To this faction he recommended other seditious books such as those composed by Alexander Leighton and the Jesuit Juan de Mariana, all with a design 'to draw a dislike of your government and a liking of the factious and is all of very dangerous consequence'. This emphasis on sedition in the Information was even more pronounced in the prosecution case. Here, Attorney General William Noy set up his case to build to the serious charges of sedition that included not only the alienation of the people's affection from their monarch but the frequent suggestion that princes who sinned suffered justly at the hands of their subjects. *Histrio-mastix* contained several examples of praise for the assassination of Roman emperors who attended, supported, or participated in stage plays. More than once, explicit comparison was drawn between Charles I and Nero, and not to the benefit of the Stuart king. The judges' sentence against Prynne would be emphatic: he 'endeavored to infuse so much sedition and disobedience into the hearts of his Majesty's loving subjects by instructing them by wicked examples and commending and extolling pernicious books maintaining like pernicious desperate and wicked tenets'.<sup>46</sup> Twenty-two judges in Star Chamber unanimously declared William Prynne guilty of sedition.

The centrality of sedition in the prosecution of Prynne has been obscured by the chance survival of sources.<sup>47</sup> The standard printed accounts in Rushworth and Cobbett's *State trials* as well as the supplementary account discovered by Gardiner are severely attenuated, providing only a slice of the prosecution's case and a sliver of Prynne's defence. They omit almost entirely the legal wrangling that was such a feature of the case and therefore obscure the strategies pursued on each side and the rigorous adherence to procedure maintained by the court. These sources as well as the many commonly consulted manuscripts devote most of their space to the sentences of the judges though even here the verdicts of less than half of those who were present are recorded. The uncovering of an important new manuscript account therefore allows for an entirely fresh reading of these events. Houghton Library English Manuscript 1359 was acquired in 1983 from the booksellers Hofmann and Freeman who in turn had purchased it at auction in 1966.<sup>48</sup> Hofmann identified it as the 'Massereene Mss' from the fact that it had once been in the library of Antrim Castle, home to the Viscounts Massereene. All that is known for certain about this association is that the manuscript had been presented to Judy Massereene in 1824. Hofmann believed it had originally belonged to Sir John Clotworthy, 1st Viscount Massereene, but this is speculative. The account of Prynne's cause in Star Chamber comprises 137 folios (274 pages

<sup>46</sup> HEng. MSS 1359, fos. 183v, 184r, 184v, 310r.

<sup>47</sup> See n. 19 above.

<sup>48</sup> Special thanks are due to Susan Halpert and the staff of the reading room of the Houghton Library for helping me use and explore the provenance of the manuscript.



containing roughly 75,000 words) written in a clean secretary hand. It records the proceedings against Prynne et al., beginning 24 January 1634 and ending 17 February 1634. A single, subsequent, paragraph describes Prynne's punishment. At the end is included a brief account of Prynne's appearance before Star Chamber in June 1634 for an accusatory letter he had sent to Laud and subsequently destroyed in front of Attorney General Noy so that it could not be used in evidence against him. This manuscript is unique in several ways. It includes three days of proceedings not preserved in any other record of the cause. It also includes the Information against the defendants, their full pleadings, and the text of all of the depositions presented in court. It reports each day's activity in rich detail and records the formal judgement against the defendants after the proceedings concluded. Its most important addition to our knowledge, however, is the fullness in which it preserves the prosecution's presentations. Its existence does not simply supplement other surviving accounts; it supplants them.<sup>49</sup>

## II

Sometime in 1624 Prynne began a tract inveighing against stage plays. He excerpted passages on the subject during his extensive reading of classical authors, Christian churchmen, and contemporary writers. To these, he added his own commentary, drawing moral lessons and stressing the depravity of such activities as dancing, church music, and Sabbath day entertainments. Although it was a powerful assault on the theatre, *Histrion-mastix* was at bottom a book of puritan morality and, in its subtext, a Sabbatarian tract. In 1627, he was refused a licence for publication and was refused another the following year.<sup>50</sup> All the while the manuscript grew. In early 1629, Prynne enlisted the aid of Michael Sparke and the following year Sparke brought a small part of the manuscript to William Buckner, newly installed chaplain to Archbishop Abbott, and asked him to endorse it for registration at the Stationers' Company.<sup>51</sup> The manuscript was barely legible but Buckner, 'not knowing the author of these few sheets' nor 'the said Sparke', granted his approval.<sup>52</sup> Six weeks later, Sparke returned with a printed tract of 64 pages, requesting a licence for publication. He explained that the original manuscript had been lost but the printed pages were identical

<sup>49</sup> In 1998, on a visit to Harvard, Peter Roberts alerted me to the existence of this manuscript. At that time, I was unaware of its significance. When he came to discuss it briefly in his essay 'William Prynne's *Histrion-mastix*', he unfortunately misidentified it as HEng. MSS 835 (which is a brief account of the case) at p. 449 n. 7. Nevertheless, he deserves credit for appreciating its potential as a valuable source to study Prynne's case.

<sup>50</sup> HEng. MSS 1359, fo. 214r-v. <sup>51</sup> The Stationers registered the work on 16 Oct. 1630.

<sup>52</sup> HEng. MSS 1359, fo. 186v. For a licenser not to have heard of Michael Sparke is akin to a Chicago policeman not knowing the name of Al Capone.

to what had already been approved. Buckner read them over and granted an imprimatur.<sup>53</sup>

Subsequently, on a routine visit to the printing shop of William Jones, Buckner observed a number of sheets of *Histrion-mastix* being printed, the text of which he had not sanctioned. He 'willed Jones to tell Sparke that there were many things in it to be amended' and 'that if he published the said book he would adventure to lose his ears'.<sup>54</sup> From this point, the defendants' stories significantly diverge. Buckner insisted that he only saw and approved the 64 printed pages, while Sparke and Prynne insisted that he had seen the entire book in parts. Prynne recounted that the first 830 pages were sent to Buckner in Trinity term 1632 and he 'found three or four leaves to be amended'. The remainder was delivered at Michaelmas. In November, Prynne and Sparke were summoned to Lambeth Palace for a pre-publication meeting. It was agreed that Sparke could send copies to his chapmen in the country but 'not to put them abroad in London until New Year's Day was past'.<sup>55</sup> Both of these accounts probably contain elements of truth. Buckner had only approved the first 64 pages but was then presented with a *fait accompli* when shown over 800 unchanged pages. Attempting to make the best of a bad situation, he insisted that the book not be made public during the court's Nativity Festivities. Sparke and Prynne reluctantly agreed. Prynne wanted his diatribe to have maximum impact, while Sparke needed to recoup his £300 investment.<sup>56</sup>

The book was released on 28 November 1632 but with 1633 imprinted on the title page.<sup>57</sup> By mid-January 1633, London news writers were conveying the most salacious excerpts, especially the index entry 'women actors notorious whores'.<sup>58</sup> Buckner chose the only course open to him: he obtained a warrant from Archbishop Abbot 'for the restraint and seizure of the said books' and then license 'that Mr Prynne might be proceeded against' in High Commission. Abbot's warrant recalled the book on 11 January and officers from the Stationers' Company seized Sparke's stock the next day.<sup>59</sup>

The court buzzed with news of the controversial publication, and it was not long before it came to the attention of the king.<sup>60</sup> In mid-January 1633, 'it pleased his Majesty to give order ... [to] digest such particular passages

<sup>53</sup> Jansson, ed., *Proceedings in the Long parliament*, I, p. 545.

