



## Copyright deposit at Harvard

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## Copyright Deposit at Harvard

**D**URING the years 1783 to 1786 twelve state laws were enacted by as many states in the United States for 'the encouragement of Literature and Genius.' There was no federal copyright law until 1790, and the need for the protection of literary property was evident to any author or bookseller who had published a book that had received widespread attention or was planning one that might be popular. Timothy Dwight and John Trumbull were cases in point and their separate predicaments were set forth by Joel Barlow in a letter dated 10 January 1783 to Elias Boudinot, President of the Continental Congress.<sup>1</sup> He says that Dwight's poem, *The Conquest of Canaan*, 'will certainly be an honor to his country. It has lain by him, finished, these six years, without seeing the light; because the Author cannot risque the expences of the publication, sensible that some ungenerous Printer will immediately seize upon his labors, by making a cheap & mean impression, in order to undersell the Author & defraud him of his property.' Barlow continues: 'This is already the case with the Author of *McFingal*. This work is now reprinted in an incorrect, cheap edition; by which means the Author's own impression lies upon his hands, & he not only loses the labor of writing, & the expence of publishing,

but suffers in his reputation by having his work appear under the disadvantages of typographical errors, a bad paper, a mean letter & an uncouth page, all which were necessary to the printer in order to catch the Vulgar by a low price.'<sup>2</sup> These gentlemen and many others, including Noah Webster, whose activities in behalf of copyright have been described many times, were to learn that although the laws might be handy clubs they did not always deter the 'ungenerous Printer.'

The earliest of the state laws, the Connecticut copyright law, was passed 8 January 1783 — four months before the sheriff of Hartford County announced the general restoration of peace — and on 17 March 1783 the Massachusetts General Court passed the second one. The twelve laws were similar in many respects but most of them had one or two provisions not contained in the others. They all showed that the American legislators had relied heavily on the basic English statute of 1710. But the lawmakers of Massachusetts were the only ones to copy the English provision for deposit of copies in college libraries for the benefit of the regular users of the libraries. The Massachusetts law stated that 'every author of such book, treatise, or other literary work, shall, in order to his holding such sole property in them, present two printed

<sup>1</sup>Letter preserved in General Records of the United States Government, Papers of the Continental Congress, Item 78, Volume IV (National Archives, Washington, D. C.).

<sup>2</sup>For an account of the fate of *McFingal*, see James E. Smith, *One Hundred Years of Hartford's Contract* (New Haven, 1949), pp. 130-131.

copies of each and every of them to the library of the University at Cambridge, for the use of the said University.<sup>2</sup> There was no similar provision in federal copyright legislation until 1846, when the use of copyright deposit copies for other than strictly legal purposes was first allowed, nor did the legislators of New Hampshire and Rhode Island, who copied most of the provisions of the Massachusetts law, see fit to appropriate this one. Moreover, by the time each of the twelve states had passed a copyright law at least one college was situated within its boundaries.

It is difficult now to determine why the provision was made. It seems almost certain that its inclusion in the Massachusetts law was not the result of any official suggestion from the College authorities since no memorial to the General Court to that effect appears in the Corporation Records. Probably upon reading the stipulation in the English statute the Massachusetts lawmakers saw that it would be convenient to have the books near by in case of litigation concerning them, and wished to benefit the College by making its library the depository. At least twice in the preceding decade the General Court had been disposed to help the College get books. Once, in 1777, it had resolved that a number of Hebrew books captured by the American brigantine *Tyrannicide* be sent to the Library. Again, the following year, in response to a desperate plea from the Harvard Corporation,<sup>3</sup> books were presented to the

College. They had been 'sequestered' from the libraries of fleeing Loyalists, and, although the General Court specifically stipulated that they should go to the College Library, the Corporation assigned them to appropriate tutors for lending to students taking their courses.<sup>4</sup>

Although the provision for deposit and use in the Massachusetts law is especially noteworthy, other sections of the statute are also of interest, and, indeed, all twelve laws are worthy of some attention. For example, the only other state to require any sort of deposit was North Carolina, where one copy was to go to the secretary of state for the use of the governor. Eight states provided for entry of notice of copyright in a more or less permanent record book. New Hampshire and Rhode Island made no provision for registration, while Massachusetts and Virginia allowed for registration only in the form of a receipt or certificate. Pennsylvania was the only state to require that notice of copyright be printed in the work. Seven states, including Massachusetts, made their laws applicable to residents of other states that had passed copyright statutes. Connecticut, North Carolina, Georgia, and New York denied copyright protection to works that were considered 'dangerous to morals, religion, or the government. Only North Carolina specifically allowed protection for reprints of works imported from abroad. Finally, Dela-

Vol. II, 1750-78, 20 March 1778 (Harvard University Archives).

