The Situation in the United Kingdom

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The Case For and Against Public Lending Right

FROM THE AUTHORS' VIEWPOINT, public lending right (PLR) has nothing to do with patronage or charity whereby subsidies are given to meritorious but unpopular authors, or to young writers of promise, or to indigent authors; it is a matter of natural justice, a right based ultimately on copyright to fair payment for use due to authors for the multiple exploitation of their books through libraries. 1

Almost from the outset of the PLR campaign, the focus of attention has been upon the public library because, it has been claimed, unlike educational libraries where books are used in the main for study or reference purposes on the premises, the public library acts as a book distributor or free bookseller, with the result that there has been a decline in the sales of hardback books to private buyers and the incomes of authors and publishers are no longer even remotely related to the size of the readership of their joint products. 2 Authors have been characterized as slave laborers in the service of what is in effect a "huge nationalized industry for the lending of books which has undermined and almost wiped out the private enterprise of selling books to individual owners." 3 Without the introduction of PLR, it is asserted, the native British professional writer will soon be extinct. Libraries will be reduced to offering a service based on lending books by British writers of the past, academics whose writing is a spin-off from and subsidized by their secure employment, and North American writers. Ultimately,

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written English (as distinguished from written North American) would be lost as a language. ⁴

Over the nearly thirty years of the PLR campaign, authors have frequently presented the case for PLR in relation to the ratio of borrowing and buying in highly dramatic terms, which has undoubtedly influenced public and parliamentary opinion. In 1960 Sir Alan Herbert estimated that over twenty years he earned £75 a year from royalties on the sale to libraries of copies of his two most popular books, which were issued 90,000 times a year from public libraries. ⁵

Research has indicated that a public library book is borrowed an average of seven times a year during an average shelf life of 5.6 years, giving 39.2 borrowings. ⁶ Although authors are skeptical about these figures, it has been pointed out that this would mean that on a sale of 2500 copies (a fairly typical edition size today for a novel which is not in the best seller class), almost all of them to libraries, there would be an average of 98,000 borrowings. ⁷

It has been estimated that in Britain in 1920 one book was borrowed for every ten bought, but this borrowing-to-buying ratio had almost reversed by 1965, when nine and one-half books were borrowed for every one bought. However, this estimate was based upon the known number of public library issues with the addition of a notional number of loans from nonpublic libraries for which there are no authoritative statistics. If this ratio were calculated solely on the basis of public library loans, then it can be shown that a ratio of three books borrowed for every one bought in the 1920s has barely changed in the 1970s. In 1924, 86 million volumes were issued from public libraries, and about 30 million copies were sold; in the 1970s, public libraries issued 600-plus million volumes annually, and about 200 million volumes were sold each year. ⁸

Nevertheless, the disparity between the number of copies of a book purchased by a public library and the number of times it is borrowed is used to give added force to the authors' case for PLR, but it is not seen to be the vital element in justifying the principle of PLR: the principle of fair payment for use is based ultimately on copyright. ⁹ The increasing momentum of the PLR campaign in Britain must be viewed against the international background of developments which influence the condition of authorship, and we are now witnessing “a complete reappraisal of the very basis of copyright, or author’s right, in the changing social context of today.” ¹⁰ Technological developments are bringing about a communications revolution in which it is becoming increasingly difficult to protect copyright owners against infringements of their intellectual property rights. ¹¹ Similarly, it is argued that changed conditions in
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the marketing of books brought about by the scale of free borrowing through public libraries has eroded the value of the authors’ and publishers’ rights in copies. The unrecompensed multiple use of an author’s text through a public library, it is argued, is undermining his copyright as surely as when a librarian or a reader physically reproduces all or part of the author’s work using a photocopier without making payments to him.12

Authors have therefore demanded that “there should be founded a new conception.”13 A public lending right should be established by analogy with public performing right (PPR), which is based on copyright. Just as a composer or a recording artist is rewarded every time his work is performed in public, so, too, an author should be rewarded every time one of his books is borrowed from a public library. Horizontal equity requires that authors should have the same rights as composers, playwrights and recording artists. This conception has been challenged on the ground that PLR is not strictly analogous to PPR; the distinction is between the private enjoyment by individuals reading, for example, a book or play or music score, and the exploitation of these works in public by intermediaries.14 Authors have, however, continued to claim that there is an identity in principle between PLR and PPR: the crucial distinction, it is contended, is between public and private lending.

The number of titles published in the United Kingdom each year has risen almost without exception over the last three decades. In 1937, 17,137 titles were published. For the first time, over 20,000 titles were published in 1957 (20,719); over 30,000 in 1968 (31,420); over 40,000 in 1979 (41,940); and 48,158 titles were published in 1980. (This continuing upward trend is now being caused, in part at least, by the effects of a hard pound in relation to a soft dollar, which means that British publishers are handling more American-originated titles.)15 The current indications are that, because of the continuing economic recession in the United Kingdom, four or five thousand fewer titles will be published in 1981 than in 1980.

