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Changes to Common Law Printing in the 1630s:

Unlawful, Unreliable, Dishonest?

Abstract: Law printing changed dramatically in the reign of Charles I. This article shows that the legally imposed monopoly on printing books of the common law (the law patent) was breached regularly and seemingly with impunity. Piracy, false attributions of authorship and concerns about quality all appear from the late-1620s onwards. The article explains these changes by stressing a number of factors: changes related to the holder of the patent and those printing under it; difficulties and tensions in the enforcement of the patent; and unauthorized printing creating a more competitive (and therefore challenging) market for law printers.

Keywords: Print culture, printing, law books, history of the book

Changes to Common Law Printing in the 1630s:

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This article identifies and seeks to explain several changes in the printing of the books of the common law in the reign of Charles I. Unauthorized printing, piracy, greater concern about quality and false attributions all appear in a fifteen year period. Some of these developments were entirely new, others increased dramatically in scale. The article seeks to explain these changes within English legal printing, identifying problems in the enforcement of the law patent and changes in the interests of the printers enjoying the patent as particularly important causes.

Law books came into being in a somewhat unusual environment. Like several other classes of books, including statutes, law books were subject to a patent, a monopoly granted by the Crown giving the patent holder the sole right to print books related to the common law of England.¹ The first holder was Richard Tottel, who held a succession of patents for four decades from 1553.² A number of holders followed in the 1590s and 1600s, before the stationers' company acquired the patent and incorporated it into the English stock, the body of texts which only the

¹ It can be difficult to identify whether a work not printed under the common law patent is a 'law book' for purposes of this article. Beyond the distinction between common law and statute, there is no contemporary evidence for how (if at all) the distinction was made. Printings or subsequent reprintings under the patent address this difficulty in several cases (e.g. text below at nn.24-26 and 32), but this is not possible for all works (e.g. *The Attornies Almanacke* (see below, n.20) and Lambarde's *Archeion* (see below, n.45)). *Archeion* is a borderline case. It contains important jurisprudential content which seems to have been influential in legal discussions when the work was only in manuscript (see Ian Williams, 'Developing a Prerogative Theory for the Chancery: The French Connection', in Mark Godfrey, ed., *Law and Authority in British Legal History, 1200-1900*, Cambridge, 2016, 33, at 42-48 and 52-56), together with descriptions of the jurisdictions of the courts. However, the jurisdictional content could be seen as a matter of government not covered by the law patent, like the second book of Thomas Smith's *De Republica Anglorum* (Thomas Smith, *De republica Anglorum The maner of gouvernement or policie of the realme of England*, London, Henry Midleton for Gregory Seaton, 1583), a book which seems never to have been regarded as a 'law book' subject to the patent. Although there are few borderline works, they have been included as 'law books' for purposes of this article. This may be slightly overinclusive but does not undermine the argument in general.

² The dates of the various patents are identified in Anna Greening, 'Tottell, Richard (b. in or before 1528, d. 1593)' in H.C.G. Matthew and Brian Harrison, eds., *The Oxford Dictionary of National Biography: from the earliest times to the year 2000*, 60 vols., Oxford, 2004, vol.55, 73.

stationers' company could print and which was a valuable source of income for the company and its members.³ A small number of printers printed under the auspices of the patent and the stationers' company until 1629 when the patent passed to John More.⁴ More leased the enjoyment of the patent for thirty eight years to a syndicate consisting of Miles Flesher, John Haviland and Robert Young.⁵ The law patent continued for much of the eighteenth century.⁶ The standard reference for a history of law printing from the mid-sixteenth to the late-seventeenth century takes as its approach that 'the story of the English law book from Elizabeth I to William III must indeed be, to a large extent, a history of the arrangements for law printing during that period'.⁷ The patent looms large in that story, and in the story of the regulation of law printing, with the monopoly apparently rendering 'outside control of legal publishing largely unnecessary'.⁸

In itself this might be a surprise. Early-modern monopolies were certainly not always granted as a means of regulating in the public interest, as the complaints about monopolies in the reigns of Elizabeth and James show.⁹ There were complaints about the law monopoly, although these tended to be about price and abuse of market control, rather than concerns about the content or quality of the books.¹⁰ Nevertheless, there is some evidence that the patent for law books may have been related to regulating the legal press, perhaps in an attempt to secure quality. Tottel's

³ On the English stock, see Cyprian Blagden, 'The English Stock of the Stationers' Company in the Time of the Stuarts', 12 *The Library* series 5 (1957), 167.

⁴ More had acquired the reversion to the patent in 1618 (John H. Baker, 'English law books and legal publishing', in John Barnard and D.F. McKenzie (eds.), *The Cambridge History of the Book in Britain, Vol.IV, 1557-1695*, Cambridge, 2002, 473, at 483.

⁵ Baker, 'English law books', 479-484.

⁶ Tariq Baloch, 'Law Booksellers and Printers as Agents of Unchange', 66 *Cambridge Law Journal* (2007), 389. Baloch demonstrates that authors in the eighteenth century found methods to avoid the patent holders' conservative approach to printing new works. For the difficulties in determining quite when the law patent ended, see *ibid.*, 411-415.

⁷ Baker, 'English law books', 475.

⁸ Baker, 'English law books', 490.

⁹ Thomas B. Nachbar, 'Monopoly, Mercantilism, and the Politics of Regulation', 91 *Virginia Law Review* (2005), 1313, at 1328-1333 and 1342-1354, is a useful summary of the main debates in Elizabethan and early-Stuart England. Monopolies were often justified on the basis of the public interest, including in the original grants by the Crown (*ibid.*, 1339-1340).

¹⁰ Baker, 'English law books', 479.

first two patents (in 1553 and 1556) imposed a requirement that a judge, two serjeants or three barristers 'allow' Tottel's books, indicating some form of regulation.¹¹ In the 1580s it was reported that Richard Tottel obtained his patent 'at sute of the Judges'.¹² The assumption has been that the judges may have acted to advance Tottel's position in an attempt to secure some regulation of law books, presumably based on the idea that at least a monopolist was an easily identifiable, and hence responsible, person for the books which were produced, and was in possession of a privilege which he would not wish to jeopardise through poor quality or content.

The patent seems to have been the most important form of control over legal printing. There is certainly little evidence of other control, such as from the licensing system.¹³ However, the patent simply did not work as a means of controlling legal printing for most of the reign of Charles I. If we compare legal printing in the time of Charles to legal printing in the reigns of Elizabeth I and James I, we see substantial changes. The patent continued to exist, but there was a substantial body of law printing by people not authorizeauthorized under the patent. We see more complaints about quality and, for the first time, false attributions of authorship. There are even competing editions of law books, which is potentially extremely problematic in a system which was becoming ever more reliant on printed legal texts.¹⁴ These are exactly the sort of problems Adrian Johns highlighted in early-

¹¹ The National Archives Public Record Office (PRO) C 82/964/[6] and The National Archives PRO C 82/1013/[11]. I am grateful to Peter Blayney for drawing this to my attention.

¹² Edward Arber, *A transcript of the registers of the Company of Stationers of London, 1554-1640, A.D.*, 5 vols., London, 1875-1894, vol.2, 775. There is evidence of Tottel having a close connection with a group of lawyers from Lincoln's Inn interested in legal printing (H.J. Byrom, 'Richard Tottel - His Life and Work', 8 *The Library*, 4th Series (1927), 199, at 222).

¹³ See below, text at nn.76-81.

¹⁴ The same point has been made by Johns, in relation to the 1650s and 1660s (Adrian Johns, *The Nature of the Book: Print and knowledge in the making*, 1998, Chicago, 307). For evidence of the importance attached to print by lawyers, even by the early-seventeenth century, see Ian Williams, "'He Creditted More the Printed Booke": Common Lawyers' Receptivity to Print, c.1550-1640', 28 *Law and History Review* (2010), 39, at 47-48.

modern printing more generally.¹⁵ Law printing, which in the Elizabethan and Jacobean era looks remarkably (and unusually) stable and creditworthy, became less stable and less creditworthy. In other words, law printing was becoming normal.

I. UNLAWFUL LAW PRINTING

In the *Nature of the Book*, Adrian Johns stated that '[t]he establishment of patents was swiftly followed by their first infringement. In the competitive environment of a rapidly expanding book trade, such comprinting became notoriously common'.¹⁶ In relation to law printing, such a statement is an exaggeration. There was uncertainty as to the boundaries between different patents,¹⁷ and the system itself was never entirely watertight, but for law, comprinting was highly exceptional before the late-1620s.

During Tottel's near four decade tenure as the inaugural patentee, there was one authorizeunauthorized printing of a law book, in 1585.¹⁸ As a means of creating and enforcing a monopoly, the law patent seems to have worked for three decades. While there were occasional violations of the patent after Tottel's tenure, sustained infringement only began in the reign of Charles I, over seventy years after the patent was created.¹⁹ In 1627 Thomas Powell's, *The Attornies Almanacke*, an

¹⁵ Johns, *The Nature of the Book*.

¹⁶ Johns, *The Nature of the Book*, 250.

¹⁷ Baker, 'English law books', 481-482 discusses a dispute over the printing of abridgements of the statutes in the 1590s.

¹⁸ Richard Bellew, *Les ans du roy Richard le second*, London, Richard Robinson, 1585 (as the identities of the printers and publishers of early-modern works are important for substance of this article, their names have been included in the references, departing from the usual *Journal of Legal History* style). This is the only work during Tottel's tenure which does not identify itself as printed by or for Tottel.

