THE ECSTACY OF INFLUENCE: A Plagiarism Mosaic

Love and Theft

Consider this tale: a cultivated man of middle age, looks back on the story of an *amour fou*, one beginning when, travelling abroad, he takes a room as a lodger. The moment he sees the daughter of the house, he is lost. She is a pre-teen, whose charms instantly enslave him. Heedless of her age, he becomes intimate with her. In the end she dies, and the narrator – marked by her forever – remains alone. The name of the girl supplies the title of the story: *Lolita*.

The author of the story I've described, Heinz von Lichberg, published his tale of Lolita in 1916, forty years before Vladimir Nabokov's novel. Von Lichberg later became a prominent Nazi-era journalist, and his works faded from view. Did Nabokov, who remained in Berlin until 1937, adopt von Lichberg's tale consciously? Or was did earlier tale existing for Nabokov as a hidden, unacknowledged memory? The history of literature is not without examples of this phenomenon, called cryptomnesia. Nabokov himself must have been familiar with it: according to his own account, he often read two or three books a day, which he immediately forgot. And with him, of course, as with any author, a part of what was written went back to what was read.

Another hypothesis is that Nabokov indeed knew Lichberg's tale and, half-inserting, half-blurring its traces, set himself to that art of quotation which Thomas Mann, himself a master of it, called "higher cribbing". The stress lies on "higher". Mann was self-conscious about what he was doing, saying, with Moliere, "*Je prends mon bien ou je le trouve*". Who would deny him or any other great author this right? Literature has always been a huge crucible, in which familiar themes are continually recast. Little of what we admire in Lolita is already to be found in the tale; the former is in no way deducible from the latter. Still: did Nabokov consciously borrow and quote?

"To live outside the law, you must eliminate dishonesty." The line comes from Don Siegel's 1958 film noir, *The Lineup*, written by Sterling Silliphant. It's a film still haunts revival houses, likely thanks to Eli Wallach's blazing portrayal of a sociopath hitman, and to Siegel's long, sturdy auteurist career. Yet what were those words worth – to Siegel, or Silliphant, or their audience – in 1958? And again: what was the line worth in 1966, when (presumably in some Greenwich Village repertory cinema) Bob Dylan heard it, cleaned it up a little, and inserted it into "Absolutely Sweet Marie"? What are they worth now, to the culture at large?

Appropriation has always played a key role in Dylan's music. The songwriter has grabbed not only from a panoply of vintage Hollywood films, but from Shakespeare and F. Scott Fitzgerald and Junichi Saga's "Confessions of a Yakuza". He also nabbed the title of Eric Lott's study of minstrelsy for his 2001 album *Love & Theft*. One imagines Dylan liked the general resonance of the title, in which emotional misdemeanors stalk the sweetness of love, as they do so often in Dylan's songs. Lott's title is, of course, itself a riff on Leslie Fiedler's *Love and Death in the American Novel*, which famously identifies the literary motif of the intertependence of a white man and a dark man, like Huck and Jim or Ishmael and Queequeeg – a series of nested references to Dylan's own appropriating, minstrel-boy self. Dylan's debts and his unique voice have always been inextricable – happily so, it would seem for his art, and for those members of his audience not hung up on puritannical notion of provenance. Dylan's art offers a paradox: while it famously urges us not to Look Back, it also encodes a knowledge of past sources that might otherwise have little home in contemporary culture, like the Civil War poetry of the Confederate bard Henry Timrod, resusitated in lyrics on Dylan's newest record, *Modern Times*.

In 1941, on his front porch, Muddy Waters recorded a song for the folklorist Alan Lomax. After singing the song, which he told Lomax was entitled "Country Blues," Waters described how he came to write it. " "I made it on about the eighth of October, '38," Water said. "I was fixin' a puncture on a car. I had been mistreated by a girl… I just felt blue, and the song fell into my mind and it come to just like that and I started singing." Then Lomax, who knew of the Robert Johnson recording called "Walking Blues," asked Waters if there were any other songs that used the same tune. "There's been some blues played like that," Waters replied. "This song comes from the cotton field and a boy once put a record out – Robert Johnson. He put it out as named 'Walking Blues.' I heard the tune before I heard it on the record. I learned it from Son House..." In nearly one breath, Waters offers five accounts: his own active authorship: he "made it" on a specific date. Then the "passive" explanation: "it just come to me like that." After Lomax raises the question of influence, Waters, without shame, misgivings, or trepidation, says that he heard a version by Johnson, but that his mentor, Son House taught it to him. In the middle of that complex genealogy Waters declares that "this song comes from the cotton field."

Blues and jazz musicians are enabled by a kind of "open source" culture, where pre-existing melodic fragments and larger musical frameworks are freely reworked. The same might really be said of music *per se*. In both classical and folk traditions transformative appropriation has taken the form of *allusion*: a composer refers to the work of another by writing in a similar style, a performer one-ups a rival by imitating his performance. During the course of this writing I happened to be listening to a lot of old country music, and noticed that six country songs shared the same vocal melody: Hank Thompson's "Wild Side of Life", The Carter Family's "I'm Thinking Tonight of My Blue Eyes." Roy Acuff's "Great Speckled Bird", Kitty Wells "It Wasn't God Who Made Honky Tonk Angels", Ren and Smiley's

"I'm Using My Bible As A Roadmap", and Townes Van Zandt's "Heavenly Houseboat Blues." Nick Tosches, in *Country: The Twisted Roots of Rock 'n' Roll*, documents that the melodies these songs share is "ancient and British". No lawsuits stemmed from these appropriations.

With the advent of recording and replay technologies in the early 20th century, musicians gained the power to duplicate sounds literally rather than simply approximate them through allusion. In '70's Jamaica, King Tubby and Lee "Scratch" Perry deconstructed recorded music, using astonishingly primitive pre-digital hardware, creating what they called *versions*. The recombinant nature of their means of production quickly spread to Djs in New York and London. Today an endless, gloriously impure, and fundamentally social process generates countless hours of music. The digital remix and mashup have become the characteristic pivot at the turn of our two centuries. Of course, we seldom legislate new technologies into being. They emerge, and we plunge with them into whatever vortices of change they generate.

"All Mankind is one author and one volume," John Donne wrote. "When one man dies, one chapter is not torn out of the book, but translated into a better language; and every chapter must be so translated… God's hand is in every translation, and his hand shall bind up all our scattered leaves again for that library where every book shall lie open to one another." The internet makes actual a certain disjointed approach to reading I had already come to understand was part of my encounter with books and with the world. I realized this forcefully when one day I went looking for the John Donne passage, quoted above. I knew the lines, I confess, not from a college course but from the movie version of 84, Charing Cross Road with Anthony Hopkins and Anne Bancroft. I checked out 84, Charing Cross road from the library in the hope of finding the Donne passage, but it wasn't in the book. It's alluded to in the play that was adapted from the book, but it isn't reprinted. So I rented the movie again, and there was the passage, read in voice-over by Anthony Hopkins, but without attribution. Unfortunately, the line was also abridged so that, when I finally turned to the Web, I found myself searching for the line "All mankind is of one volume" instead of "All mankind is of one author and is one volume."

My internet search was initially no more successful than my library search. I had thought that summoning books from the vasty deep was a matter of a few keystrokes, but when I visited the Web site of the Yale library, I found that most of its book don't yet exist as computer text. As a last-ditch effort I searched the phrase "God employs many translators." The passage I wanted finally came to me, as it turns out, not as part of a scholarly library collection but simply because someone who loves Donne had posted it on his home page. The lines I sought were from Meditation 17 in *Devotions upon Emergent Occasions*, which happens to be the most famous thing Donne ever wrote, containing as it does the line "never send to know for whom the bell tolls; it tolls for thee." My search had led me from a movie to a book to a play to a website and back to a book. Then again, those words may only be as famous as they are because Hemingway lifted them for his book title. Literature has been in a plundered, fragmentary state for a long time. Perhaps there is a spirit in books that lets them live beyond their actual boundaries.

When I was thirteen I purchased an anthology of Beat writing. Immediately, and to my very great excitement, I discovered one William S. Burroughs, author of something called *Naked Lunch*, excerpted there in all its coruscating brilliance. Burroughs was then as radical a literary man as the world had to offer. Nothing, in all my experience of literature since, has ever had as strong an effect on my sense of the sheer possibilities of writing. Later, attempting to understand this impact, I discovered that Burroughs had incorporated snippets of other writers' texts into his work, an action I knew my teachers would have called plagiarism. Some of these borrowings had been lifted from American science fiction of the '40's and 50's, adding a secondary shock of recognition for me. By then I knew that this "cut-up method", as Burroughs called it, was central to what he thought he was doing, and then he quite literally believed it to be akin to magic. When he wrote about his process, the hairs on my neck stood up, so palpable was the excitement. Burroughs was interrogating the universe with a scissors and a paste pot, and the least imitative of authors was no plagiarist at all.

