

## The Legacy of Freedom of Speech

Freedom of speech and press had been championed primarily by those who sought an open debate on religion ... Freedom of speech evolved as an offshoot ... of freedom of religion – the freedom to speak openly on religious matters ...

—Leonard W. Levy

In the modern world most speech and press is secular, and threats to the freedoms of speech and press are often perceived as coming from religion. However, at the time when freedoms of speech and press originated in the English-speaking world, the opposite was the case – advocacy of freedoms of speech and press primarily came from religious speakers. Further, freedoms of speech and press arose primarily from Judeo-Christian religious speech demanding them – religious publications, sermons, and addresses – in the English-speaking world. This chapter will discuss the origins of freedom of speech, and Chapter 2 will turn to the origins of freedom of press.

In the sixteenth and seventeenth centuries, most threats to the freedoms of speech and press in England came from the government and its state church, and most victims of suppression of speech and press were religious people discussing religious perspectives on politics or religion.

There were many divisions in England in those centuries, but the most profound and serious division was on religious lines. During the reign of Henry VIII, as the Church of England separated from the Roman Catholic Church and moved in a Protestant direction, the precursors to Puritans

arose to press for full replacement of Catholic doctrines and practices with Protestant ones. The Puritans soon appeared;<sup>1</sup> they have been variously defined as people with “a principled belief in reform of the church” in England, “a distinctive group self-identified as ‘godly’” who sought to follow the Bible, or as they were described in 1581, the “hotter sort of Protestants.”<sup>2</sup> The Puritan movement came more and more into conflict with the Tudor monarchs who followed Henry and Edward VI – Mary and Elizabeth – and then into further conflict with the early Stuart kings – James I and Charles I. The term “Puritan” was not their choice of name – it was bestowed as a pejorative term by opponents – and it has been out of vogue with historians. However, the term was widely used during the sixteenth and seventeenth centuries and is far less cumbersome than alternatives.<sup>3</sup> In opposition to the Puritans and other sects were the monarch and the state church (or more precisely, most of the hierarchy of the Church of England). The seeds were being sown for the seventeenth-century conflict between the early Stuart kings joined with the state church, and Parliament joined with the Puritans.

As Tudor and Stuart monarchs took steps to suppress disagreement, Puritans were major targets, particularly for their ways of persuading

<sup>1</sup> Throughout this book, for titles of sources only the first part of long titles is given, and capitalization of titles is modified. For quotations, the original spelling and capitalization are retained. For old works that are unpaginated, the alphabetical topic is listed (s.v.), or the image number assigned by Early English Books Online is given.

<sup>2</sup> Alan Cromartie, *The Constitutionalist Revolution: An Essay on the History of England, 1450–1642* (Cambridge: Cambridge University Press, 2006), pp. 2, 129; Michael P. Winship, *Hot Protestants: A History of Puritanism in England and America* (New Haven, Conn.: Yale University Press, 2018), p. 1; accord David D. Hall, *The Puritans: A Transatlantic History* (Princeton, N.J.: Princeton University Press, 2019), p. 2; David Cressy, *England on Edge: Crisis and Revolution 1640–1642* (Oxford: Oxford University Press, 2006), pp. 149–64, 248–78; Peter Lake, *Moderate Puritans and the Elizabethan Church* (Cambridge: Cambridge University Press, 1982), pp. 1–3; Tom Webster, *Godly Clergy in Early Stuart England: The Caroline Puritan Movement c. 1620–1643* (Cambridge: Cambridge University Press, 1997), pp. 3–4, 93–121; Peter Lake, *Anglicans and Puritans: Presbyterianism and English Conformist Thought* (London: Unwin, 1988), p. 7.

<sup>3</sup> Debates about usage of the term “Puritan” are summarized in Winship, *Hot Protestants*, p. 298 n. 4; John Coffey, “The Problem of ‘Scottish Puritanism’, 1590–1638,” in Elizabethanne Boran and Crawford Gribben (eds.), *Enforcing Reformation in Ireland and Scotland, 1550–1700* (Burlington, Vt.: Ashgate, 2006), pp. 66, 67. An interesting period definition is in John Gere, *The Character of an Old English Puritane, or Non-Conformist* (London: W. Wilson, 1646), pp. 1–6.

others, their speech, and their publishing. In response, some Puritans claimed a liberty of conscience that placed their obligations to God over their obligations to Caesar. Others refused to take the oath *ex officio*, which would obligate them to answer under oath all questions posed, and which then would obligate them to incriminate themselves and others. An increasing number claimed a liberty of speech that included a right to preach and publish their religious doctrines and to criticize the established church and government. From this came additional claims for a liberty of printed speech, or liberty of press.

In asserting a liberty of speech, Puritans were standing on an important belief from their theology in both the sixteenth and seventeenth centuries. They believed that New Testament uses of the Greek term *parrhesia* (boldness or liberty of speech) authorized and commanded freedom of speech. It was not just a few Puritan divines who made that point, as this chapter will discuss. Instead, it was virtually a Puritan article of faith. Their insistence on *parrhesia* from the Bible was far more extensive and vocal than the claim by less religious people to *parrhesia* from classical works.

Puritan support for freedoms of speech and press cannot be attributed simply to the fact that they were dissidents challenging those in power. It preceded their conflict with the Tudor queens and continued when the Puritans came to power for two decades, and then when they saw no chance of coming to power for the remaining decades of the seventeenth century. In and out of power, Puritans in England grounded advocacy of freedom of speech on the Bible, and particularly on the scriptural concept of *parrhesia*. They were consistent in that, though they were not notably consistent in offering the same freedom of speech to their adversaries.

The assertions of a liberty of speech and a liberty of press, as those concepts emerged in England, came mostly from those who would become the protagonists of the Puritan revolution, and opposition to those liberties, or at least to expansion of those liberties, came almost entirely from those who would become the royalists who supported the king and the Church of England. This chapter discusses writers in the sixteenth and seventeenth centuries who expressly referred to freedom or liberty of speech. More could be written about authors who, without express reference, intimated support or opposition toward freedom of speech by discussing the importance of freedom of thought or freedom of religious belief, the benefits of hearing various opinions or of providing counsel to the king, or the connection to liberty generally or to particular liberties.

GOVERNMENT SUPPRESSION OF DISSIDENT SPEECH AND  
PRESS IN TUDOR AND STUART ENGLAND

Criticism of any of the three pillars of the English state – the monarch, Parliament, and the state church<sup>4</sup> – was a crime in the sixteenth and seventeenth centuries. The underlying reason was that the weakening of any pillar was thought to threaten the survival of the entire government.<sup>5</sup> James I was typical of the Tudor and Stuart monarchs in fulminating that “whensoever the ecclesiastical dignity shall be turned in contempt and begin to evanish in this kingdom, the kings thereof shall not long prosper in their government and the monarchy shall fall in ruin.”<sup>6</sup> Charles I was also typical in warning that dissidents “wilfully breake that circle of Order, which without apparent danger to Church and State, may not bee broken.” To prevent such breaks, he like his predecessors ordered repression of “any Writing, Preaching, Printing, Conferences, or otherwise” that maintained “opinions concerning Religion” that were inconsistent with “the Doctrine and Discipline of the Church of England,” as well as opinions concerning political issues that were inconsistent with the monarch’s views.<sup>7</sup> Yet throughout the sixteenth century, as well as the seventeenth century, the monarchs and the state church itself continually redefined the “circle of order,” careening from ardent Catholicism to the break with Rome under Henry VIII to a vacillating Protestantism in that king’s later years to fervent Protestantism under Edward VI to rigorous Catholicism under Mary to a *via media* under Elizabeth that was too

<sup>4</sup> David Womersley, *Divinity and State* (Oxford: Oxford University Press, 2010), p. 6. The Church of England was emphatically one of those pillars. Patrick Collinson, *The Religion of Protestants: The Church in English Society, 1559–1625* (Oxford: Clarendon Press, 1982), pp. 1–38.

<sup>5</sup> On seditious libel and unlicensed publications, see Philip Hamburger, “The Development of the Law of Seditious Libel and the Control of the Press,” (1985) 37 *Stanford Law Review*, p. 661; Fredrick S. Siebert, *Freedom of the Press in England 1476–1776* (Urbana: University of Illinois Press, 1965); Wendell Bird, *Press and Speech under Assault* (New York: Oxford University Press, 2016), pp. 31–70.

<sup>6</sup> David H. Willson, *King James VI and I* (London: Jonathan Cape, 1956), p. 259 (in 1607); or, as James said frequently, “No bishop, no king.” Leo F. Solt, *Church and State in Early Modern England, 1509–1640* (3rd ed.) (New York: Oxford University Press, 1990), p. 136; *ibid.*, p. 173.

<sup>7</sup> A Proclamation for the Establishing of the Peace and Quiet of the Church of England (1626), in James F. Larkin and Paul L. Hughes (eds.), *Stuart Royal Proclamations* (Oxford: Clarendon Press, 1973), pp. 2:90, 92–93; Proclamation on Religion (1639), in Samuel R. Gardiner, *Constitutional Documents of the Puritan Revolution* (Oxford: Clarendon Press, 1906), p. 232.

Catholic for Puritans and too Protestant for Catholics.<sup>8</sup> Around such religious turbulence, dissident speech and publications were hardly a surprise, nor were government efforts to suppress them.

The peril hanging over dissident speech or publications, particularly when it criticized the English church or state, can be seen in the royal proclamations and decrees criminalizing speech and press and in the government prosecutions for the crimes of seditious words and seditious libels (publications), as well as of unlicensed preaching and unlicensed publications. These crimes were in addition to the expansive crime of treason and the numerous prosecutions under it, particularly under the Tudors, which are well discussed in other studies.<sup>9</sup> That was the historical context of sixteenth- and seventeenth-century assertions of freedom of speech, which this chapter will address, and also of freedom of press, which the next chapter will discuss.

### Tudor Suppression of Dissident Speech and Press

Henry VIII, trying to quell the religious turbulence that his break with Catholicism unleashed, released proclamations against unlicensed preaching, seditious rumors, military rumors, and some plays. He expanded the existing censorship practices of the established church beyond heretical writings and utterances to other objectionable publications and speech. The “Acte Abolishing Diversity of Opynions” was only one of many restrictions on speech coming from Parliament.<sup>10</sup> False rumors remained a problem for Henry’s successors, as Edward VI signed two proclamations against seditious rumors and two against rumor mongers, and Mary renewed the prohibition against seditious rumors in her first proclamation.<sup>11</sup> Unlicensed preaching was also a continuing concern, and

<sup>8</sup> Solt, *Church and State*, pp. 3–56, 56–80, 81–122; William P. Haugaard, *Elizabeth and the English Reformation: The Struggle for a Stable Settlement of Religion* (Cambridge: Cambridge University Press, 1968), pp. 1–51.

<sup>9</sup> Sir William Blackstone, *Commentaries on the Laws of England* (Oxford: Clarendon Press, 1765–69), pp. 4:79–80, 87–92; accord John Barrell, *Imagining the King’s Death: Figurative Treason, Fantasies of Regicide 1793–1796* (Oxford: Oxford University Press, 2000); D. Alan Orr, *Treason and the State* (Cambridge: Cambridge University Press, 2002), pp. 11–13.

<sup>10</sup> Paul L. Hughes and James F. Larkin (eds.), *Tudor Royal Proclamations* (New Haven, Conn.: Yale University Press, 1964–69), pp. 1:181 (1529), 244 (1536), 329 (1544), 341 (1544); Solt, *Church and State*, p. 37 (1539); 14 Hen.VIII, c.14 (1539).

<sup>11</sup> Hughes and Larkin, *Tudor Royal Proclamations*, pp. 1:387 (1547), 484 (1549), 469 (1549), 514 (1551), 2:4 (1553).

Edward issued proclamations suppressing it and against sermons deviating from the day's approved homily, as well as against some plays.<sup>12</sup> Elizabeth quickly renewed the prohibition against unlicensed preaching, and later barred unlicensed plays.<sup>13</sup> The target "rumor mongers" and deliverers of sermons were mostly religious critics – those objecting to features of or oppressions by the Church of England.

As printing became more common, it attracted restrictions just as sermons and other speech had, which were enforced against dissenting religious publications. Henry VIII issued proclamations against heretical books, erroneous books, and unlicensed printing of the Bible, and he required publications to list the printer and author.<sup>14</sup> Edward VI prohibited unreviewed printing, and Mary's third proclamation renewed that prohibition, and then another proclamation supplemented it.<sup>15</sup> Mary also proscribed printing or possessing seditious and heretical books (Protestant ones).<sup>16</sup> Elizabeth, a decade into her reign, issued three proclamations against seditious books, and later four more against books by Separatists, other critics of the Church of England, and Catholics.<sup>17</sup>

Elizabeth's government also formalized censorship of the press. The foundation was laid by an injunction in 1559, and a Privy Council ordinance in 1566 that prohibited printing works whose content violated the law and that subjected the printer or author to "three monethes imprisonment" and to destruction of all copies. That censorship system

<sup>12</sup> *Ibid.*, pp. 1:421 (1548), 432 (1548), 478 (1549).

<sup>13</sup> *Ibid.*, pp. 2:102 (1558), 115 (1559).

<sup>14</sup> *Ibid.*, pp. 1:181 (1529), 193 (1530), 270 (1538), 373 (1546); R. W. Heinze, *The Proclamations of the Tudor Kings* (Cambridge: Cambridge University Press, 1976), pp. 280–84, 289, 290–92. Some credit the 1538 proclamation as the beginning of press licensing. E.g., Frederic A. Youngs, Jr., *The Proclamations of the Tudor Queens* (Cambridge: Cambridge University Press, 1976), p. 198. But "Henry never issued a proclamation directly regulating the printing trade." Cyndia S. Clegg, *Press Censorship in Caroline England* (Cambridge: Cambridge University Press, 2008), pp. 10–11.

<sup>15</sup> Hughes and Larkin, *Tudor Royal Proclamations*, pp. 1:514 (1551), 2:5 (1553), 93 (1558); Youngs, *Proclamations*, p. 198; Clegg, *Caroline England*, p. 12.

<sup>16</sup> Hughes and Larkin, *Tudor Royal Proclamations*, pp. 2:57 (1555), 90 (1558); E. R. Dasent (ed.), *Acts of the Privy Council of England* (London: His Majesty's Stationery Office, 1890–1964), pp. 5:52 (1554), 153–54 (1555), 243 (1555).

<sup>17</sup> Hughes and Larkin, *Tudor Royal Proclamations*, pp. 2:312 (1569), 341 (1570), 376 (1573), 501 (1583), 506 (1584), 3:13 (1588), 3:34 (1589); accord Clegg, *Caroline England*, pp. 8–13; Cyndia S. Clegg, *Press Censorship in Elizabethan England* (Cambridge: Cambridge University Press, 1997), pp. 66–76; see generally Frederic A. Youngs, "The Tudor Government and Dissident Religious Books," in C. Robert Cole and Michael E. Moody (eds.), *The Dissenting Tradition* (Athens: Ohio University Press, 1975), pp. 167, 174–83.

was followed by a Star Chamber decree in 1586, which announced its purpose as “repressing of such greate enormyties and abuses” from printing as brought “intollerable offences . . . in the Church, as in the Civill governement.” The decree also required licensing by the archbishop of Canterbury or the bishop of London before a work could be published, and limited the number of presses and printers.<sup>18</sup> The censorship system also included roles for the High Commission and the Stationers Company.<sup>19</sup>

Tudor views of freedom of speech were epitomized by Elizabeth’s responses to the speaker’s request for Parliament’s freedom of speech that was made as each session opened.<sup>20</sup> “Privilege of speech is granted, but you must know what privilege you have; not to speak every one what he listeth, or what cometh in his brain to utter that; but your privilege is, *aye* or *no*.” Parliament emphatically was not to “meddle with reforming the Church, and transforming the Commonwealth.”<sup>21</sup>

During Elizabeth’s reign, prosecutions of authors and publishers in the Star Chamber were mostly for religious works.<sup>22</sup> For example, the Star Chamber “silenced” four leading Puritans in 1573.<sup>23</sup> The foremost

<sup>18</sup> Injunctions Given by the Quenes Majestie, aswell to the Clergye, as to the Laitie of This Realme (1559), in Geoff Kemp and Jason McElligott (eds.), *Censorship and the Press, 1580–1720* (London: Pickering and Chatto, 2009), p. 1:11; Ordinaunces Decreed for Reformation of Divers Disorders in Pryntyng and Utteryng of Bookes (1566), in *ibid.*, p. 1:16; Decrees in Star Chamber for Order in Printing (1586), *ibid.*, 1:107, 110; see generally Sheila Lambert, “State Control of the Press in Theory and Practice: The Role of the Stationer’s Company before 1640,” in Robin Myers and Michael Harris (eds.), *Censorship and the Control of Print in England and France, 1600–1910* (Winchester: St. Paul’s Bibliographies, 1992), pp. 1, 11–15; Clegg, *Caroline England*, pp. 29, 14–31.

