

Report of 1790-1800 Copyright Registrations Found to be “Old Works”
In RE their State Copyright Status
July/October, 2005
William J. Maher
University of Illinois Archives

In “Copyright Term, Retrospective Extension, and the Copyright Law of 1790 in Historical Context.” (*Journal of the Copyright Society of the U.S.A.* 49:4 (Summer 2002)1021-39), I examined the works that had been registered for copyright during the first ten years of the United States’ first copyright law. A key question in that study was the extent to which works registered for copyright after the 1790 passage of the law actually were older works, printed prior to the adoption of the Constitution and the passage of the first federal copyright law. The question is of significance in determining whether the members of the founding generation understood and utilized the award of copyright as a retrospective privilege as well as a prospective incentive for the creation of new works.

Overall, the 2002 study report such a minute amount (less than .058 percent of all works published in this era) of old works being registered retrospectively for copyright that it seems clear that the law was understood as a device to provide incentive for the creation of new works rather than as a means to protect existing works. Nevertheless, because of deadlines at the time the *Journal of the Copyright Society* article went to press, one or two minor points needed further study. This report addresses those issues.

1790-1800 Copyright Registrations Previously Unreported. The results of one aspect of the original research plan had not been collated in time for the 2002 *Journal of the Copyright Society* article. That aspect involved a comprehensive review of all references in Charles Evans *American Bibliography* (New York: Peter Smith, 1941) to 1790 and later copyright registrations from those states which had not been included in James Gilreath’s *Federal Copyright Records* summary.¹ When completed, the review of Evans bibliographic citations for 1790 through 1800 revealed a total of 57 such registrations for these states (Connecticut-41, Delaware-5, Kentucky-1, Maryland-7, and New Jersey-3). Based on dates of publication listed in those 57 registrations, it was determined that there were four works which were possibly written before 1790. Each of these works was then examined to determine if any of these constituted “old” works or whether what was being registered post-1790 was actually a new work/new edition with significant new material. Of the four possible old works, one was found to be a new/revised edition (thus a new work) of an older title. Two were found to have already been referenced in the 2002 *Journal of the Copyright Society* article, and only one, Daniel Read’s third edition of his *The American Singing Book: Or a new and easy guide to the Art of Pslamody*,” was found to be a later registration for an “old work” not representing any new material. Thus, the revised count of the total number of “old” works that could be said to have been registered retrospective rises from the 12 reported in 2002 to 13. If this revised total of 13 works is compared to the approximately

¹James Gilreath ed, and Elizabeth Carter Wills compiler, *Federal Copyright Records 1790-1800* (Washington: Library of Congress, 1987).

20,829 works identified by Evans as published between 1790-1800, it appears that only 0.062 percent of all works issued were “old works” being registered for copyright “retrospectively.”²

Evidence of Prior State Copyright. In 2005, when the results of this additional examination of Evans were analyzed and described, a fresh review was conducted of all of the “old works” registered later for copyright and mentioned in the 2002 study to determine how many had been registered for state copyright under the state laws of 1783-89. Of the thirteen “old works” found in the 2002 and 2005 examinations, a total of six had been registered for copyright in one or more states, and seven appear to have not been registered for state copyright.

The bibliographic details on all 13 of the “old” works can be found in Appendix A below. Note that for the first 12 items, the bibliographic information repeats what was reported in the 2002 *Journal of the Copyright Society of the U.S.A.* article.

²A more accurate statement of the universe against which to compare the 13 “old works” registered for copyright in the 1790 through 1800 period would be not the 20,829 works published in that decade but the total works published from the time of the earliest of the “old works” later copyrighted through 1800. In that case, the universe since the earliest work from 1777 [Evans 15242]) through 1800 would be 30,685, with “old works” later copyrighted accounting for only 0.042 percent of that total.

