International Copyright and the Political Economy of Print

EARLY ON IN HIS CONTROVERSIAL 1842 TOUR OF the United States, Charles Dickens fulminated in a letter to his friend and advisor John Forster that the seemingly unaccountable American reluctance to support the passage of an international copyright law was a regressive instance of the tyranny of the majority, a fear of publicly criticizing the status quo that reduced even thoughtful literary gentlemen to guilty silence. Dickens came to this conclusion after his third attempt to raise the subject of international copyright in an after-dinner speech drew mixed reactions from those who had organized banquets in his honor, and a highly negative response from the newspaper press. Trying to make sense of a tense and difficult social situation and of the unanticipated, ad hominem attacks in the popular press, Dickens took refuge in self-aggrandizing oppositions between collective repression and individual defiance, cowardly silence and forceful speech, political paralysis and heroic action. And yet he also obliquely recognized the way in which outrage at his legal disenfranchisement had distorted his perspective. For Dickens, the lack of international copyright was a “monstrous injustice” that made authors monstrous:

I spoke, as you know, of international copyright, at Boston; and I spoke of it again at Hartford. My friends were paralyzed with wonder at suchaudacious daring. The notion that I, a man alone by myself, in America, should venture to suggest to the Americans that there was one point on which they were neither just to their own countrymen nor to us, actually struck the boldest dumb! ... every man who writes in this country is devoted to the question, and not one of them dares to raise his voice and complain of the atrocious state of the law. It is nothing that of all men living I am the greatest loser by it. It is nothing that I have a claim to speak and be heard. The wonder is that a breathing man can be found with remonstrance enough to suggest to the Americans the possibility of their having done wrong. I wish you could have seen the faces that I saw, down both sides of the table at Hartford, when I began to talk about Scott. I wish you could have heard how I,

gave it out. My blood so boiled as I thought of the monstrous injustice that I felt as if I were twelve feet high when I thrust it down their throats.1

Part of the pleasure of this violent, retoriatory fantasy is that it is so out of keeping with the ebullient geniality of the occasion and with the American public’s embrace of Dickens as a font of edifying sympathy, the gentle defender of “the humble and oppressed.”2 Yet Dickens’s account of the rhetorical force of his speech provides an insightful gloss on the power dynamics that are implicit in his sentimental invocation of the death of Sir Walter Scott. Reanimating a dethroned scene that was familiar from John Lothrop’s recent biography and infusing it with the pathos of the death of Little Nell, Dickens summoned a Scott who was “fair, wan, dying, crazed both in mind and body by his honorable struggle” to pay off his debts. “Hovering round him,” however, were not members of his family, but the most popular characters from his novels, “the ghosts of his own imagination,” whom Dickens calls upon to do the work of chastening American readers and pirate publishers. Dickens envisions these characters “fresh from traversing the world and hanging down their heads in shame and sorrow that, from all those lards into which they had carried gladness, instruction, and delight for millions, they had brought him not one friendly hand to help to raise him from that bed, sad bed. No, nor brought him from that land in which his own language was spoken, and in every house and hut of which his own books were read in his own tongue, one grateful dollar piece to buy a garment for his grave.”3

In imagining that he has “thrust” this vision down the throats of his hosts, Dickens confers pleasure in his display of vengeful ingratatitude, a posture that invends and is partially obscured by his portrayal of the popular British author as the helpless victim of an ungrateful readership. In fantasy, his performance decisively closes the gap between author and readers that had been opened up by the transatlantic piracy of British novels. If Scott lives immobilized while his characters circulate, unable finally to produce “one grateful dollar piece” for their author, Dickens is able to confront his readership directly, responding to Americans’ insatiable appetite for sentimental fiction with a parable about copyright reform that they are fed by force.

What is striking about Dickens’s account of his speech is both his attempt to translate authorial control over “the ghosts of his own imagination” into control of the market for his works, and the distortions that are necessary for him to perform this act rhetorically. Dickens cannot seem
to address the issue of international copyright without resorting to hyperbole. According to Dickens, "not one" American diarist dared to speak in favor of the measure (although the New York dinner included both supportive toasts and a pro-copyright speech), he is "the greatest lover" by the present arrangement (although this remains unverified and unverifiable); "not one friendly hand" is extended to assist Sir Walter Scott (although both Scott and Dickens had received payments from American pirate publishers). The most grotesque distortions, however, are reserved for the figure of the author himself. Expressing anger at the unauthorized reprinting of his work in a letter to another friend, Dickens turns again to the trope of the author-as-monster: "my blood so boils at these enormities, that when I speak about them, I seem to grow twenty feet high, and en swell out in proportion" (350). Gigantism here is not simply an index of Dickens's superhuman rage, but of a disproportion between the crisis as Dickens perceives it and the resources he can muster to address the problem. Even inflated to twenty times its ordinary size, authorial outrage will prove no match for the clash of political principles, cultural values, and economic interests that converged around the issue of international copyright.

In Chapter 2, I will return to Dickens's frustration at his inability to control the circulation of his texts and to his unsuccessful attempts to persuade Americans to pass an international copyright law. I will approach this episode, however, not as one author's bold call for the international protection of authors' rights, but as an occasion for the intensification of a debate that was well underway before Dickens's arrival. In order to lay the groundwork for a rethinking of Dickens's exemplary failures, I will outline the parameters of the American debate over international copyright and bring into focus what Dickens, preoccupied by injustice to authors and by a sense of his own importance, is unable to perceive—that the question of foreign authors' rights under American law was the vehicle for a domestic struggle over the political economy of print.

Like Dickens, literary critics' ability to understand what was at stake in American opposition to an international copyright law has been obscured by the onus of figure of the aggrieved and indignant author; it is only by recognizing and circumventing this figure that we can begin to account for American resistance. It was neither the moral turpitude of the presses nor the cowardice of his hosts that made these after-dinner speeches such a social blunder and strategic error, but Dickens's failure to grasp the political significance that the American public had attached to his visit. In appealing to British and American authors' shared interest in the transatlantic protection of literary property, Dickens betrayed a tin ear for the terms of his welcome as the common property of the common reader, and a costly ignorance of how republican political principles had been mobilized to support the system of printing. I will begin by examining the terms of the American debate as it unfolded before Congress, paying particular attention to the petitions on international copyright submitted by authors, publishers, and members of the print trades to be read before the Senate and the House of Representatives. These petitions provide access to a popular discourse about authorship that is significantly broader than the testimony of authors. As I have argued, critical studies of the conditions of authorship written from an authorial perspective generally remain trapped within the logic of literary nationalism. Even when they show how antebellum authors internalize a sense of their peripheral cultural status, they are able to discern little place the literature outside of the nationalist frame of reference. In these accounts, authors' national ambitions are thwarted by the market or mystified by the self-interests of publishers and readers; authors are not, however, confronted with alternative ways of understanding the relation of literature to the nation. By contrast, the petitions sent to Congress concerning international copyright offer theories of authorship at the pitch of their imagined generic to structure the market for print, elaborating competing models of the relation of literature to national authority and identity. These petitions give access to a cultural imaginary in which the cultivation of a national literature is thought to be a hindrance to the development of a political and social order that is nonetheless held together by the circulation of print.

These petitions also place the debate over international copyright in the context of partisan struggles to influence the development of market culture and to imagine a form of national power that was compatible with local authority. The lineage of the right "to petition the Government for redress of grievances" can be traced to the medieval right to appeal directly to the king and was included in the First Amendment to the Constitution along with the rights to freedom of speech, freedom of the press, and peaceable assembly. In the 1820s, petitioning the government was radicalized by abolitionists seeking an end to slavery in the District of Columbia; it was also taken up by laborers agitating for a ten-hour day who saw it as a less confrontational alternative to striking. In directly addressing a legislative body rather than relying on the mediation of elected representatives, citizens' petitions shift attention both to the intimate effects and
to the structural limitations of governmental authority. Abolitionists bril-
liantly exploited the peremptory power of this mode of address in calling
not for an end to slavery per se, but for Congress to affirm its jurisdiction
over slavery in the District of Columbia, forcing into public visibility the
contradictory powers that underwrote the "federal consensus"—the widely held belief that the federal government had no authority
over slavery in the states.6 Congressional copyright petitions similarly raise
the question of the nature of the federal government's power over the
circulation of print. At a time when struggles over the tariff, temper-
ance and banking, and the extension of slavery into the territories called
into question many of the federal government's most fundamental pow-
ners—the ability to collect revenues to regulate commerce, and to protect
its citizens' rights to both property and liberty—debates over authors'
rights turn the free circulation of print into a test case and model for the
workings of state power.

Legalizing Piracy

Section 5 of the Copyright Act of 1790 clearly indicates that, in the opin-
ion of the First Congress, the constitutional mandate to promote "the
Progress of Science and useful Arts"69 did not require the extension of
copyright privileges to foreign authors. Indeed, were it not for the dou-
ble negatives in which it is couched, this provision would read like a ring-
ing endorsement of international literary piracy: "nothing in this act shall
be construed to extend to prohibit the importation or vending, reprint-
ing, or publishing within the United States, of any map, chart, book or
books, written, printed, or published by any person not a citizen of the
United States, in foreign parts or places without the jurisdiction of the
United States."70

Lyman R. Patterson has suggested that this unusual clause is based on
a misunderstanding of Section VII of the British Statute of Anne (1710),
which allowed for the importation of books written in a foreign language
as a means of combating censorship.71 And yet the shift in defining the
point at which state protection ceases seems important enough to be a
deliberate reorienting. By placing citizenship and not linguistic identity
as the cutoff for copyright protection, the American provision underscores
the statutory nature of this right while also acknowledging that the identity
of the state is not founded on linguistic difference. The American statute
allows for political difference alongside cultural continuity by emphasiz-
ing the limited reach of national law and by stopping short of bringing
British works—foreign texts written in a common language—under its
protection. The statute calls attention to the government's limited inter-
est in promoting, and limited jurisdiction over the rights of noncitizens,
and yet it overall purpose is to ensure that foreign works would continue
to be published and circulated in the new nation. Indeed, Section 5 of the
Copyright Act was coupled with the caveat that the rights granted to
native authors and foreign residents might be overspread, injecting a
note of caution or reluctance into this foundling document of authorial
prerogative. Because it defines copyright as a negative right—that of pre-
venting the vending, reprinting, or publishing of a text—the American
statute inscribes the citizen's privilege as a prohibition, and portrays for-
ign piracy as the lifting of such restrictions. The same act that somewhat
warily grants authors a limited monopoly in their works betrays upon
publishers an extraordinary license: that of the unrestricted republi-
cation of foreign texts.

It is important to note the simultaneity of and the countervailing
pressure exerted by the establishment of domestic copyright and its denial
to foreign authors. Historians and critics have traditionally treated the
two as separate issues, regarding domestic copyright as uncontroversial
and easily established, while devoting most of their efforts to accounting
for the century-long delay in the adoption of an international copyright
agreement. This approach has had the effect of making Congress's re-
petition refusal to extend copyright to noncitizens appear as an oversight
or "failure"—a gap in the enforcement of authors' rights—rather than a
substantive measure. This depiction of the resistance to international cop-
right as a form of negligence is remarkable, considering that throughout
the antebellum period, Congress frequently reassessed its unwillingness to
grant copyrights to foreign authors. Between 1837 and 1844 Congress for-
malized rejected or tabled numerous international copyright bills, denied
petitions signed by Britain's and America's most prominent authors, and
blocked the passage of an Anglo-American copyright treaty that had been
supported by two presidents.72 In his definitive account of the political
struggle over international copyright, James J. Burns attributes Congress's
reluctance to the effective lobbying of entrenched publishing interests
and to legislative indifference in the face of widespread economic depres-
sion. While these factors are undoubtedly crucial to an understanding of
congressional action, they fail to account for the unusual strength and

specific form of the resistance to foreign authors' rights. Like the conve-
luated syntax of Section 3 of the Act of 1976, congressional opposition to
International copyright provides strong evidence of an alternate system of
value in tension with the whole notion of authors' rights. Foreign authors'
disenfranchisement under American law was not inconsistent with but
integral to many Americans' understanding of the nature and scope of
domestic copyright protection.

