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## The Social Manufacture of Private Ideas in Germany and Britain, 1750–1830

“An jedem beliebigen Schriftstellerschreibtisch wird nicht sich selbst verwirklicht, sondern gearbeitet.” (At any given writer’s desk it is not the realization of the self that takes place, but labor.) Martin Walser

As intellectuals crossed the threshold to modernity in Europe, their imaginative and artistic pursuits acquired a profoundly ambiguous status as both the delivery of labor and as an autonomous, freely expressive activity. In their society at large, labor replaced dialogue with God as the constitutive activity of the human subject. In the act of labor, individuals forged and discovered their personhood and singularity. By the logic of this cultural remaking, many writers in the eighteenth century consecrated their own creative work as the very exemplar of labor proper.<sup>1</sup> With the rise of romantic movements in the European countries, however, intellectuals also exalted their callings as the opposite of labor. They defined their employments as self-guided and non-alienating in contrast to menial undertakings that were merely productive. Martin Walser has underscored with his acrid tone how the idealists among us still deny that imaginative writing entails a process of concrete, abject labor at all.

If we clear writing of its inherited but distorting aura, it appears integral to the early development of wage labor. When the demand for prose and poetry outpaced the supply that patronized artists could furnish, composing these works became one of the first livelihoods to be commercialized as lowly wage work outside the institutions of guild, estate, or community custom. As a form of labor practiced outside the corporate order, it was often classed as suitable for being organized as employers saw fit – even, by several accounts, in a manufactory system.<sup>2</sup> Adolph Knigge in 1792 referred to writing as a variety of *Handwerk*, though one less repu-

<sup>1</sup> Consider, illustratively, Goethe’s “Ode to Prometheus”, discussed in Hans Blumenberg, *Arbeit am Mythos* (Frankfurt am Main: Suhrkamp, 1979), p. 482.

<sup>2</sup> Friedrich Nicolai, *Das Leben und die Meinungen des Herrn Magister Sebaldis Nothanker* (Leipzig: Philipp Reclam, 1938 [1775–1776]), pp. 58–64; Armin Mallinckrodt, *Ueber Deutschlands Litteratur und Buchhandel* (Dortmund: Gebrüder Mallinckrodt, 1800), p. 47. For reasons of space, references in this essay are merely representative.

table than “the established businesses”.<sup>3</sup> In German mercantile newspapers of the eighteenth century, notices of book manuscripts for sale appeared side by side those for grain and gunpowder.<sup>4</sup> Even reputable authors’ relation with publishers sometimes took on the tone of that of a poor shoemaker with the merchant: “I will rewrite the illegible letters,” apologized J.A. Friedrich Block to his publisher in 1776, “which come from the overload of work, which is necessary for me to do to support a family, and from working through the night.”<sup>5</sup> Some authors’ works may have belonged in the heavens, but contemporaries emphasized that writing at an earthly desk, like other hand crafts, ultimately inflicted heavy wear on the body.<sup>6</sup>

Perhaps the romantic divide between the labor of workers and that of the intellectuals has inclined historians to exclude writing from their accounts of the commodification of labor. But intellectual labor shaped the perspectives of political economy and of legal statutes with the very rise of capitalist exchange – not only in our own day of the “post-industrial” society. In his drafts of the *Wealth of Nations*, Adam Smith counted the rise of professional writing as a typical outgrowth of the division of labor and of demand for information as a commodity.<sup>7</sup> The concentration of thousands of writers for hire in several London districts by 1750 testified to the commercial status of the pen.<sup>8</sup> The courts in Britain treated the labor of writing as an employment like any other. They ruled that intellectuals who promised to put together a new text paid damages for failing to execute the work.<sup>9</sup> In Saxony, the central court intervened in 1792 to define the author as a provider of a service, not as a mere peddler of a manuscript. The attention of the courts is understandable, for writing was

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<sup>3</sup> “How unfortunate it is that writing in our times is engaged in as hand manufacture, from which one earns one’s keep.” Adolph Freyherr Knigge, *Ueber den Bücher-Nachdruck. An den Herrn Johann Gottwerth Müller, Doktor der Weltweisheit in Itzehoe* (Hamburg: Benjamin Gottlob Hoffmann, 1792), p. 10.

<sup>4</sup> *Der Verkündiger*, Feb. 7, 1797, No. 12.

<sup>5</sup> Staatsbibliothek zu Berlin, Handschriftenabteilung, Decker 7, p. 64.

<sup>6</sup> James Ralph, *The Case of Authors by Profession or Trade* (London; R. Griffith, 1758), p. 22.

<sup>7</sup> Andrew Skinner, *A System of Social Science: Papers Relating to Adam Smith* (Oxford: Clarendon Press, 1979), p. 141.

<sup>8</sup> *The Rambler*, 1751, No. 145.

<sup>9</sup> Richard Godson, *A Practical Treatise on the Law of Patents for Inventions and of Copyright* (London: Butterworth and Son, 1823), p. 309.

big business. By 1788, Leipzig had far more printers than bakers.<sup>10</sup> A professional census of writers in the whole of the German lands that year counted over six thousand professionals, excluding the corps of occasional writers and hacks who wrote only for newspapers.<sup>11</sup>

Of course, to institutionalize the labor of writing as a free commodity, the producers and employers had to establish the object for which the writer was paid, how it could be delivered, and how it could be recirculated in the market for printed books. If we suppose that publishers buy manuscripts like any other ware, the publishers could freely alter a manuscript after acquisition or destroy the manuscript without issuing it. In this setting, the publishing contract engages a spiller of ink on manuscript pages, not a writer of works. This scenario is not completely hypothetical: Enlightenment philosophers debated the legitimacy of such matter-of-fact materialist practices. Or, supposing that, the printing accomplished, the publishers did nothing more than peddle sheets with print marks, every customer could pirate their purchased texts for reissue – furthering healthy competition, to be sure. In a market without copyright, however, the manuscript creator is a private writer, never a public author. Only if we crown printed texts with copyright, only if we imagine that the texts are addressed from an author to a moral or political community, not just to free users of a ware, do we consecrate those objects as publications.

Market logic could not by itself supply the guidelines for defining the labor of writing as a vendable commodity and for commercializing the circulation of ideas in publications. Writing was a sort of labor that was at once tangible and quantifiable by the marks of the page and yet mysteriously spiritual; a labor made out of nothing but a shared language while remaining a process of the private imagination; and one that reached for the eternal universals of science and of the human predicament, even as it claimed novelty and individuality in its products. With the rise of the print industry and of state regulation of the process of publication, each of the major European countries called on different suppositions to institutionalize this strange endeavor of commercial writing for publication. In consequence, the very understanding and experience of intellectual labor varied among these countries, with fateful implications in each for the definition of originality and for the aims of inquiry and art.

