

What Authors Do

Joseph Loewenstein, *The Author's Due: Printing and the Prehistory of Copyright*. Chicago: University of Chicago Press, 2002. Pp. x, 349. \$45 (cloth).

Joseph Loewenstein, *Ben Jonson and Possessive Authorship*. Cambridge: Cambridge University Press, 2002. Pp. xii, 221. \$65.00 (cloth).

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Research on the relations among copyright law, authorship, and the literary marketplace has long been a major focus of scholarship in law and literature, and yet much of this research has been only haltingly interdisciplinary at best. Authorial views of literary proprietorship do not necessarily match up with the prevailing legal views, but the interest in the discrepancy lies not in simply cataloguing the differences and asking which rule would best promote the production of writing, but rather in considering the sources, manifestations, and consequences of these alternative positions. Writers often are not unaware of the legal provisions but are skeptical of their premises; conversely, where authorial views of ownership outstrip those mandated by law, writers may seek to model the rules that are lacking. Both the skepticism and the modeling are less likely to become visible through direct assertions than, for example, through plots whose animating tensions involve various forms of ownership and their limits. It does not follow that doctrinal scholarship has nothing to contribute to such an investigation, since such scholarship involves examining the assumptions behind rules that differentiate idea from expression, or that allow parodies to use only so much as is necessary to “conjure up” the derided original. It is precisely because literary texts also undertake that kind of testing, but without enumerating the results in

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propositional form, that an interdisciplinary engagement with these questions has so much to offer.

These two new books by Joseph Loewenstein¹ lean more towards the literary critical than the doctrinal, though they include extensive discussions of legal history. On the one hand, Loewenstein builds on the work of such literary critics as Martha Woodmansee,² Mark Rose,³ Paulina Kewes,⁴ and Laura Rosenthal.⁵ On the other hand, in exploring the context for the English copyright statute that inaugurated the modern phase of copyright law—the 1710 Act of Anne⁶—Loewenstein joins such historians as John Feather,⁷ Lyman Ray Patterson,⁸ Harry Ransom,⁹ and David Saunders.¹⁰ Loewenstein's books come in the midst of a flurry in this area: The last two years have seen the publication of two particularly sophisticated discussions of copyright and authorship,¹¹ along with

1. JOSEPH LOEWENSTEIN, BEN JONSON AND POSSESSIVE AUTHORSHIP (2002) [hereinafter cited as LOEWENSTEIN, BEN JONSON]; JOSEPH LOEWENSTEIN, THE AUTHOR'S DUE: PRINTING AND THE PREHISTORY OF COPYRIGHT (2002) [hereinafter LOEWENSTEIN, AUTHOR'S DUE].

2. E.g., MARTHA WOODMANSEE, THE AUTHOR, ART, AND THE MARKET: REREADING THE HISTORY OF AESTHETICS (1994); Martha Woodmansee, *The Genius and the Copyright: Economic and Legal Conditions of the Emergence of the "Author,"* 17 EIGHTEENTH-CENTURY STUD. 425 (1984).

3. MARK ROSE, AUTHORS AND OWNERS: THE INVENTION OF COPYRIGHT (1992); Mark Rose, *The Author as Proprietor: Donaldson v. Becket and the Genealogy of Modern Authorship*, 23 REPRESENTATIONS 51 (1988).

4. E.g., PAULINA KEWES, AUTHORSHIP AND APPROPRIATION: WRITING FOR THE STAGE IN ENGLAND, 1660-1710 (1998); Paulina Kewes, *Gerard Langbaine's "View of Plagiaries": The Rhetoric of Dramatic Appropriation in the Restoration*, 48 REV. ENG. STUD. (n.s.) 2 (1997); Paulina Kewes, *"A Play, which I presume to call original": Appropriation, Creative Genius, and Eighteenth-Century Playwriting*, 34 STUD. LITERARY IMAGINATION 17 (2001).

