The Author's Due

Printing and the Prehistory of Copyright

Joseph Loewenstein

The Author's Due

The Author's Due

Printing and the Prehistory of Copyright

Joseph Loewenstein

The University of Chicago Press
Chicago and London

Joseph Loewenstein is professor of English at Washington University. He is the author of *Responsive Readings: Versions of Echo in Pastoral, Epic, and the Jonsonian Masque* and *Jonson and Possessive Authorship*.

The University of Chicago Press, Chicago 60637
The University of Chicago Press, Ltd., London

Printed in the United States of America

11 10 09 08 07 06 05 04 03 02 1 2 3 4 5
ISBN: 0–226-49040–8 (cloth)

Library of Congress Cataloging-in-Publication Data

Loewenstein, Joseph, 1952–
The author's due : printing and the prehistory of copyright / Joseph Loewenstein.
p. cm.
Includes bibliographical references and index.
ISBN 0-226-49040-8 (alk. paper)
1. Book industries and trade—England—History. 2. Printing—England—History. 3. Book industries and trade—Law and legislation—England—History. 4. Printing industry—Law and legislation—England—History. 5. Copyright—England—History. 6. Intellectual property—England—History. 7. Authorship—History. 8. English literature—Early modern, 1500–1700—History and criticism. I. Title.
Z325 .L84 2002
070.5'0942—dc21 2002000552

♾ The paper used in this publication meets the minimum requirements of the American National Standard for Information Sciences—Permanence of Paper for Printed Library Materials, ANSI Z39. 48–1992.

To my teachers

Contents

Acknowledgments

This book is a by-product of research supported by the Graduate School of Arts and Sciences at Washington University, the American Council of Learned Societies, the National Endowment for the Humanities (which sponsored a fellowship at the National Humanities Center), and the Exxon Education Foundation (in sponsorship of a fellowship at the Newberry Library). But the time spent reading not only at the Newberry Library and the National Humanities Center but also at the British Library and the Warburg Institute was perhaps less valuable than the conversations fostered in all those institutions, particularly those with Albert Ascoli, Leonard Barkan, and Mary Beth Rose (at the Newberry); Jonathan Dollimore, Alan Sinfield, Dan Gunn, Roy Weintraub, and Marcia Homiak (at the National Humanities Center); Joe Trapp, Jill Kraye, and Michael Baxandall (at the Warburg Institute).

I am grateful for occasions to present early versions of portions of this book to The English Institute; to the English Departments at Brown University, the University of Alabama (where I enjoyed the special intellectual hospitality of David Miller), and the University of California at Irvine; and to the participants at Martha Woodmansee and Peter Jaszi's seminal 1991 conference on intellectual property at Case Western Reserve (where discussions with Mark Rose, Margreta de Grazia, and Jeff Masten proved especially helpful) and to Erica Sheen and Lorna Hutson's conference on early modern law and literature at Cambridge University. Valuable as these occasions were, presentations at one's home institution put a scholar's work under more strenuous pressure, so I'm especially grateful to Washington University, where colleagues in the intellectual property group of the Economics Department, in the History Department, in my own English Department, and in the early modern dissertation seminar have offered warm audiences and vigorous challenges. I should single out Steven Zwicker, Derek Hirst, George Pepe, Wayne Fields, and Mary Bly: they asked the hardest questions. Several students have

helped me with this book, and their questions were challenging, too: Theresa Everline, Lisa Pon, and Christiane Auston in the early stages; and, later, crucially, Kevin J. Kalish and Chris D'Addario.

I wonder if it's not the case that the longer the book, the more unfinished it feels. It becomes a report on continuing meditations and, best, ongoing conversations. (In my own case, the most important ongoing conversations are with Richard Halpern, Jon Haynes, Rosemary Kegl, Chris Kendrick, and, above all, Lynne Tatlock.) And since I am endlessly grateful to Paul Schwaber, Ted Tayler, Bart Giamatti, John Hollander, Margie Ferguson, and Naomi Lebowitz for schooling me in habits of inquiry that sustain conversation, I've dedicated this book to them.

I

The Regulated Crisis of New Media

Chapter One

An Introduction to Bibliographical Politics

> I conceive you trade in knowledge, and here [at the Royal Exchange] is no place to traffick for it; neither in the book of rates is there any imposition upon such commodities: so that you have no great businesse either here or at the Custome-house. Come let us goe into the fields.
>
> Gabriel Plattes, *Macaria*

What is the history of authorship, of invention, of mental making?

