

= Statute of Anne =

The Statute of Anne , also known as the Copyright Act 1709 (cited either as 8 Ann. c . 21 or as 8 Ann. c . 19) , is an act of the Parliament of Great Britain passed in 1710 , which was the first statute to provide for copyright regulated by the government and courts , rather than by private parties .

Prior to the statute 's enactment in 1710 , copying restrictions were authorized by the Licensing of the Press Act 1662 . These restrictions were enforced by the Stationers ' Company , a guild of printers given the exclusive power to print ? and the responsibility to censor ? literary works . The censorship administered under the Licensing Act led to public protest ; as the act had to be renewed at two @-@ year intervals , authors and others sought to prevent its reauthorisation . In 1694 , Parliament refused to renew the Licensing Act , ending the Stationers ' monopoly and press restrictions .

Over the next 10 years the Stationers repeatedly advocated bills to re @-@ authorize the old licensing system , but Parliament declined to enact them . Faced with this failure , the Stationers decided to emphasise the benefits of licensing to authors rather than publishers , and the Stationers succeeded in getting Parliament to consider a new bill . This bill , which after substantial amendments was granted Royal Assent on 5 April 1710 , became known as the Statute of Anne due to its passage during the reign of Queen Anne . The new law prescribed a copyright term of 14 years , with a provision for renewal for a similar term , during which only the author and the printers they chose to license their works to could publish the author 's creations . Following this , the work 's copyright would expire , with the material falling into the public domain . Despite a period of instability known as the Battle of the Booksellers when the initial copyright terms under the Statute began to expire , the Statute of Anne remained in force until the Copyright Act 1842 replaced it .

The statute is considered a " watershed event in Anglo @-@ American copyright history ... transforming what had been the publishers ' private law copyright into a public law grant " . Under the statute , copyright was for the first time vested in authors rather than publishers ; it also included provisions for the public interest , such as a legal deposit scheme . The Statute was an influence on copyright law in several other nations , including the United States , and even in the 21st century is " frequently invoked by modern judges and academics as embodying the utilitarian underpinnings of copyright law " .

= = Background = =

With the introduction of the printing press to England by William Caxton in 1476 , printed works became both more common and more economically important . As early as 1483 , Richard III recognised the value of literary works by specifically exempting them from the government 's protectionist legislation . Over the next fifty years , the government moved further towards economic regulation , abolishing the provision with the Printers and Binders Act 1534 , which also banned the import of foreign works and empowered the Lord Chancellor to set maximum pricing for English books . This was followed by increasing degrees of censorship . A further proclamation of 1538 , aiming to stop the spread of Lutheran doctrine , saw Henry VIII note that " sondry contentious and sinister opinionones , have by wrong teachynge and naughtye bokes increaced and growen within this his realme of England " , and declare that all authors and printers must allow the Privy Council or their agents to read and censor books before publication .

= = = Stationers ' Company = = =

This censorship peaked on 4 May 1557 , when Mary I issued a royal warrant formally incorporating the Stationers ' Company . The old method of censorship had been limited by the Second Statute of Repeal , and with Mary 's increasing unpopularity the existing system was unable to cope with the number of critical works being printed . Instead , the royal warrant devolved this power to the Company . This was done by decreeing that only the Company 's publishers could print and distribute books . Their Wardens were given the power to enter any printing premises , destroy

illegal works and imprison anyone found manufacturing them . In this way the government " harnessed the self interest of the publishers to the yoke of royal incentive " , guaranteeing that the Company would follow the rules due to the economic monopoly it gave their members . With the abolition of the Star Chamber and Court of High Commission by the Long Parliament , the legal basis for this warrant was removed , but the Long Parliament chose to replace it with the Licensing Act 1662 . This provided that the Company would retain their original powers , and imposed additional restrictions on printing ; King 's Messengers were permitted to enter any home or business in search of illegal presses . The legislation required renewal every two years , and was regularly reapproved .

