

*Jane Hogarth: A Printseller's Imprint
on Copyright Law*

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I beg you will accept my thanks, for sending me, the enclosed proof, which I have carefully perused. I am sorry to say, that through the *whole* work, misrepresentation, and error, abounds. It would require a book, to refute, all the Mistakes, that is contained in the work, as well, as Catalogue.—I can only say. As it is not in my power to prevent such Error's being published [it] is *entirely against my Consent*.

Jane Hogarth, 29 May 1781, Chiswick

Jane Hogarth was clearly a formidable adversary – a force to be reckoned with. These words penned in response to John Nichols's proof for his *Biographical Anecdotes* written about her husband, the painter and engraver William Hogarth, give a strong idea of her polite yet firm character.¹ Jane was in her seventies when, in defence of William's reputation as well as her own, she denounced Nichols's account with such ease and thoroughness, leaving the author in no doubt that she had 'carefully perused' his work. Nichols's *Biographical Anecdotes* was published in 1781, the year after Horace Walpole published his own account of Hogarth in his *Anecdotes*

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¹ Letter to Adam Walker, 29 May 1781; emphasis in original. Beinecke Rare Book and Manuscript Library, Yale University, GEN MSS 1429, Box 9 Folder 258. The letter is written to her friend, the Westmorland author and lecturer Adam Walker, who may have been acting as an intermediary between the two.

of *Painting in England*.² According to Walpole, Jane was not pleased with his anecdotes either.³

Neither Walpole nor Nichols say much about Jane, the only daughter of the history and decorative painter Sir James Thornhill.⁴ Her mother, Lady Judith Thornhill, receives equivalent treatment, as not much is known about her apart from the obvious fact that she was also married to a celebrated artist. When acknowledged at all, nineteenth-century commentators describe Jane as a mere widow rather than the strong businesswoman she proved to be.⁵ Her vehement objections to Nichols's biography demonstrate how she strove to protect her husband's reputation; but she also resolved to safeguard her property – something she achieved through copyright law by obtaining a unique extension to the coverage period of her husband's prints.

Remarkably, only twice in the history of English copyright has Parliament made an exception to the applicable copyright term: in 1988 when the copyrights to *Peter Pan* were secured in perpetuity to the Great Ormond Street Hospital, and more than 200 years earlier, in 1767, when Parliament gave Jane Hogarth a twenty-year exclusive right to her husband's works. Why has this noteworthy achievement mostly been ignored? How did an eighteenth-century woman printseller and widow obtain such a provision and a tailored copyright law? Jane's involvement with the mechanics of the parliamentary system prompts one to ask if others proceeded in similar ways to protect and defend their property. It turns out that another woman, Elizabeth Blackwell, also set an important milestone in copyright history when, seeking to protect her botanical prints, her case became the first to be tried under the Engravers' Act of 1735.⁶

² J. Nichols, *Biographical Anecdotes of William Hogarth; and A Catalogue of his Works Chronologically Arranged; with Occasional Remarks*, 1st ed. (London: Printed by and for J. Nichols, 1781); subsequent enlarged editions followed in 1782 and 1785. H. Walpole, *Anecdotes of Painting in England; with some Account of the principal Artists*, 4 vols. (Strawberry Hill: Thomas Kirkgate, 1762–1771), vol. 4, 68–89. Walpole's *Anecdotes* were originally printed in 1771 but not published until 1780.

³ Letter from Horace Walpole to Jane Hogarth, 4 October 1780, British Library Add MS 27995 f. 25. Reprinted in W. S. Lewis et. al., eds., *Horace Walpole's Correspondence*, 48 vols. (New Haven, CT: Yale University Press, 1980), vol. 41, 416–417. See also Walpole's letter to William Cole, 16 June 1781 in W. S. Lewis and A. D. Wallace, eds., *Horace Walpole's Correspondence with the Rev. William Cole*, vol. 2 (New Haven, CT: Yale University Press, 1937), 273.

⁴ See C. S. Martinez, 'Jane Hogarth', *Oxford Dictionary of National Biography (ODNB)* (Oxford: Oxford University Press, 2020).

⁵ See, for example, D. Cook, 'Widow Hogarth and her Lodger', *Once A Week*, 4(79) (1860): 10–13.

⁶ See I. Alexander and C. S. Martinez, 'The First Copyright Case under the 1735 Engravings Act: The Germination of Visual Copyright?' in M. S. Delamaire and W. Slauter, eds., *Circulation and Control*:

This chapter explores the tactics Jane Hogarth employed in managing and protecting the family printselling business throughout years of forceful competition, including her unique copyright extension. A look into satirical prints by contemporaries leads one to hypothesise on her importance and her influence over William as well as on her level of involvement in running the business while he was still alive. This said, could Jane's apparent clout have aided her in obtaining favourable treatment in the face of the law after his death? What distinguishes her from other women printsellers of this period, and to what extent was her situation determined by William Hogarth's renown?

Business 'As Usual' and A New Venture

Following William's death on 26 October 1764, Jane took control of the printselling business with the help of her cousin Mary Lewis and William's sister Ann. As William did, Jane opted to sell the prints herself at their dwelling house in Leicester Fields. On 31 January 1765, she reinforces the sense that it was business 'as usual': 'The WORKS of Mr. HOGARTH, in separate Prints or complete Sets, may be had, as usual, at his late Dwelling house, the Golden Head, in Leicester Fields; and NO WHERE ELSE.'⁷

Jane rapidly took the helm and carried on with the daily commercial tasks, indicating both a proficiency with the print business and the self-assurance required to compete within it. She was appointed executrix of her husband's estate and the principal beneficiary of his property, which included the copperplates.⁸ The bequest stipulated that Jane could not sell these 'without the consent' of her sister-in-law Ann and, should his widow remarry, William instructed that the three popular series, *Marriage A-la-Mode*, *A Harlot's Progress* and *A Rake's Progress*, 'shall be Delivered to my said Sister'.⁹ As part of her duties, she was also required to pay Ann an annuity of £80 out of the sale of the prints, in quarterly payments, and the sum of £100 to Jane's cousin Mary Lewis. Jane never remarried during her

Artistic Culture and Intellectual Property in the Nineteenth Century (Cambridge: Open Book Publishers, 2021), 39–76.

