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If it were possible to be frivolous about copyright, one might wonder whether Queen Anne either knew or cared about the statute to which her name is so often attached by students of the history of copyright. Of course, she gave her assent to it; there is no doubt that La Reyne le veult, but it was not exactly at the top of the political agenda in the winter of 1709–10 when it passed through parliament. Nevertheless, the successful passage of the Copyright Act of 1710, usually described as the first in the world, had a political dimension.

These were turbulent times, even by the standards of Queen Anne’s reign. The position of Robert Harley, Earl of Oxford, who had dominated the political scene throughout the reign, was increasingly unstable. With a general election due within months, the moderate coalition which he had dominated was beginning to crack, and the Tories were becoming more confident of winning power. The dominant issue was that of the succession to the childless Anne, at the heart of which was a fundamental constitutional issue about the legitimacy of the Stuart claim to the throne. Also at stake was the supremacy of parliament in regulating the succession to ensure the continuation of a protestant monarchy, indeed the parliamentary system of government itself. Given the profundity of these concerns, why did anyone care about copyright? And why was a Bill to regulate it treated as a public Bill, and hence given a relatively smooth passage through the tortuous parliamentary procedures of the early 18th century?

The conventional narrative says that the 1710 Act was the result of pressure from the book trade, whose leading members wanted to secure the rights in
copies which represented much of the capital investment in their businesses. This is broadly true, at least as far as the book trade was concerned, but the Act in its final form was far from being exactly what they sought. While it gave booksellers much of what they wanted, it did not give them everything. It sowed the seeds of unexpected consequences which proved to be seriously inconvenient to the London trade later in the century. Both authors and booksellers were to find ways of interpreting the Act that its promoters almost certainly did not envisage. To explain this apparent paradox, we need to consider a little further what the Act did—and did not—say.

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The Bill presented to the House of Commons in January 1710 did not come from nowhere. It was the lineal successor to a series of bills which had been introduced, and had failed, ever since the lapse of the Licensing Act in 1694–95. The last of these had been defeated in 1707, and under the Harley administration in a balanced House of Commons it was clear that no proposal to reintroduce pre-publication censorship could succeed. The book trade—or at least the leading members of it who dominated the Stationers’ Company and used its name in their political interventions—had long supported such legislation, not because they had a dogmatic attraction to censorship, but because the Licensing Act effectively guaranteed the control of the Stationers’ Company over the trade. In doing so, it had given a cloak of legal legitimacy to the system of copy protection which the Company had developed over the previous 150 years.

By the turn of the 18th century, rights in copies (to use the usual contemporary term) were being bought and sold, and often subdivided into shares among a small but powerful group of booksellers to whom they represented an important part of their businesses. It was these rights that they sought to protect. Petitioning for a new Licensing Act had been little more than a mechanism for achieving this. When such an outcome became politically impossible, the booksellers changed their tack and openly worked towards legislation which would protect their business interests. In other words, what had been an overtly political issue, censorship, became a purely commercial one—the protection of property.

Or at least, that is how the booksellers saw it. There was another dimension, whose roots also lay in the events (or, perhaps, one should say non-events) of 1694–95. John Locke and others had argued in principle for the abolition of pre-publication censorship, on the grounds that authors should be broadly free to write what they wished and booksellers free to publish it. The argument was never articulated in this crude and extreme form, because it was also assumed that there would be some sort of legal framework provided by the laws of libel, blasphemy, and sedit. But the case against pre-publication censorship was made strongly. At a time of political discord, which became a genuine two-party clash from the mid-1690s onwards, politicians on both sides of the argument had a vested interest in relatively free access to the rapidly developing printed media. As power changed hands regularly at frequent general elections—at least every three years at this time—both parties accepted that each of them had to have comparable access. It was this which ultimately killed the attempts to revive licensing rather than the well-argued logic of Locke. Nevertheless, the case for freedom of the press had been made, and was not without influence. Certainly it was influential enough to be a factor in forcing the book trade to look in another direction to protect the rights in copies.

There was, however, another group of people who stood to gain from the 1710 Copyright Act: the authors. There were several reasons for this. First, literary authors in Queen Anne’s reign, and for some time after her death, were still heavily dependent on the support of patrons. But even at the turn of the 18th century, the balance between patrons, publishers, and purchasers was beginning to change. A new generation of booksellers were becoming the de facto patrons of many authors. The relationship between Dryden and Tonson