<sup>54</sup> J. Bruce, ed., *Calendar of state papers domestic series of the reign of Charles I, 1633-1634* (CSPD, 1633-1634) (London, 1863), p. 418; HEng. MSS 1359, fos. 238v-239r.

<sup>55</sup> HEng. MSS 1359, fos. 205v, 194v, 195v. This may account for the two issues with and without the errata on 3<sup>\*</sup>-4v. I am grateful to Tom Cogswell for alerting me to the two states of the book.

<sup>56</sup> Rushworth, *Historical collections*, II, p. 223 (mispaginated as 232).

<sup>57</sup> E.162 (1). Prynne, *New discovery*, p. 8.

<sup>58</sup> Birch, *Court and times*, II, p. 224. Also see II, pp. 218-19, Pory to Puckering, II, pp. 222-3, Paget to Harrington.

<sup>59</sup> HEng. MSS 1359, fos. 188r, 207v, 237r.

<sup>60</sup> Prynne stated that it was Henry Jermyn, 'Mr H.I.', who brought the book to the king's notice. E. 162 (1). Prynne, *New discovery*, p. 8.

as tended to the danger or dishonor of the king or state'.<sup>61</sup> Secretary Coke chose Peter Heylyn for the task, who completed the work quickly. Though predictions were that Prynne would be haled before High Commission, what Heylyn discovered in *Histrio-mastix* spoke more of sedition than heterodoxy. He prepared a fair hand replica of his report and gave it to Coke and 'did after deliver the foul original draft to Mr Attorney Noy'.<sup>62</sup>

Simultaneously, Prynne was proudly presenting copies of his work to the library at Lincoln's Inn and to 'other his especial friends' including Attorney General Noy.<sup>63</sup> According to Prynne, Noy read and approved of the work; according to Noy, he was horrified: he 'read it over and when he had read it . . . he called Mr Prynne and examined him, took his examination in writing'.<sup>64</sup> This took place before witnesses on 31 January. At first, Prynne was co-operative, but as the questions became more pointed the barrister ceased answering them. He declined to sign the transcript of the examination and refused to acknowledge that he authored the copy of *Histrio-mastix* that Noy showed him.<sup>65</sup> An arrest warrant was issued and executed the following day.<sup>66</sup>

As an experienced barrister, Prynne was master of the court's procedure. He adopted stalling tactics, perhaps in hope that the publicity over the book would die down. In this, he was aided by the king's Scottish coronation, which removed much of the privy council from London during Easter term 1633. It was not until 21 June that Prynne was presented with the Information that set out the charges. If Prynne had expected a slap on the wrist he must have had the shock of his life. 'One William Prynne Esq. has long envied and maligned your happy government and has endeavored as much as lies in him to defame your Majesty . . . and stirred your people to disobedience, discontent and sedition.' This was the centrepiece of the complaint: 'incitement of your people to sedition'. The charges were all general: 'it brings [the magistracy] into disesteem'; it casts 'aspersions and contumelies' upon the queen; it makes 'hateful and undutiful speeches against your Majesty'.<sup>67</sup> The only clues as to which parts of the book gave the greatest offence were quotations from the works of Alexander Leighton,

<sup>61</sup> Wing H1700. Heylyn, *Cyprianus anglicus*, p. 218. The date is necessarily imprecise though Heylyn twice places it 'before the information was put in against Mr Prynne'. Jansson, ed., *Proceedings in the Long parliament*, 1, p. 529.

<sup>62</sup> Jansson, *Proceedings in the Long parliament*, 1, p. 529. It is probable that Noy's copy survives with his marginal notes in The National Archives, SP16/534/122-34. Though Noy made some use of Heylyn's digest in his prosecution, he had carefully studied *Histrio-mastix* himself as had the other prosecutors and a number of the judges. Pace Lamont, these were not 'a full list of the charges against Prynne'. Lamont, *Marginal Prynne*, p. 29 n. 1.

<sup>63</sup> HEng. MSS 1359, fo. 195v.

<sup>64</sup> E.162 (1). Prynne, *New Discovery*, p. 9. Prynne's assertion that Noy read the book twice strains credulity. HEng. MSS 1359, fo. 265r.

<sup>65</sup> HEng. MSS 1359, fo. 265r.

<sup>66</sup> J. Bruce, ed., *Calendar of state papers domestic series of the reign of Charles I, 1631-1633* (London, 1862), p. 524.

<sup>67</sup> HEng. MSS 1359, fols. 183v, 184r, 184v.

‘a factious separatist tending to the introducing of anarchy’, and of Juan de Mariana, ‘a Jesuit touching on the lawfulness of destroying princes’.<sup>68</sup> Indeed, the Information concluded that the inflammatory passages were so numerous that ‘they could not be particularly recited within the indictment’.<sup>69</sup>

After receiving the Information, Prynne delayed by refusing to plead. Another six weeks elapsed during which he contended that his defence could not be prepared without access to his books and papers. After being threatened with solitary confinement, Prynne finally pled not guilty and submitted to interrogatories. He then petitioned directly to the king either to be released, having been in the Tower ‘for thirty-four weeks’, or to be bailed.<sup>70</sup> Both entreaties failed and the methodical business of taking affidavits, examinations and rejoinders from witnesses continued. Still, Prynne utilized every legal tactic at his disposal. He refused to admit that he was the author of the copy of *Histriomastix* that was appended to the Information. He attempted to place his sources into evidence – the case file grew to over ‘a thousand sheets of paper’ – and he named witnesses to authenticate them. Noy was contemptuous of the witnesses, one of whom was incapable of making the oath in Latin. Noy concluded, ‘his meaning is to leave so much upon record as he can to clamor against the justice of the court’.<sup>71</sup>

