Law, Language and the Printing Press in the Reign of Charles I: Explaining the Printing of the Common Law in English

IAN WILLIAMS

The common law became more accessible to nonspecialists during the sixteenth and seventeenth centuries. As Richard Ross observes, "[a]n Englishman not privy to the manuscripts and oral traditions of the London-based legal professional would have had an easier time in 1640 than in 1550 learning about the procedure and duties of the royal courts, the boundaries of political and property rights, and the lineaments of the constitution."[1]

Existing scholarship has rightly identified the general shift toward the printing of the law in English.[2] However, it has not identified an important

1. Richard J. Ross, "The Commoning of the Common Law: The Renaissance Debate over Printing English Law, 1520–1640," *University of Pennsylvania Law Review* 146 (1998): 396.

2. See, for example, ibid; and David J. Harvey, *The Law Emprynted and Englysshed: The Printing Press as an Agent of Change in Law and Legal Culture 1475–1642* (Oxford: Hart Publishing, 2015). It should not be assumed that the movement of texts was always from print to manuscript. Incomplete printed texts might be finished in manuscript (see, for example, G. J. Toomer, "Selden's *Historie of Tithes*: Genesis, Publication, Aftermath," *Huntington Library Quarterly* 65 [2002]: 345–78; and Richard Serjeantson and Thomas Woolford, "The Scribal Publication of a Printed Book: Francis Bacon's *Certaine Considerations Touching. . .the Church of England* (1604)," *The Library, 7th series* 10 [2009]: 119–56, both concerning suppressed printed texts) and printed texts currently unavailable could be supplied in manuscript (The National Archives, Kew [hereafter TNA], PRO C 108/115/8578 is an example of a scribe offering a work usually available in print in manuscript because "in print it is not to be had"). Manuscripts of printed legal works did continue to be produced, although this has been little studied (see, for example,

Ian Williams is an associate professor, Faculty of Laws, University College, London <i.s.williams@ucl.ac.uk>. He thanks the anonymous reviwers and audiences at the American Society for Legal History conference in Toronto, the Cambridge Centre for Legal History, and the Oxford Legal History Seminar for their comments on earlier drafts. Contractions in primary sources have been silently expanded. Original spelling has been retained.

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change during Charles I's reign, before the outbreak of the Civil War: a marked increase in the availability of printed English texts of particular types of legal materials, opening the learning and activities of the bar to nonspecialists. This article demonstrates and explains that change. The printing of a wider range of texts in English was dependent upon a shift to the use of English by the legal profession in their manuscripts, over which the profession then lost control. Opportunistic printers and booksellers obtained these manuscripts and began to print them.[3]

In theory, there could have been two legal obstacles to the printing of the law in English too: the patent (official monopoly) on printing common law works and the official licensing system. The patent-holder could have insisted on printing only works in law-French; licensers could have denied a licence to works in English. However, neither the patent nor licensing seems to have been of any significance on this issue. The printers entitled to print under the patent engaged in the printing of new types of work in English.[4] Furthermore, there was very limited enforcement of the patent during the reign of Charles I, and unauthorised printers were involved in printing in English.[5] There is no evidence of the official licensing system for printed legal works being an obstacle to the printing of legal texts in English. Only six law books are known to have been officially licensed from 1581 to 1640; all of them are in English.[6] Some of these officially licensed works were also printed in contravention of the common law patent.[7] Official regulation of legal printing, whether through the patent or licensing, therefore did not affect printing of texts in English.

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the manuscripts of Littleton's *Tenures* identified in John H. Baker and J. S. Ringrose, *Catalogue of English Legal Manuscripts in Cambridge University Library* [Woodbridge: Boydell Press, 1996], 117).

3. One important observation about what this article cannot explain: There is no possibility on the known evidence of explaining why particular works that circulated in English manuscripts remained unprinted. This would include, inter alia, various readings, as well as reports and treatises on the Star Chamber. Such non-printing may have been a conscious choice, or might be explained by the relevant texts not reaching a potentially interested printer or bookseller at an apposite moment.

4. See n. 161 for an example.

5. The reasons for this are discussed in Ian Williams, "Changes to Common Law Printing in the 1630s: Unlawful, Unreliable, Dishonest?" *Journal of Legal History* 39 (2018): 239–45.

6. See Ross, "The Commoning of the Common Law," 418, n. 270.

7. Charles Calthrope, *The Relation betweene the Lord of a Mannor and the Coppy-Holder His Tenant* (London: William Cooke, 1635) was both licensed and printed in contravention of the patent. Both printings of Lambarde's *Archeion* in 1635 were licensed (by the same licenser) and not printed under the patent, although as the work combined legal and historical material, its status as a book of the common law might not have been clear (William Lambarde, *Archion, or, A comentary upon the high courts of justice in England* [London:

In practice, there were two important obstacles to gaining access to common law texts by non-lawyers. The first was material: many common law texts existed solely in manuscript. Although many manuscripts did circulate, this circulation was potentially more restricted than for printed works. The second obstacle was linguistic: common law literature was often written in law-French, a language that many in England could not read. Contemporaries were aware of these barriers to legal knowledge. In the 1520s, the lawyer and printer John Rastell could criticize the law as "kept so secretly," consequently "a trap and a net to bring the people to vexation and trouble."[8] Several decades later, the poet Samuel Daniel still complained that the common law "liv'd immur'd within. . .walls," those walls "fram'd out of barbarousnesse," a gibe at law-French.[9] These barriers to lay legal knowledge began to be overcome by the printing of common law material in English.[10] Although this began in the sixteenth century, in the reign of Charles I law reports, material from the Inns of Court and a wider range of other legal texts began to be printed in English.

Before the 1620s, much of the "commoning" of English law through English language printing was of certain types of material: collections of statutes; criminal law; introductory works such as Littleton's *Tenures*; and practice manuals for attorneys and officials who may not have been lawyers (such as justices of the peace).[11] Both statutory collections and

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Daniel Frere, 1635]; and William Lambarde, *Archeion, or, A discourse upon the high courts of justice in England* [London: Henry Seile, 1635]).

8. John Rastell, *Exposiciones terminorum legum anglorum* (London: John Rastell, c.1525), sig. A2.

9. Samuel Daniel, "To Sir Tho: Egerton Knight, Lord Keeper of the Great Seale of England," in *Poems and a Defence of Ryme: Selected works of an Important Elizabethan Poet*, ed. Arthur Colby Sprague (Chicago: University of Chicago Press, 1965), 102 (lines 49 and 48).

10. These were not the only obstacles to legal knowledge by non-lawyers. Most obviously, although printing the law in English would make legal texts accessible, such access would not guarantee understanding. Reading but misunderstanding was a concern for lawyers (see Edward Coke, *Le tierce part des reportes del Edward Coke* [London: Thomas Wight, 1602], sig. Ei; and Francis Bacon, *The Maxims of the Law in The Works of Francis Bacon*, vol 7, ed. James Spedding, Robert Ellis, and Douglas Heath [London: Longmans, 1879], 322). The extent to which legal texts printed in English were owned or read by non-lawyers is not addressed here.

11. See Ross, "The Commoning of the Common Law," 396, n. 218, for a list of works that Ross considers as examples of making the common law available to a wider audience. The inclusion of some works on this list, such as the work known as *Bracton*, is questionable. Even common lawyers made relatively little use of that thirteenth century work (see Ian Williams, "A Medieval Book and Early-Modern Law: *Bracton*'s Authority and Application in the Common Law c.1550–1640," *Tijdschrift voor Rechtsgeschiedenis* 79 [2011]: 51–53).

books on criminal law were related to Rastell's concern that the law could be a "trap," with references to ignorance of the law not serving as an excuse for illegality recurring through the period.[12] Some of these printed works replaced and supplemented an older tradition of oral public dissemination of the law, with little evidence of intervening widespread manuscript circulation: criminal law in particular may have been disseminated in charges given at quarter sessions and the assizes.[13] These works printed in English were not concerned with the intricacies of the law as debated and discussed in Westminster Hall. Although increased access to religious texts might have enabled every man to be his own priest in Reformation Europe, the limited range of common law texts available to nonspecialists would not have permitted every early-modern Englishman to be his own lawyer.

Seen from this perspective, there was an important qualitative change in the legal material printed during the reign of Charles I. Newly printed texts made the learning and activity of barristers, found in legal education and argued cases in the central courts, available to a wider audience.[14] The period from the accession of Charles to the outbreak of civil war witnessed the printing of the first volume of law reports in English, Hobart's *Reports*, in 1641.[15] Material from legal education in the Inns of Court and Chancery also appeared in print. The Inns were closed societies during their learning

12. For example, Ferdinando Pulton, *De Pace Regis et Regni* (London: Companie of Stationers, 1609), sig. Aiii.

13. The earliest printed guide to quarter sessions contains a model charge (see Christopher W. Brooks, *Law, Politics and Society in Early Modern England* [Cambridge: Cambridge University Press, 2008], 22). William Lambarde's *Eirenarcha*, a handbook for justices of the peace, includes articles to be delivered at the quarter sessions, covering many issues of criminal law (William Lambarde, *Eirenarcha: Or the Office of Iustices of Peace* [London: Ralph Newbery and H. Bynnemann, 1581], 310–82). Lambarde made clear that one of the purposes of the articles was "to instruct those that be ignorant, least they offende unawares" (Lambarde, *Eirenarcha*, 311), just the same as the instructional purpose behind the printing of the criminal law. John Davies's charge to the Yorkshire grand jury in 1620 set out various points of basic criminal law to the laymen of the grand jury (Harvard Houghton Library Manuscript Eng 1084, fos. 219–59^{v}). It is not clear how far these early-modern sources reflect preprint practices, but it is plausible that they do, given the early appearance of a model charge in print.

14. This wider audience was not simply of laypeople. Beginning in the 1550s, the Inns of Court sought with some success to exclude attorneys from their membership (Christopher W. Brooks, ed., *The Admissions Registers of Barnard's Inn 1620–1869* [London: Selden Society, 1995], 20). The English printing of material from the Inns of Court and the central common law courts may have counteracted this exclusivity, at least to some extent.

15. Henry Hobart, *The Reports of that Learned Sir Henry Hobart Knight, Late Lord Chiefe Justice of His Maiesties Court of Common Pleas at Westminster* (London: Assigns of John More, 1641).

exercises, so this was a major change. The first reading to be printed was John Dodderidge's in New Inn, one of the Inns of Chancery.[16] The first reading to be printed from an Inn of Court was Robert Brooke's 1551 reading on a chapter of Magna Carta in 1641.[17] A range of diverse scholarly material from the legal profession also moved to print, whether this was the English language draft of Finch's *Nomotechnia*,[18] Francis Bacon's *Maxims,*[19] or William Lambarde's historical and jurisprudential text known as *Archeion*.[20] It is only with such a change that English law as a whole could be regarded as having been "commoned."

