



**Gadd, I. (2016) 'The Stationers' Company in England before 1710' in Alexander, I. and Gómez-Arostegui, H. T. (eds.) *Research handbook on the history of copyright law*. Cheltenham: Elgar, pp. 81-95.**

URL: <http://www.e-elgar.com/shop/the-history-of-copyright-law>

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## **The Stationers' Company in England before 1710**

IAN GADD

Among the provisions of the 1710 Statute of Anne was a requirement that 'the Title to the Copy of such book or books hereafter published shall before such publication be entered in the Register Book of the Company of Stationers in such manner as hath been usual which Register Book shall at all times be kept at the Hall of the said Company'.<sup>1</sup> Mention was also made of the Company's 'Clerk' and 'Warehouse Keeper' and their duties under the Act. No further explanation was given about what the Company was or what it did, or indeed where its hall, let alone its clerk and warehouse keeper, were to be found. Yet its 'Register Book' was identified as the central, and only, record-keeping mechanism for the rights and activities enshrined by the Act. That the 'Company of Stationers' needed no glossing was hardly surprising for a trade and craft body whose membership comprised most, but not all, of London's printers and booksellers; moreover, any member of the London book trade and many of those active outside of London, knew exactly where to find the company's headquarters, and adjacent warehouses, just off Ludgate Hill, west of St Paul's Cathedral. However, neither the company's size or prominence fully explains its presence in this statute, because for all that the Statute of Anne may have appeared to be new, many of its provisions were shaped by how the company and book trade had developed over the previous two

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<sup>1</sup> Act for the Encouragement of Learning 1710 (8 Anne c 19).

centuries. It is the story of the Company of Stationers, its hall, its clerk, its warehouse keeper, and above all its 'register book' that is the focus of this chapter.

### **Printing and privileges: the book trade to 1553**

The Company of Stationers—or the Stationers' Company as it is more commonly known—was a London craft guild or 'company'. Its origins can be traced back to 1357, but its formal foundation dates from 1403, when members of the 'misteries' of Textwriters (non-legal scribes) and Limners (who illustrated and illuminated manuscripts) along with those who 'use to bind and sell books' sought permission from the city authorities to band together as a single mystery. By 1417, 'Stationers' appears as part of the organisation's title, and from 1441 onwards it was known solely as the mystery or company of Stationers.<sup>2</sup> As London custom allowed any citizen to practice virtually any craft or trade regardless of the company to which they belonged, the Stationers' Company never comprised the entirety of the London book trade—nor, for that matter, were all its members active in the book trade—but nonetheless it was the largest single grouping of book producers and booksellers in the city. At this stage, of course, the Company included no printers: printing would not arrive in England until the 1470s, and it was not until 1500 or thereabouts that any printers joined the Stationers' Company.

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<sup>2</sup> Peter WM Blayney, *The Stationers' Company and the Printers of London, 1501–1557* (CUP 2013) 4–19. Most of the detail given in this section is derived from this very important revisionist history that supplants all previous accounts of the development of printing privileges in the sixteenth century.

By the early sixteenth century, the English book trade was already subject to a good deal of regulation, much of it economic. Membership of a London company brought with it particular economic, social, and political benefits but prior to the mid-sixteenth century a printer, unlike a bookseller, bookbinder, or scribe, was not subject to any accompanying regulatory system. A printer who joined the Stationers' Company was expected to obey company and city ordinances regarding labour, prices, and selling practices, as well as abide by general economic and trade-specific legislation, and statutes and proclamations relating to blasphemy and treason. However, the new craft of printing was not yet subject to any direct regulatory control: no London company, for example, had jurisdiction over printing regardless of whether printers were numbered among its members. In fact, during the first half of the sixteenth century, it was more likely for a printer to be a member of another London company than belong to the Stationers' Company.<sup>3</sup>

This relative freedom had important consequences. Printing was more than a new technology. It was a capital-intensive activity that, unlike the production of manuscripts, involved the acquisition of a good deal of specialist equipment before a single sheet could be printed. Crucially, it also differed in its underlying business model. Unlike manuscripts, printed books were not produced in complete units one at a time; instead, a decision had to be taken at the outset about how many copies

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<sup>3</sup> *ibid* 929–32.

should be printed, none of which were available for sale before the entire print-run was effectively complete. Producing printed books for sale—or what we would call publishing—involved up-front costs and commercial risks far beyond what a scribal workshop faced, even one that might produce some manuscripts in anticipation of demand. The economics of publishing were not for the faint-hearted. Moreover, as the printed book trade developed, a new risk appeared: someone else publishing someone else’s previously published work, and selling it cheaper.<sup>4</sup> It was this that prompted publishers to seek ways of protecting their investments.

In England, that moment was not reached until 1510. As Peter Blayney observes, during the first decade of the sixteenth century,

[t]he demand for books was growing faster than was their output, and no one printer could expect to satisfy it all. It hardly mattered which of them printed which of the books in greatest demand; if ‘competing’ editions of a steady-selling work happened to appear in the same year, that simply meant that each printer’s next edition of it would be somewhat delayed. Given the close proximity in which they lived and worked it is anyway difficult to doubt that they would sometimes have discussed their plans and negotiated with each other in order to prevent potential clashes of interest. But none of them

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<sup>4</sup> Savings could be made by lowering the cost of materials (cheaper paper, narrower margins, smaller type), by not having to pay for the original manuscript, and by not having to spend time readying the manuscript for type-setting.

had ever had the exclusive right to print any work, so we cannot expect them to have behaved as if such rights were the expected norm.<sup>5</sup>

