

A Game Map: Object of Copyright and Form of Authority in Eighteenth-Century Britain

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This essay studies in detail – from a legal and aesthetic perspective – an eighteenth century game map that became the object of a copyright dispute. Thomas Jefferys' *Royal Geographical Pastime or the Complete Tour of Europe* was only the second geographical game to be produced in Europe. But the game was more than a simple pastime for an educated public. The map fed notions of hegemony and carried political messages about the relationships between Britain and her continental neighbours, while at the same time informing attitudes towards education and the role of enlightenment ideas. The present study is concerned with the historical relationship between maps and copyright law against this background. It questions the impact of incremental changes and copying in the regular operations of mapmakers, which conferred legitimacy on the maps while also posing legal challenges. These challenges were in turn complicated by the status of the map as an object with diverse functions and meanings.

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When leading London mapmaker Thomas Jefferys published *The Royal Geographical Pastime or the Complete Tour of Europe* in 1768, what exactly was he offering to the public (Fig. 1)?¹ Framed by two letterpress side panels containing the game's rules and instructions and a succinct description of 103 cities and towns, the map was a board game. Indeed, it was only the second known British cartographical game.² But this game was more than a simple and pleasant pastime for educated Englishmen and their families. The map, which became the object of a legal dispute, was seen in many different ways by its makers and by its users: as valuable property; as aesthetic and scientific object; as political tool; as teaching aid; as a consumer good. The legal dispute to which it gave rise was the first case to test the operation of a new copyright statute concerning engravings, and this case, although it did not proceed to a judgment, had a long-term impact on both the map trade and the law of copyright.

The Complete Tour of Europe was the first of three game-maps that Jefferys published in three years. A second, *A Complete Tour Round the World*, and a third, *A Complete Tour Thro' England and Wales*, both published in 1770, served as its companions. These were games of chance, rather than skill, played by two to six players taking turns to spin a totum to direct their advance around the board. The eight-sided totum, or teetotum, with a number on each flat side,

performed the same function as a dice but was considered more appropriate for children as it did not carry the same associations with gaming.³

The rules of Jeffreys's *Complete Tour* were based on an older, gambling, game, called *The Game of the Goose*, a version of which had been entered on the Stationers' Register in London as early as 1597.⁴ It involved racing to the end of a board, impelled forwards by random rewards and held back by random forfeits, but in Jefferys's game the board was a map rather than a race-track.⁵ The map itself was a copperplate engraving, hand-coloured, cut into squares to be mounted on linen, and then folded into squares so it could fit into a slip-case. The rules were printed in letterpress and affixed to both paper and cloth sides of the map. All three games were dedicated to the Prince of Wales, as demonstrated by the prominent inscription and the crown with three ostrich feathers emanating rays—lower left on the map of Europe (see Fig 1), lower right in the map of the world and upper right on the map of England and Wales.

On the very same day— 1 January 1770—that Jefferys published the second and third maps, his rival publisher and printseller Carington Bowles published his own map game of Europe under the title *The Royal Geographical Amusement or the European Traveller Designed from the Grand Tour by Dr Nugent* (Fig. 2). Like Jefferys' map, Bowles's version was coloured, framed to left and right by letterpress texts and sold with a totum. Six weeks later, on 15 February, Jefferys sought an injunction against Bowles in the Court of Chancery alleging copyright infringement.

In this article, we draw on legal documents held by the Public Records Office in London to explore this dispute in detail. We start by describing the law of copyright for engravings, on which Jeffreys's legal action was based, and go on to set out the legal arguments of the parties before relating how the case unfolded. Despite their necessarily formulaic nature, the narrative format of Chancery pleadings reveals rich details about the relationships between the mapmakers, their commercial interactions, and pricing information as well as giving an insight into their respective understandings of how law and trade custom interacted. Then we turn to explore the significance of this particular case in terms of copying practice and in the light of aesthetic and economic considerations, looking first at the broader print trade and then, more specifically, within the map trade. Finally, we take a close look at the content of the map games in question, in order to explore their broader aesthetic, social and political significance.

More than just a board game or popular item of ephemera, these elaborate and entertaining objects were valuable commodities as well as informative texts that sought to instil and maintain a particular ideology of European hegemony

and British imperial power. Through these different perspectives and approaches, our approach thus responds to Matthew Edney's call for a processual map history that attends to the production, consumption and circulation of maps, as well as situating them in the 'specific spatial discourses in which they were produced and consumed'.⁶ We also elaborate upon the recent work of Martin Bruckner in exploring the emergence of maps as a 'meaningful media platform and popular print genre' by examining the ways in which these particular map games acted simultaneously as popular pastimes, socially constructive texts, and objects of legal controversy.⁷

The Statutes behind the Case

In bringing his case, Jefferys was relying on two statutes in particular: the 1735 Engravings Act and the 1767 Engravings Act. The 1735 Act was known as Hogarth's Act, in recognition of the artist's role in bringing about its enactment. It gave exclusive printing rights to any person who 'shall invent and design, engrave, etch or work in *Mezzotinto* or *Chiaro Oscuro* ... any historical or other print' for a term of fourteen years. Anyone who copied and engraved, etched or printed any such print without the consent of the owner, or who knowingly sold or imported such a print would be liable to forfeit the plates, the printed sheets, and the sum of five shillings for every print found in their custody. The plates and prints would be destroyed, while the money would be shared between the King and the person bringing the action.⁸

Maps were, of course, engraved prints, but any potential uncertainty as to whether they would fall within the scope of the statute's provisions was resolved in an amending Act of 1767.⁹ This Act provided that the exclusive right to print extended to 'any Historical Print or Prints, or any Print or Print of any Portrait, Conversation, Landscape or Architecture, Map, Chart or Plan, or any other Print or Prints whatsoever'.¹⁰ It also increased the term of protection to a period of twenty-eight years.¹¹