To identify the commercialization of intellectual labor as a cultural and political process, it is especially useful to compare the emergence of pub-

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<sup>10</sup> Friedrich G. Leonhardi, *Geschichte und Beschreibung der Kreis- und Handelsstadt Leipzig* (Leipzig: J.G. Beygang, 1799), p. 270.

<sup>11</sup> Johann Georg Meusel, *Das gelehrte Teutschland* (Meyersche Buchhandlung, 1778).

lication systems in Germany and Britain from the second half of the eighteenth century and through the beginning of the nineteenth. Illuminating the causes and possible consequences of the divergent ways these lands turned writing into a trade is my task. Why choose Germany and Britain, and why focus on this period? The reasons are modest but promising. These countries shared great similarities in their print industries. In both of them, the growth of a middle-class readership during this period enabled writing to become a full-time profession. In Britain as well as Germany there was comparatively “free” entry of publishing companies into the market. In pre-revolutionary France, by contrast, a patchwork of administrative bodies severely restricted the number of presses in existence, and the state sold exclusive privileges for publishing in pre-defined fields of knowledge.<sup>12</sup> Although it would be dangerous to exaggerate, the division of Germany into several hundred states undermined much official censorship. It was not difficult for the savvy writer to take a manuscript suppressed in one state and to print and reship it from another.<sup>13</sup> Certainly there was no central state suppression of new presses or specification of the fields in which each printer could issue works. The comparatively thin administration of the central state in Britain and state fragmentation across the German market contributed to these parallels in the regulation of publication.

In both countries, market changes in this period stimulated an extraordinary rise in pirate reprints as well as controversy over the rights of publication. Contemporaries viewed both as momentous. When legislative debate on copyright took place in the House of Lords in February, 1774, several hundred listeners on the steps outside had to be turned away for two days due to lack of space. In London’s coffee houses, this debate had noisy echoes.<sup>14</sup> In fact, the London *Morning Chronicle* brought out enlarged editions that month to include letters from readers on what was

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<sup>12</sup> Carla Hesse, *Publishing and Cultural Politics in Revolutionary Paris, 1789–1810* (Berkeley: University of California Press, 1991), pp. 40, 71.

<sup>13</sup> Books confiscated by the Prussian police, such as Friedrich C. Moser’s *Was ist gut kayserlich* (1766), nonetheless received wide reviews in learned journals in Prussia. See Edoardo Tortarolo “Censorship and the Conception of the Public in Late Eighteenth-Century Germany,” in Dario Castiglione and Lesley Sharpe, *Shifting the Boundaries* (Exeter: University of Exeter Press, 1995), p. 138. Sometimes the censors avoided the embarrassing publicity that followed from refusing to allow publication by authorizing the printing as long as the text was not *advertized* inside the country.

<sup>14</sup> *The Public Advertiser*, London, Feb. 22, 1774, issue 12954.

called “The Great Question of Literary Property”.<sup>15</sup> In Germany, not only the popular press debated the rules of publication, but the luminaries of philosophy as well. Kant, Fichte, Hegel, Feuerbach and Schopenhauer all composed well-known theories of copyright and intellectual property.

Despite these underlying similarities in commerce and in the public debate over writing as an employment and as a commodity, the educated elites in Britain and Germany appealed to different premises to negotiate the path to a market in publications. In Britain, writers and legal experts in the 1770s most often legitimated property in texts as an assignment from the intellectual resources of the commonwealth, a reward to writers for the effort taken to open those resources to public use. In Germany, by the start of the nineteenth century writers and legal experts more often justified copyright as a means of protecting the personality of the author. The German route reified the individuality of the author and the creation of the product out of the author’s inner spirit. In narrating the causes of this difference in outcomes, it is useful to highlight two historical legacies: on the one hand, the inherited customs of trade that shaped what people thought writing consisted of and how writing could be remunerated; and, on the other, the understandings of the “public” that shaped the imagined relations between authors and readers. The conjunction of these two legacies generated the nationally distinctive institutions of publication. To portray the development of customs of trade in each country, I resort, apologetically, to a greatly simplified “before and after” picture for each country: a model of how the trade worked until about 1750 in each country; then a model of how the trade changed in the decades after 1750 in response to the challenge of an enormous growth of pirated reprints in each country.

In the German lands, until 1750 the book had a uncanny status as a tradable object: with over 300 booksellers and a well-organized system of annual book fairs, the book represented one of the preeminent wares with efficient national distribution in Germany. At the same time, books were probably the last tangible ware to become a full-fledged commodity in Germany, for they were exchanged among booksellers by barter. In this *Tauschsystem*, German publishers traded their books with each other at the annual book fairs in Leipzig or, less frequently, in Frankfurt. They

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<sup>15</sup> The sense of the letter writers in 1774 was that the copyright issue would decide the character of public communication in print. “It is of infinite importance,” opined one, “that authors not be denied the common rights of mankind.” *Morning Chronicle*, Feb. 26, 1774. “The importance of the arguments and opinions delivered in the House of Peers respecting Literary Property, have in a manner engrossed our paper ...” *Morning Chronicle*, Feb. 23, 1774.

exchanged texts at the rate of one page per one page, or more precisely, one *Bogen* per *Bogen* – the *Bogen* comprising a sheet that one folds up and binds to make the book. An engraving from 1698 makes one of the intellectual implications of this system concrete. It shows a publisher packaging the *Bogen* for transport to the fair: the *Bogen* were shipped and traded unbound. In this respect, books were handled in everyday practice as discrete physical bits, not as intellectual wholes.

The *Tauschsystem* forced publishers to resell the collections of pages they acquired from others at the annual fair as retailers in their home districts. This system had great advantages for reducing the administrative costs of transactions. It bypassed the carrying of cash and the conversion of currencies between the various German states, and it reduced the paperwork of billing. It facilitated exchanges among widely dispersed dealers who had neither the reinforcing interdependencies nor the unified legal system required to generate a general trust in everyone's payment of bills.<sup>16</sup> The system also testified to the dispersion of intellectual work among many provincial centers: the one-to-one exchanges suggest there was no cultural center whose works automatically carried an aura of greater value. Authors were paid by the quantity of text, measured by the number of printed *Bogen* it filled up. Given the equal wholesale value of each page, the honorarium the author received per *Bogen* had to remain standardized within a relatively narrow band.<sup>17</sup>

Anyone in our age is bound to ask how this system could give a page of a hurriedly written novel the same wholesale value as most any other page. To be sure, there was leeway in the system. Offering printed texts of superior promise might empower a publisher to trade with better partners, or to trade with more partners. Greater demand also enabled the publisher to print more copies of the same book, reducing the production cost per copy. But given the low press runs, the reductions in cost per copy remained marginal. If the increased exchanges were conducted indiscriminately, the publisher increased the chance of getting junk that would not resell to retail customers.<sup>18</sup> Exchange remained in this sense restricted and particular. It flowed as barter between two acquainted parties, rather than as an offering in a sphere of anonymous buyers. In truth, corporate institutions distributed the books, not a product “market”.