Over the following decade, the principle of protecting one's right to print a particular work was established through a series of royal grants that forbade others from printing named works for a specific period.<sup>6</sup> The first such privilege was issued to the printer, Richard Pynson, most likely in 1510, protecting his right to print the first statute of Henry VIII's reign for a period of two years.<sup>7</sup> In 1512 Thomas Linacre was granted a two-year privilege to protect his new Latin schoolbook; Linacre was the first author, as opposed to a printer, to receive such a privilege but, as Blayney suggests, it was unlikely that such a privilege had been obtained without the involvement of the work's printer (and probable publisher).<sup>8</sup> A third privilege, this time granted to the Oxford printer John Scolar in 1518 by the Chancellor of the University, was narrower in its geographic scope—it only applied to Oxford—but extended the term of protection to seven years. Strikingly, its terms seemed to apply to all subsequent works printed by Scolar and forbade the sale in Oxford of any rival editions printed elsewhere. It proved a crucial precedent: later that year, Pynson appears to have secured a lifetime privilege that protected all his

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<sup>5</sup> Blayney, *Stationers' Company* (n 2) 109.

<sup>6</sup> *ibid* 171–72.

<sup>7</sup> *ibid* 160–63.

<sup>8</sup> *ibid* 165–66.

new publications for a period of two years from the date of publication.<sup>9</sup> Similar ‘generic’ privileges were granted to six further printers and one author during the 1520s. By 1528 almost half of the printers active in England had privileges: in Blayney’s words, ‘[t]he idea of entitlement had arrived—and it was a genie that would never go back into the bottle.’<sup>10</sup> Further privileges followed during the next decade, and by 1538 over a third of all extant books printed during the previous two decades claimed some kind of privileged protection.

As the example of Scolar shows, it was possible for an authority other than the monarch to grant a privilege; in other words, the crown had no special or exclusive right to bestow grants relating to printing. This may seem self-evident but, over a century later, the idea that there was in fact a ‘property’ inherent in printing that belonged ultimately to the crown and that it was this ‘property’ that was granted by a privilege was cited in legal cases. Many scholars have assumed that this concept dated back to the Tudors but, as Blayney has persuasively argued, this was not how it was understood during Henry VIII’s reign:

[a] hitherto-unprinted book . . . had no owner at all, and could therefore be printed by anyone. By granting a privilege Henry did not transfer property rights that were otherwise his: he used the prerogative to *forbid* anyone *other*

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<sup>9</sup> *ibid* 167–71.

<sup>10</sup> *ibid* 233–35, 322–26, 928.

than the grantee to print it for a specific period—after which it returned to the public domain from which he had temporarily removed it.<sup>11</sup>

Privileges were thus no more than temporary commercial monopolies. That many of them were generic—that is, they applied to all new publications by a specific printer—also warns us against seeing ‘cum privilegio regali’ on the imprint of a sixteenth-century book as an official endorsement. Indeed the risk that some contemporary readers might do just this seems to have prompted a royal proclamation in 1538 that any book bearing that phrase on its titlepage should add ‘ad imprimendum solum’ to make it clear that the privilege only concerned the *printing* of the book.<sup>12</sup> The *content* of books was instead regulated through a system of pre-publication licensing that owes its origins to papal bulls of 1487 and 1515,<sup>13</sup> and was cited in various forms by ecclesiastical and secular authorities in England from the 1520s onwards; the system, albeit in a more developed form, remained England’s primary means for controlling the publication of texts, with some hiatuses, through until the end of the seventeenth century.<sup>14</sup> Privileges, however, were not part of the mechanism of censorship.

During Henry’s reign, the majority of privileges issued by the crown were granted ‘by placard’—a relatively simple bureaucratic process that bypassed Chancery

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<sup>11</sup> *ibid* 170–72.

<sup>12</sup> *ibid* 480–87.

<sup>13</sup> *ibid* 173–78; R Hirsch, ‘Bulla Super Impressione Librorum, 1515’ (1973) *Gutenberg-Jahrbuch* 248.

<sup>14</sup> Most notably 1547–49, 1641–43, and 1685–87.

(which required more expense).<sup>15</sup> The first privilege to be granted under the great seal as opposed to by placard was issued to Anthony Marler in 1542 for the right to print the English bible: the added authority (and cost) reflected the king's particular interest in the work and may, according to Blayney, have been intended 'to *prevent* publication rather than facilitate it'. The following year, a privilege to the printer Richard Grafton and his associate Edward Whitchurch granted them seven years' protection for any work they published and indefinite protection to any Sarum liturgy published: both the term-limit and specification of genre represented a departure from the usual practice.<sup>16</sup> Under Edward VI, privileges by placard continued to 'significantly outnumber those issued under the great seal', with a much larger number than before being granted to non-printers.<sup>17</sup> As before, some privileges were for specifically named works, but there were also more for *genres* of books: books in Latin, Greek, and Hebrew; all authorized service books; service books for use in Wales and the Marches; liturgies in French for the use of the Channel Isles; primers, psalters, and books of private prayer; and common law books.<sup>18</sup> As privileges began to jostle with one another overlaps became inevitable,

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<sup>15</sup> Blayney, *Stationers' Company* (n 2) 952–59. 'By placard' privileges were issued 'under the sign manual, the privy signet, or more probably both'. *ibid* 953. Privileges issued under the great seal were enrolled (that is, formally copied) onto the Chancery patent rolls.

<sup>16</sup> *ibid* 542–47. Scolar's Oxford privilege was a grant of seven years; the earliest royal example appears to date from 1531. *ibid* 322–23.

<sup>17</sup> *ibid* 721.