There was another significant amendment in the 1767 Act, of which Jefferys would have been particularly aware. His action against Bowles was not his first attempt to protect his commercial interests by using copyright law. Seventeen years earlier, Jefferys had brought an unsuccessful action against the proprietors of the *London Magazine* for copying his print of the busses (vessels) of the Society of British Herring Fishery without his consent.¹² Lord Hardwicke LC had dismissed that bill as 'frivolous', on the grounds Jefferys had no property right in a print for which he had employed another engraver. Lord Hardwicke explained that the 1735 Act 'was made for encouragement of genius and art'

and ‘is in that respect like statute of new inventions, from whence it was taken’.¹³

The 1735 Act had been expressed in terms designed to cover only those persons ‘who shall invent and design ... or from his own Works or Invention shall cause to be designed and engraved ... any historical or other print or prints’.¹⁴ Thus Jefferys, who admitted in his bill of complaint that he had ‘at very considerable Expense procured a Drawing or Design to be made of the Busses of the Society of the Free British Herring Fishery’, did not fall within its scope.¹⁵ The limitation that had caught Jefferys out spoke to a second reason why the 1735 Act had become known as Hogarth’s Act. As almost the sole engraver working in London at the time who designed *and* engraved his own prints, Hogarth was the chief beneficiary of the Act’s protection.¹⁶

The 1767 Act remedied this situation, by extending protection to those who ‘from his own Work, Design or Invention, shall cause or procure to be designed, engraved ... any print or prints’.¹⁷ This operated to give the owner of a physical copy of a painting or print the right to make engravings of it or to employ someone else to do so.

The Litigation

The suit brought by Jefferys in 1770 was the first that we know of, to date, to have been brought under the new Act of 1767. At the time, Jefferys was Geographer to King George III and foremost London mapmaker of the day. Reputation alone, however, was not sufficient to shield him from the financial risks of his trade. Four years earlier he had been declared bankrupt but rescued, and assisted to carry on in his trade, by fellow mapmaker Robert Sayer, perhaps with others.¹⁸ Despite his considerably straitened circumstances, Jefferys was prepared to invest in this new case. For his legal counsel he engaged Robert Bicknell and Alexander Wedderburn, both of whom had already appeared in several cases involving infringement of literary property and one of whom, Wedderburn, would go on to argue in favour of common-law copyright four years later in the famous case of *Donaldson v Becket*. In fact, Wedderburn subsequently became Chief Justice of the Court of Common Pleas, with the title of Baron Loughborough, and later still Lord Chancellor.

As already noted, Jefferys relied on both the 1735 Act and the 1767 Act in his bill of complaint. There he stated that he did ‘with great Labour and Assiduity & at a considerable Expence Contrive and Invent a Method of Teaching Young Persons the Use of the Maps and Charts ...’ and that he had ‘well hoped that he should have fully Enjoyed and Reaped the Sole Benefit of

the Labour and Industry as aforesaid Pursuant to and Compliant with' the two Acts of Parliament.¹⁹ However, he said he was not seeking the remedies provided for in those statutes. Rather, he had brought the case in Chancery seeking equitable remedies, chiefly an injunction, but also delivery up of unsold prints and an account of profits.²⁰ The Court granted his injunction on 19 February 1770, stating it would last until the defendant put in his answer.²¹

Carington Bowles, the defendant, came from another leading family of map and print publishers and ran a substantial wholesale and retail print business also in London. His counsel were a Mr. Kett and the Attorney-General William de Grey. He made his answer on 7 March 1770, admitting that he had indeed published a game entitled *The Royal Geographical Amusement, or the European Traveller Designed from the Grand Tour by Dr Nugent*.²² He also admitted that he had approached Jefferys twice in 1768 proposing to take up a half share of the right to print, publish and sell the game, but that Jefferys' price of 100 guineas was too high so he refused to deal any further with him.

Bowles went on to make a number of arguments in his defence. First, he claimed that, far from he having copied Jefferys's map, Jefferys had copied from him. According to Bowles, the map used by Jefferys had been taken with some 'trifling variations' from a map of Europe designed and engraved by M. Palairt and owned by Bowles himself.²³ Second, Bowles argued it was not correct that Thomas Jefferys had invented and designed the game himself. Rather, the game had been invented by John Jefferys (no relation to Thomas), who had engraved and published a game entitled *Journey Through Europe or the Play of Geography* on 14 September 1759.²⁴ Bowles had purchased the copper plate and rights from John Jefferys and was now the owner of them. He went on to accuse Thomas Jefferys of employing the engraver Delarochette to copy John Jefferys's game, of changing some of the rules and historical and geographical anecdotes, and of publishing it under a different name in order to elude the Acts of Parliament.

In third place, Bowles denied that Thomas Jefferys 'is or ever was in fact the proprietor thereof in such sense as to be entitled to the benefit of the Acts of Parliament in the bill mentioned or either of them he not being as this defendant believes the original inventor or claiming under the original inventor but being only the engraver thereof'.²⁵ Moreover, he argued, neither the rules of the game nor the accompanying historical and geographical anecdotes fell under the Act because they were set in letterpress (the technique predominantly used for printing books) not engraved on the copper plate, which demanded different skills and equipment. Fourth, Bowles argued that he had not used the same map as Jefferys but that his map was copied or traced from a plate engraved for him by a Mr Lodge and finished by a Mr Ellis.

Then Bowles pointed to the many differences between his game and that of Jefferys. He contended that his map included latitude and longitude, that the numbers on each map were different from Jefferys's, that they applied to different places on his map, and that, while the rules and directions were identical, the historical and geographical anecdotes were different. He explained these distinctions resulted not from a desire to elude the Acts of Parliament, but from his anxiety to ensure that his map closely followed a book called *The Grand Tour* by Dr Thomas Nugent, an Irish historian and travel writer. Finally, Bowles denied he had printed and published 1,000 copies of the game, as Jefferys had alleged, stating he had printed only fifty copies, published only twenty-nine copies, and had in fact disposed of only nine copies, at a price of 8 shillings each, or thereabouts, and no more. He admitted that he did intend to publish two more games—one of England and Wales and one of the World—and asked that he not be enjoined against doing so.²⁶