<sup>19</sup> Michael Treadwell, “The Stationers and the Printing Acts at the End of the Seventeenth Century,” in John Bernard et al. (eds.), *The Cambridge History of the Book in Britain* (Cambridge: Cambridge University Press, 1999–), p. 4:755; Youngs, “The Tudor Government,” p. 184; Siebert, *Freedom of the Press*, pp. 64–87, 134–36, 165–69.

<sup>20</sup> David Colclough, *Freedom of Speech in Early Stuart England* (Cambridge: Cambridge University Press, 2005), pp. 131–85; Johann P. Sommerville, “Parliament, Privilege, and the Liberties of the Subject,” in J. H. Hexter (ed.), *Parliament and Liberty* (Stanford, Calif.: Stanford University Press, 1992), p. 59; e.g., Petition of the House of Commons (May 23, 1610), in G. W. Prothero (ed.), *Select Statutes and other Constitutional Documents Illustrative of the Reigns of Elizabeth and James I* (2nd ed.) (Oxford: Clarendon Press, 1898), pp. 296, 297.

<sup>21</sup> Speech of the Lord Keeper (1593), in Prothero, *Select Statutes*, pp. 124–25; Speaker Williams’ Speech (1562), in *ibid.*, p. 117; *ibid.*, p. lxxxvii.

<sup>22</sup> Arraignment of Richard Knightly (1588), in Kemp, *Censorship*, p. 1:125; Youngs, “The Tudor Government,” p. 184; Christopher W. Brooks, *Law, Politics and Society in Early Modern England* (Cambridge: Cambridge University Press, 2008), pp. 94–95.

<sup>23</sup> Youngs, *Proclamations*, pp. 205, 203–15, 215–27.

prosecutions of speech and press were of John Udall, a Puritan minister; Sir Richard Knightly, also a Puritan activist; and John Stubbs, a printer. Udall was convicted of seditious libel for writing a book that said Church of England bishops and much of its ecclesiastical law were contrary to the Bible. He was sentenced to death, which came by death in prison after three years there instead of by execution.<sup>24</sup> Knightly was judged guilty by the Star Chamber for assisting seditious Puritan books.<sup>25</sup> Stubbs was found guilty of seditious libel for publishing an assault on the queen's rumored marriage to a Catholic prince. He was sentenced to having his right arm chopped off.<sup>26</sup> Those were not the only Elizabethan victims. John Copping and Elias Thacker were hanged in 1583 for circulating books that one of the queen's proclamations deemed "seditious, schismatical, and erroneous." Henry Barrow and John Greenwood, Separatist Puritans, were found guilty of devising "seditious books" and were hanged in 1593.<sup>27</sup>

The Puritans, the prime targets of most of these royal proclamations and government prosecutions, continued to multiply, both inside and outside the Church of England.<sup>28</sup> Inside, large numbers of Puritans pressed for reformation.<sup>29</sup> Outside, Puritan sects appeared in addition to Presbyterians, such as Separatists, Congregationalists, and other Independents,<sup>30</sup> in addition to Brownists and other Dissenters such as Baptists, Quakers, and Levellers.<sup>31</sup>

<sup>24</sup> Trial of Mr. John Udall, (1590) 1 State Trials 1271, 1290, 1316 (K.B.); Brooks, *Law, Politics*, p. 95.

<sup>25</sup> Arraignment of Sir Richard Knightly, (1588) 1 State Trials 1263, 1269–71 (Star Chamber).

<sup>26</sup> Brooks, *Law, Politics*, p. 94.

<sup>27</sup> Solt, *Church and State*, pp. 119–20; Michael R. Watts, *The Dissenters* (Oxford: Clarendon Press, 1978), pp. 33, 37.

<sup>28</sup> Solt, *Church and State*, pp. vii, 97, 99.

<sup>29</sup> Penry Williams, *The Later Tudors: England 1547–1603* (Oxford: Clarendon Press, 1995), pp. 476–87; Lake, *Moderate Puritans*, pp. 16, 7; David G. Mullan, *Scottish Puritanism, 1590–1638* (Oxford: Oxford University Press, 2000), pp. 11, 13–44.

<sup>30</sup> Watts, *Dissenters*, pp. 94–95, 98, 146; A. S. P. Woodhouse (ed.), *Puritanism and Liberty* (3rd ed.) (London: Dent, 1986), pp. 15–16.

<sup>31</sup> J. F. McGregor, *Radical Religion in the English Revolution* (Oxford: Oxford University Press, 1984), pp. 23–190 (Baptists, Levellers, Seekers and Ranters, Quakers, Fifth Monarchists); Watts, *Dissenters*, pp. 26–34 (Brownists), 41–50 (Baptists); Erik Routley, *English Religious Dissent* (Cambridge: Cambridge University Press, 1960), pp. 48–52 (Brownists); Barry Reay, *The Quakers and the English Revolution* (London: Temple Smith, 1985), pp. 49–61; H. Larry Ingle, *First among Friends: George Fox and the Creation of Quakerism* (Oxford: Oxford University Press, 1994), pp. 34–37, 45–46, 54–71, 121–24; Christopher Hill, *The Experience of Defeat: Milton and Some*



As the Tudor years ended in 1603, peril indeed hung over dissident speech and publications, and particularly over religious ones. That continued under the Stuarts.

### Early Stuart Suppression of Dissident Speech

James I regarded the Puritans as “verie pestes in the Church and Common-weal . . . breathing nothing but sedition and calumnies.” Even before his accession to the English throne, he published his dislike of “the humors of Puritanes, and rash-headie Preachers, that thinke it their honour to contend with Kings, and perturbe whole kingdomes.” He issued proclamations in 1620 and 1621 against “intermeddl[ing] by Penne or Speech with causes of state,” and against “licentious speech of matters of State.”<sup>32</sup> He had already released proclamations against Puritans intermeddling with the established church, which had become incessant. And he had removed the radical Puritan ministers, whom he called “seditiouse schismatikes,” from their livings during 1604–06.<sup>33</sup>

In December 1621, James gave an equally restrictive response to the speaker’s standard request for freedom of speech for Parliament as the session opened, colored by his worry about the recent outbreak of the Thirty Years’ War and his indignation at recent indications that Parliament opposed his negotiations for a Spanish (and Catholic) bride for his son Charles I. As he had done in 1604, 1610, and 1614, James objected to efforts in the House of Commons “to argue and debate publicly of the matters far above their reach and capacity.” He commanded “that none therein shall presume henceforth to meddle with anything concerning our government or deep matters of State, and

*Contemporaries* (rev. ed.) (London: Bookmarks, 1994), pp. 27–34 (Levellers). Brownists and Baptists are sometimes called Puritans. E.g., Solt, *Church and State*, pp. 119, 146.

<sup>32</sup> James I, “Basilikon Doron,” in Charles H. McIlwain (ed.), *The Political Works of James I* (Cambridge, Mass.: Harvard University Press, 1918), pp. 3, 7, 6; A Proclamation against Excesse of Lavish and Licentious Speech of Matters of State (Dec. 24, 1620), in Larkin and Hughes, *Stuart Royal Proclamations*, pp. 1:495, 496; A Proclamation against Excesse of Lavish and Licentious Speech of Matters of State (July 26, 1621), *ibid.*, p. 1:519; accord Clegg, *Caroline Church*, pp. 14–15.

<sup>33</sup> A Proclamation Concerning Such as Seditiously Seeke Reformation in Church Matters (Oct. 24, 1603), in Larkin and Hughes, *Stuart Royal Proclamations*, p. 1:60; *ibid.*, 1:243 (Mar. 25, 1610), 355 (Nov. 8, 1615); see David Cressy, *Dangerous Talk: Scandalous, Seditious, and Treasonable Speech in Pre-Modern England* (Oxford: Oxford University Press, 2010), pp. 109–14; Kenneth Fincham, *Prelate as Pastor: The Episcopate of James I* (Oxford: Clarendon Press, 1990), pp. 212, 213–14, 240–41, 246–47. For depriving radicals, see *ibid.*, pp. 212–14.

namely not to deal with our dearest son's match with the daughter of Spain."<sup>34</sup> The Commons responded with a petition that said that "your Majesty doth seem to abridge us of the ancient liberty of Parliament for freedom of speech, . . . the same being our ancient and undoubted right." James indignantly replied that "you usurp upon our prerogative royal, and meddle with things far above your reach." He added that "we cannot allow of . . . calling it 'your ancient and undoubted right,'" because "your privileges were derived from the grace and permission of our ancestors and us."<sup>35</sup> The House's Protestation, in response, asserted instead that "every member of the House of Parliament hath and of right ought to have freedom of speech, to propound, treat, reason." The Protestation so enraged James that he had the primary author, Sir Edward Coke, arrested and confined in the Tower of London, and later personally tore it out of the parliamentary journal.<sup>36</sup>

James and Charles periodically prosecuted dissident speech, which was often in religious terms, as seditious or heretical. In this, James marked a turning point from the Tudors, whose major prosecutions had been mostly for high treason. The major prosecutions during James's reign instead involved religious heresy and criticism of his foreign policy. In that period, for example, two men were convicted of denying the trinity (bringing James the dubious distinction of reigning over the last burning at the stake for heresy in England), and a lawyer was convicted for censuring the war waged by the king's daughter and son-in-law for the crown of Bohemia and for applauding the defeat of Protestant forces in Prague.<sup>37</sup> Charles continued the new direction, with six major

<sup>34</sup> James I to the Speaker (Dec. 3, 1621), in J. R. Tanner (ed.), *Constitutional Documents of the Reign of James I* (Cambridge: Cambridge University Press, 1930), p. 279; Harold Hulme, "The Winning of Freedom of Speech by the House of Commons," (1956) 61 *American Historical Review*, pp. 825, 826–53; Colclough, *Freedom of Speech*, pp. 120–95. James did the same in 1624.

<sup>35</sup> Commons' Petition (Dec. 9, 1621), in Tanner, *Constitutional Documents*, pp. 280, 283; King's Answer (Dec. 11, 1621), *ibid.*, pp. 283, 286.

<sup>36</sup> Protestation of the House of Commons (Dec. 18, 1621), in Prothero, *Select Statutes*, pp. 313, 314; Privy Council to Lieutenant of Tower (1621), in Steve Sheppard (ed.), *The Selected Writings of Sir Edward Coke* (Indianapolis, Ind.: Liberty Fund, 2003), p. 3:1329; Sommerville, "Parliament, Privilege," pp. 56, 76; Tanner, *Constitutional Documents*, p. 275.

<sup>37</sup> Cases of Bartholomew Legatt and Edward Wightman, (1612) 2 State Trials 727; Proceedings in Parliament against Edward Floyde, (1621) 2 State Trials 1154 (H.L.); Solt, *Church and State*, p. 160. Another case involved the Commons objecting to a bishop's speech in the Lords criticizing the Commons. Proceedings against Dr. Richard Neile, (1614) 2 State Trials 866 (H.C.).

prosecutions for speech, and more for publications, along with less celebrated proceedings. The prosecutions of words during Charles's reign involved censorious words about the king's government, his ministers, the nobility, and members of Parliament. In that period, for example, a merchant was found guilty of seditious words for saying that Turkey treated merchants better than England did, and Sir John Eliot and two other members of the House of Commons were convicted of resisting the king's command to adjourn Parliament by physically holding the speaker in his chair until resolutions critical of the king could be approved, and of libeling some of the king's ministers.<sup>38</sup> A Scottish lord was prosecuted for speeches against other peers, "tending to the sowing of Sedition betwixt his majesty and the said noblemen," and a parson was charged with words bringing a judge into "scandal, ignominy, contempt, and vile character."<sup>39</sup> A bishop was convicted by Star Chamber for leaking information from the Privy Council and spreading false news "to the scandal of his majesty's Government."<sup>40</sup>

Like his father, Charles tried to bring religious harmony by proclamation, soon after his accession, and then again thirteen years later.<sup>41</sup> He also issued proclamations against dissident publications, particularly religious ones, and prosecuted printers and authors, again particularly religious ones, as Chapter 2 will discuss.

### The Puritan Revolution and Dissident Speech

Conflict between the royalist side – Charles I and the dominant party in the Church of England – and the parliamentary or Puritan side – the majority of Parliament and the Puritans and others – turned into the clash of royalist and parliamentary armies during the first and second civil wars

<sup>38</sup> Proceedings against Mr. Richard Chambers, (1629) 3 State Trials 374 (Star Chamber); Proceedings against Sir John Elliot, Denzil Hollis, Esq. and Benjamin Valentine, (1629) 3 State Trials 294 (K.B.); Brooks, *Law, Politics*, pp. 180–85.

<sup>39</sup> Trial of James Lord Uchiltrie, (1631) 3 State Trials 426 (Curia Justiciariae Edinburgh); Trial of Thomas Harrison, (1638) 3 State Trials 1370 (K.B.).

<sup>40</sup> Proceedings in the Star-Chamber against Dr. John Williams, (1637) 3 State Trials 770 (Star Chamber). See Proceedings against Roger Manwaring, (1628) 3 State Trials 335 (Parl.) (in an act of parliamentary rebellion, another prelate was impeached by Parliament for sermons supporting the king's demands for forced loans and his claims to be not subject to the laws, which was alleged to cause "sedition, and division in the kingdom").

<sup>41</sup> A Proclamation for the Establishing of the Peace and Quiet of the Church of England (1626), in Larkin and Hughes, *Stuart Royal Proclamations*, pp. 290, 92–93; Proclamation on Religion (1639), in Gardiner, *Constitutional Documents*, p. 232.

(1642–46 and 1647–48).<sup>42</sup> They culminated in Charles's trial and beheading in January 1649. The causes of civil war have been debated for three and a half centuries. Whether whigs and revisionists were accurate in calling the civil wars "the last of the Wars of Religion" or claiming that "[r]eligious issues precipitated action in the 1640s,"<sup>43</sup> or whether post-revisionists and others were accurate in disagreeing,<sup>44</sup> the religious divisions between the royalist side and the Puritan side were real and sharp.<sup>45</sup> Hence many through the years have called the conflict the "Puritan revolution."<sup>46</sup>

In the midst of that revolution, liberty was discussed in three series of debates within the parliamentary army, at three encampments.<sup>47</sup> The

<sup>42</sup> Winship, *Hot Protestants*, pp. 130–44, 116–17; Austin Woolrych, *Britain in Revolution, 1625–1660* (Oxford: Oxford University Press, 2002), pp. 155–394, 402–21; Ronald Hutton, *The Royalist War Effort, 1642–1646* (2nd ed.) (London: Longman, 1999); Routley, *English Religious Dissent*, p. 84.

<sup>43</sup> John Morrill, "The Religious Center of the English Civil War," in John Morrill (ed.), *The Nature of the English Revolution* (New York: Longman, 1993), pp. 33, 63, 68; accord John Morrill, "Renaming England's Wars of Religion," in Charles W. A. Prior and Glenn Burgess (eds.), *England's Wars of Religion, Revisited* (Farnham: Ashgate, 2011), p. 307; Andrew Foster, *The Church of England 1570–1640* (London: Longman, 1994), pp. 79–80; accord Glenn Burgess, "Was the English Civil War a War of Religion? The Evidence of Political Propaganda," (1998) 61 *Huntington Library Quarterly*, pp. 173, 175, 197, 201; Watts, *Dissenters*, p. 106; Woolrych, *Britain in Revolution*, p. 250.

