

**A VINDICATION OF THE RIGHT  
OF THE UNIVERSITIES OF  
GREAT BRITAIN TO A COPY  
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A Vindication of the Right of the Universities of Great Britain to a Copy of Every New  
Publication by Edward Christian

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**EDWARD CHRISTIAN**

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A  
VINDICATION  
OF  
**THE RIGHT**  
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By EDWARD CHRISTIAN, Esq.

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DOWNING PROFESSOR OF LAW IN THE UNIVERSITY OF CAMBRIDGE,  
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CAMBRIDGE:

PRINTED AT THE UNIVERSITY PRESS, BY R. WATTS.

1807.

## PRELIMINARY OBSERVATIONS.

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I HAVE read Lectures upon the Laws of England twenty years in the University of Cambridge; but having long ceased to be a Fellow of St. John's College, in consequence of pursuing the profession of the law, I have not been permitted, by the regulations of the College, to retain any permanent chambers, and therefore have had no convenience to keep a library of my own there, even if I could have borne the expence of it: but till six or eight years ago I was supplied from the University Library with every book, which I had occasion to refer to or consult. Up to that time, the University Library was furnished from the Stationers' Hall with all the valuable modern publications upon law, as soon as they issued from the press; but for the last six years, or more, the University has not received Mr. East's Reports of the Court of King's Bench, Mr. Vesey's Decisions of the Court of Chancery, the Reports of the Common Pleas by Messrs. Bosanquet and Puller, or any other legal publication of respectability.

This inconvenience was experienced by me to such a degree, that I was lately induced to inquire at Stationers' Hall what could be the cause of this deficiency. I was assured by the warehouse-keeper, that all the books sent thither were regularly transmitted to the University.

I then wrote to the Rev. Mr. Davies, one of the University Librarians, and afterwards had an interview with him upon

the subject. He stated, that it had long been the general complaint of the University that no book of value was sent to the Library; and he referred me to a pamphlet entitled "Enquiries and Observations respecting the University Library, by Basil Montagu, Esq. A.M." who during his residence in the University had experienced the same inconvenience with myself.

I afterwards made inquiry at the British Museum, to which the King has been most graciously and generously pleased to transfer his Library for the benefit of the public. I was at the first happy to be informed, that this subject had excited the attention of the Trustees of that noble depository; but I learnt afterwards with regret, that no effective measure had been adopted to produce a remedy.

The investigation of this subject has been undertaken by me, from an anxious wish that it may be the occasion of still further discussion and inquiry, by all who have an immediate interest in the answers to the following questions; viz.

1. Whether the Universities may not recover a copy of every new publication, and of every publication with any material addition, by the law as it stands at present?
2. If this question should be determined in the negative, whether there be not sufficiently equitable grounds for applying to the wisdom and justice of Parliament for its assistance?

Some are inclined to think, that it is a paltry and mendicant attempt to take from a poor author nine or eleven copies of a valuable work; but I trust, when the subject is coolly and candidly considered, that it will not be deemed deserving of so harsh an imputation, but that it is a great national object, perfectly consistent not only with the present

sent law, but with sound policy and good government, and also with the best principles of moral justice.

It will therefore be necessary to inquire into the origin of literary property in this country, or what gave a right to print a book exclusively, or concurrently with others, in ancient times.

It is said, that the art of printing was brought into this country from abroad by Henry the Sixth, at his own charge and expence. 1 Vern. 279.

At a time when the Crown claimed the right of granting the exclusive privilege of exercising every trade or mystery, the King of consequence would have more than an ordinary pretension to the sole privilege of printing; it could therefore be exercised by no one without the immediate permission or grant of the Crown.

When the Royal prerogative of granting exclusive monopolies was reduced by 21 Jac. I. c. 3. to its present limit, viz. to a patent for a new invention for fourteen years, there is an express exception of the art of printing in these words: " Provided that this Act shall not extend " to any letters-patent or grants of privilege heretofore " made, or hereafter to be made, of, for, or concerning " printing." Sec. 10.

During the civil wars an ordinance was passed by the Parliament, the title of which is, "*Disorders in Printing redressed.*" It states in the preamble, that many persons, not free of the Stationers' Company, have taken upon them to set up sundry private printing-presses in corners: It is therefore ordered, That no order of either House shall be printed but by order of the House; nor any book, pamphlet, or paper, shall be printed or put to sale, unless it be licensed and entered in the register book of the Company of Stationers, according to ancient custom, and the printer thereof to put his name thereto.