When Bowles made his Answer on 7 March 1770, the court ordered that the injunction would be dissolved on 17 March, unless the Plaintiff showed good cause to the contrary—by then.²⁷ When that day arrived, Jefferys's counsel argued that the injunction be continued, but the Lord Commissioner of the Great Seal referred the matter to a Master in Chancery by consent of counsel on both sides.²⁸ The Master in Chancery, Mr. Pechell, was ordered to examine whether the defendant's copper plate 'is of the same size and scale and has the same marginal notes and directions or Instructions and is in all respects the same as the first Plate published by the Plt'.²⁹

Tantalizingly, this is the point where the legal record runs out. Notwithstanding what the Master might have found, it would seem that there had indeed been a sequence of reciprocal copying between Jefferys and Bowles, most likely to have begun when John Jefferys game was published in 1759.³⁰ It also appears that Bowles continued to publish the game for several decades. In 1784, he advertised a map game in his *Catalogue of Useful and Accurate Maps*, although the word 'Royal' does not appear in the title. It seems likely this is the same map held by the Beinecke Rare Book and Manuscript Library, although that copy is dated 1795. This version is also differently coloured, thereby distinguishing it further from Jefferys' map game. (Fig. 3).³¹ This brings us to consider the significance of this dispute for the print trade more broadly

Copying in the World of Prints

The preoccupation with copying was a constant concern of eighteenth-century writers and connoisseurs. Jonathan Richardson, in his *Discourses*, first published in 1719, distinguished prints according to how they were made:

Of prints there are two kinds: such as are done by the masters themselves, whose invention the work is; and such as are done by men not pretending to Invent, but only to copy (in their way) other men's works.³²

Eighteenth-century collectors were increasingly aware of the number of copies and their deceptive nature. In 1768, William Gilpin, author of *An Essay upon Prints*, warns the collector 'to beware of buying copies for originals', stating that

Most of the works of the capital masters have been copied; and many of them so well, that if a person be not versed in prints, he may easily be deceived.³³

Carington Bowles had a wealth of experience in the business of printing. Seeking to exploit the popular market, he commissioned designs and employed engravers who produced quick and cheap copies. His 1784 catalogue lists seventeen prints under 'Humorous Designs, by Hogarth'.³⁴ Each print is briefly described along with its dimensions and price, but the date of publication and medium are not included. Were these copies or legitimate adaptations and altered variations of Hogarth's prints? *The Sleeping Congregation*, published by Hogarth in 1736 and 'retouched and improved' in 1762, is not listed in the catalogue, but it is mentioned by Jane Hogarth in 1765 in a newspaper advertisement in which she warns the public of the several 'pirated' impressions sold in print shops.³⁵

The demand for copies, both plain and in colour, was large, and although it was easy to differentiate the hand coloured and cheaper mezzotints from Hogarth's original etchings, the question in relation to the Act was a difficult one. In the pamphlet titled *The Case of Designers, Engravers, Etchers, &c. Stated. In a Letter to a Member of Parliament*, produced in the preliminary phases of lobbying for the 1735 Act, the differences between a 'direct copy' and a 'design' based 'upon the same Subject' surfaces are outlined:

when a Print is copied directly from another, it follows from the Method of making such a Copy, that the Manner must unavoidably be the same, the Shape of every Part must be exactly the same, and the Parts will all be kept at the same Distances in the Copy as in the Original; and consequently there will be so many Ma[r]ks of its being a direct Copy, distinguishable by the most common Eye, that it will be impossible for it not to be discover'd when compared in Court with the Original.

On the other hand, if any Artist has only made a Design upon the same Subject with another; the Manner will so apparently be his own, the Shape of the Parts will be so different, and the Distances will vary so much from the other, that this will have as many

apparent Marks of its being an Original, and in the other Case there were Proofs of its being a Copy.³⁶

Artists, then, were allowed to make use of a same subject matter as long as they created an original design. The seven-page pamphlet, in specific and complex language, stipulates that a design cannot be deemed ‘original’ by the mere addition or removal of a figure from an existing design. It also made a case against partial copying:

It will be a very trifling Evasion of the Law to plead that one Print cannot be a copy of another, because there is a Figure more or less in it, than in the Original, when all the others can evidently be shewn to be taken from it.³⁷

The petition pamphlet was clearly a solid base for the drafting of the ensuing Act, which prohibited copying a work ‘in whole’ and ‘in part, by varying, adding to, or diminishing from the main Design’.³⁸

Two significant points are worth stressing: first, the language used in the statute, where it is the ‘main Design’ that becomes the object of protection— a direct and clear reference to the Italian concept of *disegno*, a notion coming out of academic theory, which laid emphasis on the cognitive process involved in artistic creation.³⁹ Second, any borrowing, even partial, would constitute an infringement. In this regard, the engraving statute set up an important distinction against painting in which borrowing, according to traditional academic views, was an accepted, and indeed required, artistic practice. According to Richardson, a painting could be part copy and part original:

A copy retouched in some places by invention, or the life is of this equivocal kind. I have several drawings first copied after old masters (Giulio Romano for example,) and then heightened, and endeavoured to be improved by Rubens; so far as his hand has gone is therefore original, the rest remains pure copy.⁴⁰

In the context of art, the English painter and first president of the Royal Academy, Sir Joshua Reynolds, declared that

it is vain for painters or poets to endeavour to invent without materials on which the mind may work, and from which invention must originate. Nothing can come of nothing.⁴¹

Reynolds believed that a painter should

enter into a competition with his original, and endeavour to improve what he is appropriating to his own work.⁴²

Although painters commonly used engravings to promote their works, paintings were not woven into the many day-to-day activities and trade networks of print

making. One should note that paintings were not protected under copyright law until 1862.⁴³

The impetus for the early copyright protection of prints might be realized when considering the array of business activities and jobs they involved, which were all tied to money. Maps shared with engravings an important mercantile aspect, but their makers, just like other printmakers, were ranked below painters, something which Hogarth and his fellow petitioners intended to change.