From the Old Law to the New Bibliography

> "The term Literary Property, he in a manner laughed at"
>
> Observed of Sir John Dalrymple, arguing for the appellants in *Donaldson v. Becket* (1774)

In 1909, the Berne Convention of 1886 providing for international copyright protection was revised in Berlin.[1] In order to retain its place in an even barely rationalized international marketplace in intellectual property, Britain acceded to the revision—the British capitulation was confirmed in the Copyright Act of 1911—and English copyright law was thus radically transformed.[2] The Berlin revision fixed the period of copyright protection at the term of the author's life and fifty years after her death, thus obviating the regulatory difficulties that arise in legal systems in which the term of copyright is figured

from the date of publication. This was a subtle assault on English ways, since it brought to an end the persistent debate within British law on the appropriate term of copyright, making the author, once and for all, the sole measure of protection.

Profuse and incommensurable international laws were not the only stimuli to simplification. The pressure to simplify was felt from within as well as from without. Thus the unsigned article on "Copyright" in the eleventh edition of the *Encyclopedia Brittanica* (1910–11) records with obvious perplexity the then current state of legal affairs:

> To sum up the position of artistic copyright in 1909, we find five British acts, three dealing with engraving, one with sculpture, and one with painting, drawing and photography, and between them very little relation. We have three terms of duration of copyright—28 years for engraving, 14 for sculpture, with a second 14 if the artist be alive at the end of the first, life and 7 years for painting, drawing or photography. There are two different relations of the artist to his copyright. The sculptor's right to sell his work and retain his copyright has never been questioned so long as he signs and dates it. The painter's copyright is made to depend upon the signing of a document by the purchaser of his work. The engraver and the sculptor are not required to register; but the author's name, and the date of putting forth or publishing, must appear on his work. The painter cannot protect his copyright without registration, but this registration as it is now required is merely a pitfall for the unwary. Designed to give the public information as to the ownership and duration of copyrights, the uncertainty of its operation results in the prevention of information on these very points.[3]

The issue of what is here called "registration" points to the most obviously revolutionary aspect of the Copyright Act, the etiology of copyright now legally mandated in Berlin. According to the new principles articulated there, an author's rights arose from the act of creation itself. This may seem unexceptionable, but in fact it entails a dismissal of very old institutional arrangements in Britain. Up until the Copyright Act of 1911, all suits for infringement of copyright depended upon the procedure mentioned above, registration, which dates from the sixteenth century. In order to secure a printed work from unfair competition, a printer—acting as author's agent as jurisprudential tradition would have it—would record his claim on the work

in the Stationers' Register at the printers' guildhall, and this registration constituted the foundation of all claims of copyright.[4] Thus the law, the political structure, of literary property had long been organized around procedures essentially industrial. The Copyright Act of 1911, in accordance with the Berlin agreement, broke with this tradition and reorganized the legal foundations of copyright simply by canceling the necessity of registration.

Thus reconstructed, copyright law functions to protect authorial creativity, to provide a statutory hedge against industrial concerns around an author's somewhat mysterious, if not mystified, creative act; the new law enables a bracketing, a willed forgetting, of the marketplace.[5] The forgetfulness is part of a general simplification, for the 1911 act consolidated all the various forms of copyright within a single text and framed those rights in such a way that the complex realities of the publishing industry become, in effect, ancillary to copyright law.[6] The *Encyclopedia Brittanica* reviews the changes with composed relief: "The sensible basis on which the new bill was framed, and the authority it represented, commended it."

With relief, and with sober caution: "commended it, in spite of many controversial points."[7] Radical and simple as it was, the act of 1911 still had the feel of the Provisional. And no wonder: during the preceding two decades the marketplace for intellectual property had been an unruly one, partly because of new forms of unfair competition, partly because of pressure on the patent system, but largely because of new developments in what we now call "the media."[8] The proliferation of phonographic recording (Edison's phonograph dates from 1877; the Path and Gramophone phonograph factories began production in 1893; Victor initiated its Red Seal issues in 1902) and the development of the pianola provoked a rethinking of the landscape of intellectual property similar to the rethinking that had attended upon the invention of photography.[9] Such new apparatuses for sound reproduction blurred already contested boundaries between musical text and musical performance, and between artisanal and mechanical production. The legal difficulties presented by the new technology were thrown into relief by a 1908 case brought in America: the plaintiff, a music publisher, alleged infringement of musical copyright when two songs were transcribed on piano rolls.[10] This was plainly a small matter compared to the more fully consequential problem of phonographic reproduction, which led to the articulation of mechanical rights, the so-called neighboring rights proximate to the monopoly in recording. In 1910, the parliamentary committee that was charged with digesting the Berlin revisions in order to draft the 1911 legislation recognized that the new medium of "publication" could not easily be subsumed within existing legal structures. The committee therefore recommended the formation of the Mechanical

