

David Harvey*

Law and the Regulation of Communications Technologies: The Printing Press and the Law 1475 - 1641

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* Judge, Manukau District Court, Auckland. Faculty of Law,
University of Auckland

I INTRODUCTI ON

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The attempts that were undertaken by the Tudors and early Stuarts to regulate the printing press were unsuccessful. The efforts were, even by the totalitarian standards of the day ad hoc in nature, inconsistent in application, opportunistic, ineffective and suffered from uneven enforcement. In addition to all these problems there was a more basic one. The fundamental structure upon which all efforts to regulate content were based originated some fifty or so years before printing was invented. This structure was designed to deal with the dissemination of information in the manuscript culture and was ill-equipped to deal with a new technology that was not only mobile but which possessed characteristics that differed from the manuscript “technology”, not the least being a semi-mechanised output coupled with a vastly superior ability to effect speedy dissemination to many readers.

The examination that I am about to undertake suggests that the most effective way to use law to regulate an emerging technology is to first understand the fundamental nature and implications of the technology and craft a regulatory structure that recognizes those fundamentals. The Tudor and Stuart efforts to regulate a new technology attempted to engraft an existing system developed for a different communications system, coupled with an enforcement organization whose goals and interests were not always at one with those of the State. It was not going to succeed in its goals nor was it going to fulfill the policies of those who put it in place.

Most discussions of the regulation of the new communications technology of print have focused upon one aspect of the overall picture and that is content regulation. These discussions have become clouded and have lost focus as the argument has raged between the various schools of historical analysis, primarily as to whether the use of censorship by the State was repressive or whether this has been over-emphasised by “Whig” historians. This discussion is sometimes a part of a wider agenda in considering the society of the times and the way it dealt with dissent of whatever nature, whether “received wisdom” about the “totalitarian

nature” of the Tudor and Stuart regimes can be justified, or whether, in fact, communication of information was not as regulated or suppressed as may have earlier been thought. The various agendas underlying these disputes have overstated content regulation as part of overall efforts to regulate the new communications technology.

Content regulation is only part of the picture but of necessity it will be touched upon in this discussion. It is suggested, however, that most of the direct attempts by the State to regulate the printing press were not primarily about content regulation but about trade regulation, initially in the use of statute to regulate alien participation in the printing trade between 1484 and 1536, and subsequently, at the behest of the Stationers Company, by two decisions of the Court of Star Chamber in 1586 and 1637. Other statutory regulation of the content of printed material is vague and imprecise and is part

* Judge, Manukau District Court, Auckland. Faculty of Law, University of Auckland

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and parcel of the various efforts of the Crown to stem treason, sedition and heresy. Although it became an element of those three offences to write certain material, the possession of such writings was viewed more as supporting evidence of other major charges in indictments alleging treasonous or heretical acts. Another way of regulating printing was by means of proclamation, a less legally sound but more immediate way of addressing urgent issues of content regulation. In the reign of Henry VIII there were a number of proclamations that addressed and banned specific titles. In the reign of Elizabeth I there was but one.

The final way in which the Crown was able to directly affect the printing trade was by use of the Royal Prerogative and the grant of exclusive rights to print particular titles or classes of titles. These patent privileges had a detrimental impact upon the printing trade and indirectly resulted in the establishment of the “English Stock” which although intended for the benefit of poor printer, enriched and empowered the Stationers Company. Dissatisfaction with the patent system, along with other concerns about the trade itself, led to Star Chamber litigation with the resulting decisions of 1586 and 1637.

This paper will consider the early steps to address content regulation in the early pre-print days of the fifteenth century, which formed the basis of all subsequent content regulation systems up until 1641, and which were largely ineffective. It will also consider the rise of the Stationers Company from its foundation as a guild in 1403.

The advent of the new technology resulted in various measures to regulate the printing industry such as statute, proclamations and the Star Chamber decisions. These examples will demonstrate that these measures had limited content control but significant industry control impact.

The regulatory context of the printing trade sets the background for an examination of the way in which the new technology was employed in recording the law on the printed page.

II THE CONTENT CONTROL MODEL: THE CONSTITUTIONS OF OXFORD 1407 AND THE STATIONERS GUILD

The teachings of John Wyclif, his English translation of the Bible and the rise of the Lollard movement in England gave rise to the first structured approach to the regulation of information, and this was on the initiative of the Church. Even though Wyclif was officially discredited in 1382 and he died in 1384 [1] his ideas continued to spread in England by his Lollard followers and in Europe by John Hus. Although England had largely been free of heresy in the fourteenth century [2] the advent of Wyclif, the continuing dislocation of society following the Black Death and the instability of government accompanying the final years of the reign of Richard II encouraged dissent and challenges to established ecclesiastical doctrine [3] allowed the Lollards to continue to disseminate their teachings. The accession of the Lancastrian Henry IV to the throne in

1. Wyclif was buried at Lutterworth but the Council of Constance in 1415 ordered his remains to be exhumed, his bones burned and cast out. This decree was carried out in 1428 by Bishop Robert Fleming of Lincoln

2. The Manichaen movements of the twelfth and thirteenth centuries which threatened the Church in Southern Europe, and which had appeared in Northern France and Flanders made little impression in England. Those heretics found in England were foreigners and had little following.

3. Contained in the Twenty Four Conclusions of Wyclif which included attacks upon the celibacy of the clergy, the miracle of the sacrament, indulgences and the benefits of pilgrimage

1399 was followed by efforts to restore the constitutional authority of the State and the Church.

In order to address religious opposition to the State, to support the Church, and with the support of the authoritative Archbishop of Canterbury, Arundel, the Statute "*De Heretico Comburendo*" was passed in 1401 [4]. The preamble to the Statute provides that it was directed against a certain new sect "who do perversely and maliciously in divers places within the said Realm under the Colour of dissembled holiness, preach and teach these days openly and privily divers new doctrines and wicked heretical and erroneous opinions". The preamble also notes that in addition to preaching, the sect made unlawful conventicals and confederacies, held schools and made and wrote books. Lollardy was a sect that developed a small but potentially influential literature which was seen as a means of transmitting their "heretical" views. [5]

The aim of the Act was to safeguard the Church, the "merit of our Sovereign Lord the King", to eliminate potential dissension and division in the realm so that "this wicked Sect, Preachings, Doctrines and Opinions should from henceforth cease and be utterly destroyed." No one could preach openly or privately without a licence obtained from a Bishop. Ecclesiastical licensing was soon to be extended further.

In addition the making or writing of any book contrary to the "Catholic Faith and the Determination of the Holy Church" was prohibited. There is particular attention to books, emphasizing the importance that the Statute attached to ensuring the elimination of this means of dissemination of Lollard teaching. Anyone having prohibited books or writings was required to deliver them to the "Diocesan of the same place within 40 days from the time of the Proclamation of this Ordinance and Statute", and those who failed to do so were liable to arrest and could be held until "canonically purged."

Bishops were empowered to arrest, imprison and examine offenders. They could deal with the makers and writers of heretical books by open trial in diocesan courts and hand over those who relapsed or refused to abjure to the secular authorities. The condemned were to be burnt "in an high place" before the people "that such Punishment may strike Fear in the minds of other, whereby no such wicked Doctrine and heretical and

erroneous Opinions be sustained or in any wise suffered”.

The passage of the Statute was immediately followed by the execution of William Sawtrey, a London priest who had abjured but relapsed and refused to declare his belief in the doctrine of transubstantiation or recognize the authority of the Church.

The Statute *De Heretico* was the first step in the re-establishment of Church power and was followed in 1407 with a synod at Oxford under Arundel’s presidency which passed a number of constitutions to regulate the preaching, translation and use of the scriptures, as well as the theological education at schools and University. The Constitutions prohibited the translation of the Bible into English, or the teaching or writing of theology by the unlicensed laity, unless it had first been submitted for examination and approval. [6] The Council also provided that censors appointed by the Universities were to be appointed to approve books that were to be copied.

4. 2 Hen IV c.15

5. See generally Hudson, *Anne Lollards and their Books* London, Hambledon Press 1985

6. Clause VII of the Constitutions stated ‘It is a dangerous undertaking, as blessed St. Jerome assures us, to translate the text of the Holy Scriptures out of one tongue into another: for in the translation of the same sense is not always easily kept as the same Saint Jerome confesses that although he were inspired, yet often in this he erred. We therefore decree and ordain henceforward [no] * man hereafter by his own authority shall translate any text of Holy Scripture into English, or any other language, under any form of book, libell or treatise. Neither shall any such book, libel or treatise, made either in Wicliffe’s time or since, be read, either in whole or in part, [publicly or privately, under the penalty of the greater excommunication, till the said translation shall be approved either by the bishop of the diocese or a provincial council, as occasion shall require. Those who offend will be punished as a favourer of heresy and error.”]

HHC - * There is no ‘no’ in Harvey’s text.
This addition seems to better communicate the meaning.
[bracketed] reported on page 163 of original.

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The particular wording of Clauses VI and VII relating to approvals and licensing is important.

Clause VI provides “that no book or tract written by Johnn Wickliff or any other person in Wickliff’s time or since, or who, for the future shall write any book upon a subject in Divinity shall be suffered to be read

either in schools, Halls or any other Places within our Province of Canterbury, unless such books shall be first examined by the University of Oxford or Cambridge or at least by Twelve such persons as shall be pitch'd upon for that purpose by both or one of the Universities, according as ourselves or our successors direct. And after the Examination and Approbation of us, our Successors, and the Parties abovementioned, the said tracts shall be delivered to the Stationers, to be faithfully copied before they are sold, or otherwise disposed of and the Original to be laid up and kept in a Chest of the University” [7]

This clause was clear in its target. Nothing by Wyclif, nor anything written on Divinity since his time should be read in the schools or elsewhere until it had been examined and found to conform with doctrine. In addition, approval had to be unanimous.

Clause VII then goes on to forbid translation of any text of sacred scripture into English, and the ownership of any translation of the Bible made in the time of Wyclif or later without the express permission of the diocesan. This permission would only be given after the translation had been inspected.

“Neither shall any such book, libel or treatise, made either in Wicliffs time or since, be read, either in whole or in part, publicly or privately, under the penalty of the greater excommunication, till the said translation shall be approved either by the bishop of the diocese or a provincial council, as occasion shall require”

Hudson is of the view that a later gloss brings Clause VII into line with Clause VI - any book in Latin or in English dealing with matters of theology or Church affairs may only be used after the archbishop or his appointees had approved it. [8] Of equal significance is the approval regime that is beginning to develop. The concept of licensing of those people who could disseminate religious information in *De Heretico Comburendo* is, by the Constitutions, extended to books about divinity and Holy Scripture. Arundel was determined to limit the dissemination of dissenting opinion and to ensure dissemination of the orthodox view in every way that he could [9].

7. Collier, Jeremy *An Ecclesiastical History of Great Britain* London, Samuel Keble and

Benjamin Took, 1708 - 14 Electronic Reproduction Farmington Hills, Michigan: Thomson Gale 2003 Book VII p.626

8. Hudson, Anne p. 149

9. The Constitutions were not given statutory effect. A.W. Reed *Early Tudor Drama* London, Methuen 1926 p. 161-2, suggests that the Constitutions were sanctioned by Statute in 1410, known as the Statute "Ex Officio" and which provided for books as follows:

"That none hereafter do - make or write any book contrary to the catholic faith and determination of the Holy Church - and further that no man hereafter shall by any means, favour - any such book maker or writer - and that all persons having any of the said books writings or schedules containing the said wicked doctrines and opinions shall within 40 days deliver them to the ordinary of the same place. And if any person do attempt any manner of thing contrary to the statute then the ordinary of the same place in his own diocese by authority of the same proclamation and Statute shall cause to be arrested and detained under safe custody the said person in this case defamed and evidently suspected. And that the said ordinary by himself or his [Commissaries, proceed openly and judicially to all the effect of law against the said persons so arrested."

A review of the Statutes of Henry IV reveals no such statute of 1410. The wording used by Reed is very similar to a part of 2 Hen IV c15 the statute *De Heretico*. This is the same Statute that is referred to as *ex officio* in Foxe's *Book of Martyrs* at page 481 and the wording is remarkably similar to that contained in the text. It may be that Reed transposed the name Ex Officio from Foxe (or the source from which he obtained the quote used Foxe for both name and quote. There is no reference in Foxe to the fact that the statute was passed in 1410. In fact in Foxe, the section on the Constitutions of Arundel follow the text and commentary upon the Statute.]

HHC - [bracketed] reported on page 164 of original.

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In this respect the second part of Clause VI falls into focus and it could well be overlooked. It contains the requirement that once a work had been approved, it had to be delivered to and faithfully copied by the Stationers before it was sold. The Stationers were seen as a reputable organisation which could be entrusted with the task of ensuring that error free and approved copies were made available for public consumption.

III THE EARLY STATIONERS

Who, then, were the Stationers? The Guild of Stationers was a recently formed trade organisation that was later to become pivotal in the development and use of the printing technology in the future. But in 1408 the Guild had been in existence only for a few years.

Books were published prior to the invention of the printing press, although the process was lengthy, the output was very small and the entire process of book production was a manual one. Craft guilds had developed, even for those involved in the book production trade. The writers of Court Hand, text letters and limners had their own separate guilds. On 20 May 1357 it was ordered by the Mayor and Aldermen of London that they should not be summoned as jurors [10] in proceedings in the Sheriffs Courts, a recognition of their status. [11] Manuscript producers had civic recognition as a separate craft in the days of Chaucer and William Longland. [12]

On 12 July 1403 members of the Crafts of Text-letter writers, limners and others who were involved in book binding petitioned the Mayor of London for leave to elect to Wardens of their trades, one a limner, the other a text letter writer. [13] The civic ordinances of incorporation were duly granted. Thus the trade interests of manuscript artists (limners), text-letter writers as well as binders and booksellers in London were brought together and by the 1440's were known as "The Mistery of Stationers". [14]

10. "On inquisitions" is the term used.

11. Stationers Company Letter Book G, folio lxi printed in Arber *Transcript of the Stationers' Registers 1554-1640* Volume 1 xxii (Arber's Transcripts of the Stationers' Registers will be referenced hereafter by volume number and page - e.g. 1 Arber xxii.

12. 1 Arber xxii.

13. 1 Arber xxiii; Blagden, Cyprian *The Stationers' Company - A History 1403 - 1956* London, Allen & Unwin 1960 p. 22. The Wardens elected were sworn before the Mayor that they would oversee the work and behaviour of the members of the Guild in the interests both of the Guild and the City. The Wardens could present "bad and disloyal" men to the Chamberlain at Guildhall for punishment. After Incorporation in 1557 the Stationers were empowered to develop and apply their own disciplinary procedures.

14. Christianson, C. Paul *The Rise of London's Book-Trade* in Hellinga L and Trapp J.B. *The Cambridge History of the Book in Britain - Volume III - 1400 - 1557*, Cambridge, Cambridge University Press 1999 p. 128.

although their appellation as Stationers [15] was known in 1407 by Arundel and those who settled the Constitutions of Oxford. The Guild did not, however, incorporate the Scriveners or Writers of the Court Letter [16]. The Scriveners Guild maintained a separate identity and received its

own Royal Charter of Incorporation from James I on 28 January 1617. This Company, like the Company of Stationers, is still in existence. [17]

The formation of the Guild is important for a number of reasons. It suggests that the book trade was well-developed and sufficiently competitive to make a form of governance desirable. [18] Furthermore it suggests sufficient numbers of artisans and booksellers to justify a Guild, and records suggest that the area surrounding old St Paul's Cathedral had, by the 1390's, emerged as the book-craft area of London. Between 1404 and 1410 shops are recorded as owned by stationers, text-writers, book-binders and limners numbering in total sixteen in a small lane north of the Cathedral Churchyard known as Paternoster Row. Nearby, in the vicinity of Holborn and Chancery Lane were located the literate communities of lawyers, Chancery masters and scribes and who were served by legal scriveners who, by 1373 had formed their own Mistery of Writers of Court letter who also took up residence near St Pau's. [19]

The Guild itself was significant. Guilds were more than simple trade fellowships. They were a significant part of the political life of the City. They acquired significant property and in time the Stationers themselves would have headquarters in Abergavenny House that had formerly belonged to the Earls of Pembroke, and later to the Neville family, on the corner of Ave Maria Lane and Amen Corner which latter street was the termination of Paternoster Row [20].

Guilds also protected crafts and industries. The right to trade in the City was granted only to free men of the guilds and the status of free man had to be earned by a lengthy period of apprenticeship in a livery company. The Guilds provided elected officers to civic posts and thus, having an interest in the affairs of the City, defended its rights as well as ensuring the maintenance of the privileged position of guilds and their members. Those who were not free men of the Guild could not trade under their own name nor operate their own business. To have any chance of a commercial career in London, one had to belong to a Guild. [21]

Although the activities of the Guild were restricted to London they could and did regulate the sale of books beyond the city. In the suburbs and in those parts of the City known as "liberties" which were exempt from City jurisdiction, anyone could practice a

15. Blagden observes that the word *stationarius* was being used in Oxford and Cambridge as early as the thirteenth century and appears in the records of London and York at the beginning of the fourteenth century. It describes a person who has a fixed place of business - a stall holder rather than a hawker. It became attached to members of the book trade first in the University towns and by the fourteenth century the word had general use in London as an alternative to one of the four trades involved in book production - the parchminer who supplied parchment; the scrivener or text writer who wrote the text, the limner who added the illuminations and the bookbinder. The stationer may have been a member of one of these crafts but was principally a shopkeeper who could arrange and co-ordinate the various steps in making a book required by a customer. Blagden, p. 22

16. In 1373 the scribes had petitioned for and had obtained the right to their own organization, the Scribe's Company together with the limners. The limners soon parted company with them to form their own Guild which later became part of the Stationers' Guild.

17. <http://www.scribblers.org.uk/> (Last accessed 7 July 2005). For a short history of the Worshipful Company of Scribes of the City of London see <http://www.scribblers.org.uk/history.htm> (Last accessed 7 July 2005)

18. Christianson supra 128

19. Christianson supra 129

20. Blagden, pp 212 et seq

21. Feather, John, *A History of British Publishing* London, Croom Helm 1988 pp 29 - 30

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trade without guild regulation. However, in the main most of those involved in the trade were in the City of London [22].

This then was the organisation to whom Arundel delegated the production of copies of approved books and it was this organisation, in a much more sophisticated and powerful form, that was to provide one of the arms of the regulatory systems that were used to deal with printed books. Clearly the Stationers were an organisation that had credit. In addition they were centrally located making control and surveillance of their activities easy. The final checking system lay in the deposit of an "authorised" copy in a "chest of the University."

