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The Perils Of Authorship: Literary Propoerty And Nineteenth-Century American Fiction

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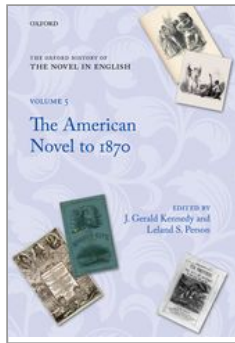
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The Oxford History of the Novel in English: Volume 5: The American Novel to 1870

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The Perils of Authorship

Literary Property and Nineteenth-Century American Fiction

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Abstract and Keywords

This chapter examines the perils associated with American authorship during the early nineteenth century, with particular reference to issue of intellectual property and copyright. It begins with an analysis of the impact of intellectual property rights on publishing and the culture of reprinting, along with the influence of copyright on the American novel. It then considers the problem concerning the definition of “American authorship” and how the unstable nature of American authorship subjected writers who wished to promote it to charges of fraudulence. It also explores the question of originality among writers before concluding with a discussion of the radical expansion of publishing in the post-Civil War era and its effects on literary property and literary nationalism.

Keywords: American authorship, intellectual property, copyright, publishing, reprinting, American novel, American authorship, fraudulence, originality, literary property, literary nationalism

We tend to think of the early nineteenth century as marking the establishment of American authorship, ushering in a new era in which writers coaxed recognition, respect, and in some cases, a livelihood from their pens. But while publishing conditions and emerging ideas of authorship opened up new fields of opportunity for writers, they also presented distinct perils. American writers grappled with the vagaries of literary property in a period before standardized author contracts and international copyright; the difficulties of carving out identities as authors in a democracy where little precedent for such a role

existed; and the pressures, as well as the possibilities, of writing at a time in which literature assumed an unparalleled cultural importance. Nineteenth-century authorship presents perils for contemporary literary criticism as well, including the risk of organizing our critical inquiries around an emergent category that has come into focus only retrospectively.

The study of the novel presents a case in point. The genre looms large in classes on antebellum literature and has probably done the most to cement our ideas about authorship during the period. Aside from the stalwart James Fenimore Cooper, however, those novelists who enjoyed the most success in their own time are seldom read today. When was the last time a teacher assigned Theodore Sedgwick Fay's *Norman Leslie: A Tale of the Present Times* (1835)? William Gilmore Simms's *The Yemassee: A Romance of Carolina* (1835)? Emerson Bennett's *The League of the Miami* (1851)? Ann S. Stephens's *Malaeska: The Indian Wife of the White Hunter* (1860)? Despite its tendency to dominate our canons of nineteenth-century literature, the American novel hardly dominated antebellum literary culture. Of the sixty-eight authors Rufus Wilmot Griswold profiled in his 1847 *The Prose Writers of America*, only fifteen had ever written a novel (and several of those, including **(p.196)** Henry Wadsworth Longfellow, Edgar Allan Poe, and Charles Fenno Hoffman, were more famous as poets, writers of tales, or editors). In his analysis of the 1840–1841 inventory of Homer Franklin's New York City bookstore, Ronald J. Zboray has shown that "novels on the average accounted for only about 4.3 percent of the total value of all books in the store—far, far less than in modern counterparts." Given the numerous other genres represented, this is certainly "a significant amount," Zboray concedes, but it "lends little support to the idea that there was a 'mania' for novels" (1993, 140). Moreover, of the novels that Franklin did stock, the vast majority were British. Most interesting of all, Zboray finds that the very identity of the novel as a genre was more fluid than we might assume. Analyzing the frequency with which books of any given genre were grouped together (signaling that they shared a common classification), he concludes that novels "probably had the weakest identities as clearly recognizable, specific, and separate" (1993, 153). Indeed, novels as such are not named as one of the major generic categories in the list of works on hand at the time of the disastrous Harper & Brothers fire in December 1853; they are subsumed within the category of "General Literature." Although the number of works published by the Harpers in "General Literature" (690) vastly exceeded titles in "History and Biography" (329), "Educational" (156), "Travel and Adventure" (130), and "Theology and Religion" (120), this is largely due to the vigorous transatlantic reprint trade: "General Literature" is the only category in which reprints outnumber original productions, and by a ratio of 2:1 (Exman 1965, 358). These complexities do not obviate the study of either authorship or the novel; rather, they urge us to approach these topics with new energy and nuance. What does

antebellum authorship look like, if not a triumphant success? What do the legal and socioeconomic constraints that shaped it do *for* the American novel?

Intellectual Property and the Culture of Reprinting

American novelists' fictions, their careers, and their understanding of the limits and possibilities of their vocation were profoundly affected by the new nation's disposition of intellectual property rights. Section 8 of the US Constitution granted Congress the power "to promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries," justifying this conferral of limited monopoly rights through an enlightenment appeal to usefulness and progress. Defining copyright as a federal right ensured that American authors and publishers could control the distribution of their books across the vast expanse of the republic, removing formidable barriers to interstate trade. Copyrights were a source of national pride and national identity, and many authors and publishers were eager to take advantage of their protection.

(p.197) And yet historical and structural unevenness in the conferral of these rights limited their effectiveness and helped determine the distinctive character of American publishing. The first copyright statute (Copyright Act of 1790) granted a federal right to American authors and publishers long before the development of a national trade system. The decentralization of American publishing—its dispersal across multiple, regional print centers—meant that, until mid-century, a national market for books was more a fantasy than a reality, making copyright a questionable tool for nation building. Where the distribution of books is a challenge, the right to control circulation by restricting copying is of limited value. Many of the texts that circulated most widely in the new republic, such as newspapers, magazines, tracts, and pamphlets, did so without the protection of copyright. Moreover, the same law that granted copyrights to citizens and residents denied such rights to foreign authors, bestowing on American publishers the right to republish foreign texts without restriction. The new nation's cultural dependency on Europe—its appetite for imported books and for cheap reprints of foreign works—and the profits to be made in an uncertain, expanding market by publishing texts that had already proven popular with readers produced a literary marketplace that was suffused with foreign texts.