5. E.g., LAURA J. ROSENTHAL, PLAYWRIGHTS AND PLAGIARISTS IN EARLY MODERN ENGLAND: GENDER, AUTHORSHIP, LITERARY PROPERTY (1996). The list is hardly exhaustive. See also SUSAN EILENBERG, STRANGE POWER OF SPEECH: WORDSWORTH, COLERIDGE, AND LITERARY POSSESSION (1992); MARGRETA DE GRAZIA, *Shakespeare's Entitlement: Literary Property and Discursive Enclosure, in SHAKESPEARE VERBATIM: THE REPRODUCTION OF AUTHENTICITY IN THE 1790 APPARATUS* 177, 221 (1991); MARK SCHOENFIELD, THE PROFESSIONAL WORDSWORTH: LAW, LABOR & THE POET'S CONTRACT (1996); Trevor Ross, *Copyright and the Invention of Tradition*, 26 EIGHTEENTH-CENTURY STUD. 1 (1992); Irene Tucker, *Writing Home: Evelina, the Epistolary Novel and the Paradox of Property*, 60 ELH 419 (1993).

6. 18 Ann, c. 19 (1710).

7. E.g., JOHN FEATHER, PUBLISHING, PIRACY AND POLITICS: AN HISTORICAL STUDY OF COPYRIGHT IN BRITAIN (1994); John Feather, *From Rights in Copies to Copyright: The Recognition of Authors' Rights in English Law and Practice in the Sixteenth and Seventeenth Centuries, in THE CONSTRUCTION OF AUTHORSHIP* 191 (Peter Jazsi & Martha Woodmansee eds., 1994); John Feather, *The Book Trade in Politics: The Making of the Copyright Act of 1710*, 8 PUB. HIST. 19 (1980)..

8. E.g., LYMAN RAY PATTERSON, COPYRIGHT IN HISTORICAL PERSPECTIVE (1968).

9. E.g., HARRY RANSOM, THE FIRST COPYRIGHT STATUTE: AN ESSAY ON AN ACT FOR THE ENCOURAGEMENT OF LEARNING, 1710 (1956).

10. E.g., DAVID SAUNDERS, AUTHORSHIP AND COPYRIGHT (1992); see also David Saunders & Ian Hunter, *Letters from the "Literary": How to Historicise Authorship*, 17 CRITICAL INQUIRY 479 (1991).

11. MEREDITH MCGILL, AMERICAN LITERATURE AND THE CULTURE OF REPRINTING, 1834-1853 (2002); PAUL K. SAINT-AMOUR, THE COPYWRITERS: INTELLECTUAL PROPERTY AND THE LITERARY IMAGINATION (2003). McGill's book holds particular interest for legal scholars interested in the litigation surrounding *Wheaton v. Peters*, 33 U.S. (8 Pet.) 591 (1834). McGill's discussion of *Wheaton* first appeared in an article published in 1997. See Meredith L. McGill, *The Matter of the Text: Commerce, Print Culture, and the Authority of the State in American Copyright Law*, 9 AM. LITERARY HIST. 21 (1997).

important new treatments of the history and cultural place of intellectual property rights.¹²

Both of Loewenstein's books open with the same question: "What is the history of authorship, of invention, of mental making?"¹³ By suggesting that his question merits two answers—one that relies more on legal and intellectual history, and one that relies more on literary history and criticism—Loewenstein may be thought to signal the difficulty of uniting the two strains of research. Each book makes frequent reference to the other, but they take up somewhat different concerns, as their titles suggest. *The Author's Due* examines the history of the literary marketplace, press regulation and censorship, printing patents and privileges, and legal disputes over literary property in England between the fifteenth and eighteenth centuries, with some discussion of other forms of intellectual property. *Ben Jonson and Possessive Authorship* focuses on the most notoriously proprietary author of the English Renaissance, a figure whose identification with his printed work offers a pioneering instance of what Loewenstein has elsewhere called "the bibliographic ego."¹⁴ Jonson was mocked by his contemporaries for collecting his own plays and publishing them as his *Workes* in 1616, and he seems to have been responsible for resuscitating Martial's metaphor of "plagiarism"—a subject that Loewenstein discusses at length. If *The Author's Due* offers a more panoramic perspective on the history of copyright, *Ben Jonson and Proprietary Authorship* allows Loewenstein to explore the subject with focused attention on a single literary career—and on a figure who offered a formative contribution to the idea of a literary career.