Works such as Bacon's *Maxims* and Finch's *Nomotechnia* also purported to be guides to understanding other legal sources; therefore, the production of these works in English raised the possibility of a degree of self-education in the intricacies of the common law by readers. This is a marked contrast to the printing of criminal law and statutes in English, where the purpose of dissemination was to ensure obedience to the law, not to develop the skill to understand and apply it, especially on points of difficulty.[21] As Ross observes, it was accepted that subjects needed some legal knowledge, but opponents of publication in English rejected the idea of disseminating more sophisticated legal knowledge.[22] But in printing English works enabling anyone to interpret and understand other legal sources, Caroline printers provided a form of access to just such specialist learning.

Historians have not previously identified this qualitative difference in the range of newly printed legal material, in English, in the reign of Charles I. This article is concerned with explaining the change. Why did the nature of legal works printed in English change approximately a century and a half after the first printed common law book? Existing scholarship has

16. Printed as John Dodderidge, *A Compleat Parson* (London: Bernard Alsop and Thomas Fawcett for John Grove, 1630).

17. Robert Brooke, *The reading of M. Robert Brook Serjeant of the Law, And Recorder of London, upon the stat. of Magna Charta, chap.17* (London: Miles Flesher and Robert Young for Laurence Chapman and William Cooke, 1641).

18. As *Law, or a discourse thereof in Foure Bookes* (London: Societie of Stationers, 1627). For the drafting process, see text at nn. 48–49.

19. 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).

20. Lambarde, *Archion;* and Lambarde, *Archeion*.

21. This is especially visible in what Ross identifies as the "humanist" or "Rastellian" justifications for law-printing from the early sixteenth to the early seventeenth century (Ross, "The Commoning of the Common Law," 329–42).

22. Ibid., 358–59.

identified an ideological debate, within the legal profession and more broadly, about the publication of law to nonspecialists, and especially to individuals lower down the social hierarchy.[23] This debate has been linked with humanism, although this can be questioned.[24]

Despite the change in what was printed after 1625, there is no evidence of a decisive ideological swing toward wider dissemination of the law before the outbreak of civil war. There was lively debate and discussion about the desirability of printing the law in English in the sixteenth century and first two decades of the seventeenth century, providing much of the source material for the work of Ross and others. The prefaces of printers and authors draw attention to the use of English and stress its desirability (or not). But English language printing of the common law from 1625 onwards passes unremarked.[25] Prefaces (where they exist) do not draw attention to printing in English. There is nothing in the earlier sources to indicate a decisive victory for those supporting printing in English. The earlier debates, informed by particular ideological positions, made it clear that there was widespread support for some printing in English. It may be that those printers who printed in English from 1625 or thereabouts believed that they were doing something that had already been shown to be acceptable, missing the nuances in the debates about printing in English, but none of the surviving Caroline sources demonstrate this.[26]

23. Ross, "The Commoning of the Common Law," 323–461; and Harvey, *The Law Emprynted*, 107–22.

24. Sebastian Sobecki has argued that the early sixteenth century vogue for printing the law in English was not inspired by humanism, but had its "roots in late-medieval ideas about vernacularity and translation" (Sebastian Sobecki, *Unwritten Verities: The Making of England's Vernacular Legal Culture, 1463–1549* [Notre Dame: University of Notre Dame Press, 2015], 10, 140–52). There is also evidence that Christopher St. German's *Doctor and Student* was not motivated by humanist concerns about dissemination of law, but modelled on medieval continental confessional literature (Ian Williams, "Christopher St German: Religion, Conscience and Law in Reformation England," in *Great Christian Jurists in English History*, ed. Mark Hill and R. H. Helmholz [Cambridge: Cambridge University Press, 2017], 86–91).

25. The only exceptions are Edward Coke's *The First Part of the Institutes of the lawes of England. Or, A commentarie vpon Littleton* (London: Societie of Stationers, 1628); and Thomas Wentworth, *The Office And Dutie Of Executors* (London: Andrew Crooke, Laurence Chapman, William Cooke and Richard Best, 1641), sig. ¶3^{v}–¶6^{r}. Both of these authors seem to have regarded students as an important audience for their works (see text at nn. 145–48 and Wentworth, *The Office And Dutie Of Executors*, sig. ¶6^{r}).

26. In relation to an impression of acceptability, it is telling that one of the key sources for Ross's identification of a "two-tier model of legal knowledge" is the view of William Hudson in his work on the Star Chamber (Ross, "The Commoning of the Common Law," 358). That work remained in manuscript (although it circulated widely) until the eighteenth century.

The absence of discussion instead suggests that the printers and booksellers involved in the printing of legal works in English were not concerned with ideology.[27] This does not mean that ideology was necessarily irrelevant, but it does not seem to have been important for those printers and booksellers responsible for the works that emerged from the press during the reign of Charles I.

The argument of the article is that during the reign of Charles I, the printing of material in English, and printing of a wider range of material (including more sophisticated work), was non-ideological. These changes were a consequence of two inter-related developments, first, a long-term increase in the use of English by the legal profession in its own literature and education, and second, a loss of control over common law texts that were already circulating in manuscript. The range of material printed in English was closely related to existing circulation of such material in English language manuscripts, with printers and booksellers obtaining individual works in manuscript and printing them.

It is unlikely that changes in what was printed in English were simply a consequence of printers obtaining manuscript texts in English. Printers would only have printed such works if they believed that there was adequate demand for them. In this regard, the large increase in admissions to the Inns of Court from the reign of Elizabeth until the Civil War must be important.[28] Texts in English may have been particularly helpful for those admitted to the Inns with no intention of becoming barristers. These members of the Inns often only studied for short periods, but perhaps had some genuine interest in the law.[29] Even if they did not possess it before, former students at the Inns may have gained an interest in legal matters, something rendered more likely by the centrality of the law to English political and constitutional thinking.[30] Their brief education, coupled with the ready availability of some printed introductory works in

27. These printers and booksellers may also have sought to avoid attracting attention by courting controversy. Several of the printers and booksellers printing law books in English did so in breach of the common law patent (see text at nn. 160–61).

28. Wilfrid R. Prest, *The Inns of Court under Elizabeth and the Early Stuarts, 1590–1640* (London: Longman, 1972), 5–7.

29. Ibid., 23–24.

30. For this centrality, see Brooks, *Law, Politics and Society*, 51–240. An example may be the very widely read Francis Russell, fourth Earl of Bedford. He entered Lincoln's Inn in 1608, but could not have studied for long (if at all), as he was appointed an associate bencher in 1611 (John P. Ferris, "Russell, Sir Francis [1587–1641]," in *The House of Commons 1604–1629*, vol. 6, ed. John P. Ferris and Andrew Thrush [Cambridge: Cambridge University Press, 2010], 114–15). Russell owned and annotated a set of manuscript Caroline Star Chamber reports that circulated widely in an English translation from the original law-French (although his copy appears to be a unique translation): Woburn

English, may have meant that they never mastered law-French, or simply that after departing the Inns, they preferred to read material in English.

However, this long-term increase in the legally educated cannot in itself explain the timing of the emergence of a wider range of legal texts in English. It may be no coincidence that the printing of material that had circulated in manuscript coincides with the final rally in the number of admissions to the Inns of Court before the Civil War.[31] But this rally followed a short-term reduction in admissions, and only restored admissions to their longer-term trend. Demand was important, but changes in the availability to printers of manuscript texts in English appear to have been crucial.

This article has three important conclusions of wider significance. The first is that the views of the legal profession itself about the desirability of printing the law had come to be of relatively little importance. Common lawyers had lost control of much common law knowledge. Second, Interregnum legislation mandating the printing of law books in English, one of the few law reform proposals to be enacted in the period, was hardly revolutionary. Rather, it followed existing trends in both principle and (crucially) in practice, among both printers and the legal profession. Third, and finally, the article demonstrates a broader methodological point: to identify and understand the changes following the introduction of the printing press it is insufficient to consider what was printed. It is essential that historians also engage with the continuing history of older modes of communication, both oral (as in the Inns of Court) and written (manuscripts).[32]

The Use of English by the Legal Profession

Common law literature was traditionally written in law-French. This was recognised as a barrier to non-lawyers acquiring legal knowledge.[33] As Christopher St. German observed of his own writing in English in 1530,

Abbey MS 238. However, as noted in the text at n. 167, political and constitutional matters were largely omitted from printing in English until the 1640s.

31. Prest, *The Inns of Court*, 5–7.

32. Ross, "The Commoning of the Common Law," does not consider how developments in legal manuscripts affected legal printing. Harvey, *The Law Emprynted*, does mention manuscripts in various places (especially 125–41 and 247–48), principally to explain their continued use and production when the printing press was available. There is a very brief acknowledgement that some "works may have been well known in manuscript form before they were finally printed" (ibid., 248), but no more about the influence of manuscripts on print.

33. Sobecki has argued that law-French should not be seen as distinct from English, but rather a vernacular "legal *Franglais*" (Sobecki, *Unwritten Verities*, 63). As a matter of

"yf it had ben in Frenche: few shold have understand it but they that be lerned in the law."[34] Lawyers sometimes consciously erected walls of the "hideous termes" of law-French to keep legal material away from non-lawyers.[35] Although law-French could be learned, John Davies thought that this would require knowledge of both English and Latin, impliedly excluding those without at least a grammar school education.[36] Even parliamentarians could struggle. In the 1610 session, the House of Commons ordered the reading of records concerning impositions, "and it was ordered that whether they were in French or Latin, they should be read in English. . .and by that means every one of the meanest capacity and learning should understand th' effect of the records."[37] Without such translation, law-French material would be inaccessible.

When lawyers intended their printed works to be for a wider audience, they avoided law-French. A good example is Sir Edward Coke's report of *Calvin's Case*, a test case concerning the legal status of Scots in England after the accession of James VI and I. Coke printed his report "by commandement. . .for the publike" and did so in English.[38] However, the remainder of that volume, containing reports of other cases about which no order for wider dissemination had been made, was in law-French.[39] Non-lawyers

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linguistics this may be correct, but it is clear that law-French was seen as different from English by early-modern writers.

34. T. F. T. Plucknett and J. L. Barton , eds., *St German's Doctor and Student* (London: Selden Society, 1974), 176. The quote is taken from the introduction to the Second Dialogue of *Doctor and Student*. The First Dialogue was in Latin and later translated (with omissions and additions) into English. On St. German's reasons for changing to English, see Williams, "Christopher St German," 90.

35. Bacon, *Maxims*, 322.

36. John Davies, *Le Primer Reports des Cases & Matters en Ley resolves & adiudges en les Courts del Roy en Ireland* (Dublin: John Franckton, 1615), sig. *3^{v}.