Copyright Licences Company to protect composers' rights in mechanical reproduction. The Copyright Act of 1911 provided for compulsory licensing of mechanical reproduction and then conferred copyright on the producers of the licensed recordings. This was obviously not a simplification, but it did secure, if only temporarily, a remarkable comprehensiveness in the face of burgeoning disseminative technology.

Most important, the Berlin revisions forced Britain to respond to new technology in Parliament and not in the courts, by statutory intervention in the law and not by interpretive extension of it. The displacement of common law by statute is, of course, characteristic of legal developments since the mid-nineteenth century, a key feature of the rise of parliamentary democracy. This displacement, which reverses a key shift in the late seventeenth-century history of copyright, effects a partial erasure of the past from the code of law; it secures an enfeebling of memory. The past was variously subsiding, for as the Parliamentary Committee on Copyright was assimilating the Berne Convention, W. A. Copinger, the greatest English authority on copyright law, was dying. The Copyright Act of 1911, by making an antiquarian curiosity of the Stationers' Register, quite literally closed a book on the history of literary culture.

On the other hand, the antiquarians were particularly curious during these years. The Bibliographical Society, which Copinger had founded in 1892, was rolling up its sleeves, reopening the Stationers' Register.[11] The Bibliographical Society was on a campaign against selective memory. In 1903, with Sidney Lee's 1902 facsimile of the First Folio under review, W. W. Greg pronounced not only on Lee's ignorance of the regulation of the Tudor and Stuart book trade, but on the historiographical amateurishness of virtually all professed literary historians; as if Copinger were setting his historiographical agenda, Greg remarks, "With regard to the old copyright regulations, it should be frankly confessed that we know very little about them."[12] Greg's mentor and student, A. W. Pollard, rose to the challenge of this review in his *Shakespeare Folios and Quartos* (1909) by attempting to specify the various property rights variously haunting Renaissance dramatic manuscripts, performances, and printed texts. Together, Greg and Pollard made it their larger project to clarify the history of copyright, of stationer's registration, of printing, and of publishing, even as that history was being wiped from the practice of the law.[13] To sum up the conjunctural paradox: in 1909, the Berlin revision of the Berne Convention represented literary culture, for the purposes of law, as a vacuous space with author and a book-buying public at its poles, and with the book as a thin material line of communication between them; in 1909, *Shakespeare Folios and Quartos* represented literary

culture as a space thick with books, with scribes and printers, guildhalls and printshops and bookstalls, proclamations and regulations, actors and acting companies, booksellers and book buyers, a crowded historical field within which one might hope to discern conventions and recurrences and so bring into focus the historically specific lineaments of author and literary work. Legislator and bibliographer offer us two starkly different representations of literary culture, but both, I think, respond to the same conceptual-regulatory crisis, the revolution in reproductive technologies.

"Ad Imprimendum Solum"

Pollard's historical representation was thick but imperfect, and he soon recognized as much. The received wisdom in bibliography was rapidly changing: though the traditions of Shakespeare scholarship continued to provide the organizing questions, these years saw an exceptional ferment in research into all aspects of the Renaissance literary marketplace.[14] So it was no wonder that Pollard felt that he must undertake his historical account of Shakespearean book culture again, and only a few years after the appearance of *Shakespeare Folios and Quartos,* in the Sandars Lectures of November 1915.[15] The opening of these lectures dates them: "Legal writers on English copyright have not shown much interest in the steps by which the conception of literary property was gradually built up, nor are any data easily accessible for comparing the course of its development in England and foreign countries."[16] Pollard's words derive from the era of the Berlin Convention and of the British Copyright Act, the era of the law's forgetting and of bibliographic anamnesis.

Pollard approaches the history of the text as a problem in the history of regulation, as I mean to do. Hence the title of his first lecture, "The Regulation of the Book Trade in the Sixteenth Century." Now, by "regulation" one may mean many things, but Pollard tended to surprisingly narrow constructions. This tendency provoked a bibliographical debate, the pertinence of which endures, and not simply because it remains unresolved merely as a matter of historical interpretation.

