

No 5. authority on the subject. In many cases similar to the present, action under this statute has been sustained; such as, *Skinner and Taylor contra The Editors of the Town and Country Almanack*, No. 4. p. 8308.; and in England, *Macklin versus Richardson and Urquhart*; and *Mason versus Murray*. But in none of those instances was there a greater infringement of literary property than that which occurs in the present case.

The cause was reported by the Lord Ordinary, when

THE COURT 'repelled the defences.'

And to this judgment they adhered, on advising a reclaiming petition and answers.

Reporter, *Lord Eskgrove.*

Act. *Lord Advocate, Blair.*

Alt. *Solicitor General, Wight.*

Clerk, *Home.*

S.

Fol. Dic. v. 3. p. 389. Fac. Col. No 216. p. 340.

1787. *July 17.*

THOMAS CADELL, and Others, *against* WILLIAM ANDERSON and JOHN ROBERTSON.

No 6.

The reversionary interest of authors under the statute 8th Anne, cap. 19, assignable.

The statute extends to notes, variations, and corrections, introduced in new editions of a book.

THE late Sir William Blackstone published his "Commentaries on the Laws of England," consisting of four volumes, in so many different years; and he entered each volume, previously to its publication, in the register of Stationers' Hall. The copy-right of the whole book he afterwards sold to Mr Cadell, and two other English booksellers.

On the expiration of 14 years after the publishing of the first volume, Sir William assigned to the same persons his reversionary interest in it for the second statutory term; but he died before 14 years had elapsed from the publication of any of the other volumes.

In revising this work, he had made, throughout, a considerable number of corrections and alterations of the text, which he also conveyed to his assignees; and they employed another author, Dr Burn, to subjoin some annotations.

The assignees included all those corrections and notes in a new edition, which they too entered at Stationers' Hall. This new edition having been reprinted in Scotland, by Messrs Anderson and Robertson, the assignees sued them in an action of declarator and damages, founded on the statute 8th Queen Anne, cap. 19.

Pleaded for the defenders; With respect to the first volume; the statute enacts, 'That the author of any book not then published, and his assignee or assigns, shall have the sole liberty of printing and re-printing such book for the term of 14 years, to commence from the day of the first publishing of the same, and no longer.'

By a posterior clause, indeed, it is ' provided, that after the expiration of the said term of 14 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 14 years.' But that reversionary right is personal to authors themselves, whom it cannot survive by being transferred to assignees. This appears from the contrast of the two enactments; the former bestowing the privilege, not only on authors, but their assigns also, while the latter specially limits the return ' of the right of selling or disposing of copies,' to the authors themselves alone; for by copies are meant printed copies of any book, and not the copy-right. Those profits which, under this reversionary interest, accrue to authors during their own lives, may, no doubt, be assigned in the same manner as any other right of life; but farther than this the bounty of the legislature has not been extended; and it might not have been extended so far. The assignment, then, of the first volume in question, became void on the death of the author.

Nor can the pursuers derive any exclusive claim to the subsequent volumes, the property of which is acknowledged to be at an end, from those corrections or alterations, or from those trivial notes. At that rate, authors might, by the simple manoeuvre of throwing in a few variations into every succeeding edition of their works, create to themselves that very perpetual monopoly to which the law has denied its sanction. For the public undoubtedly will ever prefer that edition of a book which it supposes to have received any new improvement, however minute.

Answered; The whole argument of the defenders respecting the first volume is founded on the supposition, that the word ' copies' in the statute signifies individual printed copies; a truly singular interpretation. The title of this statute is, ' An act for vesting the copies of printed books in the authors or purchasers of such copies, during the times therein mentioned.' And is it not obvious, that the purchasers here meant are not those who buy in a bookseller's shop, a printed copy of a book? In the same manner, throughout the whole of the statute, it is perfectly clear, that by the term copy is expressed the copy-right, or the author's right in his own manuscript. There is then no difficulty in the case. The right which returns after the expiration of the first term, that of printing and disposing of copies, is precisely the same which existed before, the sole right of printing the original manuscript, or of assigning that copy-right. Thus the statute is rescued from the imputation of inconsistency, which it was made to labour under.

With regard to the corrections, alterations, and notes, it seems absurd to conceive, that the authors of these should not have the same property in them as in any other fruits of their literary labour. See the cases of *Tonson versus Walker*, in 1752, and *Mason versus Murray*, in 1777, decided in Chancery, in England. If those variations or additions be trivial, the defenders might have omitted them without injury to the original work, which they could have republished without challenge.

No 6.

The Lord Ordinary reported the cause ; when

THE COURT found, ' that the pursuers, under the authority of the statute, had an exclusive right of publishing the work in question.'

Against this judgment a reclaiming petition was preferred ; which, so far only as respected the first volume, was refused without answers. But with regard to the other three volumes, answers were appointed ; and on again advising the petition, along with these,

THE LORDS pronounced this interlocutor : " Find, that the pursuers have the sole right of printing and re-printing the first volume of Sir William Blackstone's Commentaries, for and during the second term of 14 years after the expiration of the first 14 years, secured to him and his assignees under the statute of Queen Anne? And find, that the pursuers also have the sole right of printing and re-printing the other three volumes of the said Commentaries, with the corrections and continuations, as entered by them in Stationers' Hall, for and during the term of 14 years after the date of such entry ; but remit to the Lord Ordinary to hear parties procurators, how far, and to what extent, the penalties of the act of Queen Anne may or can be applied to the printing of these three volumes by the defenders, as now complained of in this action."

Reporter, *Lord Justice-Clerk.* Act. *Blair, Fraser-Tytler, Steuart.* Alt. *Lord Advocate, Dean of Faculty, Hope.* Clerk, *Sinclair.*

S. *Fol. Dic. v. 3. p. 389. Fac. Col. No 340. p. 522.*

1787. July 17.

THOMAS PAYNE and THOMAS CADELL, *against* WILLIAM ANDERSON and JOHN ROBERTSON.

No 7.

No action on the statute of 8th Queen Anne, cap. 19. except for the penalties.

Whether the *præsumptio juris et de jure* of ignorance established by this statute can be admitted in a case which of itself implies *knowledge.*

MESSRS PAYNE and Cadell purchased the copy-right of a novel, entitled ' Cecilia ;' but they neglected to enter the work in the register of Stationer's Hall, as the act 8th of Queen Anne directs.

Some time after they had published this book, Messrs Anderson and Robertson re-printed it in Scotland, in an edition which exhibited the same title-page, so as to assume the names of the true editors ; and by a studied similarity of type and paper, and an exact imitation throughout in the printing of every letter, they formed an almost perfect copy of the original.

Messrs Payne and Cadell sued those persons ; *imo*, In an action of damages, and for penalties, on the statute ; and, *2do*, In an action of damages at common law, for having improperly assumed their names, and other circumstances, by which they were distinguished in their profession.

Pleaded for the pursuers,—with respect to the action on the statute ; This act first confers on the authors of books ' the sole right and liberty of printing