37. Elizabeth Read Foster, ed., *Proceedings in Parliament 1610, vol. 2, House of Commons* (New Haven: Yale University Press, 1966), 372–73. I thank Paul Cavill for drawing my attention to this reference.

38. Edward Coke, *La Sept Part Des Reports* (London: Societie of Stationers, 1608), sig. A^{v}. A desire for wider dissemination may also explain the one report printed in English (and Roman type) in Sir John Davies's collection of Irish reports. This case, the final in the collection, concerned the prosecution of a priest for exercising papal authority in Ireland (*The Case of Praemunire* in Davies, *Le Primer Reports*, fo. 84), a useful case for propaganda purposes that may originally have been intended to be a distinct publication (see Paul Brand, "Sir John Davies: Law Reporter or Self-Publicist?" *Irish Jurist* 43 [2008]: 8–9).

39. The report of *Calvin's Case* is also paginated separately from the remainder of the book, perhaps suggesting that the two were not necessarily to be purchased together. Given that early-modern books were often not sold bound, it may have been possible for purchasers to acquire solely the English language text (for binding costs, see the Jacobean broadside, *A Generall Note of the Prises Of Binding Of All Sorts Of Bookes*

may also have been deterred by law-French. The surviving library of the non-lawyer Justice of the Peace Thomas Hoby contains only one volume of law reports. That volume is Coke's *Fifth Reports*, a work that contains a lengthy discussion of the legal status of the Church of England in Latin and English. On the limited surviving evidence, Hoby therefore only owned law reports which were not in law-French.[40]

Some works concerned with legal matters had long been available in print in English by the 1620s. These ranged from guides for non-lawyers, such as justice of the peace manuals, to works for students.[41] The only more-technical work printed in English was William Staunford's work on the royal prerogative.[42] That book is exceptional and may have been intended for non-lawyers.[43] Aside from Staunford on the prerogative, law reports remained in law-French; more treatise-like works were in law-French or manuscript.

[undated], which includes a specific, albeit short, section for law books). Some evidence of this possibility can be found in Coke's *Fifth Reports* (Edward Coke, *Quinta pars relationum Edwardi Coke Equitis aurati/The Fift Part of the Reports of Sir Edward Coke Knight* [London: Companie of Stationers, 1605]). As with the *Seventh Reports*, the *Fifth* included two distinctly paginated parts: in this case a section entitled "*De Iure Regis ecclesiastico*" in Latin and English parallel text, and then a selection of other reports in law-French. A copy of the *Fifth Reports* at the Huntington Library includes only the "*De Iure Regis*" section (Henry E Huntington Library, San Marino, RB 60778); two copies at Harvard Law School include only the law-French reports (Harvard Law School K Grea 400 Cokp5 605 STC 5504 c.1 and STC 5504 c.2). These copies suggest it was possible to acquire the separately paginated sections individually; the same may have been true for the *Seventh Reports*.

40. Andrew Cambers, "Readers Marks and Religious Practice: Margaret Hoby's Marginalia," in *Tudor Books and Readers: Materiality and the Construction of Meaning*, ed. John N. King (Cambridge: Cambridge University Press, 2010), 220. The Hoby library was at some point broken up, and there is no contemporary catalogue, so it is possible Thomas Hoby owned a wider range of law books. Given the family's puritan religious leanings, it is possible they were particularly interested in the discussion of the Church of England and the High Commission in the *Fifth Reports* (for the family's religious views, see ibid., 212–24).

41. For example, Lambarde, *Eirenarcha*; and Thomas Littleton, *Lyttelton tenures in Englysshe* (London: Robert Redman, c. 1540).

42. William Staunford, *An Exposicion of the Kinges Prerogative Collected out of the Great Abridgement Of Justice Fitzherbert And Other Olde Writers of the Lawes of Englande* (London: Richard Tottel, 1567).

43. McGlynn suggests that Staunford instead intended the *Exposicion* for "the new holders of land in knight service," laymen and those with some legal training but not practitioners. This intended audience explains the focus in the text on situations that might occur with some regularity, rather than more complex scenarios discussed in readings (Margaret McGlynn, *The Royal Prerogative and the Learning of the Inns of Court* [Cambridge: Cambridge University Press, 2003], 226).

Among themselves, common lawyers did not use law-French for all purposes. As Baker observes, law-French was in "steady decline after 1362."[44] Crucially, the evidence suggests that by 1600 or thereabouts, lawyers were generally thinking and arguing in English. High level common law education and writing was increasingly in English.

Even in the reign of Henry VIII, it was observed that whereas junior lawyers and students in the Inns of Court did moot in law-French, benchers reasoned in English.[45] Students continued to moot in French in the 1620s, at least in the Middle Temple.[46] However, readings, the lectures given in the Inns, seem to have been in English.[47] Manuscript texts of readings were also often in English, as were other works circulating in manuscript. In combination with the introductory works available in English printed editions, the education of common lawyers was increasingly education in English.

A predominant role for English can also be seen in seventeenth century treatise-style literature and other pieces of legal scholarship. The best example of this is Henry Finch's *Nomotechnia*.[48] Although printed in 1613 in law-French, Wilfrid Prest has demonstrated that Finch drafted the work in the late-sixteenth and early-seventeenth century, in English.[49] Finch then produced a law-French version for printing. Francis Bacon also said that he intended his *Maxims* to be in law-French.[50] All of the surviving manuscripts are in English, and although it is possible that Bacon wrote a no-longer extant law-French original and then produced an English translation, the reverse seems more likely, given the proliferation of English language legal writing near 1600. For these authors, the use of law-French had become both a matter of choice and (perhaps more importantly) of extra labor. Shorter works written for nonspecialists but intended for limited circulation in

44. John H. Baker, "The Three Languages of the Common Law," in *Collected Papers on English Legal History*, vol. 2, ed. John H. Baker (Cambridge: Cambridge University Press, 2013), 535. The decline of law-French generally is discussed at 531–36.

45. D. S. Bland, "Henry VIII's Royal Commission on the Inns of Court," *Journal of the Society of Public Teachers of Law* 10 (1969): 187.

46. James Orchard Halliwell, ed., *The Autobiography and Correspondence of Sir Simonds D'Ewes, Bart: during the Reigns of James I and Charles I*, vol. 1 (London: R Bentley, 1845), 221, 223, 232.

47. J. H. Baker, ed., *Readers and Readings in the Inns of Court and Chancery* (London: Selden Society, 2000), 235, n. 83.

48. Henry Finch, *Nomotechnia; cestascavoir, Un description del common leys dangleterre solonque les rules del art* (London: Societie of Stationers, 1613).

49. Wilfrid Prest, "The Dialectical Origins of Finch's *Law*," *Cambridge Law Journal* 36 (1977): 326–52.

50. Bacon, *Maxims*, 322.

manuscript, such as a text written for a (prospective) patron, were also in English. Edward Coke's *Little Treatise of Baile and Mainprize* is a good example.[51]

English was the language in which lawyers prepared their speeches for use in court. The surviving examples are all in English and show "how lawyers phrased their arguments in the [English] vernacular."[52] Preparing and thinking about arguments for use in court was consequently an activity undertaken in English. In combination, the examples of oral legal education, legal writing, and preparation for curial argument show a profession that thought in English and increasingly wrote those thoughts in English too.

Law reports, a vital part of common law literature, appear to be the exception. They continued to be written in law-French in the 1630s, suggesting that although law-French was not the language of legal thought, it was in some sense the language of (unofficial) legal memory, just as Latin was the language of official record.[53] In 1641, the *Reports* of Henry Hobart were published posthumously.[54] Hobart's *Reports* were the first to be printed in English, breaking a long-standing practice in both print and manuscript, and opening the activities of the bar and judges to a nonprofessional audience.[55] However, the printed *Reports* were not a translation, as surviving manuscript copies of Hobart's *Reports* are also in English.[56] Hobart's *Reports* therefore demonstrate that even a highly

51. See Ian Williams, "Common Law Scholarship and the Written Word," in *Oxford Handbook of Law and Literature, 1500–1700*, ed. Lorna Hutson (Oxford: Oxford University Press, 2017), 65–66.

52. John Baker, "The Dark Age of English Legal History," in *Collected Papers*, vol. 3, 1426–59, at 1451 (for discussion of all the known surviving individual speeches, see 1450–51).

53. Good examples are the unusually full reports for the reign of Charles I found in Cambridge University Library Manuscript (hereafter CUL MS) Gg.2.19, and 20 and various other copies (see Baker and Ringrose, *Catalogue of English Legal Manuscripts*, 261). A collection of seemingly co-ordinated manuscript reports by members of Gray's Inn survive in predominantly French versions (for the collections see the discussion in W. H. Bryson, ed., *Cases Concerning Equity and the Courts of Equity, 1550–1660, Part I* [London: Selden Society, 2000], xvii–xviii). An English version of the Common Pleas reports attributed to William Allestree as part of this group exists (CUL MS Ii.5.34), but a longer French version is probably closer to the original (Yale Law School MS G. R29.22).

54. See text at nn. 139–42.

55. The first law report to be printed in English was of a single case: Anon, *A Briefe Declaration for what Manner Of Special Nusance Concerning Private Dwelling Houses, A Man May Have His Remedy By Assise, Or Other Action as the Case Requires* (London: William Cooke, 1636). Although described as a "declaration" of the law, it reports the arguments of counsel and judges.

56. British Library Manuscript (hereafter BL MS) Lansdowne 1090; BL MS Stowe 400; CUL MS Ii.5.33; CUL MS Ll.3.5; CUL MS Ll.3.15; Harvard Law School Manuscript 1123;

successful early seventeenth-century lawyer used English for his personal reports, rather than the more traditional law-French.

Other collections of law reports can be found that mix English and law-French. The manuscripts of the Jacobean Exchequer reports attributed to Richard Lane are a good example.[57] Although the relationship among the various manuscripts is complex, and that between the manuscripts and the printed version of the reports even more so, some relevant points can be discerned.[58] Although some manuscripts of "Lane's" reports may date from the later seventeenth century,[59] one of the manuscripts discussed here was owned and annotated by Henry Calthorpe, who died in 1637.[60] These observations therefore relate to law reports circulating during the reign of Charles I, and perhaps earlier.

Law-French predominates in these reports, but there is a considerable amount of English material. The manuscripts also do not all use the same language at the same points in the reports, suggesting some degree of choice of language by copyists at some point in the dissemination of the text. There are some manuscripts in which the use of English and law-French appears to be identical,[61] but others where it differs.[62] This is despite the presence of the same hand in some of these differing manuscripts.[63] These manuscripts show that some lawyers were using English in parts of their law reports. In

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Inner Temple Manuscript Barrington 11; Lincoln's Inn Manuscript (hereafter LI MS) Maynard 65.

