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## On the “very Brink between Time and Eternity”: Truth, Charity, and Last Dying Speeches in England, c. 1660–1700

Andrea McKenzie

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Résumé de l'article

L'Angleterre de la fin du XVII<sup>e</sup> siècle a assisté non seulement à l'avènement des cafés, des journaux et des partis politiques, mais aussi à la prolifération des comptes rendus imprimés de procès et d'exécutions pour trahison, ce qui a exposé les auditeurs et les lecteurs à des revendications divergentes quant à la vérité en matière de religion et de politique. Ces dernières paroles, prononcées à la frontière du temporel et de l'éternel, étaient tout aussi convaincantes que controversées, partageant l'opinion publique entre bases partisans et confessionnelles. La présente étude s'appuie sur des travaux récents faisant ressortir le dynamisme de la sphère publique pendant la Restauration et l'aspect controversé de la potence. Elle avance que les guerres pamphlétaires sur la signification, la véracité et l'authenticité des derniers discours de condamnés pour trahison à la fin du XVII<sup>e</sup> siècle, dont les chercheurs sur la crise de la Restauration ont largement fait fi, ont beaucoup à nous apprendre sur les grandes préoccupations communes et les mentalités. Le présent article portera en particulier sur deux puissants crédos de l'époque qui ont contraint et façonné les actions à la fois des autorités, des malfaiteurs et des pamphlétaires : l'adéquation entre liberté d'expression et protestantisme d'une part, et l'association de la charité avec une bonne mort, la crédibilité et la vérité, d'autre part.

# On the “very Brink between Time and Eternity”: Truth, Charity, and Last Dying Speeches in England, c. 1660–1700\*

ANDREA MCKENZIE

## *Abstract*

*Late seventeenth-century England witnessed not only the rise of the coffee-house, the newspaper, and party politics, but also a proliferation of printed accounts of treason trials and executions, exposing hearers and readers to opposing religious and political truth claims. Such last dying words, spoken as they were on the “very Brink between Time and Eternity,” were equally compelling and controversial, dividing opinion along partisan and confessional lines. This study builds on recent scholarship emphasizing the dynamism of the Restoration public sphere and the degree to which the gallows was a contested space. It argues that the pamphlet wars over the meaning, veracity, and authenticity of the last dying speeches of late seventeenth-century condemned traitors, while largely overlooked by scholars of the Restoration crisis, have much to tell us about larger, shared preoccupations and mentalities. This article will focus in particular on two powerful contemporary credos which constrained and shaped the actions of authorities, malefactors, and pamphleteers alike: the equation of freedom of speech with liberty and Protestantism on the one hand and the association of charity with the good death, credibility, and truth, on the other.*

## *Résumé*

*L'Angleterre de la fin du XVII<sup>e</sup> siècle a assisté non seulement à l'avènement des cafés, des journaux et des partis politiques, mais aussi à la prolifération*

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... though I give my body to be burned, and have not charity, it profiteth me nothing. Charity suffereth long, and is kind ... is not easily provoked, thinketh no evil; Rejoiceth not in iniquity, but rejoiceth in the truth ...

For now we see through a glass, darkly; but then face to face: now I know in part; but then shall I know even as also I am known. And no abideth faith, hope, charity, these three; but the greatest of these is charity.

1 Corinthians 13:3-6, 12-13

Let his memory, O Lord, be ever blessed among us; that we may follow the example of his courage and constancy, his meekness and patience, and great charity.

— from service commemorating the martyrdom of Charles I, *Book of Common Prayer*, 1662-1859

At his 1662 execution for treason, Sir Henry Vane's last dying speech was repeatedly interrupted by the Lieutenant of the Tower, Sir John

Robinson, who “said that he railed against the Judges, and that it was a lye.” To which Vane retorted: “God will judge between me and you in this matter. I speak but matter of Fact, and cannot you bear that?” The answer, apparently, was no: officials “order’d ... Trumpets to sound or murre in his Face ... to hinder his being heard.” Vane supposedly continued to be “very patient and composed under all these injuries and sounding of the Trumpets...in his face, only saying, *’Twas hard he might not be suffered to speak; but ... my usage from Man is no harder than [Christ’s] ... and all that will live his life this day, must expect hard dealings from the worldly spirit.*” This (obviously partisan) account also notes that it was “exceedingly remarkable” that in all of the “Disorder” that ensued, “the Prisoner himself was observed to be of the most constant composed Spirit and Countenance.” This “Disorder” consisted of attempts on the part of authorities to “snatch the Paper out of Sir Henry’s Hand,” the latter “now and then reading part of it” before finally tearing it to pieces and handing the shreds “to a Friend behind him” who in turn was “forc’d to deliver it to the Sheriff.” Officials then rifled Vane’s pockets for copies and confiscated them. Robinson, seeing that the shorthand writers gathered around the scaffold were continuing to take down Vane’s speech, “furiously call[ed] for the Writers-Books ... saying, *he treats of Rebellion and you write it*: no fewer than “six Note-Books were deliver’d up.” (Fortunately “the Prisoner, suspecting beforehand the Disorder aforementioned,” had “carefully committed” a “true Copy” of the speech he had intended to read out “to a safe Hand”).<sup>1</sup> Such overt attempts at censorship, we are told, “bred great confusion and dissatisfaction to the Spectators, seeing a Prisoner so strangely handled in his dying words,” and it is no accident that authorities thereafter abandoned what Gilbert Burnet termed “the new and very indecent practice” of using trumpets or drums to drown out the dying speeches of traitors.<sup>2</sup>

The proliferation of printed last dying speeches in Restoration England coincided not only with the emergence of the newspaper and a burgeoning “public sphere,”<sup>3</sup> but with a rash of treason trials and executions exposing hearers and readers to opposing religious and political truth claims. Although authorities from at least Tudor times had staged executions as propaganda and ideological exercises,<sup>4</sup>

such spectacles could evidently backfire, with popular execration turning to sympathy: as one 1679 account complained, “’tis the nature of the *many-headed beast* [the crowd] to be suspicious, calumnious, querulous mad to have folks hanged, and as mad to pittie them when they hear them lying at the Gallows.”<sup>5</sup> This article builds upon recent scholarship emphasizing the degree to which the gallows was a contested space, and last dying speeches potentially unstable as well as normative.<sup>6</sup> The work of Peter Lake and Michael Questier has been particularly important in establishing Elizabethan and Jacobean prisons and gallows as sites of ideological and evangelical contestation, where the generic exigencies of conversion narratives and last dying speeches obliged officials to engage with, rather than attempt to silence, the voices of their opponents — opening up a space for debate in which they may have “held the whip hand,” but they could not entirely control.<sup>7</sup> In many ways the following discussion of the contests over last dying speeches of late seventeenth-century traitors is a continuation of that story. My particular interest is not so much in the political dimensions of the Restoration crisis itself, but rather in the ways in which such struggles and debates, at the gallows and subsequently in print, highlighted and explicitly engaged with key legitimating principles: shared values and assumptions and common reference points with which writers, speakers, readers, and hearers from opposing political and confessional positions anchored their respective truth claims. This article will focus in particular on two powerful contemporary credos which constrained the actions of authorities and shaped the words of both malefactors and pamphleteers: that is, the equation of freedom of speech with liberty and Protestantism on the one hand, and the association of charity with both credibility and the good death on the other.

While the study of crime pamphlets (and particularly murder sheets) by such scholars as J.A. Sharpe, Peter Lake, Frances Dolan, and Malcolm Gaskill, among others, has significantly advanced our understanding of early modern mentalities, preoccupations, and anxieties, especially in regard to gender, religion, and moral and social order, printed last dying speeches of late seventeenth-century state criminals have received comparatively little attention. Such publications have similarly been largely neglected in the recent important

work by scholars of Restoration politics on the public sphere, party polemic, and truth claims, despite the centrality of political executions to many of these partisan debates. This is all the more striking given that attempts on the part of officials in the early 1660s to silence such speeches or to suppress published versions elicited strong reactions from contemporaries (as in the case of the execution of Sir Henry Vane), and that the content and delivery of the last dying words of condemned traitors attracted so much attention and controversy during the 1670s and 1680s. This study aims to take a step towards filling this gap while also engaging with some of the important questions raised by Restoration scholars about the relationship between print and partisan politics.

Mark Knights has identified the late seventeenth century as a significant moment in the history of the public sphere during which “the printed vindication or rejoinder, rather than censorship, was recognized as the best means of countering an opposing viewpoint.” In the context of the deeply divided late Stuart political nation, “the press was ... regarded not just as a corrosive influence but also as an antidote to partisan poison,” with “the languages of politeness and reason” held up as a “counter” to the “incivility and passionate irrationality of partisan discourse,” and the reading public “imagined and invoked as umpire and judge.”<sup>8</sup> As I will suggest here, printed last dying speeches revealed many of the same tensions and ideals, with speakers and writers attempting to legitimate their partisan arguments by contrasting the composure, charity, and courage performed and expressed by the condemned on the gallows with the passion and vindictiveness of prosecutors and officials. Readers were invited to judge between whether such solemn invocations of innocence were blasphemous and duplicitous, or appropriately pious (if impenitent) and sincere.<sup>9</sup>

In a recent book on treasonable speech in pre-modern England, David Cressy has emphasized the degree to which seditious words, particularly scatological and sexual slander, served to desacralize monarchy and authority.<sup>10</sup> This article addresses a different, and in some ways opposite, kind of subversive speech: that is, the way in which condemned traitors seized the quintessentially liminal space of the gallows to solemnly attest to their innocence and the justice of

the cause for which they died, attempting to re-sacralize, as it were, positions and persons deemed seditious by the state. Ritual performances of charity — Christian love for, forbearance towards, and forgiveness of one's neighbour and, particularly, one's enemy — were particularly important in this context. Early modern hagiographies and execution accounts alike viewed the ability to overcome passion and rancour, to face death "without discontent or peevishness," and forgiving others as one hoped oneself to be forgiven, as a signifier of grace — the *sine qua non* of the good death.<sup>11</sup> Condemned men and women who spent their last moments railing against their enemies risked compromising the very claims to spiritual fitness that were critical to their legitimation. Conversely, convincing performances of charitable composure and professions of "dying in peace with all the world," coupled with solemn vows of innocence, constituted a powerful means of enhancing the credibility of the dying person.

As we will see, the question of whether Charles I himself had penned the charitable prayers and reflections in the *Eikon Basilike* was particularly germane in that the very professions of charity so central to the defence of the king's cause were convincing largely because they were, it was claimed, written while he was awaiting trial and execution, and thus at a time when it was believed that dissimulation was unlikely. In other words, the *Eikon Basilike* would lose much of its powerful propaganda value if it could be proved that Charles I was, in fact, not the author. Similarly, late seventeenth-century pamphlet debates over the speeches of regicides, republicans, and alleged Popish Plotters and Jacobites did not dispute the claim that the last words of those who died well were particularly compelling. Rather, as we shall see, they focussed instead on whether or not the persons in question had truly died in a state of Christian charity, and whether their speeches were genuine and unmediated by other writers, or subject to alternate, casuistical, double meanings and secret constructions.