<sup>44</sup> Glenn Burgess, "Introduction: Religion and the Historiography of the English Civil War," in Prior and Burgess, *England's Wars*, p. 1; Ann Hughes, *The Causes of the English Civil War* (New York: St. Martin's Press, 1998), pp. 114–16; Kevin Sharpe, *The Personal Rule of Charles I* (New Haven, Conn.: Yale University Press, 1992), p. 933; Julian Davies, *The Caroline Captivity of the Church* (Oxford: Clarendon Press, 1992), pp. 313–18.

<sup>45</sup> Woolrych, *Britain in Revolution*, pp. 250, 400; Cressy, *England on Edge*, pp. 134–48; Routley, *English Religious Dissent*, p. 84. That is particularly true when elided sections showing religious beliefs are restored to participants' writings, from which they were silently removed. Blair Worden, *Roundhead Reputations; The English Civil Wars and the Passions of Posterity* (London: Allen Lane, 2001), pp. 12, 45 (Edmund Ludlow), 63 (Milton, Baxter, Fairfax), 159 (John Barkstead), 15, 62 (Cromwell).

<sup>46</sup> E.g., Worden, *Roundhead Reputations*, p. 270; Gardiner, *Constitutional Documents of the Puritan Revolution*; Burgess, "English Civil War," p. 176.

<sup>47</sup> A. S. P. Woodhouse (ed.), *Puritanism and Liberty: Being the Army Debates (1647–9) from the Clarke Manuscripts* (3rd ed.) (London: Dent, 1986), pp. 409–20 (Reading debates), 1–124 (Putney debates), 125–78 (Whitehall debates); Michael Mendle (ed.), *The Putney Debates of 1647* (Cambridge: Cambridge University Press, 2001); Jonathan Scott, *England's Troubles* (Cambridge: Cambridge University Press, 2000), pp. 277–81; J. C. Davis, "Religion and the Struggle for Freedom in the English Revolution," (1992) 35 *Historical Journal*, p. 507; Austin Woolrych, *Soldiers and Statesmen: The General Council of the Army and Its Debates, 1647–1648* (Oxford: Clarendon Press, 1987), pp. 153–67, 214–76; Mark A. Kishlansky, "Consensus Politics and the Structure of

Reading debates, in July 1647, focused on arrangements for settling the king's and people's rights. The Putney debates, in October and November 1647, centered on political liberty and parliamentary reform. After a delay resulting from the second Civil War, the Whitehall debates, in December 1648 and January 1649, were devoted to religious freedom. The debates themselves were an exercise in freedom of speech, including freedom of petition, and showed the growth of affirmation of those freedoms.<sup>48</sup>

Freedom of petition figured significantly in those debates, because petitions to the king or to Parliament were the most common form of speech outside Parliament. Shortly before the Reading debates, the nine proposals in the "Representation of the Army" included "the right and freedom of the people to represent to the Parliament, by way of humble petition their grievances."<sup>49</sup> Freedom of petition needed legal protection because petitions often resulted in criminal prosecution for seditious words or seditious libel.<sup>50</sup> Regimental agitators pointed to such prosecutions, three months later, in demanding repeal of "all the orders, votes, ordinances, or declarations, that have passed either to discountenance petitions, suppress, prevent, or burn petitions, imprison or declare against petitioners, being dangerous precedents against the freedom of the people."<sup>51</sup> After the Reading debates, "The Heads of the Proposals" were sent to Parliament and also included a demand for "liberty of the people to represent their grievances and desires by way of petition." Other position statements during the debates reaffirmed freedom of petition and called for its legal protection.<sup>52</sup> In the Putney debates, the people's

Debate at Putney," (1981) 20 *Journal of British Studies*, p. 50; Mark A. Kishlansky, "The Army and the Levellers: The Roads to Putney," (1979) 22 *Historical Journal*, p. 795; C. H. Firth (ed.), *The Clarke Papers* (London: Camden Society, 1891-1901).

<sup>48</sup> Putney Debates, Woodhouse, *Puritanism*, pp. 17, 31, 46, 84.

<sup>49</sup> [Henry Ireton], A Representation of the Army (June 14, 1647), in Woodhouse, *Puritanism*, pp. 403, 408; Woolrych, *Soldiers*, pp. 117, 126-27; William Haller and Godfrey Davies (eds.), *The Leveller Tracts 1647-1653* (New York: Columbia University Press, 1944), pp. 11-13.

<sup>50</sup> The Grievances of Regiments, Presented at Saffron Walden (May 13-14, 1647), in Woodhouse, *Puritanism*, p. 399; Richard Overton, An Appeal from the Commons to the Free People (1647), in *ibid.*, pp. 323, 328; Mark A. Kishlansky, *The Rise of the New Model Army* (Cambridge: Cambridge University Press, 1979), pp. 282, 288.

<sup>51</sup> [John Wildman], The Case of the Army Truly Stated (Oct. 15, 1647), in Woodhouse, *Puritanism*, pp. 429, 434; see Woolrych, *Soldiers*, pp. 207-09.

<sup>52</sup> The Heads of the Proposals (Aug. 1, 1647), Woodhouse, *Puritanism*, pp. 422, 424; Kishlansky, *Rise*, pp. 272, 288; e.g., Grievances of Regiments, Presented at Saffron Walden (May 13-14, 1647), in Woodhouse, *Puritanism*, p. 399.

freedom of speech via petition and parliamentary freedom of speech and debate were briefly discussed,<sup>53</sup> but other issues predominated.

What followed these debates was an epitome of the failure of Puritan government. General Fairfax sent a letter from Putney insisting that Parliament repress the “scandalous and abusive” pamphlets and “the poisonous writings of evil Men sent abroad daily.” In less than a week, the Commons penalized unlicensed publications, punishing writers with forty-day imprisonments or forty-shilling fines, punishing printers with destruction of printing equipment and twenty-shilling fines, punishing booksellers with ten-shilling fines, punishing hawkers with whippings, and instructing officials to enforce the censorship law and to search suspected homes without warrants. Two years later, in January 1649, the Rump Parliament ordered renewed enforcement of that law.<sup>54</sup> Following Charles I’s death that same month, a series of short-term experiments in republican government filled the next decade – the Rump Parliament, the Council of State, the Little Parliament, the newly elected Parliaments, the Protectorate of Oliver Cromwell, succession by his son, and briefly again the Rump Parliament – until Charles II was restored to the throne in 1660.<sup>55</sup> Those experiments failed miserably, as Parliament was manipulated and dismissed, as one man ruled in its place, and as freedoms were generally not expanded but restricted. Instead of protection of speech, some critics were arrested, jailed, and prosecuted. For example, John Lilburne and John Wildman were confined in the Tower for a Leveller petition critical of Parliament.<sup>56</sup> Lilburne was returned to confinement because of the publication of another Leveller petition, *Englands New Chains Discovered* in early 1649, and Richard Overton, William Walwyn, and Thomas Prince joined him in the Tower

<sup>53</sup> An Agreement of the People [3rd] (Nov. 3, 1647), in Woodhouse, *Puritanism*, pp. 443, 444; The Heads of the Proposals, *ibid.*, pp. 422, 423; [Henry Ireton], A Remonstrance of Fairfax and the Council of Officers (Nov. 16, 1648), *ibid.*, pp. 456, 463; Woolrych, *Soldiers*, 249, 279; Kishlansky, *Rise*, p. 18.

<sup>54</sup> Don M. Wolfe (ed.), *Leveller Manifestoes of the Puritan Revolution* (New York: Nelson, 1944), p. 323.

<sup>55</sup> Blair Worden, *The Rump Parliament, 1648–1653* (Cambridge: Cambridge University Press, 1974), pp. 328–44; G. E. Aylmer, *Rebellion or Revolution? England 1640–1660* (Oxford: Oxford University Press, 1986), pp. 156–60, 163–89; Woolrych, *Britain in Revolution*, pp. 428–40, 452–63, 501–3, 537–44, 640–42, 688–702, 707–26.

<sup>56</sup> Aylmer, *Rebellion or Revolution*, pp. 135–36, 148–49; Woolrych, *Britain in Revolution*, pp. 442–44, 545–47, 643.

over that publication.<sup>57</sup> Instead of offering freedom of press, suppression of unofficial newspapers was rigorous, and licensing of the press was reimposed with periodic lapses, though the number of prosecutions was modest.<sup>58</sup> Freedoms of speech and press were further assaulted by additional broad laws against treason. The inability of the Puritan Revolution to protect such important freedoms as speech, press, petition, and conscience was part of what Jonathan Scott called “the inability of the revolution to successfully define itself institutionally during the interregnum that accounted for its *constitutional* failure.”<sup>59</sup>

### The Later Stuarts and Dissident Speech

The restoration<sup>60</sup> of Charles II to the throne in 1660 gave him, and the Convention and Cavalier Parliaments, the opportunity to rebuild the English state differently from the absolutism of the earlier Stuarts and of the Interregnum. Constitutional limits could have been placed on the monarch and, for that matter, on Parliament. Rights of the subjects could have been secured, including rights of speech, press, and conscience. That opportunity was spurned. Instead, Charles II looked backward to the powers of the earlier Stuarts, and southward as well to the absolutist state in France.<sup>61</sup> He and the Cavalier Parliament rebuilt church and state on earlier Stuart lines, including the premise that speech, press, and conscience must be restricted to have a viable state.

<sup>57</sup> William Walwyn, “Walwyn’s Just Defence” (post-May 1649), in Haller, *Leveller Tracts*, p. 350; John Lilburne, “The Legall Fundamentall Liberties of the People of England” (June 8, 1649), *ibid.*, p. 399; Trial of Lieutenant-Colonel John Lilburne, (1649) 4 State Trials 1270 (Commission of Oyer and Terminer).

<sup>58</sup> The leading ones, besides those of John Lilburne, were Case of David Jenkins, (1647) 4 State Trials 922; Proceedings against Sir Henry Vane, (1656) 5 State Trials 791 (Council); Cressy, *Dangerous Talk*, pp. 303–9.

<sup>59</sup> An Act Declaring What Offences Shall Be Adjudged Treason (1649), in Gardiner, *Constitutional Documents*, pp. 388, 389; Cressy, *Dangerous Talk*, pp. 197, 199–202; Scott, *England’s Troubles*, 35.

<sup>60</sup> J. G. A. Pocock, “Interregnum and Restoration,” in J. G. A. Pocock (ed.), *The Varieties of British Political Thought, 1500–1800* (Cambridge: Cambridge University Press, 1996), pp. 146, 283–320; Ronald Hutton, *The Restoration: A Political and Religious History of England and Wales, 1658–1667* (Oxford: Clarendon Press, 1985).

<sup>61</sup> Paul Seaward, *The Cavalier Parliament and the Reconstruction of the Old Regime, 1661–1667* (Cambridge: Cambridge University Press, 1989), pp. 34, 16–17; Steven C. A. Pincus, 1688: *The First Modern Revolution* (New Haven, Conn.: Yale University Press, 2009), p. 6; John Childs, “1688,” (1988) 73 *History* 398, 399; Richard Ashcraft, *Revolutionary Politics and Locke’s Two Treatises of Government* (Princeton, N.J.: Princeton University Press, 1986), p. 235.

Consequently, freedom of speech was restricted by the very first enactment of the Cavalier Parliament, as the Act for Preservation of the King criminalized words as treason, on the premise that “the late troubles and disorders did in a very great measure proceed from a multitude of seditious sermons, pamphlets and speeches.” It remained high treason “by any printing, writing, preaching malicious and advised speaking” to “imagine, invent, devise or intend” harm to the king; and it was sedition for words spoken or published to call the king “a heretic or a papist,” or to “incite or stir up the people to hatred or dislike of the person of his Majesty or the established government.”<sup>62</sup> Speech was further restricted by the Act against Tumultuous Petitioning in 1661. Its premise, like that of the Act for Preservation of the King, was that “petitions, complaints, remonstrances and declarations . . . have been made use of to serve the ends of factious and seditious persons” and were a major cause of civil war. That law made it a crime to gather more than twenty signatures to a petition (unless authorized in advance by certain officials), or to deliver a petition accompanied by more than ten persons.<sup>63</sup> As the “popish plot” and the exclusion crisis brought parliamentary conflict with the monarch during 1678–79, Charles II issued a proclamation entirely prohibiting petitions to the king.<sup>64</sup> The Commons reacted by expelling a member who denied the “natural right” and “undoubted right of the subject to petition the king to reform grievances.” Undeterred, James II sought to suppress the right of petition ever further by prosecuting seven bishops for their deferential petition to the king, for relief from his requirement to read his declaration indulging religious Nonconformists, and treated their petition as seditious libel.<sup>65</sup> When the judges in the case split evenly over whether the bishops’ request was a libel, the jury was left to judge that issue and found the bishops not guilty.

<sup>62</sup> 13 Car.II, stat.1, c.1 (1661); David C. Douglas (ed.), *English Historical Documents* (New York: Oxford University Press, 1953–69), p. 8:63 (hereinafter *EHD*).

<sup>63</sup> 13 Car.II, stat.1, c.5 (1661); *EHD*, p. 8:66.

<sup>64</sup> Robert Steele (ed.), *Tudor and Stuart Proclamations 1485–1714* (Oxford: Clarendon Press, 1910), p. 1:449 (No. 3703, 1679); Harold Weber, *Paper Bullets: Print and Kingship under Charles II* (Lexington: University Press of Kentucky, 1996), pp. 167–69.

<sup>65</sup> Anchitell Grey (ed.), *Debates of the House of Commons, from the Year 1667 to the Year 1694* (London: D. Henry, 1763), pp. 7:370, 388, 389; Order in Council (1688), *EHD*, p. 8:83; Petition of the Seven Bishops (1688), *EHD*, p. 8:84; Trial of the Seven Bishops, (1688) 12 State Trials 183 (K.B.); John Miller, *James II* (3rd ed.) (New Haven, Conn.: Yale University Press, 2000), pp. 185–88.



Likewise, freedom of press was restricted by the Licensing Act of 1662, which closely emulated the Star Chamber's decree of 1637 and which reaffirmed earlier assumptions that the state must be protected from dissenting publications.<sup>66</sup> Other restrictions of the press are summarized in the next chapter.

Freedom of conscience was restricted as well, despite Charles II's initial promise of "liberty of tender consciences" and that "no man shall be disquieted or called in question for differences of opinion in matters of religion which do not disturb the peace." He made that promise in the Declaration of Breda in 1660, and expanded upon it by the Declaration in Favor of Toleration two years later.<sup>67</sup> Those gestures were merely expedient, as Charles II inherited a kingdom divided on religious fault lines deep enough to have produced a revolution and overthrown a monarchy.<sup>68</sup> In actuality, he "agreed that Dissent was politically and socially subversive." The king quickly issued a proclamation against "seditious meetings and conventicles under pretence of religious worship," and then assented to laws punishing Nonconformists and ordered strict enforcement.<sup>69</sup> Another measure of expedience, Charles II's Declaration of Indulgence in 1672, showed the extent of prior persecution, as the king released 491 imprisoned Nonconformists and licensed 1,610 Nonconformist preachers.<sup>70</sup> Parliament quickly undid toleration and strengthened persecution of Nonconformists with new laws.<sup>71</sup> The king's insincerity was

<sup>66</sup> 13–14 Car. 2, c.33 (1662); *EHD*, p. 8:67; Michael Treadwell, "The Stationers and the Printing Act at the End of the Seventeenth Century," in Bernard et al., *Cambridge History of the Book in Britain*, pp. 4:755, 755–65; Weber, *Paper Bullets*, pp. 152–53.

<sup>67</sup> Gardiner, *Constitutional Documents*, 465; *EHD*, p. 8:57 (1660), 371 (1662); Aylmer, *Rebellion or Revolution*, p. 201; Scott, *England's Troubles*, pp. 60–61.