Visual, sound, and text collage, for many centuries relatively fugitive traditions (a cento here, a folk pastiche there) became explosively central to a series of movements passing through Modernism to Postmodernism: Futurism, Cubism, Dada, Musique Concrete, Situationism, Pop, and Appropriation. In fact, collage, the common denominator in that list, might be called *the* art form of the 20th century, never mind the 21st. But forget, for the moment, chronologys, schools, or even centuries. As examples accumulate – Igor Stravinsky's music and Daniel Johnston's, Francis Bacon's paintings, and Henry Darger's, the novels of and the Oulipou group and of Hannah Crafts (the runaway-slave author who pillaged Dickens' *Bleak House* to write *The Bondwoman's Narrative*), as well as cherished texts that nonetheless tremble on the brink of outcast status for the subsequent discovery of their "plagiarized" elements, like Richard Condon's novels and Martin Luther King Junior's sermons – it may seem that collage and appropriation, mimicry, quotation, allusion and sublimated collaboration are the *sine qua non* of the creative act, a native urge cutting across all boundaries, forms and genres, across high and low, through both self-consciously sophisticated and "primitive" attempts to make those useless and essential artifacts we call culture. Rapper Missy Elliot's *Under Construction* is a quilted bed of virtual citation marks, as T.S. Eliot's "The Waste Land" is loaded with footnotes. Eliot's mosaic method was also

employed by modernist contemporaries like James Joyce, who used literature as a library, inserting into his writing sentences that interested him. The irony is that Stephen Joyce, beneficiary of his grandfather's copyrights, regularly uses copyright laws to prevent his ancestor's words from being quoted in films, plays, and even scholarship. Carol Loeb Shloss, writing about Joyce's daughter Lucia, found her publication nearly blocked. "The process of deleting things that had taken years to find out was just excruciating," she said. "The ability of people to use quotes from Joyce has ground to a standstill." Robert Spoo, former editor of James Joyce quarterly: "There is a climate of concern bordering on fear among Joyce scholars that their work may suddenly come under copyright scrutiny." Unlike the scholars who study him, the quote-happy Joyce collaged at will.

In a courtroom scene from "The Simpsons" that has since entered into the television canon, an argument over the ownership of the animated characters Itchy and Scratchy rapidly escalates into an existential debate on the very nature of cartoons. "Animation is built on plagiarism!" declares the show's hot-tempered cartoon-producer-within-a-cartoon, Roger Myers Jr. "You take away our right to steal ideas, where are they going to come from?" If nostalgic cartoonists had never borrowed from "Fritz The Cat", there would be no "Ren & Stimpy Show"; without the Rankin-Bass and Charlie Brown Christmas specials, there would be no "South Park"; and without "The Flintstones" – more or less *The Honeymooners* in cartoon loincloths – "The Simpsons" would cease to exist. If those don't strike you as essential losses, what about the progenitor of American cinema itself? Along with filming literary works in the public domain, such as *Resurrection: Free Adaptation of Leo Tolstoy's Powerful Novel* and *A Fair Exchange: Free Adaptation of George Eliot's Silas Marner*, D.W. Griffith made films that were unacknowledged dramatizations of popular works then under copyright: *For Love of Gold*, from Jack London's "Just Meat", and *A Corner In Wheat*, from Frank Norris's "A Deal In Wheat". Or consider the remarkable series of "plagiarisms" that link Ovid's Pyramus and Thisbe with Shakespeare's *Romeo and Juliet* and Leonard Bernstein's *West Side Story*, or Shakespeare's description of Cleopatra copied nearly verbatim from Plutarch's life of Mark Antony, later nicked by T.S. Eliot for The Waste Land. If these are examples of plagiarism, then we want more plagiarism.

Marianne Moore manipulated her sources to release meanings never intended by the original authors, such as Shakespeare, whose *Tempest* was cut up into a proto-feminist manifesto. She sometimes changed the phrasing of the original sources to fit their placement in the poem, because fidelity to her own unconventional aesthetic trumped the academic desire to quote exactly. Her cut-up method, where she plopped matter-of-fact advertising copy into a new context, mirrored Marcel Duchamp's ready-mades. Moore confessed her penchant for incorporating lines from others' work into her Complete Poems' oddly titled passage, "A Note on the Notes", explaining, "I have been unable to outgrow this hybrid method of composition…" Kenneth Burke said of her method: "Since the quotation marks escape notice when such writing is read aloud, the page becomes wholly an act of collaboration, a good thing that seems to transcend any one person's ownership." Moore explained further: "I've always felt that if a thing has been said in the very best way, how can you say it any better?" Yet the intertextuality of literature is elaborately disguised by a law of copyright pretending that every work of art is an invention distinctive enough to be patented. This state of things makes it difficult to appraise a literature which includes Chaucer, much of whose poetry is translated or paraphrased from others; Shakespeare, whose plays can follow their sources verbatim; and Milton, who asked for nothing better than to steal as much as possible out of the Bible. Poetry can only be made out of other poems; novels out of other novels. All this was much clearer before the assimilation of literature to private enterprise concealed the facts.

Joseph Cornell's *Rose Hobart*, a landmark of Surrealist-influenced cinema, is simply a record of the way Cornell himself watched the 1931 Hollywood potboiler *East of Borneo*, fascinated and distracted as he was by its B-grade star. This, I suppose, makes Cornell a sort of father to computer-enabled fan-creator reworkings of Hollywood product, like the version of George Lucas's *Return of the Jedi* from which the noxious Jar-Jar Binks character was purged. Robert Rauschenberg, on being sued by a photographer named Morton Bebe, replied in a letter: "Having used collage in my work since 1949, I have never felt that I was infringing on anyone's right's as I have consistently transformed these images sympathetically with the use of solvent transfer, collage, and reversal as ingredients in the compositions which are dependent on reportage of current events and elements in our current environment, hopefully to give the work the possibility of being reconsidered and viewed in a totally new context."

Innovators in digital sampling of music – authors of sonic collage, that is – haven't been beneficiaries of the sympathies usually accorded visual bricoleurs like Rauschenberg. In the late 1980s, a backlash occurred in response to court decisions defending copyright holders against infringement, which was redefined to include not only egregious plagiarism and piracy, but also both forms of transformative appropriation: duplication *and* allusion. A good sample, in pop music, has two qualities: a unique musical timbre, impossible to duplicate, and a strong reference that evokes cultural resonance, and as musicians will avow, sound itself has an historical dimension. A sample transports the listener back to a specific action by a specific musician in a specific room. DJ Spooky has called hip-hop "ancestor worship". Harry Allen, the digital auteur of Public Enemy, the groundbreaking group whose career was

largely legislated out of existence, has spoken of the bias against his particular artistic gesture. "Sampling's like the color red. It's like asking, 'is the color red creative?' Well, it is when you use it *creatively*." Needless to say, for those creators who want to believe that music is a resource, not a commodity – and for those of us whom further suspect that any work of art is a negotiation between the found and the made – the mass entertainment industry, working with the blunt implement of American copyright law, has had a harsh reply.

Look up *modernism* in any handy literary reference, and *allusion* won't be far behind. Yet what happens when an allusion goes unrecognized? A closer look at *The Waste Land* may help make this point. The body of Eliot's poem is a vertiginous melange of quotation, allusion, and "original" writing. When Eliot alludes to Edmund Spenser's "Prothalamion", with the line "Sweet Thames, run softly till I end my song," what of readers for whom the poem, never one of his Spenser's most popular, is unfamiliar? (Indeed, the Spenser is is now known largely because of Eliot's use of it.) Two responses are possible: grant the line to Eliot, or later discover the source and understand the line as plagiarism. Eliot evidenced no small anxiety about these matters; the notes he so carefully added to The Waste Land can be read as a symptom of modernism's contamination anxiety. Taken from this angle, what exactly *is* postmodernism, except modernism without the anxiety?

Surrounded By Signs

In his first Surrealist manifesto, Andre Breton wrote "Man has trouble assessing the objects he has been led to use, objects that his nonchalance has brought his way, or that he has earned through his own efforts." Put more simply, the Surrealists believed that objects in the world possess a certain but unspecifiable intensity that has been dulled by everyday use and utility. Given what they saw as the failure of more traditional doctrines to effectively deal with such problems presented by the modern era, the Surrealists initiated a plan of their own to reanimate this dormant intensity, and bring their minds once again into close contact with the matter that made up their world. Andre Breton's maxim, appropriated from Lautreamont, "Beautiful as the chance encounter of a sewing machine and an umbrella on an operating table," is an expression of the belief that simply placing objects in a context with which they are not normally associated reivigorates their mysterious qualities.

This "crisis" the Surrealists identified was being simultaneously diagnosed by others. Martin Heidegger held that the essence of modernity was found in certain technological orientation he called "enframing". This tendency encourages us to see the objects in our world only in terms of how they can serve us or be used by us. The task he identified was to find ways to resusitate ourselves vis-à-vis these "objects", so that we may see them as "things" pulled into relief against the ground of their functionality. Heidegger believed that art had the great potential to reveal the "thingness" of objects.