Copying in the World of Maps

So where did the map, as print, fit in this scheme? In the case of satirical and artistic prints, such as those of Hogarth, unauthorized copies could affect the artist's reputation and his economic interests both negatively and positively. Hogarth disliked being copied, but the copying and consequent wide dissemination played a key role in building his reputation. Speaking of the series *A Harlot's Progress* (1732), Horace Walpole observed: 'Every engraver set himself to copy it and thousands of imitations were dispersed all over the kingdom.'⁴⁴

In many ways maps were different to other artistic prints because the map trade was essentially founded upon copying. Copying, with small or significant updates, was the general practice of most early eighteenth-century mapmakers, as it allowed them to save on the capital-intensive activities of surveying and compilation.⁴⁵ Copying also had an important effect, that of conferring legitimacy: the closer a map came to others preceding it, the more it would be perceived as accurate and therefore legitimate. This raises the question of whether the mental process in the making of maps was, in fact, closer to the creative process behind paintings and drawings than to that of prints where, as already stated, any copying was prohibited under law.

For mapmakers, the source materials and the geographical information superseded in importance the creator or author of the map itself. The relative unimportance of authorship for maps suggests a distinction in the way that copyright was developing in relation to literary works. A number of historians have sought to emphasize the extent to which the development of literary copyright relied on new concepts of authorship, often drawing on Lockean theories of property rights.⁴⁶ The emphasis on invention that appeared in the 1735 Engravings Act can be seen as another manifestation of the growing emphasis on authorship. Mapmakers, in contrast laid emphasis on accuracy, scientific credentials and objectivity to provide authority rather than individual authorship.

It could be objected that, when the Engravings Act 1767 emphasized that a map was indeed a print, the map as object of authority was compromised. While artistic reputation may not have been the central concern of mapmakers, their reputation for accuracy and for being up-to-date was increasingly of importance. Claims that a map was ‘new and accurate’ or ‘new and improved’ commonly had formed part of map titles in the early to mid-eighteenth century, but in those days had been more rhetorical marketing ploys than truthful statements.⁴⁷

Jefferys, in contrast, was in the vanguard of the new, ‘modern’ breed of mapmakers seeking to make the old rhetoric a reality by carrying out his own surveys to produce a better, and more accurate, map product.⁴⁸ J. B. Harley suggested that Jefferys’s bankruptcy could be ascribed to his decision to pursue the Society of Arts premiums for county surveys, but that it was the unexpected expenditure incurred in undertaking original surveying that drove him into financial difficulties.⁴⁹ While it was the cost itself, not any subsequent piratical activity of its results, which caused Jefferys’s bankruptcy, Harley speculated that ‘the eighteenth-century mapseller could not afford to be other than a plagiarist’.⁵⁰

Bringing maps within the scope of copyright law shifted the incentives and the risks in a direction that would change the nature of the trade and its dynamics. Mapmakers might be more likely to invest in expensive surveys if they could be more confident that the maps they produce would not be instantly copied and sold at a reduced price. Such a shift was far from instantaneous; indeed, it may have been the bankruptcy that encouraged Jefferys to pursue more commercial opportunities, like the map game, rather than the riskier ~~pursuit~~ business of producing ‘serious’ maps.⁵¹ However, while not requiring heavy investment, *The Tour of Europe* was probably a valuable item of property for Jefferys; he advertised it twice in the *Lloyds Evening Post* (18 February 1768 and 18 June 1768). It seems it was therefore worth the trouble of a court case. But it also seems likely that Jefferys was keen to try out the possibilities offered by the new statute of 1767.

To begin with, it is important to note that Jefferys complied with the Act’s requirement that the date of first publishing and the publisher’s name be engraved on each plate and printed on each sheet. Thus, the publication line centred in the lower margin reads:

Published according to the Statute of the 7th. of George III^d Jan 1st 1768 by T. Jefferys
the Corner of St. Martins Lane.

Importantly, *The Tour of Europe* was the only map of his three map games that does not include a further ~~inscription~~ warning, namely that it was

Entered in the Hall Book of the Stationers Company, and whoever presumes to Copy it will be prosecuted by The Proprietor, who will reward any Person that shall give Information of it.⁵²

Although frequently not observed, registration at Stationer's Hall was a requirement of the 1710 Statute of Anne, the copyright statute that applied to books.⁵³ It was not an explicit requirement for engravings, but registration was sometimes used by print- and map-sellers both before and after 1710, presumably in the hope that such registration would deter would-be copiers.

The registration notice appeared on the *Tour Round the World* and *Tour thro' England and Waes* but is missing on the *Tour of Europe*. It should also be noted that the only two records in the *Entries of Copies 29 September 1746 to 30 December 1773*, both entered on 30 December 1770, are for *The Royal Geographical Pastime Exhibiting a Complete Tour Round The World in Which Are Deliniated [sic] The North East & North West Passages into The South Sea & Other Modern Discoveries* and *The Royal Geographical Pastime Exhibiting a Complete Tour Thro' England & Wales*.⁵⁴ The title and author indexes for this volume of the Registers do not mention any other works relating to Thomas Jefferys or any other work relating to *The Tour of Europe*. Jefferys states in the Bill of Complaint that Bowles produced the copied map without 'licence or consent' on 1 January 1770 and thus it seems possible that Bowles's behaviour provided the impetus for him to register the subsequent games.⁵⁵

As noted above, Jefferys's and Bowles's two games were referred to a Master, who was tasked with examining both the copper plates and the written instructions to assess if they were the identical. One wonders if aesthetic considerations were deemed marginal or even irrelevant when evaluating originality. The questions of what could be borrowed in a map and if its content was to be perceived as less invented and more factual were not easily answered, especially when dealing with a map game where the imaginative seemed to play a bigger role.

The issue of colour was significant when it came to copying artistic prints. Bowles, for example, produced Hogarth's prints in colour and new formats. There was no question that Bowles's undated copies could be confused with the original prints by Hogarth, particularly because Hogarth did not use colour in his prints. This presents us with an additional question, for Hogarth had taken a stand against colour in his *Analysis of Beauty*. He was emphatic in stressing the inevitable changes of colour in paintings and thus 'the impossibility of genuine restoration':

when colours change at all it must be ... that one changes darker, another lighter, one quite to a different colour, whilst another, as ultramarine, will keep its natural brightness

even in the fire. Therefore, how is it possible that such different materials, ever variously changing...should accidentally coincide with the artist's intention.⁵⁶

Would not then Hogarth have viewed the hand-coloured prints of his works as a great injury to his reputation?