<sup>68</sup> Seaward, *Cavalier Parliament*, pp. 32–34; John Miller, *Charles II* (London: Weidenfeld, 1991), pp. 56–57; Childs, "1688," pp. 402–3; John Miller, *Popery and Politics in England, 1660–1688* (Cambridge: Cambridge University Press, 1973), p. 261.

<sup>69</sup> Miller, *Charles II*, p. 56; Steele, *Tudor and Stuart Proclamations*, p. 1:393 (no. 3278, 1661); *EHD*, pp. 8:375, 377, 382, 384, 389, 391; Steele, *Tudor and Stuart Proclamations*, pp. 1:424 (no. 3514, 1668), 426 (no. 3529, 1669), 437 (no. 3608, 1675); Ashcraft, *Revolutionary Politics*, pp. 35, 22; Watts, *Dissenters*, p. 250.

<sup>70</sup> *EHD*, p. 8:387 (1672); Watts, *Dissenters*, pp. 244–49; Richard L. Greaves, *Enemies under His Feet: Radicals and Nonconformists in Britain, 1664–1677* (Stanford, Calif.: Stanford University Press, 1990), pp. 165, 225. On persecution, see Doran, *Princes, Pastors*, 134; Woolrych, *Britain in Revolution*, 791; Watts, *Dissenters*, 248–49; William C. Braithwaite, *The Second Period of Quakerism* (2nd ed.) (Cambridge: Cambridge University Press, 1961; repr. 2008), pp. 21–54, 88–115.

<sup>71</sup> Address of Parliament (1673), *EHD*, p. 8:78; Scott, *England's Troubles*, pp. 60–61; Miller, *Popery and Politics*, p. 125. For new laws, 25 Car.2, c.2; First Test Act (1673), *EHD*, p. 8:389; 30 Car.2, stat.2, c.1; Second Test Act (1678), *EHD*, p. 8:391; Ronald

shown as he withdrew the Declaration of Indulgence the next year in order to get parliamentary appropriations.<sup>72</sup> The fate of toleration was sealed until after the Revolution of 1688, as the alleged “popish plot” heightened fears and repression of Catholicism, as the exclusion crisis heightened fears of succession to the throne by the Catholic James II,<sup>73</sup> and then as the newly crowned King James II took steps to protect Catholics and, incidentally, Protestant Nonconformists.<sup>74</sup>

Further restriction of freedom of conscience came out of restoring the Church of England to its prior beliefs and practice, as Charles II issued the Worcester House Declaration in 1660 and reinstated a single church subordinate to the king as its head. Soon after that, the Cavalier Parliament enacted the Clarendon Code to enforce uniformity of faith and practice, by imposing four criminal restrictions on Nonconformists.<sup>75</sup> The Act of Uniformity expelled them from the established clergy (causing Puritans and other Nonconformists to be deprived of their offices and livings), and the Corporation Act excluded them from local office. The Conventicle Act fined and imprisoned Nonconformist preachers and worshippers, and the Five Mile Act forced those preachers away from their former parishes and other towns.<sup>76</sup>

Hutton, *Charles the Second* (Oxford: Clarendon Press, 1989), pp. 274–75; Miller, *Popery and Politics*, pp. 125, 163.

<sup>72</sup> Speech to Both Houses (Mar. 8, 1673), in Sir Arthur Bryant (ed.), *The Letters Speeches and Declarations of King Charles II* (London: Cassell, 1968), p. 2:263.

<sup>73</sup> Trials for the Popish Plot, (1678) 6 State Trials 1402; Scott, *England’s Troubles*, pp. 182–204; Richard L. Greaves, *Secrets of the Kingdom: British Radicals from the Popish Plot to the Revolution of 1688–89* (Stanford, Calif.: Stanford University Press, 1992), pp. 5–52; Miller, *Popery and Politics*, pp. 154–88; Michael P. Zuckert, *Natural Rights and the New Republicanism* (Princeton, N.J.: Princeton University Press, 1994), p. 100; Ashcraft, *Revolutionary Politics*, pp. 137–41; J. P. Kenyon, *The Popish Plot* (London: Heinemann, 1972), pp. 45–76.

<sup>74</sup> Speech of James II (1685), in *EHD*, p. 8:81; Declaration of Indulgence (1687), in *EHD*, p. 8:395; Steele, *Tudor and Stuart Proclamations*, 1:465 (no. 3843, 1687); Tim Harris, *Politics under the Later Stuarts* (London: Longman, 1993), pp. 80–116; Scott, *England’s Troubles*, 182–204; W. A. Speck, *Reluctant Revolutionaries: Englishmen and the Revolution of 1688* (Oxford: Oxford University Press, 1988), pp. 173–74; Miller, *Popery and Politics*, pp. 201–3, 208–15, 261; Watts, *Dissenters*, p. 257; J. R. Jones, *The First Whigs* (Oxford: Oxford University Press, 1961), pp. 20–33, 34–182.

<sup>75</sup> Worcester House Declaration (1660), *EHD*, p. 8:365; I. M. Green, *The Re-establishment of the Church of England 1660–1663* (Oxford: Oxford University Press, 1978), pp. 29–30; Doran, *Princes, Pastors*, pp. 133–34; Ashcraft, *Revolutionary Politics*, p. 22; Watts, *Dissenters*, pp. 227–37.

<sup>76</sup> Corporation Act (1661), 13 Car.2, stat.2, c.1; Act of Uniformity (1662), 14 Car.2, c.4; Conventicle Act (1670), 22 Car.2, c.1; Five Mile Act (1665), 17 Car.2, c.2; *EHD*, pp. 8:375, 377, 384, 382; Greaves, *Enemies*, pp. 129–34; Routley, *English Religious*

These renewed restrictions on speech, press, and conscience stimulated continued demands for their protection, but that only brought partial success with the Toleration Act in 1689 and the end of press licensing in 1695. Greater successes came in America with the new states' declarations of rights and then the Bill of Rights and its protections for freedoms of speech, press, and religious exercise.

#### ASSERTIONS OF A LIBERTY OF SPEECH IN PURITAN THEOLOGY

Those sixteenth-century royal restrictions on liberty of speech provoked claims that not only Parliament but the clergy and the people of England had a liberty of speech that church and state should not deny. Those claims were made by the Puritans throughout most of the sixteenth century and all of the seventeenth century.

#### Sixteenth-Century Claims of Liberty of Speech

Those English people who were educated in the classics encountered brief references to boldness or liberty of speech. Books on rhetoric typically referred to liberty of speech, and plays by Euripides did as well.<sup>77</sup> Besides classical works in the original Greek and Latin, translations began to be printed in the sixteenth century of classics that mentioned "libertie of speech," by Demosthenes, Isocrates, Cicero, Plutarch, and others. Those noted the need for each person "to saye his minde," and "to give his counsell," to protect "the country's welfare," or in Cicero's words, to make "utteraunce at will." A treatise on government by Sir Thomas Elyot, a diplomat, reiterated the importance of liberty of speech in informing rulers of problems, warning of the damage done "to pryncís [princes] and theyr realmes, where libertie of speche hath ben restrained."<sup>78</sup>

*Dissent*, pp. 112–14; see generally John Spurr, *The Restoration Church of England, 1646–1689* (New Haven, Conn.: Yale University Press, 1991).

<sup>77</sup> Colclough, *Freedom of Speech*, pp. 60, 12–76; e.g., John Smith, *The Myserie of Rhetorique Unveil'd* (London: E. Cotes, 1665), p. 212; John Prideaux, *Sacred Eloquence; or, The Art of Rhetorick* (London: W. Wilson, 1659), p. 62.

<sup>78</sup> Demosthenes, *The Three Orations of Demosthenes Chiefe Orator among the Grecians*, trans. Thomas Wylson (London: Henrie Denham, 1570), p. 18; Marcus Tullius Cicero, *A Panoplie of Epistles*, trans. Abraham Flemming (London: Ralph Newberie, 1576), p. 170; accord Isocrates, *The Doctrinal of Princes*, trans. Thomas Eliot (London: Thomas Berthelet, 1550), p. 4A; Plutarch, *The Education or Bringing Up of Children*, trans. Thomas Eliot (London: Thomas Berthelet, 1532), image 23; Thomas Elyot, *The Boke Named the Governour* (London: Thomas Berthelet, 1537), p. 2:108 (vol. 1 was 1531).

However, in that century by far the most common books referring to freedom of speech in England were Christian religious works, not classical works. Erasmus, in his paraphrase of the New Testament, described the apostles' "libertie of speache" in proclaiming "that Jesus was the saviour of the worlde." Bishop John Fisher, in a treatise on prayer published after his beheading by Henry VIII, spoke of "libertie of speache," and Thomas Stapleton, a less known Catholic prelate, pointed out that John the Baptist "died for the like liberty and fredome of speache" after he rebuked the adultery of King Herod.<sup>79</sup> Protestants particularly claimed a liberty of speech, as they challenged the Roman Catholic faith. Published sermons of Heinrich Bullinger, the Swiss reformer, preached that Jesus Christ taught "with greate libertie of speache," and sermons of Rudolf Gwalther, another Swiss Protestant theologian, said that "libertie and fraedome of speach ought to be in the ministers of the worde to accuse publike offences." Zacharias Ursinus, the author of the Heidelberg Catechism, included in his comments on it that "Truth comprehends *liberty of speech*, or boldness." Amid England's religious ferment following Henry VIII's break with Rome, others, particularly those favoring full reformation of the Church of England, similarly claimed a biblical basis for liberty of speech.<sup>80</sup> By contrast, some Church of England bishops resisted that trend, such as William Alley, who described Demochares's jibe at King Phillip as words that "savoured of to[o] much liberty of speech," and Thomas Bilson, who wished to stop the mouths of hereticks "to barre them freedom of speach," though not to harm them.<sup>81</sup>

<sup>79</sup> Desiderius Erasmus, *The Paraphrase of Erasmus upon the Neue Testamente* (London: Edwarde Whitchurch, 1548), s.v. Acts 9; John Fisher, *A Godlie Treatise Declaryng the Benefites, Fruites, and Great Commodities of Prayer* (London: John Cawood, 1560), image 35; Thomas Stapleton, *A Counterblast to M. Hornes Vayne Blaste* (Lovanii: Foulurum, 1567), pp. 308B–309A.

<sup>80</sup> Heinrich Bullinger, *Fiftie Godlie and Learned Sermons* (London: Ralphe Newberrie, 1577), p. 684; Rudolf Gwalther, *An Hundred, Threescore and Fiftene Homelyes or Sermons* (London: Henrie Denham, 1572), p. 109; Zacharias Ursinus, *Commentary of Dr. Zacharias Ursinus on the Heidelberg Catechism*, trans. G. W. Williard (Columbus, Ohio: n.p., 1852) (original 1563); see also Walter Haddon, *Against Jerome Osorius* (London: John Daye, 1581), p. 17; Zacharias Ursinus, *The Summe of Christian Religion* (Oxford: Joseph Barnes, 1587), p. 994; Pierre Merlin, *A Most Plaine and Profitable Exposition of the Booke of Ester* (London: Thomas Creed, 1599), p. 286.

<sup>81</sup> William Alley, *Ptochomuseion: The Poore Mans Librarie* (London: John Day, 1565), s.v. Licentia.9; Thomas Bilson, *The True Difference betweene Christian Subjection and Unchristian Rebellion* (Oxford: Joseph Barnes, 1585), p. 19.

What was liberty of speech taken to mean, by these sixteenth-century writers? One form was the liberty of speech of Parliament, which John Hooker, a historian of Parliament, described as the Lords and Commons having “libertie of spéech, and freely to utter, speake and declare his minde and oppinion to any Bil or question to be proposed.” Parliamentary liberty of speech was based on classic writings, the historian John Speed noted; it was not based on religious writings.<sup>82</sup> Another form of liberty of speech was boldness – “when in the presence of those to whome otherwise wee owe dutie and reverence, wee speake boldly and confidently.”<sup>83</sup> A third form of liberty of speech was for religious preaching, worship, and discourse. That “freadome of speache” is “necessary for preachers, and they that prophesie,” to speak the truth, Peter Martyr said.<sup>84</sup> It was thwarted when people were excluded from religious assemblies or not allowed “free debate.”<sup>85</sup> That third form of liberty of speech was obviously based on religious grounds, and soon was broadened to apply not just to priests and prophets but to all people or at least to all religious people, as we will see shortly.

The burning issues of the day were, as always, politics and religion, and those were the primary areas where statements were prosecuted and where liberty of speech was claimed. “Such ought to be the liberty of

<sup>82</sup> John Hooker (Vowell), *The Order and Usage of the Keeping of a Parlement in England* (London: John Alde and John Charlewood, 1575), 26–27; accord Raphael Holinshed, *The Second Volume of Chronicles* (London: Henry Denham, 1586 [1587]), p. 128; John Speed, *The History of Great Britaine* (London: William Hall and John Beale, 1611), p. 209; Colclough, *Freedom of Speech*, pp. 194–95.

<sup>83</sup> Abraham Fraunce, *The Arcadian Rhetorike, or The Praecepts of Rhetorike* (London: Thomas Orwin, 1588), image 44; accord Eusebius, *The Auncient Ecclesiasticall Histories of the First Six Hundred Yeares after Christ* (London: Thomas Vautroullier, 1577), p. 374; John Woolton, *The Castell of Christians and Fortresse of the Faithfull* (London: J. Charlewood, 1577), image 66; Etienne Pasquier, *Monophylo*, trans. Geffray Fenton (London: Henry Deham, 1572), p. 2.

<sup>84</sup> Pietro Martire Vermigli [Peter Martyr], *Most Learned and Fruitfull Commentaries of D. Peter Martir* (London: John Daye, 1568), p. 331A; accord William Allen, *A True, Sincere and Modest Defence, of English Catholiques* (Rouen: Parsons’ Press, 1584), p. 89 (a Catholic, who wrote that freedom of speech “have bene from the beginning graunted by God, as wel ordinarie to Priestes, as extraordinarie to some Prophets and religious persons, in al ages and times, both of the new & old testament”); Erasmus, *Paraphrase*, s. v. Acts 9.

<sup>85</sup> John Jewel, *The Apology of the Church of England* (London: T.H., 1685, translating 1562 work). The terms “freedom of speech” and “liberty of speech” were generally used interchangeably. E.g., Anon. [perhaps Sir John Suckling], *The Cobby of a Letter Written to the Lower House of Parliament Touching Divers Grievances* (London: John Dawson, 1641), p. 3.

speech in every well governed commonweale” that it was used to condemn vice, Stephen Gosson wrote, as for example when Daniel warned Nebuchadnezzar that “we will not serve thy goddes nor do reverence unto that Image” of gold, when Old Testament prophets condemned “the corrupt Judges,” and when John the Baptist decried the ruler’s sin.<sup>86</sup> Criticism of the state church, the Church of England, addressed both politics and religion. Liberty of speech was prayed for to “rebuke al false doctrine, blasphemous superstition, and abuses in thy Church,” by Johann Habermann and three years after by Thomas Bentley.<sup>87</sup> An often-repeated example was the prophet Isaiah “rebuking the synne of the pryncis and people” and because of his exercise of “libertie of speche” being sawed in half.<sup>88</sup>

### The Roles of Classical *Parrhesia* and Biblical *Parrhesia*

The Greek term *parrhesia* was defined by a 1612 dictionary as “courage, or liberty of speech.” The term was similarly defined by seventeenth-century works on rhetoric as “liberty or boldnesse of speaking”<sup>89</sup> and by modern discussions of Greek classics and scriptures.<sup>90</sup> The related verb *parrhesiazomai* meant speaking confidently or boldly or freely, and the noun *parrhesiastes* meant “one who speaks the truth” or “he who speaks

<sup>86</sup> Stephen Gosson, *Playes Confuted in Five Actions* (London: for Thomas Gosson, 1582), image 39; Pietro Martire Vermigli [Peter Martyr], *A Treatise of the Cohabitacyon of the Faithfull and the Unfaithfull* (Strasbourg: W. Rihel, 1555), p. 79A; Andreas Hyperius, *The Practise of Preaching* (London: Thomas East, 1577), p. 165; Stapleton, *Counterblast*, pp. 308B–309A; Gwalther, *Hundred*, p. 204.