<sup>18</sup> *ibid* 604, 606–07, 644–46, 649, 628, 734.

such as Richard Tottell's common law book privilege which explicitly excepted certain titles already published, or John Day's privilege for Ponet's *Short Catechism* which originally allowed him to print it also in Latin (thus clashing with Reyner Wolfe's rights as the Royal Typographer for Latin, Greek, and Hebrew). Apparently by way of compensation, Day secured the right to publish the *ABC with the Brief Catechism* (itself already under privilege) but *only* when annexed to the *Catechism*, a nicety that Day himself failed to observe.<sup>19</sup>

### **The Incorporation of the Stationers' Company**

The impact of Mary's accession to the throne in 1553 on the English book trade was dramatic: within a matter of months, over half of the printers who had been active immediately prior to her accession stopped their presses, including 'the five most prolific printers of Edward's reign, who between them had printed more than 60 percent of the nation's output'.<sup>20</sup> The number of Edwardian privilege-holders also shrank markedly although some key privileges (such as for common law books and books in Latin, Greek and Hebrew) continued; new privileges were issued and existing ones renewed.<sup>21</sup> However, as Blayney has been the first to argue, Mary's reign marked a transformation in the history of what became copyright, by facilitating a remarkably audacious commercial coup on behalf of the Stationers'

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<sup>19</sup> *ibid* 735–36.

<sup>20</sup> *ibid* 757.

<sup>21</sup> *ibid* 756–58, 761–62, 824–25.

Company that, while relying on a particular set of contingencies, derived directly from a 'guild' ethos.

Guilds, their ambitions, and their effect on local and national economies has been the subject of scholarly debate ever since Adam Smith condemned them as conspiracies against the public. Guilds, many scholars have been argued, prevented economic competition, deterred entrepreneurship and technological innovation, kept prices high, restricted the labour market, and condoned the production and sale of poor quality wares by their members. They were, in economic terms, 'inefficient', 'inflexible', and 'rent-seeking'; in other words, they used their dominant position to exploit customers and to inhibit the activities of craftsmen or tradesmen outside the guild system, and they refused to adapt to changing economic circumstances. They were monopolists by instinct, and they survived for so long not because they were beneficial for the European urban economy, but because they were ruthlessly efficient at protecting and extending their privileged status. Their decline and eventual disappearance by the early nineteenth century was thus an inevitable, and worthy, victory for modern capitalism and the free market.

This critical view of the European guild system represented the economic orthodoxy until relatively recently when some economic historians began to argue that guilds, while not being wholly 'efficient' or 'optimal' organisations, did, on

balance make a net social and economic contribution. To quote one leading advocate, Larry Epstein, guilds:

mediated between members with market power and negotiated with more powerful merchants; they supplied members with financial support and cheap credit; they enforced quality standards and fixed prices . . . ; and they protected members from exploitation by opportunistic urban elites. Not least, they sustained systems for the transmission of skills and technical innovation. This functional complexity and flexibility . . . explains the extraordinary longevity of the craft guild as an economic organization . . . [B]etween the thirteenth and the eighteenth centuries they offered a superior organizational matrix for the acquisition and deployment of skills by most urban artisans working under the prevailing technological, commercial, and political circumstances.<sup>22</sup>

So, while the vast majority of printers and publishers in England prior to the mid-sixteenth century were members of London companies, and so were subject to their individual company regulations regarding training and labour, the craft of printing and by extension the trade of publishing operated outside of a corporate framework. Such ‘freedom’, though, created a problem when it came to seeking protection for one’s publications: as no single company ‘owned’ printing or publishing, no company could protect its members against the activities of those in

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<sup>22</sup> SR Epstein, ‘Craft Guilds in the Pre-Modern Economy: A Discussion’ (2008) 61 *Econ Hist Rev* 155, 155–56, 172.

other companies. Conceivably, a printer or publisher could seek the authority of London's Lord Mayor and Aldermen to protect their publication within the city's jurisdiction as John Scolar did in Oxford but it was much more effective to secure protection from the highest authority in the land, especially once it became possible to gain privileges that protected *all* of one's new publications for a specific period. However, it came at a price—not just literally. The process was complex, costly, and while there was opportunity for objection (as seems to have happened with Nicholas Udall's privilege application in 1550 which was halted presumably for its inclusion of the English bible),<sup>23</sup> there was no systematic way for the trade to assess the commercial impact of any proposed new privilege. Printers and publishers doubtless learned about each other's privileges through word of mouth, and there were formal mechanisms: the possibly routine verbal announcement of privileges to them as a group, the use of 'cum privilegio' in some form on an imprint, and the full text of the privilege in the work itself (mandatory after 1538).<sup>24</sup> Even so, applicants had either to know in advance of other privileges that theirs might otherwise infringe or to seek out the intervention of senior officers of state to resolve overlaps after the privilege had been granted (as in the cases of Tottell, Day, and Wolfe mentioned above). Moreover, there was no easy mechanism for resolution when it came to the protection of any new work covered by an existing privilege. Disputes would, ultimately, have to lead to proceedings in the Court of Chancery. Finally, such privileges were never perpetual: even if the monarch was

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<sup>23</sup> Blayney, *Stationers' Company* (n 2) 730.

<sup>24</sup> *ibid* 404–5.

feeling generous the term could not usually exceed the recipient's own lifetime, and of course a change of monarch might well require a renewal.

The ideal solution was a system of publishing-only privileges that was operated by trusted members of the book trade; had sufficient authority among the trade as a whole; was reliable, easy, and relatively cheap to use; did not require the display of a statement on an imprint or in the work itself; provided a straightforward means for resolving disagreements; did not interfere with or challenge existing or future crown privileges; and did not require periodical renewal. It was precisely the kind of trade-specific system that guilds were good at establishing and operating, not least because they provided an established and recognized hierarchy, a dependable record-keeping apparatus, a pre-existing system for arbitrating disputes between members, and a deep-seated ethos of mutual social obligation and equity that sought to balance an individual's commercial autonomy against the trade as a whole. For such a system to work, though, printing and publishing needed to be subject to a single company's jurisdiction.