<sup>4</sup> *The Acts and Resolves, Public and Private, of the Province of the Massachusetts Bay*, XX (XV of the Appendix; Boston, 1918), 362, 467. See also Harvard College Corporation Records, Vol. II, 1750-78, 17 April 1778; Vol. III, 1778-95, 10 June 1778.

<sup>2</sup> *The Laws of the Commonwealth of Massachusetts, Passed from the Year 1780, to the End of the Year 1800* (Boston, 1801), I, 94.

<sup>3</sup> Harvard College Corporation Records,

ware is notable as the state that had no copyright law before the federal statute of 1790 was enacted.<sup>6</sup>

Investigation into the consequences of the Massachusetts deposit provision shows that at least seven authors and one publisher complied with the law. With one exception two copies of the books they deposited are listed in the Library's printed catalogue of 1790, and in all cases evidence exists that a receipt was given by the librarian. This evidence is present in the form of an inscription in all but one of the books, and in the case of the exception the receipt itself has been found. The receipt was required by the law and was to be used in court as proof that two copies had been deposited. Another indication that the books were given to the Library as deposit copies lies in the circumstance that most of them were of a sort needing protection.

It is appropriate that one of the first works to be deposited was Noah Webster's *A Grammatical Institute . . . Part I*.<sup>7</sup> While writing his *Grammatical Institutes*, comprising a speller, a grammar, and a reader, Webster had become aware of the necessity for copyright laws and had begun to take measures to obtain the enactment of them. Accordingly, two months after publication, and nine months after the Massachusetts law was passed, James Winthrop, the Librarian of Harvard, inscribed a copy of the speller: 'Library 6 Decr. 1783 Recd. of the author this & another copy for which

a recd. is given of this date.' Webster's preoccupation with copyright is further demonstrated in the last paragraph of his 'Advertisement,' warning that: 'As the whole [all three parts] will be published under the protection of a law of this State, entitled, "An Act for the encouragement of Literature and Genius," all Printers and Booksellers will take notice of this information, and not incur the penalties of that Statute.' Sometime in 1784 Webster began to place a notice of copyright on the title-pages of the *Institutes*, and he deposited Part II. However, the inscription in a copy of Part III, which is not listed in the catalogue of 1790, merely states that it was a gift from the author. Part of the inscription in Webster's *Sketches of American Policy* has been trimmed away, but the remainder reads: 'Recd. dated 11 June'; so this work too was apparently deposited. Furthermore, on 6 December 1783 and on 10 December 1783 Winthrop made inscriptions in Andrew Law's *A Collection of Hymn Tunes* and *The Rudiments of Music* similar to that in Part I of the *Grammatical Institutes*. The inscription in *A Collection of Hymn Tunes*, written on the verso of the cover, is shown in Plate I, together with the title-page.

Unfortunately all of the copies now at Harvard of the first volume of Jeremy Belknap's *History of New-Hampshire* have been acquired since 1790 and consequently have no inscriptions by the Librarians of 1784 to 1790. The work is listed in the catalogue of 1790, however, and among the Belknap papers at the Massachusetts Historical Society is the receipt made out by Winthrop stating that

<sup>6</sup> *Copyright Enactments of the United States 1783-1906*, comp. Thorvald Solberg (Copyright Office Bulletin No. 3, 2nd ed., rev., Washington, 1906), pp. 11-31.

<sup>7</sup> A list of the titles of the deposited works identified is given at the end of this paper.

two copies were deposited for copyright on 30 September 1784.