In 1414 legislation was enacted by Parliament directly aimed at the suppression of the Lollards [23]. It was designed to provide a "more open remedy and punishment than hath been had and use in the case heretofore, so that for fear of the same Laws and punishment, such heresies and Lollardries may rather cease in time to come."

The Chancellor, Judges and law enforcement officers were required

to take an oath to use “their whole power and diligence to put out and destroy all manner of Heresies and errors... within the places where they exercise their offices and occupations from time to time” and that they assist the Ordinaries and their Commissaries as often as required by them. They were to enforce those Statutes which had not been repealed for the correction and punishment of heretics. [24] Ecclesiastical officers could proceed against the makers and writers of heretical books in the King’s Courts. The statute thus allowed the enforcement of laws regarding the dissemination of heretical material in the Kings Courts as well as those of the ecclesiastical authorities. [25] In addition a number of penalties additional to that contained in *De Heretico Comburendo* were provided including the forfeiture of land and goods of those convicted of heresy.

Thus a series of Statutes and Constitutions brought together Church and State to ensure control of the writing, possession and dissemination of questionable material regarding religious doctrine. A scheme was put in place for the approval or licensing of that material which could be published and a craft guild, the recently founded Guild of Stationers was charged with ensuring that correct copies were made available. It was this system that formed the basis and model for the all the subsequent regulation of the new information technology that was to be developed by Gutenberg in 1450, the products of which were to trickle into England thereafter, and which was to arrive in Westminster in 1476.

IV THE 1520’S - REVIVAL OF THE CONSTITUTIONS OF OXFORD

Luther had commented that the printing press was the gift of God for the spread of his teachings and by the same token the nature of print itself posed serious threats for the “establishment”. In addition to the wide dissemination of multiple copies, those who received the books and pamphlets were able to read them for themselves and pass them

22. Feather *A History of British Publishing* p. 30

23. 2 Henry V, 1, c.7

24. A clear reference to *De Heretico Comburendo*

25. The clause in the statute reads. “And moreover that the Justices of the Kings Bench, and Justices of the Peace, and Justices of Assize have full power to enquire of all them which hold any errors or , as Lollards, and be their maintainers, receivers, favourers and sustainers, common writers of such books as well of the sermons as of their schools, conventicles, congregations and confederacies.”

on to friends in far greater numbers than had been the case in the scribal culture. In addition the ability to read and absorb material and to contemplate what was written avoided the disputatious nature of a dialogue. Thus ideas spread without answer. Associated with the concerns about maintaining theological orthodoxy were the fears that criticism of the established order would follow fast behind.

Dr. D.M. Loades characterizes concerns about establishment criticism as arising out of the concept of the “body politic” that underpinned late medieval and early modern society where relationships were permanent and foreordained with the King at the head, a situation which reflected the Will of God. Thus, to sow discord in society, setting member against member or a member against the head was not just criminal but an offence against God. [26]. Coupled with this was a developing move towards a dependence upon public authority for the resolution of issues along with strains that were put upon traditional allegiances during the years of Henry VIII and his heirs. The historical circumstances by which the Tudors acquired the Crown in the first place, and the need to bring firm measures to bear against any form of discord and strife lest it revive old challenges to Royal authority meant that as well as establishing a significant propaganda regime there was considerable underlying insecurity for the regime. This, along with the responsibility of the monarch to protect society from disruptive influences leads Dr Loades to suggest that censorship was inevitable. [27]

Certainly, the very advantages that the new technology presented to the regime were also available to its opponents and critics, and there were well-known remedies in place such as *Scandalum Magnatum* that arose from a group of statutes [28]. *Scandalum Magnatum* could be used as an alternative to treason which, in terms of publication, presented some difficulties. Under the definition in 25 Edward III cap 2 (1352) one of three acts were required to establish treason.

1. To imagine or compass the death of the king,
2. To make war against him, or
3. To aid his enemies.

In each case, it was necessary to prove an overt act. Many publications may be critical of the authorities but did not go so far as to qualify as an overt act. Thus it was difficult for traditional treason laws to be used to control the press. [29] Thus in 1534, an Act passed by Henry VIII's Parliament [30] made it possible to commit treason "by words in writing". But at this stage the campaign against the circulation of works which attacked the Church, and by implication the State, was in full swing.

The move towards State control or regulation of printed content commenced in July 1520 with the Bull *Exurge Domine* by Leo X condemning the writings of Luther and ordering their confiscation and burning. In May 1521, Luther's works were burned at St Paul's Cross after a sermon by Bishop Fisher declaring Luther a heretic [31]. However, Lutheran books continued to find their way into England. Cardinal Wolsey

26. Loades, D.M., *The Theory and Practice of Censorship in Sixteenth Century England* 24 Transactions of Royal Historical Society (5th Series) 141 (1974) p. 141

27. Loades (*supra*) p. 142

28. 3 Edward I c. 34 (1275); 2 Richard II c. 5 (1378); 12 Richard II c. 11 (1388) and later 1&2 Philip and Mary c. 3 (1554) and 1 Elizabeth I c. 6 (1559)

29. Hamburger, Philip, *The Development of the Law of Seditious Libel and the Control of the Press*, 37 Stan. L.R. 661 (1985)

30. 26 Henry VIII c. 13 - for a discussion of the development of Henry VIII's Treason Statute see Elton, G.F. *Policy and Police: The Enforcement of the Reformation in the Age of Thomas Cromwell*, Cambridge; Cambridge University Press 1972 especially at Chapter 7.

31. STC 10898

arranged a second book burning in February 1524 and on 12 October 1524 the London booksellers were summoned by the Bishop Tunstall of London and warned against:

"importing into England books printed in Germany or any other books whatever containing Lutheran heresies, or selling or parting with any such books already imported under pain of the law; and further he warned them that should they import new books into England or buy books already imported, provided that these were newly composed and made, they were not to sell or part with *them unless they first showed them either to the*

Lord Cardinal, the Archbishop of Canterbury, the Bishop of London or the Bishop of Rochester” [32] (the italics are mine)

It is clear that by referring to what was effectively the need to obtain an ecclesiastical imprimatur on “new books or books... already imported” but it only applied to books that came in from abroad [33]. At this stage nothing was mentioned about domestically produced books. Bishop Tunstall was invoking the power of ecclesiastical licensing that was instituted in Archbishop Arundel’s Constitutions of Oxford and especially Constitutions 6 and 7. However, 1524 was not the start of this process. Reed notes a licence granted before the publication of Luther’s theses in 1514 by the Bishop of London for a devotional work by Symon which was printed by Wynkyn de Worde. The licence which appears in the colophon of the Treatise reads as follows:

“Here endeth the Treatyse called the Fruyte of Redemption, whiche devoute Treatyse I Rycharde unworthy Bysschop of London have studiously radde and overseen, and the same approve as moche as in me is to be radde of the true Servantes of Swete Jhesu, to theyr grete Conslacyon and ghostly Comforte and to the meryte of the devoute Fader Compunder of the same” [34]

Acting under the authority of the Constitutions of Oxford and empowered by the Statutes of Henry IV and Henry V [35] charges were brought requiring printers to show cause why they had printed certain works. In October 1525 Wynkyn de Worde and John Gough were summoned to answer in respect of a book entitled *The Image of Love* which was alleged to contain heretical matter and in March 1526 Thomas Berthelet was required to explain the publication of three works of Erasmus. There was no issue of heresy and Berthelet’s error was technical in that he had failed to produce his copies before the consistory and although there was no questionable content, the absence of a licence was sufficient for Berthelet to be at fault and he was admonished [36]. However, the presence of a licence did not of itself ensure that the content would be approved. In 1633 William Prynne printed *Historio-mastix* which had been properly licensed.

Retrospectively the Court of Star Chamber determined that the license should not have

32. Reed p.165-6

33. Reed p. 166. It is noted in Bennett, H.S. *English Books and Readers - 1475 – 1557*, Cambridge, Cambridge University Press, 1952 that Reed suggests that after the 1524 admonition no new book whatever was to be printed without authority and unless approved by the Church. And that “for the first time in England the printer was restricted in the choice of what he should print (1 Bennett *supra* 33). With respect that is not a good reading by Reed nor is it what was recorded in the transcription of the notes of Richard Foxford, Vicar-General of London upon whom Reed relies. Reed makes it clear that the “monition says nothing of the licensing of books produced at home”.

34. Reed *supra* p. 163

35. Vide *supra*

36. Bennett, H.S., *English Books and Readers - 1475 – 1557*, Cambridge, Cambridge University Press, 1952, 33-34) - in future Bennett’s references will be by volume. Volume 2 (1965) covers the period 1558 - 1603. Volume 3 (1970) covers the period 1603 - 1640 Volume - hence 1 Bennett 33 - 34; Reed 166-170.

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been issued, Prynne was pilloried and both his ears were cut off. The existence of a licence did not prove to be a complete shield. The absence of a licence for printed books rendered one liable to answer before the authorities.

Despite what appears to be a considerable amount of activity on the part of the Church, printed material still circulated, some of it printed locally and much of it imported. Copies of Tyndale’s *New Testament* were coming into England in large quantities. In 1528 a London stationer named Van Ruremond caused 1500 copies of Tyndale to be printed in Antwerp, 500 of which were imported and was required to abjure in 1528 [37]. This would have been of concern to the authorities in light of a second admonition to a number of booksellers (of which Van Ruremond was not one). On 25 October 1526, 31 booksellers appeared before the Bishop of London and his pro-registrar and they were warned against selling, directly or indirectly any books containing “Lutheran heresies” in Latin or English. They could not print nor cause to be printed “any other works” whatever, except works previously approved by the Church, unless they exhibited them before the Lord Legate (Wolsey), the Archbishop of Canterbury or the Bishop of London. “Exhibiting” the books was a shorthand way of saying that the book had to be presented for approval by way of license

before printing. The booksellers were warned that they could not import any book or works redacted in Latin or English (the vulgar tongue) that had been printed overseas, nor could they buy up and resell any imported books unless they exhibited them to the authorities. Failure to abide by this admonition would expose them to “pain of suspicion of heresy” [38].

The admonition and the threatened penalty for non-compliance demonstrates how seriously the ecclesiastical authorities viewed the printing and distribution of printed matter. Although their primary concerns were with Lutheran writings, their interest in Tyndale’s English translation was a continuation of the control of the dissemination of vernacular scripture that was the object of the Constitutions of Oxford 1407. The restrictions that were imposed were more extensive than those of 1521, demonstrating a heightened concern by the authorities and indicating that earlier measures were not effective. Most significantly it brings the printing and sale of all books which had not been approved, whether of English or foreign origin, under the control of the ecclesiastical licensing system. The basis for the authority of the Church derived from the Statute *De Heretico*, the provisions of the Constitutions of Oxford and the subsequent Statute of 1414 which effectively was a conformation of the power of the Church to use the Court to prosecute offenders. If the threat of “suspicion of heresy” was not enough, the Church could utilise the Courts to enforce its decrees.

The Stationers were charged with making the faithful copies under the Constitutions of Oxford and were perceived as a reliable organisation for this purpose. It is ironic, therefore, that of those who were summoned to Bishop Tunstall’s admonition in October 1526, most were members of the Stationers Guild and many were later to achieve high status in that organisation. Included among them were Richard Pynson, Robert Redman [39], Thomas Bartlett (Berthelet) [40] and Master Rastell [41]. They were not summoned in their capacity as member of the Guild but as members of book trade,

37. 1 Bennett p. 34.

38. Reed p. 173 – 4.

39. Who later printed the *Great Boke of Statutes* 1530 - 33 the first printing in English of the pre-Tudor *Nova Statuta* (1327-1483), in “our tonge maternall”.

40. Of all the early Tudor printers, it is Berthelet’s name that is exposed to a number of

different (and potentially confusing) spellings

41. John Rastell, who published his statutory abridgement in 1519 and who, in 1525, published the first English translation of Littleton's *Tenures*. He is distinguished as a lawyer in the list by use of the honorific and by the fact that his name is noted last, and is not in alphabetical sequence

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although Henry Pepwell and Lewis Sutton (named in the list as Nichas Sutton) were Wardens of the Company at the time. However, they are not noted not distinguished as such on the list so it can be assumed they were present in other than an official Guild capacity.

There was only one recorded inquiry under the 1526 admonition involving a printer named Robert Wyer. Wyer had translated and printed a work entitled *Symbolum Apostolicum*. He acknowledged that he was aware of the admonition, and in contempt thereof (*in ridiculum eiusdem*) [42] had printed the book nonetheless and without a licence. He was required to appear before the Vicar-General and exhibit all such books in his possession and return the rest that had been sold. When Wyer next appeared he exhibited 29 books containing *Symbolum*

It can be observed, therefore, that 50 years after the introduction of the printing press to England, the initial control of the dissemination of printed material was in the hands of ecclesiastical authorities whose principle objective was to stop the spread of Lutheran materials and vernacular Bibles but who extended their reach to cover all books, locally printed or imported. The method of control was to require that a copy of a book should be submitted for approval (exhibited) to the Lord Legate, the Archbishop of Canterbury or the Bishop of London. Clearly not every book would receive the personal attention of these individuals, and would probably have been "vetted" by members of their staff. The work could be printed if it was approved. The method of indicating approval was haphazard. Some books contained the approval as a part of the colophon. Many did not. But ecclesiastical licensing was shortly to be overtaken as the interests of the Henrician establishment in the utilisation and control of the printing press came to the fore.

V THE ACT FOR PRINTERS AND BYNDERS OF BOKES 1534

The use of statute to regulate the printing trade was directed

primarily towards industry regulation rather than content regulation. Certainly there were statutes which prohibited the use of writing or printing as a means of expressing or as a constituent of heresy or treason [43], but these pieces of legislation had a goal other than the regulation of the printing trade.

In 1534, the Parliament of Henry VIII passed an *Act for Prynters and Bynders of Bokes*. Siebert [44] contends that this Act was part of a continuing arrogation of control assumed by the State over the printing trade, but it is suggested that it was part of a continuing concern that the state had regarding the way in which the trade was carried on in England. Nor was there any need for novel steps to assert state control over

42. Reed suggests that this phrase may mean that the book itself was a parody, but favours it as an expression of contempt for the admonition. If the work had been a parody it would not have been noted as “containing many errors” which suggests that the work, as a translation of the original, was inaccurate as well as unlicensed.

43. See for example the Treasons Act 1534 which provided “if any person or persons ... maliciously wish, will, or desire, by words or writing, or by craft imagine, invent, practise, or attempt any bodily harm to be done or committed to the king’s most royal person ... or slanderously and maliciously publish and pronounce, by express writing or words, that the king our sovereign lord should be heretic, schismatic, tyrant ... [they] shall suffer such pains of death and other penalties, as is limited and accustomed in cases of high treason.”

44. Siebert F. S. *Freedom of the Press in England 1476 - 1776* Urbana, University of Illinois Press 1963 30 - 31

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printing. The prerogative had always claimed an interest in and an ability to control new inventions for the benefit of the community, and printing was no exception. The appointment of Royal printers by Henry VII and the grants of letters patent enabling the exclusive privilege to a certain printer to publish and certain title of class of titles was an established exercise of the prerogative that needed no added justification.

Most of the statutes dealing with the activities of aliens and denizens in industry in England in the early fifteenth century can be seen as protectionist, ensuring the interests of locally born workers, trades and craftsmen over and above those of aliens. A decree in 1528 which was confirmed by legislation in 1529 [45] prohibited aliens keeping more than two alien servants and any new shops, but it did allow foreign craftsmen to take native born apprentices. The import is clear. The decree prohibits the

continued development of foreigners in trade, but at the same time it allows for the training of native born apprentices, so that in time English craftsmen would replace foreigners. It is also illustrative of a pragmatic approach to the introduction of new crafts and technologies from overseas. Printing is a specific example, but it is clear that to remain competitive, England had to keep up with developments and innovations on the Continent. Necessarily this required the presence of foreigners to introduce the new crafts, technologies or knowledge to England and to set up the new trade. In the course of time local born craftsmen would be trained and could assume responsibility for the continuation of the new craft through the medium of trade or craft guilds. Although the 1528 Decree and the 1529 Act were not directed specifically at printing, and were general in their application, it is clear that printing would have been affected.

It was in 1534 that the local printing industry had reached a point where it could manage without the continued presence of foreign craftsmen and that there was a need for the protection of the natural born tradesmen. This is made clear in the preamble to the statute which states:

“Where As the provysyon of a statute made in the fyrst yere of the reign of Kynge Richarde the thirde it was provyded in the same acte, that all strangers reparyng into this Rcalme myght lawfully bryng into the seid Realme pryntyng and wrytyn bokes to sell at their libertie and pleasure; by force of which provysyon there hath comen into this Realme sithen the makyn of the same a marveylous nombre of pryntyng bokes and dayly doth; And the cause of the makyn of the same provysion semeth to be for that there were but fewe bokes and few prynters within This Realme at that tyme which cold well exercise and occupie the seid science and crafte of pryntyng; Never the lesse sithen the making of the seid provysion many of this Realme being the Kynges naturall subjects have geven theyrne soo dylygently to lerne and exercvse the seid craft of pryntyng that at this day there be within this Realme a greatt nombre connyng and expert in the seid science or craft of pryntyng as abyll to exercyse the seid craft in all pynts as

any Stranger in any other Realme or Countre; And furthermore where there be a great nombre of the Kynges subjects within this Realme which leve by the crafte and mystrie of byndygne of bokes and that there be a great multytude well expert in the same; yet all this not withstondyng there are dyvrse personcs that bryng frome [behonde] the See great plentie of pryntyd bokes not only in the latyn tonge but also in our maternall englishe tonge, soinne bounde in bourds some in lether and some in pnrchement and theym sell by retayle, whereby many of the Kynges Subjects being bynders of bokes and havyng none other facultie wherewith to gett their lyvyng be destitute of worke and like to be undone, except somme reformacion here in be hade...

The Act repealed an exemption that had been made for foreign printers contained in a proviso in an Act passed in the first year of Richard III and further provided

45. 25 Henry VIII c 16 *An Act Rating a Decree made in Steere Chambre*

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1. that no book bound in foreign parts could be sold in England,
2. no person could buy from a foreigner in the retail trade any book brought from beyond the sea,
3. and that steps could be taken against any printer or bookseller who, taking advantage of the act, set unreasonable prices for his books.

This legislation was the culmination of events which had started with the introduction of the printing press to England, the enthusiasm with which the new technology was adopted, and the value that was perceived both for the State and the community arising from the new communications technology.