The circulation of popular novels often soared when copyright restrictions were removed and print monopolies broken. As William St. Clair has noted, when perpetual common law copyright was overturned in Great Britain in 1774, British editions of Daniel Defoe's *Robinson Crusoe* (1719) greatly expanded from a handful of authorized editions in the "high monopoly period" to numerous competing editions, abridgements, and rewritings after 1774 (2004, 507). In the nineteenth century, this effect was compounded by transatlantic publishers who regularly experimented with reprinting already-established fiction in a variety of

inexpensive formats, hoping to reach new readers. The American refusal to award copyrights to foreign authors proved a boon for the circulation of British novels, which, in many cases, first achieved mass-readership outside the boundaries of Great Britain. For instance, Clarence S. Brigham has noted over a hundred editions of *Robinson Crusoe* published in America between 1774 and 1830. Boston, New York, and Philadelphia publishers famously competed to be the first to reprint Sir Walter Scott's *Waverley* novels (1814–28), setting type as soon as packet ships carrying the latest novel arrived on the docks. Reprinting foreign novels was crucial to the growth of the American print trades and for cultivating the habit of novel reading within a broadly literate public. Indeed, the success of the *Waverley* series helped American publishers establish the size of the market for popular novels. The competition to capture market share led publishers such as Carey & Lea of Philadelphia and Harper & Brothers in New York to develop more efficient and ambitious printing and distribution systems, paying Scott and his publisher for advance sheets of the novels and nurturing contacts with booksellers in far-flung southern and western cities.

(p.198) By the 1840s, American authors and some publishers began to push for the passage of an international copyright law. The literary nationalist movement propelled the cause by insisting that the prevalence of foreign reprints would prevent American writers from ever realizing their powers. In 1843, poet and editor William Cullen Bryant was elected president of the American Copy-Right Club, which convened meetings and published manifestoes in favor of an international agreement. Cornelius Mathews, one of the movement's most fervent proponents, felt so strongly about international copyright that he made the issue a subplot in one of his many attempts to create an "indigenous" American work, the 1845 novella *Big Abel and the Little Manhattan*. The main plot follows the two title characters—the great-grandson of Henry Hudson and the great-grandson of the Native American chief who sold Manhattan to the Dutch—as they travel around the city, dividing up the parts to which they are entitled. Most of the story accordingly consists of a panoramic view of New York and a minutely described account of the streets, people, food, and drink found there. But everywhere Big Abel and the Little Manhattan go, they coincidentally meet the "Poor Scholar," a young author who has recently written a wonderful book but whose publishers keep deferring publication in order to reprint texts from England, France, and Germany for free, leaving the Poor Scholar distraught and unable to marry his sweetheart. While *Big Abel and the Little Manhattan's* copyright subplot hardly advances the story, it offers a mirror image of the main plot. Both revolve around the protection of original property—whether national literature or Native American land rights—from foreign incursions. The awkward shoehorning of the Poor Scholar subplot into the narrative testifies to Mathews's devotion to the cause of international copyright. Yet it also reveals something of the effort it took to make the case for American literary property at this moment. Conflating literary originality with

aboriginality, Mathews's subplot strains at once to naturalize literary originality and to make it a recognizably national cause.

In spite of the efforts of Mathews and his colleagues in favor of international copyright, changes to the law were resisted by tradesmen, chief among them newly unionized typographers, who worried that such a law would give London publishers too much power over the American market. When literary nationalists protested that American authors could not compete with the flood of cheap reprints of popular British novels, members of the print trades responded with a canny analysis of the politics of book distribution, arguing that, with the backing of an international copyright law, heavily capitalized London publishers could potentially print off large American editions from British-made plates, greatly benefiting from economies of scale. Opponents of the law argued that international copyright would enable London publishers to supply books to the American market at high prices without the risk of underselling, maintaining a stranglehold on American reading. Reprint publishers contrasted the democratizing virtues of the frequent resetting of type with the dangers of centralized media, arguing that reprinting (**p.199**) allowed for local control over the circulation of print and for a more equitable distribution of profits. In their view, multiple American editions of foreign works were not excessive or inefficient, but proof of the general diffusion of knowledge and the benefits of competition between and among small-entrepreneur publishers. While supporters of an international copyright law chiefly sought to bring order to the transatlantic book trade, opponents defended a system that served the publishers of newspapers, magazines and pamphlets, as well as books. Reprinting occurred across a variety of formats: poetry and tales that were first published in expensively bound gift books reappeared as filler in local newspapers; entire novels were closely printed in double columned pages and sold for as little as twelve and a half cents; and elite British magazines were reprinted in their entirety or mined for essays that were reassembled into regionally published, eclectic magazines.

While American opposition to internal copyright was successful in blocking proposed laws and treaties, it did not prevent the consolidation of publishers' power. Faced with potentially ruinous undercutting, reprint publishers developed a system of de facto copyright known as "courtesy of the trade," in which a newspaper announcement of the intent to publish a foreign work informally carried the weight of a property claim. This kind of gentlemanly agreement enabled reprint publishers to invest considerable sums in stereotyped editions of foreign authors' collected works without the threat of competition. Publishers secured informal rights to foreign texts by advertising their association with a particular author and by voluntarily sending payments to foreign authors (or their publishers) to establish goodwill, to obtain advance sheets of their books, and for the right to produce authorized editions. Such extralegal arrangements, enforced by campaigns of retaliation when printers

broke with the custom of voluntary restraint, continued to regulate the reprint trade throughout this period despite the fact that they were unenforceable at law.