APPENDIX

Bibliographic Review of All 1790-1800 “Old” Works

Gilreath Entries:

- 1 G 9 (Pennsylvania) *Das Kleine Davidische Psalterspeil* (Germantown: Christoph Saur, 1777) (572 pages [Evans 15242]) Title page states “zum vierten mal ans Licht Gegeben.” Note the 1791 edition is by a different press: (Chestnut Hill, Pa.: Samuel Sauer, 1791) (572 pages, [Evans 23197]) and its title page states “zum sechsten mal ans Licht gegeben.” There is also a 1781 edition by Steiner and Cist, Philadelphia, [Evans 17100] with no edition numbering indicated on the title page, 575 pages.

15242 Edition of Germantown: Christoph Saur, 1777) zum vierten mal ans . . .

17100 Edition of Philadelphia, Cist, 1781. Contains no reference to an edition number.

23197 Edition of Chestnut Hill, 1791. Zum sechsten mal ans Licht gegeben. No specific reference to copyright registration, but title page states: “Published as the Law directs.” in English when all the rest of the work is in German.

State copyright registration status: except for the reference to “as the Law directs” in the 1791 edition [Evans 23197], none of the editions appear to have been registered for state copyright.

- 2 G 11 (Pennsylvania) Andrew Adgate, *Rudiments of Music / Philadelphia Harmony* (Philadelphia; John McCulloch, 1789) [20 pages, 56 plates Evans 21629]. Contains a notice of Pennsylvania state copyright dated 27 March, 1788. There was a 1788 edition [Evans 20916] by same printer with the same state copyright certificate (i.e., 27 March 1788), but only 22 pages and with no plates.

20916 Edition of 1788 contains what appears to be a notice of copyright registration: “I Jonathan Bayard Smith, Prothonotary of, the Court of Common Pleas, of Philadelphia County, do certify that Andrew Adgate has this twenty-seventh day of March, one thousand seven hundred and eighty eight, entered in said office, agreeably to an Act of Assembly a book intituled ‘*Rudiments of Music,*’ by Andrew Adgate, P.U.A. printed at Philadelphia by John McZCulloch, 1788.” The same text appears in 1789 edition [Evans 21629].

State copyright registration status: a clear example of a federal registration of an “older” work when the “older” work had previously been registered for state copyright.

- 3 G 56 (Pennsylvania) Robert Davidson, *Geography Epitomized*, (Philadelphia, 1794). The American Antiquarian Society’s “Early American Imprints” Readex Microprint for Evans 26850 indicates that Evans’ entry came from the copyright notice only—no copy available. There is a 1784 edition (Philadelphia: Joseph Crukshank) (60 pages [Evans 18435]). Evans [22448] also describes a 1790 edition, but the Readex Microprint indicates that this Evans’ entry was from an advertisement—no copy available. Entries in Mansell and the *Bibliography of American Imprints* do not provide further clarification. Evans describes a 1791 edition (N.J.: Neale and Lawrence) (64 pages [Evans 23311]), but the Microprint contains no copyright information or any

comments to enable a determination if either the 1791 or 1794 works were revised editions of the 1784 work.

State copyright registration status: Item 18435 from 1784 does not contain evidence of a state copyright.

- 4 G 71 (Pennsylvania) Joseph Priestly, *An Appeal to the Serious and Candid Professors of Christianity*, (Philadelphia: Thomas Dobson, 1794) (vi, 52 pages, [Evans 27552]) Preface is dated 30 June 1794. This is an American edition of an oration by Priestly to which was added “Concise History of the Rise of those Doctrines and an account of the Trial of Mr. Elwall for Heresy and Blasphemy” There is a Philadelphia: Robert Bell, 1784 edition (57 pages [Evans 18741]) containing much the same text except a different preface and introductory material.

State copyright registration status: Item 18741 from 1784 does not contain evidence of a state copyright.

- 5 G 267 (Massachusetts) Noah Webster, *The American Spelling Book Containing an Easy Standard of Pronunciation being the First Part of a Grammatical Institute of the English Language*, (Boston: Isaiah Thomas and Ebenezer Andrews, 1790.) Title page reads “Thomas and Andrews Second Edition, with additional lessons corrected by the author.” (144 pages [Evans 23052]). Federal copyright certificate 7 October 15th year of independence [1790] for 3 parts (American Spelling Book; Grammar, and An American Selection of Lessons in Reading and Speaking). There is a 1789 (Worcester: Thomas and Andrews) imprint with the title page stating “Thomas and Andrews’s First Edition. With additional lessons corrected by the author.” (144 pages [Evans 22257]). This 1789 edition contains a statement from Webster saying that he has sold to Thomas and Andrews, for a period of 10 years, “the exclusive right of printing, publishing, and vending *The American Spelling Book*, or *First Part of my Grammatical Institute of the English Language* in Massachusetts, New Hampshire, and Rhode Island for a term of ten years.” There is an Evans entry 23051 for *The American Spelling Book* eighth Connecticut edition, 1789, but the microprint states “the unique copy could not be found.”