A reexamination of the struggle over international copyright in Con-
gress and in the periodical press suggests not an indifference to the plight
of authors so much as a complex consensus as to the limits of their claims,
not a lack of interest in the allocation of property rights in printed texts,
but a sophisticated analysis of the political consequences of their manu-
facture and dissemination. While it is true that the copyright controversy
drew less energy and attention from Congress than concurrent debates
over tariff rates, the transportation and banking systems, and the exten-
sion of slavery into the territories, congressional resistance to an interna-
tional copyright law was intimately bound up with these struggles. In
particular, opposition to international copyright drew on the critique of
centralized power that was a constant refrain in these debates, a critique
that had been honed over decades by Democrats who opposed national
funding of internal improvements and the rechartering of the National
Bank. The persuasiveness of the opposition was not simply the product of
publishers' power, but of the way in which they marshaled fears about
concentrations of capital and the consolidation of governmental author-
ity, fears that were heightened by more pressing conflicts over economic
development and the expansion of slavery. Rather than trying to explain
the "failure" of Congress to act on proposed legislation, then, we need to
take better measure of what one critic referred to as "a widely extended
prejudice . . . against the establishment of international copyright."
Rather than chronicling setbacks on the way to the eventual triumph of
the cause of foreign authors' rights, we need to establish the grounds for
one repeiner's confident claim that international copyright was "a most
unpopular measure and can never be carried."

A number of factors have combined to make the resistance to inter-
national copyright largely invisible to historians and literary critics. An
authors' rights bias has been built into scholars' materials as well as their
practice, consuming the primary source for the study of the nineteenth-century
debate were compiled and indexed by copyright advocates who were in-
strumental in passing an international copyright law in 1891. In addition,
most prominent nineteenth-century authors supported the cause of inter-
national copyright. Expecting American literature to flourish once it was
relieved from the competition posed by cheap reprints of successful for-
eign books, American authors actively endorsed the measure in memorials,
public declarations, and in the pages of newspapers and literary maga-
azines. Literary critics' bias toward the testimony of authors and the long-
standing alliance of literary study with literary nationalism have combined
to give international copyright advocacy undue prominence in our histo-
ries. Authors' support of international copyright, however, must be weighed
against the consistent and organized antagonism of the trade. According to
Barnes, memorials to Congress opposing the first international copy-
right bill outnumbered those of advocates by a ratio of three to one. A
handful of influential pamphlets and magazine articles also helped to
solidify, coordinate, and popularize positions that found bedrock support
in reprint publishing houses, trade unions, and at public meetings of inter-
estuban. The conceptual outlines of the opposition have also been difficult
to perceive because of the political slipperiness of the issue. Initially, posi-
tions on international copyright did not divide cleanly along either party
or sectional lines, although the fact that the first five international copy-
right bills were presented to the Senate by Henry Clay inevitably associated
the measure with Clay's "American System" of developmental national-
ism, the protectionist program that linked high tariffs on imported goods
and a strong national bank to federal spending on transportation net-
works. Party lines were drawn more sharply in 1814 when John O'Sullivan
published a lead article in The Democratic Review declaring that "The Inter-
national Copyright to eagerly clamored for is all a humbug." And yet the
cause of international copyright continued to be associated with a vocal
group of Democrats, the Young Americans, even after O'Sullivan's rejec-
tion of this plank of their platform forced them to take their appeals for
copyright reform to the pages of the Whig monthly, The American Review.
Elite literary magazines' general support of the measure was occasionally
disrupted, most notably when the Southern Literary Messenger followed up
William Gilmore Simms's passionate appeal for recognition of foreign
authors' rights with an extended rebuttal of his claims. But for the most
part, the defense of the system of reprinting took place not in literary or
popular periodicals, but in the pocket-sized popular press, in
ephemeral weeklies, such as Brother Jonathan and The New World, which
relied on reprinted texts for much of their content, and in penny dailies,
such as the Philadelphia *Public Ledger*, which cultivated an urban working-
dean readership.35 If the antebellum politics of print appear to divide more
dearly along class lines than the strict party lines, these were emerging differences that
both Whigs and Democrats sought to exploit and to appease. Appeals for
an international copyright law galvanized a discussion of the dangers and
advantages of the circulation of cheap print and brought into focus
sharply differing positions on the relation of print to market culture, on
the compatibility of the market and democracy, and on the relation of
the market for print to the shape of the nation.

In Congress, active support of international copyright tended to be
Whig, northern, and avowedly protectionist.36 The defense of private
property rights and the cultivation of American letters were causes that
resonated with Whig concern for economic stability, national unity, and
national identity. As a political position, however, support for interna-
tional copyright was confused by analogies to tariff policy and by appeals
across sectional lines. For example, in presenting the first international
copyright bill to the Senate, Henry Clay famously compared a pirated
English book to a "bale of merchandise" that was stolen upon arrival on
American shores.37 As opponents of international copyright were quick to
note, however, the coherence of Clay's position depended on whether
one thought American authors or American publishers stood most in need of
protection. Copyright opponents were thrilled to catch the "father of the
American System" in an obvious contradiction, claiming that Clay's
support for international copyright was inconsistent with his protection-
ist policies.38 To Clay's assertion that "we should be all shocked if the law
tolerated the least invasion of the rights of property, in the case of the
merchandise," (1), Philip N. NIcholson, a copyright opponent and free trade
advocate replied:

Unhappily we are not all shocked, when the law not only tolerates but requires
the taking away from the foreign merchant who brings to the United States a bale
of merchandise one-fourth, one-third, or one-half of its value without paying for
it, in order that somebody, somewhere down east, may be able to make a similar
sort of thing; and yet *merida dixit* a law is proposed to prevent us from making
books like those imposed by the foreign merchant.39

In light of concurrent debates over tariff rates, Clay's ambiguous compar-
ison of books to a "bale of merchandise" seems deliberately designed to
 Garner southern support for copyright payments by associating them not
with their obvious counterpart, the much-despised tax on finished goods,
printed texts, made possible by new technologies of mass production and distribution, coincided with the extension of suffrage to an increasingly literate public and the aggressive solicitation of the popular vote by well-organized political parties. Elites worried about the unmediated access of newly enfranchised citizens to cheap publications, what Charles Lyell referred to as "the indiscriminate reading of popular works by the multitude, when the higher classes and clergy can exert little or no control in the selection of the books read." And yet evangelists, abolitionists, and politicians had also made many highly suspicious of the attempt to control what was circulated and read, in particular, the use of the penny press and the postal service to distribute cheap or free publications. The Sabattarian controversy of the late 1700s, abolitionists' mass mailing of anti-slavery literature in 1835, and the bitterly fought election of 1840 all demonstrated the considerable power that could be wielded through well-coordinated print campaigns. Popular sovereignty made control over the circulation of print seem both scantly necessary and unusually dangerous. Both advocates and opponents of international copyright invoked Congress's power under the Constitution's copyright clause to fashion the trade in books toward democratic ends.

One sign of the insistence with which the circulation of print raised questions about the compatibility of democracy and market revolution is the passionate cultural investment in the foreign reprint itself. As I will argue, the "unbought foreign literature" of which copyright advocates complained represented more than the problematic competition afforded by texts unburdened by payments to authors. The figurative drift of this curious phrase suggests that, despite the workings of the market, foreign reprints somehow managed to remain "unbought." The idea of an "unbought literature" is a particularly volatile one because it stands as a point of crossing between aristocratic and republican systems of publishing, neither of which could accommodate the idea of authorial profit. Even as the commercial success of pirated foreign texts provoked a partisan battle to shape the expanding market for print, widespread uneasiness about the effects of market culture made reprinted texts the focal point of contradictory, competing fantasies of exemption from market conditions. Among pro-copyright petitioners, British authors' virulent detachment from the questionable business of reprinting provokes a nostalgic desire to stand outside the very marketplace in which they sought to solidify their rights. Copyright advocates' attempt to equilibrate the market for books becomes confounded with an attempt to insulate authors from the workings of this market. However, the overwhelming popularity of cheap reprints posed a challenge to American authorship that could not be solved by according the author a special status—both inside and outside of the market system. Copyright opponents used the success of these reprints to argue that the author was largely irrelevant to republicans publishing, recasting the privileged position of authorial withdrew as a peripheral one. The flourishing of the reprint trade enabled copyright opponents to imagine a market for books in which the consolidation of capital would be counteracted by the availability of many of the most valuable texts—both popular sensations and standard works—for republicans. Anti-copyright petitioners argued for a system of publishing that would offset the danger implicit in the private ownership of printed texts by distributing this ownership as widely as possible.

Representing the Nation: The Campaign for International Copyright

The concerted effort to persuade Congress to amend the Copyright Act began with a petition signed by fifty-six "Authors of Great Britain" at the instigation of the British publishing firm Saunders & Otley. In the spring of 1856, this firm set up a branch office in New York City in a bid to control the reprint market for the books they had first published in England. Soon realizing that their claims were unsustainable without an international copyright agreement, they enlisted the help of Harriet Martineau, who circulated a petition to prominent British authors, gathered signatures, and submitted it to Congress under the lead signature of Thomas Moore. The firm presumed that the eminence of these authors would carry considerable political clout. As Harriet Martineau remarked in a letter soliciting the signature of Henry Brougham: "I rather think both Houses will fall on their knees on the receipt of our petition."24

This petition set the tone for the American pre-copyright appeals that followed, characterizing the lack of international copyright as an affront to individual rights. While protesting that unauthorized reprints had inflicted "excessive injuries" on British authors' reputation and property, the petition deplored the precariousness of looking, calling attention instead to the reprint trade's lack of respect for the author as an individual. Thus the injustice perpetrated by this system had less to do with stolen profits than with the violation of an implicit contract: British books were being
reprinted "not only without the consent of the authors, but even contrary to their express desires."29 This fundamental lack of respect for individual rights manifested itself as a shocking disregard for textual integrity. British books were "liable to be mutilated and altered at the pleasure of [American] booksellers,"9 a possibility that undermined the status of the text as the product of, and proxy for, the author.

Despite this contractual rhetoric and emphasis on individual rights, the British authors' petition ultimately grounded the moral right of the author in hereditary privilege. This is clear from the way in which what starts out as a narrative about stolen goods gets recast in familial terms as lost inheritance and false paternity. Citing the bankrupt Sir Walter Scott as an example, the petition suggests that an "equitable remuneration" from the American public "might have saved his life" or at least provided for his heirs, relieving his "closing years from the burden of debts and destructive toils."9 While the accusation remains oblique, the "Thomas Moore" petition implies that American reprints were partially responsible for Scott's demise. The negligence and greed of American publishers had substituted a profitless, generalized fame for the literal perpetuation of Scott's line.

Of course, Scott is a volatile figure for the British authors to cite in this context, in that he represents a limit case for the viability of the aristocratic model of authorship. Scott's bankruptcy is a delicate subject precisely because it points to the fragility and superannuation of the very fiction the British authors are trying to sustain. Rather than poignant proof that authors' rights needed to be upheld on Lockean grounds—as an author, laboring in seclusion, produced a form of private property that was then stolen in the process of its dissemination—Scott's career illustrates both the hope and the fear that authorship in the age of mechanical reproduction might work this process in reverse. The lesson of Scott's success is that the anonymous circulation of texts could produce a profit for their author that could then be translated into aristocratic status (represented by the Flora castle, Abbot'sford, and by Scott's acquisition of a knighthood). It is no wonder, then, that the story of Scott's demise should take a central place in the debate over international copyright. Scott's career represents the totalizing ambitions of the aristocratic model of authorship—as if the individual control lost to mass-production could be wholly recuperated by the author—and suggests that this figure is subject to a spectacular collapse.30

This threat to an author's ability to sustain himself and to secure his legacy, however, was only half of the problem. The British authors complained that they were continually "made responsible for works which they no longer recognize as their own," 31 a circumstance that left American readers plagued by "uncertainty . . . as to whether the books presented to them as the works of British authors, are the actual and complete pro-
ductions of the writers whose names they bear." 32 Even the fame British authors received as meager recompense for their labors was tarnished by the possibility of bastardy and imposture. As if to underscore the dissim-
ification of author and text produced by this system, and more firmly to attach one to the other, the "Thomas Moore" petition supplemented its list of signatures with a second, double-columned roster matching each of the signers with his or her most popular books. Although intended to impress, this list stands as a tacit acknowledgment that in America, an author's signature alone was insufficient. In the culture of reprinting, authorial status remained uncertain without some mechanism for tying author to text.