### **"Not suffred to speake": Truth, Charity, and Censorship**

The popular (if apocryphal) belief that the freedom to make, and to hear, last dying speeches was one of the sacred prerogatives of the

free-born Englishman was reinforced by the longstanding popular Protestant hagiographic association of gallows censorship with the persecutions of Mary Tudor's regime in particular, and Catholic despotism in general.<sup>12</sup> John Foxe's *Acts and Monuments* contributed not only to the early modern English Protestant association of Catholicism with such un-English practices (or so at least they were reconstructed) as torture and burning at the stake, but with gallows censorship as well.<sup>13</sup> Foxe claims that when Rowland Taylor tried to speak to spectators at his 1555 execution the "yeomen of the Gard ... thrust a tip staff into his mouth, and would in no wise permit him to speake." When Taylor persevered, testifying to the cause for which he suffered, again he was "not suffred to speake," a yeoman striking him with a "waster" (a wooden sword): "Is that the keeping of thy promise, thou hereticke?" According to Foxe, Mary I's council had told Taylor and his fellow prisoners that they would "cut their tongues out of theyr heades, except they would promise, that at theyr deathes they would keep silence, and not speake to the people," to which Taylor and the others, "desirous to haue the vse of theyr tonges, to call vpon God as long as they might liue," reluctantly complied.<sup>14</sup>

Attempts on the part of authorities to silence the gallows speeches of the regicides in 1660, much like at Vane's execution shortly afterwards, were readily construed — certainly by the sufferers and their partisan chroniclers — as tyrannical and un-English. When Thomas Scot was repeatedly interrupted by the sheriff in the midst of a speech attacking "Popery," he supposedly retorted that "'tis hard that an English man hath not liberty to speak"; adding, "That it is a very mean and bad Cause that wilt not bear the words of a dying-man: it is not ordinarily denied to people in this condition."<sup>15</sup> When John Cooke was similarly interrupted in his last dying speech, he protested, "It hath not been the Manner of English Men to insult over a dying Man, nor in other Countries among Turks or Galliassees."<sup>16</sup> Conversely, and predictably, authorities chose to view such diatribes as violations of the normative penitential script — as uncharitable in themselves. Ordinary malefactors were routinely told by attending ministers to "confine themselves to speak to God" rather than to make "excuses for the crime" or otherwise justify



themselves.<sup>17</sup> It was not uncommon for malefactors to interlace the professions of charity in their published speeches with complaints about the malice and perjury of prosecutors and witnesses. In the words of John Ashton, a Jacobite executed in 1691: “as I hope for Pardon and Forgiveness at the Hand of God, I do most heartily pray for and forgive ... all my enemies, all the World; nay, even that Judge and Jury-Man who did so signally (contrary to Common Justice) expose themselves to destroy me.”<sup>18</sup> Such “bitter Reflections” were sometimes suppressed as “not fit to be mentioned,”<sup>19</sup> ostensibly out of a charitable reluctance to dwell on recriminations spoken in “Heat and Passion.”<sup>20</sup>

This tension between the authorities’ desire to silence seditious gallows speeches and the need to legitimate their own authority by permitting and actively engaging with them was not new, as Peter Lake and Michael Questier have demonstrated in their work on execution in Elizabethan and Jacobean England.<sup>21</sup> Perhaps especially after attempts in the early 1660s to silence last dying speeches had so visibly backfired, Restoration officials seem to have taken pains to assure state criminals, like Thomas Armstrong in 1682, that he had “leave to say what you please, and shall not be interrupted unless you upbraid the Government,” and that they (like the regicide Colonel Barkstead in 1662) could “say any thing between God and [themselves]” if “nothing in justification of the Act.”<sup>22</sup> But prayers could of course be subversive, as in the case of the regicide Thomas Scot, who was repeatedly interrupted and silenced during his dying speech, but nonetheless persisted in loudly praising God for allowing him to die “in a Cause not to be repented of. I say, in a Cause not to be repented of.”<sup>23</sup>

The interconnectedness of speech, manuscript, and print in early modern England, so well established by scholars of the last few decades, was particularly striking in the case of last dying speeches, as the struggle over Henry Vane’s speech and the shorthand writers’ notes so vividly illustrates.<sup>24</sup> Accounts of the execution of traitors, as well as those of ordinary criminals, based on both shorthand reporting and other manuscript sources, including the papers and correspondence of the condemned circulated by word of mouth, via scribal and printed newsletters, and various other print sources. On

the one hand, reading out a speech at the place of execution (some specifying the printer to whom they had consigned their “true account”)<sup>25</sup> could serve to authenticate the paper that would later be published. At his 1696 execution the Jacobite Charles Cranbourne handed over his speech, but then insisted on having it returned so that he could read aloud from it; when he had finished he “re-delivered his Paper to Mr Sheriff.”<sup>26</sup>

On the other hand, papers published in the absence of any spoken last dying speech could serve to advertise the condemned person’s pious preference for prayer rather than public speaking: John Friend, a non-juror executed for treason in 1696, presented the text of his intended speech to the sheriff, saying “Sir, Here is a Paper, I desire it to be Printed: For I came here to Dye, and not to make a Speech: but to dye, and resign myself to God...”<sup>27</sup> The Jacobite John Ashton, remarking that “the Methods of making Speeches at the place of Execution were not always attended with the designed Successes,” handed the sheriff “a Paper” to “testifie [his] Innocency,” as he thought “it better to imploy my last Minutes in Devotion and holy Communion with my God.”<sup>28</sup> Such men may have also been advertising the possibility that officials might have otherwise attempted to silence their gallows speeches. Richard Langhorn, one of more than a dozen innocent Catholics executed in 1679 for the so-called “Popish Plot” fabricated by Titus Oates and several other perjured witnesses, claimed to have composed a paper attesting to his “innocence and loyalty” because he was “under some doubt” whether he would be permitted to speak, or whether his voice would be heard over the “noise of the people.”<sup>29</sup> Lord William Russell, executed in 1683 for the Rye House Plot, told the sheriff he had left behind a “Paper” because he “expected the Noise would be such, that I could not be very well heard: I was never fond of much speaking, much less now.”<sup>30</sup> While it had become conventional for state prisoners to hand over a copy of their last dying speech to the sheriffs to be published, Russell, possibly remembering the execution of Vane and the regicides, had also taken the precaution of consigning the original and three signed copies of his dying speech to his wife for safekeeping.<sup>31</sup>

Late seventeenth-century censorship was “essentially *ad hoc*, inconsistent, opportunistic and usually ineffective,”<sup>32</sup> and such

papers were in fact rarely suppressed, even before the lapse of the Licensing Act in 1695 put an end to pre-publications censorship. As Joad Raymond has demonstrated, although there were periodical crackdowns, mostly in the form of the “selective and partisan” prosecution of individual publishers for seditious libel,<sup>33</sup> the Restoration press enjoyed “a *de facto* liberty.” This was especially the case after the lapse of the 1662 Licensing Act in May 1679, the explosion of print further fuelling the Popish Plot and Exclusion crises. Even though Charles II largely succeeded in containing oppositional newsheets and pamphlets after 1683 and the Licensing Acts were reinstated by James II in 1685, “the press remained livelier than it had been in the 1660s.”<sup>34</sup> It is even possible to argue that the rhetoric of free speech, which was in early modern England not limited to Parliament, but viewed as fundamental to all forms of civic engagement, itself created constraints on the degree to which speeches could be suppressed: authorities could not press too hard against what many spectators clearly viewed as a sacred national prerogative.<sup>35</sup>

Nonetheless, as Raymond has pointed out, the Stuart “government’s legislated right to prevent free speech” could in fact be viewed as “an abrogation of free speech whether or not actual interventions were made against speaking.”<sup>36</sup> After all, it has been persuasively argued that the very discretion and mercy with which seventeenth- and eighteenth-century authorities, prosecutors, juries, and judges usually (but not always) tempered the harsh criminal law also served to legitimate and to perpetuate vertical social and power relations.<sup>37</sup> And indeed, even after the Revolution of 1688/9 printing seditious material could be a matter of life and death. In 1693, for instance, William Anderton was executed for printing Jacobite pamphlets. But it should be noted that while Anderton was silenced by the Ordinary of Newgate Samuel Smith during a bitter gallows diatribe against the administration, a long partisan account of his trial and execution was nonetheless printed shortly thereafter — not to mention a paper that Anderton had intended to deliver at Tyburn, “but being frequently interrupted by the Ordinary” had delivered to the sheriffs “to publish or dispose of it as they should think fit, seeing a dying Man was not suffered to speak.”<sup>38</sup> The printer could be silenced, but his dying speech was harder to suppress.

## Solemn Oaths and Equivocations

Early modern men and women accorded particular weight to words uttered *in extremis* — from women suffering the pains of labour (as Laura Gowing has demonstrated)<sup>39</sup> to deathbed confessions and the last dying speeches of malefactors. It was a commonplace that only an atheist, an idiot, or the most hardened villain would dare to die with a lie in his or her mouth, “upon the very Brink, between *Time and Eternity*”<sup>40</sup> — even if this did not prevent many Protestants from constructing elaborate explanations excluding Catholics, even those of high social status and otherwise irreproachable lives, from the pale of truth-telling. The hearsay testimony of people near death was not only admissible, but viewed by seventeenth- and eighteenth-century jurists as “equal to the sanction of an oath.”<sup>41</sup> Many contemporaries clearly viewed the gallows as a kind of sacral space in which assertions, especially those accompanied by Christian charity and composure (often invoked as evidence of “divine assistance”) were especially compelling.<sup>42</sup>

And it is interesting in this context to note that many malefactors took solemn vows as to their innocence not only on the gallows, but during the administration of the sacrament,<sup>43</sup> a ritual which emphasised being in a state of charity with one’s neighbour — in John Bossy’s phrase, “the social miracle.”<sup>44</sup> Both Protestants and Catholics would have agreed that charity was not merely the performance of good works but also of Christian love. Although the former took pains to emphasize that “supernaturally, forgiveness of our brother is not the cause but a sign or effect of our salvation,” for early modern Christians of all stripes, charity was “a *sanctified* affection of the heart”: convincingly enacted on the gallows in support of solemn statements, it had a powerful truth-enhancing effect.<sup>45</sup> Even at the level of petty punishment, rituals acts of charity could seemingly elevate personal grudges into legitimate critique, as in the case of one Tory rioter who, after being sentenced to being whipped at the cart’s tail, was reported to have first made a speech affirming his own loyalty to his church and country, and complaining of “the Malice of my Neighbours the Whigs and Phanaticks” who had prosecuted him, and then, second, treated the officers who had carried out the

sentence “with a Bottle of Wine, to shew he was in Charity with them.”<sup>46</sup>