¹⁹ British Library (BL) MS Harley 6997, fos.3, 18 and 20 refers to adjudication of a dispute by Lord Keeper Puckering over infringements of the patents in the 1590s (see also Peter Blayney, 'William Cecil and the Stationers', in Robin Myers and Michael Harris, eds., *The Stationers' Company and the Book Trade 1550-1990*, Winchester, 1997, 11, at 17-19). The material does not identify the unauthorized works and it is not clear whether this material represents actual chancery litigation, or merely informal dispute resolution by Puckering. The only proceedings by the Yetsweirts identified in the chancery records are unconnected with the patent (see below, n.114). There were two infringements in 1617-18: Thomas Ashe, *Fasciculus Florum*, London (1617, G. Eld, London); Thomas Ashe, *Fasciculus Florum*, London, G.Eld, 1618,. Ashe generally worked within the patent, but it may be that his poverty in the last years of his life drove him to print as quickly as possible (when he died in 1618, he was

authorizeunauthorized law book was printed.²⁰ Between 1627 and 1640 eighteen authorizeunauthorized law books were printed, of the seventy seven law books printed in the period. authorizeUnauthorized law printing made up around a quarter of the legal works printed in that thirteen year period. authorizeUnauthorized printing was sufficiently prolific that Henry Plomer, in his directory of printers and booksellers, could describe William Cooke, one of the main figures in authorizeunauthorized law printing as '[a] publisher *chiefly* of law books' [emphasis added], hardly what one would expect in a system with a royally granted monopoly.²¹

The statistics, as ever, do not tell the full story. Most of the mainstream publications, especially for barristers, were authorizeauthorized. Law reports and major treatises were the work of the patentee or his assigns.²² These works tended to be longer than those produced by authorizeunauthorized printers, so if we were to count the pages printed by authorizeauthorized and authorizeunauthorized printers, the proportion of printed output by authorizeunauthorized printers would be lower. In this sense the patent may still have been performing a useful role in protecting the investment required in producing large works.

These qualifications may not be due to the patent. Simple economics may have provided the same sort of protection. The unauthorized printers did not generally produce large works, legal or non-legal, and may not have been able to afford the production costs of the larger volumes. Edward Coke's *Commentary on*

noted as a 'pauper': David Ibbetson, 'Ashe, Thomas (c.1556-1618)' in Matthew and Harrison, eds., *The Oxford Dictionary of National Biography*, vol.2, 639, at 640).

²⁰ Thomas Powell, *The attornies almanacke*, London, Bernard Alsop, Thomas Fawcett and Benjamin Fisher, 1627.

²¹ Henry Plomer, *A Dictionary of the Booksellers and Printers who were at work in England, Scotland and Ireland from 1641-1667*, London, 1968, 52.

²² This does not mean that all the works produced by unauthorized printers were low-level works. John Dodderidge's *The Compleat Parson* was not printed under the auspices of the law patent, and was the first printing of a reading from the inns of court and chancery, often a source of sophisticated learning (John Dodderidge, *The Compleat Parson*, London, Bernard Alsop, Thomas Fawcett and John Grove, 1630). On the learning of the inns, see John H. Baker, 'The Inns of Court and Legal Doctrine', in John H. Baker, *The Common Law Tradition: lawyers, books and the law*, London, 2000, 37.

Littleton, a work of more than seven hundred pages, containing parallel English and French text, surrounded by a very dense gloss, and consequently requiring three different sets of type, is precisely the sort of volume which such printers might have struggled to produce.²³

In the unauthorized printings, and their comparison with authorized printings, we also see something which had disappeared with the patent: competition. Unauthorized printings were often novel, works printed for the first time. Subsequent printings might be undertaken by the patentee.

The first example of this is *The Use of the Law*, first printed in 1629 by a selection of unauthorized printers, but printed from 1630 onwards by authorized printers.²⁴ Similarly *The Complete Justice*, a manual for Justices of the Peace, was first printed in 1637 without any identified printer, suggesting an unauthorized work.²⁵ From 1638 it was produced by the assigns of the law patentee.²⁶ In these instances the relationship between authorized and unauthorized printings is fairly simple; the unauthorized printing came first and was replaced with authorized printings, although given their close temporal proximity it seems likely that competing editions remained available at booksellers.²⁷

An example of what looks like outright competition and piracy emerges in the 1641 printing of a law dictionary, Rastell's *Les Termes de la Ley* in 1641, by John Beale

²³ Edward Coke, *The first part of the Institutes of the lawes of England*, London, Adam Islip for the Societie of Stationers, 1628.

²⁴ Anon., *The Use of the Law*, London, Bernard Alsop, Thomas Fawcett, Benjamin Fisher, 1629; Anon., *The Use of the Law*, London, Robert Young for the assigns of John More, 1630. Printings in 1636 and 1639 were by Henry Wood for the assigns of John More. This work is usually catalogued as being by Francis Bacon, on which see below, text at nn.58-59.

²⁵ Anon., *The Complete Justice*, London, no identified printer, 1637.

²⁶ Anon., *The Complete Justice*, London, assigns of John More, 1638. Similarly the 1641 and 1642 printings of *A Manuall or analecta... formerly styled The complete justice*, London, Miles Flesher and Robert Young, 1641 and 1642.

²⁷ Something similar occurred in relation to John Dodderidge's methodological work for law students. The first printing was by unauthorized printers, but the second was by Miles Flesher under the patent: John Dodderidge, *The Lawyers Light*, London Bernard Alsop, Thomas Fawcett, Benjamin Fisher, 1629 and John Dodderidge, *The English Lawyer*, London, assigns of John More, 1631. These two works differ considerably, such that this is not simply a movement of printing from unauthorized to authorized printers, but we can see the same pattern as for books which were simply reproductions of earlier unauthorized printings.

and Richard Hearne.²⁸ Rastell's work had most recently been printed under the patent in 1636. The title page of the 1641 printing is remarkably similar to that of the 1636 authorized printing, with a printer's mark in the same location and of more or less the same size, and repeating the claim of 'a new addition of about two hundred and fifty words'.²⁹ In 1642 another authorized printing was issued. The title page was modified to distinguish it from the pirated text. Not only was the printer's mark altered, but the claim to new additions was now 'of many hundred words'.³⁰

A more serious example of competition appeared in relation to Thomas Wentworth's *The Office and Duty of Executors*, which appeared in three proclaimed 'editions' in 1641. The first was by unauthorized printers.³¹ The proclaimed 'second edition', 'corrected and amended' was printed under the patent.³² The 'third edition', apparently again 'corrected and enlarged', was printed by the same unauthorized printers as the first edition.³³ Pagination across the editions is not consistent, although the structure of the book is,³⁴ and checks of particular chapters do not show variance in the text. As was typical in seventeenth-century printing more generally, such claims of enlargement and correction 'frequently bear no relation to the truth'

²⁸ John Rastell, *Les Termes de la Ley*, London, assigns of John More, 1636; John Rastell, *Les Termes de la Ley*, London, John Beale and Richard Hearne, 1641. There are two versions of the 1641 text, with slightly different title pages. Both Beale and Hearne had potential connections with law printing. Beale was based in Fetter Lane, near the legal profession, while Hearne had probably been the apprentice of Adam Islip, who had printed law books until 1629. As Hearne obtained his freedom in 1632, he probably worked on law printing with Islip (Plomer, *Dictionary*, 17 and 95).

²⁹ For a similar sort of passing off before the establishment of the common law patent, see John H. Baker, 'The books of the common law', in Lotte Hellings and J.B. Trapp, eds., *The Cambridge History of the Book in Britain, vol.III, 1400-1557*, Cambridge, 1999, 411, at 426 and the competing 1635 printings of Dalton's *Countray Justice* discussed below, text at nn.88-90.

³⁰ John Rastell, *Les Termes de la Ley*, London, Miles Flesher and Robert Young, 1642.

³¹ Thomas Wentworth, *The Office and Dutie of Executors*, London, Lawrence Chapman, William Cooke, Thomas Cotes and Andrew Crooke, 1641 (Wing W1358).

³² Thomas Wentworth, *The Office and Dutie of Executors*, London, Richard Hodgkinson with permission of the assigns of John Moore, 1641 (Wing W1358A).

³³ Thomas Wentworth, *The Office and Dutie of Executors*, London, Lawrence Chapman, William Cooke, Thomas Cotes and Andrew Crooke, 1641 (Wing W1359A).

³⁴ With one exception: the first edition includes two tables not found in the other printings (sig.A-A2v and Y-Y3v).

and 'are often no more than the wishful thinking of the publisher or printer'.³⁵ There is, in fact, evidence to be considered below that these 'competing' editions may not truly have been in competition, but identifying this is not easy, and certainly not apparent to a reader.³⁶ From the perspective of the credit of printed law books, these editions are problematic. Not only does each edition advertise itself by proclaiming earlier editions to be in need of correction, but the third edition did so in relation to a work printed under the patent, undermining any perception of reliability that authorisation may have provided.

II. QUALITY COMPLAINTS

Evidence of complaints about the quality of legal printing appear occasionally from around 1600, although such complaints appear to have been rare and should be treated with caution. As Johns notes generally, criticisms of the content of a printed text could be presented as printing errors, thereby avoiding criticism of the author.³⁷ This might explain, for example, the claim in *Slade v Drahen*, that a case in Edward Coke's second volume of *Reports* was inaccurate due to an error by a clerk or printer. Former chief justice and privy councillor Coke was not impugned.³⁸

Quality complaints may also reflect problems in the original sources. When Edward Bagshaw gave his reading in the Middle Temple in 1640, he referred to his use of a manuscript version of Dodderidge's earlier reading on the topic, which had been printed as *The Compleat Parson*. According to Bagshaw, this was necessary, 'the printed copy being very erroneous & false'.³⁹

While this could be a problem with the printing process, it is more likely due to the problematic manuscript tradition. Surviving manuscripts of Dodderidge's

³⁵ H.S. Bennett, *English Books & Readers 1603 to 1640: Being a study in the history of the book trade in the reigns of James I and Charles I*, Cambridge, 1970, 214.

³⁶ See below, text at nn.130-131.

³⁷ Johns, *The Nature of the Book*, 127.

³⁸ *Slade v Drahen* (1620) BL MS Lansdowne 1112, fo.164, at fo.170, referring to the *Archbishop of Canterbury's Case* (1596) 2 Co. Rep. 46 at 48b; 76 ER 519 at 524-5.

³⁹ BL MS Stowe 424, fo.8.

reading are of extremely variable quality, with differing structure.⁴⁰ Some contemporaries recognized this problem, with manuscripts featuring contemporary corrections.⁴¹ The errors in *The Compleat Parson* are likely to be a consequence of these problems in the manuscript tradition.

However, not all difficulties can be so easily explained. Nicholas Bacon's argument on chancery jurisdiction exists in a number of manuscript copies.⁴² As might be expected, there are differences between them.⁴³ However, the printed version of Bacon's argument has notable differences to the surviving manuscripts. Portions of the substance of the argument are missing, including a passage of almost sixty words.⁴⁴ This is not something which can easily be explained on the basis of variations in the manuscripts: those manuscripts I have consulted all include the missing passages.