It was the city's formal recognition of the Stationers' Company in 1403 that founded the organisation, and consequently its jurisdiction extended no further than the city's. For many London companies this was perfectly adequate but, from probably the late fourteenth century, some began seeking incorporation by the crown. Incorporation was the legal process that created a corporation: it unified a group of individuals into a single, immortal legal entity that could enter into

contracts, go to law, own property, and be granted privileges. An incorporated company could thus own a hall more easily, protect its rights at law, and use its own seal to make agreements with individuals or other corporations. It could govern itself without seeking approval at each year's elections from the city authorities, and its ordinances were ratified by the kingdom's chief legal officers (although the expectation was that both the charter and ordinances were approved by the city as well).<sup>25</sup> Finally, and crucially, incorporation provided a company with the opportunity to seek powers that extended beyond the city's boundaries and to define the crafts and trades over which it had jurisdiction: in certain cases such as the Goldsmiths' and Pewterers' companies, incorporation granted them national rights of search and confiscation for substandard wares.<sup>26</sup> For the Stationers' Company, incorporation by the crown was the only way that it would be able to achieve formal control over printing and publishing.

The Company unsuccessfully sought incorporation in 1542. The charter's provisions are unknown but it is possible that the process was thwarted by other London companies.<sup>27</sup> The fact that London's printers and publishers were scattered among the companies and that many of the most influential and important

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<sup>25</sup> *ibid* 913.

<sup>26</sup> IA Gadd and P Wallis, 'Reaching beyond the city wall: London guilds and national regulation, 1500–1700' in SR Epstein and M Prak (eds), *Guilds, Innovation and the European Economy 1400–1800* (CUP 2008).

<sup>27</sup> Blayney, *Stationers' Company* (n 2) 514–15; IA Gadd, "Being like a field": Corporate Identity in the Stationers' Company 1557–1684' (D Phil, University of Oxford 1999) 34.

privilege-holders belonged to companies right at the top of the city's hierarchy meant that any attempt by the Stationers' Company to redefine the jurisdiction regarding printing and publishing was bound to be closely scrutinised, if not opposed. As Blayney has shown in considerable detail, the Reformation, especially under Edward VI, weakened the significance of many of those printers who belonged to the Stationers' Company in favour of religious reformers who were, for the most part, members of other companies.<sup>28</sup> It was only with the accession of the Catholic Mary that the scales tipped sufficiently towards the Stationers' Company to make a renewed attempt at incorporation worthwhile: '[l]eft decisively behind in the race to lead the book-driven Edwardian Reformation, within a month of their 150th anniversary, they suddenly and unexpectedly found themselves the last printers standing after the Marian purge had culled all the winners.'<sup>29</sup>

The eventual incorporation of the Stationers' Company in May 1557 granted it a near-exclusive national jurisdiction over printing:

no person within this our realm of England or the dominions of the same shall practise or exercise, by himself or by his subordinates, his servants, or by any other person, the art or mystery of impressing or printing any book or any thing for sale or traffic within this our realm of England or the dominions of the same, unless the same person at the time of his foresaid impressing or printing is or shall be one of the company of the foresaid mystery or art of

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<sup>28</sup> Blayney, *Stationers' Company* (n 2) 933–34 and *passim*.

<sup>29</sup> *ibid* 922.

stationery of the foresaid city, or has licence for it from us or the heirs or successors of us the foresaid queen by letters patent from us or the heirs or successors of us the foresaid queen.<sup>30</sup>

Thus, no one was allowed to set up or operate a printing press anywhere in England unless either they were a member of the Stationers' Company or they held a privilege direct from the crown. This near-monopolisation of printing in effect restricted printing to London for almost 140 years, excepting only the two universities who had their own privileges for printing. However, as the phrase 'for sale or traffic' implies this was not merely about printing. While the charter did not explicitly grant the Company's members a near-exclusive right to publish any new work that was not covered by an existing privilege, it did make it impossible to publish without engaging with a member of the Stationers' Company unless one was, or contracted directly with, an existing privilege-holder. By transforming the Company into a kind of privilege-holder in its own right, the charter enabled the Company to develop its own system for managing publishing rights of its members: the so-called Stationers' Register.

### **The Stationers' Register**

Central to this system was the concept of 'copy'. An entry in the Stationers' records that can be almost certainly dated to immediately after the Company was

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<sup>30</sup> *ibid* 1025.

incorporated notes a substantial fine of 20 shillings imposed on one of its most senior members ‘for printing of a breafe Cronacle contrary to our ordenances before he ded presente the Copye to the wardyns’.<sup>31</sup> These ordinances were brand-new and although they do not survive we know that the specific ordinance that had been breached here stipulated ‘That no Man shall print any Book unless the Copy be first assigned by the Master and the Wardens of the Company of Stationers’.<sup>32</sup> While the precise procedure, fees, and wording did not stabilize for a number of decades, the primary principle remained unchanged throughout the period covered by this chapter: any member wishing to publish a work had to visit Stationers’ Hall to seek the permission of the Company’s senior officers, who would assess whether the work in question was likely to affect adversely any other member’s existing publication. This was purely a commercial decision and hence was entirely separate from the system of licensing; the publisher was expected to seek suitable ‘authority’ for his work prior to publishing and the officers had no power to judge a work’s contents, although in many cases they made their permission to publish explicitly conditional on the publisher securing a licence. This permission to publish (which, confusingly, was called ‘licence’ by the Company) in turn granted the publisher the Company’s protection over his work; should any other member publish the same work without his permission or publish something that threatened his publication rights, he could appeal direct to the Company’s governing body. These rights

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<sup>31</sup> Blayney, *Stationers’ Company* (n 2) 859–63.