In *The Author's Due*, Loewenstein has produced the most fine-grained study of literary property in early modern England yet to appear, and he has carefully examined the phenomena that gave rise to the Act of Anne and the confusion it engendered. The Crown's efforts to regulate the print marketplace through a system of licensing (a practice somewhat in tension with the Crown's use of book patents giving certain individuals the sole right to publish whole classes of books on such subjects as law); the disputes between various factions in the Stationers' Company (the London guild of booksellers and printers that controlled the literary marketplace in the sixteenth and seventeenth centuries); the increasing hostility toward

12. LAWRENCE LESSIG, *THE FUTURE OF IDEAS: THE FATE OF THE COMMONS IN A CONNECTED WORLD* (2001); PAMELA O. LONG, *OPENNESS, SECRECY, AUTHORSHIP: TECHNICAL ARTS AND THE CULTURE OF KNOWLEDGE FROM ANTIQUITY TO THE RENAISSANCE* (2001); SIVA VAIDYANATHAN, *COPYRIGHTS AND COPYWRONGS: THE RISE OF INTELLECTUAL PROPERTY AND HOW IT THREATENS CREATIVITY* (2001). Also notable is Lois Schwoerer's recent book on press censorship and licensing during the Restoration, *The Ingenious Mr. Henry Care, Restoration Publicist* (2001), reviewed elsewhere in this issue by Raymond Astbury, whose historical study of press licensing is forthcoming from Scarecrow Press.

13. LOEWENSTEIN, *AUTHORS' DUE*, *supra* note 1, at 1; LOEWENSTEIN, *BEN JONSON*, *supra* note 1, at 1.

14. Joseph Loewenstein, *The Script in the Marketplace*, 12 *REPRESENTATIONS* 101, 101 (1985).

monopolies during the seventeenth century; the growth of the rhetoric of authorial labor and the tactics that writers used to accommodate or circumvent the stationers' practices—all of these subjects form part of Loewenstein's narrative, along with discussions of such matters as Sir John Harrington's 1596 satire on intellectual property rights in a pun-ridden encomium to the flush toilet (it was his own invention),¹⁵ and the splenetic rantings in 1679 of Roger L'Estrange, erstwhile press censor, about a regulatory threat to what today would be called the public domain.¹⁶ Loewenstein covers a vast amount of territory, and his book will be a valuable resource in any future research on the history of copyright.

The first chapter rapidly surveys several of the book's major concerns—the relationship between the licensing system instituted by Henry VIII in the 1530s and the forms of press control it facilitated, Foucault's treatment of the "author-function," and the partial histories of literary property narrated by the counsel and judges in *Donaldson v. Becket*.¹⁷ Loewenstein then turns to internal conflicts within the Stationers' Company in the later sixteenth century, focusing on the career of John Wolfe, who began as a renegade book pirate but whose talents for detecting illicit conduct were rewarded in 1587 when he was appointed a warden of the guild. That event occurred during a time of increasing regulatory control within the guild, and Loewenstein's third chapter examines English printing in the context of related monopolistic practices elsewhere in Europe in the fifteenth and sixteenth centuries; the chapter ends with a brief discussion of Jonson, literary proprietorship, and aesthetic originality, all of which are taken up at greater length in Loewenstein's other book. Chapter 4 examines patents and monopolies in England in the sixteenth and seventeenth centuries, and the ways in which they were theorized as a reward for labor and criticized as economically destructive. Chapter 5 gives further attention to anti-monopolistic sentiments, taking up the Statute of Monopolies¹⁸ and George Wither's tirades against the Stationers' Company in the 1620s, when the guild refused to respect his patent on the *Hymns and Songs of the Church*. Though Mark Rose has suggested that Daniel Defoe, in 1704, may have been the first English writer to advocate for legal protection of "authorial property rights,"¹⁹ Wither's remarks in *The Schollers Purgatory* (1624) would seem to give him a better claim to this title.²⁰ Chapter 6 moves

15. See LOEWENSTEIN, *AUTHOR'S DUE*, *supra* note 1, at 132-38. In the title of his pamphlet, *A New Discourse of a Stale Subject, Called the Metamorphosis of Ajax*, Harrington puns on an Elizabethan slang term for toilet ("Ajax" = "a jakes" = "a toilet").

