

Bibliographical Importance of Copyright Records¹

THE Rare Book Collection of the Library of Congress includes approximately 615 volumes which contain the existing records of copyright in the United States from May 31, 1790, the date of the first federal copyright law, to July 8, 1870, the date at which the Librarian of Congress became the Register and Custodian of Copyrights. These records are of five kinds: (1) the original registers kept by the clerks of the United States district courts; (2) the clerks' certified lists of titles, or duplicate title-entry records, which were transmitted to the Department of State from 1831 to Feb. 4, 1859, and to the Patent Office from Feb. 5, 1859 to 1870; (3) the records of the Department of State and the Patent Office; (4) the records of the other depository libraries, Smithsonian Institution, and Library of Congress; and (5) miscellaneous records pertaining to copyright before 1870.²

The late Martin A. Roberts, formerly chief assistant librarian, Library of Congress, in a paper delivered before the joint session of the American Historical Association and the Bibliographical Society of America held in Philadelphia, Dec. 30, 1937, stated:

That these records contain a wealth of information fundamental to the bibliography of

the United States needs no emphasis. . . . They are the basic sources for a history of our literary and typographical arts for the period which saw those arts spring from the swaddling clothes of the eighteenth century to the giant stature of the nineteenth. At a rough estimate these records may contain 150,000 entries. And this wealth of material is substantially untouched.³

Indeed, few bibliographers have made use of the copyright records in the compilation of national, regional, or local, and subject bibliographies.⁴ Their existence has not been generally known, and their bibliographical significance has not been appreciated. This is not to say that the copyright records before 1870 have not been used occasionally by bibliographers or that reference to them has not been made by members of the Copyright Office staff and the Library of Congress staff to answer certain specific requests for bibliographical information. Their use has been confined chiefly, however, to establishing the date of copyright of isolated items, priority of copyright and place of copyright, and to determining whether a certain title had been copyrighted. And their use has been comparatively infrequent.

The writer's experience in using the copyright records in the compilation of the Bentley-Leonard *Bibliography of Works on Accounting*⁵ led her to the belief that they

¹ Based on the author's master's essay entitled "A Bibliographical Evaluation of the Copyright Records for the United States District Court of Massachusetts, 1800-1809." School of Library Service, Columbia University, 1944.

² The "Records of Copyright in the United States" were located in the Copyright Office from 1870 to 1939, when they were transferred to the Rare Book Collection of the Library of Congress. They will hereafter be referred to in this paper as "the copyright records."

³ Roberts, M. A. *Records in the Copyright Office Deposited by the United States District Courts Covering the Period 1790-1870*. [Washington, D.C.] Government Printing Office, 1939, p. 13.

⁴ The extent to which the original copyright records have been published is indicated in a bibliography which the writer has prepared.

⁵ Bentley, Harry Clark, and Leonard, R. S. *Bibliography of Works on Accounting by American Authors*. Boston, H. C. Bentley, 1934-35. 2v.

could be used to great advantage, in a variety of ways, as sources of bibliographical information for the period they cover (1790-1870). A further investigation was therefore undertaken as an attempt to make the copyright records better known to bibliographers and to discover how and to what extent they could be used in bibliographical undertakings relating to works printed in this country from 1790 to 1870. Since it was obviously impossible to see and evaluate all existing records, it was decided to study the value of the copyright records as a source of bibliographical information by an examination and interpretation of the copyright records pertaining to the United States District Court of Massachusetts for the period 1800-09, inclusive.

Interpretation of the Copyright Records

Preliminary to the discussion of the results of this investigation, it may be well to present a brief interpretation of the copyright records which resulted from the various acts pertaining to copyright up to 1870. Much has been written concerning the significance of the copyright law and its administration for authors, printers, publishers, and lawyers; however, two publications only^{6,7} have attempted to point out the significance of the law and its administration from a bibliographical standpoint and to describe the records of copyright resulting from the provisions of the various acts. The following has been adapted from these two publications and the *Copyright Enactments of the United States, 1783-1906*.⁸

Three provisions of the first federal copyright law of 1790⁹ are significant: (1) that the copyright claimant must *before publica-*

tion deposit a printed copy of the title of such map, chart, book, or books; (2) that such deposit be made in the clerk's office of the district court where the author or proprietor resides; and (3) that the clerk of such court be required to record the same in a book to be kept by him for that purpose.

