"Is the King James Bible Copyrighted?"

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Executive Summary -

Copyright law is a highly technical sub-category of intellectual property law. Within copyright law there are multiple sub-categories that extend far beyond the initial printed page. This paper is designed to give a ***layman's overview**** of one small slice of copyright law by attempting to answer the question, "Is the King James Bible Copyrighted?" Legal citations to case law and statutes have therefore been kept to a minimum.

To help simplify the confusion that exists in the many non-legal papers and printed personal opinions written on the subject, this paper traces the major turning points in the history of both British and American copyright law and the implications that these changes have for the Authorized Version of the Bible.

What this paper is not -

This paper does not purport to trace, analyze or answer the numerous historical claims by printers, publishers and others to have "licenses" to print and distribute the Authorized Version, nor does it attempt to determine which printing is the "real" King James Version as compared with poorly printed editions. Further, although the discussion would be fascinating, this paper does not seek to answer the question, "Since the Bible is the Word of God Himself, what are some of the moral, Biblical and theological implications that may come into play if human copyright can be established?"

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Answer to the Question -

And so, "Is the King James Bible Copyrighted?" The answer to the question is a resounding, "Yes and no."

The Question of "Copyright"? -

To understand what appears to be a non-answer, we must lay a foundation in the law of copyright. What is it? What does it cover? How does American copyright law work? How does British copyright law work? Is a British Crown "patent" the same thing as an American "copyright"? How does international copyright law work? What is "public domain", and when and by what means do original works enter into the public domain? Is the *Authorized Version* in the public domain? Does mere assertion of copyright by the privileged presses guarantee that King James Bible is, in fact, copyrighted? Can copyright be lost, and if so, how? What is the interplay of copyright laws in various jurisdictions, particularly in light of the increasing number of binding international treaties and international conventions? Is a copyright enforceable outside the realm of the highest legal authority in the jurisdiction where the copyright is held? In the thirty minutes allotted for this presentation we can only touch briefly on a ***few*** of these questions. (The issue of moral and ethical obligation attached to copyright is outside the scope of this paper.)

Copyright as a Sub-Category of Intellectual Property -

First, let's look at an overview of intellectual property. Although there are several other forms of intellectual property, the five most common include: trademarks, servicemarks, copyrights, patents and trade secrets. Although all five fall under the rubric of "intellectual property", each area is controlled by distinctly different sets of laws.

Describing each area briefly will enable us to see some distinctions essential to the discussion of copyright law and patent law when dealing with the different British and American terms. First, American law.

Trademarks and Servicemarks:

A ***trademark*** is a distinctive word, name, symbol, motto, emblem or other device that is used in commerce with ***goods*** to identify the source of the ***goods*** and to distinguish them from the ***goods*** of others.

As implied by the name, a ***servicemark*** deals with ***services*** rather than with goods. A ***servicemark*** is a distinctive word, name, symbol, motto, emblem or other device that is used in commerce to identify and distinguish the source of a ***service*** rather than a product.

Trademarks and servicemarks do not prevent other people from making the same kinds of goods, or providing the same kind of services. They only prevent others from using the same or deceptively similar mark for their goods or services.

Of interest to ministries with radio or television programs: titles, character names, and other distinctive features of radio or television programs may be registered as service marks notwithstanding that they, or the programs, may advertise the goods of the sponsor. (15 U.S.C.A. § 1127) There are, however, limitations for tax exempt organizations under the Internal Revenue Code (IRC).

Federal law grants trademark registration and protection for ten years with renewal required every ten years thereafter.

For purposes of our discussion then, the first question is, "has the British Crown, or any party with a license from the Crown, under any form of law, in any jurisdiction, claimed an exclusive right to the name(s) *King James Version*, *KJV*, *King James Bible*, *KJB* or *Authorized Version?*" As a ***trademark***, the answer is "no". Under American law, in light of continuous usage in the public domain, there is no possibility of obtaining a trademark for any of these names or abbreviations in the United States as they apply to the Bible.

Under British law, the Crown retains certain prerogatives (discussed below), under different terminology, that might permit such a claim to these names, abbreviations and terms as unique and protected identifying marks, but the Crown has never done so and it is fairly certain that they never will.