This increasing annual output of titles has been accompanied by a decline in the volume of sales per title: in the 1960s some 300 million volumes were printed annually, but in the 1970s this figure fell to about 200 million. Though there has been a nearly sixfold increase in the value of book sales over the past fifteen years, when the figures are adjusted for inflation it is evident that there has been a lack of stability or real growth in this period. The rate of inflation has been rising rapidly in Britain in the past five years in particular, and, especially over the past two years, book prices have risen more than most other goods.
Improvement in sales turnover is therefore being achieved by raising prices, not by increasing sales. The authors' economic welfare is inevitably conditioned by the vicious circle of ever-increasing manufacturing costs firmly linked to higher prices and reduced sales. From the early 1970s library book funds have been reduced in real terms, and the trend is continuing. In these circumstances authors are more anxious than ever to ensure that they are rewarded for the use of their books by library borrowers, as well as for the sale of their books to libraries.

Surveys of authorship have shown that writers' incomes have declined as book trade turnover has increased. The most recent survey of authors' incomes was carried out in 1972 and covered more than one-half of the 3250 members of the Society of Authors. At that time when the national average wage was £1500 a year, more than half the respondents earned less than one-third of that sum from their writing. Librarians have challenged the validity of these surveys on the ground that they are based on too small a sample of authors. They have stressed the point that many authors do not write primarily for money. Librarians have sometimes suspected that the PLR lobby is centered on a hard core of professional novelists and writers of general hardback nonfiction whose sales have declined and who have mistakenly identified free borrowing from public libraries as the sole cause of their difficulties.

By the early 1970s, across the whole spectrum of British publishing, the average sales per title were no more than 7000 copies, and many books were published in editions of no more than 3000 copies. Moreover, the great increase in the number of titles being published each year has taken place mainly in the field of utilitarian books (especially technical) and educational books, and opportunities for part-time writers to appear in print have increased. By contrast, fiction currently represents a much smaller proportion (12 percent) of the total output of books than it did in 1937 (22 percent), though fiction now accounts for 72 percent of public library issues. Authors have sometimes asserted that the relative decline in the number of fiction titles published each year is a direct consequence of the expansion of the public library: "The free market has been tampered with by the free library."

Concurrent with the relative fall in the number of novels published each year has been a decline in the volume of sales of individual titles. During World War II, a novelist with a prewar sale of two thousand copies could expect to sell ten thousand. By the mid-1960s authors whose books had sold in editions of six or seven thousand copies in the mid-1950s were selling only about four or five thousand copies, and the
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gap between the totally unprofitable and the very profitable novel continued to widen.\(^2^5\) It is against this background that the novelists in particular have resolutely insisted that PLR should be implemented as a loans-based scheme.

The Library Association (representing the profession of librarianship) and the local authority associations (representing the authorities which are responsible for providing public library services) have consistently opposed the principle of PLR, its implementation as a loans-based scheme, and its application exclusively to public libraries. The years of the PLR campaign have been punctuated by memoranda from the Library Association, notably in 1960, 1968 and 1972, with a definitive statement appearing in 1974.\(^2^6\)

Basically, librarians reject the concept that when an article is sold outright to a purchaser at a price fixed by the producer there should be further payments made in relation to the number of people who use it. Such a principle, it is argued, could well be applied to, for example, the hiring of cars and washing machines, or indeed to any cooperative scheme whereby people hire or buy goods which they intend to use only on a temporary basis. However, it has been pointed out that libraries do not, in fact, hire books to readers. There is no contract.\(^2^7\) Moreover, the authors have averred that if local authorities bought motor cars and permitted all citizens to borrow them free of charge, then the motor manufacturers would soon seek to impose special conditions on the sale of their vehicles to the lending agencies.\(^2^8\)

Librarians claim that libraries promote the reading habit and act as a nationwide shop window for books. From the librarian's viewpoint, writing, publishing, bookselling, and institutionalized book buying are interdependent activities, and PLR is inequitable because library book buying makes possible the publication of many books which would otherwise be unviable, yet the implementation of PLR would require further payments to be made in respect to their use. Research has shown that there is a positive relationship between book borrowing on the one hand and book buying and book ownership on the other.\(^2^9\) It cannot be shown that the collective consumption of books through public libraries is adversely affecting the profitability of book production and hence the supply of new titles. On the contrary, it has been shown that the publishing industry is in a relatively healthy economic condition. Moreover, the contention that there is a clear relationship between the number of times a book is borrowed from a library at a zero cost to the readers and the number of lost sales of that book at a given price to private purchasers presupposes a degree of elasticity in the demand for
books for which there is no supporting empirical evidence. Other factors which inhibit book buying, such as storage and transport costs and, especially, the informational problems which have to be solved by would-be purchasers in making a choice from the bewildering variety of titles in existence, are incentives to the collective consumption of books.  

Conversely, it has been argued that if society believes it to be right on the grounds of equity that authors should receive rewards in proportion to the number of readers for whom they provide a service, rather than according to the number of their books which are sold, then by analogy with PPR, fees for service as of right "is the only basis on which PLR can be demanded." Even so, there is no justification on economic grounds for assuming that any increase in authors' incomes accruing from PLR would have been produced in a pure market economy from which public libraries were absent.

If PLR does not embrace libraries other than public libraries, and nonbook media as well as books, librarians assert that the principle on which it is said to be based is substantially modified. Moreover, if funds are allocated to authors in relation to the loans or purchases of their books from public libraries alone, such a biased sample of public lending would mean that both the loans and the purchases of some categories of material would be underrepresented.