### III

The cause was scheduled to open on 5 February after preliminary motions on 24 January. Prynne was represented by John Herne, Edward Atkins, Robert Holborne, and Thomas Byerley. All but Byerley were Lincoln’s Inn men. Herne spoke first and moved for a deferral until Easter term because over 1,000 pages of documents had accumulated. Noy, for the crown, rejoined that the file was engorged because Prynne had insisted on presenting his sources as exhibits.<sup>72</sup> ‘These exhibits are worse than the book and not fit to be on record’, Noy contended. He moved to have them suppressed. The presiding officer, Lord Keeper Coventry, considered Noy’s motion first. He deputed Sir Robert Heath, chief justice of Common Pleas, to examine Prynne’s exhibits and determine whether they should be admitted. Heath was less than keen: ‘my Lord this would require the leisure of a vacation to be read over’. Heath’s objection was overruled and the court was adjourned until 29 January.<sup>73</sup>

<sup>68</sup> HEng. MSS 1359, fo. 184v. Lamont asserts that ‘Leighton stood for everything to which Prynne was opposed – in the period before 1641’, but this is contradicted by the approving citations in *Histriomastix*. Lamont, *Marginal Prynne*, p. 45.

<sup>69</sup> HEng. MSS 1359, fo. 185r.

<sup>70</sup> *CSPD, 1633–1634*, pp. 188, 225.

<sup>71</sup> HEng. MSS 1359, fos. 180r, 239v.

<sup>72</sup> A key point in Prynne’s original defence was that *Histriomastix* was simply a compilation of ‘passages out of other approved authors’. HEng. MSS 1359, fo. 195v.

<sup>73</sup> HEng. MSS 1359, fos. 181r, 180v. Neither of these sessions is recorded in the other surviving sources.

The second session for preliminary motions opened with Heath's adept compromise. Prynne's exhibits should be suppressed but he should be allowed to introduce them during his defence. Coventry accepted this solution. That left only Herne's motion for postponement. With Prynne's exhibits removed, the case file slimmed considerably, but Prynne's were not the only exhibits. Attached to the Information was a printed copy of *Histrio-mastix*. 'It is impossible that his counsel should so soon read over the book', Herne began, saving his real objection for the conclusion: 'and Mr Attorney is so general in his charges that we know not what he will pitch upon'.<sup>74</sup> Prynne's counsel aptly argued that they would have to be prepared to defend every passage in the massive tome on the spot. Coventry felt the force of this assertion. He directed Noy 'to acquaint them with what you intend to insist on for the heads of the charges'. Noy was less than forthcoming. There were to be five points: (1) censuring 'the king's people of all sorts'; (2) making scandalous speeches against the magistracy; (3) attacking the Lords of the king's council and household; (4) scandalizing the queen; (5) and asserting that it is unlawful for princes to act in or attend plays. Noy concluded: 'and there is one part more fit to be concealed'.<sup>75</sup> For the moment, Herne's motion for postponement was denied and court adjourned.

Prynne's case opened on 7 February. Noy had planned a brilliant prosecution. He divided the heads of the charges among his co-counsel: Robert Mason would speak to the imputations laid upon the people in general; the recorder of London, Sir Edward Littleton, to those made against the magistracy; Sir Richard Shelton, the solicitor general, to attacks on the nobility, court, and royal household; Sir John Finch, the queen's attorney general, would handle slanders against her majesty; and Noy himself would handle the volatile charges of sedition against the king, the ones that were 'fit to be concealed'. Because of a quirk in the court's calendar, the next Star Chamber day was the 13th and thus there would be nearly a week between the two parts of the crown's case. Noy planned to use this to his advantage. He would lead his case with the least serious allegations, allowing them to build an impression of Prynne's intemperate language, slanderous allegations, and libellous invectives but directed at groups, men with offensive hairstyles, women given to dancing, noblemen who sponsored entertainments, magistrates who did not enforce the law. The overall effect would be to prepare the judges for the more serious instances of sedition. Noy wanted the court to have sedition fresh in mind after its week's respite.

The prosecution's case began with rehearsal of the Information. Noy outlined the various charges in the document and stressed sedition as his final point: 'that men may upon some causes lay violent hands upon Princes'. Edward Atkins summarized the defendant's plea. He characterized *Histrio-mastix* as 'but a collection of diverse arguments, authorities and passages'.

<sup>74</sup> HEng. MSS 1359, fo. 181v.

<sup>75</sup> HEng. MSS 1359, fo. 182r-v.

He rehearsed the licensing history 'so that it might be printed with leave of authority'.<sup>76</sup> Prynne's plea emphasized the licence because he believed 'that there was never any brought here in judgement but for books unlicensed'.<sup>77</sup> However, Prynne was not charged with unlicensed publishing and as Sir Robert Heath averred: 'all his excuse is that it was licensed; if it were, it cannot excuse him for an author who takes it upon him to write ought to be a man judicious to understand what he writes'.<sup>78</sup> Only at the end did the defendant address the most serious allegations. He asserted that he had 'no wicked purpose or design' or any intention to 'traduce, defame, dishonor, or scandalize his Majesty'. He was a loyal subject, had taken the oaths of allegiance and supremacy, and apologized for any 'involuntary oversights and offenses'.<sup>79</sup>

Noy followed with the crown's case-in-chief against Prynne.<sup>80</sup> He would not charge any of the offences committed against the church, recommending instead that the judges refer prosecution to High Commission.<sup>81</sup> But though he bypassed these aspects of *Histrio-mastix*, he was wily enough to specify them: an attack on altars and bowing at them; characterizing church music as 'a bleating of brute beasts'; the assertion that Saturday was the Sabbath; the labelling of Christmas as 'the Devil's mass'; the censure of bishops as 'the silken and satin divines'; and, provocatively, the index entry 'Christ a Puritan'.<sup>82</sup> Noy would bring none of this before Star Chamber.

Rather, he began with those parts of the book that brought society, government, and the queen and king into disrepute. 'The book is the accuser; the book is the witness; and by the book he is to be judged.' But had Prynne written the book? His refusal to acknowledge the copy of *Histrio-mastix* attached to the Information threatened to bring proceedings to a halt. Lord Keeper Coventry intervened: 'I think that counsel on the other side will confess the book to be Mr Prynne's.' Atkins demurred. They could not go beyond Prynne's own answer. But Noy was up to the challenge. He brought together two copies of the work, both confiscated from Michael Sparke. Noy then hired Robert Butterside to compare, word for word, the book attached to the Information with the other one obtained from the Stationers. Butterside presented the court with a sheet of trivial differences between them. In the face of this evidence, the defence collapsed: Holborne informed the court that Prynne 'confesses that he believed the book attached to the bill is his'.<sup>83</sup>

<sup>76</sup> HEng. MSS 1359, fos. 203v, 204v.