57. These reports were printed in English in the Interregnum (Richard Lane, *Reports in the Court of Exchequer, beginning in the third, And Ending in the Ninth Year of the Raign O The Late King James* [London: W. Lee, D. Pakeman and G. Bedell, 1657]). It is very unlikely that they are by Lane (G. D. G. Hall, "Bate's Case and 'Lane's' Reports: The Authenticity of a Seventeenth Century Legal Text," *Bulletin of the John Rylands Library* 35 [1953]: 405–27).

58. On these complexities, see Hall, "Bate's Case." More manuscripts survive than are noted by Hall. I have not consulted all the available manuscripts, but a selection suffices for these observations on the language of the reports.

59. Hall, "Bate's Case," 412–13.

60. The attribution is made on the title page of BL MS Hargrave 16 and accepted by Hall (Hall, "Bate's Case," 413). The manuscript is in an early seventeenth-century hand. On Calthorpe, see Christopher W. Brooks, "Calthorpe, Sir Henry," in *Oxford Dictionary of National Biography*, vol. 9, ed. H. C. G. Matthew and Brian Harrison (Oxford: Oxford University Press, 2004), 562–63.

61. For example, the versions of the reports found in BL MS Hargrave 16, BL MS Hargrave 33 and CUL Gg.2.23, fos. 17–24 and 158–219.

62. For example, BL MS Harley 4814 fos. 218 onwards.

63. Hall identifies that the same hand appears in the report of *Brett v. Johnson* in BL MS Hargrave 33 and BL MS Harley 4814 from fo. 224^{v} (Hall, "Bate's Case," 413, n. 1), but in Hargrave 33, the text is in English, whereas in Harley 4814 at fo. 224^{v} it changes between English and law-French.

some cases English is limited to the text of grants, conveyances, or recitation of the facts, with legal argument remaining in law-French.[64] Such an approach would maintain the inaccessibility of the law for non-lawyers, who would need to learn the relevant language to begin to try to understand the law, but in other cases there is considerable legal argument, as well as conclusions of law, recorded in English.[65] For these reports, the detail of legal argument was being circulated, in manuscript, in English.

One manuscript of Hobart's *Reports* points toward the conclusion that English was either preferable or easier.[66] This text is a redaction of Hobart's original, reducing the length of the individual reports.[67] In this version of the text, there are attempts by the unknown writer to use law-French. As with writers of legal scholarship, the use of law-French here was a choice and entailed extra work. Crucially, the writer appears to have tried and failed in this attempt to translate the reports. Use of law-French is attempted twice early in the volume before the writer gives up.[68] The act of recreating Hobart's meaning in law-French had defeated him. Hobart's use of English, and one lawyer's failed attempt to use law-French instead, suggest that in the first decades of the seventeenth century, law-French had entered a period of decline as a functional language for the profession, at least for composing new texts.

The end of law-French as a language used to write diaries would offer some support to this conclusion.[69] Law-French seems to have become particularly unsuitable where writers sought to record speeches, rather than

64. For example, *Ayrie v. Alcock* (1608) BL MS Hargrave 16, fo. 8^{v}: "Sur speciall verdict le Jury trove que le Queenes Colledge in Oxon fuit incorporate per le nosme de provost et Schollers of the hall of the Queens Colledge of Oxford & they were seised in fee of an Advowson whereof the place is." After the facts are fully set out, the argument in law-French begins: "Harris Junior Seriant per le plaintiff semble que presentacion del lessor le defendant ne fuit."

65. For example, BL MS Hargrave 16, fo. 16: "It was held for lawe that if a man doth make a feoffment to A to the use of B: for the life of C: et que si B et C: morust then to remaine this is contingent remainder by Barastons case in Cooke et Colthirsts case in Plowden:."

66. This may also explain the use of English to set out facts or grants, as in *Ayrie v. Alcock* (n. 64).

67. BL MS Hargrave 28. A similar process of reducing the length of an existing series of reports can be seen in UCL MS Ogden 29, which includes a redacted manuscript version of Edward Coke's printed *Tenth Reports*.

68. BL MS Hargrave 28, fos. 1–6 and 13–15.

69. The last lawyer's diary written in law-French is that of Richard Hutton (W. R. Prest, ed., *The Diary of Sir Richard Hutton, 1614–1639* [London: Selden Society, 1991]). The last parliamentary diaries written in law-French seem to be those of John Hawarde and John Lowther, both for the 1624 Parliament (in Philip Baker, ed., *Proceedings in Parliament 1624: the House of Commons*, http://www.british-history.ac.uk/no-series/proceedings-1624-parl [November 9,

merely the sense of them, accurately. John Lowther's 1624 parliamentary diary uses law-French for short notes, but longer reports of speeches are in English.[70] The same can be seen in a volume of Jacobean Star Chamber reports in law-French, in which the reporter uses English to report a particularly impressive speech by Francis Bacon.[71] Complex English was increasingly difficult for these writers to record in law-French, just as lawyers seemed to struggle to compose new texts in the language.

This would have been a particular problem for law reporters. Plowden's 1571 *Commentaries* set a new model for law reports, providing much fuller reports of what had been said by the judges.[72] Reporters trying to provide the level of detail found in the best early-modern reports may have found it increasingly difficult to do so in law-French. This pressure to produce fuller reports may explain the difficulty in translating Hobart's reports into law-French.[73] Hobart's reports are longer and fuller than many contemporary reports. The dramatic legal changes of the sixteenth and early-seventeenth centuries may also have contributed to these difficulties, as reporters sought to write reports of arguments delivered in English, referring to doctrines that did not appear in the law-French of the yearbooks.[74]

This conclusion moves the date for the "terminal decline" of law-French forward from Baker's suggestion of the "late seventeenth century," identifying the decline as in effect in the first decades of the seventeenth century.[75] A tipping point seems to have been reached, with English becoming the default language for some genres and increasingly important for others, whereas some lawyers (at least) found it increasingly difficult to express themselves adequately in law-French. If this is correct, it suggests that a movement to printing in English was not tied to desires for dissemination of legal texts to non-lawyers, but was part of, and reflected, a wider shift in the legal profession's preferred language. But lawyers' increasing

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2017]). I thank Paul Cavill for bringing the parliamentary diaries to my attention and Andrew Thrush for his observations on them.

70. Proceedings in Parliament 1624: The House of Commons, British History Online entries for February 19 (English) and February 24 (law-French) 1624. http://www.british-history.ac.uk/no-series/proceedings-1624-parl (November 9, 2017)

71. Ian Williams, "Francis Bacon's 'Speech on a Case of Deer-Stealing,'" *Notes and Queries* 64 (2017): 317–18.

72. For Plowden as a model, see John H. Baker, *Reports from the Lost Notebooks of Sir James Dyer*, vol. 1 (London: Selden Society, 1994), xxxvi.

73. See nn. 66–68.

74. For example, the language of "consideration" does not appear in the yearbooks until the 1530s, at first associated with uses. It is only in the late 1530s that *assumpsit* claims begin to refer to consideration by name (John Baker, *The Oxford History of the Laws of England, Vol. VI, 1483–1558* [Oxford: Oxford University Press, 2003], 863–68).

75. Baker, "Three Languages," 535.

use of English would have had little consequence for the printing of law books, had the English language texts remained in manuscript. This, however, was to change.

The Movement of Manuscripts: From Profession to Public

Much legal material in the sixteenth and seventeenth centuries was published only in manuscript.[76] There is a tendency to think of such manuscript publication of legal texts as meaning that access to those texts was quite limited, with literary coterie publication providing a model.[77] For some texts, such as Henry Sherfield's 1624 reading, this was undoubtedly the case. Sherfield retained close control over his text of the reading and carefully recorded the few loans he made of it.[78]

However, not all manuscripts had tightly restricted circulations. Some circulated widely and even did so commercially. Some of these texts were professionally copied outside the immediate circle of the legal profession. William Lambarde's massive and widely circulated collection of material on Chancery is an excellent example.[79] The professional scribe of one copy has even been identified.[80] Lambarde's collection on Star Chamber, sometimes circulating with his Chancery material, was sufficiently widespread that two other authors could refer to it, seemingly assuming that any reader of their manuscripts would know, or be able to access, Lambarde's manuscript work.[81]

76. For discussion of the idea of manuscript publication, see Harold Love, *Scribal Publication in Seventeenth Century England* (Oxford: Clarendon Press, 1993), 35–89.

77. For example, Harvey, *The Law Emprynted*, 139–41.

78. Williams, "Common Law Scholarship," 68–69.

79. On Lambarde's collection, see P. L. Ward, "William Lambarde's Collections on Chancery," *Harvard Library Bulletin* 7 (1953): 271–98. More than forty manuscripts of Lambarde's *Archeion*, or parts of it, survive. See Baker and Ringrose, *Catalogue of English Legal Manuscripts*, 265–66. Some copies are more than 1,000 pages long.

80. The "feathery scribe" identified by Peter Beal (Peter Beal, *In Praise of Scribes: Manuscripts and their Makers in Seventeenth-Century England* [Oxford: Oxford University Press, 1998], 96).

81. William Mill, "A Discourse concerning the Antiquity of the Starrchamber occasioned by Certeyne Articles made by the Attourneys against the Courte & Clerke of the same," BL MS Harg 216, fos. 109^{v}, 112, 115, 116, and 120 (this work is from the early 1590s; another copy is Bodl. MS Eng. Hist. C.804, fos. 265–300); William Hudson, "A Treatise of the Court of Star Chamber," printed in *Collectanea Juridica*, ed. Francis Hargrave (London: E. and R. Brooke, 1791), 1–240. Hudson seems to treat Lambarde's work as well known; indeed, comparable to Thomas Smith's printed *De Republica Anglorum* (London: Henry Midleton for Gregory Seaton, 1583), a work reprinted in 1584 and 1610 under that title, and reprinted six times as *The Common-wealth of England* between 1589 and 1621.

One known scribe, Ralph Starkey, made his living from selling manuscripts copied by himself and his associates. There is surviving material identifying some of the works he sold. These included manuscripts on legal topics of wider public interest, such as the Star Chamber proceedings against one of Elizabeth's secretaries in relation to the execution of Mary, Queen of Scots.[82] Another catalogue from a manuscript dealer from 1622 to 1625 also contains various works of legal interest amidst political works, biographies, and travel literature. The legal items range from the arraignments in famous cases to material concerning the legal disputes over prohibitions and the church courts and the *Case of Commendams* from the second decade of the seventeenth century.[83] The same catalogue also lists a discourse on Chancery, including its antiquity, jurisdiction, and mode of proceeding, together with a similar collection on the Star Chamber.[84]

Some of these manuscripts could have been produced from attendance at public events. But others, such as the collection of material on prohibitions, arose from private discussions.[85] Manuscripts could move from private circulation to a more public one, beyond the control or wishes of the author or owner. Simonds D'Ewes gives an example from one of the Cotton manuscripts. After a loan, the manuscript eventually made its way to Robert Cotton, who forgot that it was in fact his own. Cotton gave the manuscript to a clerk in his service to copy. That clerk "took one copy secretly for himself. . .and out of his own transcript sold away several copies."[86]

82. Listed in BL MS Harl 537, fos. 80–86 at fo. 83^{v}. These proceedings feature in a scribal copy in Bodl MS Rawl C 838, 141–49. Bodl MS Rawl C838 is principally a collection of speeches by Sir Walter Mildmay, many of which are also listed in Starkey's catalogue (BL MS Harl 537 at 83). At his death, Starkey's study contained several other Star Chamber cases, together with other legal manuscripts (Huntington Library Ellesmere MS 8175).