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<sup>16</sup> Georg Joachim Göschen, *Meine Gedanken über den Buchhandel und über dessen Mängel* (Leipzig: 1802), p. 18.

<sup>17</sup> Harald Steiner, *Das Autorenhonorar – Seine Entwicklungsgeschichte vom 17. bis 19. Jahrhundert* (Wiesbaden: Harrassowitz Verlag, 1998), p. 122.

<sup>18</sup> *Journal für Fabrik, Manufaktur und Handlung*, Nov. 1793, p. 273.



Ill. 1: "Der Buchhändler". Jan Luyken, from Christoff Weigel, *Abbildung der gemeinnützlichen Hauptstände* (Regensburg: Chr. Weigel, 1968).

The equality of values in the *Tauschsystem* shaped the view of how authors produced their work. Above all, it cast writing as a kind of general labor. The uniqueness of each variety of writing and the differences in the labor process that create them were not marked in the moment they were traded against each other. If the pages of writing seemed to function like equal, interchangeable commodities, it is no wonder that in this period mercantilists advocated the creation of writing factories, in which writers would work in a kind of assembly-line atmosphere to churn out goods for export. As late as 1764, an article in the *Hannoverisches Magazin* suggested that writers could be gathered together with a joint library and assistants. Although such plans went unrealized, the term “Factory Author” became widespread, as you can see in Tromlitz’s engraving from 1800.

Since the *Tauschsystem* fixed the value of each work by its physical length, it assigned works their value in the process of production, before they were compared against each other in the sphere of exchange. Each work appeared to possess value absolutely, in its own right. This held true in the moment the writer swept the pen across the page and in the moment the press transferred those letters into print on a page. The exchange value, at once commercial and intellectual, appeared derivative of the page-by-page labor process. Since the rate of remuneration was fixed in advance, that value could even be calibrated in minute fractions as writers expended their labor power.

The *Tauschsystem* supported the principles of art of the time. The aesthetics of the mid-eighteenth century classified even the noblest authors as craft workers, in so far as they were masters of a traditional corpus of techniques for achieving a rhetorical effect that was prescribed in advance. When writers gave birth to a composition that was out of the ordinary, their achievement was attributed to a higher force – to God or to a muse. These two concepts of the writer, as craft worker and as conduit of divine intervention, had a hidden compatibility. Neither of them gave personal credit to an artist for a unique creation.<sup>19</sup> Both conceptions were supported by the payments of the *Tauschsystem*: the writer can claim extraordinary reward neither for holy dictation from God nor for generic craft work.

The *Tauschsystem* had enduring consequences for how writers communicated with publishers. Writers had to negotiate about page format, size of the type, and spacing of stanzas, since these determined how many *Bogen* came out and how much money was pocketed.<sup>20</sup> With the sharp restraints on the honorarium for a given press run or *Auflage*, the principal

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<sup>19</sup> Martha Woodmansee, *The Author, Art, and the Market* (New York: Columbia University Press, 1994), p. 36.





Ill. 2: Friedrich Jacob Tromlitz after Karl Moritz Berggold. From *Triumph des deutschen Witzes in einer Sammlung der stechendsten Sinngedichte und witzigsten Einfälle deutscher Köpfe*, edited by Christian Friedrich Traugott Voigt (Leipzig: Baumgärtnerische Buchhandlung, 1800), p. 58.

means for an author to get extra payment for a high-quality work that traded well was by restricting the initial press run and by demanding more compensation for the second or following press runs, whose real output the author had an interest in double-checking.<sup>21</sup> The German authors had a trump card their British counterparts lacked: there was little to stop them from resubmitting their published writing in a superficially updated form to a new publisher, instantly rendering the earlier publisher's ware obsolete. To deal with this threat, the German publishers tried to maintain ongoing cooperative relations with the author. Still, the uncertainty created a disincentive for publishers to pay extra for unlimited printings of a text that might be superseded. Of course there are famous instances in which publishers enforced a written contract that ruled out payment for additional *Auflagen*, as Schiller complained with his pieces "Die Verschwörung des Fiesko" and "Kabale und Liebe". But even then, some publishers issued an *Honorar* voluntarily for additional press runs to stay in the good graces of the author.<sup>22</sup> Although the *Tauschsystem* simplified transactions among publishers, it intensified communication, negotiation, and monitoring between writers and publishers.

In Britain the system did just the reverse. It simplified relations between authors and publishers while intensifying transactions among publishers. At the start of the eighteenth century, the British had a cash system more similar to our own, by which retailers paid publishers cash for books that had varying prices per page. In contrast to the decentralized German system, London released the great majority of book titles and controlled the warehousing of provincial titles as well. Book authors almost always received a one-time lump sum for permanent alienation of their manuscript – for the work as a whole, not calculated per page. The term for this payment, "copy money", referred to the printer's term for manuscript text, "copy", as an object of sale. By contrast, in the German system, the corresponding usage, *Honorar* or honorarium, maintained the notion that the writer was not vending a commodity. In Britain the purchase of a manuscript for unlimited press runs allowed copy-money for a work to vary tremendously. Works such as William Robertson's *History of the Reign of Charles the Fifth*, which fetched 4,500 pounds in copy money, represented a long-term investment of great risk.<sup>23</sup> To offset the

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<sup>20</sup> See, illustratively, Vandenhoeck & Ruprecht, Göttinger Verlagsarchiv, Blumenbach Vertrag, Dec. 27, 1794.

<sup>21</sup> W. Hagen, "Goethes Werke auf dem Markt der deutschen Literatur", *Goethe-Jahrbuch*, Vol. 100, p. 55.

<sup>22</sup> Heinrich Bosse, *Autorschaft ist Werkherrschaft: über die Entstehung des Urheberrechts aus dem Geist der Goethezeit* (Paderborn: Schöningh, 1981), p. 75.

uncertainty, the publishers cooperated to purchase manuscripts jointly. With large projects, such as Samuel Johnson's *Dictionary*, they even combined in large groups. After publication, these investors in the copyright divided and resold their shares. In consequence, it was not uncommon for fractions of a copyright as small as one-sixteenth to be sold at auction. The web of subdivided shares established a close-knit, interdependent group of investors in London, united to protect copyrights for which they had paid dearly. London publishers registered their titles at a central locale, Stationers' Hall, giving them a means for recognizing who had the publishing rights to each title. With this arrangement, the property in the copyright did not issue from the purchase of a manuscript or even from having written it. The property derived from membership in the corporate body of publishers and from the public authorization of that body.<sup>24</sup> In contrast to the dispersal of publishers in Germany, the financial interlocking and the proximity of publishers to each in London other created a solid front of publishers against authors. Publishers in Britain were less likely than their counterparts in Germany to accept an author's lightly re-edited version of an already-published work. To sum up the economic logic: the British system intensified alliances among publishers, and it gave them greater power to impose lump-sum contracts on authors. It also brought the differential value of manuscripts into the clear light of the marketplace. Intellectual services were assessed relative to each other in a free market. In Germany, a whole body of authors was called to life by a growing middle-class readership, while these authors' ideas enjoyed unusual insulation from the jostling of the market.