Authorized editions, complete with frontispiece portraits and facsimile signatures, became a popular way for reprint publishers to distinguish their editions. Other publishers resorted to economic tactics, attempting to discourage rivals by saturating the market with editions at every conceivable price point. Philadelphia publisher T. B. Peterson & Brothers, for example, advertised thirteen different octavo editions of Charles Dickens's works bound in seven different styles, two different illustrated editions, and a "People's Duodecimo," available in eight different binding styles; prices ranged from nine to seventy-five dollars for a complete set. Reprinting also conferred a new kind of value on illustrations. While type could easily be reset, engravings were more difficult and expensive to reproduce, enabling publishers to secure property in their texts by investing heavily in ornamental plates, a practice that Hugh Amory has called "proprietary illustration" (1993, 137). While this practice distinguished particular editions from one another, it blurred the novel generically, as it came to resemble more closely the heavily illustrated gift books, magazines, and weekly newspapers that were so popular during the period.

(p.200) The profits to be made through authorized or unauthorized reprinting of British novels were substantial, so long as rivals could be kept at bay. During the depression of 1837–43, weekly newspapers such as *Brother Jonathan* (1842–43) and the *New World* (1840–45) engaged in cutthroat competition, reprinting popular British novels and French novels in translation on enormous folio newspaper sheets and in quarto size as "extra issues," sold to enhance circulation of the periodicals. These newspaper supplement-novels were printed in the tens of thousands, hawked on street corners, and circulated at favorable rates through the mail. While competition from better-capitalized book publishers and changes to the postal code ultimately brought an end to the cheap weeklies, they successfully demonstrated the viability of cheap printing on a massive scale—aiming for narrow profit margins on high-volume sales—in a widely literate and expanding nation.

On his 1842 tour of the United States, Dickens was both thrilled and horrified to discover the extent to which unauthorized reprints of his novels had preceded him. Dickens had included the humble and oppressed in his novels as objects of sympathy, but cheap American reprints of his fiction enabled the poor to be drawn into the orbit of literary culture as actual or potential readers. Dickens was warmly welcomed by his American audience: statesmen and literati organized lavish banquets in his honor, and every stage of his trip was covered obsessively by local newspapers. But the tour became something of a public relations disaster because Dickens's insistence on speaking publicly on behalf of

an international copyright law was met with incredulity and suspicion. Dickens seemed unaware that he owed much of his popularity to the system of reprinting he continued publicly to attack, while many Americans interpreted his advocacy of international copyright as mercenary and ungrateful. Dickens's encounter with his American readers left him with an acute sense of vulnerability to the mass public that sought to embrace him. Although in advocating foreign authors' rights, Dickens thought he was championing both his own cause and that of American novelists crowded out of the market by foreign competition, reprinting did not simply hinder the growth of the American novel. Even as reprint publishers, such as Harper & Brothers, built substantial enterprises publishing uncopyrighted texts, they began to make different kinds of investments in the American works that, thanks to copyright, they controlled outright.

Copyright and the American Novel, at Home and Abroad

In weighing the influence of copyright on the American novel, it helps to get beyond simple oppositions between domestic and foreign works, legitimate and pirated texts, and the needs of authors and those of publishers to consider how the uneven distribution and enforcement of intellectual property rights shaped the literary marketplace as a whole. After all, American novelists were affected by the culture of reprinting whether or not their work was itself reprinted. From the **(p.201)** perspective of print format, for instance, American authors navigated a literary marketplace characterized by an unusually intimate relationship between novels and periodicals. At times the two were materially indistinguishable, as in the case of newspaper supplement-novels such as Edward Bulwer Lytton's *Zanoni* (1842) and Walt Whitman's *Franklin Evans; or, The Inebriate* (1842). But even novels published by major publishing houses depended for their circulation on the climates of opinion and networks of readers created by periodicals; both Harper & Brothers (*Harper's Monthly Magazine*) and G. P. Putnam's Sons (*Putnam's Monthly Magazine of American Literature, Science, and Art*) started magazines in the early 1850s to build demand for their books through serialization, advertising, and the cultivation of a loyal readership.

Most antebellum American novelists published for a significant part of their careers in newspapers and magazines. Throughout the nineteenth century, periodicals had significantly larger circulations than books, and many managed to pay authors enough to make writing for magazines worthwhile as a prelude, adjunct to, or substitute for book publication. Edgar Allan Poe noted that American authors' poor prospects in the book market created a bonanza for literary periodicals: "The want of an International Copy-Right Law, by rendering it nearly impossible to obtain anything from the booksellers in the way of remuneration for literary labor, has had the effect of forcing many of our very best writers into the service of the Magazines and Reviews" (Feb. 1845, 103). Nathaniel Hawthorne, Herman Melville, Harriet Beecher Stowe, and Fanny Fern all moved (with differing degrees of agility, canniness, and resentment) between

book and periodical publishing. Significantly, none of the author-figures who appear in mid-nineteenth-century American novels are themselves novelists: Holgrave in *The House of the Seven Gables: A Romance* (1851) writes sketches and gothic tales for ladies' magazines, while the heroine of *Ruth Hall: A Domestic Tale of the Present Time* (1855) writes, like Fern, for weekly newspapers. The eponymous hero of Melville's *Pierre; or, The Ambiguities* (1852) is a renowned poet who fails to publish his novel manuscript. Yet, even as periodical publishing helped make authorship a viable profession, its conventions ensured that authorial identity was less stable, and less in the control of authors and publishers, than we often assume. Hawthorne's early short stories, most of which were published pseudonymously in gift books and monthly magazines, were easily mistaken for Catharine Maria Sedgwick's, while Poe's "The Fall of the House of Usher" (1839), reprinted without acknowledgment in a London monthly magazine, was later republished in the *Boston Notion* (Sept. 5, 1840) under a heading that suggested British authorship: "From Bentley's Miscellany for August."