⁷ *London Chronicle*, 31 January 1765. Heightening public awareness, the advertisement appears with minor variations in subsequent months.

⁸ The National Archives, United Kingdom, TNA PROB 1/66.

⁹ The use of bequest limitations or economic restrictions was not uncommon in the eighteenth century. See B. J. Todd, 'The Remarrying Widow: A Stereotype Reconsidered', in M. Prior, ed., *Women in English Society 1500–1800* (London and New York: Methuen, 1985), 54–92.

long and active life and supported herself from the plates; after Ann's death in 1771, decisions pertaining to them passed entirely into Jane's hands.

Many other widows continued to run the family business after their husband's death. Like Jane Hogarth, Anne Fisher, widow of the mezzotinter Edward Fisher, sold her late husband's works and lived in Leicester Fields in the 1760s. Contemporaries, Mary Brown Ryland and Elizabeth Bartlet Bakewell, widows of the engravers William Wynne Ryland and Thomas Bakewell, each continued to run their husband's print business as well.¹⁰ Bakewell's trade card indicates that she was a 'Map & Printseller' in Cornhill, London, and reveals that she sold 'all sorts of Maps & Prints for Exportation' in addition to offering paintings in oil and on glass, and services such as the making of frames.¹¹ It was hard to gain a commercial reputation in the highly competitive London print trade and many business owners relied on a diversity of offerings; their stocks included a variety of prints, maps, books, and even remedies.¹² Importantly, Jane did not resort to selling other such items and focused solely on generating revenue from William's engravings, but false claims and speculations by her ruthless adversaries compounded difficulties at home and abroad. In 1767, for example, an advertisement in the *Boston News-Letter* erroneously states in a sensationalist tone: 'Hogarth's Prints: at present very scarce, and encreasing [sic] in value every Day: that celebrated Artist having destroyed the Copper Plates some Time before his Death.'¹³ The plates were Jane's most valuable possession and had not been 'destroyed'; in fact, Jane went on selling Hogarth's reprints for twenty-five years after his death.

In the mid 1760s, Jane was seeking new opportunities and agreed to enter into a business partnership with the Reverend John Trusler (1735–1820). The aim was to produce an edition of Hogarth's works and exploit the moral and didactic content of the prints. This was announced with Jane's name specifically mentioned and the involvement of 'a Gentleman' (presumably Trusler) in the *Public Advertiser* (31 July 1766); but a description in the *Gazetteer and New Daily Advertiser* (27 May 1765) of a similar undertaking with prints explained and bearing the name *Hogarth Moralized* suggests that Trusler may have begun the project without her.

The Registry of the Stationers' Company shows two entries for *Hogarth Moralized* under Mrs Hogarth and Dr Trusler – on 6 August 1766 'for their

¹⁰ See Chapter 11 by Amy Torbert in this volume. ¹¹ British Museum (hereafter BM) Heal, 100.11.

¹² *St. James's Chronicle, Or, British Evening-Post* (11–13 May 1769) indicates that the printseller and artist Susanna Sledge was selling a remedy for rheumatism in her well-established print shop.

¹³ *Boston News-Letter*, 9 July 1767. The advertisement appears also in the *Boston Evening Post*, 13 July 1767 and in the *Massachusetts Gazette*, 16 July 1767.

Property Hogarth Moralized' and on 4 October 1766 'for their copy Hogarth Moralized Sheet D' – and reveals that on each occasion nine copies were received, but it is not known what these consisted of.¹⁴ Advertisements in the London newspapers indicate that the freshly engraved prints on a smaller scale were published first in single numbers and later offered as a bound whole.¹⁵ These were to be had at Mrs Hogarth (Leicester-Fields) as well as M. Hingeston (in the Strand), J. Dodsley (Pall-mall), W. Shropshire (New Bond Street), R. Smith (Holborn), T. Snelling (Fleet-Street), Corbould and Dent (Ball-Alley), S. Hooper (the Strand), and H. Parker (Cornhill), and one advertisement even claimed that they were sold 'by all Book and Print sellers in Great-Britain' but made clear that the originals were to be had at Mrs Hogarth's house.¹⁶ Undoubtedly, two different market segments were targeted: one from the distribution across Great Britain of *Hogarth Moralized* priced 'within the reach of common buyers'; the other from the exclusive sale of William's collection of fine prints, costing a much higher thirteen guineas and sought after by collectors.¹⁷

The partnership eventually came to an impasse. Trusler's unscrupulous practices may have worried Jane; after all, Hogarth's father had been exploited by publishers, which eventually led to his financial woes, something that neither William nor Jane wanted to repeat.¹⁸ Further, Trusler's strong conservative views on women's roles prompts reflection on how he regarded Jane as an independent businesswoman, especially given that they disagreed on financial matters and on commercial risk and strategy.¹⁹

¹⁴ Stationers' Company Registers, London, Entries of Copies 29 September 1746 to 30 December 1773 (Ref. GB 2156), 269, 272. Due to storage limitations at the Stationers' Company, it became increasingly difficult to stock all copies, and these were distributed to libraries of legal deposit without their associated information or records.