16. See *id.* at 207-09.

17. 1 Eng. Rep. 837 (H.L. 1774).

18. 21 Jam. 1, c. 3 (1624).

19. ROSE, *supra* note 3, at 35.

20. See, e.g., LOEWENSTEIN, *AUTHOR'S DUE*, *supra* note 1, at 146-47 (quoting Wither's complaint that the stationers "are secured in taking the ful benefit of . . . books, better than any Author

through the mid-seventeenth century, addressing the figure of the author as a product of press censorship and focusing on Milton's *Areopagitica* (1644). In chapter 7, Loewenstein uses the figure of Milton to trace changing views of authorship and copyright from the lapse of the Licensing Act in 1694 to the decision in favor of limited-term copyright in *Donaldson v. Becket* in 1774.

By tracking the development of various strands of thought about press regulation and literary property, Loewenstein is able to identify their "fossilized traces" in the language of the Act of Anne itself. One of the great questions haunting eighteenth-century copyright law was whether a common-law copyright pre-existed the statute and, if so, whether the statute supplemented it or eliminated it. The question was difficult because the statute's ostensible concern with authors as owners of their work is subordinated to a concern with "proprietors" (i.e., stationers) as owners, and the statute relies on the convention of the stationers' "copy," the practice by which the first guild member to record a title in the stationers' register could claim exclusive publication rights over that title. As Loewenstein explains,

the phrase distinguishing "author" from "proprietor" derives from a tradition of stationers' petitions; the absence of specific reference to the "author" in the list of likely victims of infringement (or in the list of possible infringers) derives from a tradition of controlling books by exclusively regulating stationers; the insistence that the register remain open to all derives from a tradition of antimonopolism that has finally ceased to except the book trade from its purview.²¹

The Act of Anne has already received a good deal of attention from historians, but no one has given it such sustained and careful attention as Loewenstein.

Nevertheless, there are some puzzling omissions that prevent Loewenstein from offering a comprehensive survey of the issues, both as they relate to current problems in copyright law and as they bear on the period he examines. Perhaps most noticeable is Loewenstein's almost complete lack of engagement with any legal scholarship on copyright. Virtually the only recent legal materials to appear anywhere in *The Author's Due* are the treatises on English intellectual property law by Copinger and Cornish,²² which serve Loewenstein as sources of information on sixteenth- and seventeenth-century English statute law and legal decisions. There is no reference to any current work on duration, fair

can by virtue of the Kings Grant, notwithstanding their first Coppies were purloyned from the true owner, or imprinted without his leave.").

21. *Id.* at 219.

22. W.A. COPINGER & F.E. SKONE JAMES, *COPINGER AND SKONE JAMES ON COPYRIGHT* (11th ed. 1971); W.R. CORNISH, *INTELLECTUAL PROPERTY: PATENTS, COPYRIGHT, TRADE MARKS, AND ALLIED RIGHTS* (3d ed. 1981).

use, or the public domain, although consideration of any of these, in their current manifestations, might have given Loewenstein an additional lens through which to study the rhetoric and practices that he surveys. He clearly did not set himself the task of studying the prehistory of copyright to shed light on contemporary doctrinal issues, but the current legal scholarship has much to offer even to those who are primarily interested in copyright's history. James Boyle²³ and Peter Jaszi,²⁴ for example, have written on the historical relationship between copyright and conceptions of authorship, while Philip Hamburger has written on the history of the seventeenth-century Licensing Act²⁵ in an article that would have given Loewenstein a fuller picture of that statute's history.²⁶

Moreover, and more inexplicably, Loewenstein overlooks a good deal of literary and bibliographical research that bears directly on his own. Throughout *The Author's Due*, Loewenstein shows how marketplace competition facilitated changing trade arrangements among the stationers, which in turn provoked growing acerbity and ingenuity from the writers who were affected by these practices, but Loewenstein nowhere acknowledges the relevance of Paulina Kewes's *Authorship and Appropriation*,²⁷ which argues that the rhetoric of authorial "originality" in the late seventeenth century resulted from a demand for new scripts, fostered by competition between the London theaters. Loewenstein rightly emphasizes the importance of George Wither's campaign for authors'

23. JAMES BOYLE, *SHAMANS, SOFTWARE, AND SPLEENS: LAW AND THE CONSTRUCTION OF THE INFORMATION SOCIETY* (1996); James Boyle, *The Search for an Author: Shakespeare and the Framers*, 37 AM. U.L. REV. 625 (1988).