Trade Secrets:

As of April 2011, the Uniform Trade Secrets Act of 1985 (UTSA) has been adopted (with various state-based modifications) by all states except Massachusetts, New York, New Jersey, and Texas. Patents, trademarks and copyrights are protected in the United States by federal law. Trade secrets are not. Because trade secrets are "secret", there is no uniform procedure for approval or registration. Prior to the UTSA there were varying degrees of protection in the States, originally stemming from British Common Law.

A trade secret is any formula, pattern, device ***or compilation of information*** (in our context, such as a Bible text) which is used in one's business, and which gives a person an opportunity to obtain an advantage over competitors who do not know or use it. Trade secrets can also include customer lists (for churches and ministries this could be argued for membership lists, donor lists, etc., although there are other more effective means of handling these questions if challenged by a governmental entity such as the IRS), chemical compounds, manufacturing, treating or preservation processes and other esoteric business secrets (including certain business plans) and certain things which are not patented, but which could be patented, and are known only to the owner of the secret and his key employees.

For purposes of our discussion there could theoretically be a trade secret, for example, in the electronic or digital realm of handling, transmitting, retrieving, storing, displaying or otherwise dealing with the text of the King James Bible and the underlying Greek, Hebrew and Aramaic texts. However, such a claim could not be made against ***the text itself***, regardless of how it was asserted.

Under British Common Law the Crown has never asserted, based on any theory of "trade secret", a claim to the text of the King James Version, although historically the Crown, in concert with the Roman Catholic hierarchy, has in the past attempted to keep English language translations unavailable, and treated prior translations into English with rigor, killing the translators and those who propagated their translations.

Patents:

When dealing with the issue of patents, the terminology lines between modern American law and British law become fuzzy. Under British law in 1611, the term "patent" was very broad and included certain elements of what we call "copyright law", as well as areas that modern Americans call "patents". Copyright law as such did not exist under the rubric "copyright" in 1611. However, the issue of "patents" in archaic British law is directly applicable to the question, "Is the King James Bible Copyrighted?"

Under American federal law, the term "patent" refers to one of three types of protection for inventions.

- There are ***"utility patents"*** which are granted to the person who invents or discovers a ***new and useful*** process, machine, article of manufacture, or composition of matter, or any ***new and useful*** improvement.
- There are ***"design patents"*** which are granted to the person who invents a ***new, original, and ornamental*** design for an article of manufacture.
- There are ***"plant patents"*** which are granted to the person who invents or discovers, and asexually reproduces any distinct and new plant variety.

Obviously, under American law, the term does not apply to the King James Version of the Bible. However, under British law, the realm in which the King James Bible was brought to fruition, the term "patent" applies directly.

The power of the British monarchy has changed over the centuries from an absolute monarchy to what is primarily a showcase display of royalty. Today the real power rests (and fluctuates between) Parliament and the Prime Minister. Within that legal system, the British Crown still lays claim to a limited number of "patents". Parliament has for several centuries curtailed the ability of the Crown to grant patents.

British Law of Patents -

Letters patent are a type of legal instrument issued by a monarch, generally granting an office, ***right***, ***monopoly***, title, or status to an individual or a corporation. Historically the monarch did not need the approval of Parliament. Today however the rights of monarchs to issue letters patent are strictly limited by Parliament.

Letters patent were ***publically*** published, in contrast to ***letters close***, which were personal and sealed so that only the addressee had access to their contents. A record of all the letters patent issued by English kings and queens since 1202 A.D. (beginning with King John of England) can be found in the **Patent Rolls** (begun by Chancellor Hubert Walter) which are part of the state archives of Great Britain.

United States law also recognizes letters patent. Without letters patent, a government official is not able to assume an appointed office. One of the most famous and important cases in Constitutional Law that every beginning law student must learn is *Marbury v. Madison*, in which William Marbury and three other appointees petitioned the U.S. Supreme Court to order James Madison to deliver their letters patent for appointments made under the previous administration.

Letters Patent Under British Law –

The right of a British king or queen to issue a patent is one of the many historic rights held by the monarch under what is called ***"the Royal Prerogative"***. The Royal Prerogative was a division of common law, and sometimes civil law, giving the monarch customary authority, privileges and immunity. Originally there were ***many*** royal rights under the Royal Prerogative that gave the monarch a great deal of discretionary power, including the right to "make law". Certain elements of the Royal Prerogative have come into American law with what we call Executive Privilege.

