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 Excerpt
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CHAPTER I

*Censorship and the law:
 the Caroline inheritance*

William Prynne, who was tried in the court of Star Chamber in 1634 for several charges (including sedition and perjury) in relation to the duly authorized book he had written denouncing actors and the theatre (*Histriomastix*, 1633), looms so large in the historical imagination of Caroline England, that however often his story has been told, any effort to come to terms with the relationship between the government of Charles I and print culture must contend with Prynne and his place in the historical imagination. I begin here with Prynne's name not to ground my study of Caroline press censorship in the encounter between Prynne and the Caroline regime, but to suggest the complex investments that have attended even the most astute studies of England between Charles I's accession in 1625 and his execution in 1649. However cautiously scholars have sought to navigate the troubled waters of seventeenth-century historiography, the events of the 1640s and 1650s – whether “Civil War,” “Rebellion,” or “Revolution” – inevitably impinge upon the ways in which stories like Prynne's have been told. It may appear to be an artificial exercise to attempt to place press censorship during the reign of Charles within its prevailing economic, political, and religious contexts, looking back to historical precedents rather than forward to the Civil War, as this study seeks to do. Considering a few of the narratives that have attached to Prynne's trial, however, should suggest the desirability (indeed the necessity) of such an approach. Each of the following accounts tells a quite different story about Prynne's offense and the nature of censorship in Caroline England.

F. S. Siebert's *Freedom of the Press in England, 1476–1776*, published in 1952, has for some time been regarded as the acknowledged authority on the history of press censorship in England. In *Censorship and Interpretation* (1984), Annabel Patterson insists that her own interest in the hermeneutics of censorship may justifiably focus “only occasionally” on the mechanisms and institutions of “state control” because “The legal history of censorship

in relationship to all aspects of the printing trade has been well covered by F. S. Siebert.¹ In *The Trouble with Ownership* (2005), Jody Greene still cites Siebert's book as the authoritative survey of "the wide variety of press controls in place in the period."² For Siebert, Prynne's case served to illustrate how "early Stuart kings continued on their way, extending the repressive measures as their efforts to convince by argument and exhortation failed."³ Prynne was an idealistic Puritan who "was irritated into action by what he considered the Stuart defection from the Protestant cause":

He espoused the central ideal of Calvinism in his first book published in 1627. In succeeding works he attacked both Presbyterianism and Romanism and then went on to castigate the social foibles of the times. For condemning such "immoralities" as dancing, hunting, play-acting, and public festivals in his *Histrio-Mastix* (1632), he was haled before the Star Chamber (1633) and was sentenced to be pilloried, to lose both ears, to be disbarred from his profession, and to be fined £10,000.⁴

Despite its tone of historical objectivity, Siebert's account illustrates Kevin Sharpe's assessment of the resonance of Prynne's trial, that for many historians the "power of the basic story . . . has often led to a suppression of the details."⁵ The very real Star Chamber charge of seditious libel disappears entirely from Siebert's account, implying that the Star Chamber arbitrarily enacted Caroline ideological repression.

Even though Annabel Patterson defers to Siebert's authority on the mechanisms of press control, she appreciates the representative value the culture ascribed to Prynne's loss of his ears, which "stands as a symbol for the whole ghastly area of the sensational public trial and dismemberment."⁶ While she admits such trials were exceptions, Prynne's experience served as a sign "that the codes governing sociopolitical communication had broken down, that one side or the other had broken the rules."⁷ From Patterson's perspective early modern English writers had to adapt to a political environment in which censorship prevented open political discourse. Writers "gradually developed codes of communication, partly to protect themselves from hostile and hence dangerous readings of their work, partly in order to be able to say what they had to publicly without directly provoking or confronting the authorities."⁸ William Prynne's case embodies a

ritualism . . . which lies at the very center of everything we could possibly mean by the theater of state . . . In this case both sides broke the rules; Prynne, by attacking one of his culture's main media of indirection, the public (and private) drama; Charles I and Laud, by disallowing Prynne's own use, however scanty, of the time-honored protective devices of analogy and "authority."⁹

Charles and Laud, from this perspective, sacrificed “the power of illusion” so that they might “preserve the illusion of power.” According to Patterson, “By making Prynne a martyr, Charles took an irrevocable step toward civil war and a polarized culture.”¹⁰