This was not " copyright " as is normally understood ; although there was a monopoly on the right to copy , this was available to publishers , not authors , and did not exist by default ; it only applied to books which had been accepted and published by the Company . A member of the Company would register the book , and would then have a perpetual copyright over its printing , copying and publication , which could be leased , transferred to others or given to heirs upon the member 's death . The only exception to this was that , if a book was out of print for more than 6 months and the publisher ignored a warning to make it available , the copyright would be released and other publishers would be permitted to copy it . Authors themselves were not particularly respected until the 18th century , and were not permitted to be members of the Company , playing no role in the development or use of its licenses despite the Company 's sovereign authority to decide what was published . There is evidence that some authors were recognised by the Company itself to have the right to copy and the right to alter their works ; these authors were uniformly the writers of uneconomical books who were underwriting their publication .

The Company 's monopoly , censorship and failure to protect authors made the system highly unpopular ; John Milton wrote *Areopagitica* as a result of his experiences with the Company , accusing Parliament of being deceived by " the fraud of some old patentees and monopolisers in the trade of bookselling " . He was not the first writer to criticise the system , with John Locke writing a formal memorandum to the MP Edward Clarke in 1693 while the Licensing Act was being renewed , complaining that the existing system restricted the free exchange of ideas and education while providing an unfair monopoly for Company members . Academic Mark Rose attributes the efforts of Milton to promote the " bourgeois public sphere " , along with the Glorious Revolution 's alterations to the political system and the rise of public coffee houses , as the source of growing public unhappiness with the system . At the same time , this was a period in which clearly defined political parties were taking shape , and with the promise of regular elections , an environment where the public were of increasing importance to the political process . The result was a " developing public sphere [which] provided the context that enabled the collapse of traditional press controls " .

= = = Lapse of the Licensing Act = = =

The result of this environment was the lapse of the Licensing Act . In November 1694 , a committee was appointed by the Commons to see what laws were " lately expired and expiring [and] fit to be revived and continued " . The Committee reported in January 1695 , and suggested the renewal of the Licensing Act ; this was included in the " Continuation Bill " , but rejected by the House of Commons on 11 February . When it reached the House of Lords , the Lords re @-@ included the Licensing Act , and returned the bill to the Commons . In response , a second committee was appointed - this one to produce a report indicating why the Commons disagreed with the inclusion of the Licensing Act , and chaired by Edward Clarke . This committee soon reported to the Commons , and Clarke was ordered to carry a message to the Lords requesting a conference over the Act . On 18 April 1695 , Clarke met with representatives of the Lords , and they agreed to allow the Continuation Bill to pass without the renewal of the Licensing Act . With this , " the Lords ' decision heralded an end to a relationship that had developed throughout the sixteenth and seventeenth centuries between the State and the Company of Stationers " , ending both nascent publishers ' copyright and the existing system of censorship .

John Locke 's close relationship with Clarke , along with the respect he commanded , is seen by

academics as what led to this decision . Locke had spent the early 1690s campaigning against the statute , considering it " ridiculous " that the works of dead authors were held perpetually in copyright . In letters to Clarke he wrote of the absurdity of the existing system , complaining primarily about the unfairness of it to authors , and " [t] he parallels between Locke 's commentary and those reasons presented by the Commons to the Lords for refusing to renew the 1662 Act are striking " . He was assisted by a number of independent printers and booksellers , who opposed the monopolistic aspects of the Act , and introduced a petition in February 1693 that the Act prevented them from conducting their business . The " developing public sphere " , along with the harm the existing system had caused to both major political parties , is also seen as a factor .

The failure to renew the Licensing Act led to confusion and both positive and negative outcomes ; while the government no longer played a part in censoring publications , and the monopoly of the Company over printing was broken , there was uncertainty as to whether or not copyright was a binding legal concept without the legislation . Economic chaos also resulted ; with the Company now unable to enforce any monopoly , provincial towns began establishing printing presses , producing cheaper books than the London booksellers . The absence of the censorship provisions also opened Britain up as a market for internationally printed books , which were similarly cheaper than those British printers could produce .