Results of the first provision are the recording of many copyright entries for works which never saw the "printer's stick" and some discrepancies between copyright dates and publication dates. The second provision brought about the recording of copyright entries in one district court which were actually printed within the jurisdiction of another district court and the copyright registration of many works in more than one district court. The effects of the third provision are some 315 volumes now in existence which record the original copyright entries of the several district courts. The records of some of the district courts were lost, burned, or destroyed prior to 1870, when the law provided for their removal to the Library of Congress.

The act of Feb. 3, 1831 (a complete revision of the copyright law of 1790), requiring the clerk of each district court to transmit a certified list at least yearly to the Secretary of State, resulted in the copyright records being kept in duplicate from that time to 1870. There are nearly three hundred volumes, the majority in unbound form, which constitute "the certified lists of titles, or duplicate title-entry records" sent to the Department of State, and later to the Patent Office. Their importance lies in the fact that for some district courts they represent the sole record, since the originals have disappeared.

No specific requirement concerning the copyright notice in the work was made until 1802, when notice of copyright registration was required to be inserted in the work. The majority of claimants complied with the law during the period under investiga-

⁶ Roberts, *op. cit.*

⁷ Bentley-Leonard, *op. cit.*, v. 1, p. [xii-xxi].

⁸ U. S. Copyright Office, *Copyright Enactments of the United States, 1783-1906*. Washington, D.C., Government Printing Office, 1906. (*Copyright Office Bulletin*, no. 3. 2d ed., rev.)

⁹ *Ibid.*, p. 32-34.

tion by inserting the notice exactly as it appeared in the copyright record book. If no publication date is given, this notice may be the only clue to the date of publication unless the original copyright entry is consulted.

The various provisions for additions of copyrightable material are significant in indicating the change in the scope of the records. However, it is of interest to note that music, both collections in book form and sheet music, were copyrighted as books in the first two decades of copyright—long before this class of material was specifically designated as a subject matter of copyright. Prints, dramatic compositions, and photographs were likewise copyrighted before they were legally copyrightable.

The privilege of copyright was expressly withheld from foreigners. Many foreign works were, therefore, reprinted and copyrighted in this country in the name of the printer or publisher who reprinted them. This provision of the law encouraged plagiarism, as well as the issue of many editions of foreign works which were copyrighted as "American works."

The various provisions for the deposit of the printed product are significant to bibliographers. Record of deposit establishes proof that the work was printed, and the date of deposit may be helpful in determining the approximate date of printing. Among the volumes and records resulting from the requirement of deposit of the printed work are the *Registers of Copyrights Received in the Department of State, 1796-1842*, in eleven volumes. This set constitutes what amounts to a national library catalog. Although a comparatively small proportion of the works copyrighted were ever deposited, these volumes are an immensely valuable source of bibliographical information for works deposited which cannot be found today. Another important "national library catalog" is the ledger

which records chronologically by year, with alphabetical arrangement within each year, the copyright works transferred to the Patent Office from the Department of State. This listing of 7849 titles gives a clue to the fact that many works deposited for copyright from 1790 to 1859 did not survive at the Department of State depository and were not available to turn over to the Patent Office. The copyright accessions to the Patent Office from Jan. 10, 1860, to July 5, 1870, were recorded chronologically as they were received, in two volumes.

It was not until 1846 that the idea of securing copies of copyright works for use rather than merely for record was put into effect. At this time both the Smithsonian Institution and the Library of Congress were designated as depository libraries for copyright works. Second and third copies were required to be deposited, but the records reveal an even smaller proportion of copyright works sent to these libraries than were sent to the Department of State or the Patent Office. The law of 1846 was repealed in 1859. In 1865 the Library of Congress again became a copyright depository. The Smithsonian records of copyright works deposited were not among those required by law to be transferred to the Library of Congress in 1870. However, annual reports of the Smithsonian Institution for certain years contain the current accessions under the copyright law. The Library of Congress record books include two volumes listing the "copyrights" received, 1846-52 and 1865-70.