Like Patterson, Kevin Sharpe recognizes the symbolic value of Prynne’s trial but not as a sign of a disintegrating political regime. In depicting the reign of Charles I as a time of consensus and moderation, Sharpe regards Prynne’s 1634 trial, as well as the notorious 1637 trial of Prynne together with Henry Burton and John Bastwick for writing against the Church, as a “miscreant’s” due.¹¹ Even though Prynne’s attorneys argued that the charges of committing scandal against the Queen and suggesting that it was “lawful to lay violent hands upon a prince” resulted from “incriminating interpretations” being “imposed on the text,” according to Sharpe, “there was no disagreement among the judges. Sir John Coke, Attorney Heath, Justice Richardson and the Earl of Pembroke, men of strong Protestant convictions, all agreed with Cottington, who branded Prynne a dangerous man.”¹² From Sharpe’s perspective, Prynne, who wrote “vituperative treatises against the church,” was a renegade intent on discrediting the Caroline regime. He was someone who aroused little pity: “neither his trial nor punishment was the subject of public attention or sympathy.”¹³ Prynne may have verbally assaulted the Caroline regime, but he posed no real threat. The real foes in Sharpe’s account are the historians who have made Prynne, Burton, and Bastwick into “*causes célèbres*” – those for whom, as noted above, the “power of the basic story . . . has often led to a suppression of the details.”¹⁴ The “graphic stories” told about trials and terrible punishments “have besmirched the court of Star Chamber and the episcopate and government of Caroline England.”¹⁵

While Sharpe slights the significance of Prynne’s trial for anything other than its power over the historical imagination, Debora Shuger finds in the proceedings the best intent and practice of censorship in early modern England. She sees “particular value” in Prynne’s trial “because the sole issue under dispute was that of intent”: “Had Prynne’s words been ambiguous, the law would have allowed them a favorable construction.”¹⁶ His words, however, were not found by the judges to be ambiguous, and Prynne was held accountable. Prynne’s transgression, according to Shuger, did not reside in the content of his “tirade” against stage plays:

Accused of writing “a most scandalous, infamous libel,” Prynne was tried in the Star Chamber in 1632–33. The indictment charges him in general terms with libeling “his Majesty’s royal queen, lords of the counsel, &c.” whom Prynne “well knew” had been “spectators of some masques and dances,” and with “stir[r]ing up

the people to discontent, as if there were just cause to lay violent hands on their prince" (*State Trials* 3:563) – charges which, taken alone, make one wonder if Prynne's offense was simply to have criticized something the queen liked, and why this would be considered inciting rebellion.¹⁷

Prynne's language was the transgressor and the sole witness to the malice of his intent:

What made *Histrio-mastix* intolerable was not Prynne's wholly conventional argument that playgoing fostered immorality but rather his rhetoric of divine wrath, hellfire, devils, and damnation, because such language worked upon tender consciences of God-fearing men and women to instill dark suspicions of rulers who patronized "Devil's Chapels."¹⁸

From Shuger's perspective Prynne's *Histrio-mastix* participated in the conventional polemics of "Protestant militants of the earlier seventeenth century" that relied on "defamation, malicious conjecture, and fearmongering."¹⁹ While Elizabethan censorship had been directed at such abuse among both Catholic and Protestant polemicists, the end of both Jacobean and Laudian censorship was to "mute this rabidly paranoid antipopery that formed the core of the political worldview of mainstream evangelical Protestantism and which, in the end, brought down the Stuart monarchy."²⁰

David Cressy challenges Sharpe's contention that in its time Prynne's trial was relatively unimportant. Like Patterson, he regards Prynne's trial as symbolic, but less of an abusive regime than of the "rising tensions and changing fortunes of the years 1633 to 1641" that were marked by "rising political temperature, an escalation of vituperative rhetoric, and a sharpening of cultural divisions."²¹ From Cressy's perspective Prynne was an effective polemicist who, like his "tormenters," "understood the importance of propaganda and symbolism, and turned the suffering of the body and the manipulation of text into a fine political art."²² Far less sympathetic to Laudianism than Shuger, Cressy reminds us that in 1633 Prynne, a conforming member of the Church of England, was so alarmed by Arminianism and aggrieved by England's sins that he sought to rebut contemporary charges "that puritans and precisians" were "seditious, factious, troublesome, rebellious persons, and enemies both to the state and government" by demonstrating his concern for England's moral and spiritual health.²³ He did so in his book by condemning "all popular, festive, and dramatic entertainments that furthered the work of the Devil."²⁴ Prynne's misfortune in the case of *Histrio-mastix*, from Cressy's perspective, was that "William Laud, at this time still bishop of London,