The Surrealists understood that photography and cinema could carry out this reanimating process automatically; the process of framing objects in a lens was often enough to create the charge they sought. Describing the effect, Walter Benjamin drew a comparison between the photographic apparatus and Freud's psychoanalytic methods. Just as Freud's theories "isolated and made analyzable things which had heretofore floated along unnoticed in the broad stream of perception", the cinematic apparatus focuses on "hidden details of familiar objects", revealing "entirely new formations of the subject." It's worth noting that early in the history of photography a series of judicial decisions could well have changed the course of that art: courts were asked whether the photographer, amateur or professional, required permission before he could capture and print an image. The arguments in favor of requiring permission would seem familiar to those embroiled in battles over sampled music or digital imagery: the photographer was stealing from the person or building whose photograph he shot, pirating something of private and certifiable value. Those early decisions -- fortunately for Eastman Kodak as well as for the Surrealists – went in favor of the image-pirates. Just as Walt Disney could take inspiration from Buster Keaton's *Steamboat Bill Jr.*, the Brothers Grimm, or the existence of real mice, the photographer should be free to capture an image without compensating the source. The world that meets our eye through the lens of a camera was judged to be, with small exceptions, a sort of public commons, where a cat may look at a king.

I've grown up in a media-saturated environment. I was born in 1964; I grew up watching Captain Kangaroo, moon landings, zillions of TV ads, the Banana Splits, MASH, and The Mary Tyler Moore Show. I also was born with words in my mouth, object-names as fixed and eternal in my logosphere as *taxicab* and *toothbrush*: "band-aid", "q-tip", and "xerox machine". The world is a home littered with pop-culture products and their emblems. I also came of age swamped by parodies that stood for originals yet mysterious to me – I knew Monkees before Beatles, Belmondo before Bogart, and 'remember' the movie "Summer of 42" from a *Mad Magazine* version, though I've still never seen the film itself. I can hardly be alone in having been born backwards into an incoherent realm of texts, products, and images, this commercial and cultural environment with which we've both supplemented and blotted out our natural world. I can no more claim it as "mine" than the sidewalks and forests of the world, yet I do dwell in it, and for me to stand a chance as either artist or citizen, I'd probably better be permitted to name it. It's been noted that in a nation that protects the burning of a flag as a speech act, the last sacred relics are

trademarks like Mickey Mouse and MacDonald's – the latter a restaurant that has established the right to sue other food establishments opened by those whose family name happens to be MacDonald, and which has, for extra measure, trademarked the collective opinion "America's Favorite Fries". Similarly, the Kraft Corporation owns the phrase "Real Cheese", forcing rivals proffering cheese at least as real to vacate the English language.

Today the belief that pop images are basically just mimetic devices is one of the attitudes that separates most U.S. fiction writers under fifty from the writerly generation that precedes us. For those writers whose ganglia were formed pre-TV, those who are big on neither Duchamp nor Marianne Moore, the mimetic deployment of pop-culture icons seems at best an annoying tic and at worst a dangerous vapidity that compromises fiction's seriousness by dating it out of the Platonic Always where it ought to reside. In a graduate workshop I briefly passed through, a certain gray eminence tried to convince us that a literary story should always eschew "any feature which serves to date it" because "serious fiction must be Timeless." When we protested that in his own well-known work, characters moved about electrically lit rooms, drove cars, and spoke not Anglo-Saxon but postwar English – and further, that fiction he'd himself ratified as great, such as Dickens, was liberally strewn with innately topical, commercial, and timebound references – he impatiently emended his proscription to those explicit references that would date a story in the "frivolous now". When pressed, he said of course he meant the "trendy mass-popular-media" reference. Here, transgenerational discourse broke down.

What strikes me now are the uncanny privileges of referential description the written word enjoys, when compared with most other arts. Despite those frivolous plagiarism panics which periodically convulse writerly circles, literary texts *do* readily and happily interpenetrate both one another and the culture's realm of imagery and notions, whether copy-protected or not. As writers like Robert Coover and Donald Barthelme have demonstrated, I'd probably get away with a short story featuring a yellow-skinned buffoon named Homer Simpson. If my publishers balked at risking use of the character's exact name, I'd still be easily able to bring him to the reader's mind. Or consider Walker Percy's elegant and dreamy *The Moviegoer*, which may seem to describe another generation's version of my mediated experience: "Other people, so I have read, treasure memorable moments in their lives: the time one climbed the Parthenon at sunrise, the summer night one met a lonely girl in Central Park and achieved with her a sweet and natural relationship, as they say in books. I too once met a girl in Central Park, but it is not much to remember. What I remember is the time John Wayne killed three men with a carbine as he was falling to the dusty street in *Stagecoach*, and the time the kitten found Orson Welles in the doorway in *The Third Man*." Were a filmmaker to wish to bring a comparable cinematic passage to life by including brief clips of those films – and why shouldn't he? – he'd face a steep fee or, worse, the possibility of censure if the gatekeepers of the images of Wayne and Welles, and of the work of their directors, judged the context to be an unexalted one.

Today, when we can eat Tex-Mex with chopsticks while listening to reggae and watching an YouTube rebroadcast of the Berlin Wall's fall – i.e. when damn near everything presents itself as familiar – it's not a surprise that some of today's most ambitious art is going about trying to *make the familiar strange*. In doing so, in reimagining what human life might truly be like over there across the chasms of illusion, mediation, demographics, marketing, imago and appearance, artists are paradoxically trying to restore what's taken for "real" to three whole dimensions, to reconstruct a univocally round world out of disparate streams of flat sights. We're surrounded by signs; our imperative is to ignore none of them. Yet for a generation now being schooled in the notion that any attempt to duplicate bits of the media environment in which they're drowning is the act of a fugitive, the option even to live outside that law, honestly, is being tinkered away in the labs of Microsoft and Apple. 'Read-only' mediums reduce art and culture to a pipe running like cable television into our homes, with a bill bundling all consumption into one monthly sum. For, *read-only* means *write-never*.

'Media literacy' may seem like an odd way to think about literacy, but in a world where children see on average 390 hours of television commercials per year, it is increasingly important to understand media's grammar. The media has become our lingua franca; referencing pop provides a syntax that structures everyday talk. And, just as a child may learn to write by writing lots of terrible, and awkwardly imitative prose, another might learn to create media by constructing lots of howlingly derivative media artifacts. Most artists are brought to their vocation when their own nascent gifts are awakened by the work of a master. That is to say, most artists are converted to art by art itself. The most original voices one can hope to encounter – the Becketts and Hemingways – began with relatively negligible pastiches of Joyce and Sherwood Anderson. Finding one's voice isn't just an emptying and purifying oneself of the words of others, but an adopting and embracing of filiations, communities, and discourses. Inspiration could be called inhaling the memory of an act never experienced. Invention, it must be humbly admitted, does not consist in creating out of void, but out of chaos. Any artist knows these truths, no matter how deeply he or she submerges that knowing.

Usemonopoly

Notions of copyright, unexamined in their foundations, are used in everything from attempts to force the Girl Scouts to pay royalties for singing songs

around campfires to the infringement suit brought by the estate of Margaret Mitchell against the publishers of Alice Randall's "The Wind Done Gone". Corporations like Celera Genomics have filed for patents for human genes, while the Recording Industry Association of America has sued music downloaders for copyright infringement, reaching out-of-court settlements for thousands of dollars with defendants as young as twelve. ASCAP bleeds payment from shop owners who play background music in their stores; students and scholars are shamed from placing texts face down on photocopy machines. Copyright, at the same time, is revered by most established writers and artists as a birthright and bulwark, the source of nuture for their infinitely fragile practices in a rapacious world. Plagiarism and piracy are, after all, the monsters we working artists are taught to dread roaming the forests that fringe our tiny preserves of regard and remuneration.

A time is marked not so much by ideas that are argued about as by ideas that are taken for granted. The character of an era hangs upon what needs no defense. In this regard, few of us stop to doubt the contemporary construction of copyright. It is taken as a law, both in the sense of a universally recognizeable moral absolute, like the law against murder, and as naturally inherent in our world, like the law of gravity. In fact, it is neither. Rather, copyright is a ongoing social negotiation, tenuously forged, endlessly revised, and imperfect in its every incarnation.

Originally, the only authors who could hold copyright on their words were printers. Even then, 'author' retained the medieval sense of 'authority' that attached more naturally to the impresario editor skilled at selecting the best of what was written than to the writers themselves, who were normally paid a simple wage for their labor without expecting consultation on the final product. (Journalism still has much of this character.) Copyright law's original focus on control over the material conditions of idea production encouraged at least temporary monopolies on entire domains of thought. The official reason was to ward off pirate printers who might flood the market with cheap versions of already published books. However, copyright also had the effect of discouraging legitimate competitors who would have to bear the heavy burden of showing how their 'improvement' on a previous work rose above poorly disguised plagiarism. Eventually, the agitation of writers, buoyed by the Romantic cult of 'genius' of the early 19th century, established writing as a unique form of labor directly covered under copyright. Ownership of a printing press was thus no longer relevant to claims of a legal protection for one's words – though as we detect in our current situation, the tendency for copyright more to be prevailingly the instrument of the publishers and distributors of cultural material certainly persists.