24. Peter Jaszi, *Towards a Theory of Copyright: The Metamorphoses of "Authorship,"* 1991 DUKE L.J. 455. For other useful discussions of authorship by legal scholars, see David Lange, *At Play in the Fields of the Word: Copyright and the Construction of Authorship in the Post-Literate Millennium*, 55 LAW & CONTEMP. PROBS. 139 (1992); and Jeremy Waldron, *From Authors to Copiers: Individual Rights and Social Values in Intellectual Property*, 68 CHI.-KENT L. REV. 841 (1993).

25. An Act for Preventing Abuses in Printing Seditious, Treasonable, and Unlicensed Books and pamphlets, and for Regulating of Printing and Printing-Presses, 13 & 14 Car. 2, c. 33 (1662). The Act remained in effect from 1662 to 1679 and from 1685 to 1695. See *id.* (effective 1662-1664); An Act for Continuance of a Former for Regulating the Press, 16 Car. 2, c. 8 (1664) (effective 1664-1665); An Act for Continuance of a Former for Regulating the Press, 16 & 17 Car. 2, c. 7 (1665) (effective 1665); An Act for Continuance of a Former Act for Regulating the Press, 17 Car. 2, c. 4 (1665) (effective 1665-1679); An Act for Reviving and Continuance of Several Acts of Parliament Therein Mentioned, 1 Jam. 2, c. 17, 15 (1685) (effective 1685-1693); An Act for Reviving, Continuing, and Explaining Several Laws Therein Mentioned, Which Are Expired and Near Expiring, 4 & 5 W. & M., c. 24, 14 (1692) (effective 1692-1695).

26. Philip Hamburger, *The Development of the Law of Seditious Libel and the Control of the Press*, 37 STAN. L. REV. 661 (1985). The Licensing Act, the primary means of regulating the print marketplace during the Restoration, was in effect from 1662 to 1679 and from 1685 to 1695. Loewenstein only cursorily mentions its lapse from 1679 to 1685. See, e.g., LOEWENSTEIN, *AUTHOR'S DUE*, *supra* note 1, at 206 & 324 n.44 (noting that in 1679, "the new Parliament . . . deliberately allowed the Licensing Act to lapse," but giving no reason for that decision). Hamburger discusses its lapse at length. See Hamburger, *supra*, at 682-90. Loewenstein also notes that around the time of the statute's lapse, "the law of seditious libel was . . . given a wider application." LOEWENSTEIN, *AUTHOR'S DUE*, *supra* note 1, at 214. That issue is the main subject of Hamburger's article.

27. KEWES, *supra* note 4.

rights in the 1620s, but this account ignores the research of James Doelman, who has shown that in 1624, when the legislation involving the Statute of Monopolies was pending, Wither himself petitioned the House of Lords committee that was charged with crafting the legislation. Wither asked that no exemptions for any “priviledge touching Books or Printing” be included.²⁸ Loewenstein discusses the stationers’ efforts to secure such an exception and to have Parliament revoke the patent for Wither’s *Hymns*, but he makes no mention of Wither’s own offensive.²⁹ Again, Loewenstein discusses John Minsheu’s polyglot dictionary, *Ductor in Linguis* (1617; 2d ed. 1625) an early instance of subscription publication—which gave Minsheu “complete control of copyright, substantial control of production and distribution, and a rare degree of commercial intimacy with his consumers”³⁰—but Loewenstein says nothing about the other research on the history of this practice.³¹ Thus he seems unaware of Wither’s tentative effort to publish his poem *Fidelia* by subscription in 1615,³² nor is there any hint that subscription publication became one of the notable means by which writers might seek independence.³³ Loewenstein rightly recognizes the importance of this practice, but in effect he treats the example of Minsheu as *sui generis*.³⁴

28. James Doelman, *George Wither, the Stationers Company and the English Psalter*, 90 *STUD. PHILOLOGY* 74, 79 (1993) (quoting Cambridge Univ. Press Archives MS 33:2, fol. 85).

