Anglo-American Authors’ Reversion Rights

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Outline: The UK Experience, 1710-1814

• Section A: The nature and intent of section 11
• Section B: Contractual practice after Anne
• Section C: Judicial interpretation 1786 and after
• Section D: Repeal of the provision in 1814
Section 11

• “Provided always 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.”

• Early proposals contained no term limitation

• Commons added 21/14 limits

• Lords added: late March 1710
Hills indistinctly or informations for any offense
that shall be committed against the Act shall be
brought and commuted within three months
next after such offense committed — shall
provided alwayse 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 —
even as if they are then living for another term of
fourteen years.
Three Interpretations

- Merely “renewal”: Frank Curtis (1972), John Feather (1994)
- “Mirror” of Statute of Monopolies: Mark Rose (1990)
Contemporaneous Evidence: *The Observer*

“design’d as a Kindness to us Authors,” … “That the Bookseller shall have a Property in the Copy only for a limited Time, **after which it shall revert** to the Author or his Assignees. This they say will be an Encouragement to Learning, and a **Security to Authors against being ill treated or impos’d upon by Booksellers**, who run away with the Profits of their Labours….; so that **Authors not being able to foresee this**, because Copies are like Ships put to Sea, whose prosperous or unfortunate Voyage is not to be fore-seen, they have nothing more than their first Copy-Money, yet the Book sell ever so well.
Conventional Understanding

• Orthodoxy: authors ritually assigned so section 11 made no difference

• Ransom, 97 and 104: ‘The true intention of this proviso was ignored from the start: authors continued to sell their books outright.’

Sources

• Autograph collectors: Upcott Collection, BL Ms: 3 vols
• Publisher records: Dodsley (1743-53), George Robinson
• Author records: Pope (but also eg Henry Fielding).
• Over 300 author-publisher documents for 18th century
Types of Document

- Receipts (most referring to copy, but some not)
- Contracts for services: translating, correcting, revising, compiling. But some assignments of rights in translations.
- Publishing contracts (obligations to write works, often with promise to assign copy/property)
- Assignments
- Deeds e.g. Pope and Lintot
Documents dealing with reversion

- Most explicit: Pope’s contracts “as long as the said AP hath any right power and authority by the said Act of Parliament or otherwise to grant or sell the Same” plus undertaking, if alive, to assign contingent term
- Others: John Watts “any Law, Usage or Custom to the contrary thereof in any wise notwithstanding”
- Some: obligation “at the request of” xx to assign “for ever by such instrument as they shall be advised is proper and sufficient for the purpose”
- But many documents do not deal explicitly, though assign “whole property, right, copy, for ever”
Conclusions

• An author position depended both on how section 11 and effect of documents were understood.

• Pope’s notes: that could assign renewal but needed to do so *explicitly*.

• If this was general understanding only a few of surviving documents would have been effective to transfer reversionary term.

• But virtually no evidence in surviving documents of exploitation of reversionary term. So Pope’s views may not be representative.
Carnan v. Bowles (1786)

• Description of roads by Paterson. In 1771, £50 payment by Carnan for all “right of copy title interests and property”. £10 for “revising and correcting” a further four editions

• At end of first term, Paterson purported to assign to Bowles who paid £263. Illustrated edition selling at 2 guineas not 2 shillings.
Carnan v. Bowles (1786, Chancery; Lord Kenyon, MR)

• (1) Contingent interest passed “by the word interest in the grant”: what if says “whole copy/property/right”? Cf. Rennett.

• (2) “must have been made upon the idea of perpetuity”: only 1769-1774? Cf. Rennett. Pre-1774?

• (3) “If he had meant to convey his first term only, he should have said so”: need express reservation?

• 1808 Bill: “any general words in any Agreement to the contrary notwithstanding”

• Rundell v Murray (1821) assignment must be “so expressed as to purport to pass” reversion.
1814 Act, section 4

- The author and his assignee or assigns shall have the sole liberty of printing and reprinting such Book or Books for the full term of twenty eight years … and also, if the author shall be living at the end of the period, for the residue of his natural life
- Retains contingency but abandons reversion
Background to 1814 Act

- The issue of deposit after *Beckford v Hood* (1798)
- 1807 “deal”: retain deposit, but extend to single 28 year term. Not enacted.
- Issue raised again in 1813: Select Committee
- Petition “productive of great hardships to the families of authors and not founded upon just principles”
- Committee only considered late in the day, calling back Sharon Turner who denied the reversion benefited writers and advocated freedom of contract
- Conclusion: “no adequate reason can be given for this contingent reversion”