At the time of the framing of our Constitution, creativity was essentially unregulated. The law effectively regulated publishers only, its scope just 'maps, charts, and books'. Every other aspect of creative life was free. Music could be performed in public without a license from a lawyer; a novel could be turned into a play even if the novel was copyrighted. The public domain was vast and rich – the works of Shakespeare had just fallen from the control of publishers in England; they would not have been protected in the United States even if they had not. For America once had an ambivalent attitude toward the notion of intellectual property. Thomas Jefferson, for one, considered copyright a necessary evil: he favored providing just enough incentive to create, nothing more, and thereafter allowing ideas to flow freely as nature intended. "If nature has made any one thing less susceptible than all other of exclusive property," he wrote, "it is the action of the thinking power called an idea, which an individual may exclusively possess as long as he keeps it to himself; but the moment it is divulged, it forces itself into the possession of everyone." His conception of copyright was enshrined in the Constitution, which gives Congress the authority to "promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries." Contrary to popular belief (and European principles) copyright is not primarily meant to grant control and benefits to authors and artists. Historically it's a publisher's law more than an author's, and the ultimate benificiary is supposed to be the public. Copyright is in the United States is constitutionally designed to last a "limited time", after which, the work falls into the public domain – free of restraint, so that second comers might do a much better job than the originator with the original idea.

But Jefferson's vision has not fared well, has in fact been steadily eroded those who view the culture as a market in which everything of value should be owned by someone or other. Copyright law began its expansion in 1870, when Congress included translations and dramatizations. The courts have expanded it through judicial interpretations ever since. The distinctive feature of modern American copyright law is its almost limitless bloating – its expansion in both scope and duration. The framers of the original Copyright Act would hardly recognize what the act has become. With no registration requirement every creative act in a tangible medium is now subject to copyright protection: your e-mail to your child or your child's finger painting: both are automatically protected. The first Congress to grant copyright gave authors an initial term of 14 years, which could be renewed for another 14 if the author still lived. The current term is the life of the author plus 70 years. More disturbingly, we've come to this expanded term through Congress's practice of extending the term of copyright both prospectively (to works not yet created) and retrospectively (to works created and still under copyright). This is new. In the first hundred years, Congress retrospectively extended the term of copyright once. In the last forty years, they've extended the term retrospectively eleven times. It's only a slight exaggeration to say that each time that

Mickey Mouse is about to fall into the public domain, the Mouse's term is extended, like a notorious prisoner repeatedly denied parole into the public realm.

At the movies, my entertainment is sometimes lately preceded by a dire trailer, produced by the lobbying group called The Motion Picture Association of America, in which the purchasing of a bootleg copy of a Hollywood film is compared to the theft of a car or a wallet – and as the bullying voice reminds us, "You wouldn't steal a wallet!" This conflation forms an incitement to quit thinking. For, a car or a wallet, once stolen is no available to its owner, while the appropriation of an article of "intellectual property" leaves the original untouched. As Jefferson wrote, "He who receives an idea from me, receives instruction himself without lessening mine; as he who lights his taper at mine receives light without without darkening me." Piracy, plagiarism, appropriation, reuse, sharing, and influence – all swim in an uneasy and uncertain realm, in shades of gray. If I were to shout in your ear that running off copies of a copyrighted film was no different from loaning a good friend a book (and after all, "You wouldn't refuse to lend a friend a book!"), or from describing the plot of the movie in full during the course of an excited conversation, my rhetoric would be as bankrupt as the MPAA's. Truth, though lawyered and lobbied out of sight, lies somewhere between.

Sometimes just to think straight we've got to unbraid our language. The word "copyright", may, on examination, come to seem as dubious in its embedded purposes as "family values", "globalization", and, sure, "intellectual property". The word "copy" no longer accurately describes the infringements on my own work I'd hope to see protected, if it ever did. The right to make copies isn't fundamental to copyright in any sense other than the historical. When old laws fixed on reproduction as the compensable (or actionable) unit, it wasn't because there's anything fundamentally invasive of an author's rights in the making of a copy. Rather it was because copies were once easy to find and count, so they made a useful benchmark for deciding when an owner's rights had been invaded. In the contemporary world, we make a copy every time we accept an e-mailed text – or send or forward one. The act of 'copying' is in no meaningful sense equivalent to an infringement, and is impossible anymore to regulate or even describe.

Copyright is a 'right' in no absolute sense, but a temporary monopoly on use, granted to an originator, who may choose to sell or forbid the rights it grants, but may equally choose to give them away or encourage their free reuse by others – and its very name embeds a slippage. So, let's try calling it "use-monopoly" instead. Then consider how the rapacious expansion of the laws of usemonopoly robs, for private interests, from the public sphere. Whether the benficiary is (occasionally) a living artist in dire need, or (more commonly) an artist's heirs or some corporation's shareholders, the loser is always the community, nation – or living artist in dire need – who might make splendid use of a healthy public domain.

Fans are Pirates, or, The Beauty of the Second Use

Anyone who's every split a fingernail trying to pry the plastic tabs off a newly-purchased CD or DVD shares with me a grudge, whether they know it or not, against the monoliths of the culture industry for their empty, obnoxious war on second-hand merchandise. For what are those redundant tabs for except as a kind of over-protesting evidence of the 'newness' of the product, a way to distinguish the object from its otherwise identical second-hand counterpart? Ironically, it was the freedom of digital media from the entropic effects of time and use that was originally sold as one of its bragging points. Yet this easy reusability seems to have aroused an anxiety on the part of the Hollywood studios and the music industry – what Freud would call "a narcissism of minor difference" – that principle which explains why predominantly similar groups fetishize the negligible details that distinguish them, and deny their more essential commonality. Analogous insecurities underlie both traditional publishing's attacks on on-line marketplaces for second-hand books – no different, of course, in their essence, from used bookstores – and the preemptive dismissals by established authors of the potentialities of on-line literary culture. Bastions of cultural capital, under imagined pressure, behave much the same as strategists for older busines models in a panic about losing a market share. Both tend to mistake symptoms of the vitality of their own realms for warnings that their preserves are under attack in what they've decided is a zero-sum game.

Ironically, if "piracy" means using the creative property of others without their permission, then the history of the content industry is a pirate history. Book publishing, film, records, radio, and cable TV, all were born of a kind of piracy so defined. Hollywood was founded by creators fleeing the East Coast in the early 20th century to escape Thomas Edison's patents. As to the record industry, Senator Alfred Kitteredge put it best: "Imagine the injustice… a composer writes a song or an opera. A publisher buys at great expense the rights to the same and copyrights it. Along come the phonographic companies and companies who cut music rolls and deliberately steal the work of the brain of the composer and publisher without any regard for rights." Jack Valenti, speaking for the MPAA: "I say to you that the VCR is to the American film producer and the American public as the Boston Strangler is to the woman home alone." When cable entrepeneurs first started wiring communities in 1948, most refused to pay broadcasters for the content they delivered to their customers. (Even Napster never charged for the content it enabled others to give away.) It took Congress thirty years before resolving the question,

just as it resolved record players and player pianos: cable companies would pay, but the exchange would be fixed by law, so broadcasters couldn't gouge, or selectively veto customers, or manipulate content.

In the first life of creative property, if the creator is lucky, the content is sold. After the commercial life has ended, our tradition supports a second life as well. A newspaper is delivered to a doorstep, and the next day wraps fish or builds an archive. The average book is in print for only a year, yet even within that period it can be sold in used bookstores and stored in libraries, quoted in reviews, parodied in magazines, described in conversations, and plundered for costumes for kids to wear on Halloween. The demarcation between various possible uses is beautifully graded and hard to define, the more so as artifacts distill into and repercuss through the realm of culture into which they've been entered, the more so as they engage the receptive minds for whom they were presumably intended. Every reader writes the book; there are as many version of a book as it has readers. Michel de Certeau has characterized active reading as "poaching", an impertinent raid on the literary preserve that takes away only those things that are useful or pleasurable to the reader: "Far away from being writers… readers are travellers; they move across lands belonging to someone else, like nomads poaching their way across fields they did not write, despoiling the wealth of Egypt to enjoy it themselves." De Certeau invites us to consider the place of popular response, of personal speculations and nonauthorized meanings in the reception of artworks.

What are the requirements for transforming a book or a movie into a cult object? The work must be loved, obviously, but this is not enough. I suspect that one must be able to break, dislocate, unhinge the work so that one can remember only parts of it, irrespective of their original relationship with the whole. In *The Velveteen Rabbit*, the old Skin Horse offers the Rabbit a lecture on the practice of textual poaching. The value of a new toy lies not it its material qualities (not "having things that buzz inside you and a stick-out handle"), the Skin Horse explains, but rather in how the toy is used. "Real isn't how you are made. It's a thing that happens to you. When a child loves you for a long, long time, not just to play with, but REALLY love you, then you become real." The rabbit is fearful, recognizing that consumer goods don't become "real" without being actively reworked: "Does it hurt?" Reassuring him, the Skin Horse says: "It doesn't happen all at once. You become. It takes a long time… generally, by the time you are Real, most of your hair has been loved off, and your eyes drop out and you get loose in the joints and very shabby." Seen from the perspective of the toymaker, the Velveteen Rabbit's loose joints and missing eyes represent vandalism, signs of misuse and rough treatment; for others, these are marks of its loving use.