<sup>87</sup> Johann Habermann, *The Enimie of Securitie or a Dailie Exercise of Godly Meditations* (London: H. Denham, 1579), p. 297; Thomas Bentley, *The Monument of Matrones* (London: H. Denham, 1582), p. 528.

<sup>88</sup> Thomas Elyot, *Bibliotheca Eliotae* (London: Thomas Berthelet, 1542), s.v. E-S; Thomas Becon, *The Jewel of Love* (London: J. Daye and W. Seres, 1550), image 154; Thomas Becon, *The Governauce of Vertue* (London: John Day, 1566), pp. 105B–106A; John Merbecke [Marbeck], *The Lyves of Holy Sainctes* (London: Henry Denham, 1574), p. 108; Thomas Cooper, *Thesaurus Linguae Romanae & Britannicae* (London: Henry Denham, 1578), s.v. E-S.

<sup>89</sup> Thomas Wilson, *A Christian Dictionarie* (London: W. Jaggard, 1612), p. 35; Elisha Coles, *An English Dictionary* (London: Peter Parker, 1677), s.v. PA; John Smith, *The Mysterie of Rhetorique Unveil’d* (London: E. Cotes, 1665), p. 212; Prideaux, *Sacred Eloquence*, p. 62.

<sup>90</sup> E.g., Kyriakoula Papademetriou, “The Performative Meaning of the Word Parrhesia in Ancient Greek and in the Greek Bible,” in Peter-Ben Smit and Eva van Urk (eds.), *Parrhesia: Ancient and Modern Perspectives on Freedom of Speech* (Leiden: Brill, 2018), pp. 15–38.

freely.” In the Roman world, the Greek term *parrhesia* was used as “a Greek loanword” or was replaced by the Latin *libertas* or *licentia*.<sup>91</sup>

Various Greek and Roman writers used *parrhesia* to refer to boldness or liberty of speech. They were summarized in an outstanding study by the leading scholar in this area, David Colclough, along with their many meanings, and in famous lectures by Michel Foucault.<sup>92</sup> The classical writers were cited regularly in study and discussion of rhetoric and the classics in sixteenth- and seventeenth-century England<sup>93</sup> and were the basis for some individuals advocating freedom of speech in those centuries. Colclough identified a number of such individuals in the sixteenth and seventeenth centuries, including one Puritan, Thomas Scott, and a few other authors mentioned a lone religious advocate or two.<sup>94</sup> Other modern scholars have noted the classical mentions of *parrhesia*,<sup>95</sup> or the

<sup>91</sup> Irene van Renswoude, *The Rhetoric of Free Speech in Late Antiquity and the Early Middle Ages* (Cambridge: Cambridge University Press, 2019), pp. 14, 1, 5–6.

<sup>92</sup> Colclough, *Freedom of Speech*, pp. 2, 16–37; Michel Foucault, “Discourse and Truth” (lectures at University of California-Berkeley, Oct.–Nov. 1983) (transcript prepared and edited by others, at [foucault.info/downloads/discourseandtruth.doc](http://foucault.info/downloads/discourseandtruth.doc)), which can be compared with recordings of the lectures (<http://guides.lib.berkeley.edu/c.php?g=901488&p=6487003>); Michel Foucault, *The Government of Self and Others: Lectures at the Collège de France 1982–1983*, ed. Frédéric Gros (Basingstoke: Palgrave, 2010), pp. 41–208; Michel Foucault, *The Courage of Truth* (New York: Palgrave Macmillan, 2011), Lecture 1; see also David Colclough, “Parrhesia: The Rhetoric of Free Speech in Early Modern England,” (1999) 17 *Rhetorica: A Journal of the History of Rhetoric*, pp. 177–212; Arnaldo Momigliano, “Freedom of Speech in Antiquity,” in Philip P. Wiener (ed.), *Dictionary of the History of Ideas* (New York: Scribner, 1973), pp. 2:252–63.

<sup>93</sup> Diane Parkin-Speer, “Freedom of Speech in Sixteenth Century English Rhetorics,” (1981) 12 *The Sixteenth Century Journal*, pp. 65, 67–69; Joanne Paul, “The Use of Kairos in Renaissance Political Philosophy,” (2014) 67 *Renaissance Quarterly*, pp. 43, 48–50; Joshua Scodel, “‘None’s Slave’: Some Versions of Liberty in ‘Donne’s Satires 1 and 4,’” (2005) 72 *ELH*, pp. 363, 370–77.

<sup>94</sup> Colclough, *Freedom of Speech*, pp. 37–76, 77–102, 102–19; Jacqueline Rose, “Kingship and Counsel in Early Modern England,” (2011) 54 *Historical Journal*, pp. 47, 51; Parkin-Speer, “Freedom of Speech,” pp. 69–71.

<sup>95</sup> E.g., Peter Brown, *Power and Persuasion in Late Antiquity: Towards a Christian Empire* (Madison: University of Wisconsin Press, 1992), pp. 61–70; Cynthia N. Nazarian, *Love’s Wounds: Violence and the Politics of Poetry in Early Modern Europe* (Ithaca, N.Y.: Cornell University Press, 2016), p. 9 (chapter on “Strategies of Abjection: Parrhesia and the Cruel Beloved from Petrarch’s Canzoniere to Scève’s *Délie*”); Han Baltussen and Peter J. Davis, “Parrhesia, Free Speech, and Self-Censorship,” in Han Baltussen and Peter J. Davis (eds.), *The Art of Veiled Speech: Self-Censorship from Aristophanes to Hobbes* (Philadelphia: University of Pennsylvania Press, 2015), pp. 1, 4–13; Paul, “Use of Kairos,” 48–50; Arlene W. Saxenhouse, *Free Speech and Democracy in Ancient Athens* (New York: Cambridge University Press, 2006), pp. 85–126.



sixteenth- and seventeenth-century references to them, often following Foucault.<sup>96</sup> However, most of those modern authors who noted any classical references to *parrhesia* ignored or gave a disproportionately small number of references to *parrhesia* in the Bible or in Puritan and other theological writing. Typical modern scholars are Joris van Eijnatten, Ineke Sluiter and Ralph M. Rosen, Arlene W. Saxonhouse, Leon van den Broeke, and Irene van Renswoude.<sup>97</sup>

Biblical authors used *parrhesia* in a similar way, such as the Apostle Paul practicing great “boldness of speech” and the other apostles speaking with boldness, as Colclough recognized.<sup>98</sup> The Hebrew scriptures used parallel terms for freedom of speech, which Puritans and others also cited. Building on those biblical terms, Puritans in England claimed a right

<sup>96</sup> E.g., Torben B. Dyrberg, “Foucault on ‘Parrhesia’: The Autonomy of Politics and Democracy,” (2016) 44 *Political Theory*, pp. 265–88; Geoffrey Bennington, *Scatter 1: The Politics of Politics in Foucault, Heidegger, and Derrida* (New York: Fordham University Press, 2016), pp. 13–47; Dave Tell, “Rhetoric and Power: An Inquiry into Foucault’s Critique of Confession,” (2010) 43 *Philosophy and Rhetoric*, pp. 95, 109–10; Marlein van Raalte, “Socratic Parrhesia and Its Afterlife in Plato’s Laws,” in Ineke Sluiter and Ralph M. Rosen (eds.), *Free Speech in Classical Antiquity* (Boston: Brill, 2004), pp. 279–312.

<sup>97</sup> Sluiter and Rosen, *Free Speech in Classical Antiquity*, pp. 1–20, 197–312 (in edited book, no reference to religious basis or use of *parrhesia*); Saxonhouse, *Free Speech and Democracy in Ancient Athens*, pp. 11–54, 83–126, 207–14 (in parts of book discussing *parrhesia*, no reference to its appearance in Bible or Puritan literature); Joris van Eijnatten, “In Praise of Moderate Enlightenment: A Taxonomy of Early Modern Arguments in Favor of Freedom of Expression,” in Elizabeth Powers (ed.), *Freedom of Speech: The History of an Idea* (Lewisburg, Pa.: Bucknell University Press, 2011), pp. 32, 33 (in chapter discussing sixteen classical and early modern justifications for freedom of expression, only a generic reference to the Bible and secularized arguments in *Areopagitica*); Leon van den Broeke, “‘To Speak Your Word with All Boldness’: Freedom of Expression in Dutch Reformed Churches,” in Peter-Ben Smit and Eva van Urk (eds.), *Parrhesia: Ancient and Modern Perspectives on Freedom of Speech* (Leiden: Brill, 2018), pp. 161–76 (in chapter on Protestant church history of *parrhesia*, one mention of Bible and no mention of sixteenth- and seventeenth-century use of *parrhesia*); van Renswoude, *The Rhetoric of Free Speech*, pp. 10, 127 (in book, small minority of references to *parrhesia* was to uses in Bible or for religious freedom of speech).

<sup>98</sup> Quoting 2 Cor. 7:4, Acts 4:31 (KJV). See Colclough, *Freedom of Speech*, pp. 77–119; accord John Witte, *The Reformation of Rights: Law, Religion, and Human Rights in Early Modern Calvinism* (New York: Cambridge University Press, 2007), pp. 260–61; Foucault, *The Government of Self*, 348–50. Other uses of *parrhesia* by biblical authors include Jn. 7:4, 10:24, 11:14, 11:54, 16:25, 16:29, 18:20; Acts 2:29, 4:13, 4:29, 13:46; 2 Cor. 3:12; Eph. 3:12; Phil. 1:20; 1 Tim. 3:13; Heb. 10:19; 1 Jn. 4:17. James Strong, *New Strong’s Exhaustive Concordance of the Bible* (Nashville, Tenn.: Thomas Nelson, 1984), pp. 137, 827, and appended Greek Dictionary p. 56.



of free speech, as did some of their Lutheran and Reformed cousins across Europe.<sup>99</sup>

In England, that biblical basis, rather than the classical texts, was the dominant foundation for asserting a freedom of speech, and religious people were the predominant people proclaiming *parrhesia* or freedom of speech, in the sixteenth century. The same was true of England in the seventeenth century.

#### THE RELIGIOUS SOURCE OF LIBERTY OF SPEECH IN THE ENGLISH-SPEAKING WORLD

It is not surprising to most people that liberty of conscience was principally advocated by religious “enthusiasts,” like Roger Williams and William Penn, in seventeenth-century England.<sup>100</sup>

It is surprising to many, however, that liberty of speech also was primarily championed by religious people – the Puritan side – in seventeenth-century England and that it was based on a religious text – the Bible. For example, Edward Reynolds (Fig. 1.1), a Puritan minister within the Church of England (and later a participant in the Westminster Assembly), wrote in 1632 that “the Gospell bringeth *liberty*,” a sacred thing, which gave “a plenary freedome to the consciences of men” and gave other liberties including “great boldnesse or liberty of speech,” or *parrhesia*. (Reynolds recited the Greek term, and quoted three biblical verses that used it.)<sup>101</sup> Puritan writers interchangeably said that liberty

<sup>99</sup> Van den Broeke, “To Speak Your Word with All Boldness”; Parkin-Speer, “Freedom of Speech,” p. 69.

<sup>100</sup> Thomas Helwys, *Objections: Answered by Way of Dialogue* (n.p., 1615), pp. 1–4, 15; Roger Williams, *The Bloody Tenent of Persecution, for Cause of Conscience* (London: n.p., 1644); Younger Martin Mar-Preist [Richard Overton], *The Araignment of Mr. Persecution* (London: Martin Claw Clergie, 1645), p. 29; William Walwyn, *The Compassionate Samaritane* (2nd ed.) (London: n.p., 1644), pp. 5–6; Henry Robinson, *Liberty of Conscience* (n.p., 1643), p. 17; W.P. [William Penn], *The Great Case of Liberty of Conscience* (n.p., 1670). It was also demanded in the army debates of 1647–49. Woodhouse, *Puritanism and Liberty*, pp. 321, 332, 339–40, 362, 365, 399, 409, 425, 435, 451, 458. See generally Witte, *Reformation of Rights*, pp. 1–275.

<sup>101</sup> Edward Reynolds, *An Explication of the Hundreth and Tenth Psalme* (London: Felix Kyngston, 1632), pp. 201–02. Conversely, those who denied freedom of conscience, by practicing persecution, would stop presses and allow “nothing to be *Licensed, Printed, Preached*, or otherwise published,” unless he agreed, and “stopt the mouthes of all good men.” Mar-Preist, *Araignment*, p. 10.



FIGURE 1.1 Edward Reynolds, engraved by anonymous artist (late eighteenth through early nineteenth century), after engraving by David Loggan (published 1658). © National Portrait Gallery, London.

of speech was from the Bible, from the gospel, or from God. Richard Bernard, another Puritan rector and author, wrote that gifts from God included “free libertie of speech,” and William Strong, also a Puritan (an Independent, and a member of the Westminster Assembly), noted that it was “the Lord who hath given to his Ministers great liberty of speech.”<sup>102</sup> If God or the Bible gave liberty of speech, then the most

<sup>102</sup> Richard Bernard, *The Faithfull Shepheard* (London: Arnold Hatfield, 1607), p. 86; William Strong, *The Trust and the Account of a Steward* (London: Tho. Harper, 1647), p. 30. Several of the Puritans mentioned in this chapter – Ursinus, Wolleb, Helwys – were discussed briefly in Diane Parkin-Speer, “Freedom of Speech in Sixteenth Century English Rhetorics,” (1981) 12 *Sixteenth Century Journal*, pp. 65, 69–71.

important – not the least important – form of that liberty was religious speech.

A brief note: Identification of individuals as Puritans is based on their description in the *Oxford Dictionary of National Biography*, if there, or otherwise on their older description in the *Dictionary of National Biography*, and on participation in the Westminster Assembly and ejection from Church of England positions in 1662.

In the seventeenth century, the request by Parliament for liberty of speech and debate continued to be made by the speaker of the House of Commons as each session opened. Parliament continued to claim that liberty as its ancient right.<sup>103</sup> The monarch's response continued to treat it as a matter of grace rather than right, as we saw. Similarly, the Church of England's Convocation occasionally was said to offer "liberty and freedom of speech" to clerical participants, giving "free power of speaking to every one that desireth to speake" and forbidding none "by any terrors, force, threatening, or any other thing."<sup>104</sup> But neither gave rise to a broader liberty of speech outside the transactions of Parliament or Convocation, except for wistful claims that citizens had freedom of speech while Parliament met<sup>105</sup> and rare claims that liberty of speech gave support to petitions to Parliament.<sup>106</sup> That broader liberty came from another source.

<sup>103</sup> *Speeches and Passages of This Great and Happy Parliament* (London: William Cooke, 1641), p. 5; Anon. [perhaps Sir John Suckling], *The Cobby of a Letter Written to the Lower House of Parliament Touching Divers Grievances* (London: John Dawson, 1641), p. 3; accord William Hakewill, *The Manner How Statutes Are Enacted in Parliament* (London: T.H., 1641), p. 140; [John Pym], *A Declaration of the Grievances of the Kingdome* (London: n.p., 1641), p. 3; Colclough, *Freedom of Speech*, pp. 131–85.

<sup>104</sup> Richard Field, *Of the Church, Five Bookes* (2nd ed.) (Oxford: William Turner, 1628), p. 648; see also Thomas Powell, *The Attourneys Academy* (London: for Benjamin Fisher, 1623), p. 221. Liberty of speech and freedom of speech were used interchangeably in sixteenth and seventeenth century England. E.g., George Throgmorton, *A Treatise of Faith, and of Some Principal Fruits Thereof* (London: J. L[egat], 1624), p. 69; Anon., *Cobby*, p. 3.

<sup>105</sup> David Como, "The Origins of the Concept of Freedom of the Press," in Robert G. Ingram, Jason Peacey, and Alex W. Barber (eds.), *Freedom of Speech, 1500–1850* (Manchester: Manchester University Press, 2020), pp. 98, 111, etc.