The Master and Wardens of the Stationers' Company,  
and



and several others specified, are authorised to search for unlicensed presses and books, and to seize them, with the authors, printers, and others employed upon them. Scobell's Acts, 1643. c. 12.

This is the first legislative act in which the Stationers' register is mentioned.

This ordinance was the first origin of the practice of general warrants in the case of libels, which continued till it was decided to be illegal, in the cases of *Money v. Leach*, 3 Burr. 1742; and *Entick v. Carrington*, 2 Wils. 275. Another ordinance, in 1652, directs that the government and regulation of the mystery of printing shall remain in the Council of State for the time being. Scobell's Acts, 1652. c. 33.

And by the licensing act, 13 and 14 Car. II. c. 33. it was still farther provided, that that statute should not affect the privileges granted to the Universities; and that "none may print any book whereof another hath sole privilege by patent."

When that statute expired in 1694, it should seem the controul over the press, and the right of printing, reverted to the Crown and its patentees.

We find the University of Cambridge was peculiarly favoured by a grant from the Crown in very early times; for Henry the Eighth, in the 26th year of his reign, granted to it the privilege of employing printers, natives or foreigners, to print all and all manner of books, (*omnes et omnimodos libros.*) See the Archives of the University. A similar grant, as it appears, was not made to Oxford, till the eighth year of the reign of Charles the First. See Skin. 235. 1 Vern. 275.

These words, *omnes et omnimodos libros*, must have included all books, however recently printed even by the authors themselves.

The object of this grant to the Universities is described  
by

by Mr. Justice Dodd, in Skinner's Reports, p. 233, in these words:

"The University being a place of learning, it was granted to them to print books for their own use there, and not to come to London for them."

The same had been said before by Lord Keeper North, in 1 Vernon's Reports, 275. "It was never meant (he observes,) "by the patent to the University (Oxford), that they should print more than for their own use, or at least but some small number more, to compensate their charge."

But when the copy-right act of Queen Anne gave the author the sole right of printing and publishing his work for fourteen years, the King's grant to the Universities was in effect revoked. It became therefore reasonable and equitable that some provision should be made for the Universities; and surely a copy of every new publication, or of each edition of every work, which gave the author or editor a copy-right, was a cheap compensation for the right which the Universities before possessed. Their previous right was to print at least one copy of every new book for each of its members; and all they got in exchange was a single copy for the whole during the continuance of the author's or editor's copyright of fourteen or twenty-eight years.

I do not mean to give here any opinion respecting the original validity of the Royal grant to the Universities, to print *omnes et omnimodos libros*. It is sufficient, upon the present occasion, to give the history of it, and to state that it has been recognized in Parliament and in Westminster Hall; and that the Universities in fact enjoyed the benefit of it until it was rescinded by 8 Ann. c. 19.

When I hear so much pity and commiseration expressed for *poor authors*, I wish to respect the rights of *poor students*, a class of men from whom *poor authors* themselves must derive their origin, and without whose successful labours

labours nothing valuable in literature is ever likely to have existence.

There are few, or perhaps no instances in which we ought to be generous at the expence of justice; and there is sound morality in that blunt but honest declaration of Judge Twisden: "I like charity well, but I will not steal leather to make poor men's shoes." 1.P. Wms. 766.

Having, in the Examination subjoined, I trust, proved that the statute of Queen Anne has clearly given the University of Cambridge a right to a copy of every publication in which a copyright is created, (a right fully enjoyed till the year 1798, without any interruption or exception,) it is manifest that the University has had the benefit of the grant of Hen. VIII. thus modified by the statute of Queen Anne, for nearly three centuries; which Royal grant the University still publicly commemorates, as one of its first and best benefactions. But admitting, for the sake of argument, that this was not a commutation with the University, or a small compensation for the privation of a great pre-existing right; surely, when the Legislature was vesting indisputably in authors great exclusive rights, which, according to the confident opinions of many learned judges had no existence prior to the 8th of Queen Anne, it was a very gentle deduction from that munificence, to require them to transmit nine copies to the public Libraries of Great Britain; and it was but an equitable tax upon the republic of learning, for the benefit of learning itself.

By every honorable author it would be paid with alacrity, as a debt of justice and gratitude, for the benefit which he must or might have derived from these common fountains of science. If all the copies of an edition are sold besides these, he will receive a sufficient remuneration for his labour; if they are not sold, the donation will then cost him nothing. In large and expensive works, the  
author