¹⁵ *Public Advertiser*, 31 July 1766. The enterprise was mentioned in several newspapers. The *Gazetteer and New Daily Advertiser*, 5 May 1767, explicitly highlights that it was 'under the inspection of his widow'. According to Nichols, Jane Hogarth's name 'would give credit to the publication'. *Biographical Anecdotes*, 1781, 62n.

¹⁶ *Gazetteer and New Daily Advertiser*, 8 September 1766; *Public Advertiser*, 1 October 1766, *Public Advertiser*, 21 November 1766. The next year, the *Public Advertiser*, 15 May 1767, announced that the prints could be had separate or complete at Mrs Hogarth and S. Hooper only.

¹⁷ Trusler, *Memoirs*, Part II, 1809, LWL Mss. vol. 71, 319; *London Evening Post*, 4–7 May 1765.

¹⁸ It is interesting to note that in later years Trusler embarked on a similar moralising venture with the painter William Blake but it also was fraught with difficulties given the Reverend's domineering opinions. See letters from William Blake to John Trusler, August 1799, British Library Add MS 36498.

¹⁹ These included a disagreement with regards to gains made prior to their formal agreement and some unpaid debts. Trusler, *Memoirs*, Part II, 321. On Trusler's opinions on women see chapter 12 in *Memoirs of the Life of the Rev. Dr. Trusler, with his Opinions on a Variety of Interesting Subjects, and his Remarks Through a Long Life, on Men and Manners . . .*, Part I, 1806, LWL Quarto 53 T778 806, 117; and Chapter 21, Part II, 71.

When Trusler wanted to expand *Hogarth Moralized* into other countries, Jane did not agree to ‘follow [him] in a French edition, and having the plates on a larger scale at Paris’.²⁰ Presumably, this is because she would have lost control over operations and dealt with a different set of laws in France; however, Jane did not have an aversion to fulfilling international sales. She advertises in the *London Chronicle* (31 January–2 February 1765) that ‘Commissions from abroad will be carefully executed’.²¹

In the end, Jane acquired full ownership of *Hogarth Moralized* thus keeping the rights to the letterpress and the plates.²² Nichols claims that the transaction ‘amounted to at least 700*l* [pounds]’, indicating that Jane had sufficient means to buy Trusler’s share.²³ Her financial ease is highlighted in a letter from an unknown lodger,²⁴ and Bank of England ledgers from August 1766 to February 1771 show that she owned a type of government stock known as £3% Consols.²⁵ Jane was prosperous enough to keep two households (until her death) and renovate her Chiswick house by adding a kitchen wing and a large dining room. She also continued an annual subscription of half a guinea to the parish school.²⁶

An ‘Exclusive Right’

In the mid-1760s, despite her financial stability, Jane Hogarth had been losing considerable income to the sellers of spurious and pirated editions; this not only inflicted ‘a cruel Invasion of her Property, but a great Injury to the Reputation of her late Husband’, as claimed in her advertisements.²⁷ At the time, some prints were still under copyright protection but those from the 1730s and 1740s were no longer covered because the Engravers’

²⁰ Trusler, *Memoirs*, Part II, 315–316. ²¹ Also, *Gazetteer and New Daily Advertiser*, 30 July 1767.

²² Trusler describes the details of the termination of their agreement in his *Memoirs* and explains the applicability of the Statute of Anne (1710) and the Engravers’ Act (1767): ‘She gave me my price and it passed wholly out of my hands into hers at least for the period the Statute of Queen Anne allowed me to sell it, which could be only for 14 years for the letter press. If I outlived that time the copyright reverted to me again. The plates by the Engravers Act were her property by the purchase for 28 years.’ *Memoirs*, Part II, 316.

²³ Nichols, *Biographical Anecdotes*, 1781, 62n.

²⁴ The letter from the late 1760s is cited in E. Einberg, *William Hogarth: A Complete Catalogue of the Paintings* (New Haven, CT: Yale University Press, for the Paul Mellon Centre for Studies in British Art, 2016), 340.

²⁵ The entries indicate that she sold £400 in August 1770 and then £22.12.0 in February 1771. Bank of England, Stock ledgers 5 July 1764 to 5 July 1769 (AC27/1434, f. 4900) and 5 July 1769 to 5 July 1776 (AC27/1453 f. 4894).

²⁶ I am thankful to Val Bott for bringing these two points to my attention.

²⁷ *London Chronicle*, 31 January–2 February 1765. Jane Hogarth’s plea reappears in several of the London newspapers.

Act of 1735, which had been the result of William Hogarth's efforts to prevent the piracy of his works, provided protection for a term of fourteen years from the date of first publication and this period had now elapsed.²⁸

Jane worked in collaboration with the Society of Artists of Great Britain in putting a bill before Parliament intended to better secure the rights of artists. She received the support of John Gwynn, a Society Director, who insisted that

Mr. Hogarth's works will be always valued and admired, and therefore ought to be as much the property of his widow, as if their value had been laid out in the purchase of an estate, of which it is to be presumed no one could possibly have deprived her, and yet this lady has been compelled to inform the world that her property has been invaded.²⁹

These words recognised the unique appeal of Hogarth's works (which were now hers) while addressing the complexities of the intangible nature of copyright as property. Such difficulties began with the 1735 Act itself which, as pointed out by Mark Rose, was 'the earliest explicit recognition of the immateriality of the commodity created by intellectual property law'.³⁰ The so-called Hogarth Act had proven of limited use. To remedy its inadequacies, the Society's bill proposed to broaden the scope and duration of copyright protection. It also included a note stating that 'Mrs Hogarth must petition before a clause can be inserted in her favour'.³¹ She complied, and her petition claims that her

chief Support arises from the Sale of her late Husband's Works; and that, since his Decease, many Persons have copied, printed, and published, several of those Works, and still continue to do so; and that the Sale of these spurious Copies, both at Home and for Exportation, has already been a great Prejudice to the Petitioner; and, unless timely prevented, will deprive her of her chief Support and Dependence.³²

Her efforts paid off and the bill, supported by Jane's connections to influential people such as the American statesman, Benjamin Franklin,

²⁸ 8 Geo. II c.13, s.1.