VI THE STATUTE OF KING RICHARD III

After Gutenberg's introduction of the movable type printing press in 1450, the printed word gradually spread. Printing presses were established in cities in phases, spreading outward from a centre located in central Germany. The first phase, in the 1460's saw printers established in

Switzerland, France and the Netherlands. The 1470's represented the second phase and by 1473, printers were established in Budapest, Cracow and Barcelona [46]. The introduction of the press into England by Caxton in 1476 was part of the second phase. It is not surprising that it took as long as it did for the first printing press to be established in England. It has been suggested that a number of factors contributed to the delay in the introduction of the press. England was at a low point following the reverses of the latter phases of Hundred Years War and the Wars of the Roses. She was at the edge of Europe, isolated by the sea and by her "obscure and virtually unknown language" [47]. The University at Oxford, once recognized along with Paris and Bologna, had fallen into obscurity, and the intellectual ferment that had developed in northern Italy had not had a dramatic impact upon the cultural life of the kingdom.

This is not to say that printed books were absent from England before Caxton. One of the unique characteristics of print referred to by Eisenstein was ease of dissemination, and the movement of printed material to England was no exception. A reading public seeking religious works, text books and literary works in prose and verse was available supported by a flourishing book trade that had its own Guild. Books were purchased in Europe and imported into England and some European printers published books in English for the English market [49]. In 1465 James Goldwell, Dean of Salisbury is known to have purchased a printed book in Hamburg [50]. Booksellers may have gone to Europe themselves to buy stock or more frequently relied upon agents who traveled to and fro across the Channel and were aware of the needs of the British market [51].

46. It was not until the 1480's that printers were in Scandinavia - Denmark in 1482 and Sweden in 1483.

47. Feather, John, *A History of British Publishing*, p 8-9

48. 1 Bennett, p 10 and for comments on the literate public see p. 24

49. Armstrong, *Elizabeth English Purchases of Printed Books from the Continent 1465 – 1526*, HER 94 (1979) pp 268- 90; *The Breviary of the Use of Sarum*, (STC 15794) a unique Latin version of the Western liturgy, was printed in the Southern Netherlands in 1475 and could only have been intended for the English market.

50. Feather, John, *A History of British Publishing (supra)* p. 9

51. 1 Bennett p. 23 . Bennett records that the Oxford bookseller, Thomas Hunte in 1483 dealt with Master Peter Actors and John of Aix-la-Chapelle

Caxton's translation of the French Romance *Recueil des histories de Troie* was made at the request of Margaret, Duchess of Burgundy, sister of Edward IV in 1468, and was printed under the title *Recuyell of the histories of Troy* in either Louvain or Bruges. This was the first printed book to be published in the English language. Caxton printed four other books in the Netherlands and returned to England in 1476 where he set up his printing shop in the precincts of Westminster Abbey.

Caxton's printing press was patronized by the powerful of the realm. In 1477 he published *The Dictes or Sayengs of the Phiosophres* which was a translation by Earl Rivers, given to Caxton to look over and correct and which was printed at the Earl's command. *Jason* was presented to the Prince of Wales, and in doing so, Caxton was obviously seeking the favour of Edward IV. Similarly in 1481 he presented his edition of *Tullius of Olde Age to the King*.

It cannot be said that the advent of the new technology of mechanical writing was universally welcomed. In an early example of an attempt to use the Court to address the threats imposed by the introduction of a new technology, in the 1480's one Philip Wrenn, a stationer, in a complaint in a petition to Chancery claimed that "the occupation ys almost destroyed by printers of bokes". Christiansen suggests that there is perhaps some hyperbole in the pleading which although premature was prophetic [52].

The early history of print in England up until 1513 is characterized by an absence of native born English printers, with the exception of Caxton. The majority of printers were from other countries [53]. This was not unusual in the early history of the spread of the new technology. As the printing press spread through Germany, German craftsmen took it to other countries and in doing so passed on the skills of the craft to the natives of the new country, who in turn took the new craft with them to other countries. Theodoric Rood from Cologne established his press in Oxford in 1478, possibly at the invitation of members of the University. John Lettou, of Lithuanian origin, established himself in the City in 1480 and in 1482 was joined in partnership by William de Machlinia, a native of Mechlin in Flanders. Together, in 1482, they published the first English law book *Tenores Novelli*. Richard Pynson and William Faques were

Normans and John Notary was probably French.

However, English authorities were often concerned at the impact that aliens had upon trade and commerce in England and often steps were taken to limit foreign dominance of aspects of trade important to England. Foreigners were divided into two categories - aliens and denizens - and in any new regulatory activities dealing with foreign trade it was against the aliens that the steps were initially taken. Denizens, who were foreigners who had been admitted to residence and who had certain rights [54], may find themselves restricted in their activities.

So it was that in 1483 Parliament petitioned Richard III to address grievances against Italians [55] who, it was claimed were price fixing, [56] buying up imported goods and re-selling them, sending their profits overseas “to the great hurt of your said Highness in lesyng of your Custume and to the greate enpoverishing of your seid subgiettes” and

52. Christianson, C. Paul p.139.

53. Bennett suggests that two thirds of all persons residing in England connected with the book trade between 1476 - 1535 were aliens, 1 Bennett p. 30.

54. 1 Bennett p. 30.

55. 1 Ric 3 c.9. Those against whom complaints are made are Merchants Strangers of the Nation of Italy, as “Venetians, Janueys (Genoese), Florentynes, Apuleyns, Cicilians, Lucaners, Cateloyns and other of the same Nacion”.

56. They “take warehouses and cellers and therein put their wares and mechaundises the which they bring into this your Roialme, and theym in their said warehouses and cellars deceivably pak medle and kepe unto the tyme the process thereof been greatly enhanced for their most lucre”.

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bringing in other foreigners to work with them. There was a specific grievance at the buying up of wool and woolen cloth which again was resold “to their most advantage, and moche of the said Wolles they delyver unto Clothiers therof to make Clothe after their pleasures;” and the practice of foreigners to undertake “easy occupacions” as well as importing goods and selling them in fairs and markets as well as by retail, undercutting local prices. To make matters worse, the foreigners of whom complaint was made would not employ “any of your subgiettes to werk with theym but they onely take in to their service people born in their owne countries”. As a result, the King’s subjects were unemployed and

had turned to idleness and “for lack of Occupation [had] been Theves Beggars Vagabundes and people of vicious lvyng, to the grete trouble of your Highnesse and all youre said Realme”. It was claimed that the inhabitants of “Citees Burghes and Townes in late daies have fallen and dailly falle unto grete poverty and deokay”.

The remedies sought were that Italian merchants who were not denizens should sell their imported stock in gross (wholesale) and not by retail to English subjects “before the feste of Ester next comynge”. Any future good imported were to be sold and the proceeds employed in England and not sent overseas. After a set time, unsold goods were to be removed from England.

There were further restrictions. Alien merchants should not be hosts or guests of one another unless they came from the same country. Italian merchants were prohibited from selling any wool or woolen goods within England, nor deliver wool to make cloth. No person, unless a native born Englishman or denizen could, after a certain time, occupy a house with another alien unless as a servant to the subject of the King, and if not they were required to depart to their own countries. However, this statute, designed to severely regulate the conditions under which aliens could trade in England contained a significant proviso which reads as follows:

“Provided alwey that this Acte or any part thereof, or any other Acte made or to be made in this present Parliament, in no wise extende or be prejudiciall any lette hurte or impediment to any Artificer or merchant straungier of what Nacion or Contrey he be or shal be of, for bryngyng into this Realme, or sellyng by retails or otherwise, of any man’s bokes written or imprinted, or for inhabitynge within the said Realme for the same intent or to any writer lymper bynder or imprinter of suche bokes as he hath or shall have to sell by wey of merchaundise, or for their abode in the same Reame for the exercising of the said ocupacions; this Acte or any parte therof notwithstanding”

This is a most significant proviso. It has been suggested that its inclusion was at the behest of John Russell, a bibliophile and member of the King’s

Council, possibly influenced by the marketing activities of Peter Actors who was an importer of books and who had been a supplier of books to the principal fairs with his partner Joannes de Aquisgrano [57].

The importance of the proviso may be summarized as follows. First, it indicates quite clearly that a value was placed upon books and that there was a recognition of the importance of the newly introduced craft of printing which was new and relatively poorly developed in England. Clair suggests that in 1485 the Renaissance had hardly touched England, and that there was little available in print that would interest a serious Humanist. The classics had to be procured abroad and it was not until 1540 that a Greek book appeared from an English printing press [58]. Secondly, it ensures that the continued

57. Clair, Colin *A History of Printing in Britain*, London, Cassel, 1965 p. 104; Christianson *supra* 137.

58. Clair p. 104.

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and future presence of foreign craftsmen who were skilled in the new technology would be encouraged to come to England and continue to develop the trade. Thirdly, although this was a most important encouragement for printing, the proviso also extends to writers, limners and binders - those involved in the scribal production of books. Thus the encouragement is for book production generally, and it is probable that the Stationers' Company, which represented native craftsmen and shopkeepers, must have approved of this specific exclusion. [59]

A recognition of the developing importance of print in government came in 1485 when, on 5 December, Peter Actors, an early beneficiary of the proviso, was appointed Stationer to King Henry VII. His patent was a valuable one and is the first example of a system of prerogative licensing privileges that were subsequently to be granted to printers. The grant provided Actors with

“license to import, so often as he likes, from parts beyond the sea, books printed and not printed anywhere in the kingdom and to dispose of the same by sale or otherwise, without paying customs etc thereon and without rendering any accompt thereof.” [60]

Henry VII utilized print for propaganda purposes and was the first monarch to do so, but he also recognized the importance of print for the purposes of promulgating the law. In preparation for a military campaign in France in 1492, every officer was issued with a printed copy of a booklet entitled *The Ordenaunces of Warre* [61]. It was one of the first publications to recognize the preservative powers of print, the wide dissemination that the new technology allowed, and the advantages that it provided in the promulgation of law, and served as a model for subsequent government publications [62]. The wording of the purpose of putting the Ordinances in print reflects a combination the traditional means of announcing law which was by verbal proclamation along with the extended reach allowed by dissemination in the technology of print.

“and to thentent they have no cause to excuse them of their offences by pretense of ignorance of the saide ordenances, his highnesse hath ovir and above the open proclamacion of the saide statutes communded and ordeyned by wey of emprynte diverse and many several bokes conteignyng the same statutes to be made and delivered to the capitaignes of his ost charginge them as they wyl avoyde his grete displeasure to cause the same twyes or ones at the lest in every weke hooly to be redde in the presence of their retinue.” [63]

Up until the 1520's there was a relatively unregulated market for printers and for printed books. The craft grew by leaps and bounds. The five printers in London had grown to thirty-three printers and booksellers by 1523 and the English market was becoming less dependent upon imported material [64]. John Rastell began printing in 1513 and was joined thereafter by a growing number of English printers.

The importance of printing and its status continued to be recognized by the Crown. The position of Stationer to the King occupied by Peter Actors was, upon his

59. Blagden, p. 24.

60. Clair, p. 105; Christsianson, *supra* p. 137.

61. Printed by Richard Pynson STC 9332

62. Neville-Sington, Pamela, *Press, Politics and Religion* in Hellinga and Trapp (eds) *The*

Cambridge History of the Book in Britain, Cambridge, Cambridge University Press 1999, p. 578.

63. STC 9332.

64. Clair. *Supra* p. 105

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death, transformed to that of Printer to the King and was first occupied by William Faques in 1503. He was followed in that position by Richard Pynson in 1508. In 1512. [65]

The office of King's Printer was not an honorary one, but became a tool of Government. It has already been noted that Henry VII saw the propaganda advantages of the new technology as did his son. The King's Printer was granted the exclusive right to print all official publications and by 1512 Wolsey had ensured that all Government legislation by Proclamation or Parliamentary Statute, and whether it concerned trade, apparel or religion, was made widely available and in an accessible and authoritative form [66].

The importance of an informed public improved the potential for law compliance and law enforcement. No one could claim ignorance of the law if the law was well publicized and available and in a form that had the imprimatur of the State. By granting a monopoly for publication of such material the State was ensuring that there was one authoritative version. This system displays a remarkable insight into the implications of the new technology. On the one hand the disseminative properties of printed material are recognized. Large numbers of identical publications may be readily spread throughout the Kingdom. On the other hand it was recognized that the new technology did not produce identical copies no matter whose press they came from. There was variation not only in printing style and format but in the quality of product. By restricting publication to one printer the State could ensure that there was one authoritative version which would thereby ensure consistency and reliability of content.

VII PROTECTIONISM AND THE PRINTING TRADE

However, it was in the early sixteenth century that restrictions began to be imposed upon those involved in the printing trade. These restrictions gradually began to erode the special position occupied by printers in 1484

and reflect certain economic concerns that were being felt by the State about the condition of the English labour market.

In 1515 the first of series of restrictive measures dealing with foreigners was passed which declared that a double subsidy was to be paid by all denizens. Although this was not directly aimed at the printing trade it would have had an effect given that two thirds of those involved in the trade between 1476 and 1535 were aliens [67]. This was followed eight years later in 1523 by an Act "*Concerning the Taking of Apprentices by Strangers*". All aliens born using any manner of handcraft in the City and its immediate neighbourhood had to be subject to the rules of the appropriate Company. Thus every alien was under the supervision of the Warden of his craft. Apprentices had to be of English birth and no more than two foreign journeymen were allowed to be employed in the one printing house. Thus this legislation did away with foreign apprentices and ensured that future members of the printing trade would be native-born Englishmen. In 1529 further legislation extended the provisions of that of 1523. Even though aliens might be carrying on their craft in the suburbs (beyond the City) they were required to pay quarterly dues nonetheless and "undenized aliens" - those who had not taken out letters of denization enabling them to live and trade on an equal footing with native born Englishmen - were unable to set up a business or carry on any

65. 1 Bennett, Pge 38.

66. Neville-Sington, pge 605-6.

67. 1 Bennett 1 , p 30; Chrsitianson p. 140;

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handicraft [68]. In addition by legislation no new printing press could be set up by an alien although those established at the date of the legislation could continue to print.

In 1534 was passed the last of what could be termed the trade regulatory provisions that had an impact upon printers. Whereas the legislation of 1515, 1523 and 1529 was generalized and impacted upon printers along with other aliens engaged in trade in England, the 1534 legislation was entitled "*An Acte for Prynters and Bynders of Bokes*" [69] The preamble demonstrates the changes that had taken place since the Act of 1484.

“Sithen the making ofn the seid provision many of this Realme, being the Kynges naturall subjects, have geven theyme soo dylygently to lerne and exercise the seid craft of pryntyng that at this day there be within this Realme a great nombre connyng and expert in the seid science or craft of pryntyng as abyll to exercise the seid craft in all poyntes as any Starnger in any other Realme or Countre.” [70]

All the exceptions in the 1484 legislation were withdrawn. It was an offence to buy a book retail from an alien or to buy a book which had been bound abroad. Denizens, however, were not included in this prohibition. Aliens could only sell their stock to an English-born printer or stationer [71].

The impact of this was significant. Native born printers were establishing their market dominance, aided by the Stationers Company and the Crown. Indeed, Blagden suggests that the 1534 Act was as a result of representations from the Stationers Company. Company Officers took action, less than three years later against the importation of bound books, Bibles, by Francis Regnault of Rouen and Coverdale, who was overseeing the publication wrote to Cromwell accusing the Company of ruining Regnault’s business.

Blagden sees the legislation in the context of the activities of the Stationers and being predominantly at their behest, but there were other factors motivating the restriction of printing books to “the Kynges naturall subjects” and that all has to do with the ability to control the dissemination of printed material.

The printing press and its content, which had been free from direct regulation since its introduction in 1476 was now going to be subjected to sustained attempts to impose stringent controls by the State. It is at this point that the focus of the story shifts to the content of the printing press and the regulatory structures that were put in place address this aspect. The reality of the matter was that the problem was not so much the content or what was printed, but the underlying nature of the new technology that the regulators failed to recognize. Indeed, without the printing press, it is doubtful that the various steps that were taken to control the dissemination

of written material would have been necessary and although there was an awareness of this fact it took some time for a system to be put in place that addressed the printing press as a source of questionable content.

68. Clair 105-106; Bennett, 1p. 31; Blagden p. 27 -28; Loades p. 145.

69. 25 Hen VIII cap 15.

70. 25 Hen VIII cap 15 - Hellinga L and Trapp J.B., *The Cambridge History of the Book in Britain* - Volume III -1400 - 1557 , Cambridge, Cambridge University Press 1999 Appendix 608 – 610.

71. Clair 105-106; 1 Bennett, p. 31; Blagden p. 27 -28; Loades 145.

VIII THE PROCLAMATION OF 16 NOVEMBER 1538

Background

The history of the use and regulation of print in the reign of Henry VIII demonstrates an uncomfortable conflict. The Crown could see that the new technology had extraordinary advantages and potential for ensuring the dissemination of State material be it propaganda, legislative instrument or proclamation. The ability to distribute multiple identical copies in a form more lasting than the spoken word or a reading in a marketplace had advantages in developing and enforcing a common policy. It meant that State power could be centralised and more effectively administered, a high priority for all the Tudor monarchs. The problem was that the new technology could also facilitate the spread of views that were not consistent with State policy or objectives and, as the Reformation made its way into England further levels of dispute and conflict were to become apparent.

However, there were aspects inherent in the new technology that were developed and utilised by the State. Revenue legislation involving the collection of subsidies [72] were of limited duration, and to maximise the revenue collected, the statute and the necessary documentation to enable collection had to reach the commissioners, Royal agents and Justices of the Peace quickly. To enable collection of the subsidy, forms were printed [73] with blank spaces to fill in names and details [74] although such forms had been present in the manuscript period [75]. Neville-Sington suggests that the model for these early bureaucratic forms was the indulgence which provided blank spaces for the name of the buyer and the date of purchase.

A feature of the documents is that they were the first to have double-spaced text [76] and this format would be used in the printed proclamations and would change their appearance. The original size of a proclamation was roughly equivalent to the modern A4 but by 1526 this had doubled to accommodate double spacing. The advantage of double-spaced text was that the proclamation upon being posted could be read easily, in addition to be announced or “proclaimed”.

In the reign of Henry VIII a steady and increasing stream of such proclamations were issued. Their effectiveness was limited by their very nature. They were inferior to statute and to common law. Elton defines them on the basis of what they could not do:

“They could not (and did not) touch life or member; though they might create offences withy penalties, they could not create felonies of treasons. Nor could they touch common law rights of property... proclamations covered administrative, social and economic matters - though they included religion, as the sphere of the supreme head’s

72. Subsidies, a special form of funding, were the idea of Wolsey and their first use occurred in 1512 to raise money for an offensive against France. 4 Henry VIII c 19

73. In the form of broadsides.

74. A summons to aldermen of London to appear and supply information in connection with the 1512 subsidy was printed by de Worde in 1513 (STC 7764). Two other documents setting out the information to be given by commissioners (STC 7766) and ordering certification of the names in each ward of London (STC 7767) were printed by Pynson in 1515.