The Massachusetts Historical Society also has what must be one of the deposit copies of Joel Barlow's *A Translation of Sundry Psalms*. This is a small pamphlet containing the Psalms added by Barlow in his version of Watts's *Psalms*, as well as the hymns written by Barlow and his friends for his edition of the *Psalms*. It is not listed in the catalogue of 1790, which may indicate that it was overlooked, lost in a drawer, or removed from the College Library before the catalogue was finished. At any rate, the copy at the Massachusetts Historical Society is inscribed in Winthrop's hand 'Duplicate from the author rect. dated 12 Aug. 1785.'

Three other song books, one of them deposited by its publisher, Isaiah Thomas, and a grammar complete the list of books deposited in the College Library for copyright. It is very likely that a few more than these eleven books were deposited. At least one title was not listed in the catalogue of 1790; others may have escaped. Rebinding and repairing have undoubtedly destroyed the evidence in some cases, and loss of the copies originally given to the Library also makes the list incomplete. Moreover, it is probable that some authors intended their gifts to be copyright deposits but the Librarian either misunderstood the intent or did not make it clear in his inscription. An instance of probable misunderstanding is presented by Nicholas Pike's *A New and Complete System of Arithmetic*, the first book of its kind by an American. The catalogue of 1790 records two copies of the 1788 edition, but the

copy now in the Library has no inscription. The author's 'Advertisement' in the front matter contains a warning to printers and booksellers that 'he has complied with the Requisitions of the several Acts throughout the United States, "for the encouragement of Literature."' Also in the front matter are printed notices of registration of copyright made out by the proper authorities in South Carolina, Pennsylvania, and New York. Finally, there is set forth, apparently as a substitute for the Librarian's receipt, a resolution of the Massachusetts General Court exempting Pike from all excise duties connected with the publication of the book.<sup>6</sup>

It is remarkable that certain books published between 1783 and 1790 were not deposited. It appears, since it is not listed in the catalogue of 1790, that Timothy Dwight did not deposit *The Conquest of Canaan*, and the same applies to John Ledyard, author of *Journal of Captain Cook's Last Voyage*, the first book published under the state copyright laws and, ironically, partly a plagiarism.

But the most striking omissions, in view of the author's earlier concern about copyright legislation, are Joel Barlow's poem *The Vision of Columbus* and his version of Watts's *Psalms*. Before and during the Revolution Isaac Watts's edition of the *Psalms of David* had been the standard hymnal

<sup>6</sup>Beginning in 1785 the Massachusetts General Court levied a number of taxes affecting printers and booksellers. Included were a stamp tax; import duties on tanned calfskins, bound psalters, psalm books, spelling books, and primers; and a tax on newspaper advertisements. One of these revenue acts declared contraband 'Spelling books, and Primers, Novels, Romances and plays' coming from outside the United States.

in many churches in the colonies. Once independence was achieved, certain of Watts's phrases glorifying England and the king became distasteful to American churchgoers, and in 1782 John Mycall, a Newburyport printer, issued the first edition of the *Psalms* to have revisions suiting them to the new political situation. In October 1784 Barlow received from the Connecticut Legislature exclusive privilege to publish and vend a version he had been commissioned to make by the governing body of the Congregational Church in Connecticut.<sup>9</sup> It is not clear why Barlow, having obtained a special act from the Connecticut Legislature, did not comply with the Massachusetts deposit requirement. It may be significant, however, that he was made to realize, even before his version of Watts's *Psalms* was published, that he did not have a monopoly of American revisions. One month after the special act in his favor was passed, the enterprising Nathaniel Patten, of Hartford, one of the first two booksellers to pirate *M'Fingal*, advertised a reprint of Mycall's 1782 version of the *Psalms*.<sup>10</sup>

Barlow's failure to deposit his version of Watts may have been the result also of what seems to have been a general confusion over what might be copyrighted. Barlow's version was still basically the work of an Englishman, and the fact that Barlow obtained a monopoly of a new version in Connecticut and then deposited in Massachusetts two copies of a pamphlet containing the new material in-

dicates a doubt in his mind concerning his rights in the entire work. Somewhat analogous was the case of Robert Ross, the author of a grammar. He had published seven editions of his book before the Connecticut copyright law was enacted, and in October 1783 obtained a special law to protect the seventh edition of 1782.<sup>11</sup>