<sup>77</sup> Gardiner, *Documents relating to Prynne*, p. 14.

<sup>78</sup> *Ibid.*, p. 19 (Heath's judgement).

<sup>79</sup> HEng. MSS 1359, fos. 196v, 197v.

<sup>80</sup> Noy presented no case against the three printers or Buckner.

<sup>81</sup> HEng. MSS 1359, fo. 208v. This was why no attempt was made to demonstrate Prynne's heterodoxy rather than Lamont's assertion that Prynne's references to the church 'reveal, once more the moderate'. Lamont, *Marginal Prynne*, p. 32.

<sup>82</sup> HEng. MSS 1359, fo. 209r-v.

<sup>83</sup> HEng. MSS 1359, fos. 209v, 213r, 213v. Prynne's tactics exasperated many besides Noy as would be seen at sentencing.

Once the book was admitted into the case, Robert Mason, another Lincoln's Inn colleague of Prynne's, resumed the prosecution. Mason had been allotted the elements in *Histrion-mastix* that reviled mankind in general. But there was nothing general about his presentation. He began with the Epistle Dedicatory and its attack upon 'effeminate mixed dancing, dicing, stage plays, lascivious pictures, wanton fashions, face-painting, health-drinking, long hair ... bonfires, New Year's gifts, May games ... excessive laughter, luxurious, disorderly Christmas-keeping', all of which Prynne identified as the behaviour of pagans.<sup>84</sup> As Mason made clear, these were opinions of Prynne himself: long hair demonstrated 'that they have cast off God'; dancing came from the devil; plays were the product of Satan. But, as Noy had promised, Prynne was to be accused by his own words. For the next several hours, Mr Page, the crown's assistant read out passage after offensive passage, twelve in all. This excerpt was typical: 'but if a woman have long hair (of which our English Ladies, who have cast off God and nature, shame and modesty, religion and subjection, are now ashamed, as being out of fashion) it is a glory to her'. Mason observed that Prynne 'vouches not an author for that but himself'.<sup>85</sup> Indeed, he concluded, Prynne's favourite authority was William Prynne. 'I have diligently noted that in this book he has vouched himself above 500 times.'<sup>86</sup>

The barrage did not cease. London's recorder Sir Edward Littleton's task was to illustrate Prynne's contempt for magistracy and government. He came armed with eight passages. Amongst them was a section that praised Queen Elizabeth for suppressing several London playhouses while complaining that had her 'successors followed [these] worthy steps, sin would not at this day have been so powerful'. Littleton identified this as 'a tacit imputation upon the present King and state'.<sup>87</sup> The recorder pressed forward delicately: 'it will not be needful for me to mention his vile phrases ... fit for Billingsgate women'.<sup>88</sup> He was especially pointed about the condemnation of magistrates for not suppressing plays: 'it is only the fault of magistrates, who may, who should suppress them'.<sup>89</sup> Littleton glossed the quote: 'this is plain English, my Lords, and sets the scandal against the governors'. If Prynne had planned to take refuge in the ambiguity in his words, he would have difficulties with the passages Littleton had selected.

Sir Richard Shelton's presentation concluded the day. He was to highlight attacks upon the nobility, court, and royal household. He, too, brought excerpts to be read, eleven in all. They included attacks on noblemen who supported troops of actors, sponsored plays in their houses, or staged them during festivities. Prynne related tales of noblemen so transported by watching actors

<sup>84</sup> HEng. MSS 1359, fo. 217r; STC 20464. William Prynne, *Histrion-mastix* (London, 1633), To the Christian Reader, pp. 5–6.

<sup>85</sup> HEng. MSS 1359, fos. 217r–218v; STC 20464. Prynne, *Histrion-mastix*, p. 190; HEng. MSS 1359, fo. 219v.

<sup>86</sup> HEng. MSS 1359, fo. 219r.

<sup>87</sup> STC 20464. Prynne, *Histrion-mastix*, p. 492; HEng. MSS 1359, fo. 223r.

<sup>88</sup> HEng. MSS 1359, fos. 223r, 224r. <sup>89</sup> STC 20464. Prynne, *Histrion-mastix*, p. 787.

that they set fire to the stage and barely escaped with their lives. 'This was his comment: it was a just judgement of God upon them'.<sup>90</sup> Prynne singled out plays performed on Sundays at court as doubly diabolical, surely cognizant that many masques at the Caroline court were performed on Sunday evenings. Shelton concluded with Prynne's commentary on the Emperor Heliogabalus: 'an Emperor dancing or acting a part in plays or Masques even in his own private palace is infamous, and his resort to playhouses more abominable'.<sup>91</sup> Thus ended the first part of the prosecution's case. Over thirty passages of *Histrion-mastix* had been read in open court. Prynne's hectoring style, hyperbolic language, and Manichean mentality were all displayed in his own words. Nevertheless, as distasteful as these examples were, they did not rise to sedition and hardly to libel. They condemned groups rather than individuals, customs and fashions rather than particular instances of them.

On 7 February, Prynne's counsel may have believed that they could argue for leniency by condemning Prynne's language as belonging to a man of zeal. They would have a week to plot their strategy, as the case did not resume until 13 February. Sir John Finch, the queen's attorney general spoke first about imputations upon queens in general and Henrietta-Maria by implication. 'In their morals [they are] bedlams, drunkards, whores, notorious whores, and the eternal shame of their sex'. Mixing his metaphors, Finch informed the judges that they would see Prynne 'spits venom against the throne' and in regard to Henrietta-Maria 'throw dirt in that bright face'.<sup>92</sup> Finch also had specific citations, but unlike his predecessors, he refrained from having most of them read. Whether this was out of delicacy to the reputation of Henrietta-Maria or to allow the prosecution to conclude its case, Finch mostly paraphrased, though he did cite the index entry 'women actors, notorious whores' as one of many examples of Prynne's calumnies implied against the queen. The one passage that was read characterized queen's dancing as 'a recreation more fit for Pagans, whores, and drunkards, than for Christians'. Finch glossed: 'they are his own words, he has no author for it'.<sup>93</sup>

Finally, the attorney general concluded the prosecution with the crux of the matter, the attacks upon the king and the seditious incitement to rebellion by his subjects. There was to be no delicacy here. Prynne compared the king to Nero, and alleged that Charles expended more money on his masques than on his wars. He cited approvingly the work of Leighton and Mariana, both of whom aspire to bring monarchs into disrepute. He would 'draw men into dislike of his Majesty's person and government'.<sup>94</sup> Prynne proclaimed that 'a prudent, Christian king [must] abandon plays and players from before his eyes;' and 'what an ignoble, shameful thing it is for any Prince or Emperor to sing,

<sup>90</sup> HEng. MSS 1359, fo. 226v.