It is difficult to defend PLR on the grounds of distributional justice in that it will raise the incomes of low-paid writers to levels which are comparable to those in other professions, or to justify it on the grounds that it will both facilitate the production of minority-appeal books and reduce the amount of hack writing currently being produced. If PLR is based on the principle of fair payment for use, then the pattern of distribution of funds arising from it is irrelevant. Nevertheless, it is true that either a loans-based or a purchase-based scheme related to public libraries alone will benefit most substantially those writers who are already well established and popular. State subsidies and tax concessions would be a cheaper and more effective way of giving aid to younger professionals or to the authors and publishers of significant scholarly and other minority-appeal works. The Library Association has consistently advocated that the government should enhance its financial support of the Arts Council to enable it to fulfill these functions.

Some librarians fear that the implementation of PLR will introduce new pressures on book selectors and stock editors. The selection of new books and the replacement or withdrawal of books from stock will
be carried out in the future by professional librarians who will be aware that their decisions will affect the rate at which authors continue to receive income from library books.34

The Origin and Evolution of the PLR Campaign

Ironically, the first formal proposal that a fee for each lending of a book from a library should be paid to the author was made in February 1951 by Eric Leyland, a former chief librarian of Walthamstow Public Library who had become a full-time children's author, writing in *W.H. Smith's and Son's Trade Circular*. Leyland suggested that a borrower should pay a halfpenny each time he took out a book from a commercial lending library, and he justified this proposal by analogy with the performing right fees paid to composers. The same month, novelist John Brophy joined the debate which was stimulated by Leyland's suggestion. Brophy advocated that both commercial and public library borrowers should pay a penny each time they borrowed a book, outlining a scheme which came to be known as the "Brophy penny," and subsequently elaborating it in the summer 1951 issue of *Author*.35 As he had anticipated, Brophy's idea was unequivocally rejected by the great majority of librarians on three main grounds: the free library system was sacrosanct; the plan was administratively impractical; and authors had no right to ask for borrowing fees, because they already received a royalty on each copy of a book sold to a library.36

Some authors stoutly defended the principle of the "free" public library and they objected to the Brophy penny in particular because it would have favored the more popular authors. Authors proposed a wide range of modifications and alternatives to Brophy's scheme. Some thought readers should pay twopence or threepence a loan; others, that the penny per loan should apply only to fiction; that the National Book League should take on the task of disbursing to authors a fixed percentage of the fines received by libraries on overdue books; or that public libraries should charge readers a subscription of sixpence a year and that this money should be paid into a central fund for authors and their dependents. Some authors believed libraries should pay a percentage of their annual book fund into a central fund for authors; or that commercial and public lending libraries should pay 100 percent surcharge on all books bought for the purpose of home lending and this money should be paid by the publishers to individual authors without deducting anything for their administrative costs. Commercial libraries, others recommended, should forgo the 33.8 percent and public libraries the 10
percent discount they enjoyed on the published price of new books, and this money should be paid into a central fund for authors. Some thought libraries should keep records of issues and authors should receive royalties in proportion to the number of times their books were borrowed the previous year, and the payments should be funded by increasing the local rates; or that a scheme should be established on the model of the Danish system, whereby a sum equal to 5 percent (at that time) of the state grant to public libraries be distributed among authors according to the number of their books stocked by libraries. Thus, very early in the history of the PLR campaign the main options for its implementation were promoted, and these alternatives have been given a fluctuating emphasis over the years. Should the second royalty be paid to authors collectively or individually? Should it be paid by the borrowers, by the libraries (that is, by the ratepayers), or by the central government? Should the payment be in the form of a surcharge on the individual volumes purchased by libraries, or in the form of a lump sum percentage of the libraries' annual expenditure for books?

The Committee of Management of the Society of Authors found that there was some justification for the librarians' objection to Brophy's scheme on the ground of its impracticality. Moreover, Sir John Maud at the Ministry of Education advised the authors to promote the application of the Danish scheme in Britain. At his suggestion the society commissioned a survey of the economic condition of authorship in an attempt to influence the thinking of politicians and civil servants, and "Critical Times for Authors," a pamphlet written by Walter Allen, duly appeared in 1953. In this tract the Brophy penny is jettisoned in favor of a state grant to authors which would be a percentage of an annual government subsidy to public libraries.

The growing interest in the Scandinavian schemes for authors was further stimulated by a fourth leader in The Times (June 6, 1957), which reported that the Swedish authors' organization had received £500,000 from the state in recompense for the lending of books by public libraries in 1956. Brophy vigorously rejected the idea of government patronage as the beginning of the state monopoly of literature. He insisted that the borrowers should pay, but he put forward a new proposal that readers should pay an annual subscription of five shillings for up to sixty loans, with an additional shilling being paid for each subsequent sixty loans.