= = = Attempts at replacement = = =

The rejection of the existing system was not done with universal approval , and there were ultimately twelve unsuccessful attempts to replace it . The first was introduced to the House of Commons on 11 February 1695 . A committee , again led by Clarke , was to write a " Bill for the Better Regulating of Printing and the Printing Presses " . This bill was essentially a copy of the Licensing Act , but with a narrower jurisdiction ; only books covering religion , history , the affairs of the state or the law would require official authorisation . Four days after its introduction , the Stationers ' held an emergency meeting to agree to petition the Commons - this was because the bill did not contain any reference to books as property , eliminating their monopoly on copying . Clarke also had issues with the provisions , and the debate went on until the end of the Parliamentary session , with the bill failing to pass .

With the end of the Parliamentary session came the first general election under the Triennial Act 1694 , which required the Monarch to dissolve Parliament every 3 years , causing a general election . This led to the " golden age " of the English electorate , and allowed for the forming of two major political parties - the Whigs and Tories . At the same time , with the failure to renew the Licensing Act , a political press developed . While the Act had been in force only one official newspaper existed ; the London Gazette , published by the government . After its demise , a string of newspapers sprang into being , including the Flying Post , the Evening Post and the Daily Courant . Newspapers had a strong bias towards particular parties , with the Courant and the Flying Post supporting the Whigs and the Evening Post in favour of the Tories , leading to politicians from both parties realising the importance of an efficient propaganda machine in influencing the electorate . This added a new dimension to the Commons ' decision to reject two new renewals of the Licensing Act in the new Parliamentary session .

Authors , as well as Stationers , then joined the demand for a new system of licensing . Jonathan Swift was a strong advocate for licensing , and Daniel Defoe wrote on 8 November 1705 that with the absence of licensing , " One Man Studies Seven Year , to bring a finish 'd Peice into the World , and a Pyrate Printer , Reprints his Copy immediately , and Sells it for a quarter of the Price ... these things call for an Act of Parliament " . Seeing this , the Company took the opportunity to experiment with a change to their approach and argument . Instead of lobbying because of the impact the absence of legislation was having on their trade , they lobbied on behalf of the authors , but seeking the same things . The first indication of this change in approach comes from the 1706 pamphlet by John How , a stationer , titled Reasons humbly Offer 'd for a Bill for the Encouragement of Learning and the Improvement of Printing . This argued for a return to licensing , not with reference to the printers , but because without something to protect authors and guarantee them an income , "

Learned men will be wholly discouraged from Propagating the most useful Parts of Knowledge and Literature " . Using these new tactics and the support of authors , the Company petitioned Parliament again in both 1707 and 1709 to introduce a bill providing for copyright .

= = Act = =

= = = Passage = = =

Although both bills failed , they led to media pressure that was exacerbated by both Defoe and How . Defoe 's A Review , published on 3 December 1709 and demanding " a Law in the present Parliament ... for the Encouragement of Learning , Arts , and Industry , by securing the Property of Books to the Authors or Editors of them " , was followed by How 's Some Thoughts on the Present State of Printing and Bookselling , which hoped that Parliament " might think fit to secure Property in Books by a Law " . This was followed by another review by Defoe on 6 December , in which he even went so far as to provide a draft text for the bill . On 12 December , the Stationers submitted yet another petition asking for legislation on the issue , and the House of Commons gave three MPs ? Spencer Compton , Craven Peyton and Edward Wortley ? permission to form a drafting committee . On 11 January 1710 , Wortley introduced this bill , titling it A Bill for the Encouragement of Learning and for Securing the Property of Copies of Books to the rightful Owners thereof .

The bill allowed for fines for anyone who imported or traded in unlicensed or foreign books , required every book that would be given copyright protection to be entered into the Stationers ' Register , provided a legal deposit system centred around the King 's Library , the University of Oxford and the University of Cambridge , but said nothing about limiting the term of copyright . It also specified that books were property ; an emphasis on the idea that authors deserved copyright simply due to their efforts . The Stationers were enthusiastic , urging Parliament to pass the bill , and it received its second reading on 9 February . A Committee of the Whole met to amend it on 21 February , with further alterations made when it was passed back to the House of Commons on 25 February . Alterations during this period included minor changes , such as extending the legal deposit system to cover Sion College and the Faculty of Advocates , but also major ones , including the introduction of a limit on the length of time for which copyright would be granted .