The debate concerns the meaning of a proclamation of King Henry VIII dated 16 November 1538. The proclamation begins by announcing the need for censorship, for an essentially and—as I shall be obliged to put it again and again in these pages—*narrowly* or *crudely* ideological regulation. Here are Pollard's citations and discussion (such early typographical conventions as the use of *i* for *j* and *u* for *v* and vice versa, or the use of long *s* and double

V, are normalized to accord with modern practice, as they will be throughout this book; abbreviations will also be silently expanded):

> "The Kynges moste royall majestie beinge enfourmed, that sondry contentious and sinyster opinyon[s], have by wronge teachynge and naughtye printed bokes, encreaced and growen within this his realme of Englande," forbids the importation, sale, or publication, "without his majesties speciall licence," of any English books printed abroad, and then proceeds:
>
> > Item that no persone or persons in this realme, shall from hensforth print any boke in the englyshe tonge, onles upon examination made by some of his gracis privie counsayle, or other suche as his highnes shall appoynte, they shall have lycence so to do, and yet so havynge, not to put these wordes *Cum privilegio regali,* without addyng *ad imprimendum solum,* and that the hole copie, or els at the least theffect of his licence and privilege be therwith printed, and playnely declared and expressed in the Englyshe tonge underneth them.
>
> Here we have the first of several enactments which forbade the printing of any book in English except after it had been examined by *some* (which implies two or more) of the Privy Council, "or other suche as his highnes shall appoynte." Incidentally we may note that while a distinction appears to be drawn between a licence and a privilege, the one word "privilegium" seems to be used as a Latin equivalent for both. Every book, as I understand the proclamation, required a licence; but this licence was not to be paraded by the use of the words "Cum privilegio regali," without these words being limited and restricted by the addition "ad imprimendum solum." These must therefore be construed "only for printing," i.e. not for protection, unless this was expressly stated, in which case the "licence" was raised to the higher rank of a "privilege." The words "ad imprimendum solum" have been generally interpreted as equivalent to "for sole, or exclusive printing." Whether or not they can legitimately bear this meaning in Tudor Latin is perhaps doubtful. It seems quite clear from this Proclamation that this is not the meaning they were originally to bear.[17]

To cite Pollard at length, as I have done, is to preserve a bibliographic tradition. In 1919, E. M. Albright initiated the tradition with almost the identical

citation followed by the acerbic comment, "I cannot agree with Mr. Pollard in his innovation."[18] Albright's analysis provoked a response in *The Library* from Pollard, and he later revised his original argument for the second edition of *Shakespeare's Fight with the Pirates,* but the matter did not rest there—in 1954, Greg made his own settled intervention in the dispute.

I shall takes sides in this debate in a subsequent chapter, but at this point, I wish only to point out the historiographical issues at stake in the argument that Pollard initiated. Pollard argued that Henry was concerned only with the ideological control of books. Books were to be submitted to the Privy Council for approval; the sign that such approval had been secured was the phrase "*Cum privilegio regali.*" Moreover, said Pollard, Henry wished to limit the significance of the sign of that approval. The royal *privilegium* was, first of all, significantly mediated and therefore susceptible to summary withdrawal in case, for example, the king wished to correct an instance of imprudent permissiveness on the part of his delegated censors. And second, even the approval signified by the words "cum privilegio regali" was straitened as a license *for printing only*—that is, it was not to be understood as an endorsement of the book.

Albright argued that Pollard had made nonsense of the context of the passage: the proclamation, she said, was quite clearly concerned with censorship alone. She quotes the manuscript version, "they shall have lycence so to do, and yet so havyng nott to put thes words cum privilegio regali wt owght addyng ad imprimendum solum," and asserts that Henry added the key words "to provide against a deceptive garbling of the royal privilege to make it seem to be a larger protection of a work than a mere protection of exclusive printing rights, such as, for example, a protection against recall and suppression."[19] Now this may not seem a grave difference from Pollard's construction; indeed, Pollard claimed that "Miss Albright is only forcing an open door."[20] Both were arguing that Henry was concerned primarily with censorship. But where Pollard argues that the phrase "ad imprimendum solum" is a limitation on the Privy Council approval, a limitation coming *from within* the new censorship system, Albright suggests that the phrase limits the degree to which a different regulatory mechanism, a mechanism controlling competition within the nascent book trade, may interfere with the new censorship system *from without*.[21]