In the context of the question before us, it is of great interest that since the days of King James I, Parliament has ***systematically reduced*** the number of rights, privileges and immunities so that the Royal Prerogative is only a shadow of what it once was. Even today, individual prerogatives can be abolished by Parliament through use of a special legal procedure. The Royal Prerogative has also suffered atrophy as various functions of the Prerogative have been passed into statutory law and ascribed to other offices or governmental bodies.

Because the Royal Prerogative ***(including the issuance of patents, such as the patent to print and distribute the Authorized Version)*** now (as opposed to the time ***prior to*** 1611) exists as a legal right ***under*** British common law, the Royal Prerogative is ***subject to judicial review***. In other words, the modern British courts are actually the final arbiter of whether or not a particular type of Royal Prerogative exists or has the continued right of existence. This subjugation of the king's rights occurred slowly. The year 1611 is a crucial year in this attrition of the monarch's Royal Prerogative and authority to issue patents.

The Types of Courts Handling These Issues -

In 1611, during the reign of King James I/VI (England/Scotland), and the same year in which the Authorized Version was released for publication, the *Case of Proclamations* (filed in 1610 – EWHC KB J22) was issued by the of Court of King's Bench (now Queen's Bench) - one of the three Common Law Court divisions (King's Bench, Court of Common Pleas, Court of Exchequer Chamber). The king's courts (*curia regis*) were distinct from the courts of equity which were controlled by the church and directly affected by the canon law of the church. The judges in the courts of equity were uniformly clerics.

The chancery courts were under the jurisdiction of the king in theory, but were administrated by the lord chancellor (who was called the "keeper of the king's conscience") due to the increasing burden of legal determinations. Until the time of Sir Thomas More (1529) the chancellors were almost always clerics. But gradually more and more chancellors were laymen pulled from the pool of common law lawyers. During the 15th century the chancellor established his own court (court of chancery) to resolve cases in which there were no established principles in the courts of law.

In contrast to the common law judges, the chancellor dealt with the moral concept of equity – what is "fair" when there is no applicable statutory or common law in place. Throughout the Middle Ages the Jews were also permitted to have their own distinct and separate courts where learned rabbis sat as judges. On the other hand, King's Bench was the court designated to hear ***cases concerning the sovereign*** or important persons with the right to be tried only before him.

The reason for this quick history is to understand how the courts began to limit the king's Royal Prerogative to issue patents in the very year the *Authorized Version* was first published.

We need to understand that throughout this period of history the different types of courts were actually in competition with one another, and frequently issued radically different types of judgments.

The Case of Proclamations -

In 1611 King James and Parliament were fighting over the issue of impositions. Parliament opposed the King's power to impose further duties on imports beyond what was sanctioned in Parliament. On September 20, 2010, the famous jurist Sir Edward Coke (Chief Justice of the Court of Common Pleas) was summoned before the Privy Council and asked to give a legal opinion as to whether the King, by proclamation (under the Royal Prerogative) might prohibit new buildings in London, or the making of starch from wheat. This question resulted in the *Case of Proclamations* cited above which has highly relevant legal implications for the continued claim of an exclusive patent on the *Authorized Version*.

In this case Coke and his fellow judges emphatically asserted ***that they (the judiciary) possessed the right to determine the limits of the Royal Prerogative***. Perhaps the most important principle to come out of this decision is the maxim, "The King has no prerogative but that which the law of the land allows him." In other words, the King's exercise of the Royal Prerogative must be subject to, and in harmony with, the laws established by Parliament.

James I, however, refused to concede this point, and tried to put his own proclamations on a constitutional foundation by having them published in a book similar to the statutes. Both James I, and then Charles I, struggled with Parliament over this issue up to the Long Parliament (1641), the English Civil War (1642-1648), and Charles' execution (1649).

Since the *Glorious Revolution* of 1688, which placed Queen Mary II and King William III in co-regency, ***the separate and distinct power of the Judiciary has not been challenged by the Crown on this subject***. In the British legal system it is now well established that it is the right of the courts to say what the law is or means. In American legal terms, this means that there is a separation (and balance) of powers between the Executive Branch and the Judicial Branch of government which, in England, was blurred or non-existent prior to 1688 due to the former function of the King's Bench and the Royal Prerogative.