The moral outrage of the "Thomas Moore" petition reflects both the British authors' sense of wrong and their lack of legal standing: they could appeal to neither law nor custom, and so relied on American pride in the protection of individual rights. By contrast, the American petitions in support of international copyright are a good deal more politic and collu-
dictory. Acknowledging that an international copyright law might "injuri-
ously affect American publishers," Henry Clay proposed a bill hedged about with safeguards and qualifications. 33 To justify its passage, he took what was essentially an aristocratic appeal for authors' rights and routed it through a defense of national honor. Raising the British emphasis on indi-
vidual integrity to the level of the state, Clay and numerous petitioners who followed his lead argued that a nation's ability to offer "reversible justice" 34 to foreign authors was the sign of its cultural independence. Although all of these petitions worked from the premise that an inter-
national copyright law would encourage the development of American literature, their common thread was not a rude nationalism, but a pre-
occupation with questions of equity. Drawing on arguments familiar from debates on the tariff, they argued that a "copyright tax" on foreign texts would redress the imbalance in the American market, transforming it into a "fair field" 35 for literary competition. Like the "Thomas Moore" peti-
tion, which clothes a defense of authors' hereditary estate in the language of liberal individualism, the American petitions in support of interna-
tional copyright lean so hard on abstract principles of equity as nearly to obliterate the fact that they were calling for government intervention in
the market on their behalf—in effect, asking Congress to ameliorate the negative effects of the privileges American authors had been granted under the Copyright Act of 1790. Acknowledging that the restriction of copy-
right to citizens had limited the circulation of American texts, they argued that comparable privileges should be made available to foreign authors. Requiring payments to foreign authors would thus be an indirect way of supporting American authorship. While these petitions continually circle around the problem of ensuring equal profits for American and foreign authors (neither of whom, it was claimed, were receiving adequate pay under the system of reprinting), they pitch their appeal largely at the sym-
bolic level. Granting the same rights to foreigners as those enjoyed by native authors would not only be good for American letters, it was an act of generosity extended by nations to other nations of equivalent stature. Playing off fears of cultural immaturity, these petitions repeatedly allege that the cost of international copyright was something a truly indepen-
dent nation could easily afford.44 Allowing the price of British texts to increase would prove that America was no longer reliant on the mother country for its "literary resources."45 The redirection of the industry toward the production of American texts would remove the stigma of secondary-
ness that was endemic as long as American publishers remained "mere re-publishers of foreign books."46

While they differ in approach, these petitions share a conviction in the centrality of the author to the production and preservation of national identity. To the author devolved responsibility both for representing the nation in the international arena, and for inculcating American principles at home. As one petition argued, "native writers are as indispensable as a native militia." Americans "must look, for the defense of their habits, their opinions, and their peculiar institutions . . . to their own soldiers, whatever may be the cost in dollars and cents."47 While a number of petitions argued that American "habit" and "opinions" needed to be defended against "misrepresentation in foreign lands,"48 the compar-
ison of authors to a native militia suggests that the site of battle was pri-
marily imagined to be a domestic one. An influx of foreign texts reflecting monarchial principles posed as internal threat to national security that could be eliminated by the government's active intervention on behalf of American authors. Authors were thus cast into a mediating role between citizens and state, preserving American habits in part by policing them.

The habit that most needed to be policed was reading itself. As one peti-
tion argued, "the feverish and unhealthy taste engendered by the perusal

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of transatlantic novels" could be countered only by the dissemination of "books of real value, teaching republican principles and inculcating Ameri-
can feelings."49 Representing authors as crucial to the preservation of national identity heightened the urgency of these appeals, and yet it also presupposed widespread ignorance or resistance to the "principles" and "feelings" American authors were charged with upholding. The petitions on behalf of international copyright frequently register anxiety about the dislocating social and cultural effects of immigration, western expansion, and sectional conflict; the nation they seek to protect and preserve is internally divided and urgently in need of reconciliation. In many of these petitions, the work of authorship comes to resemble the work of political persuasion, as if the cost of international copyright "in dollars and cents" could only be justified by a literature which would "explain, defend, and disseminate our principles throughout our borders, [and] cement more strongly our Union."50

The extremity of the posturing in some of these appeals is a product of the difficulty of their rhetorical task—to explain how payments to Brit-
ish authors could possibly benefit the American public. This was a daunting assignment in that opponents of international copyright were quick to take any expressions of concern for the British authors' plight as evi-
dence of collusion between American and British authors to defraud the American public.51 Copyright advocates, then, were forced to find justifi-
cations for foreign authors' rights that would keep critics from regarding foreign authors as stand-ins and mouthpieces for American publishers and authors. While their depiction of the American author as writing in the service of the state helped to distance the two, transforming the problem of payments to foreign authors into a necessary defense of national secur-
ity, it also covered for another kind of anxiety: the problem of imagining the role of authors and the stability of culture under a market system. The petitions on behalf of international copyright were driven by a curious con-
tradiction: while nearly all involve some sort of passionate appeal for equal-
ity in the marketplace, they repeatedly return to a representation of the author as either indifferent to personal profit, or temperamentally unable to sustain economic relations. Henry Clay, for example, depicts this cham-
pion of American independence as extraordinarily vulnerable, both by trade and by disposition: "[authors] are often dependent, exclusively, upon their own mental labors for the means of subsistence; and are frequently, from the nature of their pursuits, or the constitutions of their minds, incapable of applying that provident care to worldly affairs which other classes of
society we in the habit of bestowing" (1). Clay is concerned here to justify government intervention in the market with reference to the parasitical nature of literary labor, describing authors as "among the greatest beneficiaries of mankind" (1). And yet such special pleading runs counter to his claim that the foreign book, like a "bale of merchandise," needs to be brought under the laws of property that govern ordinary things. Clay's need to insulate authors from the market even as he seeks to classify the productivity of their labor as ordinary property suggests that the author may have come too much to resemble an ordinary worker, one exclusively dependent on his labor for subsistence. Clay's hope that international copyright will afford the American author and publisher welcome relief from the "dangerous competition" (2) of the reprint trade suggests that the American author's vulnerability stems not from his habitual detachment, but from his subjection to the market. Boston publisher Nathaniel Capen similarly argues that an author's absorption in his work precludes "skill is protecting his pecuniary interest."(26) For Capen, the importance of the author to national identity, and the necessity of authorial withdrawal from the world, makes it incumbent on the state to secure "a life interest" (26) in the products of his labor. In Capen's account, the author's professional anti-professional status makes him a worthy recipient of government subsidy.

Both Capen and Clay invoke the romantic conception of the isolate artist under the sign of infinity, not strength. Pseudonymically, the author seems susceptible to financial ruin because of his self-reliance. Part of the appeal in agitating for payments to foreign authors, then, is that international copyright advocates are able to present the American author from the stigma of self-interest while providing for his financial security. The argument on behalf of international copyright comes loaded not only with fears of cultural dependency, but with fears about the dependence of the author upon the very payments it prescribes. The representation of the author as a selfless defender of national values seems driven by the hope that at alignment with the public good could somehow carve out an extra-market space for the author from within the confines of the market. Rather than integrating the writer-as-producer into the economic order, pro-copyright petitioners use the special vulnerability of the author to market fluctuation to justify legislation that would regulate the dangerously speculative market in printed goods. It is the unfairness of authors for market society that provides the pretext for legislation that would discipline the reprint trade through the figure of the author-as-proprietor.
international copyright was "hostile to that general diffusion of intelli-
gence. . . . which is the best safeguard of our republican institutions."64

As pre-copyright petitioners astutely noted, this spirited defense of the reprint trade was mounted by those who most stood to gain from its protection. While the appeals on behalf of international copyright were put forward by both authors and publishers,65 the opposition was clearly identifiable as the voice of the trade, "embracing booksellers, papernakers, printers, bookbinders, type founders and others . . . connected with book making and periodical publication."66 And yet to dismiss this rhetoric as a mere cover for the interests of manufacturers would be to ignore the complex ways in which these petions redefine literary value, shifting the locus of literary nationalism from the author to the text-as-object. Rather than establishing the Americaness of a book by reference to its subject matter or to the nationality of its author, copyright opponents argued that national values were instantiated in the process of a book's production. Thus the mess by which a British novel in "three handsome volumes"67 was transformed into an affordable American double-decker carried with it the entire ideological freight of the republican dream of popularizing knowledge. One identified an American book by its physical appearance—by "the compression of bulk, and consequent less consumption of paper," by "the use of smaller type, and putting the lines closer together" (1)—regardless of its content or the provenance of its author.

In these petitions, the resetting of type becomes a powerful point of re-origination, the most important stage in the adaptation of the foreign text for American use. Not exempt from fears about unfettered circulation, some petitioners maintained that resetting type gave American publishers an important measure of control over content, an opportunity to excise "sentiments offensive to good taste and good morals."68 There are indications, too, that southern legislators worried that granting copyrights to foreign authors would embolden British abolitionists and encourage the circulation of anti-slavery publications. Reprinting was thus imagined as a local or regional instrument for censorship.69 And yet what is striking about these petitions on the whole is the degree to which they shift the terms of the debate from the question of content to the politics of the manufacture and distribution of texts. Although it may also be read in the plot and characters of British novels, British tyranny is most legible in the London publishers' desire to control the American book market on their own terms, accruing economies of scale by printing large edi-
tions from "type already standing,"70 and yet refusing to lower the price of books accordingly, so that reading could be made affordable. Far from a hedge against British dominance of the American literary marketplace, international copyright would solidify their power, allowing British pub-
lishesto supply the American market without risk of competition and underselling."(2). Not only would this monopoly deal a terrible blow to industry, "causing books to be manufactured in England that are now printed in this country"(1), it could alter the distinctive character of AmericanPublishing. As one petition predicted with dismay, "English prices and style of publication would soon begin to be fashionable here."

Granting copyrights to British authors would ensure that nothing but British texts—in form or content—were available in the American market. The American reprint, then, was more than a cheap, degraded version of its British original. Its small type and narrow margins broadcast a defiance of the monopolizing intentions and elitist, conserving products of the "luxurious press of London."71

In defining reprinting as the resetting of type, copyright opponents aligned this act with origination and productive labor, redistributing the passivity conventionally associated with copying onto the British original (printed from "types already standing").72 This defense of the reprint trade bears all the marks of what Isaac Kramnick and Carroll Smith-Rosenberg have identified as the "commercial republics" recasting of "classical repub-
lican" values. Grounding national versus in the labor of the printer, rather than in the insalubrity property of the author, the trademen who opposed foreign authors' rights shifted the stigma of idleness and self-interest onto British authors, London publishers, and their American allies.73 Over and against copyright advocates' sentimental tales of the suffering of authors' widows—tales that incessantly rewrite the crisis of copyright as a problem of inheritance—copyright opponents cite the many female laborers who would be "thrown idle by the passage of the bill," arguing that the misery of working women would be "poorly compensated for by any display of ultra sympathy towards those who stand in no need of it."74 Associations of authors' rights with luxury and hereditary privilege, these petitions argue that any extension of these rights would be an irresponsible sacrifice of public good to private interest. In equating international copyright with a threat to American industry, and locating national identity in the process of production, they make the powerful claim that manufacturing, and not literature, is America's true cultural product. It is, however, not simply this defense of the "national industry,"75 but the opposition's elaboration of the politics of book distribution that
poses the greatest challenge to the American authors' bid to be acknowledged as the guardians of national identity. In railing against the pernicious influence of a "London literature," copyright opponents did more than complain about the importation of British books or the production of expensive, high-style facsimiles; they agitated against a system of production and distribution that, like the London market, worked according to a dynamic in which the authors, metropolitan and colony. In this model, the "diffusion of knowledge and instruction over the whole mass" (1), which was the guarantor of liberty, always threatened to collapse back into centralised control. Ceding the power of re-origination in the name of authors' rights would mean nothing less than ceding independence itself: "our entire country would be as much a market secured to the London publisher, and the English author, as Scotland or Ireland" (1).

These were highly charged comparisons in the context of American publishing. As Richard Cargill Cole has shown, the American reprint industry was heavily indebted to Scots and Irish publishers who pioneered the production and marketing of cheap reprints of English books. The American reprint trade also depended on the provincial British press for much of its labor, employing large numbers of printers and other craftsmen under the Act of Union (1800) that ended the Irish reprint trade to collapse. American printers were thus acutely aware of the vulnerability of provincial trade to centralised capital, and all too familiar with the London publishing trade's use of authors' rights to extend the reach of their domain. In an influential 1813 pamphlet, *Letters on International Copyright*, Henry C. Carey—a publisher, economist, and the son of Philadelphia's most prominent Irish immigrant, Matthew Carey—drew a strong connection between the unification of Great Britain, the consolidation of capital and political power in London, and the consequent impoverishment of Scots and Irish letters.