Other problems could arise from the specialist languages used in legal writing. Law-books made considerable use of law-French and Latin, as well as English, sometimes with all three on the same page. Just such a problem arose in relation to the printing of Lambarde's *Archeion*. The first, unauthorized, printing has what were referred to in the second printing (which was approved by Lambarde's grandson) as 'crying errors'.⁴⁵ These complaints were genuine. As the modern editors of Lambarde's work note, we 'find errors impairing the sense on page after page', in particular the printer clearly did not understand Lambarde's use of Anglo-

⁴⁰ Columbia Law School MS L 52(1) is described as 'a very corrupt copy' (John H. Baker, *Readers and Readings in the Inns of Court and Chancery* (Selden Society Supplementary Series 13), London, 2000, 449). Some copies, such as BL MS Harley 5053 have eight lectures, others (e.g. Harvard Law School MS 2025) have sixteen.

⁴¹ E.g. Columbia Law School MS L 52(1).

⁴² The argument was included in a large volume of material related to the chancery which circulated and was reproduced scribally. See Williams, 'Common Law Scholarship and the Written Word', in Lorna Hutson, ed., *The Oxford Handbook of Law and Literature, 1500-1700*, Oxford, 2017, 61, at 67.

⁴³ Not all the differences are mere questions of language. The text in BL MS Stowe 415 includes the facts which gave rise to the argument, but these are absent from the version in BL MS Lansd 621.

⁴⁴ Nicholas Bacon, *Arguments exhibited in Parliament by Sir Nicholas Bacon*, London, no identified printer, 1641, sig.A2v does not include material from the equivalent location found in BL MS Lansd 621, fo.86 and BL MS Stowe 415, fo.9v.

⁴⁵ William Lambarde, *Archeion, or, A discourse upon the High Courts of Justice in England*, Charles H. McIlwain and Paul Ward, eds., Cambridge, MA, 1957, 5.

Saxon characters, rendering many words 'gibberish'.⁴⁶ Language, even languages not as unusual as Anglo-Saxon, could cause difficulties to non-specialist printers. In the preface to Nicholas Fuller's *Argument...in the case of Thomas Lad*, the printer admitted to various errors, particularly in relation to the French.⁴⁷

Printers themselves sometimes acknowledged defects in the quality of their work. In the printer's preface to *The Compleat Parson* it was observed that 'errors of the print may here and there offer themselves'.⁴⁸ Some evidence that acknowledging errors, rather than correcting them, was the easier course for printers can be seen in the preface to Fuller's argument. The errors referred to in the preface were also mentioned in the preface to the first printing, in 1607. The printer of Fuller's *Argument* had simply reproduced the 1607 text, errors and errata included. The same can be seen in the 1640 printing of *Bracton*. The original 1569 printing was the first legal printing to include a list of errata.⁴⁹ The 1640 printing simply reproduced that earlier printing, both errors and errata page.⁵⁰

In 1630, the privy council raised quality complaints as a reason for suppression of a law book. The book was regarded by the privy council as unauthorized, but its suppression was also ordered on the basis that it was 'imperfect and false in diverse places'.⁵¹ The privy council associated poor quality with unauthorized printing, perhaps suggesting that the two were considered to be linked.

⁴⁶ Lambarde, *Archeion*, 145-6.

⁴⁷ Nicholas Fuller, *The argument of Nicholas Fuller of Grayes Inne esquire, in the case of Tho. Lad, and Rich. Mansell his clients*, London, Nicholas Vavasour, 1641, unpaginated.

⁴⁸ Dodderidge, *The Compleat Parson*, sig.A3.

⁴⁹ *Henrici de Bracton de legibus & consuetudinibus Angliae*, London, Richard Tottell, 1569, unpaginated 'Varietates lectiones'.

⁵⁰ *Henrici de Bracton de legibus & consuetudinibus Angliae*, London, Miles Flesher and Robert Young, 1640, unpaginated 'Varietates lectiones'. Harvey's assertion that there 'must be some substance' to claims by Hume and Eisenstein that errata enabled correction in subsequent editions is consequently not borne out by the evidence in relation to legal printing (David J. Harvey, *The Law Emprynted and Englysshed: The Printing Press as an Agent of Change in Law and Legal Culture 1475-1642*, Oxford, 2015, 133).

⁵¹ *Acts of the Privy Council of England: 1630 June – 1631 June*, London, 1964, 210.

A significant development is the reappearance of claims about improved accuracy as a form of advertising. Such claims were not very common once the patent was established, although they did appear early in the history of the patent as Tottel established himself and his reputation against earlier printers.⁵² In the 1630s, references to poorer quality in earlier versions of a work seems to become a standard form of advertising, particularly between competing versions of a text.⁵³ The effectiveness of such advertisements on potential customers presumably depended upon consumers being aware of the possibility of law books needing correction and therefore being potentially unreliable guides to the law.

III. FALSE ATTRIBUTIONS OF AUTHORSHIP

The appearance of false attributions of authorship is both more contentious and problematic. It was quite possible for attributions to be confused. One manuscript of part of John Dodderidge's reading in New Inn attributes it to Francis Bacon, probably because the previous reading included in the same manuscript actually was by Bacon.⁵⁴ The same sort of misattribution could occur with printed work. The reports known as Keilwey's reports were printed in 1602, and were cited (a little ambiguously) as 'the reports of Keilwey' in that year.⁵⁵ It is clear that they cannot in fact have been the work of Robert Keilwey, or at least not entirely his work.⁵⁶

⁵² Byrom, 'Richard Tottell', 207-9. There are some examples of Tottell referring to corrections on later title pages, but usually these were reproductions of earlier titlepages where corrections had occurred, with new dates. For example, Thomas Phayer, *A Booke of Presidens exactly written in maner of a Register, newlye corrected*, London, Richard Tottell, 1575 has the same title page as the 1580 printing of the same book.

⁵³ Compare, e.g., Dodderidge, *The Lawyers Light* and *The English Lawyer*. The latter's preface refers to improved quality and reliability (sig.A2). See also the example of Wentworth's *The Office and Duty of Executors* (see above, text at nn.31-33).

⁵⁴ BL MS Stowe 424, fos.145-50, for the misattribution see Baker, *Readers and Readings*, 347.

⁵⁵ *Dighton v Bartholmew* (1602) BL MS Additional 25203, fo.489.

⁵⁶ Robert Keilwey, *Relationes quorundam casuum selectorum ex libris Roberti Keilwey*, London, Thomas Wight, 1602.

Keilwey was more likely to have been a previous owner of the manuscript.⁵⁷ False attribution may therefore just be a consequence of innocent mistakes or genuine confusion in the pre-print manuscript tradition, not reflecting any deliberate falsehood or particular change in the nature of law printing. However, there is one accepted example of false attribution in the 1630s, and I shall argue that there are probably two or three more, all attributions to well-known, but fairly recently deceased, authors. The accepted example is particularly useful, as one piece of evidence strongly suggests that attribution was the work of the printer, not a confused manuscript tradition.

The Use of the Law is attributed to Francis Bacon but his authorship was rejected by Bacon's nineteenth century editors and continues to be ignored today.⁵⁸ Not only are the surviving manuscripts anonymous, 'the method seems to be peculiarly unlike Bacon's' and '[t]he historical or antiquarian views which occur are distinctly opposed to Bacon's authentic opinions'.⁵⁹ Bacon was in good company, although he probably would have disagreed, as the second book which seems to have been falsely attributed is one by Edward Coke, *The Compleate Copy-holder*.⁶⁰ Christopher Brooks observed that the *Compleate Copy-holder* is stylistically very different to Coke's other writings,⁶¹ while Charles Gray, the expert on early-modern copyhold, commented on the clear differences in Coke's views in *The Compleate Copy-holder* and those he expressed elsewhere.⁶² The evidence is such that it is likely

⁵⁷ A.W.B. Simpson, 'Keilwey's Reports, temp. Henry VII and Henry VIII', 73 *Law Quarterly Review* (1957), 89, at 93-95. As Simpson notes, the editor of the reports, John Croke, made it clear in his introduction that he did not believe the reports were written by Keilwey (*ibid*, 89).

⁵⁸ James Spedding, Robert Ellis and Douglas Heath, eds., *The Works of Francis Bacon*, 7 vols., London, 1879, vol.7, 453-457.

⁵⁹ *Ibid.*, 453, 455 and 456.

⁶⁰ Edward Coke, *The Compleate Copy-holder*, London, William Cooke and Thomas Cotes, 1641. Drinker Bowen claims this work was first printed during Coke's lifetime (in 1630), but there is no evidence to support this (Catherine Drinker-Bowen, *The Lion and the Throne: the life and times of Sir Edward Coke, 1552-1634*, Boston, MA, 1957, 445).

⁶¹ C.W. Brooks, *Law, Politics and Society in Early Modern England*, Cambridge, 2008, 336.

⁶² C.M. Gray, *Copyhold, Equity and the Common Law*, Cambridge, MA, 1963, 77.

the attribution of the *Compleate Copy-holder* to Edward Coke is wrong.⁶³ A final piece of supporting evidence is that the *Compleate Copy-holder*, like the final two books to be considered as incorrectly attributed, was also printed for William Cooke, a regular, but unauthorized, law printer. Three books with questionable attribution, all within two years, hints at a deliberate choice by the printer.

Identification of William Noy's *Treatise of the Principal Grounds and Maxims of the Law*, printed in 1641 for William Cooke, as incorrectly attributed is necessarily tentative.⁶⁴ There is no surviving body of Noy's writings to which the work can be compared. However, there is a surviving manuscript of the text. Importantly, and like the manuscripts of *The Use of the Law*, the manuscript is not attributed to Noy or any other author. Unlike the printed text, the manuscript refers to the *Treatise* as 'gathered in the latter yeares of Queene Elizabeth and the rest in king James his raigne'.⁶⁵ That statement does not preclude Noy's authorship. Noy began his studies at Lincoln's Inn in 1594, so would have been in a position to gather material from the end of the reign of Elizabeth, but so would hundreds of other students. It is likely that the manuscript here is over-generous. The text of Noy's *Treatise* is derived from Henry Finch's *Nomotechnia*, which was first printed in 1613.⁶⁶ If the *Treatise* was composed after that date, it is much less likely that Noy was the author, simply as the mere copying of material from a printed book seems more likely to be the work of a student than a practitioner. Noy had been called to the bar in 1602, in 1614 was recognized by Francis Bacon as a suitable candidate to be an official law reporter and

⁶³ For a tentative suggestion of this conclusion, see Ian Williams, 'The Tudor Genesis of Edward Coke's Immemorial Common Law', 43 *Sixteenth Century Journal* (2012), 103, at 122 n.98.