Leaving this question of possible proto-moral rights to one side, the reality was that Bowles's prints, available in various sizes, uncoloured or coloured, and with added verses or explanatory inscriptions, contributed to Hogarth's widespread and lasting popularity. At the same time, despite being clearly distinguishable from the originals, they would have affected the economic interests of Jane Hogarth, who had inherited all the plates after the death of her husband in 1764, by acting as cheaper substitutes.

Bowles's game map was also innovative in its colouring, revealing its status as an ornamental artefact: the rich shades of pink and blue-green would have appealed to members of the purchasing public, drawing their attention and enhancing their imagination. It might be supposed that the colouring resulted in economic damage to Jefferys if it tempted customers to purchase Bowles' game instead of his, but no mention appears to have been made of this aspect. The Master appears to have been specifically instructed only to consider the 'size and scale' of the maps, and whether they were 'in all respects the same as the first Plate published by the plaintiff' rather than their colouring.⁵⁷

A comparison of the two map games yields some arguably telling differences. As noted above, Jefferys' map game was entitled 'The Royal Geographical Pastime or the Complete Tour of Europe', with Bowles' map game appearing under the title 'The Royal Geographical Amusement of the European Traveller Designed from the Grand Tour by Dr Nugent'. While each map places its title in the upper-left corner, Bowles has employed the more playful 'Amusement' instead of Jefferys's dignified accolade 'Pastime'. In similar vein, whereas Jefferys's royal connection as Geographer to the King lent prestige and authority to his map through its dedication to the Prince of Wales and can be read as implying that he saw the players as respectful observers, Bowles reference to 'The European Traveller' suggests a first-hand participant. Moreover, it seems that Bowles had been guided by Thomas Nugent's *Grand Tour*, the four volume work first published in 1749 by the Irish historian and traveller that had become the standard guide for young gentlemen making the Tour by the latter half of the century.⁵⁸ Thus, instead of associating his game with royalty, Bowles was legitimizing his map through its fidelity to the leading guide book and broadening his game's more modest commercial appeal. At the same time that his light-hearted treatment of his source material was aimed at a younger audience, Bowles was winking knowingly at the popular perception of

the Grand Tourist as so memorably satirized by Alexander Pope: ‘Led by my hand, he saunter’d Europe round / And gather’d ev’ry Vice on Christian ground’.⁵⁹

More than a Curious Map

In this section we explore the significance of the particular maps that were the subject of the litigation. *Jeffery v Bowles* is the first case (that we know of) to be brought under the Act of 1767, and the first to involve a map. While some might dismiss these maps as mere novelties or ‘curious’ maps, the selection of these maps to test the 1767 Act was not accidental. It is important to understand these game maps in their broader aesthetic, social and political context in order to appreciate why Jefferys may have chosen this map for his suit in Chancery.

The eighteenth century saw the map (and print) trade begin to respond to the growing emphasis on geography and mapping in children’s education as Enlightenment values seeped into (or trickled down to) attitudes towards education and childhood.⁶⁰ This new trend can be seen in an anonymous print from 1787, *A droll thought of Tom the school boy, or Two heads are better than one*, portraying a schoolmaster reprimanding a boy in a classroom where a wall map is prominently displayed (Fig. 4a). It is of interest that a slightly different version of the print, published thirteen years earlier, shows no map (Fig. 4b).

As useful tools and commodities, maps were progressively becoming part of everyday life. In *The Author and his Family* (1768) a blurred and indistinct map prominently featuring a compass rose is the only picture on the wall in this chaotic family scene which, as the verse states, is from ‘real nat’ral Life’ (Fig. 5). Maps followed specific parameters—including grids, coordinates, nautical lines, and the like—and employed a variety of visual-graphic symbols and ornaments as embellishment. They were objects of cultural and utilitarian value as much as aesthetic artefacts unlocking imaginative spaces where viewers could venture.

John Spilsbury, an apprentice to Thomas Jefferys, was the first to produce dissected maps but the first educational map game for children in which the map itself was the playing board was published and designed in 1759 by John Jefferys (from whom Bowles claimed his right to publish the map game in his Answer).⁶¹ Thomas Jefferys certainly appears to have copied this idea nine years later.

The maps were too expensive to be properly classed as popular prints, and although they were sold for amusement, collected and displayed as domestic ornaments, they make effective use of colour to emphasise the ideology

underlying them. The prominent location of Britain, untouched by any of the folding lines, emphasize its significant position in both maps. In Thomas Jefferys's map, Britain is painted and delineated in red or dark ocher in other versions. The colour—also used for Italy, Hungary and Sweden—stands out among the otherwise yellow and light brown tonalities used for other cities and towns.

The playing rules are also revelatory. Printed from letterpress on each side of the map, they state that 'he who is fortunate enough to gain' London (No. 103) is the winner of the game. As the players move about the map, the cartographical image becomes a political construct, a system signifying relationships that captivated the imagination. Maps, and map games even more so, 'are never value-free images' but rather both 'a form of knowledge and a form of power' and thus 'a way of conceiving, articulating, and structuring the human world.'⁶² Numbered cities are explored, mapped and turned into places experienced by the players.

The hierarchy of towns and the lines connecting them serve symbolic and nationalistic ideas. In Jefferys' game, the player that stops in Algiers is imprisoned by Corsair pirates until another player comes, whereas on ~~the~~ Bowles's map, it is in Madrid that 'the traveller must be a prisoner in the inquisition, till another come into the same place'. Other stops paid homage to the Crown. On Bowles's map, Hanover is singled out for favour: 'the capital of our king's German dominions; this being a fortunate number, the traveller will be removed to Brussels'. On Jefferys' map, though, it is Strelitz, 'where the Traveller will be shewn the splendid court of our Queen's brother; this being a fortunate number, he is to be removed to Vienna'.