Further, several types of publications were apparently considered not in need of protection. Noah Webster was the exception among political pamphleteers in depositing his *Sketches of American Policy*. Nor were sermons, orations, or almanacs placed in the Harvard College Library in accordance with the law. The authors of such books, the almanac makers excepted,<sup>12</sup> had little or nothing to lose and might even gain by having their works reprinted with or without their authorization. But Webster knew he was losing when his schoolbooks were taken over by unauthorized printers. As early as 1781 Andrew Law saw the advisability of obtaining a special copyright law for one of his songbooks. And Jeremy Belknap found it necessary in 1796 to send a circular to the booksellers of the United States informing them that an English work being reprinted in this country infringed on his copyright.<sup>13</sup>

The records show that Harvard did not benefit greatly from the deposit

<sup>9</sup> *Public Records of . . . Connecticut for . . . 1783 and 1784*, pp. 245-246.

<sup>10</sup> For a dispute over almanacs in which several almanac makers claimed to be losers, with Joel Barlow in the role of 'ungenerous Printer,' see Smith, *One Hundred Years of Hartford's Courant*, pp. 131-132.

<sup>11</sup> The work was William Winterbotham's *An Historical, Geographical, Commercial, and Philosophical View of the United States of America*, 4 vols. (New York, 1796).

<sup>9</sup> *The Public Records of the State of Connecticut for the Years 1783 and 1784*, comp. Leonard W. Labaree (Hartford, 1943), pp. 458-459.

<sup>10</sup> *Connecticut Courant*, 23 November 1784.

provision of the Massachusetts copyright law. Nevertheless, the provision retains its significance, and those who took advantage of it proved that they were aware of having a stake in 'the encouragement of Literature and Genius' in the United States.

FARLE E. COLEMAN

*Titles of Copyright Deposits*

A Grammatical Institute, of the English Language, Comprising an Easy, Concise, and Systematic Method of Education, Designed for the Use of English Schools in America. In Three Parts. Part I. Containing, a New and Accurate Standard of Pronunciation. By Noah Webster . . . Hartford: Printed by Hudson & Goodwin . . . [1783].

Deposited 6 December 1783.

A Grammatical Institute, of the English Language . . . Part II. Containing, a Plain and Comprehensive Grammar . . . By Noah Webster . . . Hartford: Printed by Hudson & Goodwin . . . M.DCC,LXXXIV. Under Protection of the Statute.

Deposited 11 June 1785.

Sketches of American Policy . . . By Noah Webster . . . Hartford: Printed by Hudson and Goodwin. M.DCC,LXXXV.

Deposited 11 June 1785.

A Collection of Hymn Tunes from the Most Modern and Approv'd Authors by Andrew Law . . . Printed by Wm. Law, Cheshire [1783?]. [Bound with] A collection of Hymns, for Social Worship. By Andrew Law. 1783.

Deposited 6 December 1783. See Plate I.

The Rudiments of Music: or, A Short and Easy Treatise [sic] on the Rules of Psalmody. To Which Are Annexed, a Number of Plain Tunes and Chants. By Andrew Law . . . 1783.

Deposited 10 December 1783.

The History of New-Hampshire. Volume I . . . By Jeremy Belknap . . . Philadelphia: Printed . . . by Robert Aitken . . . M.DCC,LXXXIV.

Deposited 30 September 1784.

A Translation of Sundry Psalms Which Were Omitted in Doctor Watts's Version: to Which Is Added, a Number of Hymns. The Whole Contained in the New Edition of Psalms and Hymns. By Joel Barlow. Hartford: Printed by Barlow and Babcock, M.DCC,LXXXV.

Deposited 12 August 1785.

The Suffolk Harmony, Consisting of Psalm Tunes, Fuges [sic] and Anthems. Composed by William Billings . . . Boston: Engraved and Printed by J. Norman . . . MDCCCLXXXVI.

Deposited 20 June 1786.

The New American Melody. In Three Parts . . . By Jacob French. Boston: Printed and Sold by John Norman . . . and Jacob French . . . MDCCCLXXXIX.

Deposited 25 August 1789.

Divine Songs, Extracted from Mr. J. Hart's Hymns . . . By Abraham Wood . . . Printed . . . at Boston,

by Isaiah Thomas and Company . . .  
MDCCLXXXIX.

Deposited 1789, exact date unknown.

The Young Lady's Accidence: or,  
A Short and Easy Introduction to

English Grammar . . . By Caleb  
Bingham . . . The Third Edition,  
Corrected. Printed at Boston, by I.  
Thomas and Company. MDCCL  
XXXIX.