⁶⁴ William Noy, *A Treatise of the Principal Grounds and Maxims of the Law*, London, assigns of John More for William Cooke, 1641.

⁶⁵ BL MS Stowe 383, fo.3.

⁶⁶ Henry Finch, *Nomotechnia, cestascavoir, un description del common leys*, London, Societie of Stationers, 1613. The maxims in the *Treatise* appear as rules in Finch's work (which also includes many more), the *Treatise* follows the same structure and uses a selection of the cases applying the rules which also appear in Finch. Compare, e.g., the rules of theology in English law in Finch, *Nomotechnia*, fo.3 and Noy, *Treatise*, 1-2. There may be a hint of this in the printer's preface to the *Treatise*, where it is acknowledged that the grounds and maxims in the volume were 'originally written in French' (Noy, *Treatise*, sig.A4v). *Nomotechnia* was printed in law-French.

in 1618 was made a bencher. It seems unlikely that he spent his time after 1613 producing an inferior version of an existing printed work.⁶⁷ The evidence we have is consequently somewhat equivocal, but the manuscript does not directly support the attribution of the printed text.

Finally, the *Treatise of Particular Estates*, attributed to John Dodderidge, was printed in 1642 and bound with the second printing of Noy's *Treatise*.⁶⁸ Ibbetson observes that it is unlikely that Dodderidge was the author of the text.⁶⁹ In addition to the reasons given by Ibbetson to doubt Dodderidge's authorship, all of the other works expressly attributed to Dodderidge appeared within a few years of each other, just after Dodderidge's death in 1628: *The Lawyers Light* in 1629; *The Compleat Parson* and *The history of the ancient and moderne estate of the principality of Wales, dutchy of Cornewall, and earldome of Chester* in 1630;⁷⁰ and *The English Lawyer* in 1631. Printers appeared to have moved quite quickly to print Dodderidge material. In that context it seems less likely that a new work by Dodderidge was printed in 1642.

Crucially, there is some evidence that the misattribution of these works was deliberate. That evidence is found in the history of the attribution of *The Use of the Law* to Francis Bacon. The attribution appears in 1630, when *The Use of the Law* was included in the same volume as Bacon's *Maxims*, with the two works sharing the titlepage.⁷¹ However, *The Use of the Law* was first printed in 1629, sharing a volume with Dodderidge's *The Lawyers Light*. In this 1629 printing, Bacon's name is entirely absent. In fact, in the preface to the 1629 printing, it is admitted that *The Use of the*

⁶⁷ James S. Hart, 'Noy, William (1577 – 1634)' in Matthew and Harrison, *The Oxford Dictionary of National Biography*, vol.41, 241.

⁶⁸ William Noy, *A treatise of the principal grounds and maximes of the lawes of the kingdome*, London, William Cooke, 1642. The attribution can be found on the title page to *The Treatise of Particular Estates* within the combined volume, 119.

⁶⁹ David Ibbetson, 'Dodderidge, John (1555-1628)' in Matthew and Harrison, *The Oxford Dictionary of National Biography*, vol.16, 403.

⁷⁰ John Dodderidge, *The history of the ancient and moderne estate of the principality of Wales, dutchy of Cornewall, and earldome of Chester* (1630, Thomas Harper for Godfrey Edmondson and Thomas Alchorne, London).

⁷¹ Francis Bacon, *The elements of the common lawes of England branched into a double tract: the one contayning a collection of some principall rules and maximes of the common law...The other the use of the common law*, London, assigns of John More, 1630.

Law 'hath an Authour unknowne'!⁷² The new attribution to Bacon in the second printing, under the auspices of the law patent, went unremarked, despite the prestige Bacon's name probably conferred.⁷³ It seems to have been an addition by the printer, probably inspired by the replacement of *The Lawyers Light* with Bacon's *Maxims*. The patent, and authorized printing, was not a guarantee of accuracy or, in this instance, honesty, nor a protection against sharp practice.

IV. THE STATE OF LAW PRINTING

By 1640, law printing was considerably less orderly than the legal position might suggest, and the situation would worsen in the next two years. Pre-publication approval through the official licensing system was little more than a dead letter, while the common law patent had been considerably weakened such that in 1641 and 1642 it was more or less moribund. Regulation failed to prevent unauthorized printing, while even works printed under the patent could be falsely attributed. Quality complaints seem to have been directed against unauthorized printings.⁷⁴ Unauthorized printers tended to take more risks with printing new works, one consequence of which would be the risk of making more mistakes. Common law printing was beginning to appear more like printing in other fields: multiple, sometimes competing, printers producing printed texts which could not be relied upon unquestioningly. In many respects it was also beginning to resemble law printing before the existence of the patent.⁷⁵ Between 1627 and 1640 there were only a few printers who produced legal works, and they engaged in competition between themselves by producing competing editions and advertising their own works on the basis of superior quality and accuracy.

⁷² *The Use of the Law* (1629), sig. ¶3

⁷³ See below, nn.154-5.

⁷⁴ This may have been because there were routes to complain about unauthorized printings, but no obvious means to complain about an authorized work, or because many of the works printed under the patent were reprints of earlier works.

⁷⁵ Baker, 'The books of the common law', 424-427.

The key issues are ones of explanation. Why did this change occur, and why from the late-1620s? Legal printing had been regulated for decades without the sort of changes which occur in the fifteen years from 1627.

1. The end of print regulation

There is a little evidence that wider print regulation provided some protection from, or a deterrent to, unauthorized printing. In 1641 and 1642 there were twelve authorized printings of law books, but twenty seven unauthorized ones. This was both a marked proportionate increase in unauthorized printings and a pronounced rise in the number of law books printed at all. Law printing was part of a wider national trend. The number of works printed in England generally also increased in these years.⁷⁶

This general increase in printing has traditionally been associated with the collapse of licensing in England in 1641. The difficulty is that law books do not seem to have been much affected by licensing. Instead, the explanation here supports the view of Cyndia Clegg about the increase in printing generally. Clegg's argument is that the increase was not due to the end of licensing, which had always been selectively enforced, but an indirect consequence of two related events. The first is the star chamber decree of 1637, which replaced the enforcement powers of the Stationers' Company with enforcement in star chamber and high commission. The second event is the abolition of those courts in 1641. This meant that no organisation had any enforcement powers in relation to regulation of printing.⁷⁷ At first sight, the argument applies equally to printing not authorized under the law patent. The 1637 decree explicitly referred to the enforcement of patents in the star chamber and high

⁷⁶ The historiography in this area is contested, with an excellent summary in Cyndia Susan Clegg, *Press Censorship in Caroline England*, Cambridge, 2008, 208 and 222. The dispute is in part methodological, between counting the number of items in the STC and assessing the length of the works printed.

⁷⁷ Clegg, *Press Censorship*, 216-218.

commission.⁷⁸ However, enforcement of the law patent had previously occurred in chancery, and it is not clear that chancery's jurisdiction was affected by the 1637 decree.⁷⁹ Chancery and other equity courts could still provide useful remedies, principally injunctions.⁸⁰

I have not found any evidence of enforcement of the law patent in either the star Chamber or the high commission during the reign of Charles I, before or after the 1637 decree.⁸¹ The abolition of those courts would therefore have no effect on the patent's enforcement. However, this does not mean the abolition of star chamber and high commission were irrelevant. But rather than making the patent unenforceable, the end of these courts simply created a belief in the end of press regulation. Printers might have believed that with the prerogative courts gone they could breach patents, like licensing requirements, with impunity. As William Cooke had been doing this in relation to the law patent for some time, such a belief was hardly misplaced, even if it was mistaken. A related consequence of this belief might be the appearance of printed works on controversial topics in the 1640s, by both authorized and unauthorized printers.⁸²

This may explain not just the increase in the number of unauthorized printings, but the number of unauthorized printers printing law books in 1641 and 1642. Around a dozen different printers and booksellers were involved in printing

⁷⁸ *A Decree of Starre-Chamber, concerning printing*, London, Robert Barker, 1637, Item VII.

⁷⁹ Baker, 'English Law Books', 482 summarizes BL MS Harley 6997, fos.3, 18 and 20 referring to chancery enforcement in the mid-1590s. Tottell had also used the stationers' company to enforce his rights (Byrom, 'Richard Tottell', 210-211).

⁸⁰ Bonham Norton tried, unsuccessfully, to enforce the grammar patent by seeking an injunction in the equity side of the exchequer in 1613 (Nancy A. Mace, 'The History of the Grammar Patent, 1547-1620', 87 *Papers of the Bibliographical Society of America* (1993), 419, at 432), suggesting that the attraction of the equity courts was the availability of injunctions.

⁸¹ Although limited sources survive for the work of both courts in the reign of Charles I.

⁸² E.g. *The arguments of Sir Richard Hutton, Knight, one of the judges of the Common Pleas*, London, Miles Flesher and Robert Young, 1641, printed by the authorized printers but containing the dissenting judgments in the case of Ship-Money; *The argument of Nicholas Fuller of Grayes Inne esquire, in the case of Tho. Lad, and Rich. Mansell his clients*, London, Nicholas Vavasour, 1641, an unauthorized printing of arguments against the high commission. There is little evidence of licensing directly preventing the printing of such works before the 1640s, but printers may have censored their own output in the context of the licensing system.

unauthorized law books in those two years, compared to a mere handful in the 1630s. The impression is of printers entering a new market, perhaps in the belief that market was now free.

2. *Tensions in regulation*

Unauthorized printing began before 1641, so the changes of that year cannot be the only explanation. The regulatory context does, however, provide more of an explanation, in two different ways.