Other stops emphasize the state religion, with Rome being singled out as a penalty stop in both games. In Bowles's game, the player who reaches Rome must 'stay two turns to view the ancient and modern curiosities, and to reflect on the abuses of the papal government,' while in Jefferys's, 'the Traveller, who is supposed to have indiscreetly kissed the pope's toe, must be banished to Bergen, in Norway (No.11) and miss four turns'. Also celebrated is British naval power, with Bowles's game singling out Minorca as a lucky stop: 'taken by the English in 1708, and famous for its excellent harbour. This being a lucky number, the traveller is to be carried forward to Turin'.

It is worth comparing Jefferys's map game to another anonymous print, entitled *The Family Compact* and published in 1779, in which the kings of Spain and France are represented holding hands and standing with the devil on a map of the British colonies. The print was a satire of the Franco-Spanish alliance of that year, which resulted in Spain joining the American

Revolutionary War against Britain (Fig. 6). Just as the figures stand on the map in the print, so do the players of the Jefferys' game physically move across the map with their tokens, thus embodying the metaphor of imperial conquest.

A further fascinating, and related, element of the *Family Compact* catches the eye. The print includes a prominent text on the left-hand side that reads: 'Published Nov. 1, 1779 whether by Act or Order is not Material Provided it Sells'. This parody of a copyright publication line stresses draws attention to the differences between Jefferys's and Bowles's concerns in relation to copying, and those of the anonymous satirist. As noted above, Jefferys included the publication line 'Published according to the Statute of the 7th of George III^d Jan 1st 1768' while Bowles' map contains the statement 'Published as the Act directs 1st Jan^y 1770'. Both Jefferys and Bowles use the publication line to assert their ownership, authority and legal rights, whereas the anonymous creator mocks such pretensions and explicitly makes no claim to ownership of his print. Where Jefferys and Bowles sought longevity for their productions, the anonymous creator was more interested in short-term gains. The satirist also seeks economic gain but has no need of copyright's lengthy protection. His impact is immediate and ephemeral, responding to recent events, and he needs only to be first in the market. Indeed, having made a quick profit, he would in fact likely welcome reproduction on the basis that it would spread the satirical attack, and political message, more broadly.

A Lasting Legacy

When Jefferys died in 1771, he had only 20 pounds and his debts to bequeath to his wife and children. The print- and map-selling trade, however, gained a more lasting benefit. Despite not proceeding to judgment, *Jefferys v Bowles* case proved to be of considerable significance. While the new wording of the statute was far from clear, it did seem to extend protection beyond those who, like Hogarth, designed and engraved their own prints to those who 'caused or procured' prints to be engraved. Although Jefferys had not engraved or designed the prints himself, this was not treated as a ground of objection by the defendant or the Court. The case therefore confirmed that the Court of Chancery would entertain suits brought by publishers of maps and prints and not just those brought by those who had done the engraving themselves.

As a result, the 1767 statute was useful to mapmakers who engaged printers to engrave maps under their instruction. More than that, it contributed in two ways to the transformation of the print- and map-making trade itself from one that relied on copying to one that valued 'originality' in the process of creating the print or map. In the first place, the requirement of 'invention and design'

remained that appeared in the statute was shown to be relevant to those seeking the statute's protection. The requirement had been emphasized by Jefferys in his complaint, when he alleged he had himself invented the game, only to be rebutted by Bowles who alleged the contrary. In the second place, by providing protection to print-makers that could apply to map-makers, the statute itself contained an incentive for the latter to invest in carrying out, or commissioning, surveys of land or sea inasmuch as it provided a means of protecting such investment from would-be copyists.

While we cannot know for certain how the dispute ended, we can suggest that it was likely that *Jefferys v Bowles* was effective in re-setting the relationship between the two parties in terms that reflected the new legal provisions. As noted above, Bowles was still selling similar versions of *The European Traveller* in 1784. Interestingly, though, he had removed the word 'Royal' from the title, had inserted his own name, and had altered the colouring. All these alterations would have served to accentuate the differences between the two maps and reduce any concern that a purchaser might mistake one game for the other. Furthermore, when Bowles produced a *Geographical Game of the World* in 1790, he took pains to use a map that looked very different from Jefferys's, although the letterpress rules remained fairly similar.⁶³ Likewise, when John Wallis produced his *Complete Voyage Round the World — a New Geographical Pastime* in 1796, he used yet another world map.⁶⁴ If, in bringing his case against Bowles, Jefferys's fundamental concern was to protect his product against being confused with that of a commercial competitor, he appears to have achieved his objective.

The litigation over Jefferys's game map tells a story of required compromises and the complex interaction of artistic, didactic and legal relationships. It raises the question of categorizing a map as an engraving, and highlights the challenge that such a classification under copyright law posed to a trade that relied largely on copying. At a time when the notion of originality was being tested in and indeed being specifically promoted by law, the legal case described in this article reveals how enlightenment attitudes towards education interacted with developments in courts of law.

The story of the contest between Bowles and Jefferys also demonstrates why map historians need to pay more attention to the role played by law and legal regulation in the processes of map making. Legal regulations were an important element of working business relationships in the eighteenth-century map world, but they tended to remain in the background. Litigation was uncommon, being triggered only by an unusual level of relationship failure. However, the occasions upon which it arose provide insights into what map traders considered

so abnormal as to require legal intervention and the documents generated by the legal process offer further knowledge into daily transactions, payments and agreements that would otherwise remain hidden from view.

As an echo of Martin Brückner's work, the story of *Thomas Jefferys v Carington Bowles* highlights an additional space to consider in the 'social life' of maps—that of the courtroom. In this legal (and highly performative) setting, the maps acquired a new audience: the lawyer, who evaluated them not for their aesthetic or informational qualities, nor for their capacity to amuse, but in terms of whether they met the legal criteria for property and ownership. By paying close attention to the legal proceedings surrounding the two maps discussed here a new appreciation is gained of the many different roles that maps play in society and the different meanings they construct.

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Notes and References

¹ Below referred to as *The Complete Tour of Europe*.

² Ashley Baynton-Williams, *The Curious Map Book* (London, British Library, 2015), 90.

³ Jill Shefrin, "'Make it a pleasure and not a task": educational games for children in Georgian England', *The Princeton University Library Chronicle* 60:2 (1999): 251–75.