83. BL MS Hargrave 311, fo. 206–7^{v} at fos. 207^{v} and 207. The manuscript identifies James I as the current king, and includes material dated 1622 (fo. 207^{v}), providing the range of dates for the catalogue. Ralph Starkey's study also contained a manuscript on *Commendams* at his death (Huntington Library Ellesmere MS 8175).

84. BL MS Hargrave 311, fo. 207^{v}. It is very tempting to identify these works with Lambarde's collections on these two courts (see nn. 79–81), but other such works and collections did exist. The contents of Ralph Starkey's study on his death also contained "A greate vollume of the proceedings in the Channcery" and "A greate vollume of the proceedings in the starre chamber" (Huntington Library Ellesmere MS 8175). It is impossible to determine whether these are the same works as in the 1622–25 catalogue.

85. On the conferences concerning prohibitions, see David C. Smith, *Sir Edward Coke and the Reformation of the Laws: Religion, Politics and Jurisprudence, 1578–1616* (Cambridge: Cambridge University Press, 2014), 198–204.

86. Halliwell, *Autobiography*, vol. 2, 39–40. Cotton's clerk was hardly unique (see Noah Millstone, *Manuscript Circulation and the Invention of Politics in Early Stuart England* [Cambridge: Cambridge University Press, 2016], 49–50).

Just such a concern with personal clerks copying manuscripts for wider dissemination is evident in early-modern legal publishing, even in the 1570s. In the preface to his *Commentaries*, Plowden explains the printing of his collection of law reports as a response to the loss of control over his manuscript. According to Plowden, the manuscript had been borrowed by friends, whose clerks had then made copies.[87] There is evidence for such a role for clerks into the reign of Charles I. John Lightfoot, a barrister and the owner of one copy of a widely circulated set of Caroline Star Chamber reports, reports that he received the book "From Henrie Dwyer servant to my Brother Francis Phelips the xxvjth day of June Anno domini 1636."[88] Francis Philips was also a barrister. Assuming that Lightfoot's note is accurate,[89] it constitutes evidence of a lawyer's servant, perhaps a clerk, being involved in the circulation of legal manuscripts into the 1630s.

Such copying by clerks may have been particularly concerning because lawyers' clerks were involved in commercial scribal work more generally.[90] In Thomas Dekker's 1606 *Newes from Hell*, lawyers' clerks are one of the groups that the Devil considers "to scribble for him."[91] If this scribal activity by clerks included the copying and dissemination of legal manuscripts, this would be an obvious route for such manuscripts to leave the control of barristers and become part of wider circulation.

Such copying may explain a tantalizingly vague, but extremely significant, remark near the end of the 1622–25 catalogue. Next to the heading "common law" is simply noted the availability of "divers peeces of Comon Lawe, vzt, Arguments Reports Readings &c."[92] This is one of very few pieces of evidence showing the commercial availability of common law manuscripts related to the work and learning of the bar, and appears to be the only known evidence of the sale of material from readings.[93] It is not clear if the material in the catalogue would have been in

87. Edmund Plowden, *Les Comentaries, ou les Reportes* (London: Richard Tottel, 1571), sig. ¶3.

88. BL MS Lansdowne 620, fo. 39.

89. Some caution is warranted. This remark appears following the striking through of various politically controversial comments in the reports. Lightfoot clearly did try to reduce his responsibility for the comments, as his note continues, "And it [the book] is not of my owne colleccion."

90. Millstone, *Manuscript Circulation*, 47.

91. Thomas Dekker, *Newes from Hell Brought by the Divells Carrier* (London: R.B. for W. Ferebrand, 1606), sig. B2r.

92. BL MS Hargrave 311, fo. 207^{v}. It is not clear whether this means that the manuscript dealer had multiple common law items for sale, or perhaps a single volume with mixed contents.

93. This evidence demonstrates that the suggestion that more technical material may not have left the households of lawyers, and may not have circulated scribally is incorrect

English or law-French, but this brief advertisement shows that the general public had already ceased to be excluded from the learning of the bar. If a member of the public could reach this dealer in manuscripts, legal material could have been obtained by a non-lawyer. There was very substantial and widespread manuscript circulation in the first half of the seventeenth century, so such access by the wider public cannot be dismissed.[94] This circulation can be linked to an increase in professional, commercial, copying of manuscripts in the 1620s, at just the moment when circulating legal manuscripts can first be identified as being available commercially from dealers not connected with the legal profession.[95] Once commercial copyists and manuscript dealers acquired a text, any control that lawyers had once exercised over the circulation of legal manuscripts was lost.

From Published Manuscript to Print Publication

Several of the works that appeared from 1625 to 1642 can be identified as having been quite widely disseminated in English manuscripts before their appearance in print. Manuscript circulation may be linked with the eventual printing of a work. For some works, it can even be shown that the manuscript circulation that preceded printing was commercial circulation, beyond any control by the legal profession. William Lambarde's *Archeion*, printed twice in 1635, was part of Lambarde's larger collection on Chancery, at least one copy of which was copied commercially.[96] Nicholas Bacon's arguments on the jurisdiction of Chancery, printed in 1641, were also part of the same collection.[97] Edward Coke's *Little Treatise of Baile and Mainprize*, printed in 1635,[98] exists in two manuscript copies associated with a particular commercial scribe.[99] Francis

(Williams, "Common Law Scholarship," 68), although it is not clear if the common law pieces were scribally produced, or if the dealer was merely selling a previously personal manuscript. For further evidence of the sale of law reports, see n. 105.

94. Millstone, *Manuscript Circulation*, 3.

95. Ibid. 100. For the commercial availability of legal manuscripts in the 1620s, see nn. 92 and 152.

96. See n. 20 and text at nn. 79–81.

97. Nicholas Bacon, *Arguments exhibited in Parliament by Sir Nicholas Bacon* (London: 1641). For differences between the print and some of the manuscripts, see Williams, "Changes to Common Law Printing," text at nn. 40–42.

98. Edward Coke, *A Little Treatise of Baile and Mainprize* (London: William Cooke, 1635).

99. Beal, *In Praise of Scribes*, 241, 247, referring to BL MS Harley 444 and BL MS Stowe 145. The copy of *Baile and Mainprize* in the latter is not by the "feathery scribe," but other parts of the volume are. A copy of *Baile and Mainprize* was also listed in the

Bacon's *Maxims*, first printed in 1630, survives in eleven manuscripts.[100] Thomas Egerton, Lord Chancellor Ellesmere, wrote a brief to crown lawyers in the Jacobean debate about the Chancery jurisdiction, which was printed in 1641.[101] Thirty manuscript copies are known.[102] Hobart's *Reports* similarly circulated widely, with eight surviving copies of the reports.[103] Two of those volumes provide explicit date evidence of circulation in the 1630s.[104] One of those two volumes also shows that the manuscript was a commercial object, being purchased for £3 10s.[105] It is not clear that this volume was the product of commercial copying, rather than just a privately produced copy that had been sold. The owner, John Maynard, noted that the volume included a table (now lost), but that the table did not continue for cases after folio 527, because the writing was so bad, hardly what one would expect from a professional scribe.[106]

Material from legal education in the Inns of Court and Chancery that appeared in print during the reign of Charles I, similarly survives in multiple copies, indicating wider circulation. John Dodderidge's reading, the first to be printed, has five surviving copies.[107] Charles Calthrope's *The Relation betweene the Lord of a Mannor and the Coppy-Holder his Tenant* was a printing of his 1574–75 reading in Furnival's Inn, one of the Inns of Chancery, a reading that survives in seventeen manuscripts.[108] The two readings from the Inns of Court to be printed, Robert Brooke's

contents of the study of the manuscript dealer Ralph Starkey (Huntington Library Ellesmere MS 8175).

100. For manuscripts, see Baker and Ringrose, *Catalogue of English Legal Manuscripts*, 372–73.

101. Thomas Egerton, *The priviledges and prerogatives of the High Court of Chancery* (London: Henry Sheapheard, 1641).

102. Twenty-nine copies are listed in Baker and Ringrose, *Catalogue of English Legal Manuscripts*, 269. Another copy is Huntington Library MS 57342, fos. 1–19^{v}.

103. See n. 56. This does not include the redaction of Hobart's *Reports* in BL MS Hargrave 28.

104. CUL MS Ii.5.33, fo. 565^{v} (January 30, 1638); and LI MS Maynard 65, fly (May 28, 1635).

105. LI MS Maynard 65, fly. This is a considerably higher price than for any second-hand printed law book in a list probably from c.1615 to c. 1628, where the maximum price is £1 10s (BL MS Harley 160, fo. 233).

106. For the text, see J. H. Baker, *English Legal Manuscripts*, *vol 2: Catalogue of the Manuscript Year Books, Readings, and Law Reports in Lincoln's Inn, the Bodleian Library and Gray's Inn* (Zug: Inter Documentation Company, 1978), 69.

107. Dodderidge, *A Compleat Parson*. For the manuscript copies, see Baker, *Readers and Readings*, 211.

108. Calthrope, *The Relation*; and Baker, *Readers and Readings*, 203.

and Francis Bacon's, both survive in four manuscript copies.[109] The evidence of the catalogue from 1622 to 1625 shows that it is possible that these readings were circulating in manuscripts that were themselves objects of commerce.[110]

There is, therefore, a correlation among several of the new works printed during the reign of Charles I and circulation in manuscript, and a weaker but still evident correlation with the commercial circulation of manuscripts.[111] Showing that several of the new legal works printed in English during 1625–1642 circulated in manuscript before printing suggests that it was manuscripts that had in some sense been "published" that were often put into print by booksellers and printers.