On July 11, 1957, the PLR issue was raised for the first time in Parliament when Francis Hastings, Earl of Huntingdon, advocated the introduction of a scheme modeled on the Danish system. But for the next few years there was a lull in the PLR campaign. The Society of
Authors was preoccupied with the fight to reform the law of obscene libel and was awaiting the publication of a government report on the public library system. The “Roberts Report” was published in February 1959, but it did not refer to PLR. It did, however, provide the authors with valuable statistics about public library borrowers, bookstocks, issues, and expenditures. Sir Alan Herbert, author, journalist, lawyer, able polemicist, and former member of Parliament, who had played a significant role in the reform of the law of obscene libel, was persuaded by the Society of Authors to take charge of the PLR campaign in September 1959.

With the assistance of a barrister, Stephen Tumim, and his publisher, J. Alan White (chairman of Methuen and Company), Sir Alan Herbert drafted a Memorandum in which the case for public lending right (a phrase coined at that time by J. Alan White) was outlined and the tactics for achieving it discussed. At the same time, the Authors and Publishers Lending Right Association (APLA) was formed, with Sir Alan as chairman and J. Alan White as vice-chairman. The Memorandum was published on March 11, 1960, and received wide press notice. In it, the publisher was identified as being of equal importance with the author in the production of a book, and should therefore be entitled to a share from PLR income. It advocated that PLR should be established by law in parallel with PPR by amending the Copyright Act of 1956. Though the “free” public library system was stated to be anachronistic, it recommended that the government rather than the borrowers pay for PLR. Various bases for raising a levy of about £1 million were suggested: a royalty per volume issued or per volume stocked; a royalty on the first forty issues of a book; a royalty per registered reader or per head of population served; or a royalty expressed as a percentage either of a library’s total expenditure or of its book fund.

The PLR campaign then entered a new political phase. The first PLR bill was presented in the House of Commons July 21, 1960, and it extended copyright to create a public lending right analogous to public performing right. It required library authorities and the proprietors of commercial lending libraries to make payments on books borrowed of, respectively, one penny per issue, and one penny per issue in excess of 2000 issues.

The day after the bill was presented, Conservative Minister of Education Sir David Eccles (later Lord Eccles) informed an authors’ delegation that he had no sympathy for PLR. The only positive suggestion he made was that public libraries might be willing to forgo the 10 percent discount they enjoyed from booksellers and this money might
be used to set up a fund for authors and publishers. On August 5, Board of Trade officials gave advice to the PLR campaigners which caused them to abandon the first bill: authors might sue librarians for infringements of copyright when they loaned books unless there was a compulsory assignment of PLR to APLA, and many authors would oppose this; foreign authors would be able to claim fees when their books were borrowed from British libraries, but British authors would not benefit reciprocally; and since the Copyright Act had been revised in 1956, the government did not support yet another revision after such a short interval.

The APLA committee, therefore, promoted a second bill which sought to amend the Public Libraries Act of 1892 in order to give library authorities the option to charge the borrowers. It was presented in the Commons on November 22, 1960. Before the bill came up for a second reading on December 9, members of Parliament were in possession of a Library Association leaflet opposing it, and the bill was "talked out" on that day and on March 10, 1961. On March 21, representatives of APLA met members of the major local government associations, and for the first time local authorities were offered a share in the income from PLR. It was proposed by APLA that a charge not exceeding twopence per book issued would be levied on library authorities to produce £3 million on 400 million issues a year, and half of this would be plowed back into libraries. The APLA bait was not taken.

Stung by the failure of the two PLR bills to obtain support in the Commons, the APLA members worked to make contacts privately with members of Parliament in order to build support for PLR on an all-party basis. The success of these endeavors was demonstrated in December 1961 when David James, a member of Parliament and publisher-member of APLA, tabled an "early day motion" to the effect that the government should give sympathetic attention to the economic condition of authors and publishers as affected by the fact that eleven books were borrowed for every one purchased. This motion was signed by 140 members of Parliament of all parties.

Representatives of the Library Association met with APLA for the first time on January 11, 1962, but there was no common ground between the two groups on PLR. A period of continued lobbying of politicians culminated in the October 1962 publication of Libraries: Free for All?, written by Ralph Harris and Sir Alan Herbert. The free public library system was represented as an outmoded institution which had become primarily a recreational agency. Moreover, it was starved of money for development. It was suggested that local authorities should
therefore be given the option to charge readers seven shillings and sixpence per annum for borrowing an unlimited number of books. No charge would be made for the use of reference and other books on the premises. PLR was claimed as a matter of natural justice.50

During the progress of the Public Libraries and Museums Bill through the Commons in 1964, the supporters of PLR made a determined but unsuccessful attempt to have it amended to permit local authorities to charge book-borrowers as a means of financing PLR. The defense of the free public library system by Sir Edward Boyle (later Lord Boyle of Handsworth), Lord Eccles's successor as Minister of Education, epitomized the views of those who opposed charging book-borrowers. Even a small charge, he asserted, would have a considerable deterrent effect on use. Above all, he thought that it was essential for everyone in a local community to feel that the public library belonged to him: it should be seen as a social service, not as a commercial enterprise.51