The culture of reprinting thus complicates our sense of the novel's role in American literary history, as well as emergent conceptions of authorial identity the novel is often seen to anchor. It also complicates our understanding of what made American novels American. Despite the protests of Mathews and others, British publications did not so much crowd American works out of the market as shift **(p.202)** the ways in which they were read, as the reprint history of "The Fall of the House of Usher" attests. Even the staunchest literary nationalist addressed readers whose tastes were whetted by reprinted foreign novels and who were carefully attuned to the opinions of the European literary press. American literary culture took many of its cues from British magazines such as the *Edinburgh Review*, the *Quarterly Review*, *Blackwood's Magazine*, and the *Westminster Review*, which were reprinted both in whole and in part, excerpted and reshuffled by literary miscellanies such as *Littell's Living Age* and the *Eclectic Magazine*. The ready availability to ordinary American readers of essays from these elite British journals created a climate of reception for the novel that was acutely dependent on foreign opinion. In a biographical essay praising Poe's critical acumen, James Russell Lowell fulminated that "before we have an American literature, we must have an American criticism" (Feb. 1845, 49). But American novelists understood that they wrote for a dual audience, and that success with American readers could best be achieved by way of a positive British review, which was certain to be eagerly reprinted in the United States. For this reason, American novelists tended to complain less than their British counterparts about the unauthorized reprinting of their novels abroad.

Although, for much of the nineteenth century, American publishers were caricatured as ruthless pirates, British and European publishers also derived great benefit from the lack of international copyright. French publishers Galignani and Baudry, who specialized in providing British tourists with cheap

editions of the latest London books, reprinted numerous novels by James Fenimore Cooper, themselves often copied from British reprints. Beginning in 1841, German publisher Bernhard Tauchnitz published hundreds of volumes of British and American works in a numbered series for circulation throughout the Continent, paying authors nominal sums for the right to advertise such volumes as an “author’s edition” or a “copyright edition.” Many authors considered having a novel reprinted by Tauchnitz to be a mark of international recognition. The standardized, plain style of Tauchnitz volumes made them easily recognizable across Europe; the series was a hallmark of affordability, portability, and literary quality. The Tauchnitz series, as well as British railway reprint series such as Henry Bohn’s “Standard Library,” launched in 1846, and George Routledge’s “Railway Library” (1848–98), helped modern novels gain acceptance as “standard literature,” signaling an inverse relationship between literary value and material value that readers occasionally sought to overcome. For instance, although it was no more than a cheap reprint, the Tauchnitz edition of Hawthorne’s *The Marble Faun; or, The Romance of Monte Beni* (1860) was frequently rebound by Italian booksellers as a keepsake, which included numerous photographs of artworks and landmarks mentioned in Hawthorne’s Rome, as well as blank pages on which tourists could paste photos they had purchased or taken on their trip.

Perhaps the most telling example of the influence of transatlantic reprinting concerns the American publishing sensation of the century, Stowe’s *Uncle Tom’s (p.203) Cabin; or, Life Among the Lowly* (1852). Stowe’s novel was a runaway bestseller in the United States, with over 300,000 copies sold in the first year of publication, but its domestic sales paled next to the novel’s success in Great Britain, where over a million copies were reportedly sold within a year of publication. The circulation of *Uncle Tom’s Cabin* in Britain far exceeded that of Scott’s or Dickens’s novels, and its quick translation into numerous European languages was taken as a sign of the persuasiveness and power of the abolitionist cause. In the case of *Uncle Tom’s Cabin*, the novel’s British success formed one of the foundations of its American reputation. Moreover, it prompted a sea change in the domestic politics of copyright. In the wake of Stowe’s wildly successful 1853 tour of Great Britain, the *United States Review*, which had, under its earlier, better-known title, the *Democratic Review*, vigorously opposed international copyright on protectionist grounds, suddenly threw its support behind the measure. From an economic standpoint, the enthusiastic reception of Stowe’s novel abroad made it newly plausible that American authors and publishers might profit from access to the British market. But this influential partisan monthly magazine was mostly concerned about how reprinting, and the transatlantic print culture it sustained, might affect the domestic struggle over slavery. In an August 1853 editorial, the *United States Review* argued that the adoption of an international copyright law might help arrest abolitionists’ growing influence on American readers. The political threat of transatlantic

abolition suddenly seemed more important than the need to support small-entrepreneur printers or to preserve a decentralized literary marketplace. The reception history of *Uncle Tom's Cabin* not only testifies to the international dimensions of national literary celebrity, but it also reminds us that the nineteenth-century push for tighter controls over intellectual property was motivated by concerns beyond authors' rights and national reputation.

