

The Anglo-American Copyright Law and Nineteenth-Century Commercial Writers

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Abstract

The following essay is a brief historical summary about the evolution of Anglo-American copyright laws from the eighteenth century to the end of the nineteenth century and their impact upon commercial writers. The essay focuses on the most important issues addressed by the first formal copyright protective statutes, emphasizing their similarities and differences and their subsequent development. It also highlights the role and contribution of the most predominant literary figures on the development of international copyright regulations. There is also a discussion of the main economic and social changes that influenced the evolution of copyright laws, and a description of the social and working conditions of commercial Anglo-American writers until the end of the nineteenth century.

Keywords: copyright, copyright laws, commercial writers, nineteenth-century US literature.

Resumen

En este artículo se ofrece un breve resumen histórico de la evolución de las leyes de derechos de autor angloamericanas, desde el siglo XVIII hasta finales del siglo XIX, y su impacto sobre los escritores comerciales. El artículo se centra en los más importantes resultados de los primeros estatutos protectores de los derechos formales de autor, con énfasis en sus semejanzas y diferencias, así como en su desarrollo posterior. Además, se destaca el papel y la contribución de las figuras literarias más destacadas acerca del desarrollo de las regulaciones internacionales sobre la materia. Se trata también de una discusión acerca de los principales cambios sociales y económicos que han influido en la evolución de estas leyes, así como una descripción de las condiciones sociales y laborales de los escritores comerciales angloamericanos hasta finales del siglo XIX.

Palabras claves: derechos de autor, ley de derechos de autor, escritores comerciales, literatura de Estados Unidos del siglo XIX.

Wandering clerics and pious travelers entrusted their manuscript treasures to the monastic and cathedral libraries, which vied for the best-collated versions of sacred texts and received substantial fees for the right to copy them. . . . The age of "authorship" had not yet arrived. When reading a sacred text, medieval scholars were quite indifferent to the identity of the author.

Daniel J. Boorstin,
in *The Illustrated Story of Copyright*.

The social and economic changes that took place before the end of the nineteenth century redefined the power relations of people's activities and were substantially validated by a series of unprecedented legal reforms. In the literary scene, commercial writers, in their struggle for the ownership of their work, were no exception, and these writers finally propelled the discussion of copyright laws and regulation in a direction never seen before. Between 1710 and 1890, copyright laws were adopted in most countries in the western hemisphere, mainly in the United States and England, and the efforts to establish Anglo-American international copyright regulations, although not always successful, were constant. But why this sudden concern to legally regulate the production and commercialization of literature? What is the relationship between copyright and the evolution of the author function? And, most important of all, where is the origin of copyright laws to be found, whose rights did they originally protect, and how did they help commercial writers establish legal ownership over their work?

In his famous essay "What is an Author?" Michel Foucault clarifies the relationship between the changes in the idea of the author and copyright laws in the eighteenth and nineteenth century. Foucault starts by establishing the function of the author's name, not just as an "element" of a certain discourse but as the central concept around which "a certain mode of being of discourse" can be characterized (Rabinow 107). During the eighteenth century, different kinds of discourses started being classified, grouped, defined and differentiated in relation to the author's name (107). This tendency, still present today, also serves as a way to manifest "the appearance of a certain discursive set" and to indicate "the status of this discourse within a society and culture" (107). Given the power of a "status bearer", it becomes clear that the author's name has then entered the sphere of cultural and moral authority, thus regulating the creation, exchange and commercialization of discourses in a society. However, since the technological and economic conditions to produce books and other textual commodities began to be accessible to different social groups in the eighteenth and nineteenth centuries—mainly among merchant capitalists—the regulation controlled by just one source of power—a king or a crown—over the circulation of discourses, vanished and was replaced by complex judicial acts. According to Foucault, the first and most important characteristic of

the author function is precisely defined by the fact that discourses became “objects of appropriation” (108), and by the fact that “historically [. . .] this type of ownership has always been subsequent to what one might call penal appropriation” (108). Such appropriation, in the case of production of literary commodities, is summed up in the evolution and establishment of copyright regulations.