Reasserting the American revolutionary defense of provincial liberties against the oppressive, centralised authority of Great Britain and counting on the relevance of this defense to the class and sectional politics of the 1820s, Carey reminded his readers that "centralization tends towards taxing the people for building up great institutions at a distance from those who pay the taxes" (45). Carey made the case of international copyright resonate with the threat of absentee landlords, the dangers of a distant, unresponsive government, the poignancy of deserted villages, and the flight of literary talent from provincial capitals to a corrupt metropolis.

Over against this model of a literary marketplace in which satellite nations traded in an inevitable orbit around the London publisher and English author, American copyright opponents proposed a system in which decentralization would ensure that free trade operated in the interests of the republic. The suspension of private property rights in texts made possible by the lack of international copyright was crucial to this formulation. The legalisation of international literary piracy made it possible for publishers to imagine a system in which editions of any single text could be both limitless in number and thoroughly dispersed. As one petition argued, the surrender of authors' proprietary rights translated directly into the popularisation of knowledge: because "no one house [had] the exclusive legal control of publication," prices were "kept moderate from the dread of competition," and books, as well as profits, were distributed as widely as possible. In a culture of reprints, there would be no center from which authors and "monopolizing publishers" could assert control. Rather, this system would distribute property in the same way and at the same time that it distributed knowledge, multiplying the sites of re-origination and maximizing opportunities for virtuous labor. Multiple American editions of foreign works were not a sign of dependency, excess, or insufficiency, but proof of "that general diffusion of knowledge that preserved independence. One petition remarked with pride that three different editions of Scott's complete works had been published in America. Establishing a high-water mark for its regionalizing ideal, it went on to effuse: "Of Byron's works, editions have been published in all the principal cities of the Union."

These arguments on behalf of the reprint trade are persuasive not because they bring the fact of the market into alignment with the interests of the state, and because they take into account the difference that the technology of stereotype made to the politics of print. While it greatly increased the cost of book production, the ability to cast and store a plate of type offered publishers a valuable hedge against risk. Whereas books composed from ordinary moveable type were dismantled in the process of production (their pages broken down and the type distributed for use in the composition of subsequent pages), books composed through the stereotype process could be stored indefinitely in plate form, and used for multiple reprints. Stereotype shifted the locus of publishers' property in texts from unwieldy and fragile printed sheets to durable and transportable metal plates—in effect, a master-copy of the book itself. Crucially, stereotype gave publishers a measure of control over unpredictable consumer demand. It enabled them to print and release books in smaller
Chapter 2

batches, cutting losses should the book fail to sell, and saving the cost of resting type as the event that the book turned out to be successful. 35

It was precisely this measure of control over the market that worried the opponents of international copyright. Stereotype did not in and of itself restrict the supply of books or produce monopolies. Indeed, this technology enabled economies of scale that could theoretically result in cheaper books for the general populace. Producing duplicate plates was relatively inexpensive, radically expanding the upper limit of any single print run. This increased economy of the press and the mobility of the plates themselves meant that stereotype lent itself just as easily to a system based on high volume and multiple sites of production, as it did to one that regulated supply and concentrated publishers' power.36 And yet stereotype, when combined with copyright, sharpened fears of centraliz ed control. One petition projected that, when secured against competition by international copyright, London publishers would print off large American editions from their London plates, or, more drastically, would ship duplicate plates to America for domestic printing. In this petition, the fantasy of foreign control is so complete that it imagines the British publisher recouping its entire tariff payment upon shipping the plates back to London. Not only would the American reader be placed in thrall to the British publisher, the government would be deprived of "the tri fling importation duty which is justly its due."37

It was the argument on behalf of a decentralized literary marketplace that pro-copyright forces had the most difficulty rebutting. Even copy right advocates' willingness to add a manufacturing clause to their bill— one that would ensure that all foreign books would be produced in America—could not answer to opponents' fears about British control over stereotype plates. Neither could their pleas for government support of native authors address the need to maintain decentralization across the national market. In calling for government intervention, pro-copyright petitioners identified the author and the reader as potential sites of national vulnerability—the former dangerously subject to market fluctuations, and the latter to foreign influence. While the American author could be relied on to instill democratic principles and to fortify republican institutions, it was the government's responsibility to protect this figure from a market that favored cheap reprints over original productions. By contrast, copy right opponents welcomed the mass-production and distribution of texts so long as there were structural barriers to the recapture of disseminated property by a central power. There's was not an unqualified embrace of the

International Copyright and the Political Economy of Print

market. Indeed, the threat to political stability posed by print monopolies made it incumbent upon the state to protect the system of dissemination that underwrote its virtue. Luckily, however, this could be done with a minimum of intervention by the central government. The benefits of entrusting national virtue not to authors but to a circulation that preserves and is self-preserving, was confirmed by the fact that supporting the latter system required no exercise of government power. As the committee rec ommending Senate rejection of Henry Clay's first copyright bill reported, booksellers', publishers', and typographers' interests were "in harmony with public policy"; copyright opponents "asked no change of the law."38 Such logic recasts Congree's "failure" to act on foreign authors' rights as fully ideological. Far from an unaccountable (and thus, inevitably self-interested) neglect of individual rights, the legislature's refusal to extend copyright privileges to foreign authors becomes the sign of its virtuous abjuration of the exercise of central power.

The virtue of this refusal becomes more apparent as copyright adv ocates pursue an international copyright treaty with Great Britain after the failure of Clay's many attempts to pass the measure into law. In 1857, while a privately negotiated copyright treaty was awaiting ratification by the Senate, Henry Carey issued his influential pamphlet, protesting that the treaty represented a dangerous attempt "to substitute the will of the Executive for that of the people as expressed by the House of Representatives."39:40 "Here we have secrecy in the making of laws, and irreversibility of the law when made," political means that are "better suited to the monarchies of Europe than to the republic of the United States." 40 The American negotiators of the treaty responded to anxieties about the link between international copyright and the consolidation of economic power by adding price-control provisions that required British publishers to produce cheap editions for the American market. But the copyright treaty hove under the weight of these politically volatile amendments amidst growing public concern over the secrecy of the proceedings.41

If the importance of cheap books to American culture was an emerg ing ground of consensus in this debate, the chief point of contention was how best to protect American authors' rights, which appear in the argumen ts of both sides as a hindrance to the circulation of their books. Pro copyright petitioners sought to counter the inhibiting effects of domestic copyright by requiring payments to authors regardless of national ori gin. They maintained that stabilizing the literary marketplace through international respect for authors' rights (and the publishers who wielded
them) would deliver adequate profits without substantially increasing the price of books. Anti-copyfight petitioners insisted, however, that it was not the stabilization but the expansion of the domestic market that would most benefit the American author. They argued that the widespread availability of cheap reprints was instrumental to the creation and maintenance of the mass readership on which the prosperity of American authors and American letters ultimately depended. Moreover, they insisted that the restriction of copyrights to American authors accorded them a unique form of property that provided leverage with American publishers under the system of reprinting. American publishers were able to issue native works without fear of competition, but given an international copyright law, they were likely to invest all their capital in more valuable British texts. Calling attention to the relatively weak demand for American books in foreign markets, they argued that the literary property of American authors could retain its value only in the context of the mass circulation of affordable reprints that elevated the taste of American readers and that sustained the publishing system as a whole. Mainstream opposition to international copyright held that a fledgling national literature was actually protected by a system in which authors’ rights and publishers’ control extended only as far as national borders.

Some copyright opponents, however, saw in the suspension of foreign authors’ property rights as an extraordinary national opportunity—the possibility of doing without a literaré élite altogether. Harriet Martineau—could not have been more mistaken when she assumed a conjunction between the cultural status of authors and political power. Rather than dropping to their knees when addressed by the author-monarch, anti-copyfight petitioners argued that authors were ultimately peripheral to the interests of the state. Inverting Jefferson’s plan for securing national virtue by discouraging domestic manufacture (confining commodity-production and government work that attends to it to the other side of the Atlantic), some petitioners suggested that authorship could be delegated almost entirely to the Europeans. By focusing their energies on the reproduction of foreign texts, Americans could acquire all the benefits of elite culture without encouraging the development of authors as a specially protected class of our own citizens. Like the expensive products of the London press, a literary elite tended in its exclusivity to “widen those distinguishing lines which it should substitute for the republican fantasy, relinquishing ownership produces profits in such extraordinary amounts that the author is bound to be remunerated far in excess of the figure that would represent entirely to the work of adaptation, translation, and popularization. With this shift in aspirations, all knowledge could be treated as general knowledge, and there would be no barrier to its diffusion... over the whole mass. While the Democratic Review dismissed this kind of thinking as “literary agrarianism,” stressing the scarcity of authorial property within the confines of the nation, its support for a system in which authors’ rights expire at the geographic limits of the state can secure American authors’ property only at the cost of foreign authors’ rights."

Surrounding rights, however, did not necessarily imply lost profits. Alongside their political defense of the culture of reprinting, copyright opponents delivered a spirited rebuttal to the allegation that the reprint trade was responsible for Scott’s demise. Confirming that large sums were paid to Scott by American publishers for early copies or “advance sheets” of his novels, these petitioners argued that market competition and breadth of circulation were ultimately more valuable to an author than direct control over his text. They insisted not only that Scott was well paid in his lifetime, but that large sums continued to be paid to John Lackhart, Scott’s son-in-law, for his multivolume biography, The Life of Scott (1857). According to these petitioners, the story of Scott’s demise was not one of disrupted inheritance, but one of surplus returns produced by the very system Scott’s colleagues were so eager to outlaw. While the system of decentralized mass-production required the surrender of foreign authors’ property, it was capable of providing enormous profits for authors—albeit indirect ones. Copyright opponents insisted that in Scott’s case, the lack of a direct legacy was more than made up by the success of his son-in-law’s biography. Although compensation proceeded by way of mediation and deflection, The Life of Scott was adequate recompense for the life of Scott. It is, finally, the presumption of an inexhaustible demand for books that ensures indirect, but hefty returns for authors within the system of reprinting. In countering the copyright advocates’ claim that American books were being edged out by their British competitors, the Senate committee report maintained that “Every book that is read makes a market for more even of the same character. Mind, unlike matter, hungered upon that on which it feeds.” According to this report, the excessive demand that drove the reprint trade made direct authorial control over texts unnecessary. Within the terms of the republican fantasy, relinquishing ownership produces profits in such extraordinary amounts that the author is bound to be remunerated far in excess of the figure that would represent
an adequate return on his labor. In two, the large sums sent to foreign authors by American publishers take on its idealized character precisely because they are divorced from any notion of steadily indebtderess or just reward for labor. Payments for advance sheets or for the right to produce "authorized" editions struck equally of patronage and cooperative-ship: they are rooth market-driven and voluntarily made. Reprinting allowed American publishers to invoke the figure of the author-as-proprietor without requiring that they pay him homage. Indeed, at their most extreme, these pressures imagine the British to be something of an American creation, another anoverall type who is sustained by the fame and fortune generated by American reprints. As one petitioner argued with reference to Scott: "British authors of high repute have been, and are still paid fairly for their works. Competitions among American publishers has caused this."90

Maintaining Decentralization:
Reprinting and the Syncopation of the National Imaginary