Literary Nationalism and Literary Fraudulence

When antebellum writers did attempt to carve out an authentic national tradition, they faced a host of accusations that their efforts were manufacturing a sham American literature. The perils of authorship, in other words, were not confined to the socioeconomic conditions that made it difficult for American authors to establish and maintain an audience; they also lay in the emerging definition of "American authorship" itself. In a review of Lambert Wilmer's satirical poem, *The Quacks of Helicon* (1841), Poe concluded that American literature amounted to nothing less than "one vast perambulating humbug" (1984a, 1006). He scoffed:

Should the opinions promulgated by our press at large be taken, in their wonderful aggregate, as an evidence of what American literature absolutely is, (and it may be said that, in general, they are really so taken,) we shall find ourselves the **(p.204)** most enviable set of people upon the face of the earth. Our fine writers are legion. Our very atmosphere is redolent of genius; and we, the nation, are a huge, well-contented chameleon, grown pury by inhaling it. (1010)

His friend Lowell agreed. "We are farthest from wishing to see what many so ardently pray for—namely, a *National* literature," Lowell observed. "But we do long for a *natural* literature" (1843, 1). His much-quoted 1848 satire, *A Fable for Critics*, skewered the reigning confusion between the two, blaming critics for nationalist puffery:

With you every year a whole crop is begotten,
They're as much of a staple as corn is, or cotton;
Why, there's scarcely a huddle of log-huts and shanties
That has not brought forth its own Miltons and Dantes;
I myself know ten Byrons, one Coleridge, three Shelleys,
Two Raphaels, six Titians, (I think) one Apelles,
Leonardos and Rubenses plenty as lichens,
One (but that one is plenty) American Dickens,
A whole flock of Lambs, any number of Tennysons. (72-73)

Lowell's list of critical darlings lampoons one of the most telling paradoxes of literary nationalists' obsession with originality: the highest compliment paid to American writers was to give them the names of European masters. Thus Cooper became the "American Scott," Lydia Sigourney the "American Hemans," and

eternal laughingstock Mathews the self-appointed “American Dickens.” (Even Young America, literary nationalism’s umbrella movement, borrowed its name from the revolutionary examples of Young Ireland, Young Germany, and Young Italy.) Furthermore, Lowell’s pastoral setting, full of “log-huts and shanties” in which these authors and artists grow like “crops” and “lichens,” becomes ironized as he juxtaposes it with the artifice of a manufactured literary culture. Nationalism here appears quite literally unnatural, an impossible profusion of American genius. Others took Lowell’s concerns one step further, depicting American literature as not just unnatural but horribly supernatural. The anonymous author of an article in the *American Review* titled “Literary Phenomena” pictured American literature as the living dead:

A newspaper reputation can be made in a day, and by pickling and ordinary care may be made to last like the gravedigger’s tanner, “some eight year or nine year,” or it may be caught like the mesmerized M. Valdemar *in articulo mortis*, by a special conjuror six months longer, till it falls to pieces, “a nearly liquid mass of loathsome, detestable putrescence.” (Oct. 1846, 406)

In memorably grotesque terms, “Literary Phenomena” predicts the inevitable dissolution of a moribund literature artificially animated by the exertions of the press. (p.205) Moreover, it demonstrates once again the ease with which texts circulated free of their authors, for the writer borrows his assessment of American literature—without citing his source—from Poe’s “The Facts in the Case of M. Valdemar” (1845), which had been published in the *American Review* ten months earlier. In its appropriation of Poe’s story, “Literary Phenomena” thus testifies at once to the practical difficulty of establishing an authorial reputation (Poe’s name is eclipsed by the sensational demise of one of his characters) and to the perils generated by the unstable nature of American authorship, which subjected those who wished to promote it to charges of fraudulence.

Marginalized Authors and the Problem of Originality

While all American writers faced the obstacles of uncertain markets, unstable identities, and accusations of fraudulence, the perils of authorship nonetheless hounded some writers more than others. Especially as literary culture became increasingly centralized, women writers, writers of color, working-class writers, and those outside the northeastern publishing centers were often portrayed as being incapable of true originality. The categorization of some classes of authors as more fraudulent than others helped to stratify a rapidly expanding literary field. Yet writers who were seen as particularly dubious did not always seek to avoid authorship’s perils. At times they embraced them, taking advantage of the uncertain conditions of literary production to carve out new possibilities for themselves. The career of novelist and newspaper columnist Fanny Fern, the pen name of Sara Payson Willis, offers one striking instance of the unexpected potential of literary fraudulence. Fern’s detractors dismissed her writing as

grossly contrived, but her fans devoured her writings in the *New York Ledger*, where she was the highest paid columnist of her time. Readers made her novel *Ruth Hall* a runaway bestseller; enthusiastically named waltzes, boats, and children after her; and made her true identity the subject of heated debate. Fern periodically found her literary property under attack, and her newspaper columns complain of imitators on the page, in photographs, and even on the lecture circuit. More often, however, she played havoc with the very idea of “true” authorial identity. “I’m a regular ‘Will o’ the Wisp;’ everything by turns, and nothing long. Sometimes I’m an old maid, then a widow, now a Jack, then a Gill, at present a ‘Fanny.’ If there’s anything I abominate it’s *sameness*. ... That’s *what* I am, and as to the ‘*who*,’ I’m rather mystified *myself*, on *that* point. Sometimes I think, and then again I don’t know!!” she announced (Mar. 1852, n. p.). While many writers used pseudonymy as a means of protecting private selfhood, Fern immersed herself in its fictitiousness: she signed her letters to friends and family “Fanny Fern,” her husband called her “Fanny,” and when she died, her gravestone at Mt. Auburn Cemetery bore only the inscription “Fanny Fern.” Playing with notions of originality throughout her career, Fern confronts us with the **(p.206)** prospect of a writer who, when widely condemned for her artifice, responded by enthusiastically exploiting it.