For Foucault, the authoritative nature in the generation of discourse to organize social relations and people’s actions has determined the need for classifying the different modes of discourse in terms of authors, who can then be “punished” if they “transgress” social order. He explains:

The form of ownership from which [discourses] spring is of a rather particular type, one that has been codified for many years [. . .] texts, books, and discourses really began to have authors (other than mythical, “sacralized” and “sacralizing” figures) to the extent that authors became subject to punishment, that is, to the extent that discourses could be transgressive. (108)

For Foucault, the moment moral transgressions became factual prepared the way for the institution of authors and publishers’ rights and the rights of reproduction—hence the emergence of primitive copyright laws. Without conceptual changes in the notion of the author, the development of copyright would have definitely taken a different direction and *vice versa*, without the emergence of copyrights the status of author might have never changed. Copyright laws have also reflected the interest of commercial sectors and power relations in specific historical periods. In Anglo-American contexts in particular, the evolution of copyright legislation clearly shows that Foucault’s perspective on the relationship of authors, publishers and legal systems is accurate. From the *Statute of Anne*, the first copyright law ever enacted, to the complex US *Copyright Act of 1976* or the United Kingdom’s *Copyright, Designs, and Patents Act of 1988*, the evolution of copyright laws seems to have been consistent with the ideas of authorship, ownership, originality, authority, and commercial interest as well as the discussion of the author function. Furthermore, changes in territorial distribution and improvements in transportation and in the technology of the production of books and other printed materials were also crucial in the eighteenth and nineteenth century, events that led Foucault to consider the idea of “space” as central in the emergence of a new way of governing people’s actions and relations. International copyright regulations were often the cause of vehement disputes as markets for written material suddenly grew beyond national borders. Market growth became a major concern for commercial writers as they strived for controlling and marketing their intellectual production.

When one talks about copyright laws in the twenty-first century, the first thing that comes to mind might be music or software. However, in the 1600s and 1700s, early copyright regulations dealt mostly with “regulating the content of books” as well as their “printing and dissemination” (Samuels 11). Moreover,

these regulations were intended to protect “the investment of the first company to publish a given book” in order to prevent unauthorized reproductions (11). The mass production of books was not possible in the western hemisphere until 1440, when Johann Gutenberg introduced the movable type printing press. Yet it was not until the 1550s that the first steps toward book copying protection began in England when the Stationers’ Company was “chartered by royal decree” (11) to regulate printing activities. The Stationers’ Company, in reality a London-based guild of printers, bookbinders and booksellers, evolved into the governmental agency in charge of controlling printing material in England. This company owned the control of printing presses and also owned all the material that was to be published and distributed by licensing authors and booksellers. It remained a monopoly until 1694, when the British Parliament “allowed the old Stationers’ Licensing Acts to expire” (12), an event that spurred a “state of insecurity” for authors and booksellers (Collins 53). In fact, there was no way for booksellers to stop piracy. A.S. Collins explains:

The best a bookseller could do was to threaten legal action against would-be pirates, in hopes that the mere bluff would prove effective. But whether they had legal support in their copyright property or not, the booksellers continued to assume the acquisition of a copyright gave exclusive rights and property in a work. (53)

After the lapsing of the Licensing Acts, booksellers and publishers, whose practice was to buy from authors the “perpetual copyright of their books” (53-4), argued that, even though they had a “common law’ right of exclusivity in the work they published,” they did not have any statutory support (Samuels 12).

From 1695 to 1710, booksellers and publishers lobbied hard in order to regain statutory support for their practices. A series of pamphlets circulated in England where booksellers and publishers requested the strengthening of their Common Law rights and where they requested mechanisms for the destruction of pirated material, penalties and the prosecution of pirates (Collins 55). It was not until 1710 that the Parliament passed *The Statute of Queen Anne*, published in March, giving booksellers and publishers restated statutory power to hinder pirating. This statute also may be considered the beginning of the age of authorship, a concept that “[p]rior to the printing press, [. . .] was not well developed [since] it was the owners of the copies who were more likely to be compensated for the right to reproduce the books” (Samuels 12). Meanwhile, in the United States the power to grant authors the rights for their creations was instituted by Congress in the recently framed Constitution, signed in 1787.

Based on the British system of copyright law, in the United States the Constitution considered that “in exchange for the works contributed to society by creative people, as an inducement to get them create, we grant them special rights in what they create” (13). It was in 1790 that the first statute concerning copyright protection was published in the United States following the form and ideals already present in the British *Queen Anne Statute* of 1710, that is, the encouragement of learning. Both the *Queen Anne Statute* and the *II*

Statute of May 31, 1790, are defined as acts for the encouragement of learning by securing the legal copyright of books, maps and other writings to the authors and owners of copies. However, the US was governed by what was called “the Articles of Confederation” (18), which, according to Samuels, did not give “sufficient power to the central government” (18). Each state then adopted particular copyright statutes of which the preambles were later passed under the Articles of Confederation.