Pollard amassed, in the course of his career, some very thick descriptions of early English book culture, but he had a passion for the simple explanation. "When I wrote my *Shakespeare Folios and Quartos,* I wrote as a bibliographer and a lover of logical economy impatient of hypotheses disproportionately large compared with the facts they were framed to explain."[22] Pollard's representation of the 1538 Proclamation reveals just such a zeal for simplicity,

and in this case, the love of "logical economy" led him to present an argument in which the confusing interference of an emergent *market* economy was set aside. At one crucial historiographic moment Pollard describes a book culture that is nearly as attenuated as that of the Copyright Act of 1911. The Crown and its agents concern themselves exclusively with ideological control of the press. This simulacrum of book culture casts a long, stark shadow.

Situating the Penal: Lea or Heckscher?

> "Writing has become linked to sacrifice, even to the sacrifice of life."
>
> Michel Foucault, "What Is an Author?"

Insofar as we are sensationalists by nature, insofar as we are McCarthyites of the imagination, we make our approach to the dual subject of politics and literature through a desolate terrain; insofar as we possess a sensationalist disposition, we seek the quintessential creative act in the gulag and understand the One True State as a tyranny. Given such dispositions, we will find the most significant context of authorship, the site of its truest history, within the regime of censorship. No recent evocation of such a history has been as influential as that of Michel Foucault.[23]

I refer to his essay "What Is an Author?" (1979, based on a lecture given in 1969). The essay is an extended meditation on the relationship between texts and the "author-function" that modern culture attributes to those texts. Turning, at the end of the essay, to the " 'ideological' status of the author," Foucault asks,

> How can one reduce the great peril, the great danger with which fiction threatens our world? The answer is: One can reduce it with the author. The author allows a limitation of the cancerous and dangerous proliferation of significations within a world where one is thrifty not only with one's resources and riches, but also with one's discourses and their significations. The author is the principle of thrift in the proliferation of meaning.[24]

Here authorship has a nearly diacritical status. It is an index by which writing becomes particular, local. Note the notion of discursive *threat*—a constant in Foucault's own writing: this account of literary culture is infused with a thematics of violence. This violence appears elsewhere in the essay, in his

account of pre-Enlightenment discourse, but it is resituated: the "dangerous proliferation of significations" calls forth a punitive answer.

> Discourses are objects of appropriation. The form of ownership from which they spring is of a rather particular type, one that has been codified for many years. We should note that, historically, this type of ownership has always been subsequent to what might be called penal appropriation. Texts, books, and discourses really began to have authors (other than mythical, "sacralized" and "sacralizing" figures) to the extent that authors became subject to punishment, that is, to the extent that discourses could be transgressive.

This moment of beginning is not so easy to place, partly because of the difficulty of figuring out how a proportion—"to the extent that"—can enable us to fix a "real" beginning. One may surmise that this is a myth about a human prehistory. As he goes on, Foucault's etiology of the author retains a primitivist character:

> In our culture (and doubtless in many others), discourse was not originally a product, a thing, a kind of goods; it was essentially an act—an act placed in the bipolar field of the sacred and the profane, the licit and the illicit, the religious and the blasphemous.[25]

Though this does seem to refer primarily to an ancient era of anonymity—the discursive culture of which eludes our knowledge—its reference is perhaps not so exclusive. "To the extent that" the anonymous persisted, by so much may we presume a postponement of the beginnings of Foucauldian authorship. That is, this primitivist myth evokes not only ancient anonymity but its early modern afterlife, not only a prehistoric and bloody priesthood but the Inquisition. The proposition is simply that penal appropriation is prior to all other forms of appropriation. "Historically, it [i.e., the discursive act] was a gesture fraught with risks before becoming goods caught up in a circuit of ownership."[26] The author emerges from the gulag; writing depends on censorship.

Foucault's account is valuable in many ways: the essay makes extremely useful assessments of the cultural function of authorship—in discriminating "fields" of writing, in articulating a public sphere, and in endowing the various grammatical "persons" with richly differentiated rhetorical characters and efficacies within scribal culture. I *press* Foucault's historiographic

thesis because it raises the same question that haunts our constructions of Henry VIII's proclamation. Again the commercial is tested against what must be styled narrowly ideological claims. ("Narrowly," because the provenance of ideology is much contested; some would argue—I would argue this way myself—that commerce itself has ideological functions.)[27] That this problem should present itself in otherwise profoundly different attempts to produce a history of discourse deserves our attention. Is penal appropriation inevitably prior to the commercial appropriation of discourse? More generally, to what extent does the penal determine the emergence of modern discourse?