²⁹ J. Gwynn, *London and Westminster Improved, Illustrated by Plans. To which is prefixed, A Discourse on Publick Magnificence; with Observations on the State of Arts and Artists in this Kingdom, wherein the Study of the Polite Arts is recommended as necessary to a liberal Education . . .* (London, 1766), 50.

³⁰ M. Rose, 'Technology and Copyright in 1735: The Engraver's Act', *The Information Society*, 21 (2005): 63.

³¹ Draft of the bill, Archives of the Royal Academy of Arts, RAA 23/1.

³² *Journals of the House of Commons*, vol. 31, 359–360.

received Royal Assent on 29 June 1767.³³ She was given ‘the sole right and liberty of printing and reprinting all the said prints, etchings, and engravings, of the design and invention of the said *William Hogarth*, for and during the term of twenty years’.³⁴ The Act made clear that, from 1 January 1767, Jane Hogarth would have the *sole right* to *all* the prints; therefore, protection applied even to the prints for which the coverage period had already ended and were published as early as 1735, effectively reviving the expired copyrights. The Act also prolonged the duration of copyright protection from fourteen to twenty-eight years.³⁵ Thus, at this time, engravers enjoyed a longer period of protection than that granted to authors of literary works, which consisted of fourteen years in the first instance, and an extra fourteen years if the author were still alive.³⁶

Discussions relating to the rights of artists and engravers were part of a broader and ongoing conversation on the rights of authors and publishers. In 1774, seven years after the passing of the Act, Jane’s extension did not go unnoticed in the intense debate surrounding the landmark case *Donaldson v. Becket*, where the nature and duration of copyright for literary works were to be determined, and in the subsequent petition brought forward by the London publishers-booksellers, who were impacted by the ruling.³⁷ The Booksellers’ Bill made it through the Commons but was rejected by the House of Lords. Citing Jane’s achievement, one of the bill’s defenders stated that the matter was not without precedent since Jane, as reported, ‘had in the 8th [sic] of the present King been favoured with relief of a familiar kind’ and claimed that the bill ‘was not at all injurious to Mr. Donaldson or the London Stallmen’.³⁸ It was further noted that Jane had been given an ‘exclusive Right of publishing her late Husband’s Works for twenty Years’ and that this created a strong parliamentary precedent; but those unsympathetic to the monopolising practices of the London booksellers retorted that ‘specific Cases required specific Remedies’ and, although appropriate for Mrs Hogarth, it was not ‘at all reasonable that

³³ Jane approached Franklin who lobbied on her behalf. Letter dated 22 May 1767?, Historical Society of Pennsylvania Autograph Collection [Coll. 22A]. Reproduced in Leonard W. Labaree, ed., *The Papers of Benjamin Franklin*, vol. 14 (New Haven, CT: Yale University Press, 1970), 165–166. On the bill and how it was drafted, see M. Hargraves, *Candidates of Fame: The Society of Artists of Great Britain 1769–1791* (New Haven, CT: Yale University Press, 2005), 59–61.

³⁴ 7 Geo. III c.38, s.3. ³⁵ 7 Geo. III c.38, s.7. ³⁶ 8 Anne c.19, ss.1, 11.

³⁷ See *Primary Sources on Copyright (1450–1900)*, L. Bently and M. Kretschmer, eds., www.copyrighthistory.org/cam/tools/request/showRecord.php?id=record_uk_1774.

³⁸ *The Morning Chronicle*, 18 May 1774; *London Magazine*, ‘Appendix’, ‘Debates of a Political Society’, vol. 43 (December 1774), 627.

one indiscriminate Measure should be dealt out to all'.³⁹ The different opinions and arguments from all parties were extensively documented;⁴⁰ and, of far-reaching public, commercial and political importance, the case and the bill proceedings gave rise to countless conversations as well as gossip in coffee houses and taverns. The related controversies did not escape the wit of satirists: in a print by Garnett Terry representing the allegorical figure of Fame, a winged child flying downward delivers the caustic message 'No literary Property' to a languished man holding a book.⁴¹

Despite their power and persistent efforts to obtain an extension of the copyright term through legislative enactment, the London booksellers failed where Jane Hogarth and the Society of Artists on behalf of engravers succeeded. Their frustration is palpable in the pamphlet, *Considerations In Behalf of the BOOKSELLERS of London and Westminster, petitioning the Legislature for Relief*, where they argue that printing books is far more laborious than producing prints or maps:

In a case nearly similar to that of the Petitioners for relief, the Legislature, to encourage engraving, by an Act made in the 8th year of George II. granted the proprietors of maps and prints, an exclusive term of 14 years; and by another Act passed in the 7th year of his present Majesty, the proprietors obtained an absolute unconditional term of 28 years. – Yet the expence [sic] of plates, and printing either prints or maps, is trifling when compared to what must be expected on the edition of a book. – Maps or prints may be printed off, from the same copper-plate in small numbers, as the demand for them arises, since the plate will last for many years. – But as soon as a few sheets of a book are printed, the types must of necessity be separated, and upon every new edition require of equal necessity to be re-composed.⁴²

The statement spells out differences between the mechanical reproduction of maps and prints versus typesetting for a book. Importantly, as the booksellers recognised, the copperplates could 'last many years'; and, for Jane, they were her most important asset. In fact, still in business in 1781, she would write that her '*whole dependence is upon the Sale of Mr. Hogarth's works*'.⁴³ Further leaning on Jane's case, the petitioners insisted that 'neither the art of engraving, nor the public good, have been in the

³⁹ *St. James's Chronicle, Or, British Evening-Post*, 14–17 May 1774; *Public Advertiser*, 18 May 1774.