The Statute of Queen Anne of 1710 was in some respects quite revolutionary and innovative, but it also contained several weaknesses that left authors, publishers and booksellers unsatisfied. It was radical because it vested the rights of works in authors and in the purchasers of any work, instead of just protecting publishers, and booksellers that, under the Stationers’ Company licensing system, were the ones entitled to such protection. According to Samuels, that famous authors had participated in the composition of the statute had long been suspect;

[T]here was a critical gap in protection, from 1694 to 1710, and the new Statute of Anne was not simply an extension of the previous law. Parliament seems not to have been guided by the complaints of the publishers, who in 1709 had lobbied for a return to the old licensing acts. Instead, they were obviously influenced by the pleas of several famous authors for the recognition of rights not of printers, but of authors. (It has been suggested that Joseph Addison and Jonathan Swift were responsible for the 1709 draft of the law, but that account has since been discredited). (16-7)

Actually, the *Statute of Queen Anne* begins with the acknowledgement that, for a long time, only printers and booksellers had benefited from the printing and reprinting of the books and writings without the consent of authors and proprietors. This situation had caused the ruin of authors and proprietors. The statute established that exclusive printing rights would be granted to the author of any book, or the bookseller or any person who had previously purchased the copy of the book with printing purposes. (All reference about the *Statute of Queen Anne* are taken from <http://press-pubs.uchicago.edu/founders/copyrighted> by the University of Chicago).

The Statute was also radical in respect to the duration of copyrights. Previous monopolistic activities of the Stationers’ Company granted this London-based group of publishers perpetual rights over all printing material since, in essence, their main purpose was to censor the publication of indecent or blasphemous material. However, the *Statute of Queen Anne* granted such rights for only twenty-one years for existing material, and for fourteen years for those books already written before or to be composed after April 10, 1710. Booksellers and publishers looking for perpetual rights, although not totally satisfied with the time suggested in the *Statute*, did accept its conditions since, at least, it gave them enough time “to reflect upon their position” (Collins 54). Moreover, delimiting the duration of copyrights, the *Statute* established a series of penalties and legal procedures that, in the opinion of researches such as

Collins, although not able to stop piracy completely, at least gave authors and booksellers enough power to prosecute pirates (56). The *Statute* ordered those reproducing material without previous consent to “forfeit such book or books, and all and every sheet or sheets, being part of such book or books” and to pay one penny for every sheet in the offender’s property. It also gave legal power to owners of copyrights to sue pirates. Collins summarizes how injunctions became more frequent after the approval of the *Statute*:

Thus we find injunctions being filed every now and then in respect to works clearly within the terms of the Queen Anne Statute. In 1722 Knaplock obtained an injunction against Curll for printing Prideaux’s *Directions to Churchwardens*, and Tonson one against Clifton for Steele’s *Conscious Lovers*; in 1729 Gilliver employed the same means against Watson’s pirated edition of the *Dunciad*; in 1737 this same Watson came under an injunction, filed by Ballax, for pirating Gay’s *Polly*; in 1761 Dodsley had to try to put an end to the growing practice of pirating in magazines, by filing an injunction against Kinnersley for abstracting part of *Rasselas* and printing it in a periodical. (56)

In order to avoid prosecution against people that might have violated the new copyright law due to ignorance of its existence, the *Statute* ratified the habitual practice of entering every new book or writing being published in the registry book of the Stationers’ Company. The *Statute* included severe sanctions to the Stationers’ Company agents who neglected or refused to register any book.

Another interesting element of the *Statute* is the role it gives to the Archbishop of Canterbury as the regulator of the cost of books. The Statutes established that, if any person complains about the “inhaunched, or any wise too high or unreasonable” price of a book, the Archbishop of Canterbury would have the “power and authority to reform and redress the same, and to limit and settle the price of every such printed book and books, from time to time, according to the best of their judgments, and as to them shall seem just and reasonable.” The *Statute* also commanded that nine copies of each book be donated to the libraries of several universities in England and Scotland such as Oxford, Cambridge, and Edinburgh, three other universities in Scotland, and the Sion College in London.