<sup>91</sup> STC 20464. Prynne, *Histrion-mastix*, p. 856.

<sup>92</sup> HEng. MSS 1359, fo. 228r-v.

<sup>93</sup> STC 20464. Prynne, *Histrion-mastix*, p. 236; HEng. MSS 1359, fos. 229v-230r.

<sup>94</sup> HEng. MSS 1359, fos. 231r, 231v.



to dance, or act upon a stage'.<sup>95</sup> Many of Noy's examples related to Prynne's use of Roman history as an exemplum. In his Epistle he compared Charles I unfavourably to Nero because in pagan Rome there were only three public theatres while in Christian London there were five. He named five Roman emperors who were assassinated because of their excessive love of stage-plays (stretching the historical record beyond recognition) and then praised the assassins – 'by him called noble Romans' – or the assassinations.<sup>96</sup> 'These several Kings and Emperors, stage delights being thus the just occasions of their untimely deaths'.<sup>97</sup> Noy's elucidation was devastating: 'his meaning is that there are just causes why they should be executed'; 'he teaches the people as if there were a just occasion to lay their violent hands upon Princes'. Citations to Leighton and Mariana only strengthened this impression. Mariana was universally associated with the theory that subjects could depose lawful rulers. The very mention of his name was provocative. As Noy reminded his hearers: 'he says he meant not any harm and is sorry his intentions should be so mistaken and would be his own expositor; [but] when his words are gone out the words remain his and the exposition is another's'.<sup>98</sup> When the attorney general finished his presentation the accumulation of evidence was overwhelming and the tenor of the crown's case indisputable. The prosecution rested.

John Herne, another of Prynne's Lincoln Inn colleagues, spoke first for the defence, again raising the matter of additional time for preparation. 'We come less prepared to the hearing of this cause than I have known [of] any' Herne attested. It would be impossible to provide a defence without time to be instructed by their client.<sup>99</sup> With Lord Keeper Coventry absent, the earl of Portland presided. 'You have had time already', the earl reminded defence counsel. Noy also opposed delay. Sensing his advantage, he recalled all of Prynne's earlier obstructions: his refusal to plead; his cluttering of the record with exhibitions; his illiterate witnesses. Noy moved that if the defence was unprepared, the court should proceed to judgement and sentencing. Against this, Herne made a formal motion for an adjournment, seconded by Edward Atkins, who exposed the prosecution's strategy. 'This day there has been a great charge that was not touched on the last day.' The defence needed to decide what to do. As Robert Holborne argued, since the passages were cited without context, it would take time to study them. Portland was unmoved. He believed the motion was '*ad faciendam populum*' and that a postponement in the middle of a cause was unknown.<sup>100</sup> Thomas Byerley, another of Prynne's counsel, contradicted this: 'if I had not known it done here before, I would not

<sup>95</sup> STC 20464. Prynne, *Histrio-mastix*, pp. 736, 852.

<sup>96</sup> HEng. MSS 1359, fo. 235v.

<sup>97</sup> STC 20464. Prynne, *Histrio-mastix*, fos. 555–6.

<sup>98</sup> HEng. MSS 1359, fos. 236v, 236r.

<sup>99</sup> HEng. MSS 1359, fo. 239r.

<sup>100</sup> HEng. MSS 1359, fo. 240r–v. The phrase means 'for the purpose of persuading the people'.

have spoken'. But without a delay 'we are resolved not to enter on any defense.' This had its impact on Portland. 'They shall not say that they wanted time for their defense'. They were given a two-day respite. But the earl of Dorset gave voice to the sense of the court: 'an humble submission would do better than a defense or justification'.<sup>101</sup>

The defence spent its day of grace in tumultuous argument. It could hardly be otherwise in a room of lawyers, but Prynne pitted himself against the majority of his counsel. He believed he could refute the prosecution case. He had already prepared a response to contradict, or at least meliorate, the allegations raised on 7 February. Although he could defend his views on hairstyles and lascivious dancing or demonstrate that the words of other authors had been put in his mouth, there was no easy refutation of the examples of sedition. Prynne believed that he did not intend to traduce Charles's government and therefore persuaded himself that he had not done so. The case looked different to his counsel. Moreover, to defend against those allegations meant repeating their horrifying detail. The judges would have to listen to praise of Nero and the Roman assassins or hear again that women actors were notorious whores. His own lawyers had already balked at even pronouncing the words.

Prynne's determination to vindicate himself ran headlong into the hard realism of his counsel. While they agreed that there were points that could be carried in the defendant's favour, the obvious strategy was to plead for leniency and, most importantly, to admit fault. Without contrition there would be no mercy and without mercy Prynne faced a Draconian penalty. Whatever they thought of the prosecution's case in its opening phase, the follow up was overwhelming. Pelion piled upon Ossa. All they could sincerely argue was that Prynne had never intended the interpretations that so obviously arose from his injudicious assertions. They could blame his 'tart' expressions, his fervour to combat sin, his obsession with moral erosion. If he threw himself sincerely on the mercy of the king and court then his protestations of innocent intention might serve as mitigation: 'I have observed from the great wisdom of your Lordships', Herne observed, 'that in offenses of words and deeds, and writings here punishable the great rule is *quo animo*, with what mind and heart men speak and write.'<sup>102</sup> If the defence could clear Prynne's intentions they might soften the judges.

That this conflict was unresolved when court resumed on 15 February is plain from the defence's fractured case. Alongside an admission of inadvertent guilt, several apologies, and a sincere account of Prynne's innocent intentions came a vigorous and extensive defence. The tension appeared in Robert Holborne's opening. Prynne 'humbly casts himself at the feet of his Majesty and the Court', counsel began. There was no doubt that serious allegations had been made

<sup>101</sup> HEng. MSS 1359, fos. 240v–241r. Those in favour of the adjournment were Laud, Dorset, Manchester, and Portland.