Shared values and assumptions regarding the sacrality of certain spaces, rituals, and speech acts did not preclude, and indeed arguably intensified, conflict over the truth of claims thus sanctioned. As Alexandra Walsham has demonstrated, the same charity which urged Christian love for the souls of heterodox members prescribed, in some contexts, their judicial prosecution or even execution. And while the claims of charity meant that authorities felt obliged to engage with those of different confessions in the hopes of reclaiming them, this was not so much in the spirit of tolerance but with the explicit aim of exposing the falsity of their words and beliefs.<sup>47</sup> If it was acknowledged that it was one of the duties of charity to put the best construction on the words and writings of others, this principle tended to be honoured in the breach.<sup>48</sup> Interestingly, authors of contemporary pamphlets attacking the truth claims of those executed during the Popish Plot sometimes bemoaned the misplaced “Charitie”<sup>49</sup> of readers: the belief in “*Hora mortis, hora veritatis* [the hour of death, the hour of truth],” while “the Product of a Christian Charity, presuming all Men to be Men, and to have knowledge of an Eternal State, and some dread of God upon their Souls ... failest on several Cases,” notably, when the dying man was a lunatic, an atheist, or belonged to a “Sham-Religion” — i.e., Catholicism.<sup>50</sup>

During the Popish Plot prosecutions (1678-81) Catholic professions of innocence were routinely characterised in the English press as casuistical evasions, specifically equivocations or mental reservations; i.e., statements susceptible of both a true concealed meaning and a surface meaning intended to deceive the hearer, for instance by playing on verbal ambiguities such as homonyms or by the (silent) mental addition of qualifying phrases. Johann Sommerville has described how the English Catholic priest John Ward, upon being questioned by authorities in 1606, denied both being a priest or having been across the seas (made treasonable by Elizabethan statute), justifying his responses by mentally adding “of Apollo” after “priest” and “Indian” before “seas.”<sup>51</sup> Neither casuistry in general — essentially, the system of advising best spiritual practices in thorny cases of conscience — nor the practice of

equivocation in particular was unique to Catholics. Sommerville quotes William Tyndale as saying “it was the duty of charity” to “tell a sick man ... that wholesome bitter medicine is sweet” or to lie, even on oath, to protect an intended victim from a would-be murderer.<sup>52</sup> Catholic authorities were divided on the doctrine of mental reservation, viewing it as at best a necessary evil; Pope Innocent XI formally denounced the practice in 1679 (the timing, during the Popish Plot prosecutions, was not coincidental). But “the mud stuck”: most seventeenth-century English Protestants equated casuistry with Catholic, especially Jesuit, machinations and duplicity.<sup>53</sup> “Casuistical” and “Jesuitical” tended to be used as interchangeable pejorative terms, often as adjectives qualifying more prosaic insults (e.g., “dog”).

Protestant writers routinely dismissed the gallows declarations of innocence of those who were executed for the Popish Plot on the grounds that the condemned had received absolutions or dispensations to “dye with Lies in their mouths.”<sup>54</sup> According to the author of *Lying Allowable with Papists to Deceive Protestants...written...to satisfie a Friend who was much stagger’d at reading the Speeches of the Late Traytors, who...so confidently affirmed their Innocency*, “with them a simple Lye is a venial sin, and they say a man may resolve to continue in venial sin till death, and yet be saved.”<sup>55</sup> The speeches which so “stagger’d” the author’s hypothetical friend were those of five Jesuits executed in June 1679. In his account of the same execution (subtitled “a Confutation of their Appeals, Courage, and Cheerfulness, at Execution”) the Ordinary of Newgate Samuel Smith assured his readers that “in the Jesuits account, not only Officious Lyes, but downright Perjuries are Lawful,” and even viewed as “a great Piece of Piety ... when they may serve the Interest of their Church, maintain their false Doctrines, or conceal their Hellish Designs.”<sup>56</sup>

The last dying speeches of the Popish Plot sufferers were often published with prefaces attacking Catholic truth claims, sometimes including “animadversions” on or casuistical deconstructions of the speeches themselves. Samuel Smith attempted to read sinister meaning into the claim of several of the accused that they were “as innocent as the child unborn,” seeing in the assertion proof of “an Oath of Secresie” and an “Equivocation” which he “unriddled in

plain English”; i.e., “I am innocent of the Fact laid to my Charge; that is, there is as much Truth in affirming this, as there is in the Childs being present, which is Unborn: For there is not Truth in either.”<sup>57</sup> One introduction to the speeches of the five Jesuits illustrated the “Lyes ... Equivocations, mental Reservations, etc.” considered “lawful” by “the Church of Rome,” claiming the condemned “had the impudence to deny, that there was ever born alive such a man as Sir Edmondbury Godfrey, because he was neither Knighted nor Christned the hour of his Birth.”<sup>58</sup> While attacks of this kind were usually confined to Catholics, Peter Hinds has described how the last dying speech of the dissenter Lord Russell, executed for the Rye House Plot in 1683, was similarly deconstructed and animadverted upon by Tory writers in an attempt to read his assertions of loyalty and innocence (and his use of the term “the Church of England”) as equivocations, susceptible of sinister double meanings.<sup>59</sup> This example illustrates not only how much the pendulum had swung by 1683, but also the degree to which anti-popery and anti-puritanism (or Presbyterianism) acted as mutually reinforcing and constitutive phobic discourses.<sup>60</sup>

In response to such attacks on Catholic truth claims, those executed for their supposed complicity in the Popish Plot issued long and detailed assurances that they solemnly renounced “any Evasion, or Equivocation, or Delusion, or Mental Reservation whatsoever,” disclaiming any advance “Dispensation or Pardon, or Absolution.”<sup>61</sup> The Catholic archbishop Oliver Plunket, executed in 1681, added what had by then become a conventional Catholic disclaimer to the last dying speech in which he affirmed his innocence: “To the final satisfaction of all persons, that have the Charity to believe the Words of a Dying Man; I again declare before God, as I hope for Salvation, what is contained in this Paper, is the plain and naked truth, without any Equivocation, Mental Reservation, or secret Evasion whatsoever; taking the Words in their usual Sense and meaning, as Protestants do, when they discourse with all Candour and sincerity.”<sup>62</sup> When at his 1680 execution William Howard, Viscount Stafford solemnly “professed his *Loyalty*, his *Innocence*, his *Piety*” (as well as his forgiveness of the “perjured Men, that so Falsly have brought me hither by their Perjuries”), he was “accosted” by a

“Protestant Minister” demanding if he had received “Indulgences” or “Absolutions” from the “Romish Church.” Stafford retorted: “The Roman Catholick Church allows of no Indulgences or Dispensations, Authorizing Treason, Murder, Lying, or Forswearing; Nor have I received any Absolution for such ends.”<sup>63</sup> For Plunket, Stafford and their fellow sufferers, the gallows provided a platform upon which they could solemnly attest to their innocence — a privilege denied to them at their trials, where defendants were not able to testify on oath.

Scholars have over the last several decades qualified both the notion that “that the medieval practice of treating all evidence of equal weight continued into the eighteenth century” on the one hand, and the somewhat contradictory assumption that the late seventeenth century witnessed — under the cumulative pressure of “contradictory oaths demanded by successive regimes” and encroaching secularisation — a sharp deterioration of both the credibility and the “awesomeness of oaths” in general.<sup>64</sup> Even if, as George Fisher has argued, the evolution of Anglo-American rules of evidence reflected a deep-seated reluctance to oblige juries to choose between conflicting sworn testimony,<sup>65</sup> most scholars would agree that the value of declarations given under oath was in the seventeenth century weighed both according to the probability of the statement and the credibility of the deponent.<sup>66</sup> Oaths carried relative, not absolute authority: they were, in Barbara Shapiro’s words, “assumed to enhance the probability of testimonial truth but not to ensure it.”<sup>67</sup> There is moreover much to suggest that early modern men and women (Quakers and other Protestant sectarians aside) did not always take oaths literally. By the late seventeenth century, the practice of “pious perjury” had become common; i.e., in which jurors interpreted their oaths according to the spirit rather than the letter of the law, finding partial verdicts against the facts of the indictment, notably valuing stolen goods so that the offence fell beneath the capital threshold.<sup>68</sup> As John Spurr has demonstrated, oath taking, both pious and profane, was an integral part of early modern culture, and as such must be understood within its specific context.<sup>69</sup>

Context was particularly important in the topsy-turvy world of the Popish Plot prosecutions where, as Rachel Weil has pointed out,



“the relationship between credibility and character” was fundamentally “disrupted.”<sup>70</sup> Informers of dubious antecedents and worse character accused educated Catholics of genteel birth of treason and assassination. Several of the peers who had bowed under those “impetuous ... Oatesian storms” which “noised [men] out of their lives,” condemning Lord Stafford for the Popish Plot, were later to claim that they felt “bound to judge according to the proof of the facts; [for] the witnesses swore the facts” — i.e., that they had been obliged to credit the testimony of the prosecution simply because it was sworn on oath, unlike that of the defendant or his witnesses.<sup>71</sup> After the 1696 Treason Trials Act, in large part a reaction to the abuses of both the Popish Plot and the Rye House Plot trials, defence witnesses in treason cases were permitted to testify on oath, a privilege extended to all felonies in 1702 (but to defendants only in 1898).<sup>72</sup> But sworn testimony alone did not enforce belief, even if many, wishing to salve their consciences in the aftermath of the treason trials of the 1670s and 1680s, might have thus justified their judgements and verdicts. In the divided political world of the Restoration, credibility and truth were often, quite simply, “relative to partisan conviction,” as Mark Knights has argued.<sup>73</sup>

And although both Catholics and Protestants were apt to quote St Augustine (especially when confronted with ambiguous or unwelcome evidence) that it was not the punishment but the cause that made the martyr, there is no doubt that spectators scrutinized the scaffold behaviour of the condemned for evidence to confirm the “partisan truths” they already knew. While a sympathetic account of Stafford’s execution (hinting at but not openly avowing its Catholicism) claimed the Catholic peer died “with a Courage (say the Papists) Divinely Elevated, a constancy more then [sic] humane,” others speculated that he had drunk heavily “to bear up his spirits.”<sup>74</sup> A still more hostile report claimed that Stafford “could not refrain Weeping ... seeming very loth to dye, as now perhaps having some mistrust of the Pope’s Infallibility, and fearing if he should get him into Purgatory, he would not be able to fetch him out again.”<sup>75</sup> It was reported that Stafford’s body exhibited “Symptoms of Life” for about 15 minutes after the axe had descended, one account claiming that the “Gasping Head by the Mouths opening and shutting

seemed willing now in Deaths Convulsions to Proclaim the Plot.”<sup>76</sup> However, not only such post-mortem twitching but also such disparities in the reportage of last dying behaviour were unusual: the fact that Stafford had been both unpopular in life (many of his own relatives in the House of Lords had voted to impeach him) and a reputed coward may have exposed him more readily to accusations that he died fearfully.<sup>77</sup>