Artist and their surrogates who fall into the trap of seeking recompense for every possible second use end up attacking their own best audience members for the crime of exhalting and enshrining their works – the RIAA suing their own record-buying public makes as little sense as the novelists who bristle at autographing used copies of their books for collectors. And artists, or their heirs, who fall into the trap of attacking the collagists and satirists and samplers of their work are attacking the next generation of creators for the crime of being influenced, for the crime of responding with the same mixture of intoxication, resentment, lust and glee that characterizes all artistic successors. By doing so they make the world of art smaller, betraying what seems to me the primary motivation for participating in the world of culture in the first place: to make the world larger.

Source Hypocrisy, or, Disnial

You might think there is something a bit unfair about a regime where Disney can make millions off stories that have fallen into the public domain, but no one else but Disney can make money off Disney's work – apparently forever. You'd be right. Disney didn't license the right to make *The Hunchback of Notre Dame* or *Pinocchio*. Buster Keaton's *Steamboat Bill Jr.* appeared before Disney's cartoon *Steamboat Willie*, in the same year. The coincidence of titles is not coincidental. Early cartoons are filled with knockoffs – slight variations on winning themes and characters. The key to success was, of course, the brilliance of the differences. The catalog of Disney's work drawing on the work of others is astonishing when set together: *Snow White, Fantasia, Pinocchio, Dumbo, Bambi, Song of the South, Cinderella, Alice In Wonderland, Robin Hood, Peter Pan, Lady and the Tramp, Mulan, Sleeping Beauty, The Sword In The Stone, Jungle Book* and, alas, *Treasure Planet*, a legacy of cultural sampling Shakespeare, or De La Soul, could get behind. Yet Disney's protectorate of lobbyists has policed the resulting cache of cultural materials as vigilantly as Fort Knox – suing, for instance, the artist Dennis Oppenheim for the use of Disney characters in a collage, and prohibiting the scholar Holly Crawford from using *any* images – including artwork by Guston, Warhol, Oldenburg , and others – in her monograph *Attached To The Mouse: Disney and Contemporary Art*.

This peculiar and specific act – the capture of commonwealth culture for the benefit of a sole or corporate owner, may be seen to have an similarity to what we might call, a little hot-headedly, "Imperial Plagiarism" – the free use of third-world or "primitive" artworks and styles by more privileged (and better-paid) artists. Think of Picasso's *Madamoiselles d'Avignon*, or some of the albums of Paul Simon or David Byrne – while never violating a copyright, those creators have sometimes come in for a certain critical skepticism when the extent of their outsourcing became plain. And, as when when Led Zeppelin found themselves sued for back royalties by the bluesman Willie Dixon, the act can occasionally be an expensive one. *To live outside the law you must be honest*: perhaps it was this, in part, that spurred David Byrne and Brian Eno to recently launch a

"remix" website, where anyone can download easily-disassembled versions of two songs from "My Life In The Bush of Ghosts", an album reliant on vernacular speech sampled from a host of sources. Perhaps *to live outside the law you must be honest* also explains why Bob Dylan has reportedly never refused a request for a sample.

Kenneth Koch once said, "I'm an artist who likes to be influenced." It was a charming confession, and a rare one. For so many artists, the act of creativity is intended as a Napoleonic imposition of one's uniqueness upon the universe – *apres moi le deluge* of copycats! And for every James Joyce or Woody Guthrie or Martin Luther King Junior or Walt Disney who gathered a constellation of voices in their work there may seem to be some corporation or literary estate eager to stopper the bottle: like roaches in a motel, cultural debts flow in, but they don't flow out. We might name this human tendency 'Source Hypocrisy'. But maybe it deserves a snappier moniker, a tribute to the most egregious and – given their seeming sway over the U.S. Congress – important Source Hypocrites of all time: Disnial. It's not just a river in Hollywood.

You Can't Steal a Gift

Works of art exist simultaneously in two "economies", a market economy and a gift economy. Only one of these is essential, however: a work of art can survive without the market, but where there is no gift there is no art.

There are several distinct senses of "gift" that lie behind these ideas, but common to each of them is the notion that a gift is a thing we do not get by our own efforts. We can't buy it; we can't acquire it through an act of will. It is bestowed upon us. Thus we rightly speak of "talent" as a "gift", for although a talent can be perfected through an effort of will, no effort in the world can cause its initial appearance. We also rightly speak of intuition or inspiration as a gift. As the artist works, some portion of his creation is bestowed upon him. Usually, in fact, the artist does not find himself engaged or exhilarated by the work, nor does it seem authentic, until this gratuitous element has appeared. "Not I, not I, but the wind that blows through me," says D.H. Lawrence. Not all artists emphasize the "gift" phase of their creations to the degree that Lawrence does, but all artists ought to feel it.

Art continues to function as a gift after leaving it's maker's hands. Art that matters to us – which moves the heart, or revives the soul, or delights the senses, or offers courage for living, however we choose to describe the experience – is received as a gift is received. Even if we've paid a fee at the door of the museum or concert hall, when we are touched by a work of art something comes to us which has nothing to do with the price. As Joseph Conrad said, "The artist appeals to that part of our being… which is a gift and not an acquisition…" The daily commerce of our lives – "sugar for sugar and salt for salt", as the blues singers (and Bob Dylan) says – proceeds at its own constant level, but a gift conveys a uncommodifiable surplus of inspiration.

It's the cardinal difference between gift and commodity exchange that a gift establishes a feeling-bond between two people, while the sale of a commodity leaves no necessary connection. I go into a hardware store, pay the man for a hacksaw blade, and walk out. I may never see him again. The disconnectedness is, in fact, a virtue of the commodity mode. We don't want to be bothered, and if the clerk always wants to chat about the family, I'll shop elsewhere. I just want a hacksaw blade. But a gift makes a connection. There are many examples, the candy or cigarette offered to a stranger who shares a seat on the plane, the few words that indicate goodwill between passengers on the late-night bus. These tokens establish the simplest bonds of social life, but the model they offer may be extended to the most complicated of unions – marriage, parenthood, tutorship. If a value is placed on these (often essentially inequal) exchanges, they degenerate into something else.

The way we treat a thing can change its nature. Religions usually prohibit the sale of sacred objects, the implication being that their sanctity is lost if they are bought and sold. We consider it unacceptable to sell sex, babies, body organs, legal rights and votes. The idea that something should never be commodified is generally known as *inalienability* – a concept most famously expressed by Thomas Jefferson in the phrase "endowed by the Creator with certain inalienable rights…"A work of art seems to be a hardier breed; it can be sold in the market and still emerge a work of art. But if it is true that in the essential commcerce of art a gift is carried by the work from the artist to his audience, if I am right to say that where there is no gift there is no art, then it may be possible to destroy a work of art by converting it into a pure commodity. I don't maintain that art can't be bought and sold, but that the gift portion of the work places a constraint upon our merchandising. This is the reason why even a really beautiful, ingenious, powerful ad (of which there are a lot) can never be any kind of real art: an ad has no status as a gift, i.e. it's never really *for* the person it's directed at.

The power of a gift economy remains difficult for the empiricists of our market culture to understand. In our times, the rhetoric of the market presumes that everything should be and can be appropriately bought, sold, and owned – a tide of alienation lapping daily at the dwindling redoubt of the unalienable. In free-market theory, an intervention to halt propertization is considered "paternalistic", because it inhibits the free action of the citizen, now reposited as a 'potential entrepeneur'. Of course, in the real world, we know that child-rearing, family life, education, socialization, sexuality, political life, and many other basic human activities require insulation from market forces. In fact, paying for many of these things can ruin them. We may be willing to peek at

Who Wants To Marry A Millionare or an eBay auction of the ova of fashion models, but only to reassure ourselves that some things are still beneath our standards of dignity.

What's remarkable about gift economies is that they can flourish in the most unlikely places – in run-down neighborhoods, on the Internet, in scientific communities, and among members of Alcoholics Anonymous. Commercial blood systems generally produce blood supplies of lower safety, purity, and potency than volunteer systems – it turns out a gift economy is a superior system for maintaining a group's commitment to certain extra-market values. (The implications of this for, say, educational systems, should probably not be overlooked.)

My reader may, understandably, be on the verge of crying "Communist!" Yet one of the more difficult things to comprehend is that the gift economies – like those that sustain open source software – coexist so naturally with the market. It is precisely this doubleness in art practices that we must identify, ratify, and enshrine in our lives as participants in culture, either as 'producers' or 'consumers'. Art-making and art-reception are mixed activities, gloriously impure by their nature, and artifacts of culture pass routinely across the seeming boundary between commodity and gift. A large, diverse society cannot survive without property; a large, diverse, and modern society cannot flourish without intellectual property. But it takes little reflection to grasp that there is ample value that the term 'property' doesn't capture. If Disney animators had stolen a set of pencils to draw Mickey Mouse in *Steamboat Willie*, we'd have no hesitation in condemning that taking as wrong. Yet there was nothing wrong, at least under the laws of the day, with Disney's taking from Buster Keaton. Scientists build upon the work of other scientists without asking or paying for the privilege. Acting companies perform adaptations of the works of Shakespeare without securing permission. (Do we believe Shakespeare would be more influential within our culture if there were a central Shakespeare clearinghouse to which all productions must first appeal?)