Evans lists an edition [Evans 20869] of the *Grammatical Institute . . . Part II A Plain and Comprehensive Grammar* (Philadelphia: Young and M’Culloch, 1787) The title page says “third edition. But Evans notes that this was the first edition printed in Philadelphia and “the Pennsylvania State Copyright was issued to Noah Webster, junior, as Author, 11 May 1785, on the edition Printed at Hartford, by Hudson and Goodwin.” On 30 June 1785 Webster registered a work entitled *An Institute of the English Language in Three Parts*, in South Carolina. (“Copyrights and Patents Granted by South Carolina,” *South Carolina Historical and Genealogical Magazine*, 9 (1908): 56-58.) Overall this practice suggests that Webster, while he issued his *Grammatical Institutes* in apparently variant editions from different publishers in different cities, was attempting to use copyright registrations in different states to cover the same core work. For example, two other editions, Evans 18297 published 1783 in Connecticut and Evans 19361 published 1785 in Connecticut, include statements claiming copyright under the Connecticut state law, and he also deposited at Harvard a copy of *Grammatical Institute . . . Part I* on 6 December 1783 to comply with the Massachusetts copyright law.

Webster, presumably to comply with the Massachusetts state copyright law, had deposited a copy of *A Grammatical Institute . . . Part I. Containing a New and Accurate Standard of Pronunciation*, (Hartford, Hudson & Goodwin, 1783), at the Harvard College Library on 6 December 1783. (Evans 18297) [Earle E. Coleman, "Copyright Deposit at Harvard," 10 *Harvard Library Bulletin*, (1956): 135-41.]

State copyright registration status: In sum, the work recorded by Gilreath (number 267) as being registered for copyright in 1790 must be considered either a new work, and thus not an example of retrospective copyright registration, or it must be considered to be an old work in which case, it is clear that Webster had already registered or asserted copyright ownership the work multiple times—Connecticut (1783, 1785), Massachusetts (1783), South Carolina (1785), and Pennsylvania (1787). Since this work was treated as a "retrospective registration of an old work" in the *Journal of the Copyright Society of the U.S.A.* (49:4 (Summer 2002)) article, it should be treated here as one which had previously been registered for state copyright before 1790.

- 6 G 278 (Massachusetts) Jeremy Belknap, *The History of New Hampshire. Volume I*, (Boston, 1792 (362, viii and ciii pages [Evans 24087])). Title page reads "Boston: Re-printed for the author" date is obscured as is text that may read "Published [according to act] of Congress." Registration dated 31 August 16th year of independence [1791] covering 3 volumes and a map. Preface is dated 1 June 1784. Evans' notations say that the preface is m 1784, body of work pages 1-362 and Appendix pages i-xxxviii were unchanged from original printing. Evans 18344 is a 1784 Philadelphia edition by Aitken (viii, 361, and lxxxiv pages) with a 18 June 1784 certificate of copyright from Pennsylvania. And a preface dated "Dover, 1 June 1784."

Belknap, presumably to comply with the Massachusetts state copyright law, had deposited a copy of *History of New Hampshire, Volume I*, (Philadelphia: Robert Aitken, 1784), at the Harvard College Library on 30 September 1784. (Evans 18297) [Earle E. Coleman, "Copyright Deposit at Harvard," 10 *Harvard Library Bulletin*, (1956): 135-41.]

State copyright registration status: This work appears to have been registered/deposited for state copyright in Pennsylvania (1784) and Massachusetts (1784).