Such printing was not under the control of the authors of the relevant works; indeed generally the author was dead. There is evidence suggesting that a living author may have been able to affect the printing of his manuscript. John Dodderidge's *The Lawyers Light* was entered into the Register of the Stationers' Company in October 1627, in favor of Benjamin Fisher.[112] However, this registration was struck through, and it is possible that this was because of Dodderidge's interference. Some support for the idea that the striking through happened quite soon after registration, and was related to Dodderidge himself, is that Fisher did not print the work soon after registration. However, *The Lawyers Light* was printed in 1629, after Dodderidge's death in 1628, suggesting that Dodderidge may have been able to control the printing of his manuscript during his lifetime (at least if the copy was registered), but not after his death.[113]

109. Brooke, *The reading*; for manuscripts see Baker, *Readers and Readings*, 159, including identification of two further lost texts. Francis Bacon, *The Learned Reading of Sir Francis Bacon, one of Her Majesties Learned Counsell At Law, Upon The Statute Of Uses* (London: Matthew Walbancke and Laurence Chapman, 1642). For manuscripts, see Baker, *Readers and Readings*, 49.

110. See n. 92.

111. Harvey's suggestion that the availability of readings in manuscript might therefore have discouraged printers from printing them seems the opposite of what occurred in practice (Harvey, *The Law Emprynted*, 182).

112. Edward Arber, *A Transcript of the Registers of the Company of Stationers of London, 1554–1640 A.D.*, vol. 4 (London: privately printed, 1875–94), 187.

113. John Dodderidge, *The Lawyers Light* (London: Bernard Alsop and Thomas Fawcett for Benjamin Fisher, 1629). Another of Dodderidge's posthumously printed works (John Dodderidge, *The History of the Ancient And Moderne Estate Of the Principality of Wales, Dutchy Of Cornewall, And Earldome of Chester* [London: Thomas Harper for Godfrey Emondson and Thomas Alchorne, 1630]) also circulated in manuscript in his lifetime, being available for purchase in 1622–1625 (BL MS Hargrave 311, fo. 207^{v}). Other Dodderidge material was available for purchase from Ralph Starkey in 1626 (TNA PRO C 108/115/8575, a letter advertising various works from Starkey to Sir John Scudamore). It is possible that the "Treatise concerning the Nobility according to the lawes of

Although there is no direct evidence of a new legal work being printed in English from a published manuscript acquired by a printer, there is plenty of evidence that strongly suggests this. The vague explanations as to how printers obtained the texts they printed is a good starting point. Printers refer to copies of the text arriving in their hands before printing.[114] This language was not unusual in early-modern printing generally. Nor was it unprecedented in legal printing, although it was much less common for law books. An unusually early example of such vagueness appeared in 1567, when Richard Tottel referred to the text of Staunford's *Prerogative* having been "delivered to mee," albeit evidently not by Staunford, who had died in 1558.[115] However, it appears with considerably greater frequency after 1640. The vague language avoids any claims of authorial *imprimatur*.[116] Indeed, as Bennett noted, "the prevailing custom. . .allowed a printer, once he was in possession of a manuscript, however come by, to treat it as his own, and to go ahead with it,

England" found in Starkey's study after his death (Huntington Library Ellesmere MS 8175) is a manuscript of the work printed as Bird, *The Magazine Of Honour, or, a Treatise of the Severall Degrees of the Nobility of this Kingdome with their Rights And Priviledges also of Knights, Esquires, Gentlemen And Yeomen, And Matters Incident to them According to the Lawes And Customes of England* (London: for William Sheares, 1642). That work was described on the title page as "perused and enlarged by that learned and iudicious lawyer, Sir John Doderidge."

114. Edward Coke, *The Compleat Copy-Holder* (London: William Cooke, 1641), sig. A2 ("comming to my hands"); *Speciall and Selected Law-Cases Concerning The Persons And Estates Of All Men Whatsoever Collected And Gathered Out of the Reports, And Yearbooks of the Common-Law Of England* (London: William Cooke, 1641), sig. A3 ("comming to my hands"); James Whitelocke, *A Learned And Necessary Argument To Prove That Each Subject Hath A Propriety in his Goods* (London: Richard Bishop for John Burroughes, 1641), unpaginated, "To the Courteous Reader" ("falling into my hands"); and TH, *Certain Observations Concerning a Deed of Feoffment*, sig. L2 ("coming to my hands"), in W Noy, *A Treatise of the Principall Grounds and Maximes of the Lawes of the Kingdome* (London: William Cooke, 1642).

115. Staunford, *An Exposicion*, sig. Aii. For Staunford's life, see J. H. Baker, "Stanford, Sir William (1509–1558)," in *Oxford Dictionary of National Biography*, vol. 52, ed. H. C. G. Matthew and Brian Harrison (Oxford: Oxford University Press, 2004), 108–9. The risk of circulating manuscripts reaching the press is visible in the preface to Thomas Egerton, *The Speech of the Lord Chancellor of England, in the Eschequer Chamber, Touching the Post-nati* (London: Societie of Stationers, 1609), sig. A5^{v}–A6. Egerton refers to "pieces of my Speech have bin put in writing, & dispersed into many hands, and some offred to the Presse."

116. It could also enable an author to disclaim responsibility for the printing, although this would not have been a concern for those legal works of which the authors were dead (such as those in nn. 114 and 115).

just as he would have done with a manuscript brought to him by the author himself."[117]

The deliberately vague statements of the printers are of little assistance, beyond suggesting that printers did not receive these texts from the author or other relevant figure. There is no other direct evidence, and as Bennett observed, "[m]embers of the printing trade were always on the watch for possible manuscripts, and acted without much concern for the interests of the author once they were on the scent."[118] In relation to the printing of law books in the reign of Charles I, there is enough suggestive evidence to point toward how printers and booksellers acquired these texts.

First is a statement by Bernard Alsop and Thomas Fawcett, involved in the printing of *The Use of the Law* and *The Lawyers Light*[119] in 1629, and John Dodderidge's reading as *A Compleat Parson* in 1630.[120] All of these are English language works, and Dodderidge's reading clearly did circulate in manuscript. In 1627, Alsop and Fawcett were summoned before the High Commission for involvement in the printing of Robert Cotton's *Short View of the Long life and Reign of Henry the Third*.[121] Their defense was that they had printed a text already available in manuscript, one that they had purchased from a second-hand bookseller, Ferdinand Ely.[122] It is not clear whether this was true or not. Although Cotton claimed to have written the work in 1614, Kevin Sharpe does not rule out the possibility that Cotton himself was behind the 1627 printing.[123] A defense to an investigation by the High Commission need not have been true, but for the defense to be effective, it would have to have been credible. Alsop and Fawcett's business, therefore, either sometimes printed existing manuscripts available commercially, or this practice was sufficiently widespread that they could claim to do so. Either possibility suggests that printers might make use of commercially available manuscripts to produce new printed works.

117. 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: Cambridge University Press, 1970), 61.

118. Ibid., 62.

119. N. 113. *The Use of the Law* is bound together with *The Lawyers Light,* and there is a combined title page, but the two works are separately paginated.

120. N. 16.

121. Robert Cotton, *A Short View of the Long Life and Raigne of Henry the Third, King of England* (London: 1627).

122. Henry R. Plomer, *A Dictionary of the Booksellers and Printers Who Were at Work in England, Scotland and Ireland from 1641 to 1667* (London: Blades, East, and Blades for the Bibliographical Society, 1907), 4.

123. Kevin Sharpe, *Sir Robert Cotton 1586–1631: History and Politics in Early Modern England* (Oxford: Oxford University Press, 1979), 238–40.

Alsop and Fawcett's suggested role for second-hand booksellers is plausible. In 1628, a list of "such Booke sellers, as deale in old Libraryes" was given to the Privy Council.[124] Of the listed book sellers, ten or eleven (just over one quarter) were located on Chancery Lane and Fleet Street (linked as a single location in the list) or at Gray's Inn Gate, all locations near the Inns of Court and firmly within legal London.[125] There is even a direct link with Alsop and Fawcet. The other person listed as being involved in their printing of *The Use of the Law* and *The Lawyers Light* in 1629 was Benjamin Fisher. In 1628 Fisher was listed as a dealer in old libraries on Aldersgate Street, and he is the person for whom *The Use of the Law* and *The Lawyers Light* were apparently printed. It seems likely that Fisher acquired the manuscript (or manuscripts) in his work as a dealer in second-hand material and then made the decision to have them printed.

Fisher would not be alone. Two other names associated with the printing of legal manuscripts in English are also found on the 1628 list of second-hand dealers, and both did so in close proximity to the legal profession. Matthew Walbancke was identified as a dealer at Gray's Inn Gate, and Laurence Chapman was one of the second-hand booksellers listed as being based in Chancery Lane and Fleet Street. Walbancke and Chapman were the two printers of Francis Bacon's *Reading*.[126] Chapman was also connected with the printing of Brooke's *Reading*.[127] The first two readings from the Inns of Court to be printed were therefore printed in connection with booksellers who dealt in existing collections, as was the first reading (Dodderidge's) printed from the Inns of Chancery. It seems highly likely that both Walbancke and Chapman acquired their manuscript copies of the relevant readings in this capacity, decided that there was a possible market for these particular texts, and arranged their printing. In both cases, the works were by prominent lawyers and authors. Brooke had been chief justice of the Court of Common Pleas and was the author of an important reference work for early-modern lawyers.[128] His name would have made the reading an attractive purchase for lawyers, while the subject matter (a chapter of Magna Carta) might have been readily marketable in the atmosphere of 1642. Francis Bacon had been Lord Chancellor as well as an important English author. His legal works had

124. W. W. Greg, *A Companion to Arber* (Oxford: Clarendon Press, 1967), 240–41.

125. Ten or eleven because "Robert Wilson" appears in the list both in Chancery Lane and Fleet Street and in Gray's Inn Gate. This is probably the same person, but that is not made clear.

126. Above, n. 109.

127. Above, n. 17.

128. Robert Brooke, *La graunde abridgement* (London: Richard Tottel, 1573).

begun to appear in print with the *Maxims* in 1630, and his reading was on a very popular topic with a ready market in the profession.[129]

A second connection between English language legal manuscripts and the printing of such manuscripts arises in the role of law booksellers as vendors, and perhaps producers, of new manuscript copies. There is good evidence of law booksellers having such a role in relation to parliamentary and political texts, but that role may have encompassed a wider range of texts.[130] There was, in any event, an unclear boundary between parliamentary and legal material, especially in the legalistic culture of early-modern England.[131] Thomas Fuller claimed that his printed collection of parliamentary material from the reign of Charles I would be of use to lawyers for the "severall Cases here largely reported."[132] A particularly good example from the late 1630s is *The Case of Ship Money* (*R v. Hampden*) from 1638, concerning Charles I's power to levy extra-parliamentary taxation during the Personal Rule. Manuscript pamphlets of the decision and the judges' speeches "circulated very widely," many of them as "commercially produced" pamphlets;[133] they are some of the "most reproduced texts of the decade," despite appearing relatively late in the 1630s.[134] These manuscripts are just the sort of hybrid legal-political material that law booksellers might be expected to produce or sell. The widely circulated, commercially produced, manuscripts of the *Ship Money* case then made their way into print, at least in part, with Richard Hutton's dissenting judgment printed in 1641.[135]

One law bookseller seems to have had connections with providers of manuscripts of parliamentary material, although the precise nature of the link cannot be discovered. One manuscript of the tumultuous debates in

129. Bacon's reading was on the Statutes of Uses 1536 (stat. 27 Hen.VIII c.10), one of the most popular choices for early-modern readers with eighteen readings given between 1536 and 1634 (Baker, *Readers and Readings*, lviii).