Linguistic amendments were also included ; the line in the preamble emphasising that authors possessed books as they would any other piece of property was dropped , and the bill moved from something designed " for Securing the Property of Copies of Books to the rightful Owners thereof " to a bill " for the Encouragement of Learning , by Vesting the Copies of Printed Books in the Authors or Purchasers of such Copies " . Another amendment allowed anyone to own and trade in copies of books , undermining the Stationers . Other changes were made when the bill went to the House of Lords , and it was finally returned to the Commons on 5 April . The aims of the resulting statute are debated ; Ronan Deazley suggests that the intent was to balance the rights of the author , publisher and public in such a way as to ensure the maximum dissemination of works , while other academics argue that the bill was intended to protect the Company 's monopoly or , conversely , to weaken it . Oren Bracha , writing in the Berkeley Technology Law Journal , says that when considering which of these options are correct , " the most probable answer [is] all of them " . Whatever the motivations , the bill was passed on 5 April 1710 , and is commonly known simply as the Statute of Anne due its passage during the reign of Queen Anne .

= = = Text = = =

Consisting of 11 sections , the Statute of Anne is formally titled " An Act for the Encouragement of Learning , by Vesting the Copies of Printed Books in the Authors or Purchasers of Copies , during the Times therein mentioned " . The preamble for the Statute indicates the purpose of the legislation - to bring order to the book trade - saying :

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 ; May it please Your Majesty , that it may be Enacted ...

The Statute then moved on to stating the nature of copyright . The right granted was the right to copy ; to have sole control over the printing and reprinting of books , with no provision to benefit the owner of this right after the sale . This right , previously held by the Stationers ' Company 's members , would automatically be given to the author as soon as it was published , although they had the ability to license these rights to another person . The copyright could be gained through two stages ; first , the registration of the book 's publication with the Company , to prevent unintentional infringement , and second , the deposit of copies of the book at the Stationers ' Company , the royal library and various universities . One restriction on copyright was a " cumbersome system " designed to prohibit unreasonably high prices for books , which limited how much authors could charge for copies . There was also a prohibition on importing foreign works , with exceptions made for Latin and Greek classics .

Once registration had been completed and the deposits were made , the author was granted an exclusive right to control the copying of the book . Penalties for infringing this right were severe , with all infringing copies to be destroyed and large fines to be paid to both the copyright holder and the government ; there was only a three @-@ month statute of limitations on bringing a case , however . This exclusive right 's length was dependent on when the book had been published . If it was published after 10 April 1710 , the length of copyright was 14 years ; if published before that date , 21 years . An author who survived until the copyright expired would be granted an additional 14 @-@ year term , and when that ran out , the works would enter the public domain . Copyright under the Statute applied to Scotland and England , as well as Ireland when that country joined the union in 1800 .

= = Aftermath = =

= = = Impact = = =

The passage of the Statute was initially much welcomed , ushering in " stability to an insecure book trade " while providing for a " pragmatic bargain " between the rights of the author , publisher and public intended to boost public learning and the availability of knowledge . The clause requiring book deposits , however , was not seen as a success . If the books were not deposited , the penalties would be severe , with a fine of £ 5 . The number of deposits required , however , meant that it was a substantial burden ; a print run might only be of 250 copies , and if they were particularly expensive to print , it could be cheaper to ignore the law . Some booksellers argued that the deposit provision only applied to registered books , and so deliberately avoided registration just to be able to minimise their liability . This was further undermined by the ruling in *Beckford v Hood* , where the Court of King 's Bench confirmed that , even without registration , copyright could be enforced against infringers .