However, the question of ***the extent*** of the Royal Prerogative ran as a sub-current until the English Bill of Rights in 1689 when it was finally legally resolved by providing that "the powers of the crown were subject to law, and there were ***no powers*** of the Crown [emphasis added] which could not be taken away or controlled by statute." (A. Bradley and K. Ewing, *Constitutional and Administrative Law* [London, 1977], p. 271)

Concerning the application and enforcement of the Royal Prerogative to the British overseas dependencies, territories and colonies (including the United States), an important case was handed down just two years prior to the American Revolution. In the case of *Campbell v. Hall* (1774), the court ***nullified the absolute nature of the Royal Prerogative***. This case determined that once a colony gained a representative assembly, the Royal Prerogatives reverted to familiar prerogatives. This legal principal had

important implications for the translation and printing of Bibles in the colonies (including the *Authorized Version*), and specifically in the American colonies both prior to and since 1776 when the American Colonies declared their independence.

Privileged Presses -

Under British law, a **privileged press** is a publisher who has been granted letters patent. There are currently only two privileged presses in the United Kingdom – Cambridge University Press and Oxford University Press. Cambridge University Press received its letters patent charter in 1534, and Oxford University Press received its letters patent charter in 1634. In particular, they both claim the patent right to print and publish the *Book of Common Prayer* and the *Authorized Version* of the Bible in England, Wales and Northern Ireland. Whether valid or invalid, that is the full jurisdictional extent of their legal claim.

It is self evident that a patent issued under the Royal Prerogative has no legal authority outside the current jurisdiction of the monarch. In layman's terms, even if a patent issued by James I/VI were valid at one time in England and its colonies, territories and dependencies it has no authority or controlling rights outside of that jurisdiction in any period of history, ancient or modern unless otherwise lawfully granted.

Printing patents -

Printing patents were a very small part of the Royal Prerogative, and fell into one of two categories. ***Particular patents*** gave an exclusive right to print a single work for a limited time (7-10 years). ***General patents*** were usually granted for life and covered certain classes of writing (for example, law books).

The royal prerogative related to printing patents was removed in 1775. (Donner, I., "The Copyright Clause of the U.S. Constitution: Why Did the Framers Include It with Unanimous Approval?", *The American Journal of Legal History* 36(3), p. 361-378.) It would therefore appear that if the issue were raised in a British court of law, any claim to a printing patent must therefore argue that it has been "grandfathered", ***and*** that it remains ***in the public interest*** for it to continue unabated. (For a full discussion on printing patents and other pertinent issues related to the Royal Prerogative and letters patent, see: Patterson, Lyman Ray, *Copyright in Historical Perspective*, Vanderbilt Univ. Press (1968).)

Patents vs. Copyright -

At the time that the King James Version was translated, statutory copyright law, as such, did not exist. However, a private system of copyrighting had existed for about 200 years – first informally, and then with legal authority. In 1403 the Worshipful Company of Stationers and Newspaper Makers ("The Stationers' Company") was formed in London. It did not receive its Royal Charter until 1557. The Licensing Act of 1662 granted the Company a monopoly by requiring all lawfully printed books to be entered into its register, and only members of the Company could enter books into the register. In this manner the Stationers' Company became a monopoly over the publishing industry, and it, ***as a private company***, was officially responsible for setting and enforcing what we would call "copyright regulations". This monopoly ended when Parliament refused to renew the Licensing Act when it lapsed in May of 1695.

The authority granted to the Stationers' Company was distinct and different from the monarch's Royal Prerogative which could grant letters patent and licenses in addition to the rights provided by statute to the Stationers' Company.

All of these older systems that contained elements of our concept of copyright had this in common – a restriction of the "freedom of the press". The three primary elements that can be seen in these systems are: (1) an economic motive for controlling publishing and regulating the book trade; (2) an underlying attempt to suppress the publication and distribution of works that might have a negative impact on either the Crown or the Church; and, (3) the public policy goal of encouraging public learning, which became visible with the passage of the Statute of Anne (see below). The rights of authors to enjoy the fruits of their labors were sometimes visible and sometimes dim until that Statute. The first economic motive is, of course, still part of the publishing industry, and is protected by copyright law, and the rights of authors have increased dramatically.

The world's first real copyright statute was the Copyright Act of 1709, also known as the **Statute of Anne.** It came into force in 1710. Because of the Anglo-Scottish Union of 1707, the Parliaments of England and Scotland were merged into a single body, and this new Parliament brought many of the laws of the two countries into line with one another. The Statute made the author the legal owner of the work, and gave a 21 year copyright to works already in print. The new statute also granted 14 years of copyright protection to the publishers of a new book, with copyright reverting to the author for another 14 years if the author was still alive.