In autumn 1964 the Labour Party won the general election and Parliament member Jennie Lee (later Baroness Lee of Asheridge), Minister for the Arts in the new government, stated that she was sympathetic to PLR, provided that it was financed by some method other than charging the borrower. The Arts Council produced a PLR scheme (largely the work of J. Alan White) which was based on both the Danish and Swedish systems. It was recommended that the government finance a scheme based on the in-copyright stocks held in a sample of public libraries, with the figures being grossed up to represent national holdings. Thus, for example, if the stocks of the sample libraries totaled 5 million volumes and the total stock of all libraries was 80 million volumes, then the multiplier would be 16; and an author and publisher of a book of which the sample libraries held 50 copies would be credited at the rate of 50 \times 16, or 800. The authors would receive 75 percent of the income and the publishers 25 percent.52

The government did not respond to these proposals, which were published in January 1968, until the author Michael Holroyd wrote an excoriating attack on the government, and on Lee in particular, which was published in The Times Saturday Review February 15, 1969, under the title "Oh Lord, Miss Lee, How Long?"53 For the first time, all the interested parties—librarians, authors, local authorities—met July 1, 1969, at a conference convened by the Department of Education and Science under the chairmanship of Lee. Again there was no common ground. The department did, however, indicate it would be willing to discuss a scheme linked to the purchase of books by libraries, provided that it was based on a one-time, lump-sum payment from the Treasury.
A Working Party was set up. In the meantime, the Arts Council had
tested its stock-sampling scheme in three public libraries and it was
discovered to be impracticable until libraries had installed computer-
ized systems for recording both stocks and loans. In August the Depart-
ment of Education and Science circulated its proposal for a
purchase-based scheme, as opposed to one based on stocks or loans, with
payments being made to authors only. But once again, the librarians
and the local authorities declined to cooperate.54

An Arts Council Working Party therefore devised a scheme which
did not require the participation of librarians. The major library book-
sellers were to provide details of their sales to libraries, and the scheme
proposed a royalty of 15 percent—75 percent paid to authors and 25
percent to publishers. Only new books would be covered by the
scheme—those published after Parliament had sanctioned the
proposals—and in-copyright books already held by public libraries
would be excluded. The government was called upon to provide a grant
of £2 million to finance the scheme. An outline of the scheme appeared
in an appendix to a symposium on PLR published in February 1971.
The work contained an introduction by Lord Goodman, Chairman of
the Arts Council, and essays by ten authors, librarians and others
connected with the book trade, and gained wide notice.55

A Conservative government came to power in July 1970. By the
time the PLR symposium was published in 1971, Lord Eccles, who as
Paymaster General had responsibility for the Arts, had rejected the latest
proposals. He did, however, set up in March 1971 a Working Party with
very narrow terms of reference, not to discuss the principle of PLR, but
merely to examine how copyright law might be amended and to con-
sider the various methods of implementing it. On this basis, representa-
tives of the Library Association and of the local authority associations
were able to participate in the discussions.56

The Working Party published a unanimous report in May 1972,
but it was issued by the Paymaster General without any commitment on
the government's part. The report recommended that the necessary
amendment to copyright law could be achieved by adding "lending to
the public" to the acts restricted by copyright, but that "lending" should
also embrace the reference use of books. The Working Party saw no
reason why PLR should be restricted to public libraries and to printed
materials. However, it was thought to be impracticable to organize PLR
payments to authors in Britain by either a loans-sampling scheme (as in
Sweden) or library stock statistics (as in Denmark). Two methods of
implementing PLR were considered suitable to British conditions: the
surcharge system, which requires libraries to pay a higher price than the published price for their books; and the blanket licensing system, whereby the author assigns his PLR to a collecting society which issues an annual license to each lending agency and distributes to each author, on a basis related to the value of his library sales and to the libraries' expenditure on books, a share of the revenue received from licensing fees. The blanket licensing system is less precise, but administratively easier and less costly to operate, than the surcharge system. Nothing was done to implement the recommendations in the Working Party report. The legal problems which would have ensued from amending copyright law in 1972 were the same as in 1960, when authors had been forced to drop the idea.57

In summer 1972 the Society of Authors and the Publishers Association issued a joint statement in which they urged the government to introduce PLR by amending the law of copyright and to implement a blanket licensing system. The government was asked to provide £4 million to be distributed, after the deduction of administrative costs of about £500,000, to authors (75 percent) and publishers (25 percent) as a percentage of the published price of each work sold to libraries.68

That same summer, five members of the Society of Authors—Lettice Cooper, Francis King, Michael Levey, Maureen Duffy, and Brigid Brophy (John Brophy's daughter)—formed the Writer's Action Group (WAG) to campaign for a loans-based scheme. A purchase-based blanket licensing scheme, WAG complained, violated the principle of a lending right by compounding all use, however frequent, into a single outright payment at the time of purchase on each book. The group said that older authors would not benefit, and that the author of a 2000-word introduction to a coffee-table book of illustrations selling for £5 would receive five times more than an author of an 80,000-word novel selling for £1. Furthermore, WAG objected to the publishers having an automatic right to a share of the income from PLR.59

In response to this protest, the Society of Authors recommended a modified scheme to the minister. It was suggested that PLR be introduced by means of a blanket-licensing scheme, but that this should be replaced by a loans-based scheme as soon as a sufficient number of libraries had installed computerized systems.60 WAG refused to compromise on the requirement that PLR be implemented from the outset as a loans-based scheme, arguing that already enough British libraries were computerized to provide a larger sample than that used in the Swedish scheme.61
In October 1972 the Library Association published its "Observations on the Report of the Working Party on Public Lending Right," in which the profession's opposition to PLR was reiterated. The Standing Conference of National and University Libraries (SCONUL) also rejected the principle of PLR, and warned that if academic libraries had to pay license fees, they would buy fewer books. That same month, two articles critical of PLR, one by a public librarian and the other by a university librarian, were published in *Journal of Librarianship*.62