⁴ The entry reads: '16th June: John Wolfe — Entered for his copie under M[aste]r Hartwelles and both the wardens handes the newe and most pleasant game of the goose'. Extracted from the Stationers' Company Archive, *Register of entries of copies, with Accounts and Memoranda, Liber C* (TSC/1/E/06/02).

⁵ Shefrin, 'Make it a pleasure and not a task' (see note 3), 259.

⁶ Matthew Edney, 'Academic cartography, internal map history and the critical study of mapping processes', *Imago Mundi* 66 supplement (2014): 83–106, at 96.

⁷ Martin Bruckner, *The Social Life of Maps in America, 1750 – 1860* (Chapel Hill, University of North Carolina Press, 2017), 2.

⁸ An Act for the encouragement of the Arts of designing, engraving and etching historical and other Prints, by vesting the Properties thereof in the Inventors and Engravers, during the Time therein mentioned 1735 (8 Geo II c 13) (Engravings Act 1735).

⁹ An Act to amend and render more effectual an Act made in the eighth Year of the Reign of King George the Second, for Encouragement of the Arts of Designing, Engraving and Etching, Historical and other Prints; and for vesting in, and securing to Jane Hogarth, Widow, the Property in certain Prints 1767 (7 Geo III c 38) (Engravings Act 1767)

¹⁰ *Ibid*, s1.

¹¹ *Ibid*, s7.

¹² *Jefferys v Baldwin* (1753) Amb 164; 27 English Reports 109.

¹³ *Ibid*.

¹⁴ Engravings Act 1735, s.1 (see note 8).

¹⁵ Copyright infringement suits in the Court of Chancery were initiated by an unsworn bill of complaint. The defendant would respond (if he chose) with a sworn answer. *Jefferys v Baldwin* C12/1903/7 m1. (27 Nov 1752), The National Archives, United Kingdom (hereafter TNA).

¹⁶ David Hunter, ‘Copyright protection for engravings and maps in eighteenth-century Britain’, *The Library* (6s), 9 (1987): 128–47. {

¹⁷ Engravings Act 1767 (see note 9), s1.

¹⁸ J. B. Harley, ‘The bankruptcy of Thomas Jefferys: an episode in the economic history of eighteenth century map-making’, *Imago Mundi* 20 (1966): 27–48.

¹⁹ Complaint of Thomas Jefferys, C12/1318/18 m.1 (15 Feb 1770), TNA.

²⁰ For more information on equitable remedies in copyright suits, see H. Tomàs Gómez-Arostegui, ‘Equitable infringement remedies before 1800’, in *Research Handbook on the History of Copyright Law*, ed. Isabella Alexander and H. Tomàs Gómez-Arostegui (Cheltenham, UK, Edward Elgar, 2016), 195–234.

²¹ Order: injunction, C33/433 f 161v (19 Feb 1770), TNA.

²² Answer of Carington Bowles, C12/1318/18 m2 (7 Mar 1770), TNA. {

²³ *Ibid*.

²⁴ A copy of this map game is reproduced in F. R. B. Whitehouse, *Table Games of Georgian and Victorian Days* (Royston, Herts., and Harborne, Birmingham, Priory Press Ltd, 1951), 6. There is no indication given of where this copy is held.

²⁵ Answer of Carington Bowles (see note 22).

²⁶ *Ibid*.

²⁷ Order: Injunction dissolved, 7 March 1770, C33/433 f421v TNA.

²⁸ Lord Commissioner of the Great Seal is the term used when the office of Lord Chancellor is held by more than one person. A Master in Chancery was one of the court officers who assisted the Lord Chancellor.

²⁹ Order: Referral to Master, 17 March 1770, C33/433 f267v TNA.

³⁰ Copies of the John Jefferys game, published by Carington Bowles, can be found in a number of online locations and are referred to in sources including Adrian Seville, “The Sociable Game of the Goose” at <http://www.giochidelloca.it/storia/lisbona.pdf>. These sources assert that the game reproduced is the 1759 printing. However, Ashley Baynton-Williams states that there are no extant copies of the 1759 printing, only a later printing by Carington Bowles, held in private hands (Baynton-Williams, *The Curious Map Book* (see note 2), 90). The version reproduced on the internet appears to include a publication line stating it was ‘Published as the Act Directs, Sept 1759’. This is most interesting, as this pre-dates the passing of the Engravings Act 1767, indicating it was being protected as a print rather than as a map.

³¹ The map, priced at 8 shillings was advertised in the catalogue as *Bowles’s European Geographical Amusement, or Game of Geography, designed from the grand tour of Europe, by Dr. Nugent, along with Bowles’s British Geographical Amusement or Game of Geography*. It is described as ‘Beautifully coloured and fitted on thick pasteboard, with descriptive letter-press on the sides; and a box containing a totum, men and counters to play with’ and well as being ‘entirely adapted to lead the young gentleman and lady into the geography of Europe and England’. The two games ‘cannot fail’, the catalogue continues, ‘of being pleasing, entertaining and instructive pastimes’: *Carington Bowles’s New and Enlarged Catalogue of Useful and Accurate Maps, Charts and Plans; Curious and entertaining Engraved and Mezzotinto Prints, Single or in Sets; Writing Books; Including all Branches of Penmanship... A Great Collection of Elegant Drawing Books, For the Use of the Nobility and Gentry of Great-Britain and Ireland, Merchant Exports, and Shop Keepers Country Trade. Which may be had wholesale and retail at his Map and Print Warehouse, No 69, St Paul’s Church Yard, London [1784], 30. The map was also advertised in the *Gazetteer and New Daily Advertiser*, 25 December 1780; the *Morning Chronicle and London Advertiser*, 26 December 1782; and the *Morning Chronicle and London Advertiser*, 31 December 1785.*

³² Jonathan Richardson, ‘Essay on the Art of Criticism (So far as it relates to Painting)’ (1719), in *The Works of Jonathan Richardson* (London, 1792), 65.

³³ William Gilpin, *An Essay upon Prints*, (London, J. Robson, 1768), 243.

³⁴ *Carington Bowles’s New and Enlarged Catalogue* (see note 31), 90–95.