In both countries, the publishing system underwent a severe challenge after 1750. In Britain, the provincial publishers triggered the crisis. Since 1709, government statute had recognized copyright on a manuscript for only 14 years after registration in Stationers' Hall. Thereafter, most long-time hits, the most lucrative part of the market, did not enjoy protection. The gentlemen booksellers of London defended their copyrights largely by informal agreement and group sanctions. But by the 1760s, the printers in Edinburgh had learned to fill stores with cheap, unauthorized reprints of books for which the London publishers had paid large sums. The London publishers responded by invoking common law reasoning in place of official statute. They contended that it was always implicit that authors,

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<sup>23</sup> Arthur S. Colloins, *Authorship in the Days of Johnson* (London: Robert Holden & Co., 1927), p. 34.

<sup>24</sup> "Property is not bestowed directly upon composing ..." *Remarkable Decisions of the Court of Session From the Year 1730 to the Year 1752* (Edinburgh: J. Kincaid and J. Bell, 1766), p. 159.

and therefore publishers as their assignees, had a perpetual legal title to copyright apart from the explicit but limited state recognition of that title.

The Germans came to a similar debate after the breakdown of the system of *Bogen per Bogen* exchange. Publishers in Leipzig instigated the crisis. They had an important locational advantage as hosts of the annual Leipzig book fair. Books printed in Leipzig were disposed of easily: the printers from Hamburg and Munich took the Leipzig books away from the publishers' doorsteps, so to speak, without transport costs for the sellers. On the other hand, the books the Leipzig printers received in exchange were hard to sell in Leipzig: getting books from outside Leipzig to sell to readers in Leipzig was like "shipping coals to Newcastle". In 1764, the Leipzig publishers responded to the problem by accepting only cash payment rather than *Bogen* from other publishers. The breakdown of the exchange system thereby stimulated a huge increase in the number of illegal reprints, especially in southern Germany. Now the publishers assigned their *Bogen* different prices, depending on consumer demand. For instance, in 1770, the publisher Reich made his most popular books seventeen times more expensive per *Bogen* than the prevailing standard.<sup>25</sup> Some authors' honoraria per *Bogen* moved to much higher levels, giving pirates a greater cost advantage and opportunity for profit on popular hits. Drawing on family budget accounts, the economist Manfred Tietzel has calculated that a *Bildungsbürger* of the middle class could buy either 8 to 10 original works annually, or, with the same funds, 40-50 pirate reprints.<sup>26</sup> Truly, contemporaries could call it the age of stolen texts.

From a comparative perspective, the key to understanding the German route to a genuine product "market" is how it combined both abrupt change and continuity of practice. Most writers, no matter how distinguished, continued to be paid per printed *Bogen*. Hegel, for instance, worried that publishers had underpaid his count of the *Bogen*.<sup>27</sup> Goethe negotiated shrewdly over the size of the typeface.<sup>28</sup> Most important, it was made increasingly explicit that contracts covered a limited press run, rather than permanent sale of the composition.<sup>29</sup> In 1792, the highest Saxon court codified this practice by ruling that writers "rented" their manuscript to publishers for only a particular run of copies.<sup>30</sup>

<sup>25</sup> Johann Goldfriedrich, *Geschichte des Deutschen Buchhandels* (Leipzig: Börsenverein der Deutschen Buchhaendler, 1909), Vol. 3, p. 101.

<sup>26</sup> Manfred Tietzel, *Literaturökonomik* (Tübingen: J.C.B. Mohr, 1995), p. 99.

<sup>27</sup> Staatsbibliothek zu Berlin, Handschriftenabteilung, Georg Wilhelm Friedrich Hegel an Christian Friedrich Winter, 20. Nov. 1830.

<sup>28</sup> Contract of September 2, 1786 in Viscount Goschen, *Das Leben Georg Joachim Göschens* (Leipzig: 1905), Vol. 1, pp. 120–122.

The German route was also unique in the harshness of its discontinuities. British authors had lived with the pricing of priceless words or ideas since the start of printing. In the British route, that pricing *preceded* the recognition of writing as an independent trade outside the social ties of patronage or of honorary office. German authors confronted the free pricing of their work simultaneously with the recognition of writing as a commercial trade. The shift to a market coincided as well with a rise in the publishing of light novels. The publisher Johann Christian Gädicke reported scholars' humiliation in this period when they discovered a flip-pant writer "could earn several Louisdor in a day. By comparison, the scholar, who often has to labor eight or more days on the completion of a single printed *Bogen*, seldom earns more than one Louisdor in this period."<sup>31</sup> The abruptness of this declassing of their output led serious writers to resist the notion that any price could be attached to their ideas, or that intellectual property was a genuinely transferable good.<sup>32</sup>

In addition, the German custom of releasing books for the annual trade fair, rather than continuously throughout the year, intensified the monetization of the labor process of elite authors, not only of hacks. Publishers and authors sought to have all initiated work ready for sale at the Spring book fair in Leipzig – or, less often, at the Fall book fair – to quicken their joint returns. To avoid a sudden backlog of manuscripts waiting to be typeset on the eve of the fair, publishers required many authors of works in progress to deliver or mail a quota of *Bogen* to them every month or fortnight. The need to make the deadline for the Spring fair, for fear of waiting many additional months for publication and payment, gave writers a sense of now-or-never in their daily work.<sup>33</sup> Authors who had multiple assignments, or who had supplemental administration positions, divided their workdays and work weeks into the hours requisite for methodical turnout of *Bogen*.<sup>34</sup> German writers thereby fulfilled their own nightmare. For as

<sup>29</sup> *Ibid.*

<sup>30</sup> Wolfgang von Ungern-Sternberg, „Christoph Martin Wieland und das Verlagswesen seiner Zeit“, *Archiv für Geschichte des Buchwesens*, Vol. 14, 1974, p. 1483.

<sup>31</sup> Johann Christian Gädicke, *Der Buchhandel von mehreren Seiten betrachtet* (Weimar: Gebrüder Gädicke, 1803), p. 62.

<sup>32</sup> See, illustratively, *Wider und Für den Büchernachdruck aus den Papieren des blauen Mannes. Bei Gelegenheit der zukünftigen Wahlkapitulazion* [sic] (o. O., 1790), p. 3.

<sup>33</sup> Staatsbibliothek zu Berlin, Handschriftenabteilung, Nicolai Vol. 73, Apr. 1793, Nicolai to Suarez.

<sup>34</sup> Staatsbibliothek zu Berlin, Handschriftenabteilung, Decker 19, Kosman, March 28, 1800.

they fretted in public about being reduced to “day laborers” – *Tage-löhner* – their private time reckonings reinforced that status.