Brad Gregory has noted that there was a surprising degree of concurrence between hostile and partisan accounts on the “observable behaviour” of sixteenth-century martyrs (or heretics), with real differences of interpretation focusing rather the “internal disposition” of such sufferers.<sup>78</sup> Similarly, the critical differences between partisan and hostile execution accounts were most evident not in the ways in which the words and actions of the condemned were represented (in the context of the late seventeenth-century public sphere, forged speeches or wholly fabricated reports were readily challenged as such), but rather on the meaning of those words and acts and the conclusions as to the spiritual state of the condemned that could be inferred from them. Just as early modern Catholics and Protestants shared “similar assumptions about the best ways to authenticate their martyrs’ testimonies” and “common key conceptual vocabularies,” debates over the innocence or guilt of alleged Popish or Rye House Plotters, regicides, or Jacobites revealed surprisingly similar preoccupations and beliefs, especially in regard to the sanctity of oaths and of the sacrament.<sup>79</sup> Seventeenth-century attacks on the profanity and blasphemy or the perjury of enemies tell us less about the actual incidence of such practices than the fact that such accusations struck at the heart of a person’s character and credibility. In April 1679, for instance, Roger Morrice reported some of the “wicked and diabolical practices” used by Catholic Conspirators: “they do cause their Preists to administer to the said Conspirators an Oath of secrecy together with the Sacrament and also did cause their Priests upon confession, to give their Absolution upon condition that they should conceale the said Conspiracy.”<sup>80</sup> This story reflects a typical, if distorted, Protestant view of what they saw as the pernicious Catholic mixing of the sacred and the profane, subordinating scriptural to non-scriptural sacraments, and (supposedly) divine to clerical authority.

As we have seen, however, Catholics were quick to point out that they abhorred and rejected lies and equivocations and viewed oaths as sacred: as one of the rare defenders of the five Jesuits pointed out, “nothing but their fearing to Swear falsely layes them lyable to the Laws against Popery.”<sup>81</sup> In a relentless circular argument, however, anti-papist attacks on the speeches of Popish Plot sufferers invoked these oaths as proof not only of the perfidy and blasphemy of the speakers, but as part of a plot to impose on the credulity of their too-charitable Protestants hearers: “Those people know that the last words of dying Men bear a great sway among the Living, and that the swanlike sentences of those that sing at their departure, being cunningly insinuated and politickly made use of, penetrate more deeply than can be imagin’d into the hearts of the credulous and unstable”.<sup>82</sup> And in answer to Catholic reproaches that casting aspersions on the truth of last dying words itself violated the “general Rules of Christian Charity,” one animadverter retorted that it was “a Work of Justice and Charity to detect the Hypocrite, and to shew that the Jesuits have a Gospel by themselves.”<sup>83</sup>

Yet for all of the attempts of such animadvertisers to cast Catholic, and particularly Jesuits, as perjurers and blasphemers, their assurances — e.g., of having “proved, that according to their Principles, they not only might, but also ought, to die after that manner, with solemn Protestations of their Innocency”<sup>84</sup> — ring hollow. If nothing else, the sheer volume of such “animadversions” invites suspicion as to their efficacy. We may be sceptical as to the existence of the intended reader of *Lying Allowable with Papists to Deceive Protestants*, who was supposedly “stagger’d” at the pious behaviour and speeches of those executed for the Popish Plot. The putative narrator of *The Popish-Plot and Plotters Considered By a Loyal Protestant*, who confesses to have been struck with “amazement” at the plotters’ “dying speeches” (until he learns “their own Romish Authors ... instruct ’em to equivocate, when brought/ Before a Judge heretical”), is equally a construction. But clearly the writers of such pamphlets had a public that needed convincing, even — or perhaps especially — in an age of “partisan truths.”

According to Gilbert Burnet, “the denials of those who suffered [in June 1679] made great impressions on many. Several books were

writ, to shew that lying for a good end was not only thought lawful among them, but had been often practised ... yet the behaviour and last words of those who suffered made impressions which no books could carry off.”<sup>85</sup> The executions to which Burnet referred, that of Richard Langhorne and men referred to by contemporaries as “the five Jesuits” (Thomas Whitebread, William Harcourt, John Gavan, Anthony Turner, and John Fenwick), seemed to have been particularly compelling in that the men in question died with every apparent mark of composure, courage, and — most of all — charity. Peter Lake and Michael Questier have described how Elizabethan officials and Protestant clergy attempted to “tear aside” the “mask of martyrdom” of condemned Catholics by “engaging them in acrimonious exchanges” and “fractious dispute[s],” clearly intended to provoke them into uncharitable words and gestures.<sup>86</sup> Catholics executed in the 1670s and 1680s were clearly subjected to similar trials. At Tyburn, Langhorne gave a short speech asserting his innocence, which the sheriff interrupted, saying he “did not think” the speech “fit to be printed” and claiming that Langhorne “had already printed a Paper or some body for him” (Langhorne denied this). The sheriff went on to tell Langhorne that he had better “imploy” his remaining time “for the good of his soul, since it was very well known that those who were of his Party had Liberty to deny any thing, or to make any kind of Equivocations, when they were once absolved for the same.” Langhorne appears to have taken this calmly, “appl[ying] himself to his Devotions.” When these, too, were interrupted by a spectator calling out “*The Lord have mercy on your soul,*” Langhorne “turn’d back and said,” presumably without irony, “*I thank you for your charity.*”<sup>87</sup> Both Langhorne’s speech at Tyburn and his published paper reiterated his prayers not only for the king, but also for the “Repentance and Pardon” of his prosecutors Oates and Bedloe.<sup>88</sup>

A Catholic observer reported that at the execution of the five Jesuits “they each made a speech, first, all averring their ignorance of any Plott against His Majesty, secondly, pardoning their Accusers, thirdly hartily praying for them.”<sup>89</sup> The text of these speeches were, for all of their overtly anti-papist titles, commentaries, and glosses, reproduced virtually identically in all of their various (mostly hostile) editions and animadversions. All five speeches contained solemn

attestations of innocence and forgiveness of prosecutors, such as that of John Gavan: "For the Judges ... and the Jury, and all those that were any ways concern'd, either in my Tryal, Accusation, or Condemnation, I do humbly ask of God, both Temporal and Eternal happiness. And as for Mr. Oates and Mr. Dugdale, whom I call God to witness, by false Oaths have brought me to this untimely end, I heartily forgive them, because God commands me so to do; and I beg of God ... to grant them true Sorrow and Repentance in this World, that they be capable of Eternal happiness in the next." <sup>90</sup> The editors of the speeches had only this lame riposte (expressed in the pamphlet's concluding sentence): "They were no Prayers of Charity, but rather the Curses of their Malice, while they labour'd to scandal the Justice of such most Eminent Judges, the Impartiality of so sound a Jury and the Fidelity of such Witnesses..." <sup>91</sup>

With such hard nuts to crack, it is not surprising that some enterprising pamphleteers pursued Catholics to the afterlife to extract more satisfactory confessions. One 1681 pamphlet depicts the ghost of Oliver Plunket reproving his wavering "Fellow-Martyr," Edward Fitzharris, for his posthumous doubts about his dying testimony, "what man ever think you got/ A Pardon for being in the Plot, / That to the last deny'd it not"? However, both men conclude by acknowledging that they "justly dye," Fitzharris testifying that he "now at last plainly see/ Romes Religion's damn'd Heresie," adding (as though to validate this last confession) "My Judges freely I forgive." <sup>92</sup> Obviously such ghost dialogues are a literary device, often serving overtly satirical purposes, such as a pamphlet detailing the supposed sighting of the ghosts of the five Jesuits, in itself "a wonderful token of their disquiet" (i.e., proof of their guilt), and subtitled "No Jesuits in Hell." (The Jesuits were apparently so "unruly" and such inveterate plotters that they had been turned out of Hell and confined to a high-security "Hell by themselves" where Devil "durst not let them have any Gunpowder, lest they blow the whole place up" <sup>93</sup>). But they nonetheless testify to a very real preoccupation with the spiritual state of those who died well for crimes of which they claimed to be innocent.

One final example illustrates both the journalistic dangers of invoking the shades of the departed and the degree to which debates

about the true authorship of last dying speeches were politically charged. After Lord Russell's 1683 execution, various Tory pamphleteers attempted to dismiss his dying speech as a forgery, written not by the dying man himself (and thus sanctified by proximity to death and judgement) but by his friend and spiritual advisor, Gilbert Burnet. One Tory newssheet went so far as to report sightings of Russell's apparition, apparently tormented by an uneasy conscience, near his old townhouse in Bloomsbury Square. In response, a Whig pamphlet, *The Night-Walker*, tackled these aspersions on Russell's credibility and spiritual prospects head on, claiming that the so-called "Bloomsbury Ghost" was in fact the product of a "barbarous and papistical" conspiracy. According to this account, a vintner in the pay of unnamed figures high in court favour (in collaboration with "a Brace of Fishmongers" and other mean characters) had dressed himself in a white sheet, groaning, "Oh — I have no rest because of the Speech that I never made, but Dr. Burnet." The "faigned ghost" was then confronted with a night watchman who, after giving him a sound thrashing, extracted a full confession.<sup>94</sup> This story was immediately countered in a Roger L'Estrange's Tory periodical, the *Observer*, which claimed there had never been a ghost — only a vintner who, to win a wager of a bottle of wine, walked around Bloomsbury Square with an apron on his head.<sup>95</sup> As Peter Hinds has demonstrated, L'Estrange used all of his considerable influence not only as a journalist but also as a justice of the peace to put a Tory spin on the episode, producing a number of witnesses who deposed on oath that the story of the impersonation of Russell's ghost was itself a fabrication; he was also active in the prosecution of Langley Curtis, the printer of *The Night-Walker*. Yet it is significant that, as Hinds concedes, the Whig version of events was not only widely circulated, but seemed to have been more credited by contemporaries, illustrating the limits of government control over opinion even at the height of the "Tory Revenge."<sup>96</sup>