At the beginning of the 1973-74 session of Parliament, a private members' PLR bill (the third since 1960) was introduced in the Commons, but it had to be abandoned when Parliament was dissolved on February 7, 1974.63 By that time 269 members of Parliament had declared their support for PLR, though 13 of these insisted that it must be introduced without imposing charges on the reader.64 By that time also, the various authors' groups were united in favor of a loans-based scheme. The Conservative, Minister for the Arts, Norman St. John-Stevas (Lord Eccles's successor), and Hugh Jenkins, Minister for the Arts in the Labour administration which took office in March 1974, were both committed to the introduction of PLR legislation. The fourth private members' PLR bill was introduced in the Commons on April 3, but it failed to obtain a second reading because its terms were unacceptable both to authors and librarians: it proposed the establishment of a government-financed agency which would have the power to decide which of three options was most appropriate for implementing PLR in respect to any given class of books—loans-based, stock-sampling or purchase-based.65

The Labour government set up a Technical Investigation Group (TIG), and Logica Limited, a computer consultant firm, was commissioned to undertake a feasibility study. Logica's findings became progressively available from October 1974, and they were incorporated in the first TIG report, which was published in March 1975.66 A second TIG report was published in October 1975.67 The main conclusion of this research was that loans-sampling and purchase-based schemes are feasible and, subject to a number of variables, comparable in cost. It would be prohibitively expensive—£5 million a year at 1975 values—to record the loans in all public library service points. The TIG investigated a system based on a sample of seventy-two service points. This base has a built-in margin of error: nineteen of twenty authors whose correct payment was £800 for every £1 million distributed could expect over a ten-year period, if the sample were rotated every five years, to receive a payment in the range of £700 to £900 a year. For authors whose
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correct payment was £100, the range would be £78 to £122. It was thought that seventy-two service points would be the largest sample which could be afforded without spending all or most of the money the government was willing to allocate for PLR solely on administrative costs.\(^6\)

At the end of 1974 the Library Association published its most comprehensive critique of PLR. On the question of payments to authors, it was pointed out that a government grant of £1 million would yield a mere 0.74p per loan. A yield of 1p per loan would require a fund of £6 million. A much larger sum would be needed if PLR were extended to embrace lending from nonpublic libraries.\(^6\)

The TIG did not undertake a comprehensive survey of the amounts likely to be received by individual authors, but they concluded that the probable pattern of payments was that a small proportion of authors would receive relatively large payments, collectively constituting a relatively large share of the fixed pool; a large proportion would receive a moderate payments; and another large proportion would receive small or zero payments. The payments which authors in certain categories might expect to receive were estimated to be £1261 for every £1 million available for distribution for a current popular writer of adult fiction, £11 for the author of a single work of adult nonfiction, and £35 for an established writer of adult fiction with no recent publications.\(^7\)

At one time Hugh Jenkins favored weighting the scheme so that authors of long books would receive more than authors of short ones. Brigid Brophy and Maureen Duffy pointed out that this would produce a greater reward for *Gone with the Wind* than for T.S. Eliot's *Four Quartets*.\(^7\) The minister did not press his case. He did, however, subsequently announce his intention of setting a maximum level of entitlement, so that the most popular authors could not scoop the pool.\(^7\) His successor as Minister for the Arts, Lord Donaldson of Kingsbridge, also supported this policy.\(^7\) The authors’ organizations favored a flat rate per loan system, but they have reluctantly agreed to the imposition of an upper limit on authors’ incomes from PLR.\(^7\)

On June 9, 1975, Lord Willis introduced a loans-based PLR bill into the House of Lords, but after a debate over three hours on July 4 he withdrew it, after receiving firm assurance that the government would bring in its own measure.\(^7\) Later that month, twenty-eight leading public figures and authors pressed home the case for PLR in *The Times*.\(^7\) The entire December 1975 issue of *New Review*, sponsored by the Arts Council, was devoted to the question of PLR, with letters from some one hundred authors, publishers, politicians, and several librarians indicating their support for it.\(^7\)
In March 1976 the government introduced into the Lords its first PLR bill. Lord Willis succeeded in amending it in two respects, against the government’s wishes: the word *works* was substituted for *books*, so that PLR would apply to nonbook materials; and only British writers, or those foreign writers whose countries operated reciprocal schemes, could benefit. In the Commons, the bill finally had to be abandoned November 17 due to the filibustering of a small group of Parliament members. On January 25, 1977, Lord Willis introduced yet another private members’ PLR bill (the seventh since 1960) which was basically the same as the government’s bill without his previous amendments. The Commons did not proceed with this bill. In the Commons, Norman St. John-Stevas introduced a private members’ bill December 7, 1977, but its progress was blocked by the same group who had defeated the government’s bill.