More particularly, the German authors knew in advance how much they received per *Bogen* and monetized the time expended in writing each page. Even elite authors equated diverse kinds of art by the money earned during their labor time. In 1772, Lessing wrote to his brother that “In the same time which it costs me to write a theater piece of ten *Bogen*, I could happily and with less effort write a hundred *Bogen* of another kind.”<sup>35</sup> Friedrich Schiller wrote to a prospective publisher in 1795 that

If I am not to suffer obvious damage, I must have the time that I would apply on the revision of my poems and on the preparation of some new ones paid at least so well as it would be remunerated through composition of another essay during this period. Therefore I propose that you credit me four Louisdors per *Bogen* as the honorarium ...<sup>36</sup>

Of course the classic British authors also worried about output and money. But among the best known of them who lacked funds – such as Coleridge and Goldsmith – none compared the relative value of time expenditures and none made page by page comparisons of earnings.<sup>37</sup> In Germany, the publishing schedules and form of payment brought these metric comparisons readily to hand. When pirate reprinting took off in Germany after 1764, scholarly authors who led the German copyright debate experienced an acute contradiction: they wanted to insist that ideas in books could not be priced or sold, even as they calibrated their own work by a kind of timed wage.

The contrasting definitions of copyright in each country drew on these customs of intellectual labor as well as on notions of how the public received the products. The invention of printing and the rise of a market of readers had created a kind of “public” novel in history, one made up of individuals who communicated with each other via the sale of print. In English, the noun “public” comes of course from the Latin “publicus”, which had the meaning of “what belongs to all as a political community”, as in “res publica”. With the rise of a print readership, the civic connota-

<sup>35</sup> Gotthold Ephraim Lessing, *Gesammelte Werke* (Berlin, 1968), Vol. 9, p. 560.

<sup>36</sup> *Schillers Briefe. Kritische Gesamtausgabe*, edited by Fritz Jonas (Stuttgart, Leipzig, Berlin and Wien), Vol. 1, p. 287.

<sup>37</sup> See Coleridge’s illustrative comments on his productivity in Earl Leslie Griggs, editor, *Collected Letters of Samuel Taylor Coleridge* (Oxford: Clarendon, 1958), Vol. I, pp. 162, 454.

tions of public were carried over to the body of readers, and the reading audience comprised not only an audience, but a citizenry. In Germany, the corresponding adjective “öffentlich”, which of course originally meant “open” or “unconcealed”, did not carry this accent on “what belongs to all in a commonwealth” – otherwise the expressions “res publica”, “chose publique” or “Rzeczpospolita” would retain this civic dimension when they were rendered in German with “öffentlich”. The Austrian state advisor Joseph von Sonnenfels used the noun *Öffentlichkeit* in 1765 for all information that was open and accessible: he referred to it as including “all texts, pictures, and engravings, and everything else which has a kind of publicness – *Öffentlichkeit*”.<sup>38</sup> Transferred to a public of readers, *Öffentlichkeit* designated a stratum of persons who were distinguished by their participation in education and enlightenment, not an inclusive civic body.<sup>39</sup>

This usage of *Öffentlichkeit* in Germany divided that silent group of elite readers from the assembly of people in real, face-to-face groups. As is well known, Kant in 1784 gave full expression to this separation of the reading world from the face-to-face world in his essay “What is Enlightenment?” Communication was public, he contended, only when “a scholar” expressed his insights “openly, that is, in writing”. Only in this literary world could the individuals reveal their autonomous reasoning and “speak in their own person”. In Kant’s view, this genuinely public communication was incompatible with the messier world of vocal face-to-face interaction, where people are subject to social domination. And to invert the usual designations of the two realms, Kant called communication in the face-to-face world “private”, no matter how many people might be assembled with each other in, say, a church, a lecture room – or a political assembly of citizens.<sup>40</sup>

In Germany this separation of the new imagined public of print from real assemblies of people was not just a fine distinction of ethereal philosophy. It found tangible expression in popular graphics. A comparison of

<sup>38</sup> Joseph von Sonnenfels, *Grundsätze der Polizey, Handlung und Finanzwissenschaft* (Wien: Joseph Kurzböck, 1762), Vol. I, p. 82.

<sup>39</sup> The legal historian Rudolf Smend has emphasized that *Öffentlichkeit* in Germany described “a condition, a state, a fact” of openness, whereas the English term “public” included a stress on the normative dimension of collective belonging. “Zum Problem des Öffentlichen und der Öffentlichkeit”, in Otto Bachof et al, editors, *Forschungen und Berichte aus dem öffentlichen Recht* (Munich: Günter Olzog, 1955), Vol. 6, p. 12.

<sup>40</sup> “Beantwortung der Frage: Was ist Aufklärung?” *Berlinische Monatsschrift*, Vol. 4, 1784, pp. 481–494.

eighteenth- and early nineteenth-century English and German depictions of readers in public places – such as coffee houses, where readers can also socialize – reveals how. In English depictions, the activity of reading, which by its nature might seem private and isolating, is integrated with the real face-to-face public of other people in the coffee house or reading room.<sup>41</sup> The readers engage simultaneously in conversation. By contrast, German artists portray reading as an isolating act, which separates readers from the real individuals beside them, even when readers are squeezed into a group.<sup>42</sup> If you translate the German pictures into words, the message is that the *Öffentlichkeit*, the imagined public of readers in the heads of the isolated individuals as they digest a newspaper or book, is segregated from face-to-face debate and from the give-and-take of the real social world. That division offers greater potential for the imagined public in the heads of readers to follow its own ideal models of self-presentation and disclosure – an important condition for German idealization of the revelation of the individual in publication.

The reasoning about copyright in each country developed from these roots. In Britain, given the precocious pricing of manuscripts as free commodities, one might have expected the proponents of perpetual literary property to argue from the right to control and to be compensated for the labor of creation. And, to be sure, most of the essays include such justifications for authors to receive some kind of compensation. But the prevailing line of argument that established full-fledged property claims to the manuscript breaks with the logic of individuals in a pure market. For the pamphlets assumed that property was *not* originally an attribute of private individuals, but of the commonwealth as a political body. One anonymous writer made this point in the debate of 1774 by means of analogy: “Land was not naturally the property of any individual, but was common to all,” he wrote, “but when civilization takes place, it is found not only expedient, but necessary to make it by law a property, that the community in general may reap the benefit of its produce.” Similarly, he reasoned, the exclusive right to print a book must be vested somewhere, or else “for want of legal security and property in it it would be found impossible to print any book.”<sup>43</sup> This analogy with land was omnipresent. For copyright to be

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<sup>41</sup> Verbal descriptions of reading in public accepted it as a matter of course that a stranger could interrupt the reader to discuss the contents of an article. See *A Review of the State of the British Nation*, Vol. VI, No. 132, Feb. 9, 1710.