and still smarting from Prynne's earlier attack on Arminianism, was determined to make the writer suffer."²⁵ By writing not only against stage plays but also against "‘hunting, public festivals, Christmas-keeping, bonfires and maypoles’, and even ‘against the dressing of a house with green ivy’," Prynne made himself vulnerable to "an extreme application of reader response" from his "enemies at Whitehall," who saw the book as "an attack on the honour of those closest to the king, as a challenge to royal authority, and as an assault on the entire public, festive, celebratory, and recreational life of the country and the court," even though "there was nothing new in *Histrio-Mastix*," a book that had been printed with ecclesiastical approbation.²⁶ According to Cressy, the effort to control public opinion was not Prynne's alone. The judgments rendered in the Star Chamber trial were as intemperate and vituperative as Prynne's prose, and the punishments Star Chamber imposed – disbaring, imprisonment, an excessive fine, disfigurement, and public humiliation in the pillory (an indignity gentlemen rarely suffered) – far exceeded anything that had been done before, especially considering that Prynne made a submission to the King and begged for "pardon and grace."²⁷ Prynne's trial contributed to a growing political and cultural divide within England, and reactions to it reflected the division: "Some observers were delighted by Prynne's comeuppance, others were appalled by the savagery of his mistreatment."²⁸ For Cressy, "Prynne's experience, and the contest among contemporaries to control and interpret it, undermines any notion that the personal rule of Charles I was an era of order, consensus, and moderation."²⁹

The cultural divisions that marked Caroline England, it would appear, still persist – although now in the historiography of the period. While it is tempting at this point to sort out the widely divergent accounts of Prynne's trial and its cultural implications, this must wait for later chapters. Prynne's fate and that of printers and other writers whose work was regarded as somehow transgressive must be seen within the context of the practices of press regulation in early modern England. To be able to understand whether Prynne's trial is exemplary or extraordinary, the remainder of this chapter will describe the various institutions in England under the Tudor and early Stuart monarchs that circumscribed the printed word. Some of these are the mechanisms of censorship that all of the above accounts of Prynne's trial seem to take for granted: the regulation of language by English law, the use of the court of Star Chamber to punish offending authors, and the vetting of texts prior to printing to assure their acceptability (authorization).³⁰ Besides pre-print censorship, the courts, and the law, other interests in Tudor and Stuart England affected what did

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and did not appear in print: the monarch, Parliament, the Church, the printing trade, and, curiously enough, custom. In England, the past, recent and distant, was invoked to allow, justify, restrict, and redefine the present. As Charles M. Gray reminds us, England in the late sixteenth and early seventeenth centuries was a traditional society where material change was slow and both secular and religious intellectual habits were grounded in respect for the authority of the past: “England was peculiar . . . mainly for concretizing the established and the ancestral in the common law.”³¹ Because of this, all the institutions that impinged upon the printed word were in flux. To understand the sometimes subtle, sometimes dramatic changes that affected print, we will consider the accumulation of precedents that shaped the relationship between the various English institutions and the printed word.

THE ROYAL PREROGATIVE

In the not disinterested pamphlet *The Original and Growth of Printing*, dedicated to Charles II, Richard Atkyns wrote, “Printing belongs to your Majesty, in Your publique and private Capacity, as Supream Magistrate and Proprietor.”³² By Atkyns’s account the first printing press was set up in Oxford ten years before any printers or printing houses appeared on the Continent, and King Henry VI, readily receiving the printers, swore them as “the king’s Servants”: “Thus was the Art of Printing, in its Infancy, nursed by the Nursing Father of us all.”³³ Tudor monarchs, Atkyns contends, saw fit to control printing when they saw it become abusive. While Atkyns frames his discourse in the customary language of censorship (abuse and control), he is actually more concerned with the monarch’s prerogative to confer on individuals not necessarily members of the printing guild (the London Company of Stationers) the right to print and market a book or given categories of books. (By asserting the King’s prerogative authority over printing, Atkyns was seeking to legitimate his royal patent to print common law books.) Since Atkyns’s pamphlet, as Adrian Johns reminds us, is virtually the first history of the printing trade, it may have contributed to the understanding of the monarch’s relationship to printing that finds expression in this opening sentence of Siebert’s *Freedom of the Press*: “The authority to control and regulate the printing press in England was claimed for two centuries by the Crown as one of its prerogative rights.”³⁴