⁴⁰ For the accounts, see H. Tomás Gómez-Arostegui, 'Copyright at Common Law in 1774', *Connecticut Law Review*, 47(1) (2014): 1–57.

⁴¹ The publication line at the top reads 'Engrav'd for the Whimsical Repository. According to the Act, October 1st. 1774'. BM 1873,0712.822.

⁴² *Considerations In Behalf of the BOOKSELLERS of London and Westminster, petitioning the Legislature for Relief*, 1774, 2. Available from Eighteenth Century Collections Online/ECCO.

⁴³ Letter, 29 May 1781; emphasis in original.

least affected by that gracious extension of Parliamentary Benevolence'.⁴⁴ They had hoped that the 'Indulgence shewn to her' and which was granted 'upon representing the Hardships she laboured under' would be afforded to them.⁴⁵

This 'Parliamentary Benevolence' stirred debate. A legal tract from 1773 considered that even if the clause 'indulged' Jane 'with a particular monopoly', it was 'very properly added'.⁴⁶ For his part, the author and translator William Kenrick maintained that the ease of obtaining parliamentary premiums 'may depend as well on personal interest as on particular ingenuity, or public utility' and, although recognising 'the merit of the incomparable Hogarth', suggested that any other artist 'of equal ingenuity hath some right to complain'.⁴⁷

Although the term is erroneously stated, Jane's extension seems to have resurfaced often, as it also appears in the *St. James's Chronicle, Or, British Evening-Post* (5–7 April 1774), where it is said that, upon expiration of their term of protection, Hogarth's 'ingenious Works were pirated, and of consequence mangled and deformed' and, therefore, 'Mrs. Hogarth applied to Parliament for Redress, who immediately granted her a farther Term of 30 Years'. The 1774 excerpt follows immediately after a short account of recent deliberations aimed at 'Proprietors of Copy Right'.

Jane's exclusive protection term of twenty years (not thirty years, as reported in the *St. James's Chronicle*) continued to draw attention as well as create confusion even a full decade after her death. In 1799, the painter and sculptor George Garrand, when providing details to the Royal Academy of Arts on the Act to secure the copyright for new models and casts of busts, mistakenly observes that the 'Copy-Right of Engravings' was 'extended to Twenty-Eight, upon the Petition of the Widow of the late William Hogarth'.⁴⁸ The longer term was not a direct result of Jane's petition but, rather, the product of a joint effort with the Society of Artists.

⁴⁴ *Considerations In Behalf of the BOOKSELLERS*, 3.

⁴⁵ *Remarks on the Petitions of Mr. Alexander Donaldson and others, against the Petition now depending in Parliament for affording Relief to the Booksellers of London and Westminster in Literary Property*, 1774, Bodleian Library, University of Oxford (Vet.) 2581 c.5 (2), 3.

⁴⁶ [Lord Coalston Reporter], *Information for Alexander Donaldson and John Wood, Booksellers in Edinburgh, and James Meurose, Bookseller in Kilmarnock, Defenders; against John Hinton, Bookseller in London, and Alexander McConochie, Writer in Edinburgh, his Attorney, Pursuers* (Edinburgh: s.n., 1773), 50.

⁴⁷ W. Kenrick, LL.D., *An Address to the Artists and Manufacturers of Great Britain; Respecting an Application to Parliament for the farther Encouragement of New Discoveries and Inventions in the Useful Arts* . . . (London, 1774), 26.

⁴⁸ *A Copy of the Documents, &c. Respecting An Act of Parliament, Intituled, 'An Act to encourage the Art of making New Models and Casts of Busts, &c.'* . . . (London, 1799), 5; 38 Geo. III c.71 (1798).

This was an active time in the development of copyright with many discussions on scope of application and duration, and Jane's accomplishment featured in several of them. Had she set an example for others to follow? In 1776, nine years after Jane's successful petition, Elizabeth Taylor had sought and was granted an extension by Act of Parliament for the 'sole Use and Exercise' of certain marine instruments and devices invented by her late husband, Walter Taylor, which she intended on continuing to produce.⁴⁹ Although inventors often pushed for such patent extensions, these were seldom conferred. Copyright term extensions were even rarer and 'compared unfavourably with the willingness of parliament to intervene on a case-by-case basis in favour of particular inventors'.⁵⁰

Aside from Jane Hogarth, no other printseller is known to have received such an extension; but were there other similar petitions put forward that simply failed? This aspect requires further study as does the extent to which Jane's clause may be a remnant or continuation of the system of privileges that predated statutory copyright. This can be witnessed in the very language used in reports, where *granted*, *indulged*, and *exclusive privilege* are recurring terms.⁵¹ The change from privilege to property was a gradual transition and Jane's case might suggest that privileges were still seeping into statutory copyright.

Jane Hogarth's Voice

Now with the law on her side, Jane declares in the *Gazetteer and New Daily Advertiser* on 30 July 1767 – one month after the bill had passed – that 'Mr. Hogarth's Prints are, by an act obtained the last sessions of parliament, secured to his widow for the further term of twenty years'. How can this be framed in the context of Horace Walpole's observation on men's control over law making? His words read:

Laws are framed by men, are framed for men, are executed by men. Women are not consulted on any proposed alteration of Laws, and are little affected by them. New laws must be forced on men, or they must be consulted on the alteration & their reason or their interest must be convinced or they will not consent to a change. But new religions are equally the affair of Women, or more than of Men. As their reason is weaker, their Imagination is

⁴⁹ Elizabeth Taylor's Patent Act 1776, 16 Geo. III c.18.