<sup>42</sup> The images reproduced here are samples from a larger collection that includes images from diverse regions within each country and representations of reading aloud.

<sup>43</sup> *Morning Chronicle*, Feb. 9, 1774.





Ill. 3: "Coffee House in Salisbury Market Place". Thomas Rowlandson, about 1784, Huntington Library Collection.



Ill. 4: "Zeitungsleser". Based on an engraving by Schöller und A. Geiger, about 1828, Stadt- und Landesbibliothek Wien.

established, William Warburton wrote, the law of England must show that “a restrained use and separate enjoyment” of texts was more beneficial “than a common participation.”<sup>44</sup> Warburton compared the author’s burden of proof to the burden of showing that rights to water or to exclusive navigation of a territory were in the community’s interest.<sup>45</sup> The right to land or waterways was based on occupancy, not on the claim to have invented the land or water oneself. (The debate also assumed that everyone was equally fit to occupy a site.) Likewise in the British debate, the individuals who arrived at new ideas were said to search out and occupy the ideas like external, vacant territory, not to create the ideas out of their own selves, like God.<sup>46</sup> Edward Young used this model of an author’s creative process in his famous “Conjectures on Original Composition” in 1759. “The true Genius,” he said, “is crossing all publick roads into fresh untrodden ground.”<sup>47</sup> In this description of Young’s, the commonwealth supplies road access. The ideas are, in principle, already accessible to all in a kind of shared public land – or public space in this precise sense.

Of course this notion of occupancy of commonwealth resources has implications for the relation of the individual to the work: the point of debate was not to show that the work expressed the inward, utterly unique and incomparable personality of the author. The issue was only that of showing that works were individual in the weaker sense that they were distinguishable from each other and therefore, like real estate, assignable to particular persons. In his defense of literary property in 1774, Francis Hargrave wrote that

The same doctrines, the same opinions, never come from two persons, or even from the same person at different times ... a literary work really original, like the human face, will always have some singularities, some lines, some features, to characterize it, and to fix and establish its identity.<sup>48</sup>

<sup>44</sup> William Warburton, *An Enquiry in the Nature and Origin of Literary Property* (London: W. Flexney, 1762), p. 11.

<sup>45</sup> *Ibid.*

<sup>46</sup> When the British debate drew on the notion of property rights based on labor, that labor was conceived as the effort required to take occupancy. See, for example, Francis Hargrave, *An Argument in Defence of Literary Property* (London: W. Otridge, 1774), p. 35.

<sup>47</sup> Edward Young, *Conjectures on Original Composition* (London: A. Millar and R. and J. Dodsley, 1759), p. 30.

<sup>48</sup> Francis Hargrave, *An Argument in Defence of Literary Property* (London: W. Otridge, 1774), p. 7.

By contending that the same opinions never come from the same person at different times, Hargrave undermined the suggestion that a work could express some essence of the person. By focusing on external marks, the face, Hargrave discussed the identity of the work only to establish it as an object distinguishable from another. Likewise, in *Conjectures on Original Composition*, Edward Young used the figure of human faces for the limited purpose of showing that no two “are just alike”.<sup>49</sup> This understanding of originality did not sanctify the creative personality as an inward, unique whole.

The debate of 1774 ended in anticlimax. The justices of the House of Lords ruled that it was good and fit to have literary property; but they were overruled by the full assembly of Lords, who feared that perpetual copyright would grant excessive power to the publishers who had accumulated such property to date. In both of the Lords’ proceedings, however, the reasoning followed a conception of how the commonwealth property should be divided. In Germany, public reasoning had more idiosyncratic contributions, but in summary it is fair to say that the debate proceeded in two phases. Up to the 1780’s, the essays in favor of copyright derived it most often from the ownership of property. But the German notion of the *Öffentlichkeit* that received printed texts skewed this starting point. Since the public with which the German writer communicated was not a civic community, the obligations of the readers were those of individual purchasers of a ware, not those of citizens in a commonwealth. In addition, the property of the writing could be derived from, and inhered in, the individual writer, not the commonwealth.<sup>50</sup> The only relevant question, according to Johann Jacob Cella in 1784, was what “private persons” – writers, publishers, and purchasers or the texts – owed each other as “contracting parties”.<sup>51</sup>

The starting point of debate also differed in Germany because commentators there emphasized that ideas were both inalienable and imperishable; in truth they remained in the person of the author and could not be vended.<sup>52</sup> The object of sale as a commodity was only the book as a

<sup>49</sup> *Conjectures on Original Composition*, p. 24.

<sup>50</sup> If commentators in the German copyright debate drew on the notion of property rights, those rights were grounded in the dictum that property encouraged the self-realization of the *individual*. Johann Friedrich Ferdinand Ganz, *Uebersicht der Gründe wegen des Strafbaren des Büchernachdrucks* (Regensburg: Keyser, 1790), p. 2.

<sup>51</sup> Johann Jacob Cella, “Von Büchernachdruck,” *Freymüthige Aufsätze*, 1784, p. 80.

<sup>52</sup> Friedrich August Georg Lobenthan, *Grundsätze des Handlungs-Rechts mit besonderer Rücksicht auf das Verlagsrecht des Buchhändlers und Eigenthumrecht des Schriftstellers* (Leipzig: August Leberecht Reinicke, 1795), p. 151.

material form. This line of reasoning was not only a carry-over from the *Tauschsystem*; it also protected the divinity of the intellectual's product in the degrading marketplace.<sup>53</sup> In Britain, by contrast, commentators spoke without hesitation of a "man's ideas" being "bought to market".<sup>54</sup>

Yet in the German context these starting points condemned to failure the arguments for copyright. If the object of sale to the consumer is only a material form, it is hard to explain why the author has an inherent personal right to forbid the consumer from duplicating and reselling that material form.<sup>55</sup> The restriction on copying infringed on the purchasers' free disposal of their own physical property. In sum, if ideas themselves are not part of the exchange with consumers, it becomes implausible to define print as a special kind of commodity with restrictions on its reproduction;<sup>56</sup> and, if the buyer's ownership of the text is independent of the civic commonwealth, then it is difficult to lend a moral force to restrictions on unauthorized reprinting of texts.

The route the Germans took to develop a variant rationale for intellectual property was laid open by Kant in 1785, in an essay he published in the *Berlinische Monatsschrift*, one of the chief organs of the Berlin enlightenment.<sup>57</sup> Kant reasoned from a model of the imaginary public of readers separated from the commercial give-and-take of the real world. The writer, in Kant's formulation, was a speaker who exposed his person by holding a public speech before an audience.<sup>58</sup> To designate this address in German, Kant offered the convenient term *Rede*, which can mean both spoken utterance and text. The speaker's right to control his own manner of appearance before this imagined public, the right to control its timing, the right to forbid a publisher from parading his person before this public without permission – this justified the ban on unauthorized reprints. The

<sup>53</sup> Matthäus C. Glaser, *Über den Kauf und Verkauf der Gedanken. Oder können Gedanken Marktwaren sein?* (Kulmbach, 1820). On the inability to sell "intellectual capital", see D.K. Murhard, "Ueber den Begriff von Capital", *Allgemeiner Anzeiger der Deutschen*, Gotha, Nov. 4, 1816.