The first explanation relates to overlapping patents. There was always a tension between the patent to print the books of the common law and the patent to print statutes.⁸³ Unusually, during Charles' reign there was also a conflict between the general law patent and a specific privilege covering a single book. A warrant to grant a patent to the author and seller of Thomas Powell's *The attourneys academy* was issued in 1623.⁸⁴ The title page to the book refers to it being '[p]ublisht by his Maiesties speciall priuiledge', despite the derogation from the law patent.⁸⁵ Such specific exceptions were not unusual in the seventeenth century.⁸⁶ No complaint seems to have been made about this in 1623, but in 1630, when the book was to be reprinted, the law patentee treated this as an unauthorized printing, complaining to the privy council.⁸⁷

The second explanation for unauthorized printing in relation to regulation concerns a more widespread, and hence more problematic, situation. The system of regulation of law printing contained a clear potential tension between the rules of the stationers' company and the rules of the patent. If the copy in a work were entered into the register of the stationers' company, a monopoly was granted over

⁸³ E.g., Baker, 'English Law Books', 481.

⁸⁴ Arnold Hunt, 'Book trade patents, 1603-1640', in Arnold Hunt, Giles Mandelbrote and Alison Shell, eds., *The Book Trade and its Customers, 1450-1900: Historical Essays for Robin Myers*, Winchester, 1997, 27, at 49.

⁸⁵ Thomas Powell, *The attourneys academy*, London, Benjamin Fisher, 1623.

⁸⁶ Hunt, 'Book trade patents', 30-33.

⁸⁷ *Acts of the Privy Council of England: 1630 June – 1631 June*, 209-10. For the resolution of this dispute, see below, text at n.102.

that particular work to the holder of the copy. By contrast, the law patent imposed a monopoly over all books with a particular subject-matter.

In the 1630s this tension seems to have been exploited and caused conflict, which contributed to the production of competing editions of law books. In 1635 an updated edition of Dalton's *The Countrey Justice*, an important manual for Justices of the Peace, was printed by the Flesher syndicate under the law patent.⁸⁸ An alternative printing was then produced by William Stansby, for the stationers' company, seemingly as a deliberate response by the company.⁸⁹ Stansby's printing seems to have been a copy of that by the syndicate. Changes to the book compared to previous editions are the same in both and pagination is consistent. There are minor variations in capitalisation, but nothing more. The stationers' company itself was pirating authorized work.⁹⁰

The stationers' claim was that the work was part of the English stock, presumably because the first edition was printed when the law patent was held by the stationers' company itself and subsumed within the English stock. The company, in other words, was basing its claim on a monopoly of a particular work. The syndicate based its claim on the monopoly of subject matter. The two different claims were mutually exclusive. This problem could only have arisen after 1629, when the stationers' company lost control of the law patent. Given that the stationers' company was so dissatisfied with the loss of the law patent from the English stock that the privy council had to order the company to co-operate with More as the new patentee, such a regulatory conflict might have been expected.⁹¹ It is perhaps more surprising that a dispute did not emerge for several years.

⁸⁸ Michael Dalton, *The Countrey Justice*, London, assigns of John More, 1635.

⁸⁹ Michael Dalton, *The Countrey Justice*, London, William Stansby for the Company of Stationers, 1635.

⁹⁰ Peter Blayney has suggested to me that the law patent was a very substantial part of the value of the English stock and that the stationers' company may not have been aware of the grant of the reversion to More. The Company had experienced difficulties previously in relation to reversionary grants of patents enjoyed by the Company (private communication to the author, 2 March 2015). In that context, piracy by the Company seems less surprising.

⁹¹ Hunt, 'Book trade patents', 33.

Attempts to resolve the dispute may in fact have exacerbated the situation. Early in 1635, John More, the holder of the law patent, complained to the privy council. The stationers' company took steps to prevent either version of the book being published, albeit only warning of penalties in the event of future disobedience by those printing under the patent.⁹² No outcome to the dispute is recorded and the problem may well have worsened, especially if printers were aware of the 1635 problems.

Any printer could register copy at the stationers' company and it appears that the company did not exercise much control, at least in relation to patented works. In February 1636, John More once more petitioned the privy council, complaining about '[t]he Stationers of London having set themselves in a way (by entering in their Hall Register all books for their owne printing that come within their reach) to prejudice his Majestys present and future Graunts of priviledges for printing'. More's petition was granted, but this simply led to a referral to the Bishop of London or two chief justices.⁹³

The difficulties arising from Dalton's *Coutrey Justice* may have been the catalyst for this petition, but as More had already petitioned about the printing of Dalton specifically, another cause seems probable. The likely explanation is the registration of law titles to William Cooke in 1635, as Cooke began his career as an unauthorized printer of law books.⁹⁴ In late-April 1635 Cooke registered his copy in a book of copyhold cases, which would become *The relation betweene the lord of a mannor and the cobby-holder*, printed later in 1635.⁹⁵ In November 1635, Cooke then

⁹² William A. Jackson, ed., *Records of the Court of the Stationers' Company 1602-1640*, London, 1957, 263.

⁹³ W.W. Greg, *A Companion to Arber*, Oxford, 1967, 339. Baker ('English law books', 484) refers to chancery litigation about the patent in 1636, but the sources cited refer only to the privy council petition.

⁹⁴ The registration of the copy in Lambarde's *Archeion* may also have been relevant (see Arber, *Transcript*, vol.4, 335 and 341), but Cooke would have been more of a problem for More. Cooke chose to print works of contemporary practical utility, rather than an historical-jurisprudential work on the courts.

⁹⁵ Arber, *Transcript*, vol.4, 337-338; Charles Calthorpe, *The relation betweene the lord of a mannor and the cobby-holder his tenant*, London, J. Okes for William Cooke, 1635.

registered his copy in a book which would become *A briefe declaration for what manner of special nuisance...a man may have his remedy*.⁹⁶

Use of the privy council in disputes concerning the law patent was not unique to More,⁹⁷ but the council may have been a particularly useful venue for such disputes for a courtier like More.⁹⁸ More's final petition to the council, in early 1636, shows that he understood how to frame his argument to attract the attention of the councillors. Rather than simply complaining about unauthorized printing, More described the activities of the stationers' company in registering copy in law books to people unconnected with the patent as conduct to 'prejudice his Majestys present and future Graunts of priviledges for printing'.⁹⁹ In the middle of the personal rule, More presented the stationers' company as a body undermining one of the King's prerogatives.

The privy council may also have been seen as the more appropriate venue for More's particular complaints than a court of law or equity. His petition about *The attourneys academy* seemed to raise the rather awkward issue of a conflict between two royal grants, one specific and one general. The privy council may have been viewed as a more seemly venue for addressing such tensions between exercises of the prerogative. There is some support for this from 1593. There was then a dispute between the Queen's Printer and law patentee about the right to print abridgements of the statutes. The law patentee claimed the monopoly on these, but so did the Queen's Printer, who had the monopoly on the statutes themselves. This dispute

⁹⁶ Arber, *A transcript*, vol.4, 350; Anon, *A briefe declaration for what manner of special nuisance concerning private dwelling houses, a man may have his remedy by assise, or other action as the case requires*, London, William Cooke, 1636.

⁹⁷ See below, text at n.100.

⁹⁸ More was a clerk of the signet from 1623 until his death in 1638 and clearly sometimes operated at a high level in the government. On More generally, see Virginia C.D. Moseley and Rosemary Sgroi, 'More, John II' in Andrew Thrush and John P. Ferris, *History of Parliament, The House of Commons 1604-1629*, 6 vols., Cambridge, 2010, vol.5, 412-5. The privy council may also have been particularly useful in disputes between competing patents. In the 1590s, the dispute over abridgements of the statutes seems to have led to a new, and clarified, law patent being issued which directly addressed the point of contention and would therefore prevent it arising in the future (Baker, 'English law books', 481).

⁹⁹ Greg, *A Companion to Arber*, 339.

was also submitted to the privy council, who ordered that the Queen's Printer was to stop printing the abridgements of the statutes.¹⁰⁰ Although the dispute revived in the chancery a short time later, it seems that in the competition between patents, the first port of call was the privy council, not the court system.¹⁰¹ The petitions concerning the relationship between the law patent and the stationers' company's own rights and rules similarly raised questions not ideally suited to adjudication in court.

Furthermore, the privy council did provide some meaningful protection against unauthorized printing. In 1630 More petitioned about the second printing of *The attourneys academy*, despite the royal privilege granted. The privy council discovered that no patent had been enrolled (probably due to the cost) and so More's general law patent was held to take precedence. The author and printer were ordered not to print the work. When they persisted in doing so, the privy council ordered the new printing to be suppressed.¹⁰² In this regard, the privy council may have been just as useful as the equity courts. In other cases the privy council itself was rather less useful. No resolution was reached in the dispute between More and the stationers' company in 1635, even if the petition did lead to the stationers' company itself ordering that neither version of the book was to be published. Nonetheless, this could still be seen as a form of suppression of the unauthorized printing, even if the authorized text was also suppressed.¹⁰³ However, the privy council's decision in relation to More's final petition was simply to delegate the outcome of the dispute to others, and no further action is known.¹⁰⁴ *The briefe*

¹⁰⁰ *Acts of the Privy Council of England, vol.24, 1592-1593*, John Roche Dasent, ed., London, 1901, 369-70.

¹⁰¹ The later use of the chancery by Tottell's son was different; it followed the breach of an earlier agreement, rendering the case distinct from simple breaches of the patent (see below, n.114).

¹⁰² *Acts of the Privy Council of England: 1630 June – 1631 June*, 210.

¹⁰³ And with one-sided penalties threatened (see above, text at n.92).

¹⁰⁴ See above, text at n.93. More regarded a decision against him in the star chamber (a court including several privy councillors) in 1634 as a consequence of a speech he made in the 1626 Parliament (see Moseley and Sgroi, 'More, John II'), but given that the privy council was willing to act on More's behalf in 1630, it is difficult to associate More's defeats in litigation and the decreasing utility of the privy council in the patent disputes with that event. The issue recurred in 1645, suggesting no lasting solution had been found (Robin Myers, ed., *Records of the Worshipful Company of Stationers, 1554-1920*,

decaloration, the entry of which into the register of the stationers' company in 1635 seems to have spurred the petition, became the only reprinted unauthorized work, suggesting that the privy council was no longer effective in enforcing the patent against the stationers' company's rules.