<sup>32</sup> Quoted by the House of Lords when they summoned the Stationers’ Company to present its charter and ordinances to them in 1641. 4 HLJ 182.

applied only to printing and not any other form of reproduction, and they were enforceable only within the Company's membership although, in certain cases, publishers who were members of other London companies were tacitly allowed to use the Register. The process of approval required only a signature from an officer on the relevant manuscript and the payment of a fee; the formal written 'entrance' of that permission in the Stationers' records (the 'Register') by the Company's clerk was not obligatory (which is why so many published works do not appear in the Register) but had the advantage that the publisher was not depending solely on the memory of the officers or his retention of the original signed manuscript to defend his rights. For the first twenty-five years of the system's operation, such permission was also conditional on the actual publication of the work; after that, the act of permission itself granted the recipient immediate protection. These publishing rights—or 'copy'—were initially understood to last for an individual's lifetime, although by the early seventeenth century, they were considered to be perpetual and hence could be bequeathed or transferred to any other member without limitation.<sup>33</sup>

The Stationers' Register did not stop all 'piracy'—that is, the printing of another publisher's copy without permission—but it did provide a ready mechanism for restitution should the 'pirate' in question be a member of the Company. For

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<sup>33</sup> PWM Blayney, 'The Publication of Playbooks' in JD Cox and DS Kastan (eds), *A New History of Early English Drama* (Columbia UP 1997) 389–405; Gadd, 'Corporate Identity' (n 27) 180–81; remarks made by Blayney at Mapping the British Book Trades Workshop, Oxford May 2014.

‘piracies’ by individuals outside London, however, it was wholly ineffectual. For example in 1585 the Oxford printer, Joseph Barnes, republished without permission *A Booke of Christian Exercise Appertaining to Resolution*, which had been entered in the Register by the London bookseller John Wight the year before. Despite the work being ‘the most vendible Copye that happened in our Companie theis manie yeeres’, Wight could not appeal to the Company’s officers as Barnes was not a member and instead had to resort to sending his son to Oxford to buy up the whole edition and to extract a promise from Barnes not to publish any future editions—which Barnes promptly then broke.<sup>34</sup> Barnes, though, was an exception—a printer who was not based in London or a member of the Stationers’ Company—and even he came to see the advantages of a system that was recognised in effect by the whole of the London book trade, and duly apprenticed his son to the Company, primarily it seems to gain access to the Register.<sup>35</sup>

At this stage, it was not yet known as the ‘Register’. The Company talks of the ‘Book of copies’, the ‘clerk’s books’, the ‘hall book’, the ‘book of entrances for the clerk’, and the ‘entry book of copies’, and the earliest references to a ‘register’ date from 1599 (‘Registrum Copiarum’) and 1605 (‘Register of Copies’). Nonetheless its growing importance for the Company and the trade can be seen in its increasing

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<sup>34</sup> E Arber (ed), *A Transcript of the Registers of the Company of Stationers 1554–1640 AD* (1875–94) vol 2, 435, 793.

<sup>35</sup> *ibid* 195, 238, 730, vol 3, 642, 644–47, 652–54, 656–59, 663; WA Jackson (ed), *Records of the Court of the Stationers’ Company 1602 to 1640* (Bibliographical Society 1957) 109.

prominence amongst the Company's records. Prior to 1571 entrances were recorded in a single volume alongside apprenticeships, freedoms, fines, and other financial information; in 1576 a new volume was begun only for entrances and membership; and from 1595 onwards, entrances were maintained as a wholly independent record. Apart from an archival gap between 1571 and 1576, the Register runs without a break from 1557 to the twentieth century.<sup>36</sup>

In 1591 the Company granted the University of Cambridge some very limited rights of entrance, and seven years later it tightened up its procedures so that members could not enter works on behalf of others.<sup>37</sup> The Register was not in any way a public document (only the clerk and the officers had access) but it was well enough known by 1621 for an author to request that entrances of his works be 'quite razed out of your Register' and so be understood 'to bee wholelie and solelie at mine owne disposing, for the reprinting, and in euerie other respect'.<sup>38</sup> The Star Chamber decrees concerning printing in 1637 required that no book should be printed without it being authorized (ie licensed) *and* entered into the 'Registers Booke [sic] of the Company of Stationers'; the requirement to register also appears in the 1662 'Printing Act' which reinstated the system of pre-publication licensing

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<sup>36</sup> R Myers, *The Stationers' Company Archive 1554–1984* (St Paul's Bibliographies 1990) 21–30, xxxi. The Register up to 1710 has been transcribed in Arber and Eyre.

<sup>37</sup> WW Greg and E Boswell (eds), *Records of the Court of the Stationers' Company 1576 to 1602 from Register B* (Bibliographical Society 1930) 39–40, 59.

<sup>38</sup> Bodleian Library, MS Bodley 313, ff 66<sup>v</sup>–67<sup>r</sup>.

following the restoration of the monarchy.<sup>39</sup> In 1684 the Company secured a new but ultimately short-lived royal charter that explicitly gave royal endorsement to what it called ‘a *publick Register*’ and confirmed that all entrances were duly protected from any unauthorized republication anywhere in the kingdom.<sup>40</sup> The Register also seems to have become a model for protecting publishing rights. Entries were made in the Register in the mid-seventeenth century that recognized the prior rights to ‘copy’ of works published in Oxford and not previously entered, while records survive of ‘copy’ assignments made between authors and the University of Oxford in the 1660s and 1670s. The 1662 Printing Act acknowledged that the universities might maintain their own registers: such files of ‘copies’ survive at Cambridge and Oxford for 1656–92 and 1672–6 respectively.<sup>41</sup>

From the outset, a ‘copy’ clearly had commercial value as it protected one’s publication from unauthorised reprinting; for a ‘vendible Copy’ (to adopt the

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<sup>39</sup> *A decree of Starre-Chamber concerning Printing* (1637) sig B2<sup>r</sup> -v; An Act for Preventing Abuses in Printing 1662, s 3 (13 & 14 Car II c 33). The act echoed many of the same provisions given in the 1637 decree.