- 7 G 470 (New York) Bible. O.T. Psalms. English. Paraphrases. Reformed Dutch Church, *The Psalms of David, with Hymns and Spiritual Songs also the Catechism, Confession of Faith and Liturgy*, (New York: Hodge & Campbell, 1792) (498 pages [Evans 24107])). Title page states: "with privilege of Copy Right according to Law." Begins with "extracts from the Acts of the Reverend Synod of the Reformed Dutch Church in North America, October 1788" and "Synod Extraordinary, May 1789" as prefatory material for a 22 October 1789 certificate from church official John H. Livingston. Two parts are separately paginated: 1-348 and then follows the "Heidelbergh Catechism" pp. 350-498. There is a Hodge, Allen, and Campbell 1789 edition [Evans 21688] which is in two parts: pages 1-348 and 1-148, and it contains the same introductory material attested to by John H. Livingston.

State copyright registration status: There are no indications of state or Federal registration on the pre-1790 versions of the work itself.

- 8 G 599 (Rhode Island) Alexander McDonald[M'Donald], *The Youth's Assistant; being a plain, easy, comprehensive guide to practical arithmetic*, (Litchfield: T. Collier, 1789) (103 pages, [Evans 21928]). The title page states "second edition" and "with privilege of Copy-Right." The Readex Microprint for a 1791 edition by Wheeler in Providence [Evans 23521] contains only a note saying "description from copyright entry." There is also a 1785 edition by John Trumbull of Norwich [Connecticut] [Evans 19066].

State copyright registration status: 19066 The 1785 Trumbull edition does not contain a reference to state copyright, but the 1789 T. Collier edition does contain a claim of copyright.

- 9 G 601 (Rhode Island) Joseph Brown Ladd, *The Poems of Arouet* (Charleston: Bowen & Markland, 1786) (xvi, 128 pages [Evans 19747]). No copyright information on work, and no other pre-1800 editions or revisions of this work were found.

State copyright registration status: 19747 (1786 edition) contains no evidence of a state copyright on the work.

- 10 G 602 (Rhode Island) Joseph Brown Ladd, *An Essay on Primitive, Latent and Regenerated Light*, (Charleston: Bowen and Markland, [1786]) (23 pages [Evans 19746]).

State copyright registration status: no evidence of a state copyright on the work.

Entries from other than Gilreath:

From Irving Lowens, "Copyright and Andrew Law," *Papers of the Bibliographical Society of America*, 53 (1959) 150-59.

- 11 Connecticut. Andrew Law, *Select Harmony*, (Cheshire, Conn.: William Law, 1779 or 1782 edition) (8 pages 100 pages of plates, [Evans 16318, 23492, or 24467] registered for Federal copyright 18 October 1791 and 28 August 1792. A work of this title had previously been registered for state copyright in Maryland (7 January 1786) and New York (29 April 1786).

State copyright registration status: A work of this title had previously been registered for state copyright in Maryland and New York in 1786.

- 12 Connecticut. Andrew Law, *A Collection of Hymn Tunes*, (Cheshire, Conn.: William Law, 1783) (48 pp. 36 pp. of plates [Evans 19753]) registered for Federal copyright 28 August 1792.

State copyright registration status: A work of this title [Evans 17571] had previously been registered for state copyright in Massachusetts in 1783.

After the *Journal of the Copyright Society* article had gone to press, the following work was "discovered" as a possible "old work" registered for copyright post-1790. It was "discovered" by a comprehensive review of all of Evan's references to copyright registrations for those states not incorporated into Gilreath (largely Connecticut), and it is the only additional "old work" found in that process.

- 13 24729 Daniel Read, *The American Singing Book: or a New and Easy Guide to the Art of Psalmody, Third edition with supplement* has an imprint date, according to Evans of 1792; registered 3 September 1791. Earlier editions were the first edition of 1785 [Evans 19213], a second edition of 1786 [Evans 44957 and Bristol 6356], and a third edition of 1787 [Evans 20673], and a fourth edition of 1793 [26056].

Assessment: Because the 1791 registration was for the third edition of 1787, this item should be treated as a copyright for a “old work.”

State copyright registration status: No evidence of state copyright appears in the first through third editions of this work.