The privy council may have been less effective than More hoped, perhaps because it was largely unconcerned about unauthorized law printing. Although More was able to present the actions of the stationers' company as a challenge to the prerogative, the particular works being printed were not themselves challenging. Until the 1640s, unauthorized law books were not works of dissent, or likely to appear as such. As an example, the only unauthorized work to be reprinted, was a volume consisting of two distinct texts. The first was the *briefe declaration for what manner of special nuisance concerning private dwelling houses, a man may have his remedy by assise, or other action as the case requires*. The second was *The iudges resolutions, concerning statute law for parishes, and the power of iustices of peace, churchwardens, and constables; and to know what they are to do concerning bastards borne in their parishes, reliefe of the poore, and providing for poore children, what remedy for the same*.¹⁰⁵ Neither titles nor texts are particularly controversial.

The only really controversial work printed by an unauthorized printer was Cowell's *Interpreter*, but all the controversy in relation to that book concerned its support for, or amplification of, the prerogative, presumably not something to bother the privy council unduly during the Personal Rule.¹⁰⁶ This changed in the 1640s, with Whitelocke's arguments against impositions (non-parliamentary taxation) and Fuller's about high commission being printed.¹⁰⁷ Interestingly, the

microfilm, Cambridge, 1985, Court Book C, fo.227v, where a printer with registered copy complained to the Company of comprinting by the law patentees).

¹⁰⁵ These works were printed in 1636, 1639 and 1641, all by William Cooke. The 1641 printing reverses the usual order, with *The Judges resolutions* coming first.

¹⁰⁶ On the controversy surrounding the *Interpreter*, see, e.g., Charles Howard McIlwain, 'Introduction', in Charles Howard McIlwain, ed., *The Political Works of James I*, Cambridge, MA, 1918, lxxxvii-lxxxviii.

¹⁰⁷ James Whitelocke, *A learned and necessary argument to prove that each subject hath a propriety in his goods. Shewing also the extent of the kings prerogative in impositions upon the goods of merchants exported and imported, out of and into this kingdome*, London, Richard Bishop for John Burroughes, 1641; Nicholas

authorized printer also entered into controversial printing in the 1640s, with the printing of Hutton's (dissenting) argument in the *Ship Money* case.¹⁰⁸ This seems to be part of a wider change in printing, with more controversial material being printed, probably tied to the abolition of the high commission and star chamber as courts for enforcing licensing and punishing unlawful printing.

Finally, the privy council may not have been a particularly useful venue for dispute resolution between a patentee and the stationers' company in the 1630s. The Crown made use of the stationers' company in its efforts to control printing. The company had jurisdiction over illegal presses and presses printing illegal works until 1637, although the high commission took some of that role even before 1637.¹⁰⁹ For the period in which More complained about the stationers' company, he was complaining to the council about an organisation which it used in its efforts to control printing.¹¹⁰ Such petitions were unlikely to be especially successful.

3. *The changing nature of the patent and patentee*

When the law patent was first granted it was granted to a printer, and it remained in the hands of printers until it passed to the stationers' company, where printers and booksellers retained indirect control. In 1629, the law patent passed to John More, a man with no experience in printing or bookselling.¹¹¹ More leased the patent to the

Fuller, *The argument of Nicholas Fuller of Grayes Inne esquire, in the case of Tho. Lad, and Rich. Mansell his clients. Wherein it is plainly proved, that the ecclesiasticall commissioners have no power by their commission, to imprison, or to fine any of his Majesties subjects, or to put them to the oath ex officio*, London, for Nicholas Vavasour, 1641.

¹⁰⁸ *The arguments of Sir Richard Hutton Knight, one of the judges of the Common Pleas: and Sir George Croke Knight, one of the judges of the Kings Bench*, London, Miles Flesher and Robert Young, 1641.

¹⁰⁹ Clegg, *Press Censorship*, 188. For examples of the privy council and even Charles himself addressing the Company in relation to unlicensed news, see Kevin Sharpe, *The Personal Rule of Charles I*, New Haven, 1992, 646.

¹¹⁰ Although Lambert is sceptical about the extent to which the Company can be seen as acting for the government (Sheila Lambert, 'State control of the press in theory and practice: the role of the Stationers' Company before 1640', in Robin Myers and Michael Harris, eds., *Censorship and the Control of Print in England and France 1600-1910*, Winchester, 1992, 1, at 11-23). Lambert's evidence does suggest, at the least, that some members of the government were not unsympathetic to the Company.

¹¹¹ Johns has observed that it was with the passage of the patent to More that 'the real controversy began', but the evidence discussed is all from the 1640s (Johns, *The Nature of the Book*, 299).

Flesher syndicate which then acted as the patentee in day to day business, but not in enforcement actions such as petitions to the privy council.¹¹²

The patent changed when it passed to the stationers' company. At that point, the owner of the patent ceased to be involved in day to day law book printing and selling. Instead the patent was merely a device for raising revenue by granting others permission to operate under its auspices. From then on, it would be difficult to regard the patent as inherently linked to regulation of law printing.

Furthermore, the particular arrangements put in place by More as patentee made enforcement of the patent less likely. More leased the patent to the syndicate for an annual rent of £60. More was also to receive one-third of all profits, but he covenanted to reinvest those into the business.¹¹³ From More's perspective, his only clear financial gain from the patent was a fixed annual sum of £60. The arrangements which were put in place in 1629 provided little motive for preventing unauthorized legal printing. This may not have been deliberate. Unauthorized legal printing does not seem to have been a problem for three decades and so might not have been something anticipated when negotiating the contract. For More, enforcement would have been an additional cost, but with no real gain.

Nevertheless, More was willing to seek to enforce the patent, but seems never to have done so except through the privy council, unlike Tottell's son and holders of other patents, who acted to enforce rights under the patent in the chancery.¹¹⁴ He

¹¹² For more detail on the history of the patent, see Baker, 'English law books', 478-489.

¹¹³ Baker, 'English law books', 483.

¹¹⁴ Tottell's eldest son petitioned the chancery, claiming that Tottell had submitted to arbitration by the stationers' company in relation to the Queen's Printer's claims to the abridgements, and the Company had imposed a compromise which involved Tottell printing part of each abridgement and the Queen's Printer the remainder. Tottell undertook work on this basis but it was unfinished before his death. Tottell's son, following the custom of the stationers' company, intended to finish Tottell's share of the work. The Queen's Printer then printed the majority of the work, and Tottell's son petitioned the chancery (TNA C2/Eliz/T4/41). Baker refers to proceedings for an 'injunction' by Jane Yetsweirt in the 1590s (Baker, 'English Law Books', 482), but the material he cites (BL MS Harley 6997, fos.3 and 18) refers only to adjudication by Lord Keeper Puckering in relation to infringements of the patent. It seems more likely that this material is concerned with informal dispute resolution, perhaps conciliar, by Puckering. No case with Yetsweirt as a plaintiff is listed in the indices to the chancery decrees and orders of the period 1593-7 (TNA PRO C33/87-94), suggesting no injunction was officially

avoided the expenses of lawyers and court fees and the likely explanation is that any such litigation would be a cost without profit. A crude financial analysis may also explain the absence of any enforcement of the patent itself after More's death in 1638. The patent passed to More's daughter and her husband, whose interest was clearly only financial. They never enforced the patent, but they did sue to claim rent owed to them under the agreement between More and his assigns.¹¹⁵

There is another aspect to the changing nature of the patent, which relates not to the patentee, but to the assigns. Miles Flesher was a monopolizer of monopolies, with rights relating to a share in the king's printing house and the grammar patent as well as the law patent; Robert Young was the king's printer for Scotland in addition to his interest in the law patent.¹¹⁶ While Flesher clearly acquired interests in monopolies, that diversification in his business may have rendered each of the individual monopolies less valuable. In particular, the law patent may have been of less interest to Flesher than some of the others, and hence merited less attention. While John More was to receive £60 annually for the assigns' enjoyment of the law patent, in 1619 the rent of the grammar patent had been set at £300 per annum, suggesting it was far more valuable, and hence important, to printers.¹¹⁷

Flesher's diverse portfolio of patents may also reveal why the syndicate was perhaps not especially concerned by some unauthorized printing. Flesher's interest was in patents covering works which were regularly demanded and reprinted: the king's printing house printed bibles and services books;¹¹⁸ the grammar patent

granted. The only proceedings by the Yetsweirts identified in the chancery records is TNA PRO C2/Eliz/Y1/24, but this concerns double payment of a debt on a sealed bond and appears unconnected with the patent. The chancery petitions of the period have not been fully catalogued, so there may be a petition related to the patent in the chancery records, but no orders or decree.

¹¹⁵ Cyprian Blagden, *The Stationers' Company: A History, 1402-1959*, London, 1960, 144.

¹¹⁶ Blagden, *The Stationers' Company*, 138-139. Flesher shared both the law patent and the Scottish printing patent with Robert Young: Plomer, *Dictionary*, 199.

¹¹⁷ Hunt, 'Book trade patents', 44.

¹¹⁸ On the king's printing house, see Graham Rees and Maria Wakely, *Publishing, Politics, and Culture: The King's Printers in the Reign of James I and VI*, Oxford, 2009.

included key educational works.¹¹⁹ The law patent was also just such a patent, but unauthorized printing in the reign of Charles I was not of such core legal works.¹²⁰ This suggestion is corroborated by a change in the business practices of the assigns of the patent. In 1639 and 1640, the number of distinct law books produced by the authorized printers increased, but there was also something of a change in nature. Edward Coke's *Commentary on Littleton* was reprinted, as was the book known as *Bracton*.¹²¹ These works had last been printed in 1629 and 1569 respectively.¹²² Both were very large works. The impression is of printers seeking to raise additional revenue from works they had hitherto avoided. The likely explanation is Robert Young's abandonment of his position as king's printer in Scotland in 1638, presumably due to the troubles there. One of the members of the syndicate would have wanted to raise revenue from an alternative source, and the hitherto under-exploited law patent would have been a viable possibility.

In combination, these two factors may have meant that the patent was being enjoyed by someone who was not especially concerned with minor breaches through works which he would not have printed anyway. Nevertheless, after 1640, the attitude of the surviving syndicate members (Flesher and John Haviland) seems to have changed. In 1640, proceedings were initiated against Flesher for failing to pay the rent due under the patent.¹²³ After these proceedings began, Flesher seems to have worked assiduously to protect and profit from the patent. The threat of ongoing litigation is probably part of the explanation, but probably more important were complaints about the patent system.