<sup>40</sup> *The Charter and Grants of the Company of Stationers of the City of London, Now in Force, Containing a plain and rational Account of the Freeman’s Rights and Privileges* (1741) 21–23. The charter was revoked in 1690. Gadd, ‘Corporate Identity’ (n 27) 49–59.

<sup>41</sup> Arber (n 34) vol 4, 421; GEB Eyre (ed), *A Transcript of the Registers of the Company of Stationers from 1640–1708 A.D.* (1913–14) vol 1, 41, 221, 256, 264, 269, vol 2, 306; S Gibson and J Johnson (eds), *The First Minute Book of the Delegates of the Oxford University Press 1668–1756* (Clarendon Press 1943) 6, 10; All Souls College, Oxford, MS 238, f 522<sup>r</sup>; Oxford University Archives, SP/D/1/6; D McKitterick, *A History of Cambridge University Press* (CUP 1992) vol 1, 261, 307; Oxford University Archives, SEP/P/17b/4b.

phrase used during Wight's dispute with Barnes), that value was enhanced because of the likely long-term future returns from new editions. Consequently, and especially once 'copies' were considered perpetual, a separate market for 'copies' developed. They could be leased, mortgaged, sub-divided, bought, sold, and bequeathed, and it became possible to develop one's career primarily through the acquisition and management of 'copies': as the 1684 charter noted many of the Company's members 'have great Part of their *Estates in Books and Copies*'.<sup>42</sup> Some of these transactions are noted in the Register itself and others are recorded in the minutes of the Company's governing body but much, if not most, of the activity relating to copies took place outwith the Company's records. In many cases, the evidence can only be deduced from changes to imprints as books were republished but there is some evidence of formal transfers: such as, for example, the sale of 380 'copies' owned by Richard Bentley in 1698, or the almost 450 'copies' purchased by Jacob Tonson, jnr, in 1707 and 1709.<sup>43</sup>

The Register's authority was thus fundamental to the operation of a system of 'copies' upon which much of the wealth of the trade depended: hence the Register's inclusion in the 1637 decrees, the 1662 act, the 1684 charter, and, of course, the

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<sup>42</sup> *Charter and Grants* (n 40) 22.

<sup>43</sup> G Mandelbrote, 'Richard Bentley's copies: the ownership of copyrights in the late 17th century' in A Hunt, G Mandelbrote and A Shell (eds), *The Book Trade and its Customers 1450–1900: Historical Essays for Robin Myers* (St Paul's Bibliographies 1997); Bodleian Library, MS Charters Surrey c.1 (84); Folger Shakespeare Library, MS S.a. 160.

1710 copyright act. Such citations strengthened the Register's importance, which doubtless explains why the Company were keen to promote it. However, in each case the ultimate sanctioning body was external to the Company: Star Chamber and the High Commission in 1637, Parliament in 1662 and 1710, and the Crown in 1684. Consequently when Star Chamber and the High Commission were abolished by Parliament in 1641 as part of its attempt to roll back the royal prerogative, or when the Printing Act of 1662 lapsed in 1679 and again in 1695, the authority of the Register suffered.<sup>44</sup> A petition of 1643 urging the reinstatement of many of the same provisions that had been included in the 1637 decrees, cast the Register as the guarantor not only of trade stability but also of learning itself:

[the] propriety of Copies . . . [is] a necessary right to Stationers; without which they cannot at all subsist . . . . A well regulated propriety of Copies amongst Stationers, makes Printing flourish, and Books more plentiful and cheap; whereas Community . . . brings in confusion, and many other disorders both to the damage of the State and the Company of Stationers also . . . this confusion will hinder many men from Printing at all, to the great obstruction of Learning . . . the Printing of Pamphlets is now the utmost ambition of Stationers in *England* . . . . Community of Copies destroyes that Commerce among Stationers . . . it's a great discouragement to the Authors of Books also . . . many Families have now their Lively-hoods by Assignments of Copies,

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<sup>44</sup> The pre-publication licensing system and the restrictions regarding the location and size of the printing trade were also, in effect, swept away by these events.

some Orphans and Widows have no other Legacies and Dowries to depend upon . . . . [Thus] the whole Company . . . has drooped and grown poor.<sup>45</sup>

This explicit linking of the Register with learning and the encouragement of authors in many ways anticipates the wording of the 1710 Act.

The impact of the lapsing of the Printing Act in 1695 on the Register is also very marked. In the days before the lapsing, there was a flurry of entries followed by a sudden decline: within five years, the number of entries being made per year dropped to a mere handful. The Register's uncertain status and future prompted the book trade to explore different ways of protecting their rights. Some returned to seeking royal licences, others established copy-owning 'congers' or partnerships of booksellers 'who put in Joynt Stocks for the Buying and Printing of Copies, and Trading for their common Advantage'.<sup>46</sup> Traditionally, disputes over copy-ownership were arbitrated by the Company's own governing body; however, cases were now also being brought in Chancery and even in the Court of Exchequer.<sup>47</sup>

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<sup>45</sup> *To the High Court of Parliament: The Humble Remonstrance of the Company of Stationers* (1643) sig A3<sup>v</sup>–A4<sup>r</sup>. Parliament duly obliged. CH Firth and RS Rait (eds), *Acts and Ordinances of the Interregnum, 1642–1660* (Professional Books Ltd 1982), vol 1, 184–87.

