

has made the proper entries at Stationers' Hall; I apprehend, that any person reprinting this book will be liable to the penalties by that act imposed.

No. 1.

I apprehend too, that, in a suit instituted upon this act, it cannot be competent to the defendant to revive the question agitated in the Court of Chancery, between Mrs. Stanhope and Lord Chesterfield's executors; but that a person reprinting, without any pretence of authority derived from any of these parties, is clearly a person reprinting without the consent of the proprietor.

Lincoln's Inn,
12th Jan. 1775.

(Signed) J. DUNNING.

1776. December 21.

GEORGE TAYLOR and ANDREW SKINNER, Pursuers, against DONALD BAYNE and ROBERT and RICHARD WILSON.

No. 2.

Statute 8. of
Queen Anne.

TAYLOR and SKINNER published a survey of all the roads in Scotland, in a series of engraved maps. They also published an abstract of this survey in a small pocket volume, under the title of "The Travellers Pocket Book, or an abstract of the survey of the roads in Scotland."

See No. 4.
p. 8308

In the Town and Country Almanack for the year 1777, published by Robert and Richard Wilsons, several entire pages of this abstract were copied.

Taylor and Skinner applied by a bill of suspension for an interdict against the sale of this Almanack, which was refused by Lord Kennet.

Pleaded for them in a reclaiming petition. The survey of the roads in Scotland, and the abstract of that survey, were the result of great labour and expense on the part of the pursuers. There is not a single line in the Traveller's Pocket Book that was not acquired by the labour of travelling many miles, and measuring every footstep of the road as they travelled. This painful and expensive survey has been of very considerable public utility. The pursuers are certainly entitled to reap the benefit arising from the publication; and the publishers of this Almanack, who have not laid out a shilling of expense upon the subject, cannot be permitted to ruin the sale of the pursuers' work, and to increase the sale of their own by inserting a material part of that publication. If these almanack-makers shall think proper to measure the roads themselves, and to publish the observations they have made, the pursuers will not then interfere with them; but though they may do this, they are not entitled to avail themselves of the observations given to the public by others, and which have cost so much trouble and expense to make.

It is no sort of defence, that the Wilsons have not printed the pursuers' work entire. The statute of the 8th of Queen Anne imposes a special forfeiture upon every single sheet of the work printed, published, or exposed to sale, contrary to its enactments. This is altogether incompatible with the idea, that

No. 2. it is lawful not only to print, but even to publish any particular part of the work, provided only that the work itself is not printed entire. If this statute applies with peculiar energy to any case, it applies so to this. The labour in collecting materials for the publication is beyond any idea that can be formed from the size of the work. A very considerable part of the property, too, has been stolen; for the whole consists of 36 pages, of which two are preface, and of the rest no less than 14 have been inserted into the Almanack. The pursuers, on these grounds, intend bringing a regular action for the penalties of the statute of Queen Anne, but in the mean time there can be no doubt that they are entitled to have an interdict against the defenders from publishing that part of their Almanack which has been taken from "The Traveller's Pocket Book."

Pleaded, for the defenders: They do not dispute the merit of the survey, and are far from wishing to deprive the pursuers of the reward for their labours. But the mere list of the stages annexed to the survey cannot be reckoned such a part of the work, as that the publication of them should be any encroachment upon their exclusive property. This would be the most groundless and chimerical of all the claims of literary property, that have hitherto appeared. The pursuers' work contains not only the list of the stages referred to, with an alphabetical list of the cities, towns, and villages of Scotland, and their distances from Edinburgh, but likewise an account of the time of the arrival and departure of all the stage-coaches which come to and go from Edinburgh; also an alphabetical table of all the post towns of Scotland, with an account of the time of the arrival and departure of all the posts from Edinburgh, and the rates of postages of letters to all parts of the world to which letters are conveyed by post. It would be extraordinary if of these there could be any sole and exclusive privilege.

At any rate, a list of the roads has always been one of the most common articles in every periodical publication of this sort. The defenders, therefore, cannot be blamed for publishing in their Almanack what has been usually published in all such productions. The pursuers having made a survey of the roads, can be no reason for debarring others from mentioning the fact that such and such are the stages from one town to another. The statute of Queen Anne, besides, is entitled, *an act for the encouragement of learning*; and surely the publishing a list of roads cannot be deemed an infringement of such a statute.

If a historian, who by entering his work at Stationers' Hall, had obtained the privilege of the statute, should subjoin to his history a list of Kings, the number of years of the life of each, and the duration of his reign,—another person publishing tables of chronology might give the very same list without incurring any breach of the statute. In the same manner, the publication of tables of interest would not have the effect of preventing others from making afterward similar calculations, nor would the sale of an Almanack be prohibited, though

the publisher should insert in it the calculation of the interest of any certain sum for all the months, weeks, and days of the year, because his calculation coincided exactly with that of the same sum in the other books of calculations.

The argument of the pursuers would put an end to every periodical publication of this sort. There is hardly a page of an Almanack, but contains something taken from larger works upon the same subjects. A newspaper is in the same situation. Magazines, Reviews, and other such productions, whose very essence consists in making transcripts from privileged books, would likewise, upon the argument of the pursuers, be at once suppressed.

It was likewise objected by the defenders, that no evidence was produced of the abstract having been entered in Stationers' Hall. On this point the pursuers held, that it behoved the defenders to instruct themselves of this fact. A certificate, however, was produced from the Librarian of the Advocates' Library, that he had received a copy of the work for the Library from Stationers' Hall as having been entered there.

The Court were of opinion that there was here an evident piracy upon the work of the pursuers; and some of the Judges observed, that were it not to be found so, such practices would put an end to the property of authors altogether. The defenders had here taken the substance of the book, in an evasive way, which was hard and cruel.

An interlocutor was accordingly pronounced, granting the interdict against the publishers of the Almanack, under the penalty of £50 Sterling.

Lord Ordinary, *Kennet.*

For the pursuers, *Gracie* by *Alt. Newar.*

J. W.

1804. February 29.

CLARK against BELL.

IN 1775, James Clark published "Observations on the Shoeing of Horses;" and in 1788, he also published "A Treatise on the Prevention of Diseases incident to Horses." Both of these publications were entered at Stationers' Hall.

Andrew Bell, in conjunction with Colin Macfarquhar, had, in the year 1770, published a Dictionary of arts and sciences, under the title of the Encyclopædia Britannica. In 1788, a third edition of this last work began to be printed in numbers. In 1791, the number with the article Farriery was published. In 1798, the whole concern was purchased by Bell.

Clark, finding that a great part of his two books was copied *verbatim* into the treatise on Farriery in the Encyclopædia, and that the plates were re-engraved for that work, brought an action, founded on the 8th of Queen Anne,

No. 2.

No. 3.

An author is entitled to bring an action at any time within the statutory period, declaring his exclusive right of property in any book entered at Stationers' Hall, and containing prohibitory conclusions