¹¹⁹ See generally Mace, 'The History of the Grammar Patent'. For the high worth of the patent and frequent printings of some of the works covered by the grammar patent, see especially *ibid.*, 423-424.

¹²⁰ On the frequent reprinting of law books in the Elizabethan period, see Ian Williams, 'A medieval book and early-modern law: *Bracton's* authority and application in the common law c. 1550-1640', 79 *Tijdschrift voor Rechtsgeschiedenis* (2011), 47, at 54-55. For an exception in 1641, see above, text at nn.28-30.

¹²¹ Edward Coke, *The first part of the Institutes of the lawes of England*, London, Miles Flesher, John Haviland and Robert Young, 1639 and Bracton, *De legibus* (1640).

¹²² Edward Coke, *The First Part of the Institutes of the Lawes of England*, London assigns of John More, 1629; Bracton, *De legibus* (1569).

¹²³ Blagden, *The Stationers' Company*, 144.

Michael Sparke, '[l]ong an enemy of the printing monopolies', and also opposed to licensing,¹²⁴ produced the *Scintilla* in 1641, which complained about several monopolies in which Flesher had an interest, including specific mention of the law patent as driving up prices.¹²⁵ Sparke's complaints were long-standing, but in the summer of 1641, William Prynne argued that the law patent should be held by the stationers' company, for the good of the whole realm.¹²⁶ That appeal might have appeared less self-serving had Prynne not been counsel for the stationers' company and were it not for the actions of the company in undermining the patent in 1635.

Flesher took the challenge to the patent in 1641 seriously. He repeated, on a larger scale, Tottel's approach when the law patent was challenged in the 1580s, sharing the spoils of the patent.¹²⁷ In 1641, the year of the complaints about the law patent, Flesher printed Brooke's *Reading...upon Magna Carta* in association with William Cooke and Lawrence Chapman and the *Speciall and Selected Law Cases*, also with William Cooke.¹²⁸ Flesher seems to have been attempting to ally with the bookseller probably best placed to profit from any relaxation of the patent, perhaps to ensure there was not a unified challenge to it.

A related strategy was to delegate further the right to use the patent. In authorized printings the members of the syndicate are simply identified as the

¹²⁴ Keith L. Sprunger, *Trumpets from the Tower: English Puritan Printing in the Netherlands 1600-1640*, Leiden, 1994, 20 and 162.

¹²⁵ [Michael Sparke,] *Scintilla, or, A light broken into darke warehouses. With observations vpon the monopolists of seaven severall patents, and two charters*, London, 1641. Sparke focuses on the king's printer's monopoly on bibles and the grammar patent, in both of which Flesher had an interest (see above, text at n.116).

¹²⁶ Blagden, *The Stationers' Company*, 131.

¹²⁷ During Tottell's time as patentee, the printing of *Les ans du roy Richard le second* in 1585 was by 'notorious 'disorderly' printers' who were accused of unauthorized printing of works covered by various patents. Wells suggests that Tottell did not object to this printing, allowing it to appease printers complaining about a lack of work and the patent system, including his own monopoly (Elizabeth Wells, 'Common Law Reporting in England, 1550-1650', thesis submitted for the degree of Doctor of Philosophy, University of Oxford, Oxford, 1994, 30-32).

¹²⁸ Robert Brooke, *The Reading of M. Robert Brooke...upon the stat. of Magna Charta*, London, Miles Flesher and Robert Young, 1641, the title page describes the work as 'sold by Laurence Chapman and William Coke'; Anon, *Speciall and selected law-cases*, London, M.F. [Miles Flesher], 1641, according to the title page 'to be sold by William Cooke'.

printer or bookseller.¹²⁹ However, for two works printed in 1641, others are involved, with the printing described simply as being by ‘permission’ of the assigns of the patentee. The first of these is the *Treatise of the Principal Grounds and Maxims of the Law*, attributed to William Noy, was printed by R.H. to be sold by William Cooke.

The second is the authorized edition of the *Office and Duty of Executors*, which was described as printed by Richard Hodgkinson.¹³⁰ It is possible that Richard Hodgkinson is also the ‘R.H.’ involved in the printing of the *Treatise*.¹³¹ If so, the first, unauthorized, edition was printed by William Cooke and a variety of other printers. The second, authorized, edition was printed by Richard Hodgkinson, someone who had other business dealings with William Cooke when Cooke worked with Flesher. The third, unauthorized, edition was once again printed by Cooke and other printers. There is a complicated network of business relationships here, and the various printings of the *Office and Duty of Executors* may therefore not in fact have been in quite as much competition as suggested earlier, although it is doubtful early-modern readers would have been aware of these machinations.

Through all of this, the impression is of the syndicate members as people entitled to benefit from the patent, people concerned about keeping those benefits, but not especially concerned about individual unauthorized printings. These were not men concerned with law books. The regulation of law printing, and the quality of legal printing, were of purely monetary relevance. This becomes very apparent in 1641. In that year, Miles Flesher and Robert Young printed Robert Brooke’s reading on Magna Carta. The title page makes clear that Flesher and Young here acted as printers for the booksellers Laurence Chapman and William Cooke, booksellers who were often involved in unauthorized printings of law books.¹³² Flesher and Young

¹²⁹ Coke, *First part of the Institutes* (1639) and Bracton, *De legibus* (1640).

¹³⁰ Hodgkinson was another printer located some distance from the legal profession based in Thames Street, near Baynard’s Castle (Plomer, *Dictionary*, 99).

¹³¹ Another possibility is Richard Hearne, who was involved in the unauthorized printing of Rastell’s *Les Termes de la Ley* in 1641 (John Rastell, *Les Termes de la Ley*, London, John Beale and Richard Hearne, 1641).

¹³² Brooke, *The reading of M. Robert Brooke*.

printed the book, as they were entitled to do under the patent, but did so at the behest of other members of the book trade, members who could be seen as often in competition with the syndicate members.

4. Links with the legal profession

A related, but distinct, challenge to the law patent arose from the assign's control of authorized legal printing, and it relates to the relationship between law printing and the legal profession. As Baker observes of law printing generally, '[t]he law printers must obviously have kept closely in touch with the needs of the profession they supplied'.¹³³ The prefaces to various works printed under Tottel in the 1570s and 1580s support this view, referring to the person controlling the text responding to demand from the legal profession and taking them to be printed.¹³⁴ The law printers of the sixteenth century were both printers and booksellers whose businesses were located in legal London. Tottel worked at the Hand and Star on Fleet Street, within Temple Bar. Charles Yetsweirt printed books for sale in his shop 'within Temple Bar neere to the Middle Temple'.¹³⁵ Their successors in the seventeenth century were more diverse.

First, the seventeenth century law printers under the patent were printers but not booksellers.¹³⁶ They printed law books, but did not engage in retail trade. In itself this may have made them more remote from the profession, by lacking direct retail contact with its members. Second, unlike the sixteenth century printers, many of the seventeenth century law printers were not located in the vicinity of lawyers. The

¹³³ Baker, 'The books of the common law', 429.

¹³⁴ Edmund Plowden, *Les comentaries, ou les reportes de Edmunde Plowden*, London, Richard Tottell, 1571, sig.¶iii and James Dyer, *Les Reports des Divers select matters & Resolutions des Reverend Judges & Sages del Ley*, London, Richard Tottell, 1585, 'To the Students of the Common Laws'. These prefaces may have been to some extent ritual apologies for the disclosure of professional knowledge, but the presentation of the apology needed to be in terms which gave the impression of likelihood, if not truth, meaning that the prefaces provide evidence of lawyers' perceptions of law printing.

¹³⁵ Thomas Littleton, *Littletons Tenures in English*, London, Charles Yetsweirt, 1594, title page.

¹³⁶ Following a wider trend in the book trade from the second half of the sixteenth century, as the printing of books and their publication by booksellers increasingly separated (see James Raven, *The Business of Books: Booksellers and the English Book Trade 1450-1850*, New Haven, 2007, 37).

main law printer before 1629 was Adam Islip, whose place of business is unknown, but the assigns of John More were not close to the legal profession. Miles Flesher's place of business was in Little Britain, and John Haviland's in Old Bailey, both some distance east from the world of lawyers, which centred on the inns of court and chancery near Fleet Street and Holborn in the east and Westminster in the west.¹³⁷

Works printed under the patent could of course be sold by booksellers within the legal community. There were plenty of booksellers in legal London, even in Westminster Hall itself,¹³⁸ and such booksellers could work with the patent-holders. For example, the 1629 printing of Coke's *Commentary on Littleton* refers to it being sold by Richard More, in St Dunstan's churchyard, on Fleet Street near the Temple and its two inns of court, but such an explicit link between a work under the patent and a particular bookseller is unusual.¹³⁹ However, for a business supposedly serving a niche market, a location semi-remote from consumers and authors may have hindered the development of new works. The assigns of John More were not well placed to form connections with the profession to assess their needs or demands, or to come into contact with authors or owners of material for which there may have been a market.¹⁴⁰

There is an interesting contrast to those involved in unauthorized law printing.¹⁴¹ Many of the identifiable individuals in unauthorized law printing were

¹³⁷ Plomer, *Dictionary*, 76; R.B. McKerrow, ed., *A Dictionary of Printers and Booksellers in England, Scotland and Ireland, and of foreign printers of English books 1557-1640*, London, 1910, 131. The Old Bailey would have been convenient for any lawyers working in the courts of the City of London, but not the royal courts at Westminster. Robert Young's place of business is unknown (Plomer, *Dictionary*, 131). This new distance between the profession and its printer has not been observed by Harvey, who stresses the proximity of lawyers and law printers (Harvey, *The Law Emprynted*, 98).

¹³⁸ Henry R. Plomer, 'Westminster Hall and its Booksellers', 6 *The Library* 2nd series (1905), 380, although there is very little evidence of this from before 1640.

¹³⁹ Coke, *First Part of the Institutes* (1629), titlepage. I have not identified any link between John More the patentee and Richard More the bookseller.

¹⁴⁰ The difficulty was not insurmountable. The first volumes of Edward Coke's *Reports* were printed by Thomas Wight, whose place of business was 'The Rose in St Paul's Churchyard' (McKerrow, *Dictionary*, 289).