29. LOEWENSTEIN, *AUTHORS DUE*, *supra* note 1, at 146 (noting that the stationers “turned to the Commons early in its session of 1624, as that house pursued the second of its two great assaults on economic monopolies,” and that according to Wither, “the stationers assiduously lobb[ie]d Commons against his grant.”).

30. *Id.* at 141. By means of this process, authors could retain ownership of their work by finding readers who would pay part of the cost in advance, to cover the expenses of publication; after the book was printed, subscribers paid the remaining balance.

31. See Sarah L.C. Clapp, *Subscription Publishers Prior to Jacob Tonson*, 13 *LIBRARY* (4th ser.) 158 (1932-1933) [hereinafter Clapp, *Subscription Publishers*]; Sarah L.C. Clapp, *The Beginnings of Subscription Publishing in the Seventeenth Century*, 29 *MOD. PHILOLOGY* 199 (1931) [hereinafter Clapp, *The Beginnings*]; Sarah L.C. Clapp, *The Subscription Enterprises of John Ogilby and Richard Blome*, 30 *MOD. PHILOLOGY* 365 (1933) [hereinafter Clapp, *The Subscription Enterprises*]. One might respond that Loewenstein cannot be faulted for ignoring scholarship that is seventy years old, but throughout *The Author's Due* he relies heavily on the “new bibliographical” scholarship of the 1920s and 1930s, and much of the material he draws on appeared in the same journals in which Clapp published her work.

32. See Clapp, *The Beginnings*, *supra* note 31, at 207-09 (noting that in the preface to *Fidelia*, Wither writes that “divers of [his] friends” advised him to “put [the book] out for an adventure amongst [his] acquaintance upon a certain consideration,” but adding that “after he was already well launched on the enterprise, he grew faint-hearted and returned the money he had collected”).

33. Clapp counts fifty-four instances of subscription publication between 1617 and 1688, and an additional thirty-three between 1688 and 1697. *Id.* at 205. She notes that “although literature and music early benefited by subscription, they may not have done so at first on anything like the scale of other fields, notably divinity, law, and science.” Clapp, *Subscription Publishers*, *supra* note 31, at 160. Dryden and, even more famously, Pope used this technique to great advantage.

34. Loewenstein briefly returns to the subject when discussing new forms of publication in the later seventeenth century. See LOEWENSTEIN, *AUTHOR'S DUE*, *supra* note 1, at 205. There, however, he refers again to the examples of Wither and Minsheu rather than commenting on the growth of subscription publication. Further, and even more strangely, although Loewenstein is concerned at this latter point with “trade publisher[s]” who printed for others rather than publishing books for which they owned the copyright, he makes no mention of the authoritative article on the subject: Michael Treadwell, *London Trade Publishers 1675-1750*, 4 *LIBRARY* (6th ser.) 99 (1982).

Yet again, though he is interested in questions of attribution and authorial control over publication, Loewenstein skips over one of the classic treatments of the subject, J.W. Saunders's article on English Renaissance writers' rhetorical justifications for publishing their work, often by means of a claim that the text was marred in the first, "unauthorized" edition.³⁵ Saunders's article is not the final word—several critics have challenged his claim that Tudor aristocrats considered it socially unacceptable to let their names appear in print³⁶—but it is odd that Loewenstein forgoes any mention at all of the article and the responses it has provoked. My point here is not to catalogue citations that might have decorated Loewenstein's footnotes, but to note important and relevant treatments of the subjects he discusses—treatments that could have made a substantive contribution to his analysis.