Based on the *Case of Proclamations* discussed above, and the ensuing history and concession by the Crown of judicial review of the Royal Prerogative, and the fact that the Royal Prerogative is clearly diminished by statutory law (laws passed by Parliament), it might be argued, should the legal case arise, that all legislation following the Statute of Anne which does not specifically acknowledge the continuing exclusive patent to the Authorized Version thereby abrogates and nullifies the patent.

This brings us to the modern issue of copyright law, jurisdiction and the King James Bible.

<u>Copyright under American Law</u>:

American copyright law is based on the Constitution of the United States, which in turn is based on the Declaration of Independence, which sets forth the United States of America to be a sovereign nation, independent from the authority, control and laws of Great Britain. The Constitution of the United States went into effect on March 4, 1789. Beginning on that date, the provisions concerning "copyright" for citizens of the United States were clearly governed by the US Constitution and subsequent federal law, not the intermediate state laws mentioned below, and certainly not the laws of Great Britain.

Article I, § 8, cl. 8 of the Constitution provides that Congress shall have the power "[t}o promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries." [*sic*]

Following the Declaration of Independence, but prior to the ratification of the Constitution, there were limited state-based copyright laws. Three of these laws were passed in the United States prior to 1783. In 1783 a petition was sent to the Continental Congress urging a national copyright law. Under the Articles of Confederation Congress lacked authority to promulgate laws for copyright protection. Instead, Congress encouraged the States to pass state-based copyright laws. All did so, except Delaware. At the Constitutional Convention of 1787 James Madison and Charles Pinckney proposed that Congress include a copyright provision in the Constitution. Their proposals formed the basis for copyright as a ***Constitutionally*** protected right.

Congress acted on the authority provided in the Constitution by passing the first federal statutory copyright law – the Copyright Act of 1790. It provided an initial 14-year term of copyright from the time of recording the title, with a right of renewal for 14 years if the author lived that long. Except for the sections dealing with maps and charts, the Act tracks the language of the Statute of Anne almost verbatim. If a work was not registered and proper copyright notice was not given, the work immediately entered the public domain. In other words, anyone could print it and sell it.

Over the years, Congress has enacted various versions of copyright laws, changing the method of obtaining a copyright, the length of time that a copyright can continue to exist before entering the public domain, who can hold a copyright, how a copyright can be lost, registration and non-registration of copyright, transfer of copyright to another party, penalties for copyright violation, exceptions to the statutory copyright monopolies, and various other questions that have arisen with time.

Through these changes, the requirements of registration and proper copyright notice remained in United States copyright law until recently. However, the term of initial copyright expanded to 28 years with an available renewal period of 28 years (Copyright Act of 1909) until the law changed in 1976.

In 1976 Congress abolished most state copyright law and the protections offered by those laws when Congress passed into law 17 U.S.C. § 301(a). The legal doctrine of preemption of former copyright laws means that if a writing cannot be protected under federal law, it cannot be protected at all. State law no longer has the ability to protect a work that federal law does not protect.

The new copyright law has five "pillars" –

1. The right to reproduce the work.
2. The right to make derivative works.
3. The right to distribute copies or recordings of the work by sale, ownership transfer, rental, lease or lending.
4. The right to publicly perform the work.
5. The right to publicly display the work.

Now, in the United States, the first person to put an original work into a "tangible medium of expression" (such as writing, photography, recording, sculpture, etc.) has, in fact, an immediate copyright on the work. The requirements of registration and notice are no longer required for copyright to attach. Failure to

register or place the formerly required copyright notice no longer places the work into the public domain. However, if litigation ever arises over the work, the copyright holder is in a better position if he or she has registered with the Copyright Office (a subdivision of the Library of Congress). Registration is necessary only if the plaintiff wishes to obtain statutory damages (specific damages provided by law).

The issue of derivative works is not often discussed in the context of the *Authorized Version*, but it should be noted that if the claim of the Crown and the privileged printers were valid in the United States, no portion of the KJV text could be set to music here, Christmas plays in which the children quote the King James Version would be unlawful, and children's picture books containing descriptive verses from the *Authorized Version* would be a violation of the law. Whether George Frederick Handel (1685-1759) had a license to use the text of the KJV in his great musical work, *"The Messiah"* (1741), and tracing the history of the law of derivative works, is a topic for another time. In short, however, neither the Crown nor the privileged presses have ever mounted a law suit against any American publisher of derivative works that use the Authorized Version.