⁵⁰ R. Burrell and C. Kelly, 'Public Rewards and Innovation Policy: Lessons from the Eighteenth and Early Nineteenth Centuries', *The Modern Law Review*, 77(6) (2014): 867. See also P. Johnson, *Privatised Law Reform: A History of Patent Law Through Private Legislation, 1620–1907* (London and New York: Routledge, 2018), 50, 122, 127–130.

⁵¹ See, for example, [Lord Coalston Reporter], *Information for Alexander Donaldson*, 50.

stronger, & the earliest & warmest proselytes are always female. The necessary Intercourse of the sexes made it requisite that men should be gifted with the arts of persuasion & Women with credulity.⁵²

Walpole here typifies women as less rational than men and unfit for proposing any alterations to the law. These views reiterate those of a treatise written nearly a century earlier: 'Women have no voyse in Parliament, They make no Lawes, they consent to none, they abrogate none.'⁵³ Jane's successful campaigning, however, attests to her abilities and proves that she did have a voice, further raising the question as to her influence over William in regards to the 1735 Act.

Although little is known about how Jane and William collaborated professionally, contemporaries have portrayed her in some callous prints as exercising influence over Hogarth. In these satirical prints, a woman, likely Jane, is denigrated alongside William suggesting that her presence was, in fact, important enough to mock. For example, in *A Brush for the Sign-Painters* (*BM Satires* 3841), a satirical print in response to the Sign-Painters' Exhibition of 1762, Hogarth is ridiculed painting Sigismunda. He is identified as (A) 'Mr. Hoggum Pugg a Iustly celebrated Sign-Painter though an Englishman and a Modern', and Jane, seemingly figure (B) 'Inspiration or a Faithfult [sic] Guide' and presumably his model, is shown with drooping breasts and a horrific face, one eye peering into the scene. The two allies are unjustly rather than 'Iustly celebrated' by the anonymous 'Iustitia Rubweel Inv: et del', an added pun to the derogatory image. Why is Jane portrayed in such a manner? Her depiction follows traditional representations for *Envy*. Crowned with snakes like a Medusa – the monstrous creature with the terrifying power to turn men into stone, it is not clear if Jane is a protecting or menacing force to William. She holds in her right hand a snake that grasps and controls his brush against the palette; and from her left hand, as a rein, the Line of Beauty, described as 'a Lamé Principle', reaches into the work while she taps her nose with her forefinger in conspiracy. The couple leaning against each other form a pyramidal structure, with Jane above a seated William and constituting its apex. Jane is a definite target in the print; was she then a threat to William's competitors? Were they hinting at her influence over William?

Jane also seems to resurface alongside Hogarth in the anonymous 1763 print *An Answer to the Print of John Wilkes Esq.^R by W.^M Hogarth*

⁵² H. Walpole, *The Meditation of Mother Puss*, British Library, Berry Papers, Add MS 37728 f. 36.

⁵³ T. E., *The Lawes Resolutions of Womens Rights: Or, The Lawes Provision for Woemen* [sic] ... (London, 1632), 6.

(*BM Satires* 4051), a direct attack on William that, significantly, features a hideous representation likely of her. Why did William's rivals take it upon themselves to insult Jane at all? The animosity might be explained by John Wilkes's bitter lines against both William and Jane in *The North Briton* (25 September 1762), which appear to have morphed into the anonymous print. Here, William is seated with his dog by his side and holds in his left hand a rolled copy of his print of Wilkes. As for Jane, she is shown again with sagging breasts, one nipple exposed, and missing an eye. It is as if she becomes interchangeable with Hogarth's figure of the old widow in Plates V (the marriage scene) and VII (the Fleet prison) of *A Rake's Progress*. One cannot ignore the omnipresence of Jane looming in the background, holding in her oversized hand a mirror where her gaze seems to meet William's as she stands at the top of the family hierarchy.

Regardless of whether these two prints were produced to deride William or criticise Jane, they imply that, directly or from behind the scenes, Jane held a significant place in the business that she ran with William and after his death with a persistence that lasted a full quarter-century.

'Publish'd with ye Consent of Mrs. Hogarth?'

Interest in Hogarth's works never abated and, in addition to the unremitting production of copies, booksellers advertised works 'in the Stile of Hogarth' as well as 'adorned with cuts from the designs of Mr. Hogarth'.⁵⁴ The London seller of maps and prints Robert Sayer advertises in his 1766 catalogue the popular series *A Harlot's Progress*, *A Rake's Progress*, *Marriage A-la-Mode*, *Industry and Idleness*, and *The Four Stages of Cruelty*.⁵⁵ The date is relevant since the 1767 Act included a grace period ending 1 January 1767 – the beginning of Jane's coverage period; however, these works later became part of *Les Satyres de Guillaume Hogarth, Oeuvre moral et Comique en LXXIX Sujets*, a bound volume published in 1768 and bearing the inscription 'A Londres, Chez ROBERT SAYER, Marchand de Cartes et d'Estampes dans Fleet-Street, No. 53'.⁵⁶ Why the French title? Was the volume produced expressly for sales in France? Was Sayer trying to circumvent the Engravers' Act, not applicable abroad?

⁵⁴ *Daily Advertiser*, 11 February 1772; *London Evening Post*, 14–16 May 1772. Also, see *Middlesex Journal, or Chronicle of Liberty*, 7–9 May 1771.

⁵⁵ *New and Enlarged Catalogue for the Year M.DCC.LXVI [1766] of New, Useful, and Correct Maps, Scare and Valuable Prints in Sets, ...* London. See also Sayer's separate index, LWL Hogarth 768.00.00.01+ Box 200.

⁵⁶ LWL Folio 75 H67 768. In another edition from 1768 the number given is 'LXIX Sujets'. LWL Folio 75 H67 768C.