<sup>46</sup> S Rogers, 'The Uses of Royal Licences for Printing in England, 1695–1760: A Bibliography' (2000) 7th ser. 1 *The Library* 150; N Hodgson and C Blagden (eds), *The Notebook of Thomas Bennet and Henry Clements (1686–1719)* (Oxford Bibliographical Society 1956) 85–86.

<sup>47</sup> H Tomás Gómez-Arostegui, 'The Untold Story of the First Copyright Suit under the Statute of Anne in 1710' (2010) 25 *Berkeley Tech LJ* 1247, 1255–56.

The documented transfers of ‘copies’ noted above in connection with Bentley and Tonson also suggest a concern that ownership rights might need to be put on a more official legal footing.

### **Privileges, Copies, and 1710**

One of the last entries entered prior to the lapsing of the Printing Act in 1695 was made by Benjamin Tooke ‘in trust for ye partners of ye English Stock’.<sup>48</sup> The English Stock was the Company’s own joint-stock company, established by privileges granted in 1603 and 1616 for the sole right to print ‘psalters[,] psalms[,] prymer, Almanack[es] & other book[es]’ in perpetuity.<sup>49</sup> Following a 1583 investigation by the Privy Council into the concentration of printing privileges in the hands of a very small book-trade elite, a number of the privilege holders agreed to yield ‘somewhat of that w[hi]ch they have in right for the releife of the poore’ of the Stationers’ Company.<sup>50</sup> The grants of the early seventeenth century consolidated those privileges but they also ensured that they were now held by the Company—or rather Company members who were shareholders of the Stock—in perpetuity. The English Stock, which endured until the twentieth century, transformed the Company economically, socially, and politically: it improved the

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<sup>48</sup> Eyre (n 41) vol 3, 457–61.

<sup>49</sup> Greg and Boswell (n 37) 94; Arber (n 34) vol 3, 42–44, 679–82.

<sup>50</sup> WW Greg (ed), *A Companion to Arber, Being a Calendar of Documents in Edward Arber’s Transcript* (Clarendon Press 1967) 18–33, 125, 128, 136–37; Arber (n 34) vol 1, 114–16, 144, vol 2, 786–89.

Company's finances considerably (allowing it, for example, to move to substantially larger premises in the early seventeenth century) and provided regular work for poorer printers as well as an important source of welfare. However, the combination of regular dividends and a limited number of available shares increased social inequality within the Company itself, with the Company's senior members so closely involved with the oversight of a major printing privilege that the Company's own strategic priorities shifted too. Thus, when the trade's privilege holders were again the subject of criticism in the 1640s, it quickly developed into a struggle over the political accountability of the Company's elite.<sup>51</sup> The protection of the English Stock became an increasing priority for the Company's officers, leading it not only to defend its rights at law on many occasions during the seventeenth and eighteenth centuries but also to make a series of financial agreements with the universities of Oxford and Cambridge, both of which held printing privileges that, in principle, allowed them to print any work. In return for an annual payment (which by the 1760s represented their largest single source of income), the universities agreed not to print works belonging to the English Stock as well certain works belonging to the royal printer and the privilege-holder for law books.<sup>52</sup>

When in the 1690s the first serious political campaign was mounted against the terms of 1662 Printing Act, the English Stock was a particular target for criticism.

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<sup>51</sup> C Blagden, 'The Stationers' Company in the Civil War Period' (1958) 5th ser., 13 *The Library* 1.

<sup>52</sup> I Gadd, 'The Press and the London Book Trade' in I Gadd (ed), *The History of Oxford University Press, Volume I: Beginnings to 1780* (OUP 2013).

The 1662 Act had been initially enacted for only two years, but had been regularly renewed; although it lapsed in 1679, it had been re-enacted again in 1685.<sup>53</sup> Its renewal in 1692 took place amid some controversy, with its second reading only passing the Commons by nineteen votes, and there was further heated debate in the run-up to the renewal date of 1695, with John Locke himself an instrumental agent in the Act's eventual lapsing.<sup>54</sup> Scholars have for the most part seen the debate in terms of censorship as the Act had perpetuated the system of pre-print licensing instituted back in the early sixteenth century. Much, though, was made at the time of the Act's protection of privileged printing which, critics argued, raised prices and impoverished non-privileged members of the trade.<sup>55</sup> Specific mention was made of the Company's monopoly over classical authors: as Locke remarked, "tis very absurd & ridiculous yt anyone now living should pretend to have a propriety in or a powr: to dispose of ye proprietie of any copies or writings of

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<sup>53</sup> The 1662 statute (13 & 14 Car 2, c 33) is variously known as the 'Printing Act' or 'Licensing Act'. Renewals: 16 Car 2 c 8; 16 & 17 Car 2 c 7; 17 Car 2 c 4; 1 Jac 2 c 17, s 15; 4 & 5 W & M c 24, s 14. The 1679–85 lapsing coincided with a period of acute political crisis, from the Popish Plot through to the death of Charles II and the accession of James II.

<sup>54</sup> G Kemp and J McElligott (eds), *Censorship and the Press, 1580–1720* (Pickering & Chatto 2009) vol 3, 347; M Treadwell, '1695–1995: Some Tercentenary Thoughts on the Freedoms of the Press' (1996) 7 *Harvard Library Bulletin* 3; R Astbury, 'The Renewal of the Licensing Act in 1693 and its Lapse in 1695' (1978) 5th ser., 33 *The Library* 296; M Treadwell, 'The stationers and the printing acts at the end of the seventeenth century' in J Barnard, DF McKenzie and M Bell (eds), *The Cambridge History of the Book in Britain: Volume IV 1557–1695* (CUP 2002).