³⁵ *London Chronicle*, 31 January–2 February 1765. The advertisement appears again with some minor variations in the *St James Chronicle or the British Evening Post*, 5–7 February 1765. It reappears on subsequent occasions in later months heightening public awareness. The print was widely copied as Cynthia Roman explores in her illuminating article ‘Copying the sleeping congregation: Hogarthian innovations and the rise of graphic satire’, in *Hogarth’s Legacy*, ed Cynthia Ellen Roman (New Haven, Yale University, The Lewis Walpole Library, 2016), 50–68.

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- ³⁶ *The Case of Designers, Engravers, Etchers, &c. Stated. In a Letter to a Member of Parliament*, London, [1735], 5.
- ³⁷ Ibid.
- ³⁸ 8 Geo. II, c. 13, section 2 (see note 8).
- ³⁹ See also Mark Rose, 'Technology and copyright in 1735: the Engraver's Act', *The Information Society* 21 (2005): 63–66.
- ⁴⁰ *The Works of Jonathan Richardson* (see note 32), 158.
- ⁴¹ Sir Joshua Reynolds, *Discourses on Art* (IV), ed. Robert R. Wark (New Haven, Yale University Press, 1975), 99.
- ⁴² Ibid., 107.
- ⁴³ Fine Art Copyright Act, 1862, 25 & 26 Vict., c.68.
- ⁴⁴ Horace Walpole, *Anecdotes of Painting in England, 4 vols., (1765/1771)*, 4: 76. As cited in Faramerz Dabhoiwala, 'The Appropriation of Hogarth's Progress', *Huntingdon Library Quarterly* 75(4) (Winter 2012): 579. See also David A. Brewer, 'Making Hogarth Heritage', *Representations* 72 (Autumn 2000): 21 – 63.
- ⁴⁵ Mary Sponberg Pedley, *The Commerce of Cartography: Making and Marketing Maps in Eighteenth-Century France and England* (Chicago, University of Chicago Press, 2005), 96.
- ⁴⁶ See, for example, Martha Woodmansee, 'The genius and the copyright: economic and legal conditions of the emergence of the author', *Eighteenth Century Studies* 17 (1984): 425–88; Peter Jaszi, 'Toward a theory of copyright: the metamorphoses of "authorship"', *Duke Law Journal* 2 (1991): 455–502; Mark Rose, *Authors and Owners: The Invention of Copyright* (Cambridge, MA, Harvard University Press, 1993). Adrian Johns, *The Nature of the Book* (Chicago, University of Chicago Press, 1998), explores authority and authenticity in print culture in the period prior to copyright legislation.
- ⁴⁷ Pedley, *Commerce of Cartography* (see note 46), 188; see also C. W. J. Withers, 'The social nature of map making in the Scottish Enlightenment, c.1682–1832', *Imago Mundi* 54 (2002): 46–66.
- ⁴⁸ Laurence Worms, 'The maturing of British Commercial Cartography: William Faden (1749–1836) and the map trade', *Cartographic Journal* 41:1 (2004): 5.
- ⁴⁹ Harley, 'Bankruptcy of Thomas Jefferys' (see note 19), 47–48
- ⁵⁰ Ibid., 48.
- ⁵¹ Baynton-Williams, *The Curious Map Book* (see note 2), 90.
- ⁵² 'The Royal Geographical Pastime Exhibiting A Complete Tour Round the World in which are delineated the North East and North West Passages into the South Sea and other modern Discoveries'. By Thomas Jefferys (London, 1770); 'The Royal Geographical Pastime Exhibiting A Complete Tour Thro' England and Wales.' By Thomas Jefferys (London, 1770).
- ⁵³ Isabella Alexander, *Copyright Law and the Public Interest in the Nineteenth Century* (Oxford, Hart Publishing, 2010), 49.

⁵⁴ Stationers' Company Archive, *Register of entries of copies, 29 Sep. 174–30 Dec. 1773* (TSC/1/E/06/09).

⁵⁵ C12/1318/18 m.1 TNA (see note 20).

⁵⁶ William Hogarth, *The Analysis of Beauty, Introduction and notes* by Ronald Paulson, ed. (New Haven, Yale University Press, 1997), 91.

⁵⁷ Order: Referral to Master, 17 March 1770, C33/433 f267v TNA.

⁵⁸ Nugent, interestingly, had received a doctorate of law in 1765 from the University of Aberdeen.

⁵⁹ Alexander Pope, *Dunciad* (Book IV), quoted in Barbara A. Welch, 'Curiosities and reflections: British travelers on the continent in the eighteenth century', *Modern Language Studies* 10:2 (1980): 10.

⁶⁰ See Paul Elliott and Stephen Daniels, "'No study so agreeable to the youthful mind": geographical education in the Georgian grammar school', *History of Education* 39 (2010): 15–33; and Robert Mayhew, 'Geography in eighteenth-century British education', *Paedagogica Historica* 34 (1998): 731–69. For an exploration of this in America, see Brückner, *The Social Life of Maps* (note 7), ch. 8.

⁶¹ Shefrin, 'Make it a pleasure and not a task' (see note 3), 259. See, for example, Spilsbury's advertisement in the *St James Chronicle or the British Evening Post*, 19 June 1762, which mentions that maps were made 'for the Purposes of introducing young Ladies and Gentlemen insensibly to the Knowledge of Geography' and 'are contained in neat Boxes, which preserve them from being lost.' Bowles' Answer C12/1318/18 m2 (see note 22).

⁶² J. B. Harley, 'Maps, knowledge and power', in *The New Nature of Maps: Essays in the History of Cartography*, ed. Paul Laxton (Baltimore, MD, The John Hopkins University Press, 2001), 53.

⁶³ *Bowles's Geographical Game of the World, in a New Complete and Elegant Tour through the Known Parts thereof, Laid Down On Mercator's Projection*. (Carington Bowles, London, 1790). Reproduced in Baynton-Williams, *The Curious Map* (see note 2), 102.

⁶⁴ *Wallis' Complete Voyage Round the World. — a New — Geographical Pastime* (John Wallis, London, 1796). Reproduced in Baynton-Williams, *The Curious Map* (see note 2), 114.