Given the opposition's vigorous defense of the status quo and their success with the American legislature, it is not surprising that the vision of the literary marketplace put forward by the anti-copyright forces should begin to be registered within pro-copyright petitions as a considerable source of panic. If the chief anxiety driving the opposition was a fear of centralized control, the correspondent anxiety among pro-copyright petitioners was a generalized fear of the disruptive social effects of an industry that produced and sold books "without reference to responsible ownership."91 As the debate progressed, copyright agitators began to depict the unrestricted circulation of reprinted texts as a threat to all forms of textual possession. In a lengthy petition, Neshum Capen characterized the lack of international copyright as a general crime against property, representing the circulation of reprinted texts as the unavailing scattering of valuable goods and the domestic text that had outlived its copyright as a form of instant trash: "when the property of authors becomes public property . . . it is absolutely thrown away."92 Capen's somewhat predictable attack on dissemination finally gives way to an extraordinary construction of reading itself as a radically nonproprietary act: "Books are reprinted on poor paper, [with] small type, and put into binding that rather serves to hide their blurred pages, than to protect fair ones; and thus millions of volumes of standard works are produced and sold, which serve but to weaken the eyes of the people, or to refill the vat of the paper-maker, from which they had been taken but a few months before."93 Capen's complaint works an important change in the rhetoric of epistemology through which Augustans such as Pope and Swift had condemned mass-produced literature, linking it to the instability of a credit economy.94 For Capen, cheap, standardized texts are somehow no substantial, wearing down the reader's body in the process of their consumption, while at the same time managing to escape being fully comprehended or read. This is, finally, a vision of mass-production without consumption, or rather, without a form of consumption that is able to exhaust the mass-produced object. Both the blurred, unreadable pages of the book itself and the perpetually re-filled vat to which the book returns identify the "standard work" with a kind of pure materiality—a materiality that, unlike the thingness of a commodity, actually preserves the book from being subject to individual appropriation. This image of the infinitely recirculating, perpetually transformed, yet unprejudiced text, seems a nightmare version of the magically self-sustaining circulation that copyright opponents claimed would preserve American independence. While anti-copyright petitioners regarded the mass-production and circulation of texts as centrifugal forces capable of liberating the individual from the tyranny of centralized power, Capen sees mass-produced books as the textual precipitate of the social in its most anti-individualistic, radically dispossessing form. For Capen, circulation-without-possession is a most troubling at the point of reception. The widespread availability of cheap reprints threatens the future of both libraries and serious reading: "To say that good books are worth more than one reading, and that they are worth preserving would be an almost unpardonable slight to the understanding of our readers . . . and still, one would suppose that our whole nation were opposed to these propositions as being yet doubtful or undecided."95 Despite the Destructive Review's efforts to distinguish its position from "literary agrarianism," Capen perceives the threat to property posed by the system of reprinting to be radically leveling. Other pro-copyright petitioners worried more about the effect of reprinting on book production: According to John Jay, lack of control over literary property "deranges the regularity" and "impairs the prosperity of the book trade" (7), transforming the respectable business of publishing into something more like gambling:
the publisher who reprints a foreign work cannot advance form certain calculations as to the result of the enterprise. The work being open to all, other publishers may be printing it at large; and the most popular the work, the more numerous the editions: so that neither in regard to the required supply, nor the reasonableness of the price, nor the extent of the sales, can be form any estimate with probable certainty. The publication of books under such circumstances becomes a mere speculation, where the risk of loss counterbalances the chance of profit, and which prudent and cautious publishers are apt to shun, as opposed to safe and correct principles of business, and from which men of small capital are driven by the fear of being ruined. (6)

Like Henry Clay's depiction of the vulnerability of the American author, Jay's appeal for authors' rights reflects not confidence in, but anxiety about market culture. For Jay, an unregulated literary marketplace can only look disorderly and inefficient. Citing "a waste of capital in the multiplied editions of the same book" and "the risk attending this business, when it does eventuate in loss" (6), Jay argues for international copyright on the grounds that it would protect American publishers against the excesses of market competition. Where literary property is "open to all," publishers are exposed to dangerous levels of uncertainty, speculation, waste, and risk. Countering the assumption that the decentralization of the literary marketplace worked to prevent concentrations of political and economic power, Jay argues that the manifold uncertainties of an unregulated market produce the opposite effect, chasng out the small entrepreneurs anticyopright forces intended to protect. By way of proof, Jay notes that "the business of reprinting the new and popular books that issue from the English press is to a great extent monopolized by a few large houses whose wealth and power enable them to match competition" (6).

Jay's warnings about reprint monopolies and the hypermateriality of Capen's vision raise questions that will prove crucial for the defenders of the system of reprinting. How can a model of circulation that preserves and self-preservation be prevented from agglomeration? Is the suspension of foreign authors' rights sufficient to prevent the consolidation of publishers' power? The debate over international copyright plays out in parallel one of the central paradoxes of the Jacksonian model of political power, a contradiction inherent to federalism that shaped pivotal struggles over economic development and the legality of chattel slavery: how can the decentralization of power be sustained when it has to be enforced from the center?

International Copyright and the Political Economy of Print

In the case of the large-scale republications of popular foreign novels, the fact that a particular text was officially "open to all" reprinters did not prevent consolidation. Acutely aware of the destructiveness of the kind of market Jay described, reprint publishers developed a system of de facto copyright known as "courtesy of the trade" by which a newspaper announcement of the intent to publish a foreign work informally carried the weight of a property claim. While this kind of gentlemen’s agreement allowed publishers like the Harper Brothers in New York, and Carey, Lea & Blanchard and T. B. Peterson & Brothers in Philadelphia to invest considerable sums in stereotyped editions of foreign authors' collected works—publishing schemes that often went uncontested by rival printers—"courtesy of the trade" proved unenforceable both in practice and in court of law. Even when control over the market for a particular reprint was seemingly secured by public declaration and by promises to the author for early proof sheets of his work, delays in the delivery of these sheets, disputes over the priority of claim, and upstart competitors left even powerful reprint houses wanting to corner the market for a particular title. As the Harper's brothers explained in a letter to Edward Lytton Bulwer, whose historical novel Rambel (1856) had been reprinted by a rival publisher, neither the intensive capitalization of the larger houses, nor their determination to protect their investments in "uniform editions" of a particular author's work could rule out losses sustained by the need to compete with publishers who preempted them in getting a book to market. "although we have said, and truly, that we could prevent the priority from being any great advantage to any other publisher, we have not said and do not say, that we should not be the losers by the operation." Terrful McLaurie has persuasively argued that the reprint industry's reliance on high volume sales at low prices favored publishing houses with large capital reserves. According to McLaurie, investments in high-speed presses and in distribution networks enabled the larger houses to survive cut-throat competition and economic depression "while smaller establishments failed of foreign authors' rights sufficient to prevent the consolidation of publishers' power?" Moreover, the system that anti-copyright petitioners sought to protect extended further than the highly visible and controversial reprints of foreign novels that peeked in popularity in the early 1840s. In refusing to extend property rights to foreign authors, Congress protected not only the domestic market for cheap reprints of popular fiction, but also a host of miscellaneous pamphlets, magazines, and newspapers that relied on uncopyrighted
texts for much of their material. The system of reprinting was a cross-
media phenomenon, in which sentimental tales that were first published in
expensively bound gift books reappeared as filler in local newspapers; in
which elite British magazines were reprinted in their entirety and mixed
for essays that were reassembled into regionally published eclectic maga-
zines; and in which evangelical tracts, works of popular science, medical,
legal, agricultural, and school texts were freely excerpted, imitated, plagia-
ized, and reissued, in disregard of international copyright law. American
authors and publishers chiefly intended to bring order to the transatlantic
book trade, they encountered opposition from American publishers who
were heavily invested in blurring the lines between books, pamphlets, mag-
zines, and newspapers.

Finally, those defending the system of reprinting were ultimately more
careful in the general availability of texts for republication than they
were with the incipient coalescence of the reprint trade in New York
and Philadelphia. What was important was that a wide range of printed
matter remain "open to all"—not only the products of the foreign press,
but also magazine writing by American authors, which by custom circu-
lated without copyright protection, as well as government publications,
lectures and addresses, and the many genres of newspaper writing, such
as court reports, prices current, political commentary, and fugitive poetry,
which, by virtue of their appearance in a newspaper, were considered pub-
lic property by law.98

The system of reprinting not only enabled small entrepreneurs to
imagine a market for printed goods that would operate without central-
ized capital or control, it also offered a model of national identity that was
particularly congenial to advocates of a loose federal compact, providing
evidence of the noncoercive coexistence of national unity and local auton-
omy. Benedict Anderson has famously argued that the novel and the
newspaper were crucial to the production of "that remarkable confidence
of community in anonymity which is the hallmark of modern nations."99

According to Anderson, formal aspects of these mass-produced texts, such
as the novel's omniscient narrator and the arbitrary juxtaposition of stories
on the newspaper page were instrumental in establishing the consciousness
of "steady, anonymous, simultaneous activity" among strangers which is
"a precise analogue of the idea of a nation" (26). The modern newspa-
per also allows for reassuring performances of community-in-anonymity
through the spectacle of its simultaneous consumption; "the newspaper
reader, observing exact replicas of his own paper being consumed by his
subway, barbershop, or residential neighbours, is continually reassured that
the imagined world is visibly rooted in everyday life" (35-36).

Adapting Anderson's general insight to the characteristic print forms of
antebellum American culture, I would argue that the prominence of
reprinted texts in newspapers, literary weeklies, monthly magazines, and
periodical miscellaneous of all kinds created a sense of near-simultaneity that
was crucial to the imagination of the federal form of the nation. Reliance
on reprinting was most visible in the cheapest periodicals, declining in
frequency as the reader moved from daily and weekly papers to general
interest monthlies, to magazines with elite pretensions that conspicuously
advertised their publication of original productions. And yet reprinting suf-
ferred the antebellum print environment. For instance, both mass-produced
urban dailies and small-scale rural weekly papers relied for their news on
a system of newspaper exchanges made possible by a law that allowed
newspapers sent between printers to travel free of postage through the
mails. With little or no provision for reporting outside their own locali-
ties, antebellum newspapers were a tissue of items copied from other print
authorities, giving credit to the paper of origin at the head of most of
the reprinted articles. Alongside the sense of simultaneity produced by
the paper's graphic order and its assumption of calendrical coincidence,
then, were constant reminders of the complex relays by which information
was gathered from and disseminated to scattered commercial and cul-
tural centers. Reprinting allowed for the national circulation of the same,
but each iteration marked the distinctiveness of the regional or the local.
Although large-circulation, partisan papers headquartered in Washington
and in state capitals were able to establish reliable networks of exchange,
elevating local affairs to national prominence and getting out the party
line to the hinterlands, the selection of items for reprinting ultimately
depended on local editors. Given the proliferation of American newspa-
pers, which by 1838 were thought to number between 1500 and 1500, and
antebellum printers' rich exploitation of the system of exchange (in 1843
the post office estimated that publishers received on average 564 exchanges
per month) the distribution of news could be neither enforced nor super-
vised by the center.100 The prominence of reprinting in antebellum news-
papers offered a syncopation of the national imaginary that fortified the
principles of a state's-rights federalism, providing both the homogenize
crucial to a sense of national belonging and constant reassurances of a

saving heterogeneity. Antebellum Americans may have held their news and its mode of presentation in common, but the spectacle of the consumption of exact replicas extended no further than the local.

Similarly, the traffic in essays, tales, and poems copied from British and American periodicals and reassembled into literary weeklies and monthlies served as a constant reminder of the disjointed nature of American literary culture, its suspension between and among distant publishing centers that competed with each other for cultural authority. Though perceived by antebellum Whigs and twentieth-century literary critics chiefly as an obstacle to the development of a national culture, the system of reprinting embodied a central tenet of Jacksonian political philosophy—the commitment to the decentralization of power as the mark of national difference. In establishing a public sphere based on the general accessibility of printed texts but defined by the stutter of locally interrupted circulation, and in its disaggregating response to the challenges posed by economic development, the system of reprinting represents the Jacksonian form of national culture.

Circulating Media:
Charles Dickens, Reprinting, and the Dislocation of American Culture

The history of American resistance to international copyright illustrates the power of the figure of the author to simplify and distort the politics of print. As I have argued, what from the perspective of an author-centered literary culture looks like an unconscionable violation of authors' rights was understood in the antebellum period as a struggle between competing visions of a rapidly expanding marketplace. Although an international copyright law was repeatedly invoked as indispensable to the development of a national culture, the production and circulation of printed texts flourished in the absence of such a law; what was at stake was not the existence but the definition of national culture. The argument that a universal application of the principle of authors' rights would stabilize the volatile trade in books was decisively turned back by publishers and tradesmen who were less concerned with regulation than with the need to preserve decentralization across the market for printed goods.