### **Truth, Charity, and Forgery: the Eikon Basilike**

The final section of this article ends in the Whig-Tory memory wars of the late seventeenth century, but begins with what was for these

writers still very much a live issue: the execution of Charles I in 1649. Despite a vigorous republican propaganda campaign that had some initial success in controlling the way the regicide was represented, “the decision to report the revolution” was ultimately, in the words of Jason Peacey, “a mistake.”<sup>97</sup> One of the most dramatic examples of this was the *Eikon Basilike: the Portraiture of His Sacred Majesty in His Solitudes and Sufferings*, a work attributed to Charles I and published shortly after the latter’s execution, and arguably one of the most successful pieces of propaganda ever published. It would become the runaway bestseller of mid-seventeenth-century England, with 20,000 copies selling immediately at the hefty cost of 15 shillings apiece, and running to 35 editions within the first year of publication.<sup>98</sup> The *Eikon Basilike* consisted of a collection of reflections, meditations, and prayers supposedly written by Charles I while awaiting trial, and subsequent execution, by the Rump Parliament; its unsubtle frontispiece depicts the King renouncing his worldly crown, and grasping at a crown of thorns while gazing upward towards a crown of glory in heaven: here is “Charles the first and Christ the second,” willingly dying for the sins of his people.<sup>99</sup>

Once largely dismissed simply as royalist propaganda, scholars have recently revisited the *Eikon Basilike* as a site of contestation on the one hand, and as a yardstick for political orthodoxy on the other, as “the King’s book” became both a posthumous manifestation of Charles the Martyr and “an iconic embodiment of the unity of church and crown.”<sup>100</sup> In the words of one scholar, the *Eikon*, appearing as it did on the day that Charles I was executed, “literally took the place of,” or “*became* the King.”<sup>101</sup> Recent scholarship by Kevin Sharpe and others has argued that Charles I in general, and the *Eikon* in particular, became a “multivalent” text, open to “multiple readings, and hence, to appropriation and contest.”<sup>102</sup> More importantly for my purposes, the reasons for both the book’s success and its precipitous decline after 1690 are closely related to the themes discussed so far: the dynamism of the late seventeenth-century public sphere and the practical and ideological constraints on suppressing the reception or dissemination of oppositional texts on the one hand, and the popular connection between political truth and what were seen as authentic near-death performances of charity on the other. As

we shall see, both defences of and attacks on the *Eikon* shed light on shared beliefs and assumptions about how the truth of last dying words could be demonstrated — or, conversely, discredited.

Interestingly, the *Eikon Basilike* did not describe Charles' death, only his meditations and reflections before his execution. This was perhaps because no one seriously doubted Charles's courage, but many had long suspected his intentions and sincerity.<sup>103</sup> The *Eikon* stressed not only Charles' courage, patience, and cheerfulness — he is described as conducting even his pathetic last interview with his two young children, "his two sweet babes," with a "weeping joy" — but also, and especially, his Christ-like charity. Charles's frequently reiterated and well-publicised forgiveness of his persecutors was, of course, his Christian duty, but it also conformed to an established Christocentric martyrological script.<sup>104</sup> The *Eikon* has Charles I express his "comfort" that Christ had given him not only "the honour to imitate His example in suffering for righteousness' sake .... but also that charity ... by which, I thank God, I can both forgive [my enemies] and pray for them." Charles is made to stress over and over that he died without any desire of vengeance: "I bless God I pray not so much that this bitter cup of a violent death may pass from me as that of His wrath may pass from all those whose hands by deserting me are sprinkled or by acting and consenting to my death are inbrued with my blood."<sup>105</sup> At his execution the King famously asked his confessor to bear witness to his prayer that his death "be not laid to their charge" — i.e., that of his subjects; rather, he declared, "my Charity commands me to endeavour [sic] to the last gasp the Peace of the Kingdom."<sup>106</sup> By absolving the nation of blood guilt Charles was speaking to the early modern belief that blood unjustly shed demanded divine retribution, and that the innocent blood of an anointed king exacted the highest price of all.<sup>107</sup> In the words of Kevin Sharpe, "the *Eikon Basilike* erased the 'man of blood' and rewrote Charles I as the suffering Christ."<sup>108</sup> According to Andrew Lacey, this "transformation of the topos of bloodguilt was the Royalists' most successful propaganda triumph."<sup>109</sup>

The *Eikon Basilike*, literally the image, or portrait of the King, could be seen by royalist supporters as a proof in itself of the sincerity of its author: it was "the truest Index of his virtues"; an "artifice



of grace” so “adorned” that it “shews his Body was the Temple of the Holy Ghost, and there was no corner or vacuity in his great and glorious Soule.”<sup>110</sup> The fact that Charles, a lonely prisoner, a king stripped of his kingdom and a grieving father and husband separated from his family, had been capable of writing the pious and charitable meditations, prayers, and correspondence which made up the *Eikon Basilike* seemed to demonstrate his “Sanctified ... Condition.”<sup>111</sup> A former Parliamentarian captain who had been assigned to guard Charles in captivity, who “had been made to believe that the King was a very bad man,” became “abundantly assured that he [was] an excellent good man” after seeing him spend hours in his closet “penning the most devout and pious Meditations and Prayers, which he [the captain] fell to reading” in the King’s absence.<sup>112</sup> The captain, we are told, subsequently resigned his commission.

In contrast to the commercial success of *Eikon Basilike*, the republican answer to the King’s Book, *Eikonoklastes*, penned by John Milton, sputtered out after only two editions. (Royalists saw Milton’s subsequent blindness as clear evidence of “God’s judgement against him for having written against the King”).<sup>113</sup> The book, a blow-by-blow attack on the *Eikon*, did not play to Milton’s strength; its style has been described as “reminiscent of a civil servant sending back a report to his minister.”<sup>114</sup> More importantly, perhaps, Milton and others who attempted to engage the King’s Book on political or intellectual grounds found themselves at a loss: the strength of the *Eikon Basilike* lay not in its narrative of the events of the English Civil War, but rather in “its depiction of Charles’ character” — it was the King’s character and state of mind, not his actions, that were really on trial.<sup>115</sup> Was he a “Man of Blood” who had unjustly shed the “innocent blood” of “three kingdoms,” as the Rump Parliament claimed, or was he a royal martyr whose own blood had been unjustly shed, and who with his last breath had attempted to avert the wrath of God against his people?<sup>116</sup>

Significantly, republican detractors attempted to attack the King’s character, labelling Charles as “a notorious Hypocrite” who, under the guise of the “pretended graces” of “charity” and “patience” really only “endeavoured to aggravate” the actions of his enemies.<sup>117</sup>

Critics noted that while Charles explicitly forgave his persecutors in his meditations, he incorporated into his prayers passages from psalms calling down the wrath of God on those who shed innocent blood. “Is it charity,” asked Milton, “to clothe them with curses in his Prayer whom he hath forgiv’n in his Discourse?” Thus, for Milton, the supposition that the King had spent his last days writing the *Eikon Basilike* testified not to his piety, but the contrary: was it charity for Charles, “out of those few mortifying howrs that should have ben most at peace from all passion and disquiet ... to spare time to enveigh bitterly against that Justice which was don upon him”? Milton also resorts to a conventional, if oblique, attack on Catholic truth claims, linking Charles to his notorious paternal grandmother, Mary Queen of Scots. “He glories much in the forgiveness of his Enemies; so did his Grandmother at her death. Wise men would sooner have belev’d him had he not so oft’n told us so.”<sup>118</sup>

Arguably, however, such attacks only illustrate the degree to which the *Eikon Basilike* had been successful in establishing Charles as a royal martyr. In the words of one 30<sup>th</sup> of January sermon, preached in 1684, the King’s Book “so confounded his Adversaries, that when they could neither contradict nor confute it, they were fain to deny it to be his.”<sup>119</sup> And indeed, whispers that some “secret Coajutor” and not “the late king” was the true “Author of these Soliloquies” dogged the *Eikon* from the first, and posed what was undoubtedly the greatest threat to its legitimacy.<sup>120</sup> Supporters of the “King’s Book” were quick to dismiss such reports as malicious rumours “proceeding from height and heat of Spleene.”<sup>121</sup> Charges that many of the prayers in the *Eikon Basilike* were not of Charles’ composition did not seriously compromise the work’s credibility, given the King’s own stated preference for set prayers over the extemporary expressions favoured by Independents and Presbyterians. (Royalists were, however, a little embarrassed at Milton’s revelation that one of the prayers was in fact “the same that is said by Pamela to a Heathen Deity in Sir Philip Sydney’s *Arcadia*”).<sup>122</sup>

But the fortunes of the King’s Book took a fatal turn in 1690, when the famous Anglesey Memorandum was published: this was a marginal note, written in 1675, on the Earl of Anglesey’s copy of the *Eikon Basilike*, claiming that both Charles II and his brother the

Duke of York had told him that “this Book ... was none of the said King’s compiling, but made by Dr. Gauden Bishop of Exeter.”<sup>123</sup> Other evidence quickly emerged, including Gauden’s letters and the testimony of his widow, as well as Gilbert Burnet’s admission that the Duke of York had also confided this secret to him. Many inferred that the Duke’s father-in-law, the Earl of Clarendon, had also been privy to the secret, simply because of his “perfect Silence about it.”<sup>124</sup> John Gauden, Bishop of Exeter and later Worcester, had been a moderate Parliamentarian at the outset of the Civil War and a conforming Presbyterian during the Interregnum, but like many others had become a closet royalist after Pride’s purge. The balance of modern opinion would suggest that the *Eikon Basilike*, “though actually written by Dr. John Gauden, was based on a core of material which the King had himself composed — and Gauden’s manuscript was read and corrected by the King before going to press.”<sup>125</sup> Roger Morrice reported in 1688, however, that it was in fact the royalist divine Edward Symmons who had substantially edited and “reviewed” the manuscript: that “the King made it, and Simons reviewed it, and Gauden did no more but tooke the Coppy of it and Printed it.”<sup>126</sup>

Regardless of the circumstances, contemporaries found such “collaborative projects” problematic<sup>127</sup> for rather different reasons than we disapprove of plagiarism today — they tended not so much to impugn the intellectual integrity of the purported author as they did the credibility of the words themselves, as we have seen with the pamphlet war over the true authorship of Russell’s dying speech. Royalist supporters stinted in nothing in order to demonstrate both through internal and external evidence that Charles I was the true, and sole, author of the *Eikon Basilike*. Its “Majestical Stile,” “Sublimity of thought” and “Divine Contemplations” were clearly “very much beyond the Reach, and imitation of Dr. Gauden” — whose own style was not only “laboured” and “bombast[ic],” but who was, most importantly, a man who had so compromised his former principles as to have become a Presbyterian during the Civil War and Interregnum. It was moreover “uncharitable to think that Men of so much Honour and Conscience as King Charles the Martyr [etc.] ... would be accessary” to “so Impious a Prevarication” as “this

trick and forgery.” If anyone was “a Prevaricator” (“if not worse”) it was Gauden, “pretending sometimes to be the Author of the King’s Book and at other times denying it.”<sup>128</sup> Testimonials poured in from many people who claimed, like the former Parliamentary captain, to have seen Charles labouring over his private papers; others suggested that the “*Memorandum*” itself “was never made by my Lord of Anglesey, but forged by some other person for the very ends for which it hath been so often produced.”<sup>129</sup>