The volume begins with an 'Index to the Works of the Late Mr. Hogarth' that contains brief English descriptions of seventy-nine prints, as its title designates. Among them, the much sought-after prints of *A Rake's Progress* bear the inscription 'Publishd wth y^e consent of M.^{rs} Hogarth, by Henry Parker, at No. 82 in Cornhill, March 25, 1768'. The eight prints are the only ones in the entire volume showing a supposed authorisation by Mrs. Hogarth; but why do they have this caption? Did Parker really have her 'consent' as the publication line indicates, and could Sayer have purchased impressions or plates from him as he routinely did?

The series *A Rake's Progress*, with the alleged approbation of Mrs Hogarth, had first been published by William Hogarth on 25 June 1735. Plate VIII was 'Retouch'd by the Author 1763' (BM 1868,0822.1537 and BM S,2.49), but the copy in Sayer's volume, framed on both sides by an ornate border, appears in reverse and without the prominent coin on the wall representing the figure of Britannia or any of the other alterations. Likewise, Hogarth had produced Plate IV in three states (each with a different type of sky) but in Sayer's volume it also corresponds to an earlier state. William had given his consent to Thomas Bakewell in 1735 to produce a more affordable set of the original prints (BM 1856,0712.32 to 39). Those in Sayer's volume are copies of these first states, reissued by Parker thirty-three years later.⁵⁷ These choices by Sayer prompt the question of what impact alterations or new states had on an existing or expired copyright – did these generate a new term, and was this resulting situation ever tested in court? Such a case has yet to surface, if indeed one exists.

In general, the volume is fraught with inconsistencies of presentation: from missing titles to irregular inscriptions, scarce translations, and poorly aligned borders, Sayer's collection appears the result of someone in a haste to get his product to market. With or without her 'consent' to publish *A Rake's Progress*, it is doubtful that Jane would have wanted these prints or any other included in such a compilation. In fact, Robert Sayer would later be brought before the courts in copyright battles and Jane was fighting against such copyists to defend her business in this time shortly following the passing of the 1767 Act.

New Offerings

The demand for and popularity of Hogarth's prints provided an opportunity that Jane herself seized by offering new items for those desirous of

⁵⁷ The plates could have been obtained by Henry Parker when he purchased the business from Elizabeth Bakewell. The two had worked together after her husband's death.



Figure 12.1 *A Landscape*. Published by Jane Hogarth, 1781.

Engraving, 10.1 × 15.4 cm. The Elisha Whittelsey Collection, The Elisha Whittelsey Fund, 1962, Metropolitan Museum of Art, New York.

expanding their collection. In 1775, she issued *The Politician* (from Hogarth's original sketch) with the engraver and etcher John Keyse Sherwin. The publication line reads 'Pub:^d as the Act directs by Jane Hogarth 1775', and this possibly constitutes the first instance of Jane's name appearing directly on a print. Repeatedly, '31 October' has been added in ink by what seems to be the same hand;⁵⁸ but whose? If by Jane or John, was this an attempt to comply with the formalities of the Engravers' Act? Important requirements had to be met: protection commenced from 'the *day* of the first publishing thereof, which shall be truly *engraved* with the name of the proprietor on each plate, and *printed* on every such print or prints'.⁵⁹ Jane's name appears as sole proprietor also in *A Landscape* (Figure 12.1). Here complying with the requirements, the

⁵⁸ See British Museum (C.C.1.180), Royal Academy of Arts (17/3715), Bodleian Library, University of Oxford (Johnson a.66), Musea Brugge in Belgium (2014.GRO0209.III), Metropolitan Museum of Art (91.1.60), and Morgan Library and Museum (PML 146851 vol. 3). In addition, a print from the Lewis Walpole Library (Folio 75 H67 800 v.3) has the year engraved with the last digit left to be filled out: '177_'; but why? Another one, in the Wellcome Collection (39239i) shows 'Oct' 31st added before the year and engraved below it.

⁵⁹ 8 Geo. II c.13, s.1; emphasis added.

print's rather prominent font reads 'Publish'd as the Act directs by Jane Hogarth at the Golden-head Leicester Fields 1st May 1781' but it does not show who designed or etched it. The scene has been interpreted in various ways and one impression at the British Museum suggests that it is a view 'from Hogarth's window at Chiswick' (1858,0417.577). Jane published the print less than one month before she categorically dismissed Nichols's *Biographical Anecdotes*, also published in 1781, where he lists the view as 'Etched by Hogarth', and adds in the 1782 edition that it 'was not designed for sale'.⁶⁰ The market was changing and Jane had chosen to publish the image yet she did not make any reference to Hogarth, which raises questions.

Publication lines disclose the holder of the copyright but also reveal different types of arrangements that a printseller or printmaker may have had as either proprietor or co-proprietor. This is the case for Jane's collaborative works with the painter and engraver Richard Livesay. Looking at the engravings he made after Hogarth's drawings of his tour of the Thames and Medway estuaries with Ebenezer Forrest and others, the publication line in each of them includes his name only as proprietor, and reads as follows: 'Publish'd as the Act directs Nov^r 27th; 1781, by R^d. Livesay at M^{rs} Hogarths Leicester Fields'.⁶¹ Published the same day, *Mr. Ben: Read* and *Mr. Gabriel Hunt*, both also done after drawings said to be by Hogarth, again show Livesay as proprietor and 'at M^{rs} Hogarths'.⁶² The exact nature and timeframe of the business arrangement between the two remain unclear. Earlier, he had made works after Hogarth's designs and these bear his name only, as in *Mask and Palette* (10 May 1781), without mention of Mrs Hogarth's address.⁶³ Likewise, *Shrimps!*, a print engraved by Francesco Bartolozzi after a painting by Hogarth still in Jane's possession shows Livesay as sole proprietor: 'Publish'd Dec^r 24. 1781 by Rd. Livesay' without the caption 'at Mrs Hogarths'.⁶⁴ In 1782, the publication line now indicates Livesay and Jane Hogarth as proprietors as well as Leicester Fields.⁶⁵ The leading print publisher, John Boydell, with whom Jane had formed a business relationship in the years prior, reissued the print in 1790 after her death.⁶⁶ Two pages from an account book listing

⁶⁰ Nichols, *Biographical Anecdotes*, 1781, 141; 1782, 341.