Fern built her reputation writing for newspapers, a publishing format whose antebellum conventions were as likely to destabilize notions of authorship as to strengthen them. But Fern also published *Ruth Hall*, a *Künstlerroman* (artist-hero novel) of equal parts pathos and sarcasm that possessed unmistakable parallels to her own life. We might expect a novel, and particularly one in which the heroine prevails over poverty, sickness, misuse, and the iniquities of the literary marketplace, to promote the ideal of individual authorship. Yet for all its emphatic narrative of self-fulfillment, *Ruth Hall* confounds these expectations. First, it evinces little of the formal unity we tend to associate with the novel. Indeed, it reads much more like a newspaper. Rather than knitting together its parts, the novel ricochets between scenes and narrative perspectives without warning, so that the cumulative effect resembles the newspaper’s juxtaposition of multiple stories. Its chapters are extremely short (usually only a page or so in length) and often internally broken up with blank spaces, contributing to the impression that they are a collection of newspaper columns. Moreover, in the book that bears her name, in which she figures as the main character and whose plot revolves around her literary celebrity, Ruth has surprisingly little voice. Instead, Fern unfolds her story through the numerous characters who surround Ruth, from her cruel in-laws to her lecherous fellow boarders to the editors, critics, publishers, and booksellers who thwart her literary efforts. Oddly enough for a book about a writer, we never see Ruth’s writing. We only hear others’ opinions of it, in numerous reported conversations on the subject and in the stacks of letters that, under the pen-name “Floy,” she receives from her readers, which are “reproduced” in full. Against expectations, *Ruth Hall* turns out to look

very little like a novel, and it shifts attention away from the novelist-as-originator to the field of reception—the institutions, communities, and individuals through which her writing circulates.

If *Ruth Hall* proves surprisingly resistant to the generic conventions of the novel, as well as to the version of authorship it appears to consolidate, the book's reception tells us something about the stakes of this resistance. Although *Ruth Hall* was enormously popular, reviewers were largely unimpressed. Many reviewers repeated familiar complaints about Fern's derivativeness as an author, accusing the novel of simply piecing together well-worn conventions, making it as false as a "glittering string of inflamed paste." Yet, just as this same *Southern Quarterly Review* critic denounces the book for being wholly "extrinsic," he also maintains that it discloses a (distasteful) interiority: "How much of auto-biography may be found in the work, we know not, inasmuch as we have no inkling of who is meant by the vegetable pseudonym of 'Fanny Fern.' But there must be much self-infusion in the book, or even inspired mediocrity could not have so completely forgotten and merged the woman Ruth in the authoress Floy" (Apr. 1855, 449). Fern's reviewers turned their critical gaze on her person so persistently that it became a running feature of her (p.207) *New York Ledger* columns, where she lamented, "What a pity when editors review a woman's book, that they so often fall into the error of reviewing the woman instead" (May 1868, 8). Fern sees this "error" as a symptom of professional jealousy, but it may be as wishful as it is vengeful, for calling attention to the figure of the author keeps at bay Fern's more unsettling mode of literary production, which played fast and loose with authorial identity.

For the African American novelists who began to publish after mid-century, authorship held its own set of dangers. In many ways, the novel as a genre offered great opportunities to African American writers. By mid-century, novels were becoming increasingly important forces for political change, and the opportunity they offered for the creation of entire fictive worlds also afforded African American writers significantly greater scope than the documentary genres in which their writing was often corralled by abolitionist sponsors and promoters. Yet, in other ways, the novel was a problematic genre for African American writers. Authors of slave narratives, probably the most widely read genre of antebellum African American writing, faced enormous pressure to prove their veracity, as the customary barrage of documentation from white supporters demonstrates. The suspicions that dogged writing by all African Americans, and former slaves in particular, made the concept of an African American novel almost unthinkable, a logical blind alley that helps explain why only four known novels by African Americans had appeared in print by 1860: William Wells Brown's *Clotel; or, The President's Daughter* (1853), Frank J. Webb's *The Garies and Their Friends* (1857), Harriet Wilson's *Our Nig; or, Sketches from the Life of a Free Black* (1859), and the first part of Martin Delany's serialized *Blake; or, The Huts of America* (1859, 1861–62). The climate

of reception for African American writing in the United States perhaps also explains why the first two of these novels were published in London, while the third languished in obscurity. Although most nineteenth-century readers could readily envision African Americans lying, this racist assumption, which cast their inventiveness as pathological rather than artistic, seems to have left little room to imagine them crafting a deliberate work of literary fiction.

The challenges the novel presented for African American authors appear nowhere so clearly as in Brown's *Clotel*, the work generally cited as the first novel by an African American author. Despite the book's claim to fame, its classification as a *novel* proves at odds with the literary mode of *Clotel* itself, which defies the originality, unified plot, narrative voice, and self-containment we have come to expect of the form, and traffics instead in quotation, fragmentation, and iteration. Indeed, it makes little sense to speak of Brown's novel as a single text. In the fourteen years following *Clotel's* first publication, Brown would reproduce it in three different versions—as the serialized *Miralda; or, The Beautiful Quadroon* (1860–61), as *Clotelle: A Tale of the Southern States* (1864), and as *Clotelle; or, The Colored Heroine* (1867). Even if one confines oneself to the 1853 *Clotel*, the novel proves no less various. Eschewing a strong, unifying narrative voice, Brown instead borrows freely (p.208) from a host of other texts: abolitionist poetry, Lydia Maria Child's short story "The Quadroons" (1842), Grace Greenwood's poem "The Leap from the Long Bridge" (1851), slave laws, Englishman John Rely Beard's biography of Haitian revolutionary Toussaint L'Ouverture, anonymous newspaper articles, and his own previous writings. Furthermore, rather than creating a stand-alone fictive world, Brown interweaves his story with historical facts and figures. *Clotel's* textual clutter raises a confounding literary historical question: why is this landmark in the history of the African American novel almost unrecognizable as a novel?