Some weaknesses of the new copyright law, however, can also be identified. According to Collins, probably the “gravest flaw” of the *Statute* was that copyrights were granted only in Great Britain, that is, England and Scotland, “leaving an author’s works as unprotected in Ireland as they would have been in France” (60). Collins explains:

The flaw was, however, due not to the English Parliament, but to the nature of the Constitution. The Irish Parliament was a separate body, and till the Revolution it had claimed that no law enacted by the English Parliament was valid in Ireland, even if especially extended to that country, unless reaffirmed by the Irish Legislature. (61)

Actually, for many years Ireland became the center of literary piracy, a situation that deeply affected the works of many English and Scottish writers. According to Collins, Ireland, “as a market for literature was practically closed to English writers and booksellers” (64). Another deficiency worth mentioning in the *Statute* was its VII section, which openly excluded from protection “the importation, vending, or selling of any books in Greek, Latin, or any other foreign language printed beyond the seas,” a fact that, according to Collins, did not help those writers—who might have spent several years translating a classic text—to find cheaper copies printed in other countries being sold in England. If writers wanted to protect their academic output on the classical works, they had to petition Parliament for “a private Bill,” a process that was costly (65). Books reprinted in other countries were usually less expensive than the ones published in England. As a result, since the importation of books was not regulated by the *Statute*, British authors and booksellers usually had to compete against cheaper products.

The appearance of the *Statute of Queen Anne* represented a breakthrough in the history of copyright in England as well as in the western hemisphere. It marked the beginning of a series of changes in the way that intellectual production has come to be understood even today. One of the first legal systems that this *Statute* influenced was the one in the United States. Recently founded as a republic, the United States did not have a copyright statute until the spring of 1790, eight decades after the *Statute*, which by this time had already been modified.

In the United States, the *II Statute* of May 31, 1790, is divided into seven sections and structured almost identically as its British counterpart. The *II Statute* of 1790 is actually defined as an “Act for the encouragement of learning, by securing the copies of maps, charts, and books, to the authors and proprietors of such copies, during the times therein mentioned” (First Congress Ch.15 1790). The most interesting difference, however, is actually contained in this heading, since the US version of its first copyright law extends protection to maps and charts (probably navigation charts, according to Samuels), while its British antecessor extended protection ambiguously to books and “other writings,” a fact that shows the importance of space in the organization of the new country. Samuels explains:

[T]here’s woefully little explanation of why Congress singled out these works for protection, other than the obvious value of rewarding the makers of maps and charts in a young country. Americans wanted to encourage the likes of Meriwether Lewis and William Clark to go out and chart uncharted lands (though Lewis and Clark’s maps, from the expedition paid for by the U.S. government, were uncopyrightable, being government works). (131)

Actually, the vague expression “other writings” in the *Statute of Queen Anne* was dropped from the US version at the last moment (131). Despite this little difference, the heading of the *II Statute* makes it clear that copyright privileges will be granted to authors and proprietors of copies of books, maps, and charts, rather than to publishers or booksellers.

The *II Statute* grants copyrights to authors, citizens, or residents of the United States, for a period of fourteen years for existing works, and an equal period of time for works still to be published, and it allows those rights to be renewed for fourteen more years if the owner so decides within “six months before the expiration of the first term of fourteen years aforesaid” (Sect. I Ch 15). The *Statute of Queen Anne* grants twenty-one years to existing works, and fourteen years to new publications, and it does not mention renewals. On the other hand, both the *II Statute* and the *Statute of Queen Anne* instructed authors to register their work—in the case of the US law, to the district court clerk of the author’s place of residence. The US law also requested a copy of each work to be sent to the Secretary of State “to be preserved in his office” (Sect. IV Ch 15). In 1870, when the federal copyright law was amended, the Library of Congress became the official depository of all registered works (Samuels 211). The current Copyright Office of the Library of Congress was established in 1897. In 1831, Congress signed an “Act to Amend the Several Acts Respecting Copyright,” to modify the *II Statute*. With this amendment, the term of exclusive rights of works was extended from the original fourteen years to a maximum of twenty-eight years. In case of the author’s death, copyrights could be passed on to the authors’ heirs. Musical compositions were also included for copyright protection (Barnes 50).

The *II Statute* also follows the British model in case of infringement. It orders the destruction of every single page in possession of unauthorized people, plus the payment of fifty cents a page to the owner of the copyright. It also grants authorized authors up to a year in order to sue offenders. One more similarity between the British and the US laws is in relation to the importation of books written in other languages and in other countries by authors from other nationalities. In the case of the *II Statute*, this is openly expressed in section six, in the case of the British version in section seven.