⁶¹ 'Hogarth's Tour' includes nine prints; these have slight variations in punctuation and phrasing in their publication line. BM Cc,1.193 to 201.

⁶² BM 1861,0209.211; BM 1861,0209.212. ⁶³ BM 1861,0209.200. ⁶⁴ BM Cc,1.185.

⁶⁵ See, for example, BM Cc,1.186; also, in a print held at the Yale Center for British Art (B1977.14.19597), the name of Livesay has been erased such that only Jane Hogarth's remains.

⁶⁶ The Metropolitan Museum of Art has an impression in which Livesay's name has been scribbled over by an unknown hand. Museum No. 21.72(3).

prints and bound volumes from 20 November 1782 to 15 November 1784 indicate that Jane and Boydell had some type of commercial association. At the top of the first page, the inscription 'Dr to Mrs Hogarth' places Boydell as 'D[ebito]r' to Jane, suggesting that he was purchasing from her.⁶⁷ The sheets include some of Hogarth's most popular works, amongst them *March to Finchley* (9s.), the set of *Marriage A-la-Mode* (£1 7s. 6d.), and the set of *A Rake's Progress* (£1 17s.).

Jane's price lists of 1765, 1767, and 1768 are very similar – the prices and the order of the prints are mostly identical;⁶⁸ afterwards, her list from 1784 shows 'Prints not Included in the former Catalogue', the most expensive of these ten new offerings being *A Landscape* and the *Shrimp Girl*, each priced at 5s. Also listed are *The Politician* (1s.), *The Heads from the Cartons* (2s. 6d.) as well as a few subscription tickets, but those made by Livesay where only his name appears in the publication line are not included.⁶⁹ By offering prints after William's works that had not been available to the public, she was further disseminating his oeuvre. Jane's motivation in publishing new items was also strategic and clearly tied to commercial interests – the copyrights were to expire 1 January 1787, thus the presentation of new works had appeal. Around the same time, she obtained a yearly pension of £40 from the Royal Academy of Arts which she received until her death in 1789; and although the Royal Academy awarded small financial provisions for artists or their dependents, this annuity was exceptional because it was a demand stemming directly from the King.⁷⁰ The sum is also unusual as it is far larger than the typical £3 or £4 awarded, or the occasional £8 or £10.

Jane had the commitment and resourcefulness to promote, disseminate, and safeguard Hogarth's oeuvre. When the biographer John Nichols questioned the state of the plates in his first edition of the *Biographical Anecdotes*, he contended that one of the plates had 'lost much of its former clearness'.⁷¹ Jane, listing the specific page and line, refutes this claim and describes his accusations as 'both prejudicial and *Mischievous*'.⁷² Through her network of allies, she went to great lengths to reassure the public of the

⁶⁷ LWL Mss. File 2.

⁶⁸ A note in the *The Morning Chronicle, and London Advertiser*, 24 January 1786, reads: 'The prices have not been advanced since Mr. Hogarth's death.' Her price lists can be found in the following: (1765) LWL Mss. 75 H67 800; (1767) Georg-August-Universität Göttingen, Niedersächsische Staats- und Universitätsbibliothek, Mss. Lichtenberg_IV_51; (1768) Trusler, *Hogarth Moralized*, London: S. Hooper, 1768; and (1781) Nichols, *Biographical Anecdotes*, 1781, 158.

⁶⁹ LWL Mss. 75 H67 784.

⁷⁰ Archives of the Royal Academy of Arts, Council Minutes, RAA/PC/1/2, f. 44, 60, 67, 72, 85.

⁷¹ Nichols, *Biographical Anecdotes*, 1781, 123. ⁷² Letter, 29 May 1781; emphasis in original.

quality of the plates, and in a notice that reads more like a certificate of authenticity than a newspaper advertisement, she solicited the opinion of Francesco Bartolozzi, William Woolett, and William Wynne Ryland to publicly deny that the plates had been retouched and emphasise that all of Hogarth's original works are 'properly and well printed'.⁷³

The strategies and tactics of the custodian of William's legacy reflect the resilience she possessed until her very last days. Jane Hogarth died on 13 November 1789, nearly a decade after writing her scathing words rebutting Nichols's errors and unsubstantiated accounts. She had managed to run a printselling business in a competitive trade by advertising as persuasively as Hogarth had, issuing new releases, confronting influential publishers and connoisseurs, and fighting for what was hers. Her clause was noteworthy enough to surface in *Donaldson v. Becket* yet she is hardly mentioned at all in copyright history. What happened? By being awarded the sole rights to William's prints, even those with an expired copyright, she obtained an exclusive protection that no other engraver or printseller is known to have received. Should a feat such as this not have deserved more attention? Further, what factors contributed to her being left out from the success story of William Hogarth and the ensuing 'Hogarthmania' that Jane helped feed with her new offerings? We seem faced with contrasting views of Jane Hogarth's importance: on the one hand, she is granted exceptional rights and annuities, and on the other, she has been left behind and reduced to few or trivial remarks. Her struggles were not that dissimilar from those of other women in this volume but her dealings with the law stand out as unequalled by others, including the powerful booksellers. Through her resolute actions and successful extension written upon the very lines of the 1767 Engravers' Act, Jane Hogarth left an indelible imprint on copyright law.

⁷³ *Daily Advertiser*, 27 January 1783.