The authors subsequently suggested the establishment of a non-statutory PLR scheme. In August 1977, Lord Donaldson outlined this scheme in letters to the Library Association and the local authority associations. Basically, the scheme followed the provisions of the government’s 1976 PLR bill and the recommendations in the TIG reports of 1974-75. The PLR funds were to be channeled through the Arts Council into a new body, the Public Lending Right Council. The local authorities were unwilling to participate in a nonstatutory scheme, and it was subsequently discovered that the Arts Council’s constitution would not allow it to play the part it had been allotted. Nevertheless, the Department of Education and Science continued to promote the idea of a nonstatutory scheme into summer 1978. The local authorities have proposed an alternative statutory scheme based on the sales of books to all kinds of libraries through the major library book-sellers. This scheme is virtually identical to that proposed by the Arts Council in 1970. It is, however, unacceptable to authors.

**Public Lending Right Today and Tomorrow**

The Labour government introduced its second PLR bill (the ninth PLR bill since 1960) into the Commons on November 3, 1978. The critical debate occurred January 24, 1979, when a group of Conservative backbenchers (who were the main filibusters, though not the only opponents of the bill) attempted to talk the bill out, but the government moved the closure of the debate, and it was carried by 214 votes to 19. The report stage and the third reading of the bill were completed on the
The bill was read for a third time in the Lords on March 6 and received the royal assent on March 22, just before a general election was called. The most serious threat to the enactment of the bill was the possibility that a general election might have been called at any time during its progress.

The Public Lending Right Act is mainly an enabling measure which requires the Secretary of State to appoint a registrar to administer the PLR scheme, which has to be approved by Parliament. The registrar must establish a register of eligible books and authors, who must apply for inclusion in person. The act established an authors' PLR independent of copyright, so that authors and not the copyright owners (frequently the publishers) receive payments from a fixed sum in a central fund based on the number of times books are borrowed from a sample of public libraries. The central fund must cover the costs both of running the scheme and of payments to authors, and must not exceed £2 million in any one year (twice the limit in the 1976 bill), but the secretary, with the consent of the Treasury, may increase this amount by statutory instrument subject to a resolution of the House of Commons. The act empowers the secretary to decide which classes and categories of books are eligible for registration. PLR in a book takes effect from the date of publication, and subsists to the end of the fiftieth year after the author's death. It is transmissible by assignment or by testamentary disposition.

Norman St. John-Stevas, chancellor of the duchy of Lancaster in the Conservative administration which took office in May 1979, is responsible for devising and implementing the PLR scheme. In December 1979, the Office of Arts and Libraries published a Consultative Document on the proposed scheme and requested the views of all the interested parties.

Books distributed without charge, those in Crown copyright, and those housed in reference libraries are to be excluded from the scheme. To reduce the administrative costs, it is proposed that the scheme be restricted to books with no more than three principal coauthors. Secondary contributors, including authors and translators, would be excluded from benefits.

To ensure that a popular author not receive too large a proportion of the total fund, it is proposed that no author should receive more than £1000 of each £1 million available for distribution, less administrative costs. Credits above this amount would be redistributed among the rest of the eligible authors. Alternatively, a tapering scale of payment might be introduced, so that for each £1 million available an individual would
not receive more than £1000, and would need twice as many loans to qualify for a second £1000, three times as many for a third £1000, and so on.\(^86\)

The Consultative Document envisages that the registrar would calculate the sums due to registered authors using data collected by a stratified sample of approximately seventy public library service points, which would be rotated every five years. Local authorities will be reimbursed from the central fund for any expenditure incurred in making returns of loans information. The registrar is empowered under the act to obtain information from public libraries. Indeed, if a library staff member provides inaccurate information, he, and possibly his chief librarian and the local authority, is liable on summary conviction to a fine of £1000. The Library Association considers it particularly ironic that this penal sanction should be contained in the act when it has been unable to persuade the Department of Education and Science of the need for statutory penalties to support the enforcement of standards of library provision under the Public Libraries and Museums Act of 1964.\(^87\)

It has been estimated that by 1982, when the scheme is expected to come into operation, 75 of the 165 local authorities in the United Kingdom will have installed computerized equipment for recording loans at about 630 of their busiest service points. The data on book loans will be transcribed by the library authorities onto magnetic tape cassettes and forwarded at regular intervals to the registrar, who will run a computer tape showing the estimates of total loans of individual books and their ISBNs against the register, in order to calculate the sums payable to each author in relation to the total sum available for distribution.\(^88\)

Over sixty organizations and individuals, mostly authors, have commented on the Consultative Document. One of the more controversial aspects of the proposed scheme is its cost. On the basis of estimates made by the TIG in 1975, the cost at 1979 prices is £600,000 per annum when the scheme is in full operation. In addition, during the two- to three-year planning period, expenditure was expected to be incurred at the rate of £100,000 in the first twelve months and £400,000 in the last twelve months using a sample of seventy-two service points. The TIG also estimated that the registrar would need a staff of thirty-five to forty, and that some 110,000 authors would be eligible to register, of whom probably one-half would do so.\(^89\)

Supported by the authors' groups, the Authors' Lending and Copyright Society Ltd. (ALCS) has recommended to the minister that it should administer the scheme. The ALCS has commissioned research
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which indicates that only some 10,000 authors would register initially, with a further 7000 registering annually thereafter. Moreover, ALCS claims it could launch the PLR scheme at a cost of about £150,000. The civil servants consider this estimate to be wildly optimistic. Even so, after the Consultative Document had been published, the government announced it had reduced the cost of running the PLR scheme by one-half. This was to have been achieved mainly by cutting the proposed size of the registrar’s staff to twenty, by buying some services, and by reducing the size of the sample of service points from seventy-two to forty-five. It is now planned to reduce the sample to sixteen service points. The criticism that the administrative costs are too high a percentage of the PLR fund is really a complaint about the size of the fund. If the fund is increased in real terms, then the relative cost of running the scheme drops.