Literary critics have generally assumed that the expansion of print culture coincided with and reinforced the emergence of commercial nationalism, but debates over literary property suggest instead that the market for print in the 1830s and '40s was shaped by the Jacksonian resistance to centralized development. Andrew Jackson was swept into office on a wave of populist suspicion of the elite abuse of political power and the widespread perception that northern capitalists reaped disproportionate benefits from the extension of market culture. His controversial refusal to recharter the national bank and his commitment to the restraint of credit were a direct assault on the policies of John Quincy Adams and Henry Clay, who promoted integrated plans of national development that relied on centralized finance and oversight. Encouraging economic growth while
Coda

IN THE EARLY 1850S, structural changes in the book trade began to put an end to the culture of reprinting. The characteristic decentralization of American publishing slowly gave way to the integration of regional markets, which were linked both through innovative publishing practices and through the development of a reliable network of railways and roads. Changes in the ways in which publishers managed their businesses were crucial to this transformation. For instance, in 1853, New York publisher Charles B. Norton traveled west to Cleveland and Cincinnati, south to New Orleans, and back north along the eastern seaboard, visiting booksellers, publishers, and libraries, and selling subscriptions to a new trade periodical, Norton's Literary Gazette and Publishers' Circular, in which he reported on the progress of his tour. While it was still necessary for Norton to circulate bodily in order to assess the current state of the trade, his travels laid the groundwork for a journal that would circulate in his stead, bringing distant print centers into closer working relations. Changes in systems of distribution also promoted cooperation between publishers and altered the marketing of their books. As Ronald Zboray has argued, the ability to ship books across a linked system of railways enhanced communications between publishers at the same time as it extended their reach, encouraging publishers to sell on commission rather than to rely on older, more cautious systems of barter and exchange.1 The shift in the nature of western publishing serves as a good index of the effects and pace of market consolidation. In the late 1840s and early 1850s Cincinnati publishers successfully competed with eastern houses, publishing expensive reprints of Gibbon and Byron, ten-cent pamphlet editions of Dickens, popular European and western romances, and eclectic magazines with a regional focus on western history and fiction. But as Walter Sutton details, by the mid-1850s railway shipments of eastern books forced Cincinnati publishers to shift from general to specialized publishing and to transform their reprint operations into distribution houses for more powerful eastern publishers.2

The increasing commercial viability of American fiction also served as a sign of and spur to consolidation. A new confidence in the marketability of American writing was signaled by George Palmer Putnam's founding of Putnam's Magazine in 1853 as an answer to the Harper Brothers' extra-ordinarily successful reprint miscellany, Harper's Monthly Magazine (1850). Both publishers' periodicals were designed to build demands for their books through serialization, advertising, and the cultivation of a loyal readership. Differences between the two magazines, however, suggest diverging estimates of the desires of the reading public. The prospectus for Harper's boasts the familiar virtues of the culture of reprinting, championing the absorptiveness of the magazine as a format and promising to call through the wealth of Europeans and domestic periodicals for articles that exceeded "merely local and transient interest." Harper's is expansive in its address: it is "not intended exclusively for any class of readers, or for any kind of reading." Its melange of scientific articles, literary criticism, political speeches, illustrations, and popular fiction seeks to please and to produce a general reader.3 Putnam's, by contrast, appeals to national pride, promising to provide access to foreign topics through the perspective of American authors who can be relied on to judge the world "by a standard common to ourselves." Not only does it invoke authors as representative citizens who lend order to miscellany, Putnam's recasts the cosmopolitanism of the eclectic magazine as urbaneity, emphasizing New York as an American city that rivals the interest of Paris and London. Nationalism for Putnam is an aesthetic sensibility, a political commitment, and a device for controlling literary property. Putnam takes a risk by publishing only American writing that is original to his magazine, and yet he also stands to profit by retaining exclusive hold on these properties. Making a point of doing "justice to authors," Putnam yokes his publishing prospects to the cause of authors' rights. Arranging for the simultaneous publication of his magazine in New York and London, he banks on Americanness as a transatlantic bill of good.4 While the circulation of Putnam's, which reached a peak of 35,000, remained derailed by that of Harper's, which averaged more than 100,000 copies per issue throughout the 1850s,4 Putnam's editorial gamble heralds a sea-change in publishers' and readers' estimations of the value of American writing. The Harper Brothers also seem to have registered this change. Although they continued to promote their miscellaneous magazine, the list of works on hand at the time of the disastrous Harper's fire in December 1853 indicates a shift toward investment in "original" productions which
nearly equaled the firm's output of reprinted texts. Indeed, works copy-
righted by the Harpers outnumber reprints in the genres of "Travel and
Adventure," "Theology and Religion," "Educational," and "Dictionarys and
Gazettes." Only in the category of "General Literature" do reprints
vastly exceed original productions.8

By 1830, the promise of a coordinated, national market for print
had begun to alter what reprinting meant, both in the United States and
abroad. In closing, I will look briefly at two texts from 1835 that bear wit-
ness to significant changes in American conceptions of literary property,
the politics of print, and the relation of the circulation of literature to
national identity. Both texts were written in the wake of the extraordinary
success of Harriet Beecher Stowe's Uncle Tom's Cabin (1852), the book that
catalyzed its author to fame and fortune when it was transformed from a
magazine serial into a best-selling novel. In the United States, Stowe's
book was celebrated for its evangelical piety and galvanized readers with its
compelling anti-slavery sentiment, but it also opened publishers' and read-
ers' eyes to the potentially enormous market for American fiction. Recog-
nized as an unprecedented event in the history of publishing, the novel's
success tested the norms of domestic copyright and redefined the terms of
debate over an international copyright agreement.

Control of the market for Uncle Tom's Cabin was explicitly at stake
in Stowe v. Thomas, the federal copyright case in which Stowe and her
publisher attempted to suppress an unauthorized German translation of
the novel. As I argued in my first chapter, the court's narrow definition
of Stowe's property in this case reaffirmed that under American law, an
author's rights were limited by the act of publication. Writing for the
court, Justice Robert Grier emphasized that going into print hopelessly
compromised an author's "exclusive possession" of his manuscript, trans-
forming his "conceptions" into "the common property of his readers, who
cannot be deprived of the use of them, or their right to communicate
them to others clothed in their own language, by lecture or by treatise." Stowe v. Thomas literalized Stowe's property in her text; the court decided
that copyright protection extended to typographical but not to fictional
characters. In explaining that under American law, copyright entailed not
simply the assertion but also the surrender of authorial rights, Grier draws
a striking parallel between property in ideas and property in slaves by
figuring Stowe's lack of control over her "conceptions" as the promiscuous
circulation of her popular slave characters:

By the publication of her book the creations of the genius and imagination of the
author have become as much public property as those of Homer or Cervantes. Uncle Tom and Topsy are as much public property as Don Quixote and Sancho Panza.
All her conceptions and inventions may be used and abused by imitators, playwrights,
actors, and poecrites. They are no longer her own—those who have purchased her
book may clothe them in English daggert, in German or Chinese prose. Her abso-
lute domination and property in the creations of her genius and imagination have
been voluntarily relinquished, and all that now remains is the copyright of her
book, the exclusive right to print, reprint and vend it.9

In this passage, Grier's ruling on the property status of translations and adaptations gravitates irresistibly toward figurations that recall the novel's attack
on slavery, in particular, its passionate denunciation of the Fugitive Slave Law (1850). Grier's comic invocation of Tom's and Topsy's unrestrained
circulation evokes the thrust to Union and to theories of "absolute domin-
ion and property" posed by the contested legal status of fugitive slaves.
The mobility of slave-property across state boundaries made painfully clear
the limitations of a federal government that ceded sovereignty over slave-
ry to individual states. Public seizures of southern blacks and critiques
like Stowe's heightened Americans' awareness of intractable differences
between the states and called into question the nature and legitimacy of
federal power. While southerners had long and bitterly complained that
the anti-slavery movement undermined the principle of state authority over
slavery, the Fugitive Slave Law's insistence that slave-property be remanded
to the south provided northerners with a vivid demonstration of what it
might mean for the states to be more tightly bound under southern con-
ceptions of federal law. The hardening of regions into sections divided
against one another in a struggle for power had consequences for the ways
in which textual circulation was imagined and invoked, unsettling the out-
moded symbiosis between the culture of reprinting and the decentralizing
ideals of a states'-rights federalism.

Justice Grier's asymmetrical analogy between property in slaves and property
in books provides one account of how reprinting's emphasis on
the free circulation of texts is drawn into the orbit of the tense political
compromises of the early 1850s. The palpable threat posed by Uncle Tom's
Cabin's intensification of sectional strife helps to explain the decision's
peculiar grafting of a literalistic definition of Stowe's property onto what
is also a tribute to the uncontrolled dissemination of her ideas. Grier's insis-
ten that Stowe's text could be freely adapted by imitators, playwrights,
and poets recalls the reprint trade's contention that loose control over literary property holds potentially dangerous monopolies at bay. His emphasis on the use and abuse of Stowe's fiction suggests that he may also have hoped that the threat to Union posed by this novel would be diffused by its treatment at the hands of admiring and disparaging readers. As Melissa Hormstad has noted, Justice Grier was well known to abolitionists for taking a hard line in enforcing the Fugitive Slave Law; he was appointed to the bench by Millard Fillmore expressly to uphold the provisions of the Compromise of 1850. In light of her research it becomes difficult not to hear in this passage an attempt to balance a heterogeneous and uncontrollable scene of textual reception with an emphasis on the federal judiciary's strict enforcement of property rights. In Stowe v. Thomas, as in the Fugitive Slave Law, the incompatible claims of a diverse and divided public are brokered by adherence to the letter of the law. Grier's analogy between property in slaves and property in books suggests the attenuation of the terms of Union that is implied by the Compromise of 1850. This is a nation linked by the circulation of goods in lieu of a consensus about more fundamental freedoms.

The reaction of the Democratic Review to the success of Uncle Tom's Cabin similarly demonstrates the power of Stowe's novel to provoke a rethinking of the grounds of literary property and to realign the politics of print. For many publishers and readers, the most salient fact about Uncle Tom's Cabin was that it was a pirated book. Reviewers focused not only on the breadth of the novel's circulation within the United States but on its phenomenal success abroad, particularly in Great Britain where "millions of copies" were reportedly sold within a year of publication.11 Putnam's printed a lengthy description of the various formats in which Stowe's text had been reprinted in Britain, France, and all across Europe, offering these editions as proof of the reversal of the subserviency of American letters and of "what may be accomplished by American authors who exercise their genius upon American subjects" (101-2). Stowe's 1852 tour of Great Britain was recognized as a rejoinder to Dickens's 1842 visit to the United States and a rebuttal of his attack on American culture. A speaker at a public meeting in Scotland soon after Stowe's arrival struck a note that reverberated in the American press: "We have long been accustomed to despise American literature—I mean as compared with our own. I have heard eminent literary men say, 'There! The Americans have no national literature.' It was thought that they lived entirely on plunder—the plunder of poor slaves, and of poor British authors. . . . Let us hear no more of the poverty of American brains, or the barrenness of American literature. Had it produced only Uncle Tom's Cabin it had erased contempt."

While for this speaker, Stowe's success brings with it some of the pleasures of symmetry, repaying American originality with British piracy, the popularity of Uncle Tom's Cabin at home and abroad caused the Democratic Review to drop its long-standing resistance to international copyright and to come out in favor of a reciprocal treaty with Britain. A number of factors contributed to this influential journal's decision to abandon its support for the culture of reprinting. Pragmatically speaking, Stowe's success made it newly plausible that American writers stood to benefit from access to the British market, while the development of cheap publishing in Britain made it seem less likely that British publishers would use their copyrights to drive up the price of American books. And yet, in a lengthy defense of their editorial position in August 1853, financial concerns pale before political ones. One clear liability of the culture of reprinting was its vulnerability to changes in the European press. Noting the conservative backlash against the revolutions of 1848, the Democratic Review worried that press censorship had turned European journals into the organs of repressive monarchies. Unlike the Whig polemics of the 1840s in which American literary independence was intertwined with elite aspirations for a national equivalent of British letters, the Democratic Review's call for international copyright is wedded to a thoroughly class-critical view of British culture.12 Outlining the principles of republican governance, the editors argue that the popularity of British fiction threatens to erase crucial differences between British and American "ideas of the limits of autonomy and obedience; the relative position of the different classes of men; the source from whence power is derived, and the conditions on which it is exercised."13 And yet these are obviously national differences that precede the Democratic Review's reversal of its position on international copyright. What makes political difference newly salient and dangerous is the transatlantic popularity of anti-slavery fiction. The success of Stowe's novel and her warm reception by British aristocrats indicate that a decentralized literary marketplace is no match for the superior organization of transatlantic abolition. The Democratic Review hoped that an international copyright law would arrest abolitionists' growing influence over American readers. It calls for a "republican school of literature" (112) to defend white male liberties against a "vastified, effeminise" (111) sympathy for slaves, and while it exhibits considerable nostalgia for "the great republic of letters, in which all nations freely shared" (119), the choice now seems clear:
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it is either "international law" or a tyrannical, extralegal code of "universal philanthropy" (111).