Another way of understanding the presence of gift economies – which dwell like ghosts in the commercial machine – is in the sense of a *public commons*. A commons, of course, is anything like the streets over which we drive, the skies through which we pilot airplanes, or the public parks or beaches on which we dally. A commons belongs to everyone and no one, and its use is controlled only by common consent. A commons describes resources like the body of ancient music drawn on by composers and folk musicians alike, rather than the commodities, like "Happy Birthday", for which ASCAP charges a fee each time its public use is detected. Einstein's theory of relativity is a commons. Writings in the public domain are a commons. Gossip about celebrities is a commons. The silence in a movie theater is a transitory commons, impossibly fragile, treasured by those who crave it, and constructed as a mutual gift by those who comprise it. Economists will object that my list conflates two different cases, in that Einstein's theory of relativity is different from the streets or beaches in being fully "nonrivalrous" – your use doesn't rival my own. Yet we've always described as commons both rivalrous and nonrivalrous resources. If a resource is nonviralrous, then the problem is whether there is enough incentive to produce it, not whether there is too much demand to consume it. A nonrivalrous resource can't be exhausted.

The world of art and culture is a vast commons, one salted through with zones of utter commerce yet which remains gloriously immune to any overall commodification. Ultimately, it's nonrivalrous in the extreme. The closest resemblance is to the commons of a *language*: altered by every contributor, expanded by even the most passive user. That a language is a commons doesn't mean that the community owns it; rather it belongs *between* people, possessed by no one, no even by society as a whole. Still, some of its properties can be described in economic terms. When the resources of a commons can be easily replicated and shared – ie, most digital information on the Internet, and every shred of 'intellectual property' that has ever moved into the public domain – then an almost magical – or Christian? – multiplication of value occurs: the grass grows taller when it's grazed upon. Increasing participation enhances the value of the activity or property, rather than diminishing it. The greater the number of people subscribing to telephone service, or use a common standard, such as the QUERTY typewriter layout or Windows operation system, the more valuable that practice becomes. (If you can't reach anyone on your telephone, I recommend not paying the bill.) This dynamic of "scale returns" has become particularly timely since the advent of the Internet. The deeper principle may be that knowledge itself is highly susceptible to the cornucopia of the commons: the production of knowledge is *supposed* to run wild. Knowledge is something pursued indefinitely, perhaps even profligately. Because the exact import of knowledge is never fully grasped at the time of its creation, those who most heavily invest in knowledge production may not turn out to be its main beneficiaries. Nevertheless, the removal of these 'free riding' beneficiaries would be still more costly.

Nearly any commons, though, can be encroached upon, partitioned, enclosed. The American commons includes tangible assets such as public forests and minerals, intangible wealth such as copyrights and patents, critical infrastructures such as the Internet and government research, and cultural resources such as the broadcast airwaves and public spaces. These include resources we've paid for as taxpayers, and inherited from previous generations. They're not just an inventory of marketable assets, but social institutions and cultural traditions that define us as Americans and enliven us as human beings. Some invasions of the commons are sanctioned because we can no longer muster a spirited commitment to the public sector – hence the widespread acquiesence to

Channel One, a psuedo-educational TV news program whose advertisements are forced upon children in public schools; hence the naming of beloved sports stadia after corporate sponsors that have few valid claims to our civic respect. The abuse goes unnoticed because the theft of the commons is seen in glimpses, not in panorama. We may occasionally see a former wetland paved; we may hear about the breakthrough cancer drug that tax dollars helped develop, the rights to which pharmaceutical companies acquired for a song. The larger movement goes too much unremarked. The notion of a *commons of cultural materials* goes more or less unnamed.

The environmentalists helped us to see the world differently: suddenly there was such a thing as 'the environment', rather than just 'my pond', 'your forest', 'his canal', 'their cancer'. What's needed now is an environmentalism for culture – we have to 'invent' the public domain before we can save it. It's not that artists and authors of culture shouldn't be paid for their work. The point is that some of the ways we might – and already have – exaggerate protection for them will have unintended consequences for the cultural environment. Just as criticism of DDT is not an endorsement of malaria, so too is a criticism of the distortion of copyright not an endorsement of anarchy.

Honoring the commons is not a matter of moral exhortation. It is a practical necessity. We in Western society are going through a period of intensifying belief in private ownership, to the detriment of the public good. We have to remain constantly vigilant to prevents raids by those who would selfishly exploit our common heritage for their private gain. Such raids on our natural resources are not examples of enterprise and initiative. They are attempts to take from all the people for the benefit of the few.

Undiscovered Public Knowledge

Artists and intellectuals disheartened by the prospects for originality can take heart from a phenomenon identified about twenty years ago by Don Swanson, a library scientist at the University of Chicago. He called it 'undiscovered public knowledge'. Swanson showed that standing problems in medical research may be significantly addressed, perhaps even solved, simply by systematically surveying the scientific literature. Left to its own devices, research tends to become more specialized and abstracted from the real-world problems that motivated its and to which it remains relevant. This suggests that such a problem may be effectively tackled not by commisioning more research, but by assuming that most or all of the solution can already be found in various scientific journals, waiting to be assembled by someone willing to read across specialties. Swanson himself did this in the case of Raynaud's Syndrome, a disease that causes the fingers of young women to become numb. His finding is especially striking – perhaps even scandalous – because it happened in the ever-expanding biomedical sciences.

Undiscovered public knowledge emboldens us to question the extreme claims to originality made in press releases and publisher's notices: is an intellectual or creative offering truly novel or have we just forgotten a worthy precursor? Does solving certain scientific problems really require massive additional funding or could a computerized search engine, creatively deployed, do the same job more quickly and cheaply? Lastly, does our appetite for creative vitality require the violence and exasperation of another avant-garde, with its wearisome killing-the-father imperatives, or might we be better off ratifying *the ecstacy of influence* – and deepening our willingness to understand the commonality and timelessness of the methods and motifs available to artists?

End Stories

A few years ago someone brought me a strange gift, purchased at the gift shop of the downtown MoMA: a copy of my own first novel, *Gun, With Occasional Music*, expertly die-cut into the contours of a pistol. The (unsigned) object was the work, it turned out, of conceptual designer Tobias Wong, whose specialty is the reincarnation of everyday materials. I regard my first book as an old friend, one who never fails to remind me of the spirit with which I entered into this game of art and commerce: the sense that to be allowed to insert the materials of my imagination onto shelves of bookstores and into the minds of readers (if only a handful) – was a wild privilege. I'd been paid six thousand dollars for the effort of three years' writing, but the truth is that at the time I'd have happily let *Gun, With Occasional Music* be published for nothing. Now my old friend had come home in a new form, one I'd have been unlikely to imagine for it myself. The gun-book wasn't readable, exactly, but I couldn't take offense at that: many thousands of other (new and used) copies float through the universe intact, available to anyone who might be curious to know the text. I'm not a painter or sculptor with a single artifact that can be eradicated or effaced, but instead a purveyor in mass-produced art, with no 'original' to shield from morphic copying or recontextualization such as Wong's. The fertile spirit of stray connection this appropriated object conveyed back to me – the strange beauty of its second use – was a reward for being a published writer I could never have fathomed in advance. And the world makes room for both my novel and Wong's gun-book. There's no need to choose between the two.

Another story: in 1998, Lincoln Center featured a retrospective of Iranian cinema, then a fresh enthusiasm of mine. Dariush Mehrjui, one of Iran's finest filmmakers, and the only one whose subject was

personal relationships among the upper-middle-class intelligentsia. Needless to say, opportunities to view these were – and remain – rare indeed. I headed uptown for one, an adaptation of J.D. Salinger's *Franny and Zooey*, titled *Pari*, only to discover at the door of the Walter Reade Theater that the screening had been cancelled: its announcement had brought threat of a lawsuit down on the Film Society of Lincoln Center. True, these were Salinger's rights under the law. Yet why would he care that some obscure Iranian filmmaker had paid him homage with a meditation on his heroine? Would it have altered his book, or robbed him of some crucial remuneration, had the screening been permitted? The fertile spirit of stray connection (one stretching across what is presently seen as the direst of international breaches) had in this case been snuffed out. For me personally, the cold, undead hand of one of my childhood literary heroes had reached out from its New Hampshire redoubt to arrest my present-day curiosity.

A few assertions:

Any text that has infiltrated the common mind to the extent of *Gone With the Wind* or *Lolita* or *Ulysses* inexorably joins the language of culture. A map-turned-to-landscape, it has moved to a place beyond enclosure or control. The authors and their heirs should consider the subsequent parodies, refractions, and revisions an honor, or at least the price of a rare success.

A corporation that has imposed an inescapable notion – Mickey Mouse, Band-Aid, Star Wars – on the cultural language should pay a similar price.

