

Origins of Copyright

Part 2 of 6 – The Statute of Anne

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*The Author of any Book or Books already Printed, who hath not Transferred to any other the Copy or Copies of such Book or Books, Share or Shares thereof, or the Bookseller or Booksellers, Printer or Printers, or other Person or Persons, who hath or have Purchased or Acquired the Copy or Copies of any Book or Books, in order to Print or Reprint the same, shall have the sole Right and Liberty of Printing such Book and Books for the Term of One and twenty Years, to Commence from the said Tenth Day of April, and no longer; and that the Author of any Book or Books already Composed and not Printed and Published, or that shall hereafter be Composed, and his Assignee, or Assigns, shall have the sole Liberty of Printing and Reprinting such Book and Books for the Term of fourteen Years, to Commence from the Day of the First Publishing the same, **and no longer.**¹*

When it came into force in 1710, the *Statute of Anne* granted a copyright term of 14 years to the author of any new literary works, and provided that “*after the Expiration of the said Term of Fourteen Years, the sole Right of Printing or Disposing of Copies shall return to the Authors thereof, if they are then Living, for another Term of Fourteen Years*”². Publishers – those who had owned the erstwhile 'copy' in books which were already in print at the time the statute came into force – were granted a twenty-one year copyright period beginning on April

10th, 1710.

Commonly known as the first real Copyright statute, the *Statute of Anne* made some significant changes, although it continued to make use of the infrastructure of the Company of Stationers to fulfill certain administrative roles. Most notably, copyright vested automatically in the author of a literary work immediately upon creation of that work. The type of copyright contemplated by the *Statute of Anne* was much smaller in scope than is contemplated by modern copyright law. *Anne* protected the bare right to reproduce a work in printed form. Peripheral rights such as the right to perform a work, or to make a derivative work, which are commonly found in modern copyright regimes had not yet been conceived³.

The *Statute of Anne* cannot be seen as a recognition of a natural property right vesting in authors of literary works either, however. The Act contains a number of peculiarities which make it clear that it enshrines not a natural right, but a pragmatic right granted as part of a bargain between authors and the interests of society at large. The long title of the Act clearly evidences this 'bargain' principle of copyright as follows:

*An Act for the Encouragement of Learning, by Vesting the Copies of Printed Books in the Authors or Purchasers of such Copies, during the Times therein mentioned.*⁴

On a clear reading, this must be taken to indicate that the grant of copyright to authors is not a manifestation or a recognition of any natural right of those authors, but rather is a *means* by which the aim of “*the encouragement of learning*” is to be accomplished. The title also clearly indicates that the grant of copyright is to be limited in duration. This temporal limitation would itself seem to be anathema to the conception that copyright is a natural property right.

Further indication that the Act must be read as a grant of a positive statutory right which does not naturally exist in the common law can be found within the Act itself. The Act allows any person to make a complaint to any one of a number of state representatives to the effect that the price set by a publisher, printer or bookseller for any book is unreasonably high. The representative may then call that publisher, printer or bookseller before them to “*to Examine and Enquire of the reason of the Dearness and Inhauncement of the Price or Value of such Book or Books by him.*” If the state's representative is not satisfied by the testimony of the publisher, printer, or bookseller, a price can be imposed which the crown views as reasonable. This must be seen as concrete recognition of the value to society of the “*encouragement of learning*” and the importance of the contribution of literary works to the knowledge commons. It is that principle which lies at the heart of the Act, rather than the upholding of a right derived from authorship.

The preamble to the Statute recognizes that the publication of books without license from the author or owner of 'copy' does have a detrimental effect on the owner, but right alongside that acknowledgment is a restatement of the core purpose of the Act:

*Whereas Printers, Booksellers, and other Persons, have of late frequently taken the Liberty of Printing, Reprinting, and Publishing, or causing to be Printed, Reprinted, and Published Books, and other Writings, without the Consent of the Authors or Proprietors of such Books and Writings, to their very great Detriment, and too often to the Ruin of them and their Families: For Preventing therefore such Practices for the future, and for the **Encouragement of Learned Men to Compose and Write useful Books***⁵

When we take into account the wording of them long title and the preamble, and consider the effect of the fourteen year limitation period, the grant of

Copyright under the Statute of Anne must be seen as a pragmatic means by which two goals are accomplished: 1) the relief of harm to rightful owners of *copy* occasioned by unlicensed publication; and 2) the development of a healthy public domain.

Furthermore, the first of these 'goals' can itself be seen to be a means to achieve the second. By creating a statutory right which allows authors to be compensated for their literary work, those authors will be economically stimulated to create more such work, thereby adding to the current body of communal knowledge, and eventually (upon expiry of the term of copyright) contributing that work to the public domain. The fact that the *Statute of Anne* does not grant a perpetual monopoly is indicative of the fact that printing monopolies were seen to be operating to the detriment of the knowledge-commons.

- 1 *The Statute of Anne*, 8 Anne c. 19
Online: <http://www.copyrighthistory.com/anne.html>
- 2 *The Statute of Anne*, 8 Anne c. 19
- 3 Lawrence Lessig, *Free Culture* (New York: Penguin Press, 2004) at
Online: <http://www.free-culture.cc/freeculture.pdf>
- 4 *The Statute of Anne*, 8 Anne c. 19
- 5 *The Statute of Anne*, 8 Anne c. 19