The US law was first lobbied for by President George Washington, who addressed the First Congress in January, 1790 (Samuels 14). However, traditionally, it is US writer and linguist Noah Webster the one usually referred to as the “father of American copyright” (15). Webster lobbied in favor of copyright protection for his spelling books and dictionaries for a long period (1783 to 1831). A wealthy man, he was well known in political spheres, and personally addressed Congress on many occasions (Barnes 51). According to Samuels, Webster “personally traveled around the country to lobby each legislature to pass a copyright statute” (15). In addition, Webster was acquainted with many of the drafters of the Constitution, such as James Madison, Thomas Jefferson, Alexander Hamilton, and George Washington who, being writers themselves, were also interested in copyright legislation (15). Thanks to Webster and petitions of other authors, the House of Representatives appointed a committee to create a bill to “secure to authors and inventors the exclusive right to their respective writings and discovery” (15). The *II Statute* was the final product. In fact, this Statute only secured the copyrights of US citizens, a similar tendency also followed by other countries. “To be sure,” summarizes

Samuels, “the copyright law of many other countries at that time was not any more protective of the rights of foreign authors” (231), which made the United States an important center for the cheap reprints of works of famed European authors.

International Copyrights: The Impact of Reprints

After the implementation of the first local copyright laws granting exclusive printing rights to authors and proprietors of works, a concern developed regarding international copyrights. Three reasons justify such interests; first, the economic depression of 1837-43, also known as the Panic of 1837, which lowered the prices of books and periodicals to levels never seen before; second, the emergence of international markets for reprints later exported to countries that had implemented local protective laws; and, finally, the popularization of inexpensive literature in the United States issued in newspapers and magazines. As a result of the Panic of 1837, many new publishers “sprang up only to disappear a few years later,” either because they could not pay their bank loans or because they could never obtain any loan at all (Barnes 1). The owners of magazines and periodicals were among the first victims of the Panic. Barnes describes how the crisis affected famous magazines, among them the *American Monthly Magazine*:

The experience of Park Benjamin was not much happier. As editor of the *American Monthly Magazine*, he became increasingly involved in its survival and found himself pouring what money he had, plus what he could borrow from relatives, into venture. The magazine survived the first wave of 1837 only to succumb in the backwash of 1838. Benjamin long remembered this personal disaster to his own fortune, and it is not surprising that he turned his efforts to editing a cheap newspaper which would be more likely to meet the cut-throat competition. (4)

For large publishing houses, the crisis did not mark their end, as it did for small monthlies or magazines, but it represented a serious plight that produced a reduction in the numbers of publications per year (4). Harper’s Publishing House, for example, which averaged “over fifty titles a year” during the 1830s, had its annual titles fall below this figure for the years 1837, 1838 and 1842 when the crisis reached its peaks (4). The prices of books dropped from an average of \$2 in the 1820s to an alarming 50 cent average between 1837 and 1843 (4).

For authors, the Panic of 1837 also became a difficult obstacle. James Barnes reports that authors such as James Fenimore Cooper experienced a drastic descent in his revenues, either because his readers could no longer afford to buy expensive editions, or simply because his publishers could no longer publish them (6). Some publishers decided to stop selling fictional works in order to sell more profitable and salable literary products. Barnes explains:

Until 1837 Carey & Lea successfully held their own against the rising competition from the Harpers of New York. However, in trying to adjust to reduced circumstances, they decided to lessen their dependence on both fiction and foreign reprints; the Harpers were geographically closer to the source of supply of imported books, and fiction was more volatile than other forms of literature. They reasoned that doctors, lawyers, engineers, and teachers would continue to order books even when the fickle reading public ceased buying new romances. (6)

Both the severe economic crisis and the fact that large publishing houses, such as Harper's or Carey & Lea, lowered their production of literary works prepared the ground for the emergence of low-budget newspapers and periodicals which could print literary works without spending much money and distribute them easily throughout the country. Two of the first and most successful representatives of this new literary commercial group were the weeklies *Brother Jonathan* and the *New World*, owned by renown publishers, printers and writers. *Brother Jonathan* had "the largest folio sheet in the world" and was intended to "combine important news from the daily issue of the *Tattler*," published by the same owner, with "more original and selected" material (7). Dickens's *Nicholas Nickleby* was one of the first works published in installments in the *Jonathan*. Weeklies such as the *Jonathan* were successful basically because the printing press capacities of the moment "had great potential for rapidity and volume" (7), and because the public could easily afford to buy these weeklies. Besides, the general public had access to literature of quality. Together with weeklies such as *Brother Jonathan*, printers started to experiment with other kinds of formats that included monthlies, Leviathans, first introduced in 1839 (8), and *mammoths*, a term applied to the biggest Leviathans (8). These inexpensive literary products were also successfully delivered to customers and subscribers, which allowed them to explore not only "local but also a national market" (9).