<sup>55</sup> Kemp and McElligott (n 54) vol 3, 351–56, 417–24.

Authors who lived before printing was known & used in Europe'.<sup>56</sup> The Company recognised that the future of both the Register and the English Stock were at stake. The Company appointed its own committee 'to consult about getting the Act for Printing revived', it drew up its own proposals for presentation to the Commons, and presented a petition urging that the question of 'their Property' be recognized by the proposed new Act. A decision to add *salvo iure cuiuscumque* ('reserving the rights of all others') to all entries in the Stationers' Register in March 1695 suggests that the Company was bracing itself for a change in the legal status of its copies.<sup>57</sup> In mid-April the Company was summoned to present its charters, patents, and court minutes between 1679 and 1682 (the period after the previous lapsing of the Act) as well as the Register itself. By the end of April with the new bill still in committee and the prorogation of Parliament imminent, the Company fretted over its rights to the works covered by the English Stock patents, and it was this that prompted Tooke's entry of all of the Stock's titles into the Register only days before the Act finally lapsed, suggesting that the Company had more faith in the future of Register than the English Stock patent.<sup>58</sup>

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<sup>56</sup> *ibid* vol 3, 421.

<sup>57</sup> 11 HCJ 200, 228, 288; Stationers' Company, London, Court Book F, ff 214<sup>r</sup>, 216<sup>v</sup>, 217<sup>v</sup>, 218<sup>v</sup>. Such caveats appear periodically in the Register from the 1590s onwards: see, for example, Arber (n 34) vol 2, 651, vol 3, 394, vol 4, 207. Their frequency increased between the 1640s and 1670s: between July 1671 and April 1672, for example, they appear against practically every entry. The precise purpose of these caveats has yet to be investigated. Despite the order of March 1695 no caveats are noted after December 1694. Eyre (n 41) vol 3, 449.

<sup>58</sup> Stationers' Company, London, Court Book F, f 221<sup>v</sup>; Eyre (n 41) vol 3, 458–61.

The next fifteen years were a time of considerable uncertainty for the trade as far as the preservation of their rights to ‘copies’ were concerned. Neither of the two bills that were considered during 1695 made any mention of the Stationers’ Company, its Register, or the English Stock; if anything, the ambition was for the registration of copy-ownership to be swept away entirely.<sup>59</sup> New bills were proposed over the following years, but very few even made it to a second reading. Regular petitions from the Company and senior members of the trade stressed the need to preserve the ‘copy’ system, while the printers urged that the size of the printing workforce be strictly limited. Debates in Parliament and among pamphleteers focused instead primarily on the question of licensing and press regulation. However, the debate began to be reframed in terms that strikingly echoed the Company’s 1643 petition. Daniel Defoe’s *An Essay on the Regulation of the Press* (1704), argued that it should be a legal requirement for the names of the author, printer, and publisher to appear on every title-page: such a practice would not only ‘put a Stop to a certain sort of Thieving which is now in full practice in *England* . . . viz. some Printers and Booksellers printing copies none of their own’ but it would also protect authors and encourage learning. Three years later, thirteen senior members of the Company and the book trade petitioned Parliament in similar terms: a statutory system of ‘literary property’ would benefit the trade, authors, and scholarship.

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<sup>59</sup> J Feather, ‘The Book Trade in Politics: The Making of the Copyright Act of 1710’ (1980) 8 *Publishing History* 21.

The resulting bill did not proceed very far but the groundwork it seems was laid. When a new bill was proposed early in 1710 that outlined such a system, the Company moved swiftly to assert its own priorities. A series of trade petitions were presented to Parliament, all of but one of which stressed the importance of preserving the rights to ‘copies’; moreover these petitions argued that copy-ownership was underwritten by common law and that ‘copies’ were perpetual. The bill was duly revised to downplay the rights of authors and to give greater legal weight to the trade’s ownership of copies, although instead of perpetual ‘copyright’, the term for existing works was set at twenty-one years. The Register was added as the primary mechanism for recording ownership, and the Company was to handle the distribution of deposit copies for all new publications to nine libraries. (This was not a new provision: the idea that copies of every new publication be deposited in major libraries dated back to an agreement between the Company and the Bodleian Library made in 1610, and the procedure had been enshrined in both the 1637 decrees and the 1662 Printing Act, although the 1710 Act increased the number of receiving libraries.)<sup>60</sup> The Company promptly established a committee to consider how to handle these various procedures, and agreed that it and the English Stock should bear the cost of supporting the bill through to enactment.<sup>61</sup> In many ways, then, the Act of 1710 represented a major success for the Company and the book trade. It placed the Company, its procedures, and above all its Register at the centre of a ‘new’ system of ‘literary property’ that, in effect, was a

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<sup>60</sup> Gadd, ‘Corporate Identity’ (n 27) 155–57.

<sup>61</sup> Feather (n 59) 29–37.

continuation of its existing practices. The Company's English Stock privileges were wholly unaffected. The statute may have stipulated that existing 'copies' could only last for a further twenty-one years and that the Register should be accessible to outsiders but neither was honoured in practice. Publishers continued to enter titles in much the same way that they had done in previous years. However, although the 'copy' remained fundamental to the economy of the book trade, the practices developed outside of the Company following the lapsing of the Act in 1695 endured. The frequency of entrances in the Register dropped away markedly from 1715 and instead 'copies' were increasingly established, managed, and sold outside of the Register. The Act of 1710 may have saved the Stationers' Register but it was no longer as central a record for the book trade as it had been 150 years earlier.

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