Librarians were skeptical about the adequacy of a scheme based on a sample of 72 service points, and are even more critical of one based on a sample of 16 service points, because there are over 6000 full-time and part-time branch and mobile libraries, and the number of service points rises to over 12,000 if all hospitals, voluntary centers, clubs, schools, and factories are included. The Association of Municipal Authorities (AMA) and the Association of County Councils (ACC) continue to urge the government to jettison the loans-based scheme and to institute instead a sales-based scheme using the records of the major library booksellers, who collectively account for over 80 percent of library purchases, in contrast to the loans-based scheme, which covers less than 1 percent of library loans.

The local authorities argue that the devisers of the loans-based scheme have not fully appreciated the administrative difficulties, the amount of additional expenditure, and the administrative confusion involved in implementing the scheme. They are also apprehensive that the PLR fund will not be financed from additional central government money but rather that the Treasury will find the cash by virement from the existing funds available for local government purposes. Moreover, they fear that as authors press for the PLR fund to be increased over the years, the government will shift the responsibility of paying for it to the local authorities, who will in turn meet the cost by charging the book-borrowers.

At present, the writers’ groups and a majority of members of Parliament across the political parties are opposed to the imposition of borrowing fees. It is not, however, inconceivable that at some time in the future an ultraconservative government might wish to give local
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authorities the option of levying fees on borrowers. The Daily Telegraph (a right-wing newspaper which has consistently lobbied for PLR) responded to the Consultative Document by urging that borrowing fees be introduced at a level which would provide authors with an adequate rate of recompense and cover the costs of running a PLR scheme.95

The authors' groups do not at present recommend the adoption of the government's PLR scheme for a variety of reasons: the registration procedure is too complicated; identification by author's name rather than by ISBN may be cheaper and more accurate; the sample of service points should initially be restricted, to thirty-six, rising to fifty when the fund reaches £4 million, and to seventy-two when it reaches £6 million; translators should be allowed to register; pamphlets should not qualify for payments; coauthors should be treated as one authorial entity, with payments being made to one of them or to a nominee such as a literary agent; and the scheme should be restricted at least initially, to authors residing in the United Kingdom and to foreign authors from countries which have reciprocal PLR schemes.96 On this last point, the government's law officers are now considering whether the wording of the PLR act allows for foreign authors to be excluded. It would seem that Britain's obligations under the Treaty of Rome would preclude the exclusion of writers from other EEC countries.97

Many respondents to the Consultative Document criticized the decision to exclude reference books. Regional bodies representing authors are anxious to ensure that the stratified sample will provide for books with a mainly regional readership and books in minority languages. The Publishers Association opposes the proposal to set an upper limit on payments to authors, because this would be contrary to the basic principle of PLR as a right, not a charity, which must therefore be realized in payment for use. The publishers assert that it is inequitable to exclude illustrators and translators from PLR or to restrict payments for multiauthored works, and they claim that they are the most appropriate people to assess the significance of the contribution to a given work of the various coauthors or of the illustrator. They also assert that they should be able to register authors' works. (The act specifies registration by the authors in person.) Since the act empowers authors to assign their public lending right, the publishers suggest that they may also wish to license their publishers to handle the right on their behalf, to share the proceeds from PLR with their licensees, and to offset anticipated PLR payments against advances on royalties. Currently, authors, composers, illustrators, and publishers are setting up a licens-
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ing and collecting agency to monitor and receive payments for the reprographic reproduction of in-copyright material by local authorities, and the publishers recommend that this organization should administer PLR, thereby saving some of the money needed to set up a special organization to administer the scheme.  

The civil servants who are drafting the detailed PLR scheme are currently evaluating the census of library service points, including information about loans, stocks, issue methods, opening hours, and locations, which has been carried out by the Office of Arts and Libraries in order to facilitate the choice of a stratified sample. If a start is to be made on recording loans in 1982-83 so that authors will begin to receive payments at the end of that period, then the draft scheme will have to have been presented to Parliament by the end of 1980, where it must remain for forty sittings and be debated in both houses before it can be implemented.

What of the future of PLR from the authors' point of view? Maureen Duffy, novelist and founder-member of WAG, anticipates that the authors' groups will promote the following developments: the inclusion of reference books, nonbook materials and nonpublic libraries within the scope of the PLR scheme; the creation of an international network of reciprocal PLR arrangements; the allocation of a sum of money to PLR which represents a reasonable proportion of the total expenditure on the library system; and the replacement of the fixed-pool method of financing PLR by a flat rate of a penny per loan.

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