<sup>54</sup> William Enfield, *Observations on Literary Property*, p. 27.

<sup>55</sup> Adolph Freyherr Knigge, *Ueber den Bücher-Nachdruck. An den Herrn Johann Gottwerth Müller, Doktor der Weltweisheit in Itzehoe* (Hamburg: Benjamin Gottlob Hoffmann, 1792), p. 34.

<sup>56</sup> *Journal für Fabrik, Manufaktur und Handlung*, Nov. 1793, p. 283.

<sup>57</sup> "Von der Unrechtmässigkeit des Büchernachdrucks," *Berlinische Monatsschrift*, Vol. 5, 1785.

<sup>58</sup> On the preservation of this metaphor, see *Die Debatten über den Bücher-Nachdruck, welche in der Württembergischen [sic] Kammer der Abgeordneten statt fanden* (Stuttgart: J.B. Metzler, 1822), p. 1229.

book was connected to the writer not as a product of labor, then, but more intimately as a revelation of the writer's inner self. The moral force of the argument came from an ideal speech situation, not from contract; from an imagined public, not from the real one of face-to-face exchange, mercantile or conversational.

From a comparative perspective, Kant's model of the rights of a speaker making an appearance was obviously embedded in distinctive German commercial practice, even though Kant claimed to divorce his reasoning from such practice. The circumstance in Germany that writers increasingly let their publisher make only a limited number of printings,<sup>59</sup> sometimes only within a limited time period, concretized the notion that the writers controlled the number and the timing of their appearances as speakers before the public. In Britain, the one-time sale of copy would have rendered Kant's formulation dubious. The circumstance that German writers maintained disposition over the manuscript did not alienate it as a product, but supported the notion that the writer was only presenting his activity of speaking: indeed many commentators pointed out that the manuscript was irrelevant to the whole transaction. The manuscript, Friedrich Lobenthan remarked in 1795, "is truly only the means by which one brings into print one's thoughts, which one could just as well dictate orally to the typesetter".<sup>60</sup> By contrast, in Britain, legal opinion held that to qualify as a copyrighted work, that work "must necessarily exist in manuscript before it is printed".<sup>61</sup> The custom in Germany of letting writers retain the right to issue revised editions with different publishers also concretized the notion of speakers giving slightly different speeches at their will. Distinctive commercial practices were requisite for the plausibility of distinctive German reasoning about the author's position.

Kant's model of a speaker giving a speech invoked the presence of a subject, the author, rather than the book or the text, as the holder of ideas. Kant thereby maintained the defensive emphasis of German intellectuals on the inalienability, unsalability of the ideas behind the text. What the

<sup>59</sup> See *Buchhändler Zeitung*, Vol. 7, 1784, p. 721; Friedrich August Georg Lobenthan, *Grundsätze des Handlungs-Rechts mit besonderer Rücksicht auf das Verlagsrecht des Buchhändlers und Eigentumrecht des Schriftstellers* (Leipzig: August Leberecht Reinicke, 1795), p. 103.

<sup>60</sup> Friedrich August Georg Lobenthan, *Grundsätze des Handlungs-Rechts mit besonderer Rücksicht auf das Verlagsrecht des Buchhändlers und Eigentumrecht des Schriftstellers* (Leipzig: August Leberecht Reinicke, 1795), p. 105.

<sup>61</sup> Richard Godson, *A Practical Treatise on the Law of Patents for Inventions and of Copyright* (London: Butterworth and Son, 1823), p. 221.

author offered in a book was not a thing that existed in its own right, Kant insisted.<sup>62</sup> It was only a set of traces of an action, that of the speaker thinking. The book was permanently tied to its author and, in Kant's words, even after publication "only in the author does the book have its existence". It was almost as if the author became a God whose creation is never released to become self-sustaining.

Judging by numbers of citations, Kant's essay was only moderately influential among legal thinkers of the time.<sup>63</sup> That its logic was nonetheless duplicated independently by so many others points to shared cultural assumptions and constraints.<sup>64</sup> By the nineteenth century, the baptism of a publication as an inseparable part of a unique personality became the most frequent rationale for the safeguard of copyright. This belief reached increasingly flowery expression, as the *Allgemeine Presse Zeitung* illustrated in 1842:

If the author makes the highest demands on his talent to put a recreation of his self into his works, if it is essential that he imparts into his works as a life-breath at least part of his most inner being, then nothing seems more right and proper than that such a work also enjoy a kind of personality. As a part of a self, it must be shielded from the touch of unknown hands.<sup>65</sup>

The patchwork of small states in Germany made enactment of intellectual property law there tortuous. Prussia's lawbook of 1794 recognized the right of authors to have publishers incorporate revisions in later imprints. In 1806, Baden enacted the first genuine *Urheberrecht* of the German states. Bavaria followed in 1813, Oldenburg in 1814. What the German laws came to share, in contrast to those of Britain, was disregard for tedious publications, such as compilations or annotations.<sup>66</sup> These writings were labor intensive and resulted in what the British would have considered an identifiably new manuscript. But the German courts into the mid-nineteenth century ruled that such works did not demonstrate the "creative activity" of the individual that merited protection. In Britain,

<sup>62</sup> The book was not a "für sich selbst existirendes Ding," only "eine Handlung," the thinking of the speaker.

<sup>63</sup> Yet Kant's essay had by far the most enduring record of citation. See *Die Debatten über den Bücher-Nachdruck, welche in der Württembergischen [sic] Kammer der Abgeordneten statt fanden* (Stuttgart: J.B. Metzler, 1822), pp. 1123 ff.

<sup>64</sup> For an example of a popular newspaper duplicating Kant's logic on its own, see *Neues Hannöversches Magazin*, Vol. 10, No. 14, February 17, 1800, p. 214.

<sup>65</sup> *Allgemeine Presse Zeitung*, 1842, No. 43.

property in copyright was tied to the weaker requirement that some labor had been executed to establish occupancy of an idea or representation. For instance, an author who had had a book of road names published on letter press could resell that list to another publisher as a new work if it were printed from copper plates instead.<sup>67</sup>

This comparative history illuminates the paradoxical advantages for cultural development of the relatively backward *Tauschsystem*. The system would be expected to block the commercial valuation of the unique intellectual personality of the author by equating all types of writing as craft work. As a step in a larger process of development, however, the *Tauschsystem* did just the reverse. By supporting payment for each press run, and by enabling authors to present their current thinking in revisions for each press run, the *Tauschsystem* laid the conditions for authors in the commercial system to appear to present their selves rather than just to alienate a product. In addition there was the legacy of belief. The German notion of a separate, imagined *Öffentlichkeit* of readers made reasoning about rights of personality in an ideal speech situation believable. And the *Tauschsystem* imparted the belief that individuals' ideas themselves were not transferred or sold in a product. Compared to the British experience with a cash system from the start, the German experience of rapid transition from barter to cash markets resulted in a greater accent on the personality as a unique spiritual whole that created a literary work in its own image.