Another failure , identified by Bracha , is not found in what the Statute covered , but in what it did not . The Statute did not provide any means for identifying authors , did not identify what constituted authored works , and covered only " books " , even while discussing " property " as a whole . Moreover , the right provided was merely that of " making and selling ... exact reprints . To a large extent , the new regime was the old stationer 's privilege , except it was universalised , capped in time , and formally conferred upon authors rather than publishers " . The impact of the Statute on authors was also minimal . Previously , publishers would have bought the original manuscript from writers for a lump sum ; with the passage of the Statute , they simply did the same thing , but with the manuscript 's copyright as well . The remaining economic power of the Company also allowed them to pressure booksellers and distributors into continuing their past arrangements , meaning that

even theoretically " public domain " works were , in practise , still treated as copyrighted .

== Battle of the Booksellers ==

When the copyrights granted to works published before the Statute began to expire in 1731 , the Stationers ' Company and their publishers again began to fight to preserve the status quo . Their first port of call was Parliament , where they lobbied for new legislation to extend the length of copyright , and when this failed , they turned to the courts . Their principal argument was that copyright had not been created by the Statute of Anne ; it existed beforehand , in the common law , and was perpetual . As such , even though the Statute provided for a limited term , all works remained in copyright under the common law regardless of when statutory copyright expired . Starting in 1743 , this began a thirty @-@ year campaign known as the " Battle of the Booksellers " . They first tried going to the Court of Chancery and applying for injunctions prohibiting other publishers from printing their works , and this was initially successful . A series of legal setbacks over the next few years , however , left the law ambiguous .

The first major action taken to clarify the situation was *Millar v Taylor* . Andrew Millar , a British publisher , purchased the rights to James Thomson 's *The Seasons* in 1729 , and when the copyright term expired , a competing publisher named Robert Taylor began issuing his own reprints of the work . Millar sued , and went to the Court of King 's Bench to obtain an injunction and advocate perpetual copyright at common law . The jury found that the facts submitted by Millar were accurate , and asked the judges to clarify whether common law copyright existed . The first arguments were delivered on 30 June 1767 , with John Dunning representing Millar and Edward Thurlow representing Taylor . A second set of arguments were submitted for Millar by William Blackstone on 7 June , and judgment was given on 20 April 1769 . The final decision , written by Lord Mansfield and endorsed by Aston and Willes JJ , confirmed that there existed copyright at common law that turned " upon Principles before and independent " of the Statute of Anne , something justified because it was right " that an Author should reap the pecuniary Profits of his own Ingenuity and Labour " . In other words , regardless of the Statute , there existed a perpetual copyright under the common law . Yates J dissented , on the grounds that the focus on the author obscured the impact this decision would have on " the rest of mankind " , which he felt would be to create a virtual monopoly , something that would have a detrimental impact on the public and should certainly not be considered " an encouragement of the propagation of learning " .

Although this decision was a boon to the Stationers , it was short @-@ lived . Following Millar , the right to print *The Seasons* was sold to a coalition of publishers including Thomas Becket . Two Scottish printers , Alexander and John Donaldson , began publishing an unlicensed edition , and Becket successfully obtained an injunction to stop them . This decision was appealed in *Donaldson v Beckett* , and eventually went to the House of Lords . After consulting with the judges of the King 's Bench , Common Pleas and Exchequer of Pleas , the Lords concluded that copyright was not perpetual , and that the term permitted by the Statute of Anne was the maximum length of legal protection for publishers and authors alike .

== Expansion and repeal ==

Until its repeal , most extensions to copyright law were based around provisions found in the Statute of Anne . The one successful bill from the lobbying in the 1730s , which came into force on 29 September 1739 , extended the provision prohibiting the import of foreign books to also prohibit the import of books that , while originally published in Britain , were being reprinted in foreign nations and then shipped to England and Wales . This was intended to stop the influx of cheap books from Ireland , and also repealed the price restrictions in the Statute of Anne . Another alteration was over the legal deposit provisions of the Statute , which many booksellers found unfair . Despite an initial period of compliance , the principle of donating copies of books to certain libraries lapsed , partly due to the unwieldiness of the statute 's provisions and partly because of a lack of cooperation by the publishers . In 1775 Lord North , who was Chancellor of the University of Oxford , succeeded in

passing a bill that reiterated the legal deposit provisions and granted the universities perpetual copyright on their works .