But the damage had been done. Even if the Whig Gilbert Burnet’s sincerity might well be questioned, he doubtless spoke for many in claiming that, having been “bred up with a high Veneration of this Book: being confirm’d in the persuasion that it was the King’s,” and deeply shocked at “the Murder of a Prince who thought so seriously of all his Affairs in his secret Meditations before God,” was subsequently both “surprised” and disillusioned to find Charles’ authorship cast into serious doubt.<sup>130</sup> Defenders of the royal martyr bemoaned the fact that so many people now accepted Gauden as the author of the *Eikon Basilike*, “that for which the Great King was so highly venerated, so deservedly applauded, and indeed upon the score of which the greatest part of his Actions were vindicated is now proved a Cheat, and a Forgery.”<sup>131</sup> In the words of one eighteenth-century detractor, “It is doubtless from the Meditations and Devotions of this Book, rather than the prevailing Facts and Tenor of his Life” that “raised the King’s Reputation so high .... But the lustre which this famous Book has cast upon his Royal Character, there is the strongest Reason to believe, is all counterfeit and false. That his Majesty was not its Author, is now proved beyond all just and reasonable Doubt.”<sup>132</sup> Even if the true authorship of the *Eikon Basilike* is still disputed today, most modern scholars have concurred in seeing the Anglesey Memorandum as a critical turning point: “once the *Eikon* was dissociated from the voice of Charles I, it lost most of interest.”<sup>133</sup>

Whig and Tory preachers alike would continue to deliver 30th of January sermons well into the eighteenth century, while the Cult of the Martyr King continued to receive lip service from all points of the late Stuart political spectrum. But the first and decisive breach in the sanctity of the image of the King’s Book had been made when it was demonstrated that Charles was not the authentic or at least sole

author of the *Eikon Basilike*. As one sceptic wrote in 1699, “But tho’ the King ... might ... correct or interline a part, and perhaps transcribe the whole book; yet I can by no means be persuaded that he could find Leisure enough to write so many Copies of it in ... the midst of Treaties, in the Hurry of Removals, while he meditated his Escape, and was strictly observ’d by his Guards. But these Gentlemen [the *Eikon*’s royalist defenders] tell us of as many Copies, as the Papists shew Heads of St. John Baptist, or Quarts of the Virgin Mary’s Milk.”<sup>134</sup> By classifying the *Eikon Basilike* along with dubious Catholic relics the author was invoking that most potent of English bogeys — popery. But it was the doubts as to Charles I’s authorship even more than those as to his Protestant credentials that were ultimately most decisive in tarnishing the king’s image. Charles I’s claims to have written the *Eikon* were indissolubly linked with his status as a martyr and the justice of the cause for which he died; for some at least it followed, then, that if Charles was not the true author, “therefore he truly is guilty of what the then Parliament laid to his Charge, and made the reason of their War against him, and, at last, of the Murther of him.”<sup>135</sup> If the pious and charitable expressions in the *Eikon Basilike* were not the fruits of the King’s final and solitary meditations with his maker, then his Book was not sanctified — or as we might say, it was not true.

## Conclusion

No less than the debate over the authorship of the *Eikon Basilike*, the scuffles over the last dying words of the republican Sir Henry Vane, and the regicides in the early 1660s and the contests over the speeches of alleged Popish plotters, Whig conspirators, and Jacobites executed in the 1670s, 1680s, and 1690s were all part of the late Stuart memory wars over the events of the 1640s, whose larger political dimensions and implications have been richly documented by scholars. As this article has suggested, accounts of the last dying words of state criminals are a central if (with the exception of Peter Hinds’ recent work on Lords Russell’s speech)<sup>136</sup> hitherto understudied part of this story, and provide a valuable complement to recent important work about print and truth claims in the late sev-

enteenth century by Tim Harris, Frances Dolan, Mark Knights, Jonathan Scott, Rachel Weil, and others.

The late seventeenth-century pamphlet wars over the veracity and authenticity of the last dying speeches discussed here have much to tell us not only about the political issues that divided contemporaries, but also about their larger, shared preoccupations and values. In particular, such contests illustrate the currency of, as well as the interplay and tensions between, the belief in the freeborn Englishman's right to hear and to read, as well as deliver, confessions and testimonies at the place of execution on the one hand, and the persistent association of gallows charity with credibility and the good death on the other. Partisan preferences are readily discernable: a Parliamentarian-Presbyterian-Whig emphasis on anti-popery and English liberties, and a Royalist-Anglican-Tory preference for piety and charity, for instance. The various editions of the *State Trials* reflect a Whig (or "Country") imprimatur; the *Eikon Basilike*, a High Tory one. Yet it is significant that neither side could afford to let the position of the other go unchallenged, nor did either seriously challenge the principle that the last words of those who died well were in themselves compelling. As we have seen, rebuttals on both sides tended to degenerate into accusations of blasphemy, casuistry, or forgery. In so doing the writers of such pamphlets and papers appealed at least implicitly to their readers as arbiters of the truth claims therein defended or debunked. This, if nothing else, testifies to the critical role that such last dying speeches played in late Stuart England's rapidly expanding public sphere.

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**ANDREA MCKENZIE** is an Associate Professor in the Department of History at the University of Victoria. She is the author of *Tyburn's Martyrs: Execution in England, 1675-1775*, and numerous articles on trial, execution, punishment, and print culture in late seventeenth- and eighteenth-century England. She is currently working on a book project on the Popish Plot.

**ANDREA MCKENZIE** est professeure agrégée au Département d'histoire de l'Université de Victoria. Elle est l'auteure de *Tyburn's*

*Martyrs: Execution in England, 1675-1775* et de nombreux articles sur la culture des procès, des exécutions, des sanctions/châtiments et des écrits à la fin du XVII<sup>e</sup> et au XVIII<sup>e</sup> siècles en Angleterre. Elle travaille actuellement à un livre sur les complots papaux.

## Endnotes:

- 1 *The Tryal of Sir Henry Vane, Kt...Also his Speech and Prayer, &c. on the Scaffold* (1662), 87–89. This account of Vane's execution is largely corroborated in Edmund Ludlow, *A Voyce from the Watch Tower, Part Five, 1660-1662*, ed. A.B. Worden (London: Royal Historical Society, 1978), 313. Unless otherwise specified, all printed primary works are published in London.
- 2 *Tryal of Sir Henry Vane*, 89; this account is also reprinted in *The Dying Speeches and Behaviour of the several State Prisoners That have been Executed the last 300 Years* (1720), 294–8; Gilbert Burnet, *Bishop Burnet's History of his Own Time*, ed. Martin Joseph Routh, 2<sup>nd</sup> ed. (Oxford: Oxford University Press, 1833), 1:295; see also R.C. Latham and W. Matthews, ed., *The Diary of Samuel Pepys* (London: Bell & Hyman, 1971, 1971) 11 vols, 3:108. Burnet mentions drums at Vane's execution, whereas Ludlow, Pepys, and subsequent collections (including the *State Trials*) specify trumpets.
- 3 See for instance Frances E. Dolan, *True Relations: Reading, Literature, and Evidence in Seventeenth-Century England* (Philadelphia: University of Pennsylvania Press, 2013); Mark Knights, *Representation and Misrepresentation in Later Stuart Britain: Partisanship and Political Culture* (New York: Oxford University Press, 2006); see also Peter Lake and Steve Pincus, "Rethinking the Public Sphere in Early Modern England," *Journal of British Studies* 45 (April 2006), 270–292.
- 4 L.B. Smith, "English Treason Trials and Confessions in the Sixteenth Century," *Journal of the History of Ideas*, xv (1954), 471–98; J.A. Sharpe, "Last Dying Speeches: Religion, Ideology and Public Execution in Seventeenth-Century England," in *Past & Present*, 107 (1984), 144–67; J.A. Sharpe, *Judicial Punishment in England* (London: Faber, 1990), 31–33.
- 5 *Observations on the Late Famous Tryal of Sir G.W. Father Corker &c. Together with the Behaviour, Confession and Execution of the Six Prisoners that Suffered at Tyburn on Wednesday the 23d of this Instant July* (1679), 1.
- 6 Thomas W. Laqueur, "Crowds, Carnival and the State in English Executions, 1604–1868," in A.L. Beier, David Cannadine, and James M. Rosenheim, eds., *The First Modern Society* (Cambridge: Cambridge University Press, 1989); Peter Lake and Michael Questier, "Agency, Appropriation and Rhetoric under the Gallows: Puritans, Romanists and the State in Early Modern England," in *Past & Present*, 153 (1996), 64–107; Hal Gladfelder, *Criminality and Narrative in Eighteenth-Century England: Beyond the Law* (Baltimore: Johns Hopkins University Press, 2001), 55–7; Andrea McKenzie,

- Tyburn's Martyrs: Execution in England, 1675–1775* (London: Hambleton Continuum, 2007).
- 7 Peter Lake with Michael Questier, *The Antichrist's Lewd Hat: Protestants, Papists and Players in Post-Reformation England* (New Haven: Yale University Press, 2002), 21; see especially chapters 1, 6, & 7.
- 8 Knights, *Representations and Misrepresentations*, 7, 334, 245.
- 9 It is interesting to note that more than a century later readers were similarly “invited to gasp at the impious invocation of the deity” in alleged suicide notes published in the periodical press, and clearly modelled on “gallows speeches” and adapted “to arouse curiosity and solicit judgement”; see R.A. Houston, *Punishing the Dead: Suicide, Lordship and Community in Britain, 1500–1830* (Oxford: Oxford University Press, 2010), 347–8.
- 10 David Cressy, *Dangerous Talk: Scandalous, Seditious, and Treasonable Speech in Pre-Modern England* (Oxford: Oxford University Press, 210), 222; see also Nicholas Rogers, *Crowds, Culture and Politics in Georgian Britain* (Oxford: Clarendon Press, 1998), especially chapter 1.
- 11 A. Knachel, ed. *Eikon Basilike: the Portraiture of His Sacred Majesty in His Solitudes and Sufferings* (Ithaca, NY: Cornell University Press, 1966), 173.
- 12 Lake and Questier, “Agency, Appropriation and Rhetoric”, 69.
- 13 The classic study is William Haller, *Foxe's Book of Martyrs and the Elect Nation* (London: J. Cape, 1963); for a more recent discussion of popular historical narratives, see D.R. Woolf, *The Social Circulation of the Past* (Oxford: Oxford University Press, 2003), 332.
- 14 John Foxe, *The Unabridged Acts and Monuments Online* or *TAMO* (1583 edition, Book 11:1500) (HRI Online Publications, Sheffield, 2011). Available from: <http://www.johnfoxe.org>, <viewed 2 August 2013>.
- 15 *The Speeches and Prayers of Major General Harrison [etc]...Together with Severall occasionall Speeches and Passages in their Imprisonment till they came to the place of Execution* (1660).
- 16 *Dying Speeches and Behaviour of the several State Prisoners*, 245.
- 17 Guthrie, *The Ordinary of Newgate, His Account...* (24 September 1731), 17 (henceforth *Ordinary's Account*); Paul Lorrain, *Ordinary's Account* (23 December 1713), 5; James Guthrie, *Ordinary's Account* (17 February 1743/4), 12.
- 18 *A Copy of Mr. Ashton's Paper, Delivered to the Sheriff at the Place of Execution...* (London, 1691), 1.
- 19 James Guthrie, *Ordinary's Account* (24 September 1731), 17.
- 20 Thomas Purney, *Ordinary's Account* (27 June 1720), 6.
- 21 Lake with Questier, *Antichrist's Lewd Hat*, 240–1.
- 22 *The Proceedings against Sir Thomas Armstrong in His Majesties Court of Kings-Bench, at Westminster, upon an Outlawry for High-Treason, &c. As also An Account of what passed at his Execution at Tyburn, the 20th of June 1684. Together with the Paper he delivered to the Sheriffs of London at the same Time and Place* (1684), 3; *The Speeches, Discourses, and Prayers, of Col. John Barkstead, Col. John Okey, and Mr. Miles Corbet; Upon the 19th of April, being*