These examples of the imbrication of theories of textual circulation with the politics of slavery suggest that at mid-century, the possibility of popular sovereignty continues to be imagined through recourse to the dissemination of print. The development of a national market for books in the antebellum period is not simply an economic but also a political event. The Democratic Review's anxious call for federal protection of a press that is dangerously open to abolitionist influence, and Justice Grier's difficulty in finding a figure for readers' "common property" in Stowe's text point to a disjuncture between the consolidation of national markets and the stability of national culture. I take this to be a constitutive irony of the period of American literary emergenc: a national market for literary works becomes possible at a moment in which the nation is on the verge of disintegration. That the conditions of literary production and the framework for American literature's conceptual coherence are disruptively and productively at odds has consequences for the study of the classic works of the "American Renaissance." The unsettled nature of the ground of American literature is not simply a corollary for antebellum texts; projecting and stabilizing such a ground is part of the work of literature in this period. Instead of studying how antebellum texts embody national values, we need to attend to the ways in which they take up the question of the cultural coherence of the nation.

The politically charged history of the culture of reprinting also has consequences for how we think today about the relationship between authors and copyright. Antebellum struggles over the right to reprint domestic and foreign texts demonstrate that literary property is never simply or only a matter of individual property rights, but rather of systems of circulation in which persons, corporate bodies, and the state have complicated and often conflicting interests. Recognizing that authors are proxies for struggles over property that others fight in their names makes literary criticism an especially rich field for thinking about the relation of what Roger Chartier has called "the order of books" to larger systems of political and economic organization. Reprinting usefully estranges us from the normal protocols of literary analysis, calling our attention to the multiple acts of categorization and framing we undertake in order to perceive a literary object. In demonstrating both the power and the limits of the author-concept to organize the literary field, reprinting can also open up critical reflection on contemporary attempts to extend the reach and the

duration of rights that we conventionally presume are held by "authors." The antebellum culture of reprinting gives us access to a long history of American skepticism about right controls over literary property, and leaves us with a warning about the poverty of reducing the national stake in intellectual property to the ever more vigilant protection of its circulation.
Peters goes on the defensive, associating copying not with a dissimulation that preserves liberty, but with degradation. Newly attuned to the logic of the supplement, he complains that the mere fact of the existence of a real report casts aspersions on the authority of his own production. The absolute publicity of Supreme Court opinions finally requires that Peters’s Report be authorized by the Chief Justice himself. That Justice Marshall’s testimony to the “fidelity and accuracy” of Peters’s Report is necessarily detached from Peters’s text, circulating in the back pages of the public sphere, symbolizes the republican paradox by which the authority of print is secured by a multiplication of print authorities.

36. U.S. Constitution, Article, I, Section 8. For the argument that this clause reflects not a republican but a “utilitarian conception of literary activity” (72), see Greendale Rice, The Transformation of American Law, 1850–1900. I would not want to draw too sharp a line between these rhetorics. As Rice notes, in American copy
right discourse a defense of the free circulation of texts is often buttressed by instrumentalist public good rationales. Nevertheless, I would insist that the circumscription of authors’ rights in American law was driven by an understanding of print-publishing as necessarily impersonal and as crucial to the imagination of pop
ular sovereignty, not, as Rice would have it, by a conception of the public good as the aggregate of individual interests. As I see it, the utilitarian theory of print he describes is best embodied in the antebellum period by the publishing activities of the American Text Society, which developed techniques of mass reproduction such as standardizing costs and gathering statistics far in advance of the publishing industry. For the development of what we think of as market logics outside the market for literary goods, see David Paul Nord, “Evangelical Origins” and “Systematic Renovance: Religious Publishing and the Marketplace in Early Nineteenth-Century America” (unpublished Ph.D. dissertation, American Reli


Holmes’s decision in this case anticipated the 1909 recodification of copyright law, in which the 1790 statute’s emphasis on useful works was expanded to cover “all the writings of an author” (7 U.S.C. 5, 4).

38. The historical significance of the parent-copyright analogy, which is fre
quently invoked in nineteenth-century copyright cases (often to opposite effects), is too involved for me to take it up here (suffice it to say that, while the analogy to patent law buttressed the claims of the “soul” as Justice McLean pointed out in Wheaton vs. Peters, no one ever claimed that the soul nor the natural or perpetual right to patent-protection (199), figuring the text as a machine, worked in the interests of publishers by eliciting the role of the press in textual production. Like patent law, American copyright justified an author’s property with reference to the cultural function of his text. However, unlike patent law, which requires proof of originality and holds accidental copying to be infringing, nineteenth-century copyright law generally protected against mechanical dupli
cation regardless of the originality of the text in question. In copyright cases, independent re-origination is rarely held to be infringing. See, for example, Shel
don vs. Metro-Goldwyn Picture Corp (1966) where Judge Learned Hand playfully suggests that, “if by some magic a man who had never known it were to compose new Keats’ [sic] Ode on a Grecian Urn, he would be an author; and, if he copy
righted it, others might not copy that poem, though they might of course copy Keats’.” (Decisions, vol. 22, 265).

The comparison of copyright to patent law generally plays off of this funda
mental asymmetry, using the analogy of the machine to struggle in a notion of authorial “invention,” even as it works to effect the author through an empha
sis on the reproductive powers of the text itself. This emphasis on the text-as-machine also displaces the machine that produces the text. In the analogy with patent law, the discourse of copyright rearticulates the common-law fantasy of the author-as-sole producer even as it seeks to invert this figure, establishing the pro
ducer-as-sovereign as the sole author of the text. In the analogy with patent law to place publishers in the position of authors, see Wheaton vs. Peters (199).

For an excellent discussion of the differences between patent law and copy
right, see Alfred Bell vs. Cambridge Fire Insures (1941), Decisions, vol. 28, 42–61.

44. Decisions, vol. 15, 2468.
45. Walter Benjamin elucidates the disjunctive temporalities of his “The Task of the Translator” Illuminations (London: Fontana, 1982), 82.
46. In his critique of judicial reasoning in this case, Drone noted that, taken to its extreme, this decision would hold as noninfringing a version of Uncle Tom’s Cabin that had been retranslated from English into the German translation (A Treatise, 455). While the Act of 1870 expanded copyright to include the right to translation, the narrowness with which the court defined the subject of copyright in this case outlived this specific holding. See for example White-Smith Music Pub
lishing Company vs. Apollo Company (1908) in which the court determined that copyright in a published song was not infringed by its musical notation in a program for use in player pianos (Decisions, vol. 15, 1928).

47. Decisions, vol. 15, 2468.

Chapter 2

2. “Resolutions of the New York Welcom Committee” quoted in William Gayle Wilkins, Charles Dickens in America (New York: Haskell House Publishers,
not legalize piracy of foreign works; it simply provided that the act cannot be construed to "permit the importation, vending, or selling" of books in a foreign language printed beyond the sea." Copyright in Historical Perspective (Nashville, Tenn.: Vanderbilt University Press, 1968), 109.

11. Even James J. Barone's indisputable history of copyright against Authors, Publishers, and Politicians: The Quest for an Anglo-American Copyright Agreement, 1811-1842 (Columbus: Ohio State University Press, 1974) proceeds from a position that cannot help but trivialize the cause of authors' rights. As Barnes explains in his preface, his study details "why failure attended" (x) the efforts of copyright agitators. Despite a healthy skepticism about the motives driving both sides of the debate, Barone's account of the struggle is finally not about competing principles, but about the ways in which the cause of authors' rights ran up against publishers' interests. The tendency to view the struggle over international copyright from an authors' rights perspective runs deep in the secondary criticism. See for example, Andrew J. Eaton, "The American Movement for International Copyright, 1837-60," Library Quarterly (April 1942): 95-122, who constrains the abstract ideals of copyright advocates to the opponents' appeal to "economic advantage" (122), and Aubert J. Clur, The Movement for International Copyright in Nineteenth-Century America (Washington, D.C.: Catholic University of America Press, 1962), who summarizes the opponent's "specific arguments" (55). Lawrence H. Houckes's opinion that opposition arguments were "far more persuasive" (12) than those of advocates is a notable exception. See his "Charles Dickens and International Copyright," American Literature 11 (March 1944): 18-28. For a more recent invocation of the hardships brought about by "the failure of nineteenth-century copyright law to extend protection to works by foreign authors" see Alice D. Schlyn's, "Copyright and Books in Nineteenth-Century America," in Getting the Books Out, ed. Michael Hackenberg (Washington, D.C.: Center for the Book, 1987), 122.

12. At Barnes notes, Henry Clay put forward copyright bills in 1827, 1828, 1840, and 1842. A detailed report explaining the rationale behind the rejection of international copyright was produced by John Ruggles's Committee on Patents and the Patent Office in June 1841 (discussed below). A similarly unfavorable report was produced by the Judiciary Committee in May 1842, but it was neither discussed nor printed to Clay's tempering decision to postpone consideration of the bill. An Anglo-American Copyright treaty supported by Presidents Fillmore and Pierce was turned back by the Senate in 1846, marking the end of the most intense period of antebellum copyright agitation. See Barnes, 49-94, 177-263, and Houckes.

13. For a detailed history of the vexed politics of early national public works, see Jonathan Lautze Larson, Internal Improvement (Chapel Hill: University of North Carolina Press, 2001). For the centrality of debates over internal improvements to antebellum understanding of the limits of federal power, see Sellers.


17. New World (October 19, 1842), 288.

18. Foremost among these are Thorvald Solberg, The Register of Copyrights...
Eaton, 105, 106, 121; and Houghton, 21. For an account of radicals' use of petitions to combat the extension of the term of domestic copyright in Britain, see Catharine Seville, Literary Copyright Reform in Early Victorian England: The Framing of the 1842 Copyright Act (New York: Cambridge University Press, 1999).


27. In addition to the efforts of Henry Clay in the late 1820s and early 1840s, active Whig support for the cause of international copyright came from Daniel Webster and his successor at the State of New York, where he was instrumental in brokering the 1831 treaty with Great Britain. Free-trade advocate and mullifier William C. Preston of South Carolina, to whom Francis Lieber addressed his pro-copyright treatise, On International Copyright (New York: Wiley & Putnam, 1841), could seem an exception to this rule, though his growing estrangement from the Democrats and strong alliance with the Whigs throughout the period of international copyright agitation suggests, rather, his strategic importance to a cross-sectional, bi-partisan coalition.


32. Buchanan is the Democrat most visibly connected with opposition to international copyright in the Senate. Buchanan regarded the measure with suspicion from the moment Clay introduced the first international copyright bill, urging the Senate in "the interest of the reading people of the United States" to
"go beyond publishers and ascertain what would be the effect on the acquisition of knowledge in this vast country?" Register of Debate in Congress (Washington, D.C.: Gales & Seaton, 1837), vol. 13, 600. He is also on record as having "expressed himself gratified to hear" that an adverse committee report had stalled the progress of Clay's 1842 bill. Niles National Register, May 11, 1842, cited in Howard, 27. There are strong indications that George Bancroft spoke publicly and persuasively against international copyright in 1842-43, crystallizing Democratic opposition and prompting Senator Dockswill's groundless in the Democratic Review. See Cornelia Mathews, The Better Interests of the Country, in Connection with International Copyright (New York: Wiley & Putnam, 1843), 6. Perry Miller confirms the speech, see The Haven and the Whirl, p. 99-101. Bancroft eventually signed a petition in favor of international copyright, but only on the principle of trade reciprocity, refusing the imputation that American copyrights were injured by the circulation of cheap foreign books. See "Memorial of American Authors" appended to Bowker.

32. One gauge of the characteristic flexibility of the opposition is the fact that the two most influential anti-copyright treatises were written by Philip Nicklin, a fierce defender of free trade, and by protectionist economist and publisher Henry C. Carey.

33. See Sellers for the complexity of this double bind by which devolution of power from the center is exercised by federal decree (exemplified by Jackson's veto of the National Bank under the constitutional prohibition of deposits). Jackson understood himself to be acting in the public interest with the only tools the Constitution gives him, and yet such action is equally comprehensible to Whigs as executive tyranny.

34. For a detailed comparison of petitions to authors that argues that popular American writers did not suffer from competition with foreign reprints, see W.S. Tryon, 'Nationalism and International Copyright: Tenney and Scy&hellip;in America' American Literature 16 (1953): 79-109.


36. For evangelical's innovative use of technologies of mass production and distribution for the circulation of tracts and bibles, see Nordin, "Evangelical Origins." For the Subbattarian controversy, in which evangelicals' effective use of the press prompted William Ellery Channing to denounce the ease with which voluntary organizations could bring about "a spiritual revolution against individuals or sects" (1828), see Richard John, Spreading the News: The American Postal System from Franklin to More (Cambridge, Mass.: Harvard University Press, 1995), 199-205. For the abolitionists' "great postal campaign," which terrified anti-abolitionism in both South and North with "the vision of a well-organized, centrally directed propaganda machine," see Leonard L. Richards, "Gentlemen of Property and Standing Against Abolitionists in Jacksonian America" (New York: Oxford University Press, 1970), 71-82, and John, 279-80. For the importance of cheap post to the circulation of 1840 and allegations that former postmaster general Aaron Kendall used his influence within the postal system to distribute party propaganda, see


38. November 1, 1842, quoted in Barnes, 60-61.

39. "Petition of Thomas Moore, and other Authors of Great Britain, praying Congress to grant to them the exclusive benefit of their Writings within the United States," February 18, 1837, 24th Congress, 2d Session, Senate Documents No. 154, 1.