Another range of extensions came in relation to what could be copyrighted . The Statute only referred to books , and being an Act of Parliament , it was necessary to pass further legislation to include various other types of intellectual property . The Engraving Copyright Act 1734 extended copyright to cover engravings , statutes in 1789 and 1792 involved cloth , sculptures were copyrighted in 1814 and the performance of plays and music were covered by copyright in 1833 and 1842 respectively . The length of copyright was also altered ; the Copyright Act 1814 set a copyright term of either 28 years , or the natural life of the author if this was longer . Despite these expansions , some still felt copyright was not a strong enough regime . In 1837 , Thomas Noon Talfourd introduced a bill into Parliament to expand the scope of copyright . A friend of many men of letters , Talfourd aimed to provide adequate rewards for authors and artists . He campaigned for copyright to exist for the life of the author , with an additional 60 years after that . He also proposed that existing statutes be codified under the bill , so that the case law that had arisen around the Statute of Anne was clarified .

Talfourd 's proposals led to opposition , and he reintroduced modified versions of them year on year . Printers , publishers and booksellers were concerned about the cost implications for original works , and for reprinting works that had fallen out of copyright . Many within Parliament argued that the bill failed to take into account the public interest , including Lord Macaulay , who succeeded in defeating one of Talfourd 's bills in 1841 . The Copyright Act 1842 passed , but " fell far short of Talfourd 's dream of a uniform , consistent , codified law of copyright " . It extended copyright to life plus seven years , and , as part of the codification clauses , repealed the Statute of Anne .

= = = Significance = = =

The Statute of Anne is traditionally seen as " a historic moment in the development of copyright " , and the first statute in the world to provide for copyright . Craig Joyce and Lyman Ray Patterson , writing in the Emory Law Journal , call this a " too simple understanding [that] ignores the statute 's source " , arguing that it is at best a derivative of the Licensing Act . Even considering this , however , the Statute of Anne was " the watershed event in Anglo @-@ American copyright history ... transforming what had been the publishers ' private law copyright into a public law grant " . Patterson , writing separately , does note the differences between the Licensing Act and the Statute of Anne ; the question of censorship was , by 1710 , out of the question , and in that regard the Statute is distinct , not providing for censorship .

It also marked the first time that copyright had been vested primarily in the author , rather than the publisher , and also the first time that the injurious treatment of authors by publishers was recognised ; regardless of what authors signed away , the second 14 @-@ year term of copyright would automatically return to them . Even in the 21st century , the Statute of Anne is " frequently invoked by modern judges and academics as embodying the utilitarian underpinnings of copyright law " . In *IceTV v Nine Network* , for example , the High Court of Australia noted that the title of the Statute " echoed explicitly the emphasis on the practical or utilitarian importance that certain seventeenth @-@ century philosophers attached to knowledge and its encouragement in the scheme of human progress " . Despite " widely recognised flaws " , the Act became a model copyright statute , both within the United Kingdom and internationally . Christophe Geiger notes that it is " a difficult , almost impossible task " to analyse the relationship between the Statute of Anne and early French copyright law , both because it is difficult to make a direct connection , and because the ongoing debate over both has led to radically different interpretations of each nation 's law .

Similarly , Belgium took no direct influence from the Statute or English copyright theory , but Joris Deene of the University of Ghent identifies an indirect influence " at two levels " ; the criteria for what constitutes copyrightable material , which comes from the work of English theorists such as Locke and Edward Young , and the underlying justification of copyright law . In Belgium , this justification is both that copyright serves the public interest , and that copyright is a " private right " that serves the

interests of individual authors . Both theories were taken into account in *Donaldson v Beckett* , as well as in the drafting of the Statute of Anne , and Deene infers that they subsequently had an impact on the Belgian debates over their first copyright statute . In the United States , the Copyright Clause of the United States Constitution and the first Federal copyright statute , the Copyright Act of 1790 , both draw on the Statute of Anne . The 1790 Act contains provisions for a 14 @-@ year term of copyright and sections that provide for authors who published their works before 1790 , both of which mirror the protection offered by the Statute 80 years previously .