75. See Slavin, Arthur J “*The Gutenberg Galaxy and the Tudor Revolution*” in Tyson, G.P. and Wagonheim, S.S. (eds) *Print and Culture in the Renaissance London*; Associated University Press, 1986.

76. The printing term is “leaded text” which was common in the school books of the period.

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personal action - but never matters which both the judges and Parliament would regard as belonging to law and statute.” [77]

Proclamations had no force in the common law courts and relied on whatever administration provisions were provided within the proclamation itself for enforcement. The basis of a proclamation from the point of view

of legal authority and process is described as a public ordinance issued by the monarch by virtue of the royal prerogative with the advice of the Council under the Great Seal and by royal writ [78].

The traditional view limits the legal effect of a proclamation to:

1. publication or enforcement of an existing statutory or common law;
2. formal announcement of a royal act;
3. enforcement of the Crown's rights in feudal contracts; and,
4. temporary regulation or injunction based on a recognised crown prerogative [79].

Hughes and Larkin observe that of the 388 proclamations of Henry VII, Henry VIII and Edward VI, 41 directly enforced existing statutes, and 118 cited statutes of the realm in the body of the document. From this it is concluded that early Tudor proclamations implemented and supplemented rather than supplanted existing statutes [80].

But what of the balance? Hughes and Larkin point out that indicia of “legislative purpose” appear in the structure of the document, backed by a “literary form psychologically gauged to elicit from the subject and obedient response, favourable to the interests of the Crown”. [81] There is no doubt that they lacked Parliamentary authority and concealed their legislative intent under the guise of their presentation of the crown's case to the immediate interests of the English subject and the English commonwealth.

Statutory enforcement of proclamations was addressed in the 1539 *Statute of Proclamations* which ordered that proclamations (of the traditional type, unable to impose the death penalty or forfeiture of goods) should be obeyed as “though they were made by act of parliament” and appointed machinery for their enforcement. There was never any intention of replacing statute by proclamation or of legislating without the consent of parliament; no one intended to wipe out the vital differences in standing and sanctity between the two. The act was simply meant to resolve such doubts as Thomas Cromwell himself had felt about the legality of any proclamation not grounded upon statute. Its practical significance lay in the clauses for its enforcement. Almost certainly Cromwell intended

originally to let the common-law courts enforce proclamations [82].

However, although there was a specific provision in the Statute that was intended to protect the rights of the subject under common law, a number of the early Tudor royal proclamations contain the death penalty [83]. Hughes and Larkin summarise the position of the Tudor Royal Proclamation as follows:

77. Elton, G.R. *Tudor Constitution - Documents and Commentary*, Cambridge, Cambridge University Press 1960, p.22.

78. Hughes, Paul L and Larkin, James F., *Tudor Royal Proclamations: Volume 1 - Early Tudors (1485-1553)*, New Haven, Yale University Press, 1964, p. xxiii - referred to by volume number, e.g., 1 Hughes and Larkin p. xxiii. Proclamations are referred to by Proclamation Number.

79. Holdsworth W.S., 4 *History of English Law*, London: Methuen p 99; 5 *History of English Law*, p 303; Steele, R.R., *Bibliography of Royal Proclamations of the Tudor and Stuart Sovereigns*, New York, Burt Franklin p ix-xxiv; lxxv- xcl.

80. 1 Hughes & Larkin p xxv – xxvi.

81. 1 Hughes & Larkin (*supra*) xxvi

82. Elton, G.R., *England Under the Tudors*, London, Folio Society 1997 pp 168- 9.

83. Two from the reign of Henry VII, 5 from the reign of Henry VIII including one proclaimed in 1539 and four from the reign of Edward VI.

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“The structural pattern of the early Tudor proclamations reveals them as stressing the King’s sovereign authority, issuing unmistakable public commands on the grounds of the common good, and enforcing these legislative orders by means of penalties which include fine, forfeiture, imprisonment, corporal punishment, mutilation and death. All this adds up to the presence in these documents of determined legislative intent on the part of the crown. Their immediate consequences in vital areas of English life make it difficult to avoid the conclusion that these documents have the full effects of law as well” [84].

It is by proclamation, rather than by parliamentary statute that the early Tudor monarchs claim sovereignty [85], pronounce treasons, [86] and forfeitures of land and goods [87]. In addition there are proclamations

of war, [88] truce [89] and peace [90] and alliances with foreign powers [91]. Royal proclamations were used extensively and more effectively than statute for economic issues, especially involving coinage, the prices of commodities, and licenses and monopolies for among many other things the export of grain [92] and the import and sale of French and Gascon wines [93].

Proclamations and Printing

In addition, the Tudor Royal Proclamation was used to regulate printing. This was done directly and indirectly. Direct examples may be found as follows:

1. prohibiting the printing of any book without the license of the King's deputies [94];
2. prohibiting the printing of any book unless it contains the names of the author, printer and the date of printing [95];
3. authorising Cromwell to approve one Bible in English [96];
4. granting a monopoly for printing to one Anthony Marler [97];
5. outlawing the translation of Tyndale [98]; and,
6. granting an exclusive licence for printing the authorised *English Primer* to Richard Grafton and Edward Whitchurch [99].

Indirect examples that impacted upon the printing industry and book trade addressed content.

1. Enforcing Statutes against Heresy; Prohibiting Unlicensed Preaching and Heretical Books [100]. This proclamation refers to the earlier enactment of “many devout laws, statutes and ordinances for the maintenance and defence of the... faith” implicitly referring to 2 Henry IV c 15 and 2 Henry V c 7 and

84. 1 Hughes & Larkin (*supra*) xxix.

85. 1 Hughes & Larkin Proclamations 5, 208, 275.

86. 1 Hughes & Larkin Proclamations 8, 41, 161 339.

87. 1 Hughes & Larkin Proclamations 41, 59, 339.

88.1 Hughes & Larkin Proclamations 52, 71, 220.

89. 1 Hughes & Larkin Proclamations 3, 76, 104, 120.

90. 1 Hughes & Larkin Proclamations 29, 51, 105, 268, 354.

91. 1 Hughes & Larkin Proclamations 23, 52, 71, 120, 147.

92. 1 Hughes & Larkin Proclamation 26.

93. 1 Hughes & Larkin Proclamation 68.
94. 16 November 1538; 1 Hughes & Larkin Proclamation 186.
95. 8 July 1546; 1 Hughes & Larkin Proclamation 272.
96. 14 November 1539; 1 Hughes & Larkin Proclamation 192.
97. 12 March 1542; 1 Hughes & Larkin Proclamation 210.
98. 8 July 1546; 1 Hughes & Larkin Proclamation 272.
99. 28 May 1545; 1 Hughes & Larkin Proclamation 251.
100. 6 March 1529; Hughes & Larkin Proclamation 122.

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specifically refers to the “heresies and errors commonly called Lollardies”. In dealing with offenders a process similar to that set out in the earlier legislation is provided. In addition to reiterating the prohibitions against compiling and writing unlicensed books contrary to the Catholic faith or in diminution of Holy Church, the proclamation provided for the surrender of unlicensed books, prohibited the importation of books that were not only against the Catholic faith and the Church but also “in reproach, rebuke or slander of the King and his honourable council, or his lords spiritual or temporal’ [101] and set out a list of 15 books which were prohibited.

2. Prohibiting Erroneous Books and Bible Translations which set out further texts which contained “pestiferous errors and blasphemies”. The general thrust of the proclamation is aimed at imported books [102].

3. Prohibiting Bulls from Rome which dealt with the publication of material from Rome or elsewhere “containing matter prejudicial to the high authority, jurisdiction and prerogative royal [103].

4, Enforcing Statutes Abolishing Papal Authority in England which specifically required all “... Books used in the churches, wherein the Bishop of Rome is named or his presumptuous and proud pomp and authority preferred, utterly to be abolished, eradicated and erased out” [104].

5. Ordering the Surrender of Bishop Fisher’s Sermon and Books which addressed not only copies of a sermon delivered by John Fisher, Bishop of Rochester, but also “divers and sundry writings and books, as well as imprinted as other... in which writings and books

many open and manifest errors and slanders are contained, not only in derogation and diminution of the dignity and authority royal of the King's Majesty and of his imperial Crown, but also directly and expressly against the good and laudable statutes of this realm" and required their surrender within 40 days to Thomas Cromwell [105].

6. Limiting the Exposition and Reading of Scripture which restricted the reading of the Bible in English to those who were curates or graduates of the Universities or were licensed to preach, although "such as can and will read in the English tongue shall and may quietly and reverently read the Bible and New Testament quietly and with silence by themselves... to increase thereby godliness and virtuous living" [106]. This proclamation is also related to that of 14 November 1539, authorising Cromwell to approve a new translation of the Bible which anticipates a Bible in print

7. Ordering a Great Bible to be placed in every Church repeated some of the admonitions of the preceding proclamation but at the same time recognised that many churches did not have Bibles. Print technology allowed this shortcoming to be swiftly remedied and to ensure that "to the intent that they may have the said Bibles of the greatest volume at equal and reasonable prices, his highness by the advice of his council hath ordained and taxed that the sellers thereof shall not take for any of the said Bibles, unbound, above the price of 10s." and the

101. This language underscores the basis for censorship advanced by D.M. Loades.

102. 22 June 1530; 1 Hughes & Larkin Proclamations 129.

103. 12 September 1530; Hughes & Larkin Proclamation 130.

104. 9 June 1535; 1 Hughes & Larkin Proclamation 158,

105. 1 January 1536; 1 Hughes & Larkin Proclamation 161.

106. April 1539 - Headed "Proclamation for Uniformity in Religion"; 1 Hughes & Larkin Proclamation 191.

price for a bound Bible was set at 12s together with a provision for penalties for those who sold over and above these prices [107].

8. Establishing One Authorised Grammar. In this proclamation school masters were commanded to Lily's English *Introduction* and

Latin *Grammaer* along with the injunction “fail not to apply your scholars in learning and godly education” [108]. This proclamation indicates a recognition of the standardisation of texts that print enabled, together with the volumes that could be distributed as a result of a semi-mechanised process. A standard level of education in Latin could be achieved by the use of a prescribed and printed text.

9. Suppressing Publication of Military Rumours was directed to ensuring that unfavourable publicity of a military campaign in Scotland would not take place. The proclamation commands all those who had “any of the said printed books” to surrender them that they might be burned. Those who failed to comply within 24 hours of the making of the proclamation would be imprisoned [109].

10. Authorising an English *Primer* - the *Primer* was a book of prayers in English [110] and teachers were directed, after teaching pupils their ABC to “teach this Primer or book of ordinary prayers to them in English”. The preamble to the Proclamation states the high principle of the benevolent sovereign “we, much tendering the youth of our realms (whose good education and virtuous upbringing redoundeth most highly to the honour and praise of Almighty God) [111]. The patent for the printing of the primer was granted to Grafton and Whitchurch [112].

The requirements of the various proclamations are indicative of the policies of their particular time. The restrictions on the importation of books were part of a campaign against the teachings of Luther and it was recognised that books in print containing Lutheran material had to be suppressed. At the same time there was a recognition of the reality that vernacular Scriptures were finding their way into England despite the best efforts of the authorities [113]. The Bishop of Norwich commented “It passeth my power, or that of any spiritual man, to hinder it now, and if this continue much longer, it will undo us all” [114]. From 1530 there was a move to produce an acceptable vernacular Bible. The progress involved Coverdale’s Bible of 1535 and Matthew’s Bible of 1537 culminating in the Great Bible of 1539. These developments took place during the period when Thomas Cromwell was the King’s most influential adviser. Cromwell, who started as one of Wolsey’s staff, saw as his former master did. the utility of print and embarked upon an active legislative program

utilising the printing press as a means of conveying not only the Royal and statutory commands, but also the policy behind them. Cromwell's fall in 1540 resulted in a conservative reaction rather than an attempt at conservative reform [115]. Yet print was still used as a means of propaganda and communicating the Royal position. In 1543 Berthelet published *A Necessary Doctrine*

107. 6 May 1541; 1 Hughes & Larkin Proclamation 200.

108. 25 March 1543 1 Hughes & Larkin Proclamation 216.

109. 18 May 1544; 1 Hughes & Larkin Proclamation 229.

110. STC 16034.

111. 6 May 1545; 1 Hughes & Larkin Proclamation 248.

112. See above. 1 Hughes & Larkin Proclamation 251.

113. 1 Bennet p. 32 records ecclesiastical authorities were tricked into purchasing parcels of Testaments, thus providing funds for further editions.

114. In 1 Bennet 32.

115. Neville-Sington p. 594.

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and Erudition for any Christian Man, set further by the Kynges maiestie" [116] which essentially restated Henry VIII's new settlement set out in the Act of Six Articles. The 1546 proclamation made it clear that the works of reformers such as Coverdale and Tyndale would not be tolerated, and the directions for the use of the *Primer* underpinned the importance of standardising the doctrine that underpinned the return to a more conservative policy.

The most significant of the Tudor Proclamations addressing regulation of printing was that of 16 November 1538. There had been earlier proclamations that dealt with heretical books, especially two in 1530 that were indicative of the efforts of the then Chancellor Sir Thomas More to address heresy. Elton points out that More was convinced that laxness on the part of Wolsey had allowed dangerous new ideas into the kingdom, and that the campaign against heresy had to be increased [117].

A Proclamation of 6 March 1529 [118] contains a sharp attack against Luther, and specifies 15 named "heretical" works but the concern about the introduction of new ideas, especially per medium of print, continued even after More's fall. Certainly the development of the Tudor

Revolution after 1533 was faced with the existence of books of which it disapproved, and it endeavoured to suppress writings from the opposition. Although some Proclamations like that of 6 March 1529 addressed specific titles, the development of an Index was avoided. Elton suggests that would merely have helped to advertise the enemy [119]. However, content in a generalised form was addressed. In January 1536 it was ordered that any publication “in derogation and diminution of the dignity and authority royal of the Kings majesty and his imperial crown” was to be surrendered to Cromwell or the Chancellor.

The Proclamation of November 1538 is important although it did not contain any index and it seemed to mark a retreat from the reformed position that had been taken by Cromwell. Elton suggests that the provisions of the Proclamation were imposed upon Cromwell rather than devised by him [120], and it is clear that the King had a hand in the drafting of it, for it contains emendations in his own hand. What the proclamation attempted to do was to control the printing and the sale of books. Although it appears to be the beginning of a system of censorship, which it was, it was an effort to establish a regulatory system over the printing trade and in this respect addresses in an elementary way not only matters of content but a wider industry control [121]. Elton observes that heretical books, some of them promoted by Cromwell himself, were spreading in the 1530's and the Kings censorship plan could not stop them because the machinery was not in place to enforce it, and he suggests that More's system, had it endured, would have been more formidable [122].

The Proclamation of 16 November 1538 was designed to address what were perceived as a number of security problems arising out of the rapid advance of the Reformation. The concern of the proclamation was that “sinister opinions have by wrong teaching and naughty printed books increased and grown within his realm of England” and that books imported books as well as those printed in England had

116. STC 5163-7

117. Elton G.R., *Policy and Police: The Enforcement of the Reformation in the Age of Thomas Crowell*, Cambridge, Cambridge University Press 1972, p. 219.

118. 1 Hughes and Larkin Proclamation 129.

119. Elton, *Policy and Police*, p. 220.

120. Elton, *Policy and Police*, p. 221.

121. It is important to note that the regulation of the printing trade is not the only focus of the Proclamation. It addressed the exile of Anabaptists, the marriage of the clergy and the removal of St Thomas a Becket from the Calendar.

122. Elton, *Policy and Police*, p. 221.

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contained the privilege [123], as well as imagined and invented annotations, and additions in the margins, prologues and calendars - a clear concern about issues of Royal approval to unapproved content. Thus, the substance of the proclamation was “for expelling and avoiding the occasions of the said errors and seditious opinions by reason of books imprinted in the English tongue, brought and transported from outward parts”

The four critical clauses provided as follows:

1. The importation of English books from abroad was prohibited except pursuant to Royal licence.
2. Printing in England was to be licensed by the Privy Council - the prohibition was against printing any book in the English tongue “unless upon examination made by some of His Grace’s Privy Council or other such as his Highness shall appoint they shall have licence so to do” and in addition if the work was to be published *cum privilegio regali* the words *ad imprimendum solum* were to be added. Furthermore the whole copy or the effect of the license and privilege was “therewith printed, and plainly declared in the English tongue underneath them.
3. The printing or importation of English Bibles with any annotations in the margin, or any prologue or additions in the calendar or table was prohibited “except the same be first viewed, examined and allowed by the King’s Highness or such of His Majesty’s Council or other as it shall please His Grace to assign thereto; books of translations into English were prohibited unless the name of the translator was contained in the book “or else that the printer will answer for the same”.
4. No printer could “print, utter, sell or cause to be published any books of Scripture in the English tongue until such time as the same books be first viewed, examined and admitted by the King’s

Highness or one of his Privy Council, or one bishop”

Although clause 4 seems to repeat clause 3 it is to be noted that clause 3 deals with what may be described as annotated Bibles whereas clause 4 deals with books of Scripture *simpliciter*.

The significance of the *cum privilegio* section of clause 2 is important. It can mean either “for sole or exclusive printing” or “for printing only,” but an analysis of the reasons for its insertion in the proclamation by the king and the effect on contemporary printers as appears in a letter by Richard Grafton, the printer, clearly shows that it was intended to mean “for printing only.” The phrase “*cum privilegio*” conferred the exclusive rights of printing, while Henry intended by the additional words *ad imprimendum solum* - “only for printing” to absolve himself of responsibility for the contents of books, many of which were issued under a general privilege without previous examination [124].

Perhaps the most important aspect of the 1538 Proclamation is that it removed the monitoring of content out of the hands of the Church, where it had been since 1408 and into the hands of the State.

In 1546 it was proclaimed that whenever a book was printed the first copy should be sent to the mayor and that no other copies were to be circulated for two days while an examination of the book was being made. The licensers were forced to give a

123. The words *cum privilegio* on the title page which suggested that the books had been printed by virtue of Royal privilege or patent.

124. Siebert p.37; Clegg, *Press Censorship in Elizabethan England*, Cambridge, Cambridge University Press 1997 p. 10; Reed p. 185–186.

decision on a book within two days. As a further protection the printer was required to set out on each copy his own name, the name of the author, and the day of print. This meant that publication could no longer be indefinitely delayed by the inactivity of an official. It clearly addressed problems within the licensing system, but that changes that were made suggest that the problems were occasioned by the operation of the system and that it was having a detrimental effect upon the ability of publishers to get their books on to the market. To expedite the issue of an approval was

clearly for the advantage of the Stationers. However, the order was in force for only a few months. After the death of Henry VIII and the accession of Edward VI in 1547, a softening of controls on the press took place [125].