Cheap weeklies became the most important means for the reprinting of British and French works in the United States, causing great losses and damage to the European markets of authors and publishers. These were poorly protected by their copyright laws, and only inside their national borders. Complaints from the book trade were heard repeatedly, and soon there emerged a burning debate between the owners of cheap publications and magazines and owners of large international book publishing houses. The debate lasted to the end of the 1850s. Barnes states:

And to the chorus of voices raised within the book trade in protest against the ruinous competition which cheap reprints had brought, the *New World* charged: was it not these same critics who consistently opposed an international copyright agreement in the name of cheap literature in America? (15)

Although the problem of reprints was not new or limited to the relationship between the United States and England, it marked the discussion in favor

and against international copyright regulations in the US in the nineteenth century. The US and Britain's efforts toward international copyrights were debated in Congress and Parliament respectively for more than 40 years. In the US those efforts were headed by a few writers who had little international recognition and in England by a larger group of national authors, whose works were lavishly being reprinted elsewhere.

The most successful and long-lasting efforts were the ones advocated by James Fenimore Cooper, who in the 1820s raised the question of copyright to his English publisher (Barnes 49). As Barnes explains, Cooper's request for international regulations was then done in isolation since hardly any American writer was being read in England in the first part of the nineteenth century (50). Later, between 1828 and 1832, Noah Webster, together with his son-in-law, William W. Ellsworth, a lawyer in Hartford, Connecticut, and his cousin, Daniel Webster, could finally pass the extension bill to the *II Statute* of 1790. However, such an extension in the copyrights of author did not resolve the international controversial. It was not until the autumn of 1836 that a group of British authors decided to take action and started a massive campaign in favor of international copyrights. Two formal petitions were signed and submitted to the US Congress, initiated by Harriet Martineau and supported by "a number of distinguished British writers" (60). Such British campaigns continued during the 1830s and the beginning of the 1840s without important results. While the British government finally passed its first International Copyright Acts in 1838, American counterparts did not change their position (Samuels 232). Even after a group of authors, artists, publishers and academics created the *Association Littéraire et Artistique Internationale*, which led to the signing of the Berne Union for the Protection of Literary and Artistic Works in 1886, a treaty which committed participants to amend their local copyright laws to extend protection to foreign authors, the United States did not sign the treaty and did not grant foreigners copyright protection until 1891, "101 years after first adopting federal copyright" (Samuels 234).

Even though both the *Statute of Queen Anne* and the *II Statute* were important milestones and were designed to protect the rights of authors, the situation was quite different for minor commercial writers. These primitive copyright laws favored publishers, booksellers, and a small coterie of wealthy authors—the elite that had control upon the means of production and circulation of books. Only a few writers could enter the narrow circle of "the well orchestrated 'puffing' and cliquish favoritism that largely controlled the market for books in that period" both in England and the United States (McGill 273). In fact, the long struggle for international copyright protection that characterized most of the nineteenth century was, basically, undertaken by publishers and well-known British authors). US commercial writers or magazinists seldom copyrighted their works or the contents of the magazines before late in the nineteenth century. They, on the contrary, "surrendered control over future publication of a text upon issue of the magazine" (302). Poor authors could hardly ever secure ownership and claim authorship over their

texts. Since they lacked control of the literary market, they depended on the cheap publications of their work. This situation forced them to give away their works to newspapers or magazines; book publications were out of their reach. According to McGill, magazine authors “were frequently unpaid, and when paid, traditionally ceded control over publication to editors in exchange for their pay” (273). In the best of cases, when able to publish a book, authors would usually receive royalties upon sales, and in many cases, in order to avoid illegal reprints of their work they would receive payment for advance sheets to secure publication rights (Barnes 53). Normally, poor authors and commercial writers depended on the profit they could get from weeklies, monthlies, magazines, and the penny press.

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