In summary, evidence of publication of the copyright works may be obtained from the records and catalogs of the various depositories prior to 1870. The depositories of copyright articles from 1790 to 1870 were: the Department of State, 1790-1859; the Patent Office, 1859-70; the Smithsonian Institution, 1846-59; the Library of Con-

gress, 1846-59 and 1865-70. The district courts may be considered original but temporary depositories, since the law required yearly transmittals of copyright articles by the clerks in the several district courts to the Department of State and later to the Patent Office.

The act of July 8, 1870, centralized records and deposits under the care of the Librarian of Congress and required that all records and deposits of copyright material in the Patent Office and in the district courts be transferred to his custody. The deposits, numbering 23,070 volumes, were absorbed into the collections of the Library of Congress, and the records were sent to the Copyright Office at the Library of Congress.

Some explanation is in order in regard to the discrepancy between the number of entries in the copyright records, estimated at 150,000 and the number of volumes, 23,070, turned over to the Library of Congress in 1870. The reasons for this discrepancy are these:

1. Many entries were for articles other than books.
2. Many items copyrighted were never printed.
3. The copy required for deposit was never submitted for deposit or, if deposited, never reached the Department of State or the Patent Office.
4. There were inevitable losses due to lack of provision for adequate custody and space, ravages of war and fire, and removals.
5. Interest was lacking in the deposits as mere deposits of record.

Analysis and Interpretation for the District Court of Massachusetts

As a basis for evaluating one segment of the copyright records—those for the District Court of Massachusetts—the 342 copyright entries for the 1800-09 period were copied. Subsequently, the Department of State registers, the National Union Catalog at the Library of Congress, the American

Imprints Inventory files of Massachusetts imprints, other union and imprint catalogs, and additional bibliographical sources, were consulted. The aim was to examine each of the 343 items¹⁰ in order to prove that each item was printed and extant today and to verify the bibliographical information in each copyright entry. One result of this plan was the compilation of the *Transcript of the Copyright Entries for the District Court of Massachusetts, 1800-1809, with Bibliographical Notes*.¹¹

Certain deductions, analyses, and interpretations were then made, based on the data gathered in the compilation of the *Transcript of the Copyright Entries*. . . . First it was discovered that less than one-tenth of the works printed in Massachusetts between 1800 and 1809 were copyrighted. Although the copyright items represent such a minor proportion of the state's printing during the period under consideration, it seemed worthwhile to investigate how and to what extent the copyright entries might be used in bibliographical undertakings. The results are summarized in the following paragraphs.

Relation between Number of Titles Copyrighted and Located

Three hundred and two, or 88 per cent of the 343 copyright titles, were located and identified in one or more libraries or book collections. Of the forty-one titles which were not found as printed works, ten have some evidence to prove that they were printed, although no copy was identified. Of the thirty-one items which have no evidence of publication, one was a plan of the Mill Pond in Boston by Charles Bulfinch, which was no doubt never intended to be published and exists today in its pristine form in the archives of the City Clerk's

¹⁰ One copyright entry containing two titles, thus making a total of 343 copyright titles for this period.
¹¹ Included in the writer's master's essay, Appendix B, p. 69-176.

Office, Boston. Other titles were copyrighted, probably with the intent to publish but the required funds failed to materialize. Still others, for example, pilot charts, may have been printed but were of such a nature that they did not normally find their way into library collections. Such copyright items are, nevertheless, important to bibliographers.

Among the forty-one unlocated titles were items in the following fields: biography 1, bookkeeping 1, geography and travels 3, language study 2, law 1, literature 3, military art 1, music 5, penmanship 2, sciences 5, social sciences 1, and theology 4. Is it not important to have a record of the "unfulfilled ideas" of the authors in these fields? Since registration of a title for copyright presumably records the author's intent to publish the work, it follows that the work was usually in a form ready for printing at the time it was copyrighted. Would it not be worth while for historians of the culture and social life of this nation to have a record, not only of the works which were produced, but of those which were written but failed of publication? No better source could be used than the copyright record of the nineteenth century to reveal this information.