The primary objective of copyright is not to reward the labor of authors, but to "To promote the Progress of science and useful Arts." To this end, copyright assures authors the right to original expressions, but encourages others to build freely upon the ideas and information conveyed by a work. This result is neither unfair nor unfortunate.

Contemporary copyright, trademark, and patent law is presently corrupted.The case for perpetual copyright is a denial of the essential gift-aspect of the creative act. Arguments in its favor are as un-American as those for the repeal of the estate tax.

Art is sourced. Apprentices graze in the field of culture.

Digital sampling is an art method much like any other.

Despite hand-wringing at each technological turn – radio, the Internet – the future will be much like the past. Artists sell some things, but also give some things away. Change may be troubling for those who crave less ambiguity, but the life of an artists has never been filled with certainty.

The dream of a perfect systematic remuneration is nonsense. I pay rent with the price my words bring when published in *Rolling Stone*, and at the same moment offer them for almost nothing to an impoverished literary quarterly, or speak them for free into the air in an interview. So, what are they worth? What would they be worth if some future Dylan worked them into a song? Could I care to make such a thing impossible?

Allusion is a step toward making the modern world possible for art.

Plagiarism is necessary; progress implies it.

The perception of novelty is relative to the experience of those currently alive. This is why history – especially of times detached from living memory – has been a perennial source of ideas. Any text is woven entirely with citations, references, echoes, cultural languages, which cut across it through and through in a vast stereophony. The citations which go to make up a text are anonymous, untraceable, and yet *already read*; they are quotations without inverted commas. The kernel, the soul – let's go further and say the substance, the bulk, the actual and valuable material of all human utterances – is plagiarism. For substantially, all ideas are second-hand, consciously and unconsciously drawn from a million outside sources, and daily used by the garnerer with a pride and satisfaction born of the superstition that he originated them; whereas there is not a rag of originality about them anywhere except the little discoloration they get from his mental and moral calibre and temperament, and which is revealed in characteristics of phrasing. Old and new make the warp and woof of every moment. There is no thread that is not a twist of these two strands; by necessity, by proclivity and by delight, we all quote. Neurological study has lately shown that memory, imagination, and consciousness itself is stitched, quilted, pastiched. If we cut-and-paste our selves, might we not forgive it of our artworks?

Artists and writers – and our advocates, our guilds and agents – too often subscribe to implicit claims of originality that do injury to these truths. And we too often, as hucksters and bean-counters in the tiny enterprises of ourselves, act to spite the gift portion of our privileged roles. People live differently who treat a portion of their wealth as a gift. If we devalue and obscure the gift-economy function of our art practices we turn our works into nothing more than advertisements for themselves. We may console ourselves that our lust for "subsidiary rights" in virtual perpetuity comprises some heroic contest with rapacious corporate interests. But the truth is that with artists pulling on one side and corporations pulling on the other, the loser is the collective public imagination from which we were nourished in the first place, and whose existence as the ultimate repository of our offerings makes the work worth doing in the first place.

The wish to see one's work in print (fixed with one's name in card files and anthologies) is different from the desire to pen lines that could never get fixed in permanent form, might be lost forever, altered by copying, or – if truly memorable – be carried by oral transmission and assigned ultimately to "anon". As a novelist, I'm a cork on the ocean of story, a sole leaf in a windstorm. Pretty soon I'll be blown away. For the moment I'm pleased to make a

living, and so must ask that for a limited time (in the Thomas Jefferson sense) you please respect my small, treasured usemonopolies. But in the longer run, the name of the game is Give All. With apologies to my heirs, you, reader, are welcome to my stories. They were never mine in the first place, but I gave them to you. If you have the inclination to pick them up, take them with my blessings.

Skeleton Key: I Is Another

This skeleton key to the preceding essay names the source of every line I stole, warped, and cobbled together as I "wrote" (except, alas, those sources I forgot along the way). First uses of a given author or speaker are highlighted in red.

The phrase "The ecstacy of influence," which embeds a rebuking play on Harold Bloom's "anxiety of influence," is lifted from spoken remarks by Professor Richard Dienst of Rutgers.

Love and Theft

"…a cultivated man of middle age…" to "hidden, unacknowledged memory." These lines, with some adjustments for tone, belong to the anonymous editor or assistant who wrote the dust flap copy of Michael Maar's *The Two Lolitas*. "The history of literature…" to "did Nabokov consciously borrow and quote?" comes from Maar's book itself. Of course, in my own experience, my dust-flap copy is often a collaboration between myself and my editor – perhaps this was also true for Maar.

"Appropriation has always…" to "minstrel-boy self." This paragraph makes a hash of remarks from an interview with Eric Lott, conducted by David McNair and Jayson Whitehead, and incorporating both interviewer's and interviewee's observations. (The text-interview form could be seen as a commonly accepted form of multivocal writing. Most interviewers prime their subjects with remarks of their own – leading the witness, so to speak – and gently refine their subjects' statements in final printed transcript.)

"In 1941, on his front porch…" to "song comes from the cotton field." Siva Vaidhyanathan, *Copyrights and Copywrongs*.

"Jazz musicians are enabled…" to "new and beautiful." Kembrew McLeod, *Freedom of Expression*.

"transformative appropriation in music…" to "imitating his performance." Joanna Demers, *Steal This Music*.

"During the course…" to "from these appropriations." McLeod. I happen to know a couple of those songs, but I don't have any on my iPod.

"With the advent… through allusion." Demers.

"King Tubby…" to "change they generate." William Gibson, "God's Little Toys", Wired Magazine.

"All Mankind…" to "beyond their actual boundaries." The anecdote is cribbed, with an elision to avoid appropriating a family reminiscence, from Jonathan Rosenbaum's *The Talmud and The Internet* (Picador). I've never seen *84, Charing Cross Road*, nor searched the web for a Donne quote. For me it was through Rosenbaum to Donne, Hemingway, website, et al. Hijacking Rosenbaum's gently searching tone I experienced a peculiar discomfort. My own writing skirts spiritual matters, and I could feel his prose veering in that direction.

"When I was thirteen…" to "…adjacent data." Gibson. My own first encounter with William Burroughs, also at age thirteen, was less epiphanic. Having grown up with a painter father who, during family visits to galleries or museums, approvingly ratified collage and appropriation techniques in the visual arts (memorable examples included Picasso, Claes Oldenberg, Stuart Davis), I was gratified, but not surprised, to learn that literature could encompass the same methods. "Collage is the art form of the 20th Century, not to mention the 21st": I heard filmmaker Craig Baldwin say this, in defense of sampling, in the documentary "Copyright Criminals". The paragraph incorporating it plunders *Owning Culture: Authorship, Ownership & Intellectual Property Law* by Kembrew McLeod.

"Missy Elliot…" to "collaged at will." McLeod.

"In a courtroom scene…" to "would cease to exist." Dave Itzkoff, New York Times.

"Along with filming…" to "A Deal In Wheat." Vaidhyanathan.

"…the remarkable series of plagiarisms…we want more..." Judge Richard Posner, from *The Becker-Posner Blog*.

"Marianne Moore manipulated…" to "say it any better?" McLeod.

"…elaboratedly disguised…private enterprise concealed..." Northrup Frye, *Anatomy of Criticism*, lightly rewritten, and met in the embrace of Mark Rose's *Authors and Owners: The Invention of Copyright*.

Joseph Cornell's Rose Hobart.." to "B-grade star." From Christian Keathley's *Cinephilia and History, or The Wind In The Trees*, a book which treats fannish fetishism as the secret lurking in the heart of the history of film scholarship.

I found the Robert Rauschenberg quote, and some contextualizing language, in the writings of Lawrence Lessig, the greatest of public advocates for copyright reform, and the best source if you want to get radicalized in a hurry. His three books (to date): *Free Culture: The Nature and Future of Creativity, The Future of Ideas: The Fate Of The Commons In A Connected World, and Code And Other Laws of Cyberspace.*

"In the late 80's…" to "duplication *and* allusion." Demers.

"A good sample…" to "back to a specific action." These remarks are freely adapted from quotes from Drew Daniel, from the documentary film *Copyright Criminals* – except the phrase "Sound itself has an historical dimension" was spoken, in the same film, by David Sanchek. Harry Allen's quote comes from the same film. "Music is a resource, not a commodity." I heard Michelle Shocked say this on NPR. "Any work of art is a negotiation between the found and the made." Film critic Dave Kehr, from his website.

"Look up Modernism… contamination anxiety." Kevin J.H. Dettmar, from "The Illusion of Modernist Allusion and The Politics of Postmodern Plagiarism."

Surrounded By Signs

From "In his first Surrealist manifesto…" through the Walter Benjamin quote, from Keathly.

"…early in the history of photography…without compensating the source." Lessig.

"I've grown up in a media-saturated … Mary Tyler Moore Show." These are actually the reminiscences of Mark Hosler from Negativeland, a collaging musical collective that was sued by U2 in 1991 for their sonic appropriation of "Still Haven't Found What I'm Looking For". Though I had to adjust the birthdate, Hosler's cultural menu fits me like a glove. "The world is a home… emblems." McLeod.