In an earlier study about the commodification of manual labor, I found that employers as well as workers identified labor as an abstract, quantifiable substance by different means in Britain than in Germany.<sup>68</sup> In the classical British factory, labor value came into view only in the moment of the exchange of wares, and abstract labor therefore was congealed in a product; in industrializing Germany, the motions by which labor power itself was expended seemed themselves to create quantifiable labor values, and the execution of diverse types of labor was equated as the expenditure of general labor power. The contrast between the countries in these

<sup>66</sup> Richard Godson, *A Practical Treatise on the Law of Patents for Inventions and of Copyright* (London: Butterworth and Son, 1823), pp. 234, 242. Compare this with the legal cases in Germany which classified commentaries on works as "nicht schöpferische Tätigkeit" and denied them copyright status. Karl Lachmann, *Ausgaben classischer Werke darf jeder Nachdrucken. Eine Warnung für Herausgeber* (Berlin: Karl Besser, 1841), p. 4.

<sup>67</sup> Richard Godson, *A Practical Treatise on the Law of Patents for Inventions and of Copyright* (London: Butterworth and Son, 1823), p. 210.

<sup>68</sup> Richard Biernacki, *The Fabrication of Labor: Germany and Britain, 1640–1914* (Berkeley: University of California Press, 1995).

assumptions – about the substance of abstract labor and about the realm in which value emerged – were responsible for corresponding differences between the two countries in the organization of production on the factory shop floor. The present study extends that discovery by identifying parallels between the commodification of manual and intellectual labor. As in the factory, so at the writing desk. In Germany, the very execution of intellectual labor was monetized and its value seemed to emerge in the moment of producing the *Bogen*. In Britain the manuscript did not take on a quantifiable value except as a completed whole that was priced in the marketplace. In Germany, it was theorized that authors offered their labor to the printer in the form of an intellectual service; the manuscript was only a dispensable token of that service – just as in the use of piece-rate scales in German factories.<sup>69</sup> For British authors the physical manuscript itself comprised the basis for reasoning about the commitment of labor, just as in British manufacturing.

These mysterious parallels depended on similarities in the routes by which intellectual and manual labor came to be institutionalized as commodities. In both cases, the British developed a free market in goods before the labor power of the producers was treated as a commodity. The free pricing of ideas in books became commonplace before the question of writing as an independent profession, free of social domination by patronage, came into view. Therefore, in Britain, early reasoning about copyright followed prior reasoning about claims to any sort of property, including land, rather than novel reasoning about the process of free intellectual creation. In the routes to manual and intellectual labor as commodities, the Germans in both cases moved abruptly out of a system in which labor was offered as a service that was not priced in its own right. In the *Tauschsystem*, the relatively standardized payment for writing apart from its content meant the honorarium was only a token for service. In contrast to the British, the Germans experienced simultaneous breakthroughs after 1760: to the genuine market pricing of writing as a labor service and to the free circulation of its products. This simultaneous commercialization of intellectual labor and its products created an opportunity, absent in Britain, for the writer's personal, intimate tie to the product to be conjoined with reasoning about the reader's receipt and use of it. How authors and legal experts made use of that opportunity depended on their beliefs about the make-up of the *Öffentlichkeit*.

The form of reasoning taken by copyright in each country favored corresponding conceptions of aesthetics and of the “private” in this era. In eighteenth-century Britain, ideas were held in a common space but assign-

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<sup>69</sup> *The Fabrication of Labor*, Ch. 2.



able to individuals who held them for the improvement of the commonwealth. Private ideas were not what was inward, inviolable and inseparable from the human subject; they were parcelled from the outside commons. Yet the derivation of the private from the public yielded a contradiction. How could policy-makers ensure that all publically useful manuscripts in private possession were published? What would prevent persons of means from buying a copyright for the sake of ensuring that the manuscript never made it into print? The threat that private money could be used to suppress ideas of public interest led Lord Effingham to claim in 1774 that perpetual copyright, the purchase of ideas forever, was “dangerous to the constitutional rights of the people”.<sup>70</sup> Politicians also considered the means by which they could compel a family who inherited a manuscript that was relevant for the conduct of public affairs to release the manuscript even if it represented an embarrassment to the family.<sup>71</sup> The notion of the public as a civic community and the notion of ownership of ideas as mere occupancy, not as a constituent of the personality, authorized this kind of invasion. With this grounding of literary property, the purpose of literary endeavor was not self-expression alone, but civic improvement. As Edward Young put it in 1759, wit “should not be permitted to gaze self-enamour’d on its useless Charms ... but, like the first Brutus, it should sacrifice its most darling Offspring to the sacred interests of Virtue, and real Service of mankind”.<sup>72</sup>

In the German discussion about publication, no one concerned themselves with the danger that politically charged manuscripts might be suppressed by private purchase. The worry, instead, was that offering excessive sums for manuscripts would corrupt an author’s expression of his inner self. The corresponding aesthetic theory was formulated with acute brevity in 1785 in the *Berlinerische Monatsschrift*, five years before it echoed in Kant’s better-known *Kritik der Urteilskraft*. The author of this revolutionary article, Karl Philipp Moritz, overturned an assumption that had dominated thinking on art for more than two thousand years: the principle that an artist’s goal was to have an effect on an audience. Moritz replaced it with the radical notion that an artist’s only goal was to “strive to bring the highest internal design or perfection into his work ... He has already achieved his real purpose by completing the work.”<sup>73</sup> Moritz was typical of the generation of scholarly writers who were dishonored by the emergence of a genuine market that suddenly ranked their own serious

<sup>70</sup> *Morning Chronicle*, Feb. 26, 1774.

<sup>71</sup> *Morning Chronicle*, Feb. 15, 1774.

<sup>72</sup> *Conjectures on Original Composition*, p. 5.

<sup>73</sup> *Schriften zur Ästhetik und Poetik* (Frankfurt am Main: Insel, 1981), p. 3.

works beneath the trivial literature of others. He used the production of artworks “for their own sake” to protect his own labor process from the influence of the market. His dictum has meanwhile become a leading rationale for art in our age: a self-apparent, familiar, and worldwide principle. In aesthetics, as in other domains of reflective thought, the unusual legacy of pre-capitalist practices in Germany stimulated a more radical and enduring intellectual response to the new commercial order.<sup>74</sup>

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<sup>74</sup> For the legacy of feudal relations of labor in Germany on political economy, see *The Fabrication of Labor*, p. 260.