Relation between Number of Works Examined and Number in Union Catalog, in American Imprints Inventory, and in Neither

It is obvious that the copyright entries cannot be used as a basis for any general bibliography of Massachusetts imprints. It is obvious, also, that the copyright entries for all the district courts cannot be used as a *basic* source for a general bibliography of nineteenth-century American imprints. However, it is possible to demonstrate the value of the copyright records as a *supplementary* source in the compilation of any

general bibliography of American or regional imprints.

In the process of locating the printed works which represented the copyright titles, the two chief sources which must eventually be used in the compilation of a general bibliography of nineteenth-century American imprints—the National Union Catalog at the Library of Congress and the files of the American Imprints Inventory—were consulted. Of the 302 works which were examined and identified as the titles deposited for copyright, fifty-five, or 18 per cent, were not in the L. C. National Union Catalog. An analysis of the works revealed that some Massachusetts imprints of importance covering this period are missing from the union catalog.

When the files of the American Imprints Inventory covering Massachusetts imprints were examined, it was found that sixty, or 20 per cent, of the 302 items were missing. Furthermore, twenty-four of the fifty-five items not listed in the union catalog were also not found in the files of the American Imprints Inventory. This means that nearly 8 per cent of the 302 copyright works proved to have been printed and extant in one or more copies today, would be missed if the union catalog and the American Imprints Inventory were the only sources consulted.

The Bibliographical Society of America has announced¹² that, with the aid of a grant by the Rockefeller Foundation and with the cooperation of the Library of Congress which owns the files, it has undertaken the resumption of the editing and publication of the field notes of the American Imprints Inventory. The title of the publication will be "Bibliography of American Imprints." This means that the files of the American Imprints Inventory, whether they be in manuscript form or edited and pub-

¹² Bibliographical Society of America. *News Sheet*, no. 63, Jan. 1, 1944, p. 5.

lished as regional or state checklists of imprints, form the present basis for a general bibliography of early American imprints.

In continuing the American Imprints Inventory it is the thesis of the writer that the copyright records for each district court should be used, in addition to the library catalogs and shelflists in each state or region, in order to have a checklist of possible imprints to verify in each catalog consulted or in each library or collection visited. This would insure a more comprehensive coverage. Obviously, it is easier to find a work if one knows the author and title.

Analysis of the Kinds of Works Copyrighted

It may be of bibliographical interest to analyze what works were thought worthy of copyright protection. The subject which is represented by the largest number of copyright titles is music, with sixty-six items, of which fifty are collections of sacred music or psalms set to music. The next largest field represented is theology, with fifty-seven items. Together, theology and sacred music account for 107 titles, or 31 per cent of the total. Language study and literature have sixty-seven titles, or 19 per cent of the total. Thus, one-half of the titles are in the fields of religion or religious activity and in language study and literature.

During the period 1800-09 many leaflets, pamphlets, and periodicals, as well as bound volumes, were copyrighted as "books." Although maps and charts became copyrightable in the original law of 1790, only ten were copyrighted during the ten-year period under consideration. The act of Apr. 29, 1802, extended the benefits of copyright to the arts of designing, engraving, and etching. Between 1802 and 1809, however, only six engravings or designs were copyrighted.

Analysis of Bibliographical Information in the Entries

In addition to the evaluation of the copyright records as a source for discovering imprints and the analysis of the kinds of works copyrighted, it is pertinent to inquire into the accuracy of the copyright entries, their scope, and their value as a source in establishing date of printing and obtaining other bibliographical information. The copying of the titles by the district court clerks was found to be essentially accurate, and the handwriting was very legible, with few exceptions. Since the law required only that the copyright claimant be a resident within the jurisdiction of the district court in which he filed the claim, some works copyrighted in the District Court of Massachusetts were printed outside Massachusetts. Since the copyright claimant need not be the author, it follows also that works could be copyrighted in the District Court of Massachusetts which were written by authors residing elsewhere and even by foreign authors, provided the copyright claimant was a resident within the jurisdiction of the district court. These observations are particularly important to bibliographers who may use the copyright entries in compiling local or regional bibliographies.