130. Love, *Scribal Publication*, 9–22 and 73–76.

131. Millstone similarly links legal and parliamentary speeches as part of "a list of forbidden bestsellers of pre-revolutionary England," which circulated in manuscript (Millstone, *Manuscript Circulation*, 3).

132. [Thomas Fuller], *Ephemeris parliamentaria, or, A Faithfull Register of the Transactions In Parliament in the Third And Fourth Years of the Reign Of Our Late Sovereign Lord, King Charles* (London: printed for John Williams and Francis Eglesfield, 1654), sig. ¶¶.

133. Baker and Ringrose, *Catalogue of English Legal Manuscripts*, 24, observing that "[t]he manuscripts in other libraries are too numerous to list here."

134. Millstone, *Manuscript Circulation*, 264.

135. *The arguments of Sir Richard Hutton, Knight, one of the judges of the Common Pleas* (London: Miles Flesher and Robert Young, 1641). Hutton's argument is the second most common to survive in manuscript. The other dissenting judgment, George Croke's, survives in much greater numbers (Millstone, *Manuscript Circulation*, 267–68).

the House of Commons in 1629 can be identified as purchased from "W Walbancke" on August 10, 1629.[136] The Walbancke family were booksellers and publishers from the reign of James I onwards. The founder of the printing family, Matthew Walbancke, was involved in law printing, including that of material previously circulating in English.[137] Although one member of the Walbancke family was involved in the dissemination of manuscript parliamentary material in the late-1620s, in the 1640s Matthew Walbancke began to print it instead.[138] It is plausible that the same occurred in relation to law books. Matthew Walbancke had a connection with the manuscript trade, which may have given him access to legal manuscripts. He also dealt in old libraries, potentially giving access to manuscript material, especially circulating manuscripts.

The printing of Hobart's *Reports* fits into one of these models. It is clear from John Maynard's copy that the *Reports* could be purchased.[139] It is not clear whether this was as a new scribally produced copy or as a second-hand manuscript.[140] Either way, such a manuscript could be connected with law booksellers who then caused texts to be printed. The only complication is that Hobart's *Reports* were printed by the assigns of the law patentee, John More, and no connections between the assigns and the manuscript trade have been discovered.[141] However, in the early 1640s, there was a complicated set of relationships among the assigns of the law

136. Durham Chapter Library Hunter MS 52, fo. 1, see Edward Hughes, "A Durham Manuscript of the Common's Debates of 1629," *English Historical Review* 74 (1959): 672. (Hughes describes the relevant text as being on the flyleaf, but the manuscript has since been foliated.) I thank Sarah-Jane Raymond and her colleagues for making the manuscript available to me during extensive works in the library. The purchase information may not be accurate. It is in a different hand from the date on the page, and there is no known W. Walbancke involved in the book trade in 1629.

137. In addition to Francis Bacon's *Reading*, Matthew Walbancke was also connected with the printing of an abridgment of St. German's *Doctor and Student* (*An Exact Abridgement of that Excellent Treatise Called Doctor and student* [London: John Haviland for the assigns of John More, 1630]) described on the title page as to be sold by Matthew Walbancke, and an English version of Perkins's sixteenth-century *Profitable Book*, which had previously been printed with English title pages, but was never actually printed in English (John Perkins, *A Profitable Booke of Mr John Perkins* [London: for Matthew Walbancke, 1642]).

138. *A diary, or, An Exact Journall Faithfully Communicating The Most Remarkable Proceedings In Both Houses of Parliament* (London: for Matthew Walbancke, 1644–46).

139. LI MS Maynard 65, see n. 105.

140. See n. 106 for a tentative suggestion that the quality of the text suggests a second-hand manuscript rather than scribal production.

141. For more on the assigns and their business practices see Williams, "Changes to Common Law Printing," 243–45.

patentee, law booksellers, and printers in producing printed texts, so we cannot exclude such a relationship for Hobart's *Reports*.[142]

These explanations are not obviously limited to the years after 1625. Legal manuscripts existed and circulated for decades before the 1620s. Nonetheless, there are factors that explain the relatively late movement of more sophisticated legal material from manuscript to print. One possible change in ideology may be visible in, and caused by, the printing of Edward Coke's *Commentarie upon Littleton* in 1628. The *Commentarie* contains the original law-French of Littleton's *Tenures*, with an English translation in a parallel column, all surrounded by a very dense English language gloss. Coke explained in his preface that the printing of some common law material in English was "not without president," explaining that this was "an introduction to the knowledge of the nationall Lawes of the Realme, a work necessarie." At this point Coke seems to have been following the trend of making only introductory works available. However, he continues to explain that the *Commentarie* would make the law available to "any of the Nobilitie, or Gentrie of this Realme, or of any other estate, or profession whatsoever."[143] This was to go much further than earlier publications, especially as Coke's gloss was substantially more than introductory.

Nevertheless, the *Commentarie* did not lead to lawyers making a substantial short-term change in the material that they prepared for the press, and the broad statements about printing common law material in English found in the preface need to be qualified. First, the *Commentarie* is almost 400 pages long, and would probably have been too expensive for many people outside of the upper echelons of society, or the legal profession, to afford.[144] This was not a work that would disseminate the law widely. Perhaps more significantly, the form of Coke's *Commentarie* suggest that whatever the statements in the preface suggest, Coke's intended audience was lawyers, particularly law students.[145] The

142. On these complicated relationships, see ibid., 245–46.

143. Coke, *The First Part*, sig. ¶¶^{v}.

144. According to Joseph Mead in a letter to Sir Richard Stuteville dated November 29, 1628, the *Commentarie* had recently been published and was "of some 15 or 16 shillings price" (BL MS Hargrave 390, fo. 456). This would make the *Commentarie* as expensive as a second hand copy of the 1569 printing of *Bracton* (another very large work), and more expensive than all but three of the law books whose prices are given in a list probably dating between 1616 and 1628 (see Williams, "A Medieval Book," 51).

145. Coke's *Reports* also suggest that he frequently addressed different audiences in different parts of the same writing. See nn. 38–40 for evidence that Coke combined texts for the wider public with others for the legal profession in the same work. The prefaces to his *Reports* show a similar difference in audience. The preface to the *Sixth Reports* is a response to the Jesuit Robert Parsons's criticisms of Coke's writings for the wider public in the *Fifth*

printing of Littleton's original law-French text together with an English translation was an innovation. One reason for this printing may have been to provide some assistance to those learning to read law-French itself, given the difficulties that some lawyers seem to have experienced with that language.[146] Such a focus on law students would also explain Coke's production of the other three volumes of his *Institutes*, a series named after an introductory civilian work explicitly directed to students rather than to the wider public.[147] The second volume of the *Institutes*, in particular, appears to be aimed at providing a printed gloss on statutes that may have been part of a regular cycle in the Inns of Court, a key part of legal education in the fifteenth century.[148]

More plausible explanations for the movement of material from manuscript to print are not ideological, but mundane, connected to the relationship between manuscripts and the printers and booksellers involved in law printing in the reign of Charles I.

First is a possible increase in the volume of manuscript copying in the 1620s. Millstone's work on parliamentary material suggests a marked increase in copying, especially in the second half of the decade, even if the material being copied was itself older.[149] It is not necessarily the case that the same pattern would be visible in legal manuscripts. However, an increase in copying in the 1620s suggests not just increased demand, but also the potential of increased supply, indicating a larger body of copyists who may have turned their hand to legal manuscripts too.

Increasing circulation of legal manuscripts in English, particularly the circulation of manuscripts commercially, would encourage booksellers and printers to print works. Such circulation would demonstrate demand for the work, especially to booksellers connected with the manuscript trade. Proven demand would ameliorate some of the financial risks involved in printing a new work.

Second is the increasing use of English by the profession in its manuscripts. This may have had two related consequences. The first is that

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Reports, whereas the main, law-French, text of the *Sixth Reports* is directed to common lawyers (Edward Coke, *La Size Part des Reports* [London: Societie of Stationers, 1607]).

146. See nn. 66–71.

147. Edward Coke, *The Second Part of the Institutes of the lawes of England* (London: Miles Flesher and Robert Young, 1642); Edward Coke, *The Third Part of the Institutes of the laws of England* (London: Miles Flesher, 1644); and Edward Coke, *The Fourth Part of the Institutes of the laws of England* (London: Miles Flesher, 1644). The preface to the *Institutes* of Justinian is directed to students of Roman law (Peter Birks and Grant McLeod, eds., *Justinian's Institutes* [London: Duckworth, 1987], 32–33).

148. Williams, "Common Law Scholarship," 64.

149. Millstone, *Manuscript Circulation*, 100.

there is more evidence of the copying of English manuscripts by professional scribes than there is for such scribes copying law-French material. The surviving evidence for the material copied and then sold by Ralph Starkey suggests that all the legally related material was in English.[150] There clearly are multiple copies of law-French manuscripts. Some of the copying looks professional[151] and in some instances appears to be commercial.[152] Although commercial copying of law-French was therefore not unknown, English material is more prevalent in identifiably commercial copying, despite the much larger body of law-French legal material (especially law reports). This may indicate that professional scribes lacked the linguistic skills to copy law-French or that they believed that material in English was more desirable (perhaps because of a larger possible market). By using English more frequently in their manuscripts, lawyers opened those manuscripts to commercial copying, which encouraged subsequent printing.

The increased use of English may have also facilitated decisions by booksellers and printers about whether to invest in printing a particular manuscript. Non-lawyers, such as law booksellers and printers, may not have been able to read law-French. This would have made it difficult to determine the subject matter of a manuscript, let alone make any

150. BL MS Harl 537, fos. 80–86, and Huntington Library Ellesmere MS 8175. Legal material included Star Chamber proceedings and the *Five Knights Case* (1628). Star Chamber reports survive predominantly in English language manuscripts; many copies of the *Five Knights' Case* also survive in English (for example, CUL MS Ff.3.17, fos. 114–82).

151. Two late sixteenth century law-French collections that seem to be professionally copied are the *Errores in Camera Scaccarii* and Thomas Coventry's reports. The *Errores* survive in carefully copied, nearly identical, manuscripts (David Ibbetson, "Law Reporting in the 1590s," in *Law Reporting in Britain, Proceedings of the Eleventh British Legal History Conference*, ed. Chantal Stebbings [London: Hambledon Press, 1995], 73–88).