- the Day of their Suffering at Tyburn...* (1662), 24.
- 23 *The Speeches and Prayers of Major General Harrison*, 63.
  - 24 See for instance Harold Love, "Oral and Scribal Texts in Early Modern England," in John Bernard and D.F. McKenzie, with Maureen Bell, ed., *The Cambridge History of the Book in Britain* (Cambridge, UK: Cambridge University Press, 2002), vol IV, 1557–1695, 1–4–5; Adam Fox, *Oral and Literate Culture in England, 1500–1700* (Oxford: Oxford University Press, 2000), 5–6.
  - 25 McKenzie, *Tyburn's Martyrs*, 49–50.
  - 26 *A True Account of the Dying Behaviour of Ambrose Rookwood, Charles Cranburne, and Major Lowick, who were Executed at Tyburn for High Treason, on Wednesday, April 29. With Mr. Cranburn's Speeches at the place of Execution* (1696), 1.
  - 27 *An Account of what passed at the Execution of Sir Will. Parkyns, and Sir Joh. Friend, At Tyburn* (1696), 1.
  - 28 *Copy of Mr. Ashton's Paper*, 1.
  - 29 *Mr Langhorn's Memoirs, With some Meditations and Devotions of his, during his Imprisonment; as also his petition to his Majesty, and his Speech at his Execution. All which were left by him, and written with his own Hand...* (1679), 1.
  - 30 *The Speech of the Late Lord Russel, To the Sheriffs: Together with the Paper deliver'd by him to them; at the Place of Execution, on July 21, 1683* (1683), 1.
  - 31 Burnet, *History of his own Time*, 2, 383.
  - 32 John Bernard, "Introduction," *Cambridge History of the Book*, 3.
  - 33 The fact that some publishers took the precaution of striking out potentially actionable text, replacing it with asterisks or dashes, may have served to flag rather than to defuse such material.
  - 34 Joad Raymond, *Pamphlets and Pamphleteering in Early Modern Britain* (Cambridge, UK: Cambridge University Press, 2003), 340–1; see also Carolyn Nelson and Matthew Seccombe, "The Creation of the Periodical Press, 1620–1695," *Cambridge History of the Book*, 47; Michael Treadwell, "The Stationers and the Printing Acts at the End of the Seventeenth Century," *Cambridge History of the Book*, 769–770; Susannah Randall, "Newspapers and their publishers during the Popish Plot and Exclusion Crisis," in John Hinks and Catherine Armstrong, eds., *Book Trade Connections from the Seventeenth to the Twentieth Centuries* (London: British Library, 2008), 45–70. Randall has noted that the number of periodicals not only exploded after 1679, but in fact peaked in the autumn of 1682, well after the March 1681 dissolution of the Oxford Parliament, corroborating Gary de Krey's thesis that the 1682 shrieval elections marked the real end of the Exclusion Crisis; see de Krey's *London and the Restoration, 1650–83* (Cambridge, UK: University of Cambridge Press, 2005), 221–268.
  - 35 David Colclough, *Freedom of Speech in Early Stuart England* (Cambridge: Cambridge University Press, 2005), 195; Cressy, *Dangerous Talk*, 236.
  - 36 Raymond, *Pamphlets and Pamphleteering*, 71; 326, n.11.
  - 37 Douglas Hay, "Property, Authority and the Criminal Law" in Douglas Hay et

- al., *Albion's Fatal Tree: Crime and Society in Eighteenth-Century England* (London: Allen Lane, 1975), 17–63.
- 38 *An Appeal of Murther from certain unjust Judges, lately sitting at the Old Baily, to the righteous Judge of Heaven and Earth; and to all sensible English-men, containing a Relation of the Tryal, Behaviour, and Death of Mr. William Anderton, Executed June 16. 1693. at Tyburn, for pretended High-Treason* (1693); *A True Copy of the Paper delivered to the Sheriffs of London and Middlesex, by Mr. William Anderton* (1693), 1.
- 39 Laura Gowing, "Ordering the body: illegitimacy and female authority in seventeenth-century England," in Michael J. Braddick and John Walter, eds. *Negotiating Power in Early Modern Society: Order, Hierarchy and Subordination in Britain and Ireland* (Cambridge: Cambridge University Press, 2001), 53–4.
- 40 *Stafford's Memoires* (1681), 69.
- 41 John H. Langbein, *The Origins of Adversary Criminal Trial* (Oxford: Oxford University Press, 2003), 238, fn. 26.
- 42 Andrea McKenzie, "God's Tribunal: Guilt, Innocence and Execution in England, 1675–1775," *Cultural and Social History* 3 (2006), 121–144.
- 43 McKenzie, *Tyburn's Martyrs*, 236.
- 44 John Bossy, *Christianity in the West 1400–1700* (Oxford: Oxford University Press, 1985), ch. 4.
- 45 John Bossy, *Peace in the Post-Reformation Lectures* (Cambridge: Cambridge University Press, 1995), 93–4.
- 46 *The Weekly Journal* (6 August 1715).
- 47 Alexandra Walsham, *Charitable Hatred: Tolerance and Intolerance in England, 1500–1700* (Manchester: University of Manchester Press, 2006).
- 48 Debora Shuger, *Censorship and Cultural Sensibility: the Regulation of Language in Tudor-Stuart England* (Philadelphia: University of Pennsylvania Press, 2006), 194, 206.
- 49 *An Account of, (Together with) The Writing it Self That was found in the Pocket of Lawrence Hill, At the time He and Green were Executed (Friday the 21st. of February, 1678/9) For the Murder of Sr. Edmond-berry Godfrey Kt.* (London, 1679), 3.
- 50 *Fitz-Harys's Last Sham detected* (1681), 1.
- 51 Johann P. Sommerville, "The new art of lying': equivocation, mental reservation, and casuistry," in Edmund Leites, ed., *Conscience and Casuistry in Early Modern Europe* (Cambridge: Cambridge University Press, 1988), 160.
- 52 *Ibid.*, 183.
- 53 *Ibid.*, 159.
- 54 *An Answer to Blundell the Jesuits Letter* (1679), 1.
- 55 *Lying Allowable with Papists to Deceive Protestants* (1679), 4.
- 56 Samuel Smith, *An Account, of the Behaviour of the Fourteen Late Popish Malefactors, whil'st in Newgate...* (1679), 25.
- 57 *Ibid.*, 14.
- 58 *The Speeches of the Five Jesuits that were Executed at Tyburn on Friday the 20<sup>th</sup> of this Instant June...* (1679), 1.

- 59 Peter Hinds, "Roger L'Estrange, the Rye House Plot, and the Regulation of Political Discourse in Late-Seventeenth-Century London," *The Library*, 7<sup>th</sup> series, vol. 3 (2002), 13.
- 60 Peter Lake, "Anti-Popery: the Structure of a Prejudice," in Richard Cust and Ann Hughes, eds., *Conflict in early Stuart England: Studies in Religion and Politics, 1603–1642* (New York: Longman, 1989), 72–106.
- 61 *The Speech of Richard Langhorn Esq...* (1679), 3.
- 62 *The Last Speech of Mr. Oliver Plunket, Titular Primate of Ireland, Who was Executed at Tyburn on Friday the 1st of this Instant July...* (London, 1681), 4.
- 63 *Stafford's Memoires*, 68.
- 64 Barbara J. Shapiro, *Probability and Certainty in Seventeenth-Century England* (Princeton: Princeton University Press, 1983), 184, 187; John Spurr, "'The Strongest Bond of Conscience': Oath and the Limits of Tolerance in Early Modern England," in Leites, *Conscience and Casuistry*, 157.
- 65 George Fisher, "The Jury's Rise as Lie Detector," *The Yale Law Journal* 107: 3 (December 1997), 577–713.
- 66 Barbara J. Shapiro, "Oaths, Credibility and the Legal Process in Early Modern England: Parts One and Two," in *Law and the Humanities*, 6, 2 (2012), 145–178 and 7, 1 (2013), 19–54.
- 67 Barbara J. Shapiro, *A Culture of Fact: England, 1550–1720* (Ithaca: Cornell University Press, 2000), 31.
- 68 *Ibid.*, 21; James Oldham, "Truth-Telling in the Eighteenth-Century English Courtroom," *Law and History Review*, 12:1 (Spring 1994), 105–6. The term "pious perjury" was coined by William Eden in his *Principles of Penal Law* (1771), 286; for more on the legal practice, see J.M. Beattie, *Crime and the Courts in England, 1660–1800* (Oxford: Oxford University Press, 1986), 424–30.
- 69 John Spurr, "A Profane History of Early Modern Oaths," *Transactions of the Royal Historical Society*, 6<sup>th</sup> series, Vol. II (2001), 37–63.
- 70 Rachel Judith Weil, "'If I did say so, I lyed': Elizabeth Cellier and the Construction of Credibility in the Popish Plot Crisis," in Susan Dwyer Amussen and Mark Kishlansky, eds., *Political Culture and Cultural Politics in Early Modern England* (Manchester: Manchester University Press, 1995), 190. For the Popish Plot generally, see J.P. Kenyon, *The Popish Plot* (London: Weidenfeld & Nicholson, 1972); Jonathan Scott, "England's troubles: Exhuming the Popish Plot," in Tim Harris, Paul Seaward, and Mark Goldie, eds., *The politics of religion in Restoration England* (Oxford: Oxford University Press, 1990), 107–31; Peter Hinds, *"The Horrid Popish Plot": Roger L'Estrange and the Circulation of Political Discourse in Late Seventeenth-Century London* (Oxford: Oxford University Press, 2010).
- 71 Roger North, *The Lives of the Right Hon. Francis North...[et al.]*, ed. Augustus Jessop (London: G. Bell & Sons, 1890), 1:201; 1:204; Shapiro, *Probability and Certainty*, 183–7.
- 72 Langbein, *Origins of Adversary Criminal Trial*, 52. (Although, as Langbein points out, felony witnesses were permitted to testify on oath "probably not