Brown's apparent lack of authorial control over *Clotel* often baffles or frustrates modern readers, but we might better understand it as evidence of Brown's predicament: in order to create the fully fledged imaginative world of a novel, he had to forego the role of author and assume a role closer to that of editor. We begin to glimpse this dynamic in *Clotel's* first chapter, "The Negro Sale," which introduces the main characters, Currer and her daughters Clotel and Althesa, and sets in motion the separation that will propel the plot. Yet this storytelling work is deferred as Brown turns away from fiction toward history, launching into a lengthy disquisition on slavery's destruction of families that assembles quotations from former Secretary of State Henry Clay and Virginia statesman John Randolph, statistical proof of extensive race mixture, and examples of slave laws and rulings from southern Christian organizations. When Currer, Clotel, and Althesa finally appear five pages into the novel, Brown does not introduce them himself but secondhand, through a newspaper advertisement for a slave auction that he quotes in full. In his distinctly un-novelistic aversion to narration,

Brown cedes textual authority to other sources, constructing his own argument by drawing out dissonances among them.

Clotel offers yet another example of the instability of antebellum authorship, but its long bibliographic history also documents the eventual consolidation of authorship as a surer organizing principle for literary culture. By the time Brown revised *Clotel* into the 1860–1861 *Miralda*, the novel had largely shed its textual heterogeneity—the snatches of poetry, plagiarized passages, and quotations from legal rulings and recorded history that once peppered it. This revision foregrounds Brown’s narrative voice, a transformation that would continue in the 1864 and 1867 revisions. In these versions, for example, the main characters do not enter through the mediation of the auction advertisement but are (promptly) introduced by the narrator himself, without *Clotel*’s lengthy detour through historical facts about slavery. Once again, these changes highlight the importance of print format in the literary history of the novel, for although we tend to use the term “novel” as if it were interchangeable with “book,” the changes that make *Clotel* more recognizable as a novel begin with its adaptation for a newspaper, probably under the pressure to maintain focus and narrative momentum that came with weekly serialization. More broadly, the transformation of *Clotel* points us toward larger transformations in the meaning of authorship, as the more prominent authorial role Brown **(p.209)** is able to assume in the 1860s indicates both the beginnings of a shift in racialized expectations for literature and the increasing cultural legitimacy of the concept of authorship itself.

Mastering Authorship, Managing Markets

The radical expansion of publishing in the post–Civil War era brought a number of changes to the intersecting histories of literary property and literary nationalism, changes that had consequences for how authors understood their profession. As publishing in the United States grew from a gentlemanly business into an industry, written contracts and the intervention of literary agents between authors and publishers became more common. Popular essayist Gail Hamilton’s dispute with James T. Fields over royalty payments, chronicled in excruciating detail in Hamilton’s *A Battle of the Books* (1870), serves as one index of this shift. Fields had quietly switched from paying Hamilton royalties as a fixed percentage of her sales to paying a fixed rate per volume sold, a change that insured that, as book prices rose, the author’s profits became a smaller percentage of the whole. Hamilton’s satirical public account of their dispute broke with the decorum of authorial subservience in matters of business and signaled the eclipse of the informal arrangements that were characteristic of antebellum publishing.

In the late nineteenth century, American authorship became both more professionalized and potentially more profitable. William Cullen Bryant helped to revive authorial interest in pressing for changes in the copyright law, founding

the Copyright Association for the Protection and Advancement of Literature and Art in 1868. This time, authors' arguments on behalf of an international copyright agreement found more receptive soil. For most of the nineteenth century, international copyright was governed by a patchwork of bilateral treaties, allowing for considerable experimentation in the interstices of these agreements. But the mounting numbers of international copyright treaties—Great Britain signed reciprocal copyright agreements with a number of German states in 1844; with Prussia in 1846; with France, Belgium, and Spain in 1852; and with a number of Italian states between 1861 and 1870—made the United States' refusal to enter such arrangements begin to seem anomalous. By the 1880s, the tide was turning in favor of an international copyright agreement of some sort. In 1878, the British Copyright Commission tendered a blistering report on the obscurity and inconsistency of British law, strongly recommending that Great Britain accept American protectionist demands that copyrighted foreign works be manufactured in America. Harper & Brothers, a firm that had long been a staunch opponent of international copyright, responded to this report by drafting treaty conditions that became the focal point of the American campaign for changes to the law.

(p.210) American law lagged behind American culture when it came to acknowledging authorship as a principle of textual regulation. It would take until 1891 for a protectionist international copyright law (the Chace Act) to be passed by Congress, and until 1909 for the discourse of authorship fundamentally to transform the statutory definition of copyright. In the major recodification of copyright passed into law in that year, the 1790 statute's denomination of kinds of works ("maps, charts, and books") and its emphasis on the protection of useful texts was recast to cover "all the writings of an author" (17 U.S.C. § 4). But cultural evidence of the increasing importance of authorship to the circulation of texts can be found as early as 1861 in the card game *Authors*, which enjoyed enormous popularity throughout the second half of the nineteenth century. On the one hand, the publishing history of *Authors* exemplifies the continuing insecurity of intellectual property; although Salem, Massachusetts, game publishers G. M. Whipple and A. A. Smith brought out the original *Authors*, in the absence of a copyright law broad enough to include playing cards, numerous competitors quickly issued their own versions. On the other hand, the game itself serves to consolidate literary property under the purview of authorship, as the object of the game is for players to collect each author's "works," matching titles to the author's card. Later versions often featured engravings or photographs of authors, further solidifying players' mastery of authorial identity. Moreover, the game condensed the field of authorship by equating "Authors" writ large with the particular writers it assembled. The selective elevation of these authors to "Authors" helped reinforce what we have come to know as a national literary canon, while demonstrating how canons can

be formed through mass cultural phenomena as well as through more familiar, top-down, critical or institutional fiat.