We must also briefly mention "works for hire", since the *Authorized Version* falls roughly into this category in modern terminology (though legally the category did not exist as a subset of the Royal Prerogative and letters patent in 1611). "Works for hire" are those works that are commissioned and paid for by a third party (in this case, King James I) who takes an economic risk for the production of the work. This includes works prepared by an employee within the scope of his employment unless other arrangements have been made. The commissioning party paying for a special work is the owner of the copyright.

Currently, a copyright is "[t]he right of literary property as recognized and sanctioned by positive law. It is an intangible, incorporeal right granted by statute to the author or originator of certain literary or artistic productions, where he is invested, for a specific period, with the sole and exclusive privilege of multiplying copies of the same and publishing and selling them. Copyright protection subsists in original works of authorship ***fixed in any tangible medium of expression***, [emphasis added] now known or later developed, from which they can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device." (*Black's Law Dictionary*, 6th Ed., West Pub. (1990), p. 336).

Currently the following items may be copyrighted under United States law:

1. Literary works
2. Musical works, with any accompanying words
3. Dramatic works, with any accompanying words
4. Pantomimes and choreographic works
5. Pictorial, graphic, and sculptural works
6. Motion pictures and other audiovisual works
7. Sound recordings

The key phrase, highlighted in the definition above, is the phrase, "***fixed*** in any ***tangible*** medium of expression." You can copyright the things you write down, but you cannot copyright ideas. Further, although the ***exact form*** of the words that you commit to a tangible medium of expression is copyrighted,

what the words describe is not copyrighted. **For example:** if you ***describe in writing*** a procedure, process, system, method of operation, concept, principle, or discovery, ***your words about it are copyrighted***, but the thing described is ***NOT*** copyrighted. You may be able to protect your discovery, etc. under patent law or another area of intellectual property law, but obtaining a copyright for your writing does not protect your other intellectual property rights that may exist independently, and which thus require independent protection.

Length of US Copyright –

With the passage of the *Sonny Bono Copyright Term Extension Act of 1998*, works created in or after 1978 (the year in which the Copyright Act of 1976 went into effect) have copyright protection for a term ending 70 years after the death of the author. In "works for hire" the copyright lasts for 120 years after creation or 95 years after publication, whichever is shorter. Works published or registered before 1978 were granted an automatic renewal by the *Copyright Renewal Act of 1992*.

Public Domain –

If a ***published*** work was copyrighted before 1923 in the United States, regardless of the various changes in the law, that work has now entered the public domain. (There are **exceptions** for ***unpublished*** works [life of author plus 70 years] and works made for hire [complex formula].) All works published before 1964 in which the copyright holder failed to renew copyright are now in the public domain. With rare exceptions, no additional copyrights will expire and enter the public domain until 2019 unless a change is made in the law.

British Copyright Law –

The first major "total makeover" of British copyright law since the *Statute of Anne of 1709* occurred in 1911. *The Imperial Copyright Act of 1911* (the *Copyright Act of 1911*) amended existing British copyright law and **repealed all previous copyright *legislation*** that had been in force in the United Kingdom, and established a single statute for all copyright law. It consolidated previous copyright statutes that had been passed "piecemeal" over the centuries. It also added changes that came as a result of the first revision of the Berne Convention in 1908 (see below).

Currently the United Kingdom is controlled by *The Copyright, Designs and Patents Act of 1988* (as amended) [CDPA]. It was passed by Parliament and received the "Royal Assent" on November 15, 1988. It replaced the *Copyright Act of 1956*. Most of the amendments to the 1988 Act have been made to implement directives of the European Union. The 1988 Act (and amendments) gives the author (and holder after death) a copyright in most published works for the life of the author and 70 years after his death if his identity is known. There are various exceptions not requiring discussion here.

The Act reduces and simplifies Crown copyrights (the term "Crown" now refers to copyrights held by the government of the United Kingdom), and abolishes what had become a perpetual Crown copyright in

unpublished works of the Crown (read "government"). It also introduced a new copyright concept of Parliamentary Copyright and institutes similar regulations to the copyrights of some international organizations.