Clegg offers a view that the Statutes passed in 1540 and 1542-3, rather than the 1538 proclamation, articulate the core of Henry VIII's licensing and censorship. The Statutes had greater legal weight than a mere proclamation, the *Proclamations Act* notwithstanding. The 1539 statutory enactment for religious uniformity gave to ecclesiastical authorities acting as a Commission the right to confiscate offensive texts. The 1542-3 Act abolished any books contrary to the articles of faith that espoused traditional Catholic doctrine without papal authority. Although the Act strictly controlled religious printing, it allowed unrestricted possession of certain books printed before 1540, including proclamations and law books, chronicles, biographies, and books by Chaucer and Gower, and permitted plays, songs, and interludes that "meddle not with interpretations of Scripture, contrarye to the doctrine set forth" [126].

However, this statement addresses the issue of censorship alone and not the overall issue of press regulation. The 1538 proclamation did not achieve that goal, nor was that the intention, but it was the first time that there had been an attempt to address issues of printing trade regulation other than those statutes that addressed exemptions for printers to trade and immigration rules. Certainly the 1546 proclamation was one that was designed to expedite the grant of licenses for the benefit of the printing and publishing industry and suggests that there was more to some of the moves addressing printing on the part of the State than mere censorship.

IX PROCLAMATIONS AND PRINT - EDWARD VI AND MARY

Proclamations were a feature of the Tudor period, more so than perhaps the Stuarts. In the reign of Edward VI there were Royal Proclamations that indirectly dealt with printing or information dissemination. On 24 May 1547 a proclamation issued enforcing statutes on seditious rumours [127] and on 31 July 1547 injunctions were issued for religious reform ordering homilies to be read from the pulpit which also endorsed the use of the primer which had been issued in English by Henry VIII. Most of the royal proclamations of Edward VI's time dealt with indirect regulation of print by proclamation. There was price fixing for the book of common prayer [128], rewards for the arrest of rumour

[129] and the prohibition of publication of seditious rumour [130]. In

125. Siebert

126. Clegg, *Press Censorship in Elizabethan England*, p. 26 - 27

127. 1 Hughes and Larkin 281

128. 1 Hughes and Larkin 335

129. 1 Hughes and Larkin 337

130. 1 Hughes and Larkin 352

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1549 Bishops were ordered to destroy old service books [131]. The considerable restrictions that were in place during the reign of Henry VIII were not increased to the same level during the reign of Edward VI.

However the overthrow of Somerset by the Earl of Warwick (later Duke of Northumberland) and the outbreak of rebellion in 1549 led to the re-imposition of prior censorship by the Privy Council and William Cecil and two others were appointed as censors. Nevertheless from 1547 to 1549 there was a level of press freedom that would not be exceeded until the long Parliament's relaxation of censorship in 1640.

The death of Edward VI and confusion between that event and the accession of Mary saw Grafton print a proclamation of 10 July 1553 in the name of Lady Jane Grey as the Queen of England. He avoided any condemnation as a result of any implied association with the failed attempt to prevent Mary ascending the throne but he gave up his career as a printer, remained in England during Mary's reign and did not seem to suffer any further difficulties.

The beginning of Mary's reign saw an attempt to reconcile the diversity of religious elements existing in their Kingdom. She sought to restrain popular discussion until such time as a religion based on common consent could be established by law and initially she declared she would maintain her own religion but wouldn't force any of her subjects to conform to it [132]. In addition Parliament revived many earlier statutes against heresy. Despite the reimposition of traditional control measures Mary's government was no more successful in its predecessors in controlling the book trade although a consequence of the new regime was to shut off almost all domestic publication of Protestant propaganda. Many

protestant printers left the jurisdiction and went to Europe and the book trade underwent a contraction. Many reformist printers and publishers relied upon surreptitious publication in order to confuse the authorities, primarily by the use of false colophons or place of publication details.

Towards the end of Mary's reign a proclamation was issued on 6 June 1558 providing for execution of all persons possessing heretical or treasonable books pursuant to Martial Law. The zealots of the protestant sects were the targets of these new orders but few printers or booksellers were persecuted.

Thus there was a return to the licensing system but it is unclear how this actually worked during the course of Mary's reign. Although there were many attempts to suppress heretical and seditious literature that was already in circulation there seems to have been little done to flush out any new works that were in the process of being created. Although Bishop Bonner of London and Archbishop Pole of Canterbury issued injunctions for the administration of their dioceses there are no general injunctions or visitations in the record [133]. An index of prohibited authors was developed but enforcement seems to have fallen short of the strong language that was used in the proclamations and legislation.

During Mary's reign a number of proclamations were issued which directly or indirectly had an impact upon print. On 18 August 1553 she issued the proclamation offering freedom of conscience; prohibiting religious controversy, unlicensed plays and printing [134]. On 17 February 1554 was the proclamation ordering the deportation of seditious aliens, which included foreign printers [135].

131.1 Hughes and Larkin 353

132. Steele 425, 28 July 1553

133. Neville Sington p 604

134. 2 Hughes and Larkin, 390

135. 2 Hughes and Larkin, 404

Her injunctions for religion issued on 4 March 1554 included directions to Bishops about how to deal with unlawful books [136]. A proclamation on 10 April 1554 ordered the destruction of seditious bills

and writings [137]. On 26 May 1555 was issued the proclamation enforcing statutes for public order. This proclamation re-instituted the laws and statutes “heretofore made and provided concerning in anywise touching the punishment of heresy and lollardy”. These statutes included those of Richard II, Henry IV and Henry V [138].

Mary’s campaign against heresy increased with proclamation of 13 June 1555 enforcing a statute against heresy and prohibiting seditious and heretical books. The books, which were prohibited were named not by title but by author, among them Martin Luther, John Calvin, Erasmus, William Tyndale, Miles Coverdale and Thomas Cranmer, former Archbishop of Canterbury [139]. Mary’s campaign against seditious books later intensified and on 6 June 1558 the proclamation was announced placing possessors of heretical and seditious books under martial law. The concern was for books involving heresy, sedition and treason, which had been brought into England from overseas and which had been secretly printed within Britain and distributed throughout the country. Anyone who had the books, or finding them did not destroy them immediately “should be apprehended and taken for a rebel and without delay be executed for that offence according to the order of martial law.”

X THE ELIZABETHAN USE OF PROCLAMATIONS

It has already been observed that the effectiveness of proclamations as a tool of censorship was limited by their nature. They were restricted by common law and statute, which held higher authority.

The royal proclamation was as effective as its own provisions made it and its real value lay in propaganda. Proclamations offered the government’s version of events and rationale for action. They project an image of a unified commonwealth and its peace and stability in the hands of the Queen and her subjects. Following the injunctions of 1559 proclamations dealing with publications and the press followed intermittently.

Elizabeth’s proclamations that impacted upon printing included a proclamation prohibiting seditious books in matters of religion [140] ordering arrest for circulating seditious books and bulls [141]; ordering discovery of persons bringing in seditious books and writings [142] the content that was permitted in and prescribing the book of common prayer

[143] on there was a proclamation ordering the destruction of seditious books [144]; for enforcing uniformity in common prayer [145]; providing rewards for information dealing with libels against the Queen [146] and particularly proclamation 642

136. 2 Hughes and Larkin, 407

137. 2 Hughes and Larkin, 410

138. 2 Hughes and Larkin, 420

139. 2 Hughes and Larkin, 422

140. 2 Hughes and Larkin 561, 1 March 1569

141. 2 Hughes and Larkin 577, 1 July 1570

142. 2 Hughes and Larkin 580, 14 November 1570

143. 2 Hughes and Larkin 597, 11 June 1573

144. 2 Hughes and Larkin 598, 28 September 1573

145. 2 Hughes and Larkin 599, 20 October 1573

146. 2 Hughes and Larkin 26 March 1576

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which specifically denounces the book by Stubbs entitled “The Discovery of a Gaping Gulf” [147]. Another specific title was dealt with in proclamation 652 [148], along with books by Robert Browne and Robert Harrison, which were declared as seditious and schismatic [149].

The concerns of the Crown as to content became more intense in the 1580’s following the excommunication of the Queen, the Jesuit conspiracies of Edmond Campion and the approaching threat from Spain. There was a proclamation ordering suppression of books defacing the true religion [150], and a proclamation of, suppressing seditious rumours [151]. Other proclamations included ordering the application of martial law against the possessors of papal bulls, books and pamphlets [152], an order for the destruction of Marprelate publications [153], and a proclamation for the reform of patent abuses [154].

The proclamation involving Stubbs’ publication of “The Gaping Gulf” in 1579, dealt with a political book that was clearly associated with the interests of the “Protestant left”. “The Gaping Gulf” spoke out against the possible marriage between Elizabeth and the Duke of Alencon, but it was not that which concerned the authorities. What was of concern was that the book was a slander of the Duke which was shored up together with

the suggestion that it stirred up rebellion “on the part of the Queen’s subjects, to fear for their own utter ruin and change of government”.

The book was considered subversive because it raised fears of danger to the Queen’s person, to the cause of religion and the estate of the realm as a result of her marriage. Stubbs was charged with felony as the author, as was the distributor William Page. The printer, Hugh Singleton, went free. The charge was pursuant to a Statute of 1 and 2, Phillip and Mary, c. 3, which was retained by Elizabeth and which provided that an offender should have their right hand stricken off in a market place. Upon being found guilty Stubbs suffered judicial maiming by the loss of his hand on 3 November 1579. As was characteristic of the Protestant left, his concern was not, as the proclamation had suggested, to bring down the Queen, nor to challenge the state. He proclaimed himself a loyal subject of the Queen and made the comment :

“What a grief it is to the body to lose one of his members you all know - I am sorry for the loss my hand, and more sorry to lose it by judgement.”

Another example may be seen in William Carter, a printer, whose treason consisted of clandestine printing. Carter had been apprenticed to John Cawood, who was the official printer under Mary and Elizabeth. It was suggested that he had been involved in the publication of Catholic books and 1579 was examined before the High Commission but refused to answer. The evidence was not sufficient to convict him of treason and after a term in prison he was released. In 1580 a new edition of a “Treatise of Schism” appeared in London and this book by allegory was designed to incite the women at court to assassinate the Queen. The printing was traced to Carter (with the assistance of the Stationer’s Company) and copies of the book were found at his shop Tower Hill. He was arrested, but under torture would not confess. On 10 January 1584 he was

147. 2 Hughes and Larkin 642, 27 September 1579

148. 2 Hughes and Larkin 3 October 1580

149. 30 June 1583, 2 Hughes and Larkin 667

150. 2 Hughes and Larkin 672, 12 October 1584

151. 2 Hughes and Larkin 688, 6 February 1587

152. 2 Hughes and Larkin 699, 1 July 1588

153. 2 Hughes and Larkin 709, 13 February 1589

154. 3 Hughes and Larkin 812, 28 November 1601

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brought before the Old Bailey in London and convicted of high treason and the next day was hung, drawn and quartered [155]. For one Penry however, seditious writing was the only charge. Penry was convicted and hanged for felony in 1593, for writing an open letter to the Queen [156].

No single common denominator underlies all of the proclamations except their reliance upon the process of English Law. They depend, where appropriate, on statutory definitions that of sedition and treason as grounds for censorship and the appropriate remedies are for trial under particular statutes.

The goal of Elizabethan censorship or content control was to suppress religious and political texts - either Catholic writings that denied the queen's supremacy and advocating placing a Catholic monarch on the throne, or radical Protestant text that denied the queen's authority over religion.

Except for the Stubbs publication, the suppression of texts censored by proclamation was largely ineffective. For the purposes of propaganda however, they serve their purpose, particularly those that called for the suppression of Catholic texts that originated on the continent.

The wider regulation of the printing technology was to be in the hands of the Stationers Company and much of the subsequent interference by the State with the trade was at its behest.

XI THE STATIONERS COMPANY AND INDUSTRY REGULATION 1557

On 4 May, 1557 the Stationers Guild received a Charter of Incorporation from Queen Mary [157]. The basis for this has been a matter of some controversy. At a session of the Convocation of Canterbury in March 1542 a book containing a Charter for the Company was debated and referred to the King. Blagden suggests that the terms of this document are not known but they may not have been very different from those of the Charter as granted. The move by the Stationers was rejected and it is suggested that the King considered that the powers that it sought were too

wide [158].

Pursuant to the Charter of Incorporation granted by Mary the Stationers had considerable powers and there is some justification for the suggestion that initially it was seen that the Stationers could be utilised as an arm of the state in enforcing printing regulations. The manner in which the Company acted after incorporation seems to suggest however the contrary. The Stationers Company was a craft guild set up to look after the interests of its members. This primary objective continued. Any secondary objective that might have been anticipated by the State that the Stationers Company would come to its aid in enforcing printing regulation and censorship was illusory.

“The Stationers saw in the charter a means of protecting their craft from unregulated competition, the Crown saw in it the means of controlling the increasingly powerful printing press from which came so many seditious and heretical books; for despite a steady flow of Government proclamations, forbidden books continued to arrive in the

155. Siebert 90.

156. Loades 153 to 154.

157. The Charter was confirmed by Queen Elizabeth on 10 November 1559.

158. Blagden, p. 28. If there had been a keen desire on the part of the State to exercise significant control over the printing trade, one would think that the grant of the Charter in 1542 would have swiftly followed.

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country, whilst many were surreptitiously printed in England itself, often with a false foreign imprint.” [159]

There were occasions from time to time, particularly during Elizabeth’s reign, when the Stationers did assist in censorship activities. It is arguable that there was a hidden agenda for the Company in doing so. Those whom the Company were seeking in fact were printers who had not licensed their work through the Stationers’ company itself.

It is appropriate at this stage to consider the Stationers Company charter and the powers that it had and the way that it operated and continued to operate through until the 1640’s.

The Stationers Company and its Charter

Feather is of the view that alongside the incorporation of the Company in 1557 the injunctions of 1559, the Ordinances of 1562 for the Stationers Company, the Order in Council of 1566 and the Star Chamber decree of 1586 were all directed towards a single end which was to restrict the right to print to a limited number of known and reliable persons. [160] However Barnard [161] is of the view that the incorporation of the company in 1557 should be seen as the normal transition in the life of a City craft guild:

rather than, as W. W. Greg influentially claimed a far-sighted realization on the part of the Crown and the book trade of a mutually beneficial relationship, one which simultaneously served the Crown's interest in press control and the Company's interest in a trade monopoly. A complicity of interests in controlling the trade was certainly apparent to, and exploited by, both sides; but at times of stress (most notably under the restored Stuart monarchy, particularly when James II attempted to pack the Company's senior membership) the potential conflict between the government's political will and the Company's commercial interests could cause friction. What is most striking is the Company's continuity, which after initial difficulties in the early 1640s maintained itself throughout the Interregnum and the reign of Charles II, held together by its mutual interests, notwithstanding tensions between the printers and booksellers within the Company. Yet despite the attention paid to the trade by successive governments, the Stationers' Company was always one of the poorer City corporations - in 1557 it ranked fifty-sixth out of a total of sixty-three and was still ranked among the poorer Companies in 1692. Even so, the proportion of 'gentlemen' and London citizens choosing to apprentice their sons to the trade grew substantially between the years 1601 and 1700.

Nevertheless the incorporation of the company in 1557 was significant in a

number of ways. The book trade was centralised in London. That was of benefit to the authorities who at least had a centralised industry with which they could deal rather than one that was scattered throughout the country. However the company's main functions were:

1. Registration of its members' rights to publish particular titles.
2. Admission of apprentices.
3. Regulation of the trade.

The Crown perception of the relationship created between the Crown and the Stationers in the Charter is set out in the preamble which declares that the King and Queen, wishing to provide a suitable remedy against the seditious and heretical books which

159. Clair p. 107.

160. Feather, John, *A History of British Publishing*, 34.

161. Barnard J and McKenzie D.F., *The Cambridge History of the Book in Britain - Volume IV 1557-1695*, Cambridge, Cambridge University Press 2002, p. 9.

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were daily printed and published, gave certain privileges to their beloved and faithful lieges, the ninety-seven Stationers, in addition to the normal rights of a company.

However, the Charter gave no power to the Stationers Company to undertake any acts of censorship or supervision over the content of material published, nor is there any suggestion in the Charter that the Company had any extraordinary arrangement with the Crown or the State to assist in censorship other than the amorphous reference to "seditious and heretical books". Naturally there might later be and there was subsequent provision in law which sought the assistance of the Company, with which it was bound to comply, but in all subsequent dealings, and especially in the rulings of the Court of Star Chamber in 1586 and 1637, the requirements for co-operation in censorship were accompanied by added powers to the Company or further restrictions on or regulation of competition. Indirectly some of these may have been of benefit to the State. Directly they were to the benefit of the Company and its members

There were a number of powers given to the Company which could be expected in any Charter for any City Corporation. The ninety-seven

named 'free men of the mystery or art of Stationery', of the City of London and its suburbs, were given the right for ever to be a corporate body with perpetual succession, the power to take legal action and to make rules for their own governance, the right to meet together and to elect a Master and two Wardens (who are named in the Charter) and the right to own property in the City or suburbs to the annual value of £20. There is also a proviso that the Master - and in his absence the elder Warden - shall have a casting vote in elections. Blagden notes that the lack of any more detailed provisions for the choosing of officers led to trouble later on. [162]

The provisions specific to printing were quite clearly directed to industry regulation, and one provision enabled the Company to exert total control over the printing trade. No one in the realm should exercise the art of printing, either himself or through an agent, unless he were a freeman of the Stationers' Company of London or unless he had royal permission to do so.

The Charter also gave the Company powers of search nation-wide even though the printing of books was limited to London. [163]

it shall be lawful for the Master and Keepers or Wardens... and their successors for the time being to make search whenever it shall please them in any place, shop, house, chamber, or building of any printer, binder or bookseller whatever within our kingdom of England or the dominions of the same of or for any books or things printed, or to be printed, and to seize, take, hold, burn, or turn to the proper use of the... community, all and several those books and things which are or shall be printed contrary to the form of any statute, act, or proclamation made or to be made. [164]

An Order in Council of 1566 further clarified and expanded the powers of search and seizure enjoyed by the Company. After confirming the powers already granted in the charter, the Order gives the Wardens authority to inspect all incoming cargoes ("packs, dryfats [barrels], maunds [wicker baskets], and other things wherein books or paper shall be contained") [165].

The company's membership was given a legal corporate existence.

which created a cohesive group identity for its members. However, according to Barnard the

162. Blagden p. 28.

163. Barnard points out that this centralisation was challenged by the Universities of Oxford and Cambridge in the 1580's.