G. R. Elton observes that “‘Prerogative’ was the great Tudor word, stressed in particular by Henry VII and Elizabeth, by Henry to restore the Crown and its finances and by Elizabeth to oppose her subjects’

interference in matters of policy.³⁵ Prerogative, granted to the monarch by the laws of the realm, enabled the Crown to “discharge the task of governing.”³⁶ Among most of the lawyers, according to Elton, the most important aspect of the King’s prerogative arose from the King’s “feudal overlordship,” authority in war and peace, in coining money, in dispensing the laws, and in conferring dignities and offices (and the properties associated with them).³⁷ The making of laws was reserved to Parliament and the monarch’s prerogative action could not “abrogate, repeal or suspend any act of Parliament.”³⁸ In his list of the monarch’s prerogatives in the sixteenth-century political treatise, *De Republica Anglorum*, Thomas Smith makes no mention of the monarch’s prerogative to control printing.

From the advent of printing English monarchs, recognizing the printed word’s extraordinary power to achieve religious, political, and cultural ends, engaged with the press at many levels but never with the sense of the prerogative right to control it that Atkyns and Siebert envision. Rather, it was in their position as feudal overlords that English monarchs first exercised control over printing. From the time of the Magna Carta an essential focus of English law was ascertaining the right to property and its transmission, and, for several reasons, early printed texts participated in complex notions of property. Authorship, unimportant and often ignored in the medieval world, was an unstable concept, in part because so many of the earliest books printed – law books, missals, Bibles, miscellanies – actually lacked authors, in part because the early Protestant writers who used the press extensively often concealed their identities. Thus authorship, though it might be identified with agency, provided no link to material property. The printed book, however, possessed material value. It represented both the costs of the publisher’s investment in his shop and all its material accoutrements – press, letters, paper, print, and labor – and the means by which he could assure his continued interest in this property. Under English common law property was something that could be held in an estate, but books had to be disbursed – sold – to assure economic return. This condition, of course, also existed for other material goods, but print’s distinctive feature, its ease of replication, allowed relatively inexpensive access of one man to the product of another. Such appropriation – unrestricted printing – violated the principle of property. Recognizing the need to identify the material object of the printed text as “real” property, title pages and colophons were imprinted with printers’ names, printing house locations, publishers’ and booksellers’ names, and shop signs (depending on who owned the copy). Without some form of enforcement, however, this was an insufficient measure to assure the printer or publisher

his sole right to the benefit of his investment and labor. Printers and publishers sought and received protection from the Crown in the form of a royal privilege to print generally issued under the Privy Seal as a patent. Hence when a Tudor monarch granted a patent – for printing or anything else – the monarch essentially transferred to the subject those property interests that by feudal rights belonged to the Crown. In this respect, printing privileges (patents) were like the Crown’s grant of licenses to acquire or alienate lands, to hold fairs and markets or to import or export goods. They were entered in the patent rolls as “licenses,” with the words “license” and “privilege” used interchangeably. Books so privileged included imprints identifying the publisher’s sole property right in the text (or later, bearing the words “*cum privilegio regiae ad imprimendum solum*”), the violation of which gave the privilege holder protection in the royal courts.³⁹

Such privileges, granting to their recipients the right to enjoy the economic benefits derived from printing, proliferated during that reign of Henry VIII but ceased to be the principal means of protecting printers’ rights to copy after 1557, the year in which the Company of Stationers of the City of London received its charter. Even so, Elizabeth continued to grant lucrative printing patents for entire classes of books (law books, primers, catechisms, school books) to favored printers like John Day, who received a patent for a given term for anything he printed, and to individual authors like Christopher Saxton for his English atlas. Additionally, from the time of Henry VII patents created the office of Printer to the King, the holders of which printed not only official documents like proclamations, but the Book of Common Prayer and some editions of the Bible. When James I came to the throne in 1601, he rescinded all Elizabethan patents by a royal proclamation that denounced monopolies and patents – although this did not extend to the office of King’s Printer or the trade monopoly of the Stationers’ Company. Furthermore, he issued letters patent that granted the Stationers’ Company rights in the formerly patented titles. Despite his announced objection to patents and monopolies, James still bestowed patents on political favorites (rarely printers) – sometimes to assure the printing of books in which he had a vested interest and sometimes to secure revenues for the Crown.⁴⁰