40. For the intimate connection between the example of Scott and American support of international copyright as hereditary privilege, see observations of Scott, such as that in the Museum of Foreign Literature, Science and Art 21 (December 1832): 481, which proposes that Congress grant land to Scott's unmarried daughter and American copyright privileges to his descendants, John Gibson Lockhart. See also memorial speeches and writings, such as John McVicker's Tribute to the Memory of Sir Walter Scott (New York: George E. Scott and Co., 1815), which calls for the passage of an international copyright law to "redeem a debt which in honour we long have owed" (421). I am indebted to Emily Todd for these references. The Thomas Moore" petition cites McVicker's letter to the New American as a way of reinvigorating the connection between the lack of international copyright and Scott's demise. In his controversial after-dinner speech, Charles Dickens sentimentally what by 1842 is a longstanding feature of copyright advocacy. He also suggested that the law be "limited to the subjects of Great Britain and France," where reciprocal rights were all but assured, and, to ensure the availability of books, that copyright for foreign works be contingent on their publication "within reasonable time" (32).

41. Clay, 2.

42. Clay, 2.

43. "Memorial of a Number of Citizens of Boston, praying the Passage of an International Copyright Law," April 14, 1838, 19th Congress, 2d Session, Senate Document No. 198, 1.

44. It is interesting to note in this regard that the Provisional Congress of the Confederate States of America voted in its first session to enable its president to enter into reciprocal treaties for the extension of copyright privileges to foreign authors. See Resolution 15, The Statutes at Large of the Provisional Government of the Confederate States of America, ed. James M. Mathews (New York: William S. Hein & Company, 1888), 95.

45. "Memorial of a Number of Citizens of Boston," 2.


47. "Memorial of a Number of the United States," 1. This analogy is repeated in John Jay's important 1848 petition, which synthesizes the most
persuasive points made by petitioners on behalf of international copyright. See John Jay, "Memorials of John Jay and of William C. Bryan and Others, in Favor of an International Copyright Law," March 22, 1848, 20th Congress, 1st Session, House of Representatives Miscellaneous Documents No. 76. 47. Jay, 7. 48. See also "Memorial of a Number of Citizens of New York," t–v. 49. Jay, 7. 50. "Memorial of a Number of Citizens of New York," 1. 51. See for example John Ruggles' "Report, from the Committee on Patents and the Patent Office," June 29, 1828, 22nd Congress, 2d Session, Senate Documents No. 1049, in which he speculates on the reasons for American authors' eagerness to endorse the British anti-piracy movement. Indeed, the mind is induced to cast about for the means of reconciling the united and harmonious application of American and foreign authors to a law to relieve the former from injurious competition by the latter, in our literary market. It can be found only in the result it is calculated to produce, the taxing of the reading public of this country, for the point benefit of both, as the reading public is taxed in England" (7). 52. Memorial of Nahum Capen, of Boston, Massachusetts, on the Subject of International Copyright," 21st Congress, 1st Session, House of Representatives Documents No. 5, 6. 53. "Memorial of the Columbia Typographical Society of the City of Washington, Against the Enactment of an International Copy-Right Law," February 13, 1848, 21st Congress, 2d Session, Senate Documents No. 137, 1. 54. "Memorial of a Number of Persons Concerned in Printing and Publishing, Praying an Alteration in the Mode of Levying Duties on Certain Books, and Remonstrating against the Enactment of an International Copyright Law," June 21, 1843, 21st Congress, 2d Session, Senate Documents No. 331, 1–2. 55. Ruggles, 1. 56. "Remonstrance of the Inhabitants of Massachusetts, Against the Passage of an International Copyright Law," June 4, 1848, 23rd Congress, 2d Session, House of Representatives Document No. 469, 1. 57. For publishers, booksellers, bookbinders and printers' support of international copyright, see Jay, 13–15. 58. Ruggles, 2. 59. "Memorial of the New York Typographical Society Against the Passage of an International Copyright Law," March 13, 1848, 23rd Congress, 2d Session, Senate Documents No. 199, 2. 60. "Remonstrance of Inhabitants of Massachusetts," 3. 61. As Andrew Eaton notes, Frederick Mariany's A Diary in America, Part Second (1845), tried to oppose international copyright directly to southern resentment of Harriet Martineau's condemnation of slavery in her controversial travel narrative, Society in America (1837). According to Mariany, southern legislatures were determined to do nothing that would assist Martineau in publicizing abolitionist doctrine, "forgetting that as a copyright would increase the price of a work, it would be the means of checking its circulation, rather than extending it" (quoted in Eaton, 112). 62. "Memorial of the New York Typographical Society," 2. 63. Ruggles, 4. 64. "Memorial of a Number of Persons Concerned in Printing and Publishing," 2. This attack on the dangers of a centralized publishing system was occasionally softened by an appreciation of social and cultural differences. For instance, John Ruggles conceded that "high prices are attended with less injurious effects in England" (4), where the density of the population enabled those who could not afford to buy books to be well served by libraries. By contrast, Ruggles argued, the spanneres and remittances characteristic of American settlement required that books be kept cheap enough for the laborers to purchase them. 65. For the continued importance of the reserving of type as a point of re- origination and mark of rational difference, see the Chace Bill (1846), which gave the support of the National Typographers Union by stipulating that foreign books seeking American copyright must be printed from type set in the United States, and the Platt-Sinuouds Copyright Act (1849), which was passed into law with a similar provision (Purnam, 13–15, 112). 66. Isaac Kramnick, "Republican Revisionism Revisited," American Historical Review 91 (1986): 629–64, and Carroll Smith-Rosenberg, "Domesticating 'Vice': Coquettes and Revolutionaries in Young America," in Literature and the Body: Essays on Populism and Persons, ed. Elaine Scarry (Baltimore: Johns Hopkins University Press, 1986), 160–84. 67. "Memorial of a Number of Citizens of Philadelphia, Against the Passage of an International Copyright Law," January 15, 1848, 21st Congress, 2d Session, Senate Documents No. 102, 2. The text of this petition was submitted to Congress three times under different headings and with different lists of signatures attached. See also "Memorial of Inhabitants of Philadelphia, Against an International Copyright Law," January 15, 1848, 21st Congress, 2d Session, House of Representatives Document No. 157, and "Memorial of Richard Perin Smith and Others, Against the Passage of the Bill to Establish an International Copyright Law," April 20, 1858, 23rd Congress, 2d Session, Senate Documents No. 369. 68. "Memorial of the New York Typographical Society," 1. 69. "Memorial of a Number of Persons Concerned in Printing and Publishing," 2. 70. For an analysis of the dynamic of center and periphery in the British book market, see Jerome Chlomse, Printing Enlightenment: Power and the Formation of a Literary Career (Madison: University of Wisconsin Press, 1987), 193–96. Chlomse argues that the London print monopolies constructed themselves in the image of state power, in part so that the extra-legal pressure they brought to bear on provincial publishers would carry quasi-legal force. Chlomse's elaboration of the ways in which publishers' power was understood by the state provides a useful contrast to the American system in which anti-copyright publishers imagined the decentralization of the book market to underwrite state power. 71. Irish Booksellers and English Writers 1740–1850 (Atlantic Highlands, N.J.: Humanities Press International, 1986), Chapters 3, 8, and 9. 72. Letters on International Copyright (Philadelphia: A. Hart, 1841), 29–32. 73. "Memorial of a Number of Citizens of Philadelphia," 1.
shifts in demand characteristic of a boom and bust economy, and to changes to the postal code that raised the cost of their circulation through the mails.

90. For a brief discussion of Captain S. Stone (1829) the case that established that "a newspaper or price-current is not such a publication as falls under the protection of the copyright law" (Decisions, vol. 13, 640), see Chapter 1.


Chapter 3

1. For Postmaster General and Jackson appointee Amos Kendall’s “implicit rejection of the superstructure of federal law” (271) when it came to postal employes’ obligations to their communities, see John, Spreading the News, 225–82.


4. For an account of Dickens’s precarious financial state—"mortgaged on all sides and possessing scarcely any copyrights of present value" (126)—and for an amusing read of the boldness of Dickens’s and his publishers’ gamble on the long-term benefits of the interruption of serialization, the year of requisite, and the success of the travel narrative, see Parent, 119–38.


7. For a detailed account of Dickens’s American reception, see Wilkins.

8. Wilkins, 22.

9. Wilkins, 23–24. William Cullen Bryant echoed this language in an editorial in the New York Evening Post the day of the New York dance, claiming that Dickens’s reception had anticipated new, democratic criteria for excellence and honor: "a young man, without birth, wealth, title, or a sword, whose only claims to distinction are his intellect and heart, is received with a feeling that was formerly rendered only to emperors and kings." See Sidney Moss, Charles Dickens’s Quartet with America (Troy, N.Y.: Whitson Publishing Company, 1984), 3.

10. Moss, Charles Dickens’s Quartet, 3.

11. New Haven Commercial Herald, quoted in Wilkins, 95.

12. An editorial in the New World on February 15, 1842 purly bluntly: "Has Mr. Dickens yet to learn that to the very absence of such a law as he advocates, he is mostly indebted for his widespread popularity in this country? To that class of his readers—the dwellers in log cabins, in our back settlements—whose good opinions, he says is dearer to him than gold, his name would hardly have been known had an international copyright law been in existence." Even the pro-copyright press drew the connection. Arguing that "the evil of which he complains should be remedied" the New York Morning Courier nevertheless regretted Dickens’s
Coda

1. See Eugene Usman, *The Brothers Harper*, for a description of Norton’s periodical and tour. The first independent trade magazine, the *American Publisher’s Circle and Literary Gazette*, was founded in 1825 by the New York Book Publishers’ Association, in order both as a venue for the trade and as a vehicle for lobbying for international copyright. See Greenspan, *George Palmer Putnam*, 138-74.

2. A Fair People, 55-64.


Greenspan’s research suggests that Putnam carries forward in muted form the literary property debates of the 1840s. Seeking an appropriate audience for his new periodical, Putnam purchased the subscription list of the recently disbanded *American Whig Review*.


8. *Dictionary*, vol. 5, 244a.


10. See "Imperfect Tithe," 142-52. Noting Grier’s sudden shift to the use of a female pseudonym in this passage, Home stead argues that the final sentences of the decision may be addressed directly to Stowe, implicating Stowe in the system she despises by suggesting that she trades in Uncle Tom as assuredly as her slave-trader Hales.

11. "Uncle Tomsnites?" *Putnam’s Monthly* 1 (January 1843): 97-102, 99. Joan Hedrick estimates that, while 300,000 copies of the novel were sold in the United States in the first year of publication, a million and a half copies were sold in Great Britain alone. See *Harriet Beecher Stowe: A Life* (New York: Oxford University Press, 1994), 353, 355.

12. Quoted in Hedrick, 214.

13. See "International Copyright," *United States Review* (April 1833): 325-35 (the United States Magazine and Democratic Review changed its name to the *United States Review* in January 1835). In the text I will refer to the magazine by the name by which it was popularly known in the 1840s and 50s, "The Democratic". For evidence of British publishers’ embrace of cheap printing, see Chapman and Hall’s 1870 *Cheap Edition* of Dicken’s *American Notes* which they sold for 5 shillings, one quarter of the price of the 1842 edition. This 175-page double-columned book is comparable both in format and in cost to American reprint.

14. Clear signs that the Democrats do not simply or easily embrace the Whig position include their championing of rural citizens, "stigmatized as ignorant and vulgar" (105), who read only newspapers, and their refusal to identify with British authors. They make a point of noting that their support of international copyright does not derive "from any sympathy with the sordid clamors of the British press" (114).

15. "National Literature, and the International Copy-Right Treaty," *United States Review* (August 1833): 97-117, 98. This detailed critique targets laws of pri- mogeniture and entail, the English constitution, the Parliamentary system of rep- resentation, and the much-vaulted freedom of the press which, “like every other species of British freedom . . . is a mere shadow without substance; a sing and a hypocrite whenever it comes to practical application to the great mass of the people" (109).