164. My emphasis.

165. Tanner J.R., *Tudor Constitutional Documents*, Cambridge, Cambridge University Press, 1930, p. 246.

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single most important change was to give the company the legal power to redefine the trades over which it had jurisdiction. This meant that the Stationers Company had formally appropriated the craft of printing to itself. They had been doing precisely this on an informal and incremental basis since the early development of the trade.

The early stationers from 1403 were originally retailers dealing with circulation of manuscript texts which did not call for a heavy initial investment with the slow capital return which became necessary with printing. Caxton, as did many early stationers, had set up in Westminster outside city limits and there had been no place for the new technology of printing in the city guild structure when it was first introduced. However, as elements of manuscript book production were necessary for printed books, many of the basic materials used were common to both the manuscript and print trades, and distribution of both printed and manuscript books was by booksellers [166] a gradual overlap began to take place between the two.

The interest of the stationers was in restricting the trade of printing to its own members and only a few of them had sufficient capital to maintain the cost of doing business. A monopoly was effectively held by a small number of wealthy tradesmen who in addition owned the rights to the most lucrative kinds of texts. This resulted in severe tensions within the company itself. One of the main administrative functions of the company was to ensure the proper recording and enforcement of ownership of copies and, where necessary arbitrate such questions. This role of the Stationers Company has been interpreted in two ways. The first was in the area of press regulation, where it was felt that the licensing of

copies was an adjunct to the regulatory power of the State. The second was in the development of a “copy right” in which the licensing powers of the Company were seen as being primarily for the protection of members and their economic interests.

The Stationers Company licensed those who had the right to print a particular work. Thus the “right” was vested in the printer or publisher. There was no recognition of the rights of the author. As a result there was no significance in the recognition of the rights of the creator and the encouragement, which is part of the copyright theory, of an author to continue to produce once his or her works were protected. The Stationers licence which allowed the licensee to make copies was a right to produce copies and ensured that only members of the Stationers Company would be entitled to publish certain works. Consequently the right to make copies was a purely economic one and had nothing to do with the encouragement of artistic endeavour or continued creativity. It was a protectionist move for the production of printed works.

The view that the incorporation of the Stationers Company and its licensing system served the Crown’s interest in press control cannot be said to be an absolute. Certainly there were occasions when the Stationers Company was called upon by the Crown to assist in enforcement but the records reveal that in the 1580’s - a significant decade which saw the delivery of the so-called Star Chamber decrees of 1586 and the appointment of a Panel of Authorisers in 1588 following which there was increased compliance - books licensed to be printed by the Stationers Company comprised only a percentage of the total number published and of the licensed books even less received approval from the authorities prior to publication. This could be explained by inconsistent record keeping practices. It is clear that in some cases the records reveal that books had been through the official content approval procedures and that approval was noted. On the other hand it could be inferred that the noting of the approval of the authorities for publication of the content was not a universal practice.

166. The original etymology of “stationer” arises from the fact that the bookseller operated from a fixed “stationary” location as opposed to a movable cart.

However it is clear that even the 1586 Star Chamber Decree and the 1588 Panel of Authorisers did not achieve full ecclesiastical licensing of the English Press. In 1580 approximately 20 percent of the books entered in the Stationer's register showed ecclesiastical or government authorisation. In 1584 and 1585 the register showed 24 and 16 percent authorisation rights respectively. In 1584 fewer than one quarter of the books printed appear in the register at all, and in 1585 the books printed less than one fifth were entered. The year after Star Chamber issued its decrees, 47 percent of the registers entries carried authorisation. Once Whitgift appointed the Authorisers, authorisation increased. In 1588, 78 percent were reported in the register and 85 percent in 1589, followed by 86 percent in 1590. Clegg [167] suggested the decrees and the searches that they sanctioned created greater respect for company licensing. However the conformity with the rules in the years following 1586 began to decline and by 1592, although two thirds of the entered books were seen and allowed, only half of the total number of books printed were in fact entered in the Stationer's register, and in 1596 less than 40 percent of printed books were entered in the register and only 40 percent of those were authorised - a total 15 percent, which were in fact approved.

The Stationers and the Prerogative

The not insignificant powers and interests of the Stationers Company were still subject to the Royal prerogative embodied in the grant of a patent. The continuation of the patent system through the reign of Edward VI and into the reign of Elizabeth constantly challenged those who were involved in the publishing business. In August of 1577 a petition complaining about the injustice of granting printing patents was sent to the government and claimed that less than a dozen patentees were destroying the livelihoods of nearly 200 tradesmen. In 1582 a group led by John Wolfe, who was a member of the Fishmongers' Company, and Roger Ward actually pirated the ABCs, the patent for which was held by John Day, one of the largest patentees. This bought the whole issue to a head. By this time the most valuable titles - lawbooks, the Bible, prayer books, psalms, almanacs and ABCs, were controlled by eleven patentees each holding grants limited to a specific number of years. Of the 53 presses owned by 23 printing houses in May 1583 no fewer than 38% of them were owned by six patentees who acted as printers.

It was litigation about infringement of exclusive patents that enabled the 1586 Star Chamber Decrees. The dispute within the printing trade had attracted the interests of the Crown which took the opportunity to address a number of aspects of the trade.

167. Clegg, *Press Censorship in Elizabethan England*

XII THE STAR CHAMBER DECREES OF 1586

Introduction

The Star Chamber Decrees of 1586 illustrate a number of features about Elizabethan regulation of the printing technology and its output. They have been viewed in a number of different ways. One view is that they represent the most comprehensive regulation of the press of the entire Tudor period [168]. Another is that the Decree was a conservative document that reaffirmed old practices [169], upheld and strengthened the rights and prerogatives of the Stationers' Company and underpinned the fact that content licensing was continued by Elizabeth as a part and parcel of her religious settlement. It also recognises that content licensing was separate and distinct from the exclusive licence to print a work that was granted and enforced by the Stationer's Company.

What the Decrees did was to fulfil a two-fold purpose. One was to settle certain long-standing disputes about infringement of printing privileges by those involved in the printing trade. The other was to confirm and refine existing content licensing procedures which had been in place since 1559 but which were a continuing reflection of a system that had been in place since 1407. Although the challenges posed by the new technology were apparent, and it was recognised that they had to be met, there was a lack of understanding that it was the technology rather than the content that should be regulated which resulted in the use of a model that was bound to fail. Although the opportunity was presented to apply more stringent controls and sanctions to the Stationers, what was done merely enhanced their position and increased their market dominance.

What the Decrees were

The Star Chamber (which was effectively the Privy Council sitting as a Court) was one of the Courts of the Realm, dealing with cases between parties. It was highly regarded and popular with litigants because

it was speedy, flexible and complete in its work. Its procedure was similar to that of Chancery, commencing with a plaintiff's bill, a defendant's answer and a succession of written pleadings and witness examinations. Star Chamber normally imposed fines, or ordered the unsuccessful party to comply with an earlier decision, which was frequently an earlier decree.

Some orders, like the 1586 Decrees for order in printing, appear to be Orders in Council or proclamations because they were issued by Star Chamber but they were always the outcome of a law suit involving larger principles, and were embodied in a formal and public pronouncement, because they may affect both policy and other suits [170]. Many of the cases that came before a Star Chamber between 1596 and 1617 (as revealed from the papers of Sir Thomas Egerton) involved disorders in printing and uttering of books.

Since the Court was a regular venue for printing disputes, it was not unusual that it should have heard a number printing cases between 1577 and 1586 that arose from a challenge posed not only to the Stationer's Company powers, but also to the printing privileges extended by the Crown. Clegg is of the view therefore that the 1586 decrees

168. Siebert p. 61.

169. Clegg, Susan Cyndia, *Press Censorship in Jacobean England*, New York; Cambridge University Press 2001 p. 27.

170. Clegg, *Press Censorship in Elizabethan England*, p. 55.

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responded to these matters. Essentially the Decrees, according to Elton, arose out of a judgement in a case based on a breach of the Order of 1566. The breach is unrecorded, but the decrees appear to have resolved most of the cases presently before Star Chamber, by upholding royal privileges, Company authority and the 1566 Order. They were framed in response to all the disruptions in the printing trade and not just matters before the Court.

The problems that affected the printing trade were considerable and were entangled with disputes and challenges to the privileges that had been made available by the patent system, by those who flouted those privileges and by calls for reform. Among the proceedings brought before Star Chamber were those of *John Dav v Roger Ward and William Holmes* in

1582 claiming breach of the 1566 Ordinances by breach of patent [171] and *Day v Dunn, Robinson* and others in 1585 making a similar claim. In November 1585 proceedings were brought in Star Chamber in *Flower v Dunn and Robinson* claiming a patent infringement. Flower was involved in further proceedings against one Robert Bourne in 1586.

Against this backdrop of litigation before Star Chamber were attempts to resolve disputes by negotiation with John Wolfe who was a member of the Fishmonger's Company and who was an active participant in printing that was unlicensed by the Stationers and an outspoken critic of the Company monopolies. A petition against Wolfe and his associates, addressed to the Privy Council by the Stationers' company in 1583, relates that, on being remonstrated with, Wolfe declared that he would print all their books if he lacked work [172].

That there were complaints about abuses, and that these were recognised by the Stationers appears from an appeal that was made to Lord Burghley in October of 1582, and in December of that year Christopher Barker, the Queen's Printer since 1577 reported to Burghley on the advantages and disadvantages of the patent system. Among the issues that he raised were the often unprofitable nature of some of the patents, the surplus of printers in the trade meaning that there were a number of poor printers who were barely making a living in their trade.

Steps were taken to alleviate the problems posed by the patents and on 8 January 1584 a number of books were presented to the Company by their patentees for the use of the poor of the Company. Those who surrendered some of their patents were Christopher Barker, Master Totell, Master Watkins, Master John Daye, Master Newberye and Henrie Denham's assignees. This was an informal arrangement based upon goodwill and embarked upon in an endeavour to alleviate many of the complaints that were being made. It was at this time that Barker and Wolfe were able to resolve their differences and Wolfe became an active and committed member of the Stationer's Company.

As has been observed, it is not possible to attribute to which case the Decrees apply, but they recognise many of the complaints that surfaced in litigation and also in the matters that passed in the petitions to Lord Burghley and the enquiry that he instituted and upon which Christopher

Barker reported.

171. 2 Arber p. 753

172. Ironically Wolfe and Francis Adams, a year or so later, appearing in a Star chamber case righteously indignant at the lawless infringement of a printing patent in which they had acquired a share; and Wolfe is afterwards found taking an active part, as an official of the company, in the search for secret presses.

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XIII THE CONTENT OF THE DECREES

The problems that the Decrees were designed to solve

The preamble to the Decree sets out the nature of the problem. It referred to abuses in the printing trade and the problems posed by contentious and disorderly persons professing the “arte or mysterie of Pryntinge” or selling of books. The preamble observed that the disturbances had resulted in the fields of political and religious printing, and that the problems increased because the penalties earlier provided were not severe enough to deter offences.

The preamble then states that for the resolution of the disputes and abuses, there should be known rules and ordinances which should be “inviolable kepte and observed, and the breakers and offenders of the same to be severelye and sharpelye punished and corrected.”

The Provisions of the Decrees

The 1586 Decree contains nine sections. Each section dealt with a different aspect of the printing trade.

Section 1 provided that those who possessed printing presses “or other printing instruments” were to provide a certificate (true note) of those presses to the Master and Wardens of the Stationers Company. For existing presses, such notification had to be made within 10 days of the publication of the Decree. For those who obtained a new press, notification had to be made within 10 days “nexte after the erectyng or setting up thereof”

The penalty for non-compliance was the destruction of the printing equipment together with 12 months imprisonment “without Bayle or maynepryse”

Section 2 limited the area within which the printing trade could be

carried out. All printing presses were to be located in the City of London or its suburbs. The only exceptions were for one press each at the Universities of Oxford and Cambridge. The section went on to address clandestine presses. Presses had to be accessible [173] to the Wardens of the Stationer's Company so that they might "searche for and view the same" and resistance to such searches was prohibited. Those who concealed presses or printing instruments from search or resisted the Warden or his appointees could have their printing press destroyed, be imprisoned for "one wholle year" without bail or mainprise. In addition such offender was prohibited from owning a press in the future, from being "the master of any pryntyng house or to have any benefytt thereby" but could only work as a journeyman for wages.

Section 3 is lengthy and addresses a number of matters. The principal issue was to limit the number of printers carrying on their trade. Those who had set up presses in the six months prior to June 1586 could carry on their trade. Those who wished to set up a press were prohibited from doing so. This position was to remain until the number of

173. The language provides firstly that no one was to "erecte, sett up, or mayneteyne in anye secrete or obscure corner or place any suche presse or instrument before expressed" which would suggest a general prohibition against clandestine printing presses, but the prohibition seems more directed towards concealment from search, for the clause following states "but that the same shallbe in suche open place or places in his or their house or howses, as the wardens of the said Cumpanye of the Staconers for the tyme beinge or suche other person or persons as by the said wardens shall be thereunto appointed, maye from tyme to tyme have readye accesse unto, to searche for aand viewe the same.

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those who were already in the trade had reduced or "otherwyse brought to so small a number of maisters or owners of pryntyng houses". It was left to the Archbishop of Canterbury and the Bishop of London to determine that more presses were needed as "requisyte and convenyent for the good service of the Realme".

Once the prelates had decided to allow new presses, notification was to be given the Master and Wardens of the Stationers Company. The Assistants of the Company would be convened and they would choose those whom in their opinion should "have the charge and governement of a Press or pryntyng howse" The qualifications required were "skyll, abylyty,

and good behaiour”. Within 14 days of making such choice, the Master, Warden and four members of the Assistants were to present to the High Commission the names of the nominees. Once that had been done the Commissioners could “allowe and admytt euey such person soe chosen” to be the “master and governour of a presse and pryntyng howse”.

The section specifically states that the power of the High Commission to approve new printers was “lawful”. This word appears in other sections of the Decree and it is clear that it was intended that there should be no doubt that various powers that were vested in various authorities were to be within the law, and thereby could not be challenged for illegality.

The Queen’s Printer was exempt from compliance, but it was made clear that the office was at the pleasure and disposition of the Queen.

Penalties provided for noncompliance once again were the destruction of printing equipment and imprisonment for a year.

Section 4 addressed printing unauthorised books. It commenced with a prohibition against printing books unless those books had been authorised in accordance with “the Queenes maiesties Iniunctyons” [174] and had been perused by the Archbishop of Canterbury and/or the Bishop of London.

In parentheses an exception was provided for the Royal Printer. Those who were “pryviledged to prynte the bookes of the Common Lawe” were to have their books approved by two of the Chief Justices and/or the Chief Baron rather than by the ecclesiatics.

The section then prohibited the printing of books:

- a) “against the fourme or meaning” of any restraint or ordinance contained in any statute, law or injunction; or
- b) “against the true intent and meaning” of any letters patent, Commissions or prohibitions under the Great Seal; or
- c) contrary to any “allowed ordynauce sett Downe for the good governanuce” of the Stationers’ Company

The penalties provided were the destruction of the printing presses of offenders, a prohibition against future printing [175] and six months

imprisonment.

Section 5 dealt with crafts associated with that of printing but which had been absorbed into the Stationers Company. Those who bound books printed contrary to the intent and “true meaninge” of the ordinances in section 4 could be imprisoned for three months [176].

Section 6 is linked to section 2 and specifically confirms the powers of search vested in the Stationers Company. These powers were deemed to be within the law. The powers of search were given to the Wardens or any two deputies of the Wardens who

174. A reference to the Injunctions of 1559.

175. The wording is that offender “shalbe dishabled (after any such offence) to use or exercise or take benefytt by using or exercisinge the art of feat of ympryntinge.”

176. No mention was made of “bail or mainprise”.

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were members of the Company. No requirement for any form of warrant is stated. The wording of the section, making such searches lawful is sufficient.

The powers of search related to all “woorkhowses, shops, warehouses of prynters, bookesellers, bookebynders”, or places where they shall have “reasonable cause of suspicion.”

Associated with the power of search was a power of seizure. Books, copies and material that was printed or was to be printed [177] and was contrary to the “intent and meaninge of theis present ordonaunces” could be seized, taken to the Stationers’ Hall and held for “her maiesties use.”

Those who were found to be “pryntinge, sellinge, uttering, byndinge, stychinge, or sowinge books that were contrary to the Decree could be arrested and were to be brought before the High Commission, or three Commissioners of whom the Archbishop of Canterbury or the Bishop of London were to be one.

Section 7 makes it lawful for the Wardens or their deputies to enter premises, and seize presses, letters and other printing instruments which were used or intended to be used contrary to the Decree. The seized goods were to be taken to the Stationers Hall and were defaced, “melted, sawed in peeces, hoken or battered at the smythes forge” or otherwise rendered

unserviceable [178].”

Section 8 is related to section 3 and contains additional print trade restrictions. It sets limits on the number of apprentices that a free person of the Company could keep. A Master or Upper Warden could keep three apprentices at any one time. Any free member under the position of Warden or of the Livery of the Company could keep two apprentices and yeomen of the Company could keep one apprentice. Once again an exemption was provided for the Queens Printer who could keep up to six apprentices.

Section 9 deals specifically with the printers at Oxford and Cambridge who could not have more than one apprentice each. However, it was lawful for them to have the help of journeymen who were freemen of the City.

XIV THE DECREE AND ITS RELATIONSHIP WITH OTHER MEASURES

Siebert interprets the Decrees within a context of the Elizabethan policy to “protect existing institutions by suppressing popular political and religious discussion [179]. He viewed the Stationers Company as an agency of governmental administration to enforce existing regulations but the writings of critics of government and the established religion were still finding their way into print.

The Decrees cannot be viewed in isolation especially as they refer to earlier ordinances and injunctions dealing with the printing trade in the form of the Injunctions of 1559 and the Order in Council of 1566.

The “Injunctions for Religion” of 10 July 1559 [180] comprised 53 Injunctions proclaimed to ensure the advancement of “the true honour of Almighty God, the

177. A reference, no doubt, to drafts or manuscripts of material that had not been put to the press.

178. Interestingly enough there was property in the defaced material. Section 7 sets out the way in which the material taken was to be defaced or broken up. The “stuffe of the same so defaced shall redeyver to the owners thereof againe within three monethes next after the takinge or seizinge thereof as aforesaid.”

179. Siebert p. 63.

180. 2 Hughes and Larkin 460, p. 117 at p. 128 -129.

suppression of superstition through all her highness' realm and dominions and to plant true religion to the extirpation of all hypocrisy, enormities and abuses...