The charter Mary granted in 1557 to the London Stationers was also a form of property protection that derived from the Crown. Issued as a grant of privilege extended through a patent under the Privy Seal, the charter conferred on the Company of Stationers privileges and practices common among the older guilds: rights of property ownership, self-regulation,

keeping apprentices, and engaging in searches to protect the trade from “foreigners” (non-members) and poor workmanship.⁴¹ It allowed the Stationers to petition the City of London for the right to have a livery (granted in 1560), which assured the Company voting rights in London and parliamentary elections, participation in London governance, and status among London livery companies. Further, the charter provided for the Company’s government by a master and two wardens, who shared their authority with the Company’s court of Assistants, whose members were elected from among the livery.⁴² In these respects, the Stationers were no different from other city companies. One unique benefit the printers of the Stationers’ Company procured in their charter was the exclusive practice of their trade of printing.⁴³ In principle, this monopoly, like those created by individual printing patents, provided a means by which the right to print a text or have it printed could be construed as a property right, although one to be conferred and administered by the Company rather than the Crown. The Stationers’ Company’s principal task, besides admitting new members and administering routine Company business, lay in recognizing and protecting the integrity of its members’ textual property rights. To this end they conducted searches for presses printing a Company member’s copy or for presses of non-company printers – for presses engaging in “disorderly” printing – and they seized books that were “illegal,” i.e., printed against Company ordinances.⁴⁴

The Stationers’ Company has been often misunderstood to be merely a creature of royal authority, formed to administer the state surveillance of print. Although the language Queen Mary employed in the 1557 patent for the charter reveals her intention that the Company serve as a “suitable remedy” to the Protestant press,⁴⁵ when Elizabeth confirmed the charter in 1558, she ignored Mary’s intentions altogether. Elizabeth let stand the language of Mary’s patent even though she would not have shared Mary’s interest in protecting “Mother Church.” This is not to say, however, that the Stationers’ Company did not participate in print control. Explicit in the Stationers’ Company’s Charter was the notion that the exercise of their privilege could not be “repugnant or contrary to the laws or statutes of this our kingdom of England, or to the prejudice of the commonwealth of the same.”⁴⁶ To assure the continuity of their monopoly, it was in the Company’s best interest to prevent the publication of texts that violated the law of the land, whose central interests in regard to the printed word were protecting the monarch from treason, the aristocracy from scandal, and whatever church settlement that existed at the time from opposition.⁴⁷

Another area in which a Crown prerogative may be misconstrued as evidence that printing “belonged” to the monarch appears in royal proclamations that addressed printing and printed texts in multiple ways. A proclamation was a royal legislative order whose legal authority was confirmed in 1539 by the Act of Proclamations. According to G. R. Elton, this act grounded royal prerogative in parliamentary authority, but the nature and scope of proclamations derived from practice, tradition, and the common law.

Since they emanated from king and Council they were regarded as inferior to statute and common law. They could not (and did not) touch life or member; though they might create offences with penalties, they could not create felonies or treasons. Nor could they touch common law rights of property . . . Their [Tudor] proclamations covered administrative, social and economic matters – though they included religion, as the sphere of the supreme head’s personal action – but never matters which both the judges and Parliament would regard as belonging to law and statute.⁴⁸

Since proclamations issued from the monarch and Privy Council, the common law courts could not enforce them, and the task of enforcement “was left to the Council, sitting as a court in Star Chamber.”⁴⁹ According to Paul L. Hughes and James F. Larkin, a royal proclamation’s real power resided in its value as propaganda; it was “a literary form psychologically gauged to elicit from the subject an obedient response, favorable to the interests of the Crown.”⁵⁰

The earliest Tudor proclamations that related to printing suggest the manner in which they might be misconstrued as evidence of a royal prerogative governing print. In 1529 in the monarch’s role as defender of the faith and protector of the realm’s peace, Henry VIII issued a proclamation prohibiting writing anything “contrary to the Catholic faith,” maintaining any person writing or publishing such a book, or importing or owning one. Any transgressive books were to be delivered to the bishop or ordinary within fifteen days. A list of fifteen prohibited books that threatened the realm with “pestiferous, cursed, and seditious errors” appeared at the end of the proclamation. The books were seditious because by the “procurement” of Luther and other heretics, “an infinite number of Christian people were slain.”⁵¹ In 1530 Henry issued another proclamation that similarly prohibited five additional texts “sent into this his said realm . . . to the intent as well to pervert and withdraw the people from the Catholic and true faith of Christ, as also to stir and incense them to sedition and disobedience against their princes.”⁵² After Henry VIII had broken ties with Rome, he saw as his own “the great cure