"Today the belief that Pop…" to "… transgender discource broke down." All from David Foster Wallace's essay "E. Pluribam Unis", from *A Supposedly Fun Thing I'll Never Do Again*, except I stuck in the reference to Dickens in the middle. I don't know who the 'gray eminence' from Wallace's anecdote actually is, and so I can't say whether he really espoused Dickens.

"Today, when we can eat Tex-Mex… to "…disparate streams of flat sights." Wallace.

"We're surrounded by signs. Ignore none of them." This phrase, which I rendered unfortunately more leaden with the word 'imperative', comes from Steve Erickson's novel *Our Ecstatic Days*.

"Media literacy may seem…" to "constructing lots of… media." These words are from Dave Yanofsky, director of Uth TV, as quoted in Lessig, mashed-up with more McLeod ("…Lingua Franca…syntax...everyday talk…")

"Most artists are brought… by art itself." These words, and many more to follow, come from Lewis Hyde's *The Gift*, only light rewritten for tone and context (and in each instance it broke my heart to do it). Above any other book I've here plagiarized, I commend *The Gift* to your attention. "Finding one's voice… filiations, communities, discources." Semanticist George L. Dillon, quoted in Rebecca Moore Howard's "The New Abolitionist Comes to Plagiarism." "Inspiration could be …act never experienced." Ned Rorem, *Music From The Inside Out* (and several 'great quotations' sites on the internet). "Invention, it must be humbly admitted.. out of chaos." Mary Shelley, from her introduction to *Frankenstein*.

Usemonopoly

"…girlscouts… to defendants as young as twelve…" Robert Boynton, New York Times Magazine, "The Tyranny of Copyright?" January, 2004.

"A time is marked…" to "…between us and them." Lessig.

"Originally, the only authors…" to "…cultural materials certainly persists." Steve Fuller, *The Intellectual*.

"At the time of the framing…" to "… even if they had not." Lessig.

"…ambivalent attitude…respective writings and discoveries." Boynton.

"Contrary to popular belief…supposed to be the public." Vaidhyanathan.

"..second comers might do a much better job than the originator…" This phrase, found in Lessig, comes from a judgement written by Judge Learned Hand.

"But Jefferson's vision…owned by someone or another." Boynton.

"Copyright law began…" to "… Mickey Mouse is extended." Lessig.

"The right to make copies… had been invaded." Jessica Litman, *Digital Copyright*.

Fans are Pirates

"Ironically… Edison… wraps fish..." All mostly Lessig, but I found the Valenti quote in McLeod. And now you should fill in the blank: Jack Valenti is to the public domain as ______ is to ________.

"Every reader writes… it has readers." I heard John Banville say this on WNYC.

"Michael de Certeau… reception of artworks." Henry Jenkins, *Textual Poachers: Television Fans and Participatory Culture*.

"What are the requirements… with the whole." Umberto Eco, *Travels In Hyperreality*.

"…the old Skin Horse… marks of its loving use." Jenkins. (Incidentally, have the holders of the copyright to *The Velveteen Rabbit* had a close look at *Toy Story*? There could be a lawsuit there.)

Source Hypocrisy, or, Disnial

"You might think… and, alas, *Treasure Planet*.." Lessig.

"Imperial Plagiarism" is the title of an essay by Marilyn Randall.

"…a 'remix' website… their rhythm tracks." Chris Dahlen, Pitchfork.

"Kenneth Koch… *deluge* of copycats!" Emily Nussbaum, The New York Times Book Review.

You Can't Steal a Gift

Dizzy Gillespie, defending another player who'd been accused of poaching Charlie Parker's style: "You can't steal a gift. Bird gave the world his music, and if you can hear it, you can have it."

"Works of art exist…" all the way through "…sanctity lost..." Hyde.

"We consider it unacceptable…" to the Jefferson quote, from David Bollier, *Silent Theft* (though here he's paraphrasing Margaret Jane Radin's *Contested Commodities*). "A work of art.. constraint upon our merchandising." Hyde. "This is the reason… person it's directed at." Wallace.

"The power of a gift… certain extra-market values." Bollier.

"Yet one… so naturally with the market." Bollier.

"Einstein's theory… can't be undone." Lessig, except I made up the bit about the movie theater.

"That a language is a commons… society as a whole." Michael Newton, in The London Review of Books, reviewing a book called "Echolalias: On the Forgetting of Language" by Daniel Heller-Roazen. "When the resources… grazed on." Bollier, incorporating a phrase made popular by computer programmer Eric Raymond. "Increasing participation… diminishing it." Law professor Carol Rose. "The greater the number… cornucopia of the commons." Bollier. "The production of… still more costly." Fuller. As far as my bricolage goes, I'm uncommonly proud of joining Bollier and Fuller here by the use of a colon. It always gives me a smile.

"The American commons… for a song." Bollier.

"The environmentalists… before we can save it." James Boyle, a professor at Duke Law School quoted in Boynton. "It's not that artists… endorsement of anarchy." Lessig.

"Honoring the commons… necessity." Bollier. "We in Western… public good." John Sulston, Nobel Prize for mapping the human genome. "We have to remain… benefit of the few." Harry S. Truman, at the inauguration of the Everglades. While it may seem the height of my presumption to appropriate a President, I found claiming Truman's stolid advocacy as my own embarrassing in the extreme – yet I didn't rewrite him at all. As Marianne Moore said, "…if a thing has been said in the very best way, how can you say it any better?"

Undiscovered Public Knowledge

"…intellectuals... can take heart… cheaply and quickly." Fuller.

End Stories

"…regarded as one of Iran's finest… meditation on his heroine." Amy Taubin, Village Voice.

"The primary objective… unfair nor unfortunate." Justice Sandra Day O'Connor, 1991.

"..copyright is corrupted…" Vaidhyanathan.

"… the future will be a lot like the past… you sell some things, you give some things away…" Film archivist Rick Prelinger, quoted in McLeod.

"Change may be troubling… with certainty." McLeod.

"Allusion is a step… possible for art." T.S. Eliot, in his review of Joyce's *Ulysses*.

"Plagiarism is necessary… progress implies it." Comte de Lautreamont, aka Isidore Ducasse.

"The perception of novelty… source of ideas." Fuller. "Text is woven… without inverted commas." Roland Barthes. "The kernel, the soul… characteristics of phrasing." Mark Twain, from a consoling letter to Helen Keller, who had just suffered distressing accusations of plagiarism (!). The Twain comes from Vaidhyanathan, who first made his name as a scholar unearthing undiscovered public knowledge from Twain's archives. "Old and new...we all quote." Ralph Waldo Emerson. These guys all sound alike!

"People live differently… wealth as a gift." Hyde.

"The wish to see… ultimately to "anon"." Elizabeth Eisenstein, *The Printing Press As An Agent of Change*, quoted in Mark Rose.

"…I'm a cork… blown away." Brian Wilson from his song, "Til I Die." My own first adventure with song-lyric permissions came when I tried to have one character quote to another the lyrics "There's a place where I can go and tell my secrets to/In my room/In my room" in my second novel. After learning the possible expense, at my editor's suggestion I replaced those with "You take the high road and I'll take the low road/and I'll get to Ireland before you", a lyric in the public domain. I've always been bugged by the recollection, and in my subsequent British publication of the same book I restored the Brian Wilson lyric, without permission. "Ocean of Story" was the title of a collection of Christina Stead's short fiction.

Saul Bellow, writing to a friend who'd taken offense at Bellow's fictional use of certain personal facts, said: "The name of the game is Give All. You are welcome to my facts. I gave them to you. If you have the strength to pick them up, take them with my blessings."

Skeleton Key to Skeleton Key:

The gimmick of a collage text is, of course, not original to me. Walter Benjamin incomplete *Arcades Project* seemingly would have featured extensive interlaced quotations. Other precedents include Grahame Rawle's novel, *Diary of an Amateur Photographer*, its text harvested from photography

magazines, Tom Phillips' 'treated' Victorian novel, *A Humument*, and Eduardo Paolozzi's collage-novel *Kex*, cobbled from crime novels, newspapers, and ads. Closer to home, my efforts owe a great deal to the recent essays of David Shields, in which diverse quotes are made to closely intertwine and reverberate, and to conversations with Sean Howe and Pamela Jackson. Earlier this year David Edelstein, in New York Magazine, satirized the Kaavya Viswanathan plagiarism case by creating a plagiarized column denouncing her actions. His conclusions were the opposite of my own.

The phrase "I is another." ("Je est un autre.") belongs to Arthur Rimbaud, from his letters. Rimbaud continues: "For I is someone else. If brass wakes up a bugle, it is not his fault. That is obvious to me: I witness the unfolding of my thought: I watch it, I listen to it: I make a stoke of the bow: the symphony makes movement into the depths, or comes in one leap upon the stage. If the old fools had not found only the false significance of the Ego, we should not now be having to sweep away these millions of skeletons which, since an infinite time, have been piling up the fruits of their one-eyed intellects, proclaiming themselves to be the authors!"