<sup>102</sup> HEng. MSS 1359, fo. 251r.

and 'he confesses . . . that in some things his words do outreach his intentions by his very ill expressions'. But only in 'some things'.<sup>103</sup> Nevertheless, Prynne could not bring himself to accept guilt where there was none. 'His heart will not give him leave to say himself guilty of those heinous things laid to his charge.' Holborne recalled the printing history. The book was printed openly, 'it was not printed in a corner; nor on a sudden'. Moreover, had Prynne known it to be seditious 'it had been a madness in him to offer a book . . . [to] Mr Attorney'. This was a powerful rebuttal. So was the fact that the book had been licensed. 'He conceives his book does differ from all other books' in that no licensed book had ever been brought before Star Chamber.<sup>104</sup>

Edward Atkins was less comfortable presenting justifications. It was his duty to offer counsel that would save his client from 'troublesome surges and tempestuous storms'.<sup>105</sup> Nevertheless, he had been instructed to present several specific explanations. The first was that many of the charges related to statements of a general rather than a particular nature. When he referred to 'Ladies that have cast off God', that was relative. In other cases where positive statements were made, they were the words of others. Atkins offered several citations to illustrate these points and paused for the judges to read from their individual copies.<sup>106</sup> Atkins deftly avoided the most serious charges with the disclaimer 'I do not love to repeat the things that concern the persons of great men, especially kings and princes; I shall be very tender in it.' Rather, he compared Prynne to an astronomer 'who gazing so much upon the stars did not regard his feet'. He had known him long and 'excepting in the matter of his writings that in respect of his conversation, his words and actions have not been factious nor seditious'. Atkins concluded 'I cannot condemn his heart, I know it not, I cannot search into it, and I will not excuse his pen.' John Herne, too, recoiled from attempting to offer excuses for the most serious of the accusations. But he re-emphasized the issue of intent. He urged the court 'to take into consideration the clear expressions of his heart made by his answer that he is a man not guilty'. Prynne had sworn on oath and that oath should be recognized. But Herne undoubtedly wished that another strategy had been pursued. 'I shall say no more for as it is our duty to speak for our clients, so it is not our duty to forfeit our discretion for any man.'<sup>107</sup>

It was left to Holborne to close Prynne's defence, and he came armed with chapter and verse. Many of the allegations made by Mason and Littleton were directly refuted or innocently reinterpreted. Holborne instructed his junior to read out passage after passage of *Histrion-mastix* to show either that they were the words of others or could not bear the prosecution's interpretation. Where it was alleged, for example, that Prynne had claimed that attending plays caused

<sup>103</sup> HEng. MSS 1359, fo. 241r.

<sup>104</sup> HEng. MSS 1359, fos. 242r-v, 245v.

<sup>106</sup> HEng. MSS 1359, fos. 248v-249r.

<sup>107</sup> HEng. MSS 1359, fos. 249r-v, 250r, 249r, 250v, 252v.

<sup>105</sup> HEng. MSS 835, fo. 4r.

plague, the defence cited in support the royal proclamation of 1625 that prohibited people from attending plays while the plague raged. He excused praising Mariana as 'a great scholar' on the ground that was 'only to give the devil his due', but he expressly rejected resistance theory 'that damnable doctrine of the papists'. Yet, when Holborne came to the crux of the matter even he could not breach the prosecution's wall of charges. 'I must confess his expressions are very unhappy and he is heartily sorry for it', counsel offered weakly. All of the central allegations had to be admitted: 'he confesses he did very ill to mention the killing and murdering of kings upon any occasion'; 'he confesses this may be subject to a very ill construction and that from those words [just judgement and just occasion] some men may conceive there be some just occasions of the death of Princes'. As John Herne reluctantly confessed, 'as it is applied to the person of the king and queen it exceeds all bounds'.<sup>108</sup>

Noy's rebuttal was brief and pointed. 'They desire much mercy and there is need of it, and yet fall to a justification. These be strange courses.' By defending *Histrio-mastix*, Prynne revealed continued pride in his creation. 'My Lords, that's the boldness and confidence of the man; he was not ashamed of that though all the world will be ashamed of him for it.'<sup>109</sup> He took a different tack to reach the crux of Prynne's defence, the plea to consider intention. He emphasized the equivocations of the defence, especially the refusal to own the book attached to the Information. The claim that Prynne was concerned about swearing falsely 'in regard that was much altered, marked and scratched in the margin' only made matters worse when Prynne was forced to acknowledge authorship.<sup>110</sup> Equivocation weakened his assertion that his intentions were pure. Noy then delivered the *coup de grâce* to this argument. Even if 'Mr Prynne's intentions were upright', it was of no consequence. 'When the book is published and a man's words are out, the interpretation is not his own. He may not declare his intentions nor be witness of them.' The attorney general concluded by reiterating the worst instances that supported the sedition case, the comparisons of Charles I with Nero; the endorsement of Mariana and Leighton; the praise for the Roman assassins. This was what brought Prynne and *Histrio-mastix* into Star Chamber. Not a word was said about the queen. Noy ended his rebuttal by citing Prynne's own epigraph: '*di talem terris avertite pestem*'.<sup>111</sup>

#### IV

Sentencing was scheduled for Monday, 17 February, the sixth day of hearings: 'he has had more time in the court for trial than I have ever known any', Lord Cottington later marvelled.<sup>112</sup> Prynne must have spent an uncomfortable

<sup>108</sup> HEng. MSS 1359, fos. 253v, 256v, 255r, 255v, 258r.

<sup>109</sup> HEng. MSS 1359, fos. 264r, 265r.

<sup>110</sup> HEng. MSS 835, fo. 1v.

<sup>111</sup> HEng. MSS 1359, fos. 265v, 267v. 'Lord, banish this horrible plague from the earth.'

<sup>112</sup> HEng. MSS 835, fos. 18v-19r.

Sabbath as his defence had done more harm than good.<sup>113</sup> The judges had been forced to sit through another agonizing day of passages from *Histrion-mastix*, punctuated by half-hearted apologies. Noy found it unnecessary to refute any of Prynne's specific rebuttals. He simply reiterated the core of the sedition case. How many times did the judges need to hear Charles I compared to Nero for the point to sink in? Thus, on 17 February Prynne reversed course and attempted to beg forgiveness without the mediation of his counsel. Before the court could come to order he rose and spoke. 'May it please your Lordships that I may humbly submit myself, myself. I do here humbly throw myself down before his Majesty and his royal consort and to this honorable court.' But Portland, who was again presiding, rebuffed the defendant. The cause had been heard and the opportunity for submission was past.<sup>114</sup> It was time for judgement and sentence.