With American authorship on a surer footing, however, new dangers emerged. As the recognizability promoted by the game of *Authors* suggests, many postbellum authors found their identities somewhat too public. In Louisa May Alcott's *Jo's Boys, And How They Turned Out* (1886), once Jo becomes a famous novelist, "the admiring public took possession of her and all her affairs, past, present, and to come." Besieged by visitors, autograph seekers, photographers, and reporters, Jo complains, "There ought to be a law to protect unfortunate authors. ... To me it is a more vital subject than international copyright" (49). Henry James's "The Aspern Papers" (1888), published two years later, presents an even more ominous picture of readers' hunger for authors in its depiction of a biographer's zeal for a dead poet's papers, a passion so great that it ultimately leads to the papers' destruction. Once unstable, uncertain, and difficult to establish, authorial identity had become by the late nineteenth century all too perilously knowable.

Many of the connections we have traced in this chapter between literary property, literary nationalism, and literary fraudulence, and the consequences for American authors of the shift to a better organized, more stratified literary marketplace, are epitomized by the No Name Series, a group of thirty-seven contemporary novels (**p.211**) issued anonymously by Boston publisher Roberts Brothers between 1876 and 1887. The No Name Series indexes striking changes in the cultural meaning of authorial anonymity, as what had in the antebellum period been an unfortunate predicament, a mark of gentlemanly discretion, a sign of female modesty, or, for many women, a threshold condition for their participation in public literary culture, is transformed by enterprising publishers into a clever marketing device. "Curiosity will naturally stand on tiptoe, eager to discover through the author's style his or her identity," the *Chicago Daily Inter-Ocean* predicted, and Roberts Brothers worked hard to produce precisely this effect. After the publishers launched the series in 1876 with a novel by Helen Hunt Jackson, some subsequent novels included a blank page pasted into the volume headed "GUESSES AT THE AUTHORSHIP of MERCY PHILBRICK'S CHOICE." Roberts Brothers stoked debates over the identities of the authors in magazines, and when they issued the collection *A Masque of Poets* (1878), they asked readers to submit their guesses at the authorship of each poem directly to the publishers. Indeed, the publishers acknowledged in correspondence that the point of anonymity for this series was less to shield authors from the public than to encourage readers to identify them. "People say it will be impossible to keep the secret, for an author's style cannot be hidden," the editor of the series told one prospective author, but "if it is not admitted, there will be uncertainty enough to make it exciting, and create a demand—we hope a large one" (qtd. in Stern 1991, 378). In other words, the No Name authors' anonymity was a riddle meant to be solved. Whereas anonymity had once signaled the instability of

authorial identity and authors' tenuous hold over their literary property, here it reinforces both, as publisher and reviewer alike trade on the belief that an author's style will confirm his or her distinctiveness and tether the author more closely to the work.

And yet, despite its innovative use of anonymity, many aspects of the marketing campaign for the No Name Series harken back to the cardinal points of antebellum literary culture: the hope that an authentic American literary tradition might emerge from the practice of a democratic literary criticism; an abiding concern that a mass-produced literature could only be a fraudulent one; and an orientation to British literary culture that is curiously compatible with literary nationalism. Notably, for a series that was initially imagined to promote "Original American Novels and Tales," the publishers justify the project at every level with references to British texts they assume are common knowledge among American readers. The Publishers' Advertisement begins with a throwaway reference to Leigh Hunt; the title of the No Name Series deliberately echoes that of Wilkie Collins's 1862 novel; and the title-page motto is taken from George Eliot's newly published *Daniel Deronda* (1876), a motto that expectantly alludes to the transatlantic success of Sir Walter Scott: "Is the Gentleman anonymous? Is he a Great Unknown?" (qtd. in Stern 1991, 377). In fact, most of the novelists who published in the series were not gentlemen at all, but women authors who already had some success publishing novels, histories, and short fiction. Though their identities were fiercely protected from the (p.212) public (and even from the publisher's employees) as part of the marketing scheme, the series was also sold to readers as an exercise in democratic criticism, one that was particularly appropriate—even salutary—for American literature. According to the Publishers' Advertisement, authorial anonymity ensured that "[n]o name will help the novel, or the story, to success. Its success will depend solely on the writer's ability to catch and retain the reader's interest" (qtd. in Stern 1991, 377). The scene of reading imagined here recalls antebellum literary nationalists' fervent hopes that a great American novelist might spontaneously arise out of a field of indifferent and indistinguishable writing. If antebellum authors suffered from the lack of authoritative cultural mechanisms for sifting and sorting the literary field, the No Name Series trades on the fantasy that a democratic literature might yet be able to do without them. A reviewer in the *New York Graphic* hoped that the series would short-circuit the interference of the literary-critical elite, helping readers "learn to trust more to their own taste and judgment, and rely less on reputation." Anonymity would make the series an antidote to puffery, according to *Harper's New Monthly Magazine*, which praised it for "absolutely prevent[ing] that trading on reputation which is the greatest vice of American *litterateurs*" (qtd. in Stern 1991, 376). The idea that the No Name Series could eliminate editorial and critical mediation between writer and reader is clearly a fantasy, since the very prominence of these titles is a product of the publisher's intervention in the market. The No Name novels' experiment

in democratic criticism was underwritten by the Roberts Brothers, who solicited and selected titles and ensured the coherence and visibility of the series, issuing each volume in uniform bindings. If the author's name was withheld, the publisher's name still appeared prominently in advertising, on the title page, on the cover of each volume, and as the copyright holder.

Marking a decisive shift toward a marketplace in which authorial identity was carefully managed and relentlessly promoted, the No Name Series also demonstrates the surprising half-life of antebellum literary culture and the shaping force of its constructions of authorship on the very idea of the American novel. Although the perils that attended writing fiction for a scattered, diverse, and print-hungry mass public would change with the shifting nature of the literary marketplace, the challenge of a democratic literature—one that not only represented the aspirations of the new nation but that also operated according to democratic principles—would remain an elusive, if generative, ideal.

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