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BOOK REVIEWS

COPYRIGHT LAW IN HISTORICAL PERSPECTIVE. By Lyman Ray Patterson. Vanderbilt University Press, 1968. Pp. vi, 264. \$8.50.

Since there has never been an era in which as much aggregate contemplation has been expended on the problems involved in the protection of literary property, Professor Patterson's book is both timely and important. The issues involved are being widely debated and discussed, but unfortunately much of the current discussion appears to be proceeding more from emotion, oratory, and vested concern than from detached and dispassionate logic. For this reason especially, the scholarly, sound history in Professor Patterson's new monograph is certain to be welcome, as it cuts through four centuries of continuing obfuscation and confusion and clarifies considerably the very rudiments of the concept—or more properly “concepts”—of copyright.

Indeed, Professor Patterson finds confusion from the beginning as to the functions and purposes of copyright law. He points out that when Mary Tudor chartered the Stationers' Company of London in 1557, she was in effect contracting with the Company to police itself, to maintain order within the booktrade, and to subject its products to the scrutiny of self-censorship for heresy and sedition. In return she allowed the Company to grant the stationer's copyright, which was regulated not by common law, but by ordinances of the guild itself, in effect giving a monopoly of the booktrade to the Stationers' Company.

Concurrent with the granting of stationer's copyright in the sixteenth and seventeenth centuries was the issuing of “printing patents,” which were merely an aspect of the patent system in general and which originated as a means of encouraging industrial development.

In neither of these practices were the rights of authors even considered. The stationer's copyright protected the publisher's property; the issuing of a printing patent was a crown prerogative supposedly in the public interest. Although the stake of the author in his writings was vaguely recognized, he had no real protection.

In 1710 Parliament passed the landmark Statute of Anne, which for the first time vested copyrights of works in their authors. This was a considerable departure from the status quo, and was popularly thought to reflect a growing social awareness of the author's great investment in

his writings. Only to a degree was this so. Drawing heavily upon contemporary documents, Professor Patterson makes a convincing case for the proposition that this important statute was in reality a device to break the monopoly over the booktrade which had been held so long by the Stationers' Company. English copyright thinking, he points out, has since the middle of the eighteenth century been based upon one of three separate and often opposing views—namely, that copyright is to benefit the author, the publisher, or the public.

American legal experience has reflected this same confusion as to the purpose of copyright. The resolution on copyright drafted by the Continental Congress in 1783 seems to have had the promotion of learning as its primary concern. In the state statutes promulgated between 1783 and 1790 "the dominant idea . . . was of . . . copyright as an author's right." The Federal Act of 1790, however, appears to have been intended primarily to provide order in the book industry through government grant. The confusion persists today, and, according to Professor Patterson, it will continue to persist until these three diverse concepts of the purpose of copyright are sorted out one from another and each is appropriately dealt with. After reading his book, one is inclined to agree with this conclusion.

Although this monograph is excellently documented, it is more than a mere catalogue of statutes and cases. It also presents much of the drama and romance that has accompanied the long history of the press. Professor Patterson tells of the great book pirates, of the rigorous surveillance of the industry by the inimitable Sir Roger L'Estrange, of the involvement of the Star Chamber in copyright matters, and of such illustrious copyright cases as *Donaldson v. Beckett* and *Wheaton v. Peters*.

In his preface to *Copyright in Historical Perspective* the author, who is a professor of law at Vanderbilt University, defines the function that he hopes his book will serve. "To view copyright in its historical perspective," he proposes, "may be of some use to men of law, for a historical perspective may reveal aspects of the law which logical analysis does not bring into focus." While such a statement is perhaps an appropriate apology for any historical examination, I would suggest that he is over-modest as to the likely extent of his audience.

In addition to men of law, this book is likely to be of interest and utility to bibliographers, literary historians, publishers, bookmen, and librarians. They will find Professor Patterson's scholarship impeccable, as he seeks his references widely, evaluates his sources astutely, and

arrays his arguments lucidly. As we said, this is an important and timely book.

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