<sup>106</sup> Siebert, *Freedom of the Press in England*, pp. 95–96 (case of Puritans John Field and Thomas Wilcox and *An Admonition to Parliament* [1572]); Parkin-Speer, "Freedom of Speech," pp. 70–71. Nor did legislative freedom of speech give rise to the First Amendment. Jud Campbell, "Natural Rights and the First Amendment," (2017) 127 *Yale Law Journal*, pp. 246, 308.

### The Rise of Puritanism and Demands for Liberty of Speech

As the seventeenth century progressed, Puritanism developed into the three main groups of the 1640s and 1650s: Presbyterians, Independents, and Sectaries.<sup>107</sup> The Presbyterians sought to convert the Church of England to an established Presbyterian church (succeeding briefly in 1645 and after) and to suppress other faiths. The Independents, while resigned to a Presbyterian national church, sought toleration for dissenting Protestants including themselves. The Sectaries were a heterogeneous collection of more radical faiths, including Levellers and Fifth Monarchists.<sup>108</sup> During the civil wars, the Presbyterians generally controlled Parliament, while the Independents controlled the army, producing unresolvable tension.<sup>109</sup>

The Puritan side of England's religious and political landscape regularly proclaimed a liberty of speech, based on *parrhesia* in the Greek scriptures and equivalent terms in the Hebrew scriptures. Puritan writers did so in Bible commentaries, other theological works, sermon collections, and histories, so extensively and consistently as to make liberty of speech almost an article of their faith. Puritans aimed this religiously based concept of liberty of speech against the Stuart restrictions on their speech, and often mentioned aspects of liberty of speech such as preaching, witnessing, censuring sin, prayer, and public discussions.

Much of the Puritan discussion of liberty of speech centered around ministers (who were the people most directly threatened by governmental and Church of England restrictions). Thus, God "gives ability and liberty of speech to his Ministers," Edward Elton (a Puritan rector) wrote in 1615, and "*Boldnesse, courage, and freedom of speech is needfull for a Minister,*" William Gouge (also a Puritan rector) said four years later.<sup>110</sup> That included preaching, as two Puritans said. Thus, "the man of God must preach his Word boldly, as . . . *Peter*, and *John* who used great

<sup>107</sup> Woodhouse, *Puritanism*, pp. 14–19 (of introduction); Winship, *Hot Protestants*, pp. 130–44; Lake, *Moderate Puritans*, pp. 1–2, 7.

<sup>108</sup> Watts, *Dissenters*, pp. 179–86; Cressy, *England*, pp. 211–47 (Sectaries); McGregor, *Radical Religion*, pp. 23–190 (Baptists, Levellers, Seekers and Ranters, Quakers, Fifth Monarchists); Christopher Hill, *The Experience of Defeat: Milton and Some Contemporaries* (rev. ed.) (London: Bookmarks, 1994), pp. 27–158 (same); Andrew Sharp (ed.), *The English Levellers* (Cambridge: Cambridge University Press, 1998).

<sup>109</sup> Scott, *England's Troubles*, pp. 153–56.

<sup>110</sup> Edward Elton, *An Exposition of the Epistle of St Paule to the Colossians* (London: Edward Griffin, 1615), p. 1258; William Gouge, *The Whole Armour of God* (London: John Beale, 1619), p. 523.

freedome of speech,” John Trapp noted, and should “*use great boldnesse or liberty of speech*,” Edward Reynolds added.<sup>111</sup> That also included speech outside sermons, as two other Puritan ministers noted. A minister should speak “al the Lord commands him to speake” with “libertie and freedome of speech” and without fear, William Sclater wrote, and should have “freedome of speech . . . to publish boldly the wil and counsell of God,” William Attersoll said.<sup>112</sup> That “liberty and freedome of speech” included “reproving sinne wherefo[r]ever he findes it,” not just in private, but “*reproving of sinne . . . even to the faces of the greatest, both in publike and private*,” John Downame (or Downham) and Thomas Gataker (also Puritans) specified. In public religious consultations, there was “free libertie of speech” where there was “open conference and dispute allowed about the controversies of Religion.”<sup>113</sup>

Much of the Puritan discussion of liberty of speech involved the laity, and not just ministers. A “*Compleat man*” could “*speake his mind . . . freely*” and could exercise “*freedome of speech* in reprovng of sinne,” Puritan minister Richard Stock said, and all believers could use “libertie and freedome of speech” in “profession of our Faith before men,” a vicar of uncertain theology, John Downe, noted.<sup>114</sup> “Freedome of minde” was inextricably tied to freedom of speech, wrote Sir Edwin Sandys, a politician closely related to the Puritans. There was a right of “every person or persons, yea Jewes and Papists, to write, dispute, confer and reason, print and publish any matter touching religion, either for or against whomsoever,” said Leonard Busher, a Baptist layman.<sup>115</sup> All Christians could “use freedome of speach” in prayer to God, “telling Him all our Mynd,” and a biblical verse “*signifieth, Libertie to speake all our mynde*,” another

<sup>111</sup> John Trapp, *Theologia Theologiae, The True Treasure* (London: R.B., 1641), p. 227; Reynolds, *Explication*, p. 202.

<sup>112</sup> William Sclater, *An Exposition with Notes upon the First Epistle to the Thessalonians* (London: W. Stansby, 1619), p. 104; William Attersoll, *A Commentarie upon the Fourth Booke of Moses* (London: William Jaggard, 1618), p. 808.

<sup>113</sup> John Downame, *A Treatise of Securitie* (London: William Stansby, 1622), p. 125; Thomas Gataker, *Abrahams Decease* (London: John Haviland, 1627), p. 11; Humphrey Lynde, *Via Devia: The By-Way* (London: Rob. Milbourne, 1630), p. 435.

<sup>114</sup> Richard Stock, *A Learned and Very Usefull Commentary upon . . . Malachy*, ed. Samuel Torshell (London: T.H. and R.H., 1641), pp. ii–iii; John Downe, *A Treatise of the True Nature and Definition of Justifying Faith* (London: John Lichfield, 1635), p. 156.

<sup>115</sup> Sir Edwin Sandys, *A Relation of the State of Religion* (London: Val. Sims, 1605), image 41; Sir Edwin Sandys, *Europae Speculum, or A View or Survey of the State of Religion* (Hague: Haga-Comitie, 1629), p. 113; Leonard Busher, *Religions Peace, or A Reconciliation between Princes & Peoples* (Amsterdam, n.p., 1614), p. 19. Busher excluded discussions of the church fathers and speakers who are not “peaceable.”

Puritan (Presbyterian) minister, David Dickson, stated. All Christians had “great liberty of speech, and boldnesse of the Saints in their prayers,” Andrew Willet (by some definitions a Puritan) wrote.<sup>116</sup> If believers had liberty of speech in praying to God, it was a short step to say they had liberty of speech in talking to fellow men and women of whatever station.

All of these Puritan writers based their arguments on the Bible, and half explicitly cited *parrhesia* in addition to English-language verses. A number of other Puritans did the same, including Richard Greenham, William Attersoll, Thomas Taylor, William Whately, George Throgmorton, Henry Burton, and Jeremiah Burroughes.<sup>117</sup> Comparatively very few writers based their arguments on classical writings or other nonbiblical sources, and those that did were generally not Puritans.<sup>118</sup> This was all true of the period of the Puritan Revolution as well.

There were non-Puritans who mentioned liberty of speech – generally Church of England ministers, royalists, or both, typically doing so to restrict the Puritan side’s assertion of a liberty of speech. Peter Heylyn (Fig. 1.2), a Church of England clergyman and a historian, directed his attack at *parrhesia*, anathematizing a Puritan’s “so celebrated *Parrhesia*, that freedome and liberty of speech, against Kings and Princes” and

<sup>116</sup> David Dickson, *A Short Explanation, of the Epistle of Paul to the Hebrewes* (London: Edw. Raban, 1635), p. 219; Andrew Willet, *Hexapla in Genesim & Exodum* (London: John Haviland, 1633), p. 1:176; Robert Mandevill, *Timothies Taske* (Oxford: John Lichfield, 1619), p. 40n.

<sup>117</sup> *Parrhesia* is mentioned at the cited pages of Gouge, Trapp, Reynolds, Downe, Willet, and Mandevill. Other examples of a Bible basis for freedom of speech are Richard Greenham, *The Workes of the Reverend and Faithfull Servant of Jesus Christ Mr. Richard Greenham* (5th ed.), ed. Henry Holland (London: William Welby, 1612), pp. 128, 168; Andrew Willet, *Hexapla: That Is, a Six-Fold Commentarie* (London: Cantrell Legge, 1611), p. 1:686; William Attersoll, *A Commentarie upon the Epistle of Saint Paule to Philemon* (London: William Jaggard, 1612), p. 164; Thomas Taylor, *A Commentarie upon the Epistle of S. Paul Written to Titus* (London: for L. Greene, 1612), p. 536; William Whately, *A Pithie, Short, and Methodicall Opening of the Ten Commandements* (London: John Haviland, 1622), p. 101; George Throgmorton, *A Treatise of Faith* (London: J.L., 1624), pp. 80–81; Henry Burton, *For God, and the King* (n.p., 1636), p. 27; Jeremiah Burroughes, *The Excellency of a Gracious Spirit* (London: M.F., 1639), p. 23 (a Congregationalist). *Parrhesia* is mentioned by Burton and Burroughes.

<sup>118</sup> Richard Brathwait, *The English Gentleman* (London: John Haviland, 1630), p. 11; Francis Hickes, *Certaine Select Dialogues of Lucian* (Oxford: William Turner, 1634), p. iv; and in the text of a translation, Marcus Aurelius, *Marcus Aurelius Antoninus the Roman Emperor, His Meditations*, trans. Meric Casaubon (London: M. Flesher, 1634), p. 184.





FIGURE 1.2 Peter Heylyn, engraved by Robert White (published 1681).  
© National Portrait Gallery, London.

godliness, and condemning that “*Parrhesia*, which you so extoll” and use “chiefly in such opposition as was made to Kings.” Heylyn denounced classical liberty of speech as “licencious” and a cause of loss of liberty.<sup>119</sup> A chaplain to King Charles, Thomas Hurste, exploded that “*liberty of speech, it is the female of sedition*, and in time the Grand-mother of treason.” Another Anglican minister, Samuel Page, outdid him, warning that “there is no such way to impudent freedome of speech, as a bold contempt of authority. It is one of the provoking sins of our time, the

<sup>119</sup> Peter Heylyn, *A Briefe and Moderate Answer, to the Seditious and Scandalous Challenges of Henry Burton* (London: Ric. Hodgkinsonne, 1637), pp. 59, 52; Peter Heylyn, *Augustus* (London: B.A. and T.F., 1632), pp. 147, 150.

ever-bold liberty of speech and procacity of the pen, censoring and depraving Superiours, scandalizing all.”<sup>120</sup> Edmund Layfelde, another preacher, fretted that we “take too much *liberty of speech* to our selves.” An anonymous writer was notably understated in saying that princes “doe take very distastefully” to “Liberty, and Freedome in speaking.” A royalist historian, Thomas Gainsford, rejoiced that blessed England was not like France, where subjects practiced “base and servile behaviour, with poore and miserable expenses, with obscene and filthy lodging,” and to cap it all off, “with licentious and ill becoming liberty of speech against both Court and Common-wealth.”<sup>121</sup> The lines were drawn between the Puritans and the royalists.

### The Puritan Revolution and Demands for Liberty of Speech

The exalted position of freedom of speech, or *parrhesia*, as a near-article of faith for the Puritan side of England reached its zenith during the Civil Wars and the Interregnum. Two typical Puritan ministers, Joseph Caryl and John Robotham, defined references to *parrhesia* in the Bible as “to speake with freedome and liberty of speech; (as the Greeke word signifies,) to speake all a mans mind, without fear or favour of any man,” and as “libertie of speech, and boldnesse of face, when a man intrepidly and undauntedly utters his mind before great ones, . . . when neither majesty nor authority can take off his courage, so as to stop his mouth.”<sup>122</sup> Numerous other Puritan writers discussed aspects of biblical liberty of speech. That liberty came from God and from the gospel, wrote Burroughes (an Independent minister in London) and William Strong (also an Independent minister and Westminster Assembly participant).<sup>123</sup>

<sup>120</sup> Thomas Hurste, *The Descent of Authoritie* (London: John Clark, 1637), p. 32; Samuel Page, *The Broken Heart; or, Davids Penance* (London: Thomas Harper, 1637), p. 192.

<sup>121</sup> Edmund Layfelde, *The Mappe of Mans Mortality and Vanity* (London: Nicolas Bourne, 1630), p. 4; A.D.B., *The Court of the Most Illustrious and Most Magnificent James, the First* (London: Edw. Griffin, 1619), p. 28; Thomas Gainsford, *The Glory of England* (London: Edward Griffin, 1618), p. 307. It is not clear whether another Anglican curate, Richard Myddleton, is merely quoting a classical source on liberty of speech or encouraging it. Richard Middleton, *Goodness; The Blessed Mans Badge* (London: Nicholas Okes, 1619), p. 84.

<sup>122</sup> Joseph Caryl, *An Exposition with Practicall Observations upon the Three First Chapters of the Booke of Job* (London: G. Miller, 1643), p. 326 (a Congregationalist); John Robotham, *The Preciousnesse of Christ* (London: M. Symmons, 1647), p. 241.

<sup>123</sup> Jeremiah Burrough [Burroughes], *Jacobs Seed* (Cambridge: Roger Daniel, 1648), p. 34; William Strong, *A Treatise Shewing the Subordination of the Will of Man unto the Will of God* (London: R.W., 1657), p. 327.



It included coming “with boldnesse, or rather with free liberty of speech,” to God in prayer, and “speak[ing] our minds . . . freely to God,” said such Puritans as Johann Crell, Burroughes, Henry Lawrence (a government official and Council of State member), John Downame (a rector), Joseph Caryl and William Carter (Independent divines in London), William Bridge (an Independent minister in Norfolk and former fellow of Emmanuel College, Cambridge), and David Dickson (a Church of Scotland minister and University of Glasgow professor).<sup>124</sup> If an individual could approach Almighty God with liberty of speech, that individual could approach government with that liberty. Consequently, *parrhesia* included “liberty and freedome of speech” to “utter the message of the Lord” and, to “the great men of the World,” the “Kings, Potentates, and the greatest States-men,” to “rebuke them and tell them of their sins,” according to such Puritans as John Carter (a Church of England rector in Norwich and supporter of Parliament in the civil war years), Alexander Grosse (a Presbyterian minister in Ashburton), and John Trappe (a Church of England rector in Gloucestershire).<sup>125</sup> It included “liberty of speech” to proclaim the truth. To ministers, “great liberty of speech” was given by the Lord, in the words of Trapp and Strong, along with Puritans Johannes Wolleb (professor at University of Basel) and Francis Roberts (Church of England rector in Somerset).<sup>126</sup> To defendants in court, “*liberty of speech*” included to testify for oneself and “*to speak*

<sup>124</sup> Johann Crell, *The Expiation of a Sinner* (London: Tho. Harper, 1646), p. 73; accord Henry Lawrence, *Of Baptisme* (n.p., 1646), p. 37; John Downame, *Annotations upon All the Books of the Old and New Testament* (London: John Legatt, 1645), image 451; Jeremiah Burroughs [Burroughes], *The Saints Treasury* (London: T.C., 1654), p. 37; Joseph Caryl, *An Exposition with Practicall Observations Continued upon . . . Job* (London: M. Simmons, 1655), p. 262. For speaking minds, Jeremiah Burroughs, *Gospel Conversation* (London: Peter Cole, 1650), p. 50; accord, William Carter, *The Covenant of God* (London: T.C., 1654), p. 2; William Bridge, *Scripture-Light* (London: Peter Cole, 1656), p. 331; David Dickson, *An Exposition of All St. Pauls Epistles* (London: R.I., 1659), p. 257.

<sup>125</sup> John Carter, *The Tomb-Stone* (London: Tho. Roycroft, 1653), p. 143; accord Alexander Grosse, *The Buddings and Blossomings of Old Truths* (London: W. Bentley, 1656), p. ii; John Trapp, *A Commentary or Exposition upon These Following Books of Holy Scripture* (London: Robert White, 1660), p. 5.