Twenty-two members of the court of Star Chamber unanimously returned a guilty verdict in a marathon session that lasted until three in the afternoon.<sup>115</sup> Not a word was said in Prynne's favour. The sentencing was public and there might have been a temptation to play to the gallery, but the language used to chastise Prynne has the ring of authenticity. Otherwise sober judges and councillors outdid each other in the extravagance of their condemnation. In writing *Histrion-mastix*, Prynne was 'assisted by the devil' who held 'false spectacles to his nose'. 'It is a horrid thing, very horrid'; a 'huge, horrible, misshapen monster'; 'a scurrilous, inhumane and unchristian libel'.<sup>116</sup> 'I never knew such a libel to come into this court, Chief Justice Heath averred.<sup>117</sup> The most common descriptive adjectives were scandalous, scurrilous, and schismatic, and they were used freely and frequently. If possible, the author was deemed worse than the book:

'A most horrible mountebank' who 'had transgressed all bounds of moderation', 'a man blown up with popular applause'. One judge marvelled 'that any man should be so audacious'; another held 'him fit only for the company of monsters'. His crimes derived from 'an infallibility of spirit'; 'the opinion of your own worth Mr Prynne hath made you mad'. He was chastised for his lack of charity and lack of Christian humility, for venting 'malicious spleen'. Sir Henry Vane was 'sorry that any bearing the name of Christian should so overshoot himself'. Laud branded him an Arian for his views on salvation. But Portland hurled the most cutting epithet: 'I find him a man of no parts, an ignorant man.'<sup>118</sup>

<sup>113</sup> Thus Cottington: 'For his defense, every one of them begins with craving the mercy of the Court but concluded with defense as far as they could'; and Edmonds's: '[if] he had made an ingenious confession of his fault I should have mitigated for my part the censure'. HEng. MSS 1359, fos. 269v, 286v.

<sup>114</sup> HEng. MSS 1359, fo. 268r. <sup>115</sup> Knowler, ed., *Strafforde's letters and dispatches*, 1, p. 207.

<sup>116</sup> HEng. MSS 1359, fos. 288r, 269r, 277v, 287r. <sup>117</sup> HEng. MSS 835, fo. 21v.

<sup>118</sup> HEng. MSS 1359, fos. 282r, 283v, 287r, 277v, 290r, 291v, 293v–294r, 295r, 285v, 303v, 305r. Laud assessed 'if ever Arius was condemned for heresy then this is heresy'.

However much outrage the judges expressed over the slanders and libels contained in *Histrion-mastix* – ‘such a book never came to be sentenced in this court for vileness’ – they did not lose sight of the fact that Prynne was being punished for sedition. ‘I am sorry for any defendant but here is no place for pity, in this case the kingdom or he must suffer.’ In fact, members of the court, one after another, expressed the opinion that he was actually guilty of treason. The earl of Manchester was direct: ‘Mr Prynne you have studied the law and we see the law is that an intention of evil towards the king is treason.’ Heath, among others, cited the treason statute of the reign of Edward III and remarked that ‘others have been hanged as traitors that have not gone so far’.<sup>119</sup> Star Chamber had no jurisdiction over treason and thus speaker after speaker attributed Prynne’s survival only to ‘the great mercy of the king to bring him to this trial’.<sup>120</sup> Sir Frances Windebank, expressing a common sentiment, believed it ‘fitter he should go to Tyburn than the pillory’.<sup>121</sup>

His greatest offence had been to traduce the king and alienate his subjects from him. ‘To declare the king not only ominous but infamous, whereto could it tend but to bring in an evil opinion of the king and to sow seeds of rebellion in the people’s hearts?’, asked Sir Robert Heath. ‘To bring the king into an ill opinion with his subjects this has been found and adjudged treason in the King’s Bench’, Chief Justice Richardson reminded the court. Secretary Coke believed *Histrion-mastix* was written ‘to seditious and unlawful ends’; Sir Henry Vane thought ‘the end of it is to alienate men from their due allegiance to their sovereign’. Judge after judge cited those instances in which Prynne argued it was just for play-going princes to meet untimely ends. ‘What may the evil consequences of this be?’, Heath wondered.<sup>122</sup> Archbishop Neile, after a broad condemnation, concluded: ‘I repeat nothing but what tends to danger and threatens danger. That a king that doth dance in a Masque is infamous and unworthy to live.’ Sir Thomas Jermyn posed a not altogether rhetorical question: ‘what manner of king is it that is thus despised’. As the earl of Dorset concluded in defending Charles I: ‘this pigmy gnaws a giant’.<sup>123</sup>

With these sentiments so widespread, it is unsurprising that Prynne enjoyed little mercy. Because historical consensus has been that ‘the sentence of the court was extravagant in its brutality’, it has gone unremarked that Prynne received the most lenient punishment recommended against him.<sup>124</sup> As was customary in Star Chamber, the member of the court with the least service pronounced first and ordinarily the others followed his lead. Thus Sir Francis Cottington, chancellor of the exchequer, thoroughly castigated Prynne. *Histrion-mastix* was to be burned by the common hangman. Prynne was to be degraded

<sup>119</sup> HEng. MSS 1359, fos. 277v, 272v, 292r, 276r; HEng. MSS 835, fo. 24r.

<sup>120</sup> HEng. MSS 1359, fos. 297v (Laud), 269v (Cottington), 283v (Sir John Coke), 284v (Sir Thomas Jermyn).

<sup>121</sup> HEng. MSS 1359, fo. 282r. <sup>122</sup> HEng. MSS 1359, fos. 273v, 279r, 283v, 285v, 275v.

<sup>123</sup> HEng. MSS 1359, fos. 295r, 284r–v, 289r.

<sup>124</sup> S. R. Gardiner, *History of England, 1603–1642* (10 vols., London, 1883–4), VII, p. 333.

from the University, expelled from Lincoln's Inn, and disbarred from the legal profession. After this, he was to be pilloried twice, losing one ear each time. He was to be fined £5,000 and imprisoned perpetually at the king's pleasure. Ten judges concurred with Cottington, making a bare majority of the court, and this was the sentence that was ultimately carried out with one slight addition.<sup>125</sup> But a number of variations had been proposed. The highest fine was for £10,000, recommended by five members of the court.<sup>126</sup> The prison sentence, though expressed as perpetual, could only be at the king's pleasure, but two judges also wanted Prynne to be immured in solitary confinement.<sup>127</sup> Chief Justice Richardson wished him denied pen, ink, paper, and books. The most controversial recommendation was that Prynne be required to recant in open Star Chamber session. This was first proposed by Chief Justice Richardson and supported by Sir Henry Vane, Sir Thomas Edmonds, and the earl of Suffolk. But the earl of Manchester made a plea against it: 'to make his submission I will not enjoin him, not thinking fit he should have so much honor'.<sup>128</sup> The most severe sentence proposed for Prynne was by the earl of Dorset. He would have fined him £10,000, imprisoned him perpetually in solitary confinement, burned his book, degraded, disbarred and pilloried him, cut off his ears, slit his nose, and branded his forehead. Considering that a majority of the court believed him guilty of treason, Prynne was lucky to have been haled before Star Chamber where he escaped with his life.<sup>129</sup>