Under the Act, Crown copyright lasts for 50 years after publication for published works. For unpublished works it lasts for 125 years after their creation. No unpublished work of the Crown will come into the public domain until December 31, 2039 (50 years after § 163 went into effect). Varying lengths of protection are granted to the *Acts of the United Kingdom*, *Scottish Parliaments Acts* and *Church of England Measures*. Enforcement measures provided are significant since making, dealing in or use of infringing copies is a criminal offense. Copyright owners may ask Her Majesty's Revenue and Customs to ban unofficial copies as "prohibited goods". (For example: A test case concerning the Authorized Version could be forced by seeking to import King James Bibles, printed by an unlicensed press, outside the British realm, into England and challenging in court any request by the privileged presses to declare those Bible as "prohibited goods".) There are many additional provisions under the Act.

International Copyright Law –

The scope of this paper does not permit extended discussion of international law, but the three (among other) international agreements that primarily affect U.S. and British copyright laws are the **Berne Convention** (1886 – the first international copyright law treaty, revised in 1908), the **Universal Copyright Convention** (1954 and 1971) and the **Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)**, administered by the World Trade Organization (WTO) and negotiated at the end of the Uruguay Round of the General Agreement on Tariffs and Trade (GATT) in 1994.

Summary -

Under the British law of the Royal Prerogative and issue of letters patent in 1611, the King had the legal right to control the translation, printing, sale and distribution of the Bible which he authorized to be produced. He held these legal rights under several theories of law. He held the right of contract since the work was a work for hire (though technically this was an undeveloped area of law). He held the right of sovereignty, vested under British law in a single person. In other words, he could have prohibited the translation, printing, sale and distribution of the Bible in English because he had the right to "make law". He also had the right to banish all other translations of the Bible in English. He held the right of license by which he could legally determine who would be permitted to typeset, print, sell and distribute the Bibles – and he could restrict the sale of the Bibles to certain individuals, groups or other entities. He could also prevent the importation of Bibles printed abroad, or add onerous impositions (duty on imported items – see discussion above), making import economically unfeasible.

It is difficult for Americans to understand the deference given to the monarchs of England, and the special legal rights and privileges granted to the select few. It is also sometimes difficult for us to understand that other nations have laws that are strikingly different from the legal system under which we live. When we come to the Bible, it is doubly puzzling for us to find such a striking variance between our laws and the laws of Great Britain since our legal system, for the most part (with the exception of Louisiana), is based on British Common Law.

But the key issue in all of this discussion is the legal provision under British law that, in locations under the jurisdiction of the Crown, a patent from the Crown has no expiration date unless superseded by statute passed by Parliament as discussed above, or as determined by the British courts through litigation, to be null and void. A monarch could release a patent, but he might just as quickly reinstate the patent. However, under current British law this right of the Royal Privilege has been greatly truncated and reinstatement might well be refused.

The British courts have the clear right to determine whether any issue concerning the Royal Prerogative, including patents and licenses, still stands. No test case concerning the *Authorized Version* has been tried under British law in the 20th or 21st Century. Whether a carefully directed statutory and case-based legal attack would scale the claimed wall of protection is, at this time, only theory.

Perhaps the privileged presses are giving us an illustration of the old adage, "let sleeping dogs lie." The privileged presses have not brought suit against other American Bible publishers during this time. The Crown has not pressed charges against other publishers either. Perhaps they sense the tenuous nature of their claim in a modern, civilized world that is light years away from the sovereign rights of the absolute monarch who made up law at his personal discretion.

As long as the issue is not challenged in the courts based on (among others) the various theories of law sketched above, the privileged presses will undoubtedly continue to assert their perpetual rights to what we now call "copyright" over the Authorized Version, at least within the limited jurisdiction claimed by the privileged presses and controlled by the Crown.

At some time there may arise a British subject who wishes to challenge the Crown by openly, and as a test case, publishing, printing, distributing or importing copies of the *Authorized Version*, and when sanctioned, aggressively, with competent counsel, brings his or her case in open court. Perhaps some Member of Parliament will agitate for Parliament to clarify the matter and settle the issue once and for all.

And so, "Is the King James Bible Copyrighted?" Using the term "copyright" in the broadest non-technical sense, covering the various terms of this discussion, the answer to the question is – a definitive "no" in most parts of the world, and a shaky, questionable "yes" in England, Wales and Northern Ireland (and, we might add, in Scotland where the Scottish Bible Board holds a license), and even more weakly and questionably, in the other areas of the United Kingdom, its protectorates, territories, dependencies and colonies that still have connections to the Crown. This sputtering flame represents the last remnant of the days when the Crown controlled a printing and publishing monopoly in the entire British realm.

Thank you.