<sup>126</sup> John Trapp, *A Commentary or Exposition upon the Four Evangelists* (London: A.M., 1647), p. 95; accord Johannes Wolleb, *The Abridgment of Christian Divinitie* (London: T. Mab, 1650), p. 332 (“Freedome of speech, is a vertue by which we speak the truth, and reprove offenders without fear of danger”); Francis Roberts, *Mysterium & medulla bibliorum* (London: George Calvert, 1657), p. 582. For ministers, William Strong, *The Trust and the Account of a Steward* (London: Tho. Harper, 1647), p. 30; accord Dickson, *Exposition*, p. 124,

*my mind freely without interruption,*” said Levellers John Lilburne and John Wildman. To participants in religious councils, it included freedom to discuss issues.<sup>127</sup>

Liberty of speech was infringed, Richard Baxter noted, “when the higher Powers deterre all from contradicting” them and when religious Dissenters were prohibited from expressing their beliefs. It had also been denied, an anonymous writer (“C.S.”) said, the year after Charles I was beheaded, when “our mouthes were bung’d up in Kings and Bishops times,” as people feared they “may unhappily incurr offence (if it were made publick) for presuming to meddle with State-matters.” That writer praised the “*Blessed change*” from Stuart rule to the Commonwealth and to “the *Liberty of speech* wherewith we are now indulg’d” (as of 1650). Petitions from two counties similarly complained that “the Kingdome for many yeares past hath groaned under . . . Arbitrary Government,” which among other things “hindr[ed] the freedom of speech by imprisonment of their Persons.”<sup>128</sup> While the Interregnum was not a bed of roses for free expression, instead censoring newspapers and periodically requiring licensing of books and pamphlets, it at least allowed arguments that “Clergiemen” as “mere errable men” should not assume “a power of judging and censuring opinions” and that “neither side” should have “greater liberty of speech, writing, Printing, or whatsoever else, then the other.”<sup>129</sup>

All of these Puritan authors, as before, founded their assertions of liberty of speech on scripture, and a quarter explicitly cited *parrhesia*, as did Simon Ford (a Church of England rector in Reading).<sup>130</sup> Puritans’ claims were sometimes also founded on freedom of conscience, as we will see at the end of this chapter. John Milton’s support for freedom of speech

<sup>127</sup> John Lilburne, *The Picture of the Councel of State* (n.p., 1649), p. 4; accord John Wildman, *Truths Triumph, or Treachery Anatomized* (London: for Ja. Hornish, 1647), p. 4 (a Leveller). For councils, John Brinsley, *The Sacred and Sovereigne Church-Remedie* (London: Moses Bell, 1645), p. 15.

<sup>128</sup> Richard Baxter, *The Reasons of the Christian Religion* (London: R. White, 1667), p. 424; C.S., *Mutatus Polemo Revised* (London: Robert White, 1650), p. 15; *A Declaration, or Resolution of the Countie of Hereford* (London: for Tho. Lewes, 1642); *The Resolution of Wiltshire* (n.p., 1642).

<sup>129</sup> Oliver Cromwell (prob.), *Strong Motives, or Loving and Modest Advice* (n.p., 1645), p. 4; Henry Robinson, *Liberty of Conscience* (London: n.p., 1643), p. 17.

<sup>130</sup> *Parrhesia* was mentioned, besides the cited pages of Caryl, Robotham, Crell, Bridge, Carter, and Roberts, in William Strong, *The Commemoration and Exaltation of Mercy* (London: Francis Tyton, 1646), p. i; Simon Ford, *The Spirit of Bondage and Adoption* (London: T. Maxey, 1655), p. 550.

was the least typical, reflecting the “tension between ‘humanism’ and ‘radical Puritanism’ in his mind.”<sup>131</sup> In a 1641 work he briefly affirmed “liberty of speaking” and lamented its disappearance when “the voyce of Truth for these many yeares . . . hath not bin heard but in corners.” In 1644 in *Areopagitica*, Milton’s pamphlet against reimposing licensing of the press, he began with the statement that true liberty is “*when free born men . . . may speak free*,” and he made his plea, “Give me the liberty to know, to utter, and to argue freely according to conscience, above all liberties.”<sup>132</sup> Comparatively very few Puritans in England in the period from 1641 to 1660 based a claim of freedom of speech on classical writings, though Milton embellished his works with classical allusions. The Puritan reasoning crossed the Atlantic, as was evident in similar references to freedom of speech by New England ministers, such as John Cotton and Thomas Cobbet.<sup>133</sup>

As Puritan belief in freedom of speech reached its apogee, royalist and Church of England acceptance of freedom of speech reached its perigee. Some of the latter agreed that someone who “had liberty of speech . . . was not to be restrained, or apprehended, nor disparaged,” and identified biblical *parrhesia* as liberty of speech.<sup>134</sup> Others referred to liberty of speech in the limited sense of a capability of speaking. Some were downright hostile, such as Marchese Virgilio Malvezzi, who warned that “*Liberty of speech and writing against a Prince without danger, makes him loose his respect, and respect once lost produceth rebellion.*”<sup>135</sup> And

<sup>131</sup> Nicholas McDowell, *The English Radical Imagination: Culture, Religion, and Revolution, 1630–1660* (Oxford: Clarendon Press, 2003), p. 189; accord Christopher Hill, *Milton and the English Revolution* (London: Faber, 1977), pp. 113–15, 248–49; criticized in Andrew Milner, *John Milton and the English Revolution* (London: Macmillan, 1981), pp. 195–209.

<sup>132</sup> [John Milton], *Animadversions upon the Remonstrants Defence* (London: for Thomas Underhill, 1641), in Frank A. Patterson (ed.), *The Works of John Milton* (New York: Columbia University Press, 1931–38), pp. 3:103, 112; John Milton, *Areopagitica* (London: n.p., 1644), in *ibid.*, pp. 4:292, 346.

<sup>133</sup> John Cotton, *A Practicall Commentary, or An Exposition . . . of John* (London: M.S., 1658), p. 268; Thomas Cobbet, *A Practical Discourse of Prayer* (London: T.M., 1654), p. 278.

<sup>134</sup> Henry Hammond, *A Paraphrase and Annotations upon All the Books of the New Testament* (London: J. Flesher, 1659), p. 103; David Stokes, *A Paraphrasticall Explication of the Prophecie of Habakkuk* (London: Leonard Lichfield, 1646), p. 21.

<sup>135</sup> Charles I (attributed to), *Eikon Basilike: The Pourtraicture of His Sacred Majestie* (n.p., 1648), p. 87; accord John Preston, *Riches of Mercy* (London: J.T., 1658), p. 385. For hostility, see Virgilio Malvezzi, *The Pourtract of the Politicke Christian-Favourite* (London: M. Meighen and G. Bedell, 1647), p. 96; accord Richard Brathwaite, *Times Treasury; or, Academy for Gentry* (London: for Nath. Brooke, 1652), p. 6.

others similarly narrowed parliamentary freedom of speech, saying it was not a right but “the *favours* of *Princes*,” and “not a power for men to speak what they will or please in Parliament,” or a protection in the case of “willfull, malicious, [or] treasonable speeches.”<sup>136</sup> But the royalist side rarely mentioned freedom of speech, in comparison to the Puritan side of the nation, other than references to Parliament’s freedom of speech.

### The Remainder of the Seventeenth Century and Puritan Demands for Liberty of Speech

Puritan theology continued to emphasize *parrhesia*, saying it “signifies freedom of speech, when a man speaks his whole mind freely.”<sup>137</sup> That continued to incorporate “boldnesse in speaking,” with “no man hindring, no nor so much as discouraging them,” and “boldness, or liberty, and freedome of speech to God in prayer.”<sup>138</sup> But it was not limited to prayer, and more broadly denoted “*Liberty*, in speaking or doing any thing towards God or Man”; “why should not liberty of Speech be allowed to all” among believers?<sup>139</sup> Freedom of speech included “reproving of sin . . . even to the faces of the greatest, whether in publick or private.” Much less frequently than these, freedom of speech continued to be used to refer to an opportunity for speaking.<sup>140</sup>

<sup>136</sup> P.H. [Peter Heylyn], *The Stumbling-Block of Disobedience and Rebellion* (London: E. Cotes, 1658), p. 258; James Howell, *Some Sober Inspections Made into the Carriage and Consults* (London: for Ric. Lownds, 1656), pp. 58–59.

<sup>137</sup> Henry Lukin, *The Life of Faith* (London: J.H., 1660), p. 41; accord George Swinnock, *The Christian-Mans Calling* (London: for T.P., 1662), p. 144; Jean Le Clerc, *A Supplement to Dr. Hammond’s Paraphrase* (London: Sam. Buckley, 1699), p. 125.

<sup>138</sup> Joseph Caryl, *An Exposition with Practicall Observations Continued Upon . . . Job* (London: M. Simmons, 1661), p. 150; accord Thomas Brooks, *A Cabinet of Choice Jewels* (London: John Hancock, 1669), p. 30; John Flavel [Flavell], *The Fountain of Life Opened* (London: Rob. White, 1673), p. 585. For boldness in prayer, Samuel Annesley, *The Morning Exercise* (London: Joshua Kirton and Nathaniel Webb, 1661), p. 307; accord Thomas Manton, *A Practical Exposition of the Lord’s Prayer* (London: J.D., 1684), p. 123.

<sup>139</sup> Giles Firmin, *A Brief Review of Mr. Davis’s Vindication* (London: John Lawrence, 1693), p. 16; J.H. [John Hogg], *An Answer to Several Material Passages* (London: n. p., 1691), p. 42.

<sup>140</sup> Samuel Clarke, *The Lives of Two and Twenty English Divines* (London: A.M., 1660), p. 82; R.W. [Roger Williams], *George Fox Digg’d Out of His Burrowes* (Boston: John Foster, 1676), p. 99.

As before, all of these Puritans grounded their assertions of freedom of speech on scripture, and half mentioned the term *parrhesia* in the Bible.<sup>141</sup> A few raised freedom of speech to the level of a natural right, like Thomas Doolittle, who said that it was “the Inborn Right of an *Englishman*,” echoing John Lilburne in the 1649 trial, who had proclaimed that it was a “right, not only by the law of God and man, but also by the Law and light of nature.”<sup>142</sup>

And as in earlier periods, royalists and Church of England ministers generally held a very negative view of freedom of speech. They reprinted Francis Bacon’s disparagement of “*Swarms and Volies of Libels* (which are the *Gusts* of Liberty of Speech restrained, and the *Females* of Sedition),” which referred to the time of Henry VII. They printed a royalist rector’s description of the Puritans’ “*pretended Loyalty*” and “*Mines of Sedition*” and “*Powder which blew up the Foundations both of Church and State*,” by the “*Principal Engines*” of “*Liberty of the Press, and, . . . Licentious abuse of the Pulpit*,” during the reign of Charles I.<sup>143</sup> Royalist writers impugned Puritan dressing of slander as liberty of speech, which “*Bely’d the very Religion that they pretended to*,” and charged that “the rebellious faction” was wildly inconsistent in arresting and committing to jail any supporter of King Charles who “durst assume the due freedom and liberty of speech, to declare his mind concerning the grievances and troubles of the time.” A Church of England rector prayed “that I may never abuse the Liberty of *Speech*,

<sup>141</sup> Obadiah Sedgwick, *The Bowels of Tender Mercy Sealed* (London: Edward Mottershed, 1661), p. 275; Jeremiah Burroughs, *Gospel Remission* (London: Philip Nye et al., 1668), p. 37; Thomas Manton, *One Hundred and Ninety Sermons on the Hundred and Nineteenth Psalm* (London: T.P., 1681), p. 163; Matthew Poole, *Annotations upon the Holy Bible* (London: for Thomas Parkhurst et al., 1685), s.v. 1 John 3. *Parrhesia* is mentioned in the cited pages of Lukin, Swinnock, Le Clerc, Flavel, Annesley, and Firmin; and is also defined as freedom of speech in Ralph Farmer, *A Plain-Dealing, and Plain-Meaning Sermon* (London: S. Griffin, 1660), p. vi; Trapp, *Commentary*, 3:221; John Oldfield, *The Generation of Seekers* (London, n.p., 1671), p. 95; John Owen, *A Continuation of the Exposition of . . . Hebrews* (London: Nathaniel Ponder, 1680), p. 63 (an Independent); Samuel Slater, *An Earnest Call to Family-Religion* (London: Tho. Parkhurst, 1694), p. 217.

<sup>142</sup> Thomas Doolittle, *Fears and Jealousies Ceas’d* (n.p., 1688), p. 1; William Winstanley, *England’s Worthies* (London: Nath. Brooke, 1660), p. 485; Trial of Lieutenant-Colonel John Lilburne, (1649) 4 State Trials 1270, 1271 (K.B.).

<sup>143</sup> Francis Bacon, *The History of the Reigns of Henry the Seventh . . .* (London: W.G., 1676) (combined with chapters by Francis Godwyn), p. 79; John Nalson, *An Impartial Collection of the Great Affairs of State* (London: for S. Mearne et al., 1683), p. 2:iii.

into the Licentiousness of *Vain* or *Evil Speaking*,” as he obviously believed some did.<sup>144</sup>

The continuing national division also was visible in discussions of parliamentary freedom of speech. A reprinted book by the arch-royalist Sir Robert Filmer, of *Patriarcha* fame, contended that Parliament’s freedom of speech was “not a power for men to speak what they will, or please, in Parliament; but a Privilege not to be punished, but pardoned for the offence of speaking *more largely than in duty ought to be.*” Other royalists said that parliamentary liberty applied only to negligent slips of speech and “not to wilful Reflections, much less to treasonable Speeches, against the King and Government,” or to speeches that made “odious Insinuations and Reflections upon the King, . . . the *House of Peers*, upon the *Bishops*, upon the *whole Church*, with the *Canons*, the *Homilies*, the *39 Articles*, . . . and the whole Government of State,” which were criminal.<sup>145</sup> Still others inveighed against “the Fanaticks” and their “railing Speeches” in Parliament that abused the king and reviled the Church of England and that should be treated as criminal, and against the “Firebrands” in Parliament who abused liberty of speech.<sup>146</sup> By contrast, the opposing party extolled “Liberty of Speech, and Debate,” as “the very Essence and Soul of all Councils,” and said that without it “a Parliament cannot be a legal Parliament, because not a free Parliament.”<sup>147</sup>

As the eighteenth century arrived, successors in England appeared who spoke of freedom of speech, such as John Trenchard and Thomas

<sup>144</sup> [Roger L’Estrange], *A Brief History of the Times* (London: for Charles Brome, 1687), p. 137; James Heath, *A New Book of Loyal English Martyrs* (London: R.H., 1665), pp. 110–11; Benjamin Jenks, *Prayers and Offices of Devotion* (London: for Will. Rogers, 1697), p. 288; accord William Geaves, *Status ecclesiae gallicanae: or The Ecclesiastical History of France* (London: for Thomas Passenger, 1676), p. 98.

<sup>145</sup> Sir Robert Filmer, *The Free-Holders Grand Inquest* (London: n.p., 1679), p. 76; Sir Robert Filmer, *Patriarcha and Other Writings* (Johann P. Sommerville (ed.), Cambridge: Cambridge University Press, 1991), pp. 1, 55–56; Anon., *Englands Concern in the Case of His R.H.* (London: for H.R., 1680), p. 7; Marchamont Nedham, *A Second Pacquet of Advices* (London: Jonathan Edwin, 1677), pp. 68–69, 35.

<sup>146</sup> Anon., *Persecutio undecima; or, The Churches Eleventh Persecution* (n.p., 1681), p. 9; Nathaniel Johnston, *The Excellency of Monarchical Government* (London: T.B., 1686), p. 283; accord Roger L’Estrange, *A Memento Treating of the Rise, Progress, and Remedies of Seditions* (2nd ed.) (London: for Joanna Brome, 1682), p. 92.