Foucault's essay begins, "The coming into being of the notion of 'author' constitutes the privileged moment of *individualization* in the history of ideas, knowledge, literature, philosophy, and the sciences" (141). Characteristically, Foucault traces the origins of a crucial feature of modern bourgeois culture, the ostensibly autonomous creative artist, to innovations in public practice—in this case, to the development of censorship. That is, an individualism is discovered to be a back-formation, an effect, of an institutionalization.[28] In Foucault's work, the individual-effect might be seen as bipolar: thus, in the model Foucauldian case, the Police "normalizes" the Criminal and, thence, the law-abiding Citizen; in the related case at hand, the Censor normalizes the heretical Author and, thence, the orthodox Author. In fact, Foucault tends to represent these individual-effects as single: the police normalizes the citizen (or, perhaps, the legal subject as the possessor of rights beyond mere property rights); the censor normalizes the author. The excess here, the degree to which the social being of the citizen seems to exceed a supposed constitutive moment in the jurisdiction of the police, or to which the various potencies of authorship exceed the fine violence of the censor, betrays, I think, an inadequacy, or at least a reticence, in Foucauldian historiography.[29] The notion that individualisms are back-formations of institutionalizations is a useful etiological model, yet we need more institutional divinities in this myth of origins. The Author is a censorship-effect, and also a book-effect, a press-effect, a market-effect.

Milan Kundera once observed that "the struggle of man against power is the struggle of memory against forgetting."[30] My purpose here is to suggest that the quickening of memory may yield more than a tyrant and a gulag, a censor and a heretic; and although a quickened memory *regularly* yields tyrant, censor, gulag, and heretic it does not *necessarily* do so. We might also remember how diffuse has been the struggle of women and men against the harrowing constraints of nature and of human culture; we might also remember, as Foucault in his last years so cunningly recalled, how mobile and various power has been. It comes to this: shall we regard the his-

tory of literary culture as an appendix to Henry C. Lea's *History of the Inquisition,* or to Eli Heckscher's *Mercantilism*? Might not these histories be coordinated?

Remembering the Stationers

> Mr. Attorney General *Thurlow* opened as counsel for the appellants. . . . He was very diffusive upon grants, charters, licences, and patents from the crown, both to corporate bodies and individuals, tracing them far back.[31]

There have been many struggles to remember the emergence of early modern authorship, but none was more consequential than the particular struggle of *Donaldson v. Beckett.*[32] Thomas Becket, together with several partners, had purchased the copyright in Thomson's *Seasons* from the estate of Andrew Millar, the original publisher, in 1769; in 1772, Becket alleged that Alexander Donaldson had printed and sold thousands of copies of the book and received a perpetual injunction against Donaldson in Chancery. Donaldson appealed to the House of Lords on the grounds that the Statute of Anne (8 Anne, c.19) enacted in 1710 had provided for a statutory copyright (two fourteen-year terms) that had lapsed in 1757.[33] The question at stake was whether a *common law* copyright subsisted, as it were, beneath and beyond the statutory copyright. Beckett and his partners had paid £505 at Millar's estate auction in 1769; had they bought anything? The Lords tried to remember: the counsel for the appellants "was very diffusive upon grants, charters, licences, and patents from the crown, both to corporate bodies and individuals, tracing them far back" as I shall do; "he particularly adverted to the statute of the 8th of queen Anne," as we must.[34]

Copyright litigation in the eighteenth century had the task of construing the Statute of Anne, known to most legal and literary historians—though the knowledge is often quite approximate—as the first English copyright law. It is fair to say that the statute is significantly misrepresented by such definitive decisions as *Donaldson v. Becket.* That is, the case law that interprets it transforms the Statute of Anne into a clarification of the nature of common law authorial copyright. In fact, the Statute of Anne was promulgated to clarify the traditional stationer's copyright that had evolved from sixteenth-century guild regulations. Stationer's copyright, to be discussed in detail in the next chapter, is a limited industrial monopoly, conferred by the guild on its members. The Statute of Anne was providing for a clear, statutory rendering of a