Injunction 51, which provided the foundation for the Elizabethan licensing system and to which reference is made in the Star Chamber Decree, was designed to address "great abuse in the printers of books, which for covetousness chiefly regard not what they print so they may have gain, whereby ariseth great disorder by publication of unfruitful, vain, and infamous books and papers."

The licensing system proposed by the Injunctions operated as follows:

1. No one could print any book of any sort without a licence "by her majesty by express words in writing, or by six of her Privy Council, or be perused and licensed by the Archbishops of Canterbury and York, the Bishop of London, the chancellors of both universities, the bishop being ordinary, and the archdeacon also of the place where any such shall be printed, or by two of them whereof the ordinary of the place to be always one"
2. The names of those licensing the work were to be printed at the end of the work "for a testimony of the allowance thereof."
3. "Because many pamphlets, plays, and ballads be oftentimes printed wherein regard would be had that nothing therein should be either heretical, seditious, or unseemly for Christian ears" licensing of such works was in the hands of the High Commission.
4. The sale of unlicensed books was to be punished at the discretion of the High Commission.
5. All other books of matters of religion, policy or governance printed in England or overseas were referred to the High Commissioners within London who could consider whether or not they should be prohibited.

The preamble to Injunction 51 refers to problems within the trade and the nature of the books that were being published. Two years after the end of the reign of Marv (during which the printing trade had suffered a

decline) there was an apprehension of activity on the part of printers which was motivated purely by greed and profit, together with a lack of discretion about the nature of the works published. Notable by their absence is any suggestion of treasonable, seditious or heretical works, but rather books that appeared to be other than for the greater good of society. The Tudors did not mince words in their Proclamations and Orders and would not hesitate to condemn works as heretical, schismatic, treasonable, seditious or “naughty” if that was what they appeared to be.

However, in the actual operative part of Injunction 51 it does appear that heretical and seditious works are to be considered. However, within the context of the Injunction these are a subset of all the works to be considered. The principle prohibition was against printing any sort of book without a licence. Licensors were appointed by the Injunction. The subset of heretical and seditious works came within the purview of the High Commission (of which the Archbishop of Canterbury and the Bishop of London were members).

The way in which the content licensing structure is set up suggests that the High Commission is responsible for approving works that were potentially heretical, seditious or unseemly, along with books on religion, policy or governance. The wording of the general prohibition could be interpreted that no one could print a book (irrespective of content) without a licence - thus one had to have official sanction to print anything.

The Injunctions therefore provide a structure for the licensing scheme involving a number of different people or entities who could issue licenses but which, in the main, cast the content licensing burden upon ecclesiastics, perpetuating a system that had been

devised in 1407. The Injunctions are very general and there is no reference to the involvement of the Stationers Company. Their wide scope is consistent with the underlying policy behind Elizabethan censorship [181] which was principally political. Clegg suggests that Elizabeth’s government responded to printed dissent in an ad hoc manner, reacting to material that constituted a direct attack on the government or that was associated with an event that the government perceived as a threat to its policies.

A subsequent Order in Council in 1566 [182] comprised a part of the matrix of matters referred to in section 4 of the Star Chamber Decree. [183] The Order was in the nature of prohibitions and did not set up any new or amended licensing scheme. It contained six provisions which may be summarised as follows:

1. A prohibition against the printing or importation of any book contrary to law or statute or any injunction, letter patent [184] or ordinance
2. Offences against the ordinances would result in the forfeiture of books and copies, a prohibition from further activity in the printing trade and three months imprisonment
3. Those in the bookselling or bookbinding trades who dealt in prohibited books suffered forfeit of the books and a fine of 20 shillings per book.
4. Forfeited copies were to be taken to Stationers Hall. Part of the funds forfeited were reserved to the Crown and part to the person who seized the books or made complaint to the Stationers. The books themselves were to be destroyed and “made waste paper”
5. It was lawful for the Stationers’ Warden or two deputies to open book or paper containers or search premises of printers, booksellers or book importers. Reasonable cause for suspicion was required. Offending material was to be taken to Stationers’ Hall and offenders were taken before the High Commission

Recognisances for compliance with ordinances were required of every stationer, printer, bookseller or others involved in the book trade including importers.

The 1566 Ordinances were directed primarily towards the importation of continental Catholic works and are illustrative of the reactive nature of Elizabethan press controls. However, the Ordinances are not directed solely to this evil but also reinforce the patent privilege system for printing works that was utilised by the Crown. The reference to those who printed books contrary to letter patent reaffirmed the importance and legal force of the privilege granted to individual printers.

Efforts were made to try and regulate the printing trade by statute. William Lambarde, a renowned jurist, drafted an Act of Parliament to address the printing trade. There was a growing concern about the publication of popular literature and Lambarde's proposal was that the opinions of "the godly learned" should set the literary standard. His proposal, which was refined in 1580, was that a licensing board of twelve be established with a membership drawn from three ecclesiastics, the City of London

181. Clegg, Susan Cyndia *Press Censorship in Jacobean England* p. 20

182. Tanner p. 245 - 246

183. Tanner notes that this Order is referred to in plaintiffs bill of complaint in Star Chamber in 1582 as a decree of the Court but he is of the view that the Order in Council was made in the Star Chamber room. The Council Register is missing and the matter cannot be confirmed. The case referred to is that of John Day v Roger Ward and William Holmes noted in 2 Arber 753. The Bill states "Whereas the nine and twentie day of June in the Eyght yere of your Highnes Raygne by your Highnes most honourable pryvie Cowncell in the Starr Chamber at Westminster upon the request of your Highnes Commissioners in Causes ecclesiasticall there was a Decree made (for the reformacon of diuerse disorders in pryntinge and unttering of books..."

184. My emphasis - it was this reference to letter patent that provided the basis for the claims by patent holders to bring their proceedings in Star Chamber against infringers

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recorder and eight others including four readers from, the Inns of Court. Control would no longer rest with the Bishop of London. Licences would be approved by three members of the board of which one would be an ecclesiastic.

The preamble sets out the nature of the problem. It refers to the art of printing as "a most happie and proffitable invention" [185] which had been abused:

a) partly by "covetousnesse of some that doe occupie the trades of printing..." [186]

b) partly by the unadvised enterprise of various people responsible for writing or translating works for no other purpose than "to let in a mayne Sea of wickednesse, and to set up an arte of making lasciuious ungodly love to the manifest iniurie and offence of the godly learned whose prayse woorthie endeouers and wrytinges are therefore the lesse read and

regarded to the intollerable corruption of common lyfe and manners” [187]

Lambarde’s proposed legislation was not enacted but its rhetoric and its proposals reflect the concerns that were present in the printing trade and which had been present for some time. Twenty-one years earlier in the preamble to Injunction 51 reference had been made to the covetousness of the printers and the frivolous types of books that were being printed.

Lambarde’s solution was a modification of the existing content licensing scheme that had been set up in Injunction 51. The fundamental structure remained the same. Pre-print content had to be approved. What was different was that the number of those approving works for publication was expanded, and the occupations or callings of those approvers went beyond a pure ecclesiastical membership, although the Church was still represented.

XV AFTER 1586

It was abundantly clear that the provision for content licensors or approvers was inadequate to meet the large volumes of material that required approval following upon the promulgation of the Star Chamber Decree. Archbishop John Whitgift, an enthusiastic proponent and supporter of the Decree welcomed the re-institution of ecclesiastical licensing. I suggest that “reinstitution” can be the only way to describe this development for it merely revives Church supervision of content that had been established in 1408, that continued throughout the 1520’s but which was supplanted in Henry VIII’s proclamation of 1536 with a State licensing system. Thus, after 50 years, ecclesiastical approval of content had returned.

In 1588 Whitgift appointed a board of licensors to provide official authorisation for publication, giving to the system a bureaucracy that had been absent in earlier proposals. It would have been impossible for two men along to approve all the material that was being printed in the later 1580’s. Whitgifts proposal established eight senior authorisers and four junior authorisers. Even with these increased numbers total content scrutiny was not achieved. There was, however, an increase in the number of books that received official sanction before they were printed. Stationers Company records suggest that in the 1590’s some 44% of books printed received official authorisation. This increased to 84% in the

1620's. However, the number of books that were entered in the Company Register for publication licensing decreased from 60% in the period 1590 - 99

185. For a transcript of the 1580 draft see 2 Arber 751

186. 2 Arber 751

187. 2 Arber 751

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to 49% in the decade 1620-29 demonstrating a significant non-compliance with Stationers Company Ordinances.

How the Decree Worked

The process to get a book printed was a complex one involving a number of steps involving two bureaucracies. Bennett [188] describes the process as follows:

- a) The Stationer brings the copy to one of the Bishop's Chaplains.
- b) On the manuscript itself, the Chaplain indicates the copy may be printed and authorises or licenses the copy.
- c) The stationer brings the manuscript to Stationer's Hall.
- d) The Wardens peruse the copy, looking not only for official consent, possibly in the form a signature, but also for any remarks the licensor may have made concerning cancellation of certain passages or revision of certain pages.
- e) The wardens then add their names to the copy.
- f) The stationer brings it to the clerk.
- g) The clerk examines the copy for its authorisations.

Having determined that it is licensed properly, the clerk enters the stationer's name, authorisation and title in the register, together with the fee of six pence for its entrance.

The Effectiveness of the Decrees

As can be seen from the statistics, there was an increase in the number of approvals attached to books but a decrease in registration with the Stationers Company. Although it was hoped that the Star Chamber Decrees would clarify and strengthen the regulation of printed content the publication of the Martin Marprelate letters from October 1588 to August

1589 demonstrates otherwise.

The Marprelate Tracts demonstrate the ineffectiveness of the licensing and authorisation requirements and how it was so necessary for the printing industry to be centrally located for any sort of control to be exercised over it. The story of the Marprelate Tracts is covered in Bernett [189] and involved activities by primarily one of Robert Waldegrave and others, who exercised considerable mobility as a press was moved from Kingston to Eastern Molesley, to Fawsley House in Northamptonshire. Although Waldegrave dissociated himself from the Marprelate Tracts those who printed them finally ended up in Manchester, where as a result of misadventure, they were apprehended. No one has been able to identify the actual author of the Tracts but the fact that they continued to be published for a considerable period of time demonstrates the ineffectiveness of the even more stringent controls.

Clegg is of the view that neither the licensing requirements put in place by the decrees, nor the panel of Authorisers, could impose complete control of the printed word. The institutions, which were employed - ecclesiastical authorisation and Stationer's Company licensing - were in the hands of people who had different agendas. Many stationers actually supported religious reform, as did some of the Authorisers. Furthermore, neither stationers nor authorisers could always be sure what should be approved and what should be censored, especially if the material before them fell outside their specific range of authority.

188. 3 Bennett, p. 40

189. 2 Bennett pp. 83 to 84

XVI THE STAR CHAMBER DECREE 1637

Introduction

The Star Chamber Decree of 11 July 1637 was the most comprehensive attempt to regulate the printing trade since its reception into England. Although its provisions addressed content regulation they also dealt with aspects of the printing trade in a much wider way than had been the case in the 1586 Decree and was the first regulatory effort that involved itself with aspects of the new technology. Although it was plain that the full impact of printing as an information communication

technology was not fully understood, the 1637 Decrees not only addressed the message but the medium as well.

Background

1. Earlier Decrees and Proclamations

The 1637 Decree was not the first from the Star Chamber during the early Stuart period. In 1615 a Decree limited to twenty the number of Master printers who were allowed to have the use of one or more presses. This was repeated in Items 15 and 17 of the 1637 Decree.

The 1615 Decree was not a form of State regulation of the printing trade. As was the case with the 1586 Decree, it was a decision in a case. The issue was brought before the Court of Star Chamber by the Master printers who were concerned at the proliferation of presses and wanted to protect the capital investment that they had made. The decision of the Court is “UPON Complaint made to this Court (by the Master printers) of the Multitude of presses that are erected among them” [190]. Thus, to suggest that Star Chamber of its own motion was involved in what may be interpreted as a limitation upon printing presses to stifle the publication of unacceptable material is clearly incorrect. The decision was in effect a protectionist one. However, the 1615 Decree was unsuccessful in maintaining stability of numbers. By 1634 the number of master printers had grown to twenty-three and in 1636 there were nineteen establishments operated by twenty-one master printers [191].

It must be remembered that although it occupied a privileged position, the Stationers’ Company was a small organization. It was not difficult for members to keep an eye on one another. During the period of the 1630’s the Company was faced with foreign competition, with incidents of piracy and secret or unauthorized printing. However, the risk for being brought to book for disorderly or unlicensed printing was not great. Few offenders were reported and when they were the punishments and fines were hardly a deterrent. Even the orders of the Company received scant compliance. In 1622 the Court of Assistants stated that “noe printer shall print anie booke except that tis entered in the Hall Booke, according to the order.” [192] Yet approximately one third of the books printed were unregistered. [193] In January 1632 it was again ordered “that noe bookes (licensed by my Lord Bishop of London) should be printed by any printer

190. 3 Arber p. 669

191. Siebert p. 137

192. W.A. Jackson *Records of the Court of the Stationers Company, 1602-1640* London; The Bibliographical Society 1957 p. 149

193. Greg, W.W. *Some Aspects and Problems of London Publishing between 1550 and 1650* Oxford, Clarendon Press 1956p. 68

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whatsoever without the license printed with the booke” [194] The fact of the matter was that between 1630-1640 the imprimatur affected only a third of the books printed. [195]

In addition the shortcomings of the content control system were becoming apparent. Alexander Leighton was pilloried, whipped, lost both his ears and nose, was branded and sentenced to life imprisonment for publishing an attack on the episcopacy. [196] His book was published in the Netherlands and smuggled into England as were those of Prynne, Bastwick and Burton. Prynne was pilloried and lost both his ears, but the work, *Historio-mastix* was in fact approved and licensed by Thomas Buckner, one of the Archbishop’s chaplains but it turned out that the licenser was less than diligent in his job, having perused only sixty pages of the whole work. [197] The charges that were brought were not for breaches of the licensing rules. Instead they were charged with the most serious offences possible. In Leighton’s case the charge was one of seditious libel or *Scandalum Magnatum*. It is suggested that Prynne and his co-defendants faced a similar charge. [198]

Lambert [199] suggests that the cases of Prynne and Leighton were not indicative of press repression but are special cases of their sort. On the other hand they are illustrative of incidents of “secret” printing, unlicensed printing, and the secretive and unauthorized importation and sale of books. Unauthorised importation was seen as a significant problem. Books printed overseas, of course, could not be monitored under the content control regimes present in England, flawed as they were. The flow of books containing doctrine contrary to that of the established church was considerable. In 1627 Customs officers were directed to be especially careful “to prevent the secret & private wayes of bringing anye such bookes into your ports... and to seize all such bookes as you shall see

finde.” [200] Only nine entries in the Stationers Register between 1602 and 1640 record action being taken against the importation of books, although some six hundred books were printed abroad and intended for the English market. This is not say that there were not seizures, but more books were getting into the country than were being stopped. [201]

The early Stuarts also resorted to proclamations, although these were not used for the regulation of printing as vigorously as by the Tudors. One problem that beset the Stuarts was the rise of publications known as “corontos” which were newssheets or newsbooks printed overseas, particularly in Amsterdam, and brought into England. It was not long before English printers imitated the Dutch and the first English “corontos”

194. Jackson p. 234

195. F.B. Williams *The Laudian Imprimatur* The Library 5th Series Vol 15 (1960) p. 98

196. Leighton was informed against in the Court of Star Chamber on 4 June 1630 for writing and publishing a pamphlet entitled an *Appeal to Parliament or a Plea against Prelacy*. He pleaded that his intention was to call Parliament’s attention to grievances seeking redress for the good of the King, the people and the Church. Two of the Judges were Lords Chief Justices of the Kings Bench and Common Pleas and observed that if Leighton was before them in the Kings’ Courts he would be facing a charge of treason. In fixing its sentence the Court, unable to impose capital punishment, made the penalty as oppressive as possible. Leighton escaped before the penalty could be carried out but was later recaptured. On 16 November 1630 the first part of the corporal punishment was carried out followed a week later by the second part. The populace who observed the sentence were impressed not with the heinous nature of the offence but the severity of the sentence. - see Siebert 122

197. For this, Buckner was fined fifty pounds.

198. Hamburger 678

199. S. Lambert, ‘The printers and the government, 1604-1637’, in R. Myers and M. Harris, eds., *Aspects of printing from 1600* (Oxford, 1987), pp. 1-2, 16-17; S. Lambert, ‘Richard Montagu, Arminianism and censorship’, *Past & Present*, 124 (1989), p. 68;

200. Jackson p. 387

201. 3 Bennett p. 50 - 51

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appeared in the summer of 1621. In December 1620, James had issued a proclamation directed against the “great liberty of discourse concerning matters of State”, and on 21 July 1621 revived the proclamation to suppress the corontos. The proclamation was unsuccessful “for they continue to take no notice of it, but print every week, at least, corrantos, with all manner of news, and as strange stuff as any we have from

Amsterdam.” [202]

The importance of the 1586 Decree was underscored by the issue of a proclamation on 25 September 1623 for the better enforcement of the Decree. The 1586 Decree was confirmed, including the powers of search and seizure given to the Stationers Company. The basis for the proclamation is that the true intent and meaning of the;

“ said decree hath been cautelously abused and eluded by printing in the parts beyond the sea and elsewhere as well sundry seditious, schismatical, and scandalous books and pamphlets as also such allowed books, works, and writings as have been imprinted within the realm by such to whom the sole printing thereof by letters patents or lawful ordinance or authority doth appertain according to the true intent of the said decree, and by importing the same into this our realm.”

Although proclamations issued from the King there was an occasion when one was issued at the behest of Parliament but the particular case demonstrates that even early in the reign of Charles I there was a developing truculence between King and Parliament. Dr Roger Manwaring, an ecclesiastic, supported the position of the King who claimed that Parliament could not interfere in matters of religious doctrine. Although there may have been a question about jurisdiction, Manwaring was charged by the Commons, was imprisoned, fined and suspended from exercising his ministry and from holding any ecclesiastical or secular office. His books were burned and the King was asked to issue a proclamation to prevent circulation of Manwaring’s works. This he did on 24 June 1628²⁰³ but the sting was immediately taken out of the matter when Charles I appointed Manwaring to the rectory of Stamford Rivers in Essex. [204]

There were gulfs between the theory of printing trade regulation and its practice. Despite the 1586 Decrees there were incidents of secret printing, undetected importation and surreptitious sale of overseas publications in English as well as dissatisfaction within the trade both on the part of the Master and Wardens of the Company as well as the journeymen and those who were not beneficiaries of patents or privileges.

[205] At the same time, members of the Stationers were not immune from official criticism which suggests that they were not the compliant tools of the State that has been suggested. In 1629 and again the following year Stationers members were summoned before the High Commission for having published unlawful and unlicensed pamphlets.