- for the purpose of enhancing the defensive posture of defendants, but in order to expose defense witnesses to prosecution for perjury,” *ibid.*).
- 73 Knights, *Representation and Misrepresentation*, 6.
  - 74 *Stafford's Memoires*, 68–9; *English Gazette* (29 December 1680–1 January 1681).
  - 75 *Stafford's Memoires*, 69; *The Execution of William Howard, Late Lord Viscount Stafford* (1680), 3.
  - 76 *The Manner of the Execution of William Howard, late Earl of Stafford* (1680), 4; *Execution of William Howard*, 4.
  - 77 Peter Holmes, “Howard, William, Viscount Stafford (1612–1680),” *Oxford Dictionary of National Biography*, Oxford University Press, 2004; online edn, May 2011, <http://www.oxforddnb.com.ezproxy.library.uvic.ca/view/article/13948>, <viewed 15 February 2014>.
  - 78 Brad S. Gregory, *Salvation at Stake: Christian Martyrdom in Early Modern Europe* (Cambridge, MA: Harvard University Press, 1999), 19; see also Lake with Questier, *Antichrist's Lewd Hat*, 246.
  - 79 Susannah Brietz Monat, *Martyrdom and Literature in Early Modern England* (Cambridge: Cambridge University Press, 2003), 6, 30.
  - 80 Mark Goldie ed., *The Entring Book of Roger Morrice*, Vol. II, 1677–91, ed. John Spurr, (Woodbridge: Boydell, 2007), 2:124.
  - 81 *An Answer to the Reflections on the Five Jesuits Speeches. Or, general Rules of Christian Charity...* [1679], 4.
  - 82 *The Last Speeches of the Five Notorious Traitors and Jesuits*, 1.
  - 83 *Answer to the Reflections*, 1; *An Impartial Consideration of Those Speeches, Which Pass under the Name of the Five Jesuits Lately Executed* (1679), 45.
  - 84 *Ibid.*
  - 85 *History of his own Time*, 2:223.
  - 86 Lake with Questier, *Antichrist's Lewd Hat*, 246.
  - 87 *An Account of the Deportment and Last Words of Mr. Richard Langhorne* (1679), [iv].
  - 88 *Speech of Richard Langhorn*, 4.
  - 89 *Blundel the Jesuit's Letter of Intelligence, to his Friends the Jesuits at Caombray, taken about him when he was Apprehended at Lambeth, on Munday the 23th of June 1679* (1679), 1.
  - 90 *The Last Speeches of the Five Notorious Traitors and Jesuits...who were Justly Executed at Tyburn, June 20. 1679...* (1679), 3–4.
  - 91 *Ibid.*, 8.
  - 92 *The Ghosts of Edward Fits Harris and Oliver Plunket, Who were lately Executed at Tyburn for High Treason, With their Sentiments about the Times* (1681), 2, 3; for the “ghost-dialogue” genre in this period, see Raymond, *Pamphlets and Pamphleteering*, 253, 350–1. Fitzharris’s case was particularly controversial, as he had originally delivered and then retracted a pro-Whig confession; his last dying speech, confirming his earlier recantation, raised many questions as to the authenticity of the document, and there were rumours that a subsequent confession, confirming the earlier anti-court accusations, had been sup-

- pressed. I am currently working on a detailed study of this incident ("Sham Plots and False Confessions: the Politics of Edward Fitzharris's Last Dying Speech, 1681," forthcoming).
- 93 *A relation of the strange apparition of the five Jesuits lately executed at Tyburn upon the account of treason. Being a wonderful token of their disquiet, and some things considerable referring to their guilt. Discovered to two gentlemen of eminent credit, upon the road between London and Acton, travelling for Chippenham in Wiltshire. Closed up with an ingenious and merry piece of history, concerning no Jesuits in hell* [1679], 4; for popular connection between Jesuits and arson and other incendiary activities, see Dolan, *True Relations*, 90–2.
- 94 *The Night-Walker of Bloomsbury...* (1683), 1.
- 95 *Observer* (11 October 1683).
- 96 Peter Hinds, "Roger L'Estrange," 25–26; see also Melinda S. Zook, *Radical Whigs and Conspiratorial Politics in Late Stuart England* (University Park: University of Pennsylvania Press, 1999), 37–39, 60–61; Lois Schwoerer, "William Lord Russell: The Making of a Martyr, 1683–1685," *Journal of British Studies*, 24 (1985), 41–71.
- 97 Amos Tubb, "Printing the Regicide of Charles I", *History* 89 (October 2004), 500–24; Jason Peacey, "Reporting a Revolution: a Failed Propaganda Campaign," 161–180, in Jason Peacey, ed., *The Regicides and the Execution of Charles I* (Basingstoke: Palgrave, 2001), 173.
- 98 Knachel, *Eikon Basilike*, xiv–xv.
- 99 Andrew Lacey, "Charles the First, and Christ the Second: The Creation of a Political Martyr," in Thomas S. Freeman and Thomas F. Mayer, *Martyrs and Martyrdom in England, c.1400–1700* (Woodbridge: Boydell, 2007), 203–220; Andrew Lacey, "Elegies and Commemorative Verse in Honour of Charles the Martyr, 1649–60," in Peacey, *The Regicides and the Execution of Charles I*, 225–246.
- 100 Kevin Sharpe, "So Hard a Text: Images of Charles I, 1612–1700," *The Historical Journal*, 43, 2 (2000), 400.
- 101 Elizabeth Skerpan Wheeler, "Eikon Basilike and the rhetoric of self-representation," in Thomas Corns, ed., *The Royal Image: Representations of Charles I* (Cambridge, UK: Cambridge University Press, 1999), 122.
- 102 Ibid, 384.
- 103 See for instance Conrad Russell, *The Causes of the English Civil War* (1990), esp. "The Man Charles Stuart," 185–210.
- 104 Thomas S. Freeman, "'Imitatio Christi with a Vengeance': The Politicisation of Martyrdom in Early-Modern England," in Freeman and Mayer, *Martyrs and Martyrdom*, 35–69.
- 105 Knachel, *Eikon Basilike*, 130; 176.
- 106 *England's black Tribunall. Set forth in the Triall of K. Charles I At a High Court of Justice at Westminster-Hall Together with his last Speech when he was put to death on the Scaffold, January 30. 1648*, 4th ed. (1660), 35–6.
- 107 Patricia Crawford, "Charles Stuart, That Man of Blood," *Journal of British Studies*, 16, 2 (Spring 1977), 41–61; Christopher Hill, *The English Bible and*

- the Seventeenth-Century Revolution* (London: Penguin, 1994), 324–31.
- 108 Sharpe, “So Hard a Text,” 385.
- 109 Andrew Lacey, *The Cult of King Charles the Martyr* (Woodbridge: Boydell, 2003), 139.
- 110 *The Subjects Sorrow: Or, Lamentations upon the death of Britains Josiah King Charls most unjustly and cruelly put to death by His owne People...* (1649), 23
- 111 Hollingworth, *Down-right Murder*, 24.
- 112 Richard Hollingworth, *Dr. Hollingworth's Defence of K. Charles the First's Holy and Divine Book, called [Eikon Basilike]; Against the Rude and Undutiful Assaults of the late Dr. Walker, of Essex. Proving By Living and Unquestionable Evidences, the aforesaid Book to be that Royal Martyr's, and not Dr. Gauden's* (1692), 24.
- 113 *Eikon Basilike*, xxiv.
- 114 Skerpan Wheeler, “*Eikon Basilike* and the rhetoric of self-representation,” 127.
- 115 Knachel, *Eikon Basilike*, 127.
- 116 Crawford, “Charles Stuart, That Man of Blood.”
- 117 *Eikon alethine. The pourtraiture of truths most sacred majesty truly suffering...* (1649), 91.
- 118 John Milton, *Eikonoclastes. In Answer to a Book Intitl'd Eikon Basilike, The Portraiture of his sacred Majesty in his Solitudes and Sufferings*, 2<sup>nd</sup> ed. (1650), 91; 177; 213; 229–30.
- 119 Edward Lake, *A Sermon Preached at The Church of S. Mary le Bow, Before the Right Honourable The Lord Mayor and Court of Aldermen, on the Thirtieth of January...Being the Anniversary Day of Humiliation for the Martyrdom of K. Charles the First* (1684), 13.
- 120 Milton, *Eikonoklastes*, iii.
- 121 *Princely Pellican*, 25.
- 122 John Toland, *Amyntor: Or, a Defence of Milton's Life* (1699), 153.
- 123 *Ibid.*, 86–7.
- 124 *An Essay Towards Attaining a True Idea of the Character and Reign of K. Charles the First, And the causes of the Civil War...* (1748), 242.
- 125 *Eikon Basilike*, xxxii.
- 126 Mark Goldie ed., *The Entring Book of Roger Morrice*, Vol. IV, *The Reign of James II, 1687–89*, ed. Stephen Taylor (Woodbridge: Boydell, 2007), 4:497.
- 127 Skerpan Wheeler, “*Eikon Basilike* and the rhetoric of self-representation,” 123.
- 128 *Several Evidences Which have not yet appeared*, 26.
- 129 Thomas Wagstaffe, *A Vindication of King Charles the Martyr, Proving that His Majesty was the Author of Eikon Basilike. Against a Memorandum, Said to be Written by the Earl of Anglesey: And Against the Exceptions of Dr. Walker, and Others*. 2<sup>nd</sup> ed. (1697; 1<sup>st</sup> ed 1693), 12.
- 130 Burnet, *History of His Own Time*, 1:54–5.
- 131 Hollingworth, *Defence of K. Charles*, 2.
- 132 Micaiah Towgood, *An Essay Towards Attaining a True Idea of the Character*

*and Reign of K. Charles the First, And the causes of the Civil War...* (1748), 142.

133 Lois Potter, "The royal martyr in the Restoration: national grief and national sin," in Corns, *The Royal Image*, 402.

134 Toland, *Amyntor*, 144–5.

135 Hollingworth, *Defence of K. Charles the First*, 2.

136 Hinds, "Roger L'Estrange."