152. Manuscripts of Francis Moore's law-French reports may have been commercially copied. Several share an unusual stylistic feature, perhaps suggesting an origin in a single copying house: a black letter (rather than secretary) title or title page in Latin, proclaiming that the reports were taken from the book written in Moore's hand (BL MS Additional 25191, BL MS Harley 4585, BL MS Lansdowne 1059, and Yale Law School MS G. R29.1). Of these manuscripts, BL MS Harley 4585 notes that it was purchased by Robert Paynell for £4 (fo. 1). Paynell was admitted to Gray's Inn in 1619, and the reports were presumably purchased after that date (W. H. Bryson, *Robert Paynell's King's Bench Reports [1625–1627]* [Tempe: Arizona Center for Medieval and Renaissance Studies, 2010], x). Paynell's copy also includes a guarantee by the seller, Lawrence Cragge, that the volume included "as many cases & marginall notes as any [book] that I have sould" (BL MS Harley 4585, fo. 453^{v}). It seems likely that Cragge would only have included such a guarantee if he had been involved in the production of the manuscript, indicating commercial copying.

assessment as to its quality.[153] These were, presumably, relevant factors in the decision as to whether printing a manuscript would provide a sufficient return. English language manuscripts, by contrast, could be read and assessed by booksellers and printers without needing to involve the legal profession. The use of English not only made it easier for booksellers and printers to decide whether to print the work, but if the profession had previously been able to exercise some control over what was printed through the printers' need for advice, that control was removed or reduced by the shift to English.

For example, Brooke's reading on the Magna Carta in English could have been read by a non-lawyer bookseller or printer. That reader would have been able to identify the subject matter of the reading and form his own assessment as to the likely demand for a text on the Magna Carta by a major lawyer in the febrile atmosphere of the early 1640s. The use of English would not necessarily be the only relevant factor. For example, as some readings became more treatise-like, the nature (and possibly value) of the text may have become more obvious to non-specialists.[154] The manuscript text would look more like something that could be printed in a book rather than merely some fragmentary or disjointed speaker's notes or a record of an oral exercise made by an audience member.[155]

Some support for the use of English encouraging the printing of a work may be found in the different treatment of two sets of Jacobean law reports

153. This may explain the very vague description of the common law material available in BL MS Hargrave 311 (see n. 92). The author of the catalogue does not identify the reports or readings with any precision, unlike the various speeches and other legally related material. Perhaps the author did not understand the material (even if in English) or could not read it (if it were in law-French).

154. As Mirow observes, some readings after 1600 were "seemingly produced for written or printed transmission" (Matthew Mirow, "The Ascent of the Readings: Some Evidence from Readings on Wills," in *Learning the Law: Teaching the Transmission of English Law 1150– 1900*, ed. Jonathan Bush and Alain Wijffels [London: Hambledon Press, 1999], 238). This statement needs to be qualified: there is no evidence of any reader taking his reading to be printed, and some readings seem to have become more like treatises (at least as surviving in textual form) during the Elizabethan period.

155. This change in the text of readings should not be overemphasized when one is explaining their printing. It certainly seems to apply to Bacon's reading, the only seventeenth century reading to be printed, and the most treatise-like of the printed readings. The Elizabethan readings of Calthrope and Dodderidge are a little more disjointed, but are still coherent texts. Brooke's reading, the earliest to be printed, is more a collection of quite brief notes. Printed legal texts may also have been modeled to some extent on readings. For example, Staunford's *Exposicion* appears to be modeled on the approach taken in readings on the "statute" *Prerogativa Regis* (for discussion of similarities and differences between Staunford's *Exposicion* and readings, see McGlynn, *The Royal Prerogative*, 225–35).

that both circulated in commercially available manuscripts. Francis Moore's reports survive in several professionally produced manuscripts, at least one of which was sold, and which were written in law-French and not printed until 1663.[156] Manuscripts of Henry Hobart's reports also circulated widely, with one copy showing evidence of sale.[157] Hobart's reports were in English and printed in 1641.[158] It may be that the linguistic difference explains the different treatment of these works, although this cannot be known definitively.

Third, and peculiar to the period 1625–42 is a change in the patent for printing common law books. From the late 1620s, the patent was held by a non-printer, John More, and leased to a syndicate that was principally concerned with reprinting standard works, rather than printing new material, at least until 1640.[159] However, the patent was increasingly breached, largely without consequences.[160] Several of the unauthorized printers printed English language material.[161] The range of law printers and booksellers involved in the market for law books in the 1630s and early 1640s may have contributed to the change in what was printed. Those printers, unlike the patentee in the sixteenth century or the assigns from the late 1620s, were non-specialists who printed some legal works as part of a more diverse portfolio. They were not concerned with producing competing printings of standard legal texts, many of which were several hundred pages long. Instead, they were printing shorter works, and many of the higher-level legal works in English, such as readings, fell into that category.

Furthermore, these non-specialist printers may have lacked the black-letter type that was traditional for law-French law books. From the late-sixteenth century, Roman type generally replaced black letter for printing vernacular works.[162] Black letter was increasingly a specialist type, used

156. See n. 152. Printed as Francis Moore, *Cases collect and report per Sir Francis Moore chivaler* (London: R. Norton, 1663).

157. See nn. 103–5.

158. Hobart, *Reports*.

159. See Williams, "Changes to Common Law Printing," 244.

160. For discussion of the reasons for these breaches, and the lack of enforcement of the patent by the patent-holder, see Williams, "Changes to Common Law Printing," 239–45.

161. For example, Bernard Alsop and Thomas Fawcett (nn. 16 and 113) and William Cooke (nn. 7, 55, 98, and 114). However, even the printers printing under the patent engaged in some printing of the higher level material in English in the form of Bacon's *Maxims*, albeit printed with *The Use of the Law,* which had already been printed in 1629 (Anon, *The Use of the Law* [London: Bernard Alsop, Thomas Fawcett, Benjamin Fisher, 1629]).

162. Adrian Weiss, "Casting Compositors, Foul Cases, and Skeletons: Printing in Middleton's Age," in *Thomas Middleton and Early Modern Textual Culture*, ed. Gary Taylor and John Lavagnino (Oxford: Oxford University Press, 2007), 201–2; and Arthur

only for particular purposes and not always available.[163] Legal printing persisted in its use of black letter for both law-French and English works.[164] However, printers may have believed that works in English could be printed in Roman type, a development that had already occurred in other learned fields and that made Roman type the default for English vernacular printing. As these printers were not specialists in legal printing, they may not have known that traditionally, black letter was also used for legal works in English, instead perceiving it to be the type used for law-French works. Printers without access to black-letter type would therefore have felt able to print English language law books without breaching typographical conventions.[165]

Conclusion

The appearance of a substantial body of sophisticated common law material in English and in print from the mid-1620s to the early 1640s was the result of a combination of particular factors, but not of ideologies about the desirability of disseminating the law. Some of the factors were longer term, such as the increasing use of English by the legal profession, but others were peculiar to the period, especially the number of booksellers and printers involved in printing legal works. The interaction between the actors in, and market for, manuscript works and the production of printed works in English is peculiarly well evidenced for the 1620s–40s, but it may be that this was not a major change to past practice.

Although the printing of legal material in English during the reign of Charles I was not ideologically driven, it may have had ideological consequences: narrowly, in demonstrating that the law could be printed in

F. Maroti, *Manuscript, Print, and the English Renaissance Lyric* (Ithaca: Cornell University Press, 1995), 282–83.

163. As Brand observes for the printing of John Davies's reports in Dublin in 1615, it was only the printer's prior government work that meant that he already had black-letter type available and so "did not need to acquire new matrices or type for printing the volume" (Brand, "Sir John Davies," 11).

164. I have identified four exceptions. The first is Henry Finch's 1613 *Nomotechnia* (in French). The second and third are two printings of Perkins's *Profitable Book* in French (London: Societie of Stationers, 1621) and (London: Miles Flesher and Robert Young, 1639). Interestingly, there are two printings of the *Profitable Book* in 1621, one of which uses black letter (STC 19644), the other uses Roman type (STC 19644.5). It is not clear why this was so. Fourth, Thomas Egerton's *Speech* in English used Roman type.

165. Of the works cited in this article, only the 1642 printing of Perkins's *Profitable Book* was in English and black letter. Some of the works mixed black-letter and Roman type (for example, Coke, *Little Treatise*), but most did not.

English and, consequently, that the claimed necessity of law-French was incorrect. The demonstration from 1625 to 1642 of the possibility of printing the law in English, combined with Edward Coke's conversion to the cause of printing in English in his *Commentarie upon Littleton*, may explain why it was thought acceptable and possible to mandate such English language printing for the future, one of very few law reform measures to be enacted during the Interregnum.[166]

More broadly, the new legal material printed in English, especially after 1640, showed an important change in subject matter. Legal printing until 1640 had largely avoided matters of public controversy, with such material circulating in manuscript. As those manuscripts made their way into print, newly printed works often engaged directly with complaints about the government of Charles I, and did so for a wider audience.[167] The printing of the dissenting argument in *Ship Money* is a good example, but the best example is the printing of James Whitelocke's early seventeenth century argument on the king's power to levy impositions, an extra-parliamentary tax on exports and imports. The printed text shows the potential for wider dissemination beyond London and the legal elite. Whitelocke's argument was printed by Richard Bishop for John Burroughes in Fleet Street. However, some copies have a title page indicating that the work was to be sold "by Richard Hassell Book-seller in Bristoll."[168] Bristol did not have a large community of common lawyers, a highly centralized profession, but it did have a sizeable mercantile community, just the sort of non-lawyers who would be interested in a statement of the law about export and import taxes. Although the movement to printing the law in English was not ideological, in the years immediately preceding the outbreak of civil war, works such as Whitelocke's show that it could be used for ideological purposes, and have much wider consequences.

166. The Commonwealth, "Act for turning the Books of the Law, and all Proces and Proceedings in Courts of Justice, into English" (November 22, 1650) in *Acts and Ordinances of the Interregnum, 1642–1660*, vol. 2, ed. C. H. Firth and R. S. Rait (London: Her Majesty's Stationery Office, 1911), 455–56.

167. In this respect, the newly printed legal material falls into the same pattern as that seen for scribally produced pamphlets, many of which were printed after 1640 (Millstone, *Manuscript Circulation*, 319). However, the recourse by printers to scribally circulating legal material began several years earlier than for more politically controversial pamphlets.

168. James Whitelocke, *A Learned And Necessary Argument*. Wing W1995 and W1995A refer only to Richard Bishop and John Burroughes, but Wing W1995aA has the title page for Bristol.