In 1634 these grievances were brought to the attention of Sir John Lambe, Dean of Arches, who began a review of the system that was in place and which reflected the 1586 Decree. Lambe was not unaccustomed to receiving complaints and petitions from

202. Chamberlain to Carlton August 4, 1621 Court and Times of James I II pge 272. The corontos became the subject of attention not only by the use of the proclamation but prosecution by the Council, the licensing system, the Stationers Company and the grant of Crown privilege. For a detailed history of the corontos see Siebert Ch. 7

203. Steele, 1551

204. Siebert 114 - 115

205. 3 Bennett 50 - 52

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disgruntled members of the printing trade. [206] The Decree reflects the interests and wishes of the Stationers' Company [207] as well as providing for a more efficient content control system.

The Decree

The Decree of 1637, which is entitled "Concerning Printing" comprises some 33 clauses. These fall into three major areas: provisions of a general nature, those aimed at booksellers and importers and those directed to the printing industry - printers and letter founders. [208]

The preamble to the Decree refers to earlier efforts to deal with problems arising in the printing trade which had their shortcomings - "divers Decrees and Ordinances have beene made for the better gouernment and regulating of Printers and Printing, which Orders and Decrees have beene founde by experience to be defective in some particular" - along with a recitation of present problems - "divers abuses have sithence arisen, and beene practiced by the craft and malice of wicked and evill disposed persons, to the preiudice of the publike; And divers libelous, seditious and mutinous bookes have been unduly printed, and other bookes and papers without licence, to the disturbance of the

peace of the Church and State”.

The preamble concludes by reaffirming all the earlier Decrees which would remain in force with the new Decrees which are described as “Additions, Explanations and Alterations”

The Provisions

Item 1 contained a general prohibition against printing or importing books that were described as “seditious, scismaticall or offensive... to the scandal of Religion, or the Church, or the Government, or the Governors of the Church or State... or particular persons whatsoever.” Offences attracted “correction, and severe punishment” by fine, imprisonment “or other corporall punishment.”

Blagden observes [209] that this provision was covered by existing felony law and observes that Nicholas Prynne and Michael Sparke were prosecuted in 1634 for publishing *Historio-mastix* and were both sentenced to stand in the pillory twice. Sparke was required to wear a paper on his hat, but Prynne lost an ear on each occasion.

Item 2 contains a general prohibition against the printing of any book or pamphlet whatsoever, unless

- a) it has been lawfully licensed and authorised in accordance with Item 3; and,
- b) had been entered in the Stationers Company Register.

The Item is not only restricted to books but specifies that the license must extend to any title, epistle, preface, proem, preamble, introduction, table, dedication and other annexures. This was to ensure that printers would not include questionable material in these parts of a publication which would not constitute the substance of the work.

Item 3 sets up a content licensing system that was significantly more extensive than those of the Tudor period. The Decree divided books into categories and assigned

206. Vide *infra*

207. Mendle, Michael *De Facto Freedom, De Facto Authority: Press and Parliament 1640 - 1643* The Historical Journal, Vol. 38, No. 2 (Jun., 1995), 307-332, p. 310

208. A founder is one who casts metal or makes articles of cast metal. The Oxford English Dictionary cites the 1637 Decree as an example of the use of the word.

209. Blagden p. 119

different people or organizations as their licensors. No longer was licensing to be solely in the hands of the Privy Council or the High Commission or ecclesiastics. Specialist licensors were appointed who would have particular knowledge of the subject matter of the publication. The categories of publication and their licensors were as follows:

- a) Books containing the common law by the Lords Chief Justices and the Lord Chief Baron, any one or more of them or their appointee;
- b) Books of History of England [210] and of present times “or any other Booke of State affaires” by the principal Secretaries of State or their appointees;
- c) Books concerning heraldry, Titles of Honour and Arms or concerning the office of Earl Marshall by the Earl Marshall or his appointee; and,
- d) All other books “whether of Divinity, Phisicke, Philosophie, Poetry or whatsoever” by the Archbishop of Canterbury or the Bishop of London or their appointees, or the Chancellors or Vice Chancellors of either Oxford or Cambridge Universities

Item 3 had a special proviso that the Chancellors or Vice Chancellors should licence books printed within University limits and not those printed in London or elsewhere. In addition they were not to “meddle” with books dealing with the common law or matters of State.

The approval of the Heads of Bench for law books was not new and as recently as 15 August 1624 a proclamation confirmed the existing practice.

Item 4 deals with the mechanics of licensing and is designed to ensure the integrity of the content licensed. Two copies of every book were to be provided to the licensor. [211] One copy would be kept in a public registry of the licensor. The other copy would remain “with him whose copy it is”. [212] The licensor was to certify on both copies that there was nothing contrary to the faith or doctrine of the Church of England, nor against the State or Government, “nor contrary to good life, or good manners or otherwise”. The license was to be printed at the beginning of the book, with the name of the licensor “for a testimonie of

the allowance thereof.” Item 4 specifies that the purpose of the corresponding copies was to ensure “that the Copy so licensed by him or them shall not be altered without his or their privyie.”

Items 5 and 6 address the importation of books.

Item 5 provides that those who imported books were required to present an inventory of books imported to the Archbishop of Canterbury or the Bishop of London.

Item 6 prohibited the opening of any container of imported books until the contents had been inspected by the Archbishop of Canterbury or the Bishop of London or their appointees along with the Master or Warden of the Stationers Company. If any “seditious, schismaticall or offensive” books were found they were to be brought to Archbishop of Canterbury, the Bishop of London or the High Commission to the end that proceedings may be brought against the offender before the High Commission or the Court of Star Chamber.

Items 7 to 9 deal with the protection of existing printing, publication and distribution rights.

Item 7 prohibits the printing, importation or binding of books which the Stationers Company or any other person had “by any Letters Patents, Order, or Entrance in their Register book or otherwise, have the right, priviledge, authoritie or allowance

210. Belonging to this State

211. Along with the title, epistle, preface, proem, preamble, introduction, table, dedication and other

annexures

212. The printer or licensee

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soly to print”. This item was designed to protect those who had existing rights to print books and was designed to address those who might infringe those rights.

Item 8 requires printers, authors and makers of books, ballades, charts, portraiture or any other things whatsoever to be identified and their names to be printed on the work.

Item 9 prohibits the forgery or counterfeiting of any mark of the

Stationers' Company or any person who has the lawful privilege, authority or allowance to print a work without their consent.

Item 10 prohibits the sale of Bibles, Testaments, Psalm-books, Primers, ABCs, Almanacs or other books whatsoever by haberdashers, ironmonger, chandlers, shopkeepers or any other person who had not first undertaken a seven year apprenticeship to a bookbinder, bookseller or printer. Thus the distribution of books was limited to those who had some earlier association with the book trade.

Items 11 to 23 concern the printing and books trades and contain a degree of detail not previously present in other regulatory instruments.

Item 11 commences with a preamble. It recognizes that printing has been present for some time and that the provisions that follow are to encourage printers in "their honest and just endeavours in their profession" and to prevent overseas printing and importation of libels, pamphlets and seditious books.

The overseas printing and/or importation of books printed in English was prohibited. It mattered not that the book in question had been the subject of an earlier edition.

Clearly this item fulfilled two objectives. It addressed the importation of questionable material in English, but more importantly it was protectionist in that it meant that any books in English were to be printed in England. This clearly fulfilled the goal of encouraging the local industry but it also meant that control of English publications was facilitated, in that all of the licensing provisions could be applied and enforced.

Item 12 prohibits the importation of books by foreigners unless they were free Stationers of London, had been brought up in that trade and undertook it for their livelihood. Once again this was a protectionist move but also ensured that a close eye could be kept upon those who were involved in book importation.

Item 13 provided that no one could set up a printing press on any premises (owned or rented) without first notifying the Master and Wardens of the Stationers' Company.

Item 14 addresses the manufacture of printing presses and type. This item is one of 5 that actually addresses fundamental elements of the technology itself. The effect of this and items 27-30 was to provide a brake on production. With a limited number of presses and a limited amount of type a limited amount of material could be printed. Thus these provisions address the problem of volume that print presented. By reducing volume it meant that licensors would be able to approve the output of presses without being inundated with new material. In addition, and echoing the provisions of the 1586 Decree, printing work could be spread among the members of the trade and for the benefit of those who were not patent holders.

The item provides that joiners and carpenters could not make presses, not could smiths forge ironwork for presses, nor could founders cast letters for anyone, nor could anyone import any material for fabrication of a press unless notification had been given to the Master and Wardens of the Stationers' Company.

Item 15 limits the number of Master Printers allowed to have the use of one press or more. They are named and power is given to the Archbishop of Canterbury or the

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Bishop of London to fill any vacancies. The number of Master Printers could not exceed 20, although the Kings Printer and those allowed by the Universities were exempt.

Item 16 provided for the payment of a good behaviour bond of 300 pounds ensuring compliance with licensing provisions. The bond was payable by every person having the use of a press of printing house. This was a significant sum of money to be paid and indicated how seriously the authorities were about ensuring compliance. Most printers in those times could ill-afford to forfeit 300 pounds. In addition, stringent penalties were provided for setting up or working at an unauthorized press'

Item 17 placed restrictions on the number of presses that could be operated. No printer could keep more than two presses. However, if a printer was or had been a Master or Upper Warden of the Company he could keep three. The prohibition could be relaxed for special occasions

and with the permission of Archbishop of Canterbury or the Bishop of London. There were some Master printers whose press numbers exceeded that allowed at the time of the Decree. The Master and Wardens of the Company were required to certify the number of Printers possessed by Master Printers so that the Archbishop of Canterbury or the Bishop of London or the High Commission may “take such present order for the suppressing of supernumerarie presses” as they deemed fit.

Item 18 required a new licence to be obtained for reprinting books for which a licence may earlier have been provided. It seems that what may have been in accordance with acceptable material in the days of Elizabeth I may be suspect in the latter years of the reign of Charles I. Once again two copies of the book were to be deposited.

Items 19 to 23 dealt with employment practices within the trade.

Item 19 dealt with apprentices and was directed to the future of the trade. Master printers who had been Upper Wardens of the Company were entitled to three apprentices, Master printers of the livery of the Company could have two and Master printers of the Yeomanry of the Company could have one apprentice. If an apprenticeship came to an end or an apprentice took flight, the name of the apprentice had to be expunged from the Company records before a replacement could be taken.

Item 20 addressed the employment of journeymen printers. The evil was stated. Secret printing had been taking place “for want of orderly employment for Journmeymen printers”. The Company was directed to take care that journeymen printers who were free men of the Company should be employed. An unemployed journeymen could “repaire to the Master and Wardens of the Company” who would offer his services to the Master printer under whom he served his apprenticeship or any other that they might think fit. The master printer who was offered the journeyman’s services was bound to employ him, even although “the Master Printer with his Apprentice or Apprentices be able without the helpe of the said journeyman to discharge his own worke.”

Item 21 provided that if the Master or Wardens refused or neglected a request by a journeyman in accordance with item 20, they should be brought before the Court of Star Chamber or the High Commission. Equally if an unemployed journeyman was offered employment and he

refused or neglected such offer, he could be dealt with by the Court of Star Chamber.

Item 22 dealt with University apprentices. The Decree states that it did not restrain the Printers of the Universities from taking any number of apprentices that they

213. See Item 24

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thought fit. There was a requirement that they should employ their own journeyman and not allow them “to go abroad for employment to the Printers of London.” [214]

Item 23 prohibited the employment “at the Case or the Presse” of those who were not free men or apprentices to the printing trade.

The provisions regarding apprentices and journeymen addressed problems that had been present in the trade from the early decades of the 1600’s. Many petitions had been made to the Court of Assistants, to Parliament and to the Dean of Arches, Sir John Lambe seeking redress for grievances arising from trade practices. On 16 May 1613 a petition was addressed to the Lord Chancellor by fifty-four journeymen who made three complaints. First, some Masters kept more than two and three times the number of apprentices to which they were entitled. This arose from a precedent set by the Court of Assistants who, in 1610, had given a printer permission to take on six apprentices for a special printing job, and, despite the petition of 1613, the practice continued. Examples are found in 1627 and 1629. [215] Secondly, devices were being used to avoid usual trade practices. For example, by making and breaking partnerships it was possible for one printing house to accumulate as many as ten apprentices. The Court of Assistants was aware of this. In March 1613 it made a general order about the excessive number of apprentices being taken. Thirdly, there was a complaint that the printers at Oxford and Cambridge were employing apprentices only, forcing their journeymen to come to London for work.

Item 24 provided for punishments for those who set up presses, worked at presses or printed material who were “not allowed Printer”. The opening phrase indicates that unauthorized printers were considered a

problem which the Court of Star Chamber was determined to address in a strict manner. The words read “The Court doth hereby declare their firme resolution” and the punishments provided include pillorying, being whipped through the City and such other punishment as the Court thinks fit to inflict. This item, like some others providing for offences requires “complaint or proove of such offence or offences” so a legal process was required.

Items 25 and 26 provide for search and seizure and echo the provisions of the 1586 Decree and confirm the powers granted to the Stationers in their Charter of 1557.

Item 25 provides a power of search vested in the Master and Wardens of the Company or two licensed Master printers appointed by the Archbishop of Canterbury or the Bishop of London “for the better discovery of printing in Corners without licence”. The searchers could call upon such assistance as they thought fit, could view what was being printed and ask to view licenses for such printing. The language of the item grants “power and authority” to search.

Item 26 makes it lawful for the searchers to seize suspect matter which would then be submitted to the Archbishop of Canterbury or the Bishop of London for assessment and further action.

In 1597 the Company had recognized that a local founding industry, properly supervised, was essential to the control of printing, although the motivation of the Company was towards industry rather than content control. It came to an agreement with Benjamin Simpson that he should enter into a bond of 40 pounds that he would not deliver any type without first notifying the Master and Wardens.

Item 27 sets a limit of four upon those who could manufacture or found letters for printing. The four were named in item 27 and power was given to the Archbishop of Canterbury or the Bishop of London to fill vacancies as they arose. It was an offence to

214. There was a proviso to item 22 that allowed the printers of London to take outside journeymen in extraordinary circumstances.

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manufacture letters for printing if one was not “an allowed founder” and again upon complaint and proof of an offence, penalties could be inflicted as determined by the Court of Star Chamber or the High Commission.

Items 28 to 30 echo the employment provisions for apprentices and journeymen in item 19 and 20.

Pursuant to item 28 a master founder was limited to two apprentices. Item 29 required journeymen founders to be employed by Master founders of the trade and idle journeymen were compelled to take work “after the same manner and upon the same penalties, as in the case of the Journeymen-Printers as before specified”

Founders were prohibited by item 30 from employing any other persons who were not freemen or apprentices to the letter founding trade “save only in the pulling off the knots of mettle hanging at the ends of letters when they are first cast” in which case a boy outside the trade could be employed.

Item 31 provides for general penalties that may be imposed upon person who “by his or their confession, or otherwise by proof” were convicted of any offences against the 1637 Decree or any other Decrees of the Court of Star Chamber. In addition to specific penalties provided they may be bound over with sureties never to offend again and provisions for forfeiture of books and their destruction were included.

Item 32 returned to the issue of book importation. Books could only be landed at the Port of London so that they could be examined.

Item 33, the final item in the Decree is unique and heralds the beginning of a new practice. It recognizes the importance of books as an educational and informational resource. It recognizes that with the passage of time, books may be destroyed or disposed and thereby the information therein will be lost. It makes provision to ensure the retention of the book and its information, and in this respect, if one considers the 1637 Decree to be a repressive set of censorship rules, this provision is set against that view and is a shining beacon for the future. It requires that one book of every sort that was printed or reprinted be sent to the University of Oxford for the use of the public library there. Printers were required to reserve a new printed or reprinted book for that purpose. It would be brought to

Stationers Hall and then delivered to the Library. This arose as a result of an agreement between the Stationers' Company and Sir Thomas Bodley, the founder of the University Library at Oxford. It was the beginning of the Library Deposit system which was later to become an important issue in the development of copyright law. [216]

The importance of controlling the constituent parts of the trade are reflected in items 27 to 30 which deal with the founders of type. These constitute, along with the provisions relating to the manufacture of presses, the "technology regulation" provisions of the Decree. I use this term to distinguish "content regulation" which, as I have argued throughout, is a subset of the overall regulation of an information communication technology. One of the difficulties that arises in considering communication technology regulation is that so often the regulation of the content of communication is the point of focus. This necessarily gives rise to a discussion about censorship which frequently becomes an argument about the morality of censorship, the values of free speech, democracy vs. tyranny, absolutism and empowerment and a range of issues that confuse the overall examination and consideration of regulatory systems. Much (I would venture to say most) of the historiography of the early history of the print technology has been

216. See Feather, John *Publishers and Politicians: The Remaking of the Law of Copyright in Britain 1775-1842 Part 1: Legal Deposit and the Battle of the Library Tax* in Feather, John *Publishing History* Chadwyck-Healey, Cambridge 1988.

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in the nature of an examination of the issue of content restriction or censorship without a co-equivalent examination of the technology and its communicative elements.

The conclusions that are reached about the success or otherwise of the Tudor and Stuart content regulation systems has been as a result of a dialogue about the effectiveness of Decrees as a means of censorship rather than as a means of regulation of a new communications technology, and whether the regulatory systems demonstrate that there was an appreciation of the nature and apparent and underlying implications of a new communications technology. Indeed some authors gauge the nature of regulation and what was the subject of regulation on the basis of the texts

that were the subject of regulation. This is to adopt a view *reductio ad absurdum* for it addresses not what was unique about the new technology but only the content of a work that could, in any event, have been made available in manuscript. The discussion about content regulation in the Tudor and Stuart period focuses almost exclusively on printed material and ignores suspect material that was available in manuscript. One wonders whether or not there would have been a need for the state to embark upon measures such as the Ordinances of 1566 and the Decrees of 1586 and 1637 were it not for the fact that the content was in print.

This tells us that of itself the content was but a small feature, and the essential properties of print - volume, dissemination, fixity, standardization - were the real problem. And it is this problem that is haltingly addressed in all regulatory system prior to 1637. The 1637 Decree is the first that carries out a detailed analysis of the underlying properties of print and addresses them in a unique manner. Item 14 dealing with the manufacture of presses, and items 27 to 30 dealing with an element of the press, the letters or type, recognize the validity of the comment (albeit anachronistic) by Charles Clarke' that "the answer to the machine is in the machine".

217. See Clark, C 'The Answer to the Machine is in the Machine', in: P. Bunt Hugenholtz (ed.), *The Future of Copyright in a Digital Environment*, The Hague: Kluwer Law International, 1996.