Deposited January 1790 [?].

## Eliot, Howells, and the Courses of Graduate Instruction, 1869-1871

**A**MONG the innovations that Charles W. Eliot instituted during the first year of his administration as President of Harvard University were the University Courses of Instruction, so called. These were an outgrowth of the University Lectures established in 1863 under Eliot's predecessor, Thomas Hill. The University Lectures corresponded roughly to the instruction now given as university extension, but the new President's modification of them was designed to be the foundation for something more ambitious. By combining the lectures of a number of instructors into two courses, in Philosophy and Modern Literature, respectively; by restricting the enrollment in these courses to 'graduates, teachers, and other competent persons (men and women)'; by charging substantial fees; and by concluding each course with an examination, Eliot hoped to make the University Courses of Instruction serve as an embryonic school of postgraduate study in the arts. Deeming it important to make as strong a beginning as possible, he took pains to assemble for each course a distinguished list of teachers, namely: for Philosophy, R. W. Emerson, Francis Bowen, John Fiske, C. S.

Peirce, F. H. Hedge, J. E. Cabot, and G. P. Fisher; for Modern Literature, Ferdinand Bôcher, J. R. Lowell, F. J. Child, W. D. Whitney, E. J. Cutler, and W. D. Howells.<sup>1</sup>

This experiment was the occasion for some correspondence between President Eliot and William Dean Howells that has been thought worth printing in these pages both for its intrinsic interest and as a footnote to the oft-told story of the beginnings at Harvard of instruction at the graduate level in the arts and sciences.<sup>2</sup>

In June 1869, when the correspondence begins, Howells was thirty-two. He was known as the author of two volumes of sketches, entitled *Venetian Life* (1866) and *Italian Journeys*

<sup>1</sup> *Catalogue . . . of Harvard University, 1869-70* (Cambridge, 1869), pp. 102-103; Samuel E. Morison, *Three Centuries of Harvard, 1636-1936* (Cambridge, 1941), pp. 306, 333-334; *The Development of Harvard University, 1869-1929*, ed. Samuel E. Morison (Cambridge, 1930), p. 453; Francis G. Peabody, 'The Germ of the Graduate School,' *Harvard Graduates' Magazine*, XXVII (1918-19), 176-181.

<sup>2</sup> The letters from Eliot to Howells are in the Howells Collection in the Houghton Library of Harvard University, those from Howells to Eliot in the Presidents' Papers in the Harvard University Archives. They are published with the kind permission of the President and Fellows of Harvard College.



### STORY VIEW OF HARVARD

THE Department of Printing and Graphic Arts of the College Library has issued, as the seventh publication in its series *Historic Harvard and Cambridge Views*, a reproduction of 'A N.W. View of Hollis, Harvard and Massachusetts Halls' painted in water color by Joseph Story in 1795. Story, later the youngest Justice appointed to the Supreme Court of the United States, the first Dane Professor of Law at Harvard,

and a member of the Corporation and of the Board of Overseers, painted the picture at the age of fifteen shortly after he had entered the class of 1798. The original now hangs in the President's office in Massachusetts Hall.

The reproduction, executed in colotype by the Meriden Gravure Company and hand colored, measures 9½ by 15 inches. Copies, at \$5.00 each, may be ordered from the Department of Printing and Graphic Arts, Houghton Library, Harvard University. Certain other views in this same series are still available.

### List of Contributors

- THEODORA WARD, Associate Editor of *The Letters of Emily Dickinson* (in preparation)
- GERTRUDE RICHARDS, Richmond, Virginia
- SERGE ELISSÉEFF, Professor of Far Eastern Languages and Director of the Harvard-Yenching Institute, Harvard University
- DOROTHEA D. REEVES, Assistant Curator, Kress Library of Business and Economics, Graduate School of Business Administration, Harvard University
- KEYES D. METCALF, Librarian of Harvard College, Emeritus
- MERRITT E. LAWLIS, Assistant Professor of English, Indiana University
- EARLE E. COLEMAN, Cataloguer, Longwood Library, Kennett Square, Pennsylvania
- KIMBALL C. ELKINS, Senior Assistant in the Harvard University Archives