## V

William Prynne never accepted the unanimous judgement of the Court of Star Chamber that he was guilty of sedition. Instead, he directed his bile at Archbishop Laud and Attorney General Noy whom he believed had conspired to put 'false glosses, applications, constructions and inferences . . . as none but heads intoxicated with malice, disloyalty, and private revenge could ever fancy'.<sup>130</sup> He continued to describe *Histrion-mastix* as 'a licensed book, compiled out of councils, fathers, and other approved authors whose words and opinion I have but transcribed'.<sup>131</sup> Prynne never recognized the tenor of the many passages his prosecutors highlighted consisting only of his own moral outrage. He never responded to Mason's allegation, repeated by Sir Robert Heath, 'in this book he makes himself a classical author 500 times'.<sup>132</sup> Most of the long

<sup>125</sup> The addition was that anyone owning a copy of *Histrion-mastix* would be punished.

<sup>126</sup> Windebank, Dorset, Suffolk, Arundel, Laud.

<sup>127</sup> Dorset and Arundel.

<sup>128</sup> HEng. MSS 1359, fo. 293r.

<sup>129</sup> Lamont's assertion that 'by 1634 he faced a charge of treason' is erroneous. Star Chamber had no jurisdiction over treason. Lamont, *Marginal Prynne*, p. 27. In Pyne's case (1627) it was decided that words alone could not constitute treason although there was no incitement in Pyne's words. David Cressy, 'Pyne, Hugh (1569/70–1628)', *ODNB*.

<sup>130</sup> Gardiner, *Documents relating to Prynne*, p. 32.

<sup>131</sup> *Ibid.*, p. 36 (margin); STC 41407. Burton, *Divine tragedy*, p. 43.

<sup>132</sup> HEng. MSS 1359, fo. 275v.

and intemperate letter he sent Laud, and for which he was again brought before Star Chamber, consisted of a point-by-point refutation of Laud's summation of the prosecution case, but without reference to the examples of sedition. When he came to attack the recently deceased Noy, 'formerly a friend in appearance but an inveterate enemy in truth', he emphasized the allegation that *Histrionastix* had been 'principally written' against 'the Queen's Majesty's Pastoral'. He complained that he had been unjustly dealt with in Star Chamber, that his exhibits had been suppressed, the specific charges against him kept secret, and his own counsel tampered with to prevent him 'to make any justification or defense to clear his innocence'. He would later claim these 'innocent' passages would have been included in the information had they been really offensive.<sup>133</sup>

His account of his unwarranted persecution was a bravura performance. Till his dying day he continued in denial about the findings of the court and about its unanimity. He let the impression stand that it was the queen's pastoral that had caused him trouble, that his book was simply a compilation 'licensed for the press'.<sup>134</sup> By a simple twist of fate this became the narrative through which the story of *Histrionastix* is known. In William Lamont's official biography most of the discussion is of the queen's pastoral and the conclusion is Prynne's alone: 'But to the main charge, Prynne was not guilty. He had not attacked the crown.'<sup>135</sup> Not even his lawyers had believed that. Prynne was also vindicated in a back room committee of the Long parliament without even the semblance of a hearing for the prosecution's case. He was restored to his profession and appointed prosecutor of Archbishop Laud, whom he tormented in ways hardly imaginable, making public his private diary and using his dreams as evidence against him. Although Laud freely admitted his participation in events that were retroactively judged crimes, he steadfastly denied the role that Prynne imagined for him in his 1634 prosecution. The record, for what it is worth, is on the side of the archbishop.

Prynne's prosecution certainly contained an element of book censorship (as we understand it) and elements of libel. Both have attracted subsequent generations of scholars, who have shed much light on these subjects. But the fuller record reveals that at its core this was a prosecution for sedition. The government believed that *Histrionastix* was designed as a work to appeal to a faction of people who were withdrawing their allegiance from the king's government. It was a challenge that could not go unmet. This is what the prosecution argued and the judges found. Prynne's counsel offered no rebuttal against this indictment, arguing only that the obviously seditious passages were unintentional: 'consider him as a man forgetting a great duty not as

<sup>133</sup> STC 41407. Burton, *Divine tragedy*, pp. 43–4.

<sup>134</sup> E. 162 (1). Prynne, *New discovery*, pp. 11, 7.

<sup>135</sup> William Lamont, 'Prynne, William (1600–1669)', *ODNB*. See also *Marginal Prynne* where the queen's pastoral is said to provide the 'pretext' for the prosecution, p. 28.



a scandalous person'.<sup>136</sup> This may have been true but it was no defence. As Chief Justice Richardson instructed: 'Mr Prynne, you are a lawyer and the rule of law is that when the words and the intention are equally patent then the intention is taken. But here your intention is hidden and the words are plain and therefore they must be taken.'<sup>137</sup> Yet even with access to the fuller record it is difficult to assess Prynne's intentions. Had he just got carried away in his fervour and knew not what he said? Was he deliberately pushing the envelope of allowable criticism of a regime he believed morally bankrupt? Did he believe that his status, if not the book's phony imprimatur, would protect him as it had before? As one of his own counsel averred, you cannot look into another man's heart.

Contemporaries judged Prynne guilty and cut off his ears. Posterity has judged him innocent; cold comfort for Prynne. Posterity has labelled his accusers paranoid; cold comfort for Charles I, fifteen years later. But no one who sat in Star Chamber through those six sessions in 1634 had any doubt that seditious statements were to be found throughout *Histrio-mastix* or that Prynne was fairly tried and convicted for them. This was a prosecution, not a persecution. Neither Prynne nor his lawyers had any defence against the praise of Roman assassins, the comparisons of Charles I with Nero, the demonstration of occasions when it was just for the people to do violence to their princes. Prynne might plead that these were stories of ancient history, but his accusers rebutted that history provided the model for contemporary life. It would not be long before the notion that the people could call their sacred sovereign to account would not be sedition, it would be principle. By then more than ears would be at stake.

<sup>136</sup> BL Stowe MSS 159, fo. 48v.

<sup>137</sup> HEng. MSS 1359, fo. 280r.