<sup>147</sup> E.F., *A Letter from a Gentleman of Quality in the Country* (n.p., 1679), p. 1; Robert Ferguson, *Whether the Parliament Be Not in Law Dissolved* (n.p., 1695), p. 54; accord James Tyrrell, *Bibliotheca Politica: or an Enquiry into the Ancient Constitution* (London: for R. Baldwin, 1694), p. 354; Andrew Marvell, *An Account of the Growth of Popery and Arbitrary Government* (Amsterdam: n.p., 1677), p. 82.

Gordon, who wrote *Cato's Letters*.<sup>148</sup> These successors built on the large literature asserting freedom of speech, from the preceding two centuries. That large literature was predominantly Puritan in origin, and its assertion of freedom of speech was based squarely on the Bible and biblical *parrhesia*. They also built on the growing body of works asserting freedom of religion, from the sixteenth and seventeenth centuries. Those works were also largely Puritan in origin, and naturally flowed from freedom of speech about religious beliefs to freedom of speech about other beliefs.

#### ASSERTIONS OF A LIBERTY OF SPEECH ARISING FROM LIBERTY OF CONSCIENCE

Liberty of conscience was also demanded by many Puritans and other Dissenters in sixteenth- and seventeenth-century England. Demands for freedom of speech arose from notions of freedom of religion, as well as from theology and biblical *parrhesia*. As historian Leonard Levy noted, "freedom of speech and press had been championed primarily by those who sought an open debate on religion." "The citizen's personal right of freedom of speech evolved as an offshoot of . . . freedom of religion – the freedom to speak openly on religious matters."<sup>149</sup> Many historical examples of demands for freedom of religion are also examples of its inclusion of freedom of speech.<sup>150</sup> From the sixteenth century to the end

<sup>148</sup> Cato, "Of Freedom of Speech," in Ronald Hamowy (ed.), *Cato's Letters* (Indianapolis, Ind.: Liberty Fund, 1995), p. 1:110 (no. 15, 1720); Cato, "Reflections on Libelling," in *ibid.*, p. 1:228 (no. 32, 1721); Cato, "Discourse upon Libels," in *ibid.*, p. 2:712 (no. 100, 1722); see Leonard W. Levy, *Emergence of a Free Press* (New York: Oxford University Press, 1985), pp. 4, 102–118; Michael P. Zuckert, *Natural Rights and the New Republicanism* (Princeton, N.J.: Princeton University Press, 1994), 289–319; Wendell Bird, *The Revolution in Freedoms of Press and Speech* (New York: Oxford University Press, 2020), pp. 107–218.

<sup>149</sup> Levy, *Emergence of a Free Press*, pp. 166, 3.

<sup>150</sup> E.g., Richard Buel, Jr., "Freedom of the Press in Revolutionary America: The Evolution of Libertarianism, 1760–1820," in Bernard Bailyn and John B. Hench (eds.), *The Press and the American Revolution* (Worcester: American Antiquarian Society, 1980), pp. 59, 65 ("The seed of it [libertarian views of speech and press] lay in the growth of religious toleration throughout the sixteenth and seventeenth centuries."); H. T. Dickinson, *Liberty and Property: Political Ideology in Eighteenth-Century Britain* (London: Weidenfeld and Nicholson, 1977), p. 202; David M. Rabban, "The Ahistorical Historian: Leonard Levy on Freedom of Expression in Early American History," (1985) 37 *Stanford Law Review*, pp. 795, 823; and a historian Rabban cited, Anthony Lincoln, *Some Political & Social Ideas of English Dissent, 1763–1800* (Cambridge: Cambridge University Press, 1938), pp. 2, 20–21, 126.



of the seventeenth century, “freedom of expression was treated primarily as an aspect of a wider issue, that of *religious toleration*.”<sup>151</sup> That became particularly prominent during the Stuart prosecutions of religious minorities in the seventeenth century.

Early in the seventeenth century, Leonard Busher’s proposal for liberty of conscience included the right of “every person or persons, yea Jewes and Papists, to write, dispute, confer and reason, print and publish any matter touching religion, either for or against whomsoever.” His pamphlet influenced a new generation as it was reprinted in 1646.<sup>152</sup>

Similarly, in 1632, Edward Reynolds (a Puritan minister) said that the Bible and Christ granted full freedom of conscience:

Now the Gospell giveth a plenary freedome to the consciences of men; they may be commanded by their owne consciences, but their consciences cannot be commanded by any but by Christ. The Sonne hath made them free from all others, that he onely might be the Lord over them.

In his next paragraph, Reynolds tied that to *parrhesia* and translated it as liberty of speech:

*We use great boldnesse or liberty of speech; for why should he, who bringeth unto men glad tidings of glorious things, which offereth unto them the blessed Hope of Eternall life, bee affraid or ashamed of his Office? Though Rome were the seate, and that emperour the first Dedicator of the persecutions of the Church, yet even unto that place the Apostle was not ashamed to preach the Gospell of Christ... And therefore it is both the honour and duty of the dispencers of the Gospell to speake boldly as they ought to speake [citing Ephesians 6:20]... This was the prayer of the Primitive Saints for the Apostles of Christ, Grant unto thy servants, that with all Boldnesse they may speake thy Word [citing Acts 4:29].*<sup>153</sup>

The italicized passages from the Bible translated liberty of speech or boldness of speech from *parrhesia*.

Eleven years later, during the Puritan Revolution, Henry Robinson published a book entitled *Liberty of Conscience: or The Sole means to obtaine Peace and Truth*, and wrote that liberty of conscience required that equal liberty of speech and of writing and printing must be enjoyed

<sup>151</sup> Van Eijnatten, “In Praise of Moderate Enlightenment,” pp. 32, 33.

<sup>152</sup> Leonard Busher, *Religions Peace, or A Reconciliation between Princes & Peoples* (Amsterdam, n.p., 1614), p. 19; reprinted as Leonard Busher, *Religions Peace; or, A Plea for Liberty of Conscience* (London: John Sweeting, 1646).

<sup>153</sup> Edward Reynolds, *An Explication of the Hundreth and Tenth Psalme* (London: Felix Kyngston, 1632), pp. 201, 202.



by all faiths. He said that “this combat must be fought out upon eaven ground, on equall termes, neither side must expect to have greater liberty of speech, writing, Printing, or whatsoever else, then the other.”<sup>154</sup>

The next year, Roger Williams’s groundbreaking book on freedom from religious persecution claimed a right for every minister to determine “what he shall preach or pray,” even if government disagreed. Not just ministers, but “God[']s people have been *immovable, constant and resolved to the death, . . . in preaching and professing the true worship*, contrary to expresse command of *publicke Authority*.” He pressed elsewhere for “Libertie of free (really free) debates[,] disputes, writing[,] printing etc.”<sup>155</sup> A year later, Richard Overton published a book against persecution, and objected that Charles I and the royalists “*Stoppeth Presses*” and “Suffer[] nothing to be *Licensed, Printed, Preached*, or otherwise published, but what himself alloweth,” denying freedom of press under the censorship decree; and they also “stopt the mouthes of all good men,” denying freedom of speech. “Thus he dealeth with the Godly party” (the Puritans).<sup>156</sup>

Any number of other Puritans and other Dissenters combined support of freedom of religion with acknowledging that it entailed freedom of speech. An early Puritan anthology included Robert Johnson’s essay refusing to subscribe to three statements demanded by a bishop and claiming a minister’s right of “speaking against the corruptions remaining in the government” of the Church of England and in the Book of Common Prayer. The bishop’s demands had the effect of “abridging of that libertie which I ought to have and freedome to speak.”<sup>157</sup> During the Puritan Revolution, Marchamont Nedham responded to an opponent’s tract by agreeing that those that “cry out for liberty of conscience” also seek to “use liberty of speech, with Christian moderation,” while

<sup>154</sup> Henry Robinson, *Liberty of Conscience* (n.p., 1643), p. 17; accord Siebert, *Freedom of the Press*, pp. 194–95.

<sup>155</sup> Roger Williams, *The Bloudy Tenent, of Persecution, for Cause of Conscience* ([London]: n.p., 1644), pp. 177, 27, 228; Roger Williams to Gov. John Leverett (Oct. 11, 1675), in Glenn W. LaFantasie (ed.), *The Correspondence of Roger Williams* (London: Brown University Press, 1988), p. 2:704. Williams did not leave religious and other speech entirely immune from the magistrate, as he said he did not speak of “*scandals* against the *civill State*, which the *civill Magistrate* ought to punish.” Williams, *Bloudy Tenent*, 64.

<sup>156</sup> Younger Martin Mar-Preist [Richard Overton], *The Araignment of Persecution* (London: Martin Claw Clergie, 1645), p. 30.

<sup>157</sup> Robert Johnson, “Maister Robert Johnsons Answer to the Bi. of Lyncoln,” in John Udall (ed.), *A Parte of a Register, Contayninge Sundrie Memorable Matters* (London: n. p., 1593), pp. 94, 95, 96.

disagreeing that that was a bad thing.<sup>158</sup> Several statements by the Levellers condemned “tyrannous and superstitious Parliaments in making orders, ordinances or laws . . . concerning opinions o[n] things supernatural,” and further censured them for frightening people from “liberty of discourse.”<sup>159</sup>

Other Puritans made “liberty in professing Religion” the basis for liberty of speech, such as Crell and a Puritan peer, Lord Brooke.<sup>160</sup> A leading Leveller, William Walwyn, made “freedom of his minde, and exercise of his conscience,” the basis for “freedom of discourse.” He anticipated John Milton’s most famous passage in *Areopagitica* by proposing that “every one freely speake his minde without molestation” because “plaine truth will prove all, sufficient for vanquishing . . . error.”<sup>161</sup>

The same was true of John Locke, as he published his first *Letter Concerning Toleration* late in the seventeenth century. He stated that “liberty of conscience is every man’s natural right” and that the “jurisdiction of the magistrate” did not reach inward belief but only “civil concerns.” From this concept came freedom of speech and belief: “The magistrate ought not to forbid the preaching or professing of any speculative opinions in any church.”<sup>162</sup> Like many of his age, Locke was not consistent and did not allow freedom of conscience to all Roman Catholic, Jewish, and Muslim practices, but he allowed a much wider

<sup>158</sup> Marchamont Nedham, *Independencie No Schisme* (London: Rob. White, 1646), p. 2.

<sup>159</sup> Petition to the House of Commons (Sept. 11, 1648), in Woodhouse, *Puritanism and Liberty*, pp. 338, 340; accord, Large Petition of the Levellers (Mar. 1647), in *ibid.*, pp. 318, 321.

<sup>160</sup> Crell, *Expiation*, p. 45; Robert [Greville], Lord Brooke, *A Discourse Opening the Nature of Episcopacie* (London: R.C., 1642), pp. 104, 107 (“liberty of Preaching” and “a fair hearing”).

<sup>161</sup> [William Walwyn], *A Helpe to the Right Understanding of a Discourse Concerning Independency* (n.p., 1644), pp. 7, 8; [William Walwyn], *The Power of Love* (London: R.C., 1643), p. i. In the 1644 work, Walwyn has been interpreted as conceding that opinion that disturbed the state could be punished. Levy, *Emergence of a Free Press*, 92. The more straightforward interpretation is that Walwyn said “disturbance of the State” is a sin, but only if it was a crime such as “murder or adultery” should it be prosecuted and “punished as a malefactor.” Walwyn, *Helpe*, 8.

<sup>162</sup> John Locke, “Letter Concerning Toleration” (dated 1688 [actually 1689]), *Works of John Locke* (9th ed.) (1794; London: Routledge/Thoemmes Press, 1997), 9 vols., pp. 5:1, 47–48, 10, 40; accord John Dunn, “The Claim to Freedom of Conscience: Freedom of Speech, Freedom of Thought, Freedom of Worship,” in Ole P. Grell et al. (eds.), *From Persecution to Toleration: The Glorious Revolution and Religion in England* (Oxford: Clarendon Press, 1991), pp. 171–94.

scope than most writers of the time.<sup>163</sup> A recently discovered manuscript shows him to have been less intolerant of Catholicism than previously believed.<sup>164</sup> Almost innumerable other examples can be given of freedom of religion serving as the basis for advocacy of freedom of speech, in the sixteenth and seventeenth centuries, and the same is true of the eighteenth.<sup>165</sup>

One of those examples was James Madison, the “father of the Bill of Rights.” For him as for so many others, acceptance and defense of freedom of religion led to acceptance and defense of freedom of speech. His *Memorial and Remonstrance*, arguing that freedom of religion would be violated by Virginia’s proposed tax to fund churches, repeatedly appealed to a broader freedom of opinion and speech. Its first claim was that “the opinions of men, depending only on the evidence contemplated by their own minds, cannot follow the dictates of other men, but only could follow their unalienable right of religious “conviction and conscience.” Its last claim was that governments “have no such authority” to subsidize some religions, as the bill provided, and instead “are bound to leave this particular right untouched and sacred,” along with other rights such as freedom of press.<sup>166</sup> As a recent biographer wrote, Madison’s “struggle for freedom of religion” was what “led him to think more broadly about civil liberties in general,” and “turned his creative and persistent intellect to work on the problem of protecting individual rights.”<sup>167</sup>

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Freedom of speech was claimed in sixteenth- and seventeenth-century England and grew into common acceptance, primarily through Puritan

<sup>163</sup> Locke, “Letter Concerning Toleration,” pp. 5:45, 47; but see pp. 5:40, 51–52. On Locke and toleration, see Richard Ashcraft, *Revolutionary Politics and Locke’s Two Treatises of Government* (Princeton, N.J.: Princeton University Press, 1986), pp. 88–127.

<sup>164</sup> John Locke, “Reasons for Toleraeing Papists Equally with Others” (c. 1667–68); J. C. Walmsley and Felix Waldmann, “John Locke and the Toleration of Catholics: A New Manuscript,” (2019) 62 *Cambridge Historical Journal*, p. 1093.

<sup>165</sup> E.g., [Matthew Tindal], *Reasons against Restraining the Press* (London: n.p., 1704), p. 11; David Williams, *The Nature and Extent of Intellectual Liberty* (London: J. Dodsley et al., 1779), p. 15n. Both were ministers, and both based freedom of speech on freedom of religion.

<sup>166</sup> James Madison, “Memorial and Remonstrance against Religious Assessments” (1785), in Robert Rutland et al. (eds.), *The Papers of James Madison* (Chicago, Ill.: University of Chicago Press, 1973), pp. 299, 304.

<sup>167</sup> Jeff Broadwater, *James Madison: A Son of Virginia and a Founder of the Nation* (Chapel Hill: University of North Carolina Press, 2012), p. 9.

belief in *parrhesia* in the Bible and through their assertions of that freedom by using religious speech in books and sermons and speeches. There were others who mentioned freedom of speech from a secular perspective based on *parrhesia* in classical literature and on other sources, but they were a far less significant collection of advocates in the sixteenth and seventeenth centuries. The Puritan advocates of freedom of speech in sixteenth- and seventeenth-century England were aware of the classical uses of *parrhesia* – most of them received a classical education, a significant portion at Oxford or Cambridge – but they deliberately chose instead to rely on the biblical basis for *parrhesia*. Their frequent assertions of freedom of speech call into question the contention that “[f]ree speech as we understand the term . . . remained nearly unknown to legal or constitutional history and to libertarian thought on either side of the Atlantic before 1776.”<sup>168</sup>

This religious speech of Puritans, demanding freedom of speech based on the Bible’s provisions for *parrhesia*, was the primary impetus for growing recognition of freedom of speech. Without religious speech, freedom of speech might not have grown beyond rhetoric classes about the ancient Greeks and Romans, or at least would not have broadened nearly as much or as fast in the western world. Also in the sixteenth and seventeenth centuries, Puritan demands for liberty of conscience, which often was said to include freedom of speech for such things as preaching, discussing, and publishing, were another significant impetus for expanding recognition of freedom of speech. In both cases, it was Judeo-Christian religious speech, not secular speech or other religions’ speech, that obtained and expanded freedom of speech, ultimately for all people.

<sup>168</sup> Levy, *Emergence of a Free Press*, p. 5.