Loewenstein's book on Jonson displays similar virtues and shortcomings. As noted, Jonson is a crucial figure in the intellectual and literary history of copyright. Loewenstein looks at competition between English acting companies in the late sixteenth and early seventeenth centuries—and particularly at the playwrights' claims about originality, imitation, and attribution—before turning to the poem in which Martial "invented a new term" by describing imitation and false attribution through the metaphor of *plagiarius* ("kidnapper" or "slave-stealer").³⁷ Jonson picked up the seemingly forgotten metaphor in *Poetaster*, a play whose competitive energies Loewenstein discusses at length, in a chapter that also focuses on Jonson's self-composition through the medium of print, and on the metaphors of literary absorption and digestion in Jonson's poem "Inviting a Friend to Dinner." In a final chapter, Loewenstein extends the idea of the "bibliographical ego" to discuss "bibliographic authorship, a gesture by which the author is presented as an editor of his own works."³⁸ By offering the public a text that the author himself has shepherded through the press, Jonson can display a vision of authorial control that finally underwrites a "fantasy of durable authorial rights."³⁹ Loewenstein ends by exploring Jonson's elaboration of this fantasy in his revisions to his plays when printed, and in certain prefatory "contracts" with the theatrical audience before whom his plays were staged.

This summary hardly conveys the richness of the context in which Loewenstein places Jonson's proprietary maneuverings, and yet at the

35. J.W. Saunders, *The Stigma of Print: A Note on the Social Bases of Tudor Poetry*, 1 *ESSAYS IN CRITICISM* 139 (1951).

36. E.g., Steven W. May, *Tudor Aristocrats and the Mythical "Stigma of Print,"* 1980 *RENAISSANCE PAPERS* 11 (1980); Donald Traister, *Reluctant Virgins: The Stigma of Print Revisited*, 26 *COLBY Q.* 75 (1990).

37. LOEWENSTEIN, BEN JONSON, *supra* note 1, at 78.

38. *Id.* at 134.

39. *Id.* at 175.

same time, Loewenstein inexplicably neglects several important discussions of these issues by other critics. Richmond Barbour, for example, has examined Jonson's insistence on treating "one's own peculiar skill [as] an inalienable possession . . . [in] the calculus of authorship" in terms of the debate over monopolies in the early seventeenth century,⁴⁰ and Barbour has also discussed the 1616 folio as exemplifying Jonson's exhibition of a "distinctive agency [and] unique originary force."⁴¹ Where Loewenstein offers to provide "an economic and intellectual history of the Name of the author,"⁴² Bruce Thomas Boehrer addresses this subject in its most literal way, noting that "Shakespeare never bothered to regularize the spelling of his name, either in his personal practice or in the practice of others; Jonson, on the other hand, did."⁴³ This pattern, Boehrer suggests, "conveys the . . . impression of an author finding himself, in part, through literary revision of his own name"⁴⁴—a question that clearly bears on Loewenstein's own interest in editorial revision and typographical self-identity. In his discussion of seventeenth-century writers' concerns with attribution, Loewenstein gives extended attention to Thomas Heywood's letter on the subject in *An Apology for Actors* (1612),⁴⁵ but while Loewenstein emphasizes that Heywood "improvise[s]" a "language of property" when characterizing misattribution as something "more then theft,"⁴⁶ he completely overlooks Max W. Thomas's analysis of Heywood's remarks as an effort to disavow authorship in a patronage economy where the author's credit can be preserved only if the author's name is not improperly circulated.⁴⁷ It is unfortunate that Loewenstein did not consider the work of these scholars, which would have enriched and complicated his argument. While Loewenstein is painstaking in examining the sources that he discusses, he could have provided a more comprehensive and authoritative study if he had engaged more fully with the relevant criticism.

40. Richmond Barbour, *Jonson and the Motives of Print*, 40 *CRITICISM* 499, 507 (1998).

41. Richmond Barbour, *The Elizabethan Jonson in Print*, 34 *CRITICISM* 317, 324 (1992).

42. LOEWENSTEIN, BEN JONSON, *supra* note 1, at 3.

43. Bruce Thomas Boehrer, *The Poet of Labor: Authorship and Property in the Work of Ben Jonson*, 72 *PHILOLOGICAL Q.* 289, 289 (1993).

44. *Id.* at 290.

45. LOEWENSTEIN, BEN JONSON, *supra* note 1, at 59-68.

46. *Id.* at 64.

47. Max W. Thomas, *Eschewing Credit: Heywood, Shakespeare, and Plagiarism Before Copyright*, 31 *N. LITERARY HIST.* 277 (2000).