¹⁴¹ But not all of the unauthorized printers. For example, Benjamin Fisher, a bookseller identified as seller of several unauthorized printings in the late-1620s was based in Aldersgate Without, like

booksellers, with premises close to lawyers. William Cooke's shop was at Furnival's Inn Gate on High Holborn, securely amidst legal London.¹⁴² When more unauthorized law printing began in 1641, the participants were physically amongst the legal community. Crompton's *Star Chamber Cases* was reprinted in 1641, to be sold by John Grove, whose shop was in Chancery Lane, 'over against the *Sub Poena Office*'.¹⁴³ James Whitelocke's *Learned and necessary argument to prove that each subject hath a propriety in his goods* was printed by Richard Bishop for John Burroughes, to be sold at Burroughes' shop 'near the Inner Temple gate in Fleet Street'.¹⁴⁴ These works were printed to be sold in the heart of the legal community.¹⁴⁵ Unauthorized printing may have been tolerated, perhaps even encouraged, by the legal profession, simply due to supply and demand. Booksellers serving lawyers would have been more likely to be aware of what books lawyers might want to purchase. The impression from titlepages is that these booksellers were commissioning work from printers.

By contrast, the syndicate members may not have been aware of what would sell. This may be part of the explanation of why the assigns did not produce new titles.¹⁴⁶ Before 1640, when the syndicate produced new works, these seem not to have been on their own initiative. In 1630 the syndicate printed an abridgment of Christopher St German's *Doctor and Student*. This was described on the title page as to be sold by Matthew Walbancke, and it seems likely that he was the driving force

Flesher some distance from legal London (Thomas Powell, *The attornies almanacke*, London, Bernard Alsop and Thomas Fawcett for Benjamin Fisher, 1627, titlepage).

¹⁴² Allan H. Stevenson, 'Shirley's Publishers: The Partnership of Crooke and Cooke', 25 *The Library* 4th series (1944-1945), 140, at 141.

¹⁴³ Richard Crompton, *Star-Chamber Cases. Shewing what causes properly belong to the cognizance of that court*, London, John Okes for John Grove, 1641, titlepage. Grove also printed an unauthorized work in 1630: Dodderidge, *A Compleat Parson* (1630).

¹⁴⁴ Whitelocke, *A Learned and necessary argument*, titlepage.

¹⁴⁵ The relative absence of professional editing in the 1630s also suggests weaker links with the profession. See below, text at nn.159.

¹⁴⁶ Flesher's business model, of profiting from reprintings, rather than original works, is also clearly relevant, see above, text at nn.118-120.

behind the work.¹⁴⁷ Similarly, when the syndicate produced a truly new work in 1632, not only was it described as a ‘popular kind of instruction’ [emphasis added], emphatically not directed to the needs of the profession, it was to be sold by John Grove, perhaps suggesting that the initial impetus came from someone with greater access to the profession.¹⁴⁸ No more new works were produced by the assigns until 1641, the *Reading of Brook on Magna Carta*, the *Speciall and Selected Law Cases* and *Hobart’s Reports*.¹⁴⁹ Of these, only the last was produced by the syndicate alone. The first two were produced in combination with the bookseller of unauthorized works, William Cooke. Cooke, like John Grove, produced works which circulated in manuscript amongst the profession before being printed.¹⁵⁰ Not only might the syndicate have been unaware of demand, they may also have struggled to obtain new material to print, at least in comparison to more proximate, but unauthorized, printers.

This remoteness from the market may also explain why the authorized printers reprinted unauthorized works. The unauthorized printings may have acted as a form of market research and product development, with the syndicate then taking on works they considered valuable. If this was the case, then a further explanation for the absence of enforcement of the patent appears – the syndicate may not have wanted the patent to be enforced before works went to market for the first time. The terms of More’s final petition to the council then become more explicable. The concern of that petition was of the entry of law books to unauthorized printers in the register of the stationers’ company. Such entries, if

¹⁴⁷ *An exact abridgement of that excellent treatise called Doctor and student*, London, John Haviland for the assigns of John More, 1630. Walbancke had close geographic links with the legal profession, being based at Gray’s Inn Gate (Plomer, *Dictionary*, 186).

¹⁴⁸ T.E., *The Lawes Resolutions of Womens Rights*, London, assigns of John More for John Grove, 1632, 2.

¹⁴⁹ Brooke, *Reading*; Anon, *Speciall and selected law-cases*; Henry Hobart, *The reports of that learned Sir Henry Hobart Knight*, London, assigns of John More, 1641. The only arguable exception is Dodderidge’s *The English Lawyer* (1631), which was an improved version of *The Lawyer’s Light*, an unauthorized printing from 1629.

¹⁵⁰ Dodderidge’s *Compleat Parson*, printed for Grove, survives in multiple manuscripts, suggesting circulation (see above, nn.40 and 41), as did Coke’s *Little Treatise of Baile and Mainprize* (1635, William Cooke, London) (see Williams, ‘Common Law Scholarship’, 66).

effective, would have given the first printer a monopoly, blocking the business model of the syndicate.¹⁵¹

5. A more competitive market

A consequence of the rise of unauthorized printing was greater competition in the market. While competition might spur claims as to superior quality, and perhaps even genuine improvements, it is also an explanation for some of the changes in the 1630s.

This is most obvious in relation to false attribution of law books. Attaching the name of a prominent lawyer to a book would probably help it sell. The false attributions seen in the 1630s were to just such prominent lawyers, in fact to some of the most famous lawyers of the seventeenth century. During his life Edward Coke was described as the 'father of the law'¹⁵² and 'an oracle amongst the people'.¹⁵³ Francis Bacon is a little more difficult, although his reputation as a lawyer seems to have improved posthumously. In 1629 his *Certaine considerations touching the better pacification, and edification of the Church of England* was cited in litigation,¹⁵⁴ and was also included, together with references to Bacon's *Historie of the raigne of King Henry the Seventh*, in a law student's legal notebook from the late-1620s or early-1630s.¹⁵⁵ Finally, although William Noy was not known as a writer, he was well-respected in the legal profession. The judge Richard Hutton described Noy as 'greatly learned

¹⁵¹ In this regard, it seems significant that the *Briefe Declaration*, which was the work which Cooke had entered into the Register was the only reprinted unauthorized work in the 1630s (*A Briefe Declaration* (1636) and *A briefe declaration for what manner of speciall nusance concerning private dwelling houses, a man may have his remedy by assise, or other action as the case requires*, London, Thomas Cotes for William Cooke, 1639), suggesting it may have been a work the syndicate would have liked to print, but were prevented from doing so by the rules of the stationers' company.

¹⁵² Robert Zaller, *The Parliament of 1621: A study in constitutional conflict*, Berkeley, 1971, 69.

¹⁵³ John Bruce, ed., *Calendar of State Papers, Domestic Series, of the Reign of Charles I. 1629-1631*, London, 1860, 490.

¹⁵⁴ Francis Bacon, *Certaine considerations touching the better pacification, and edification of the Church of England*, London, Thomas Purfott for Henry Tomes, 1604, cited in *Pope v Tinker* (1629) Cambridge University Library MS Gg.2.19, fo.50.

¹⁵⁵ BL MS Harley 980, fos.5 and 6; Francis Bacon, *The historie of the raigne of King Henry the Seventh*, London, W Stansby for Matthew Lownes and William Barret, 1622.

and well versed in records',¹⁵⁶ and Noy is the only living lawyer whose remarks from learning exercises in Lincoln's Inn are recorded in a student's notebook, suggesting a high reputation.¹⁵⁷ Related to this might be an omission from the printed text of Noy's *Treatise*. While the printer adds Noy's name, he removes a mention in the manuscript that the text was written around 1600.¹⁵⁸ That information could have weakened the appeal of a book attributed to Noy. It would have been an acknowledgement that the work was written not by the 'greatly learned' Attorney-General Noy, but the still-learning student William Noy, hardly a resounding endorsement of the quality of the content.

In relation to quality problems and errors in printing, such as difficulties with language or the manuscripts, these might have been avoided had printers obtained assistance before printing. We know that some law printers in the sixteenth century made use of members of the profession to edit or correct works before printing.¹⁵⁹ There is no evidence of this in relation to many works printed in the 1630s. Cost concerns, perhaps combined with a desire to print works related to contemporary debates quickly, all in the context of a competitive market, seem likely explanations. Law printers instead simply reproduced previous publications, complete with previously recognized errors.¹⁶⁰

V. Concluding Thoughts

The history of law book printing is more complex than simply tracing the holders of the patent. While the patent clearly was important, the patentee and his assigns ceased to be the only law printers in the 1630s.

¹⁵⁶ Wilfrid R. Prest, *The Diary of Sir Richard Hutton 1614-1639* (Selden Society Supplementary Series 9), London, 1991, 98.

¹⁵⁷ BL MS Harley 980, fos.5v, 81 and 86.

¹⁵⁸ See above, text at n.65.

¹⁵⁹ John Baker, 'St German, Christopher' in Matthew and Harrison, *Oxford Dictionary of National Biography*, vol.48, 609. The former judge William Rastell performed such a role for Tottell despite his departure from England on religious ground (Byrom, 'Richard Tottell', 223).

¹⁶⁰ See above, text at nn.47-50.

Unauthorized printing clearly arose because printers thought there was a market for more law books and the evidence of the early 1640s suggests that such printers were happy to print law books when they thought enforcement unlikely or impossible. In the 1630s, the evidence is that enforcement was limited. Unlike previous patentees, litigation was not used, and petitions to the privy council seem to have become less useful over the years. While the patentee may have been concerned about some breaches of the patent, there is no evidence that the assigns of the patentee were especially concerned, particularly in relation to unauthorized books which were probably not going to be printed by the assigns. In such an environment some printers were willing to risk breaking the patent.

False attributions and quality complaints began to appear in the 1630s, even being noted by the privy council. Unauthorized printing made little direct difference; the assigns of the patentee seem to have been little better than the unauthorized printers. However, competition from unauthorized printers may have stimulated some of the problems, especially in relation to false attribution. These new features of law printing were a divergence from the later sixteenth and early seventeenth centuries. But in the wider context of early-modern printing, law printing in the 1630s was becoming normal.