Bibliographers may expect to find the following bibliographical information for each entry:

1. The full date of the copyright registration, expressed as a particular day of the month in a certain year of the independence of the United States.
2. The full name of the copyright claimant, with his designation as author or proprietor.
3. The designation of the title as a map, chart, engraving, or book.
4. The title of the work, including statement of edition and the quotations, if any, copied in full as given on the title page.
5. The author's name, copied as found on the title page, with his position, degrees, affiliations, other works written, etc., if this information was included on the title page.

Registration of the title (only) before publication of the work was one of the conditions of copyright. Although the copyright date is usually previous to the date of printing, reference to the original copyright entry has special value for bibliographers when the printed work includes no evidence of its publication date. Of the 302 works examined, thirty-six did not include the date of printing, and twenty-three of this number lacked also the copyright date. This means that the original copyright entry would be an important source to use in determining the approximate date of printing for nearly 8 per cent of the 302 items examined. The Department of State Registers are also important as an aid in establishing the approximate date of printing. The law required deposit within six months of the date of publication. In this investigation it was found that seventy-six, or 93 per cent, of the eighty-two works deposited at the Department of State were received either within six months of the date of copyright or within six months of the date of printing. It may be assumed, therefore, that an approximate date of printing may be determined, when the date is unknown, by reckoning that it will fall within six months previous to the deposit of the printed work.

In addition to the use of the original copyright entry as a means of establishing the approximate date of printing, there are other ways in which the copyright entries may have value as a bibliographical source. Among the works examined, one lacked a title page and two had mutilated title pages. The copyright entries for these items would supply the complete title and the approximate date of printing. Several works among those examined were issued anonymously or pseudonymously. The copyright proprietor, in such cases, usually proved to be the author or compiler. It is of interest also to know at least who was

responsible for the publication and distribution of an anonymous work, even if the authorship is not known. This information was supplied in the case of fourteen works. The name of the copyright proprietor is one item of bibliographical information which cannot be found in any other bibliographical source. This information may serve several purposes. It may, for example, identify the name of the printer or publisher when the work does not supply the name. The activities of little-known printers, presses, or publishers may also be gleaned from a study of the copyright proprietors.

Summary and Conclusions

On the basis of the data gathered and the analyses and interpretations made, it may be concluded that the copyright entries would aid in a variety of ways in bibliographical undertakings relating to nineteenth-century American imprints. By compiling a transcript of the copyright entries for the District Court of Massachusetts, which included a comparison of the title with the published work, it was possible to show (1) that, given the author and copyright title, some works could be found which have hitherto been unrecorded outside their own location and (2) that certain bibliographical information could be contributed by means of the copyright entries.

This investigation indicates that the copyright records of the various district courts, and all the other copyright records prior to 1870, should be used as a supplementary bibliographical source in the compilation of a general bibliography of American imprints to fill the gap between Evans' *American Bibliography*, ending in 1799, and the *American Catalogue*, which started in 1876. The project of the Bibliographical Society of America to resume the editing and publication of the American Imprints Inventory is encouraging as a step toward filling the

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Defricassé-Usefóvitch Manuscript of Omniology.'"²

Nevertheless, with full cognizance of the problem, it is recommended that the college librarian find and assume his place in the collection and preservation of materials of local history. His responsibility in that direction has been purposely emphasized, to the neglect of the more obvious compensations which should be apparent to any college librarian. These rewards, however, deserve mention. In the first place, there may be a widening of the college library's circle of friends in the community. Secondly, in the local history collection there may be much that will contribute to the teaching program, especially in the social

² *The Koh-i-noor of Books . . .* by Tydor Debrenowsky [pseud.] Torch Press, 1938. Privately printed.

sciences. After all, the sources of local history do not differ greatly, except in volume and magnitude, from those of state and national history. Through the use of local sources it should be possible to vitalize instruction in methods of research and in the evaluation and use of original materials by college students, especially in the fields of history, economics, sociology, and political science.

Incidentally, although no less important, a cooperative program for the collection and preservation of the materials of local history might well promote coordination of all library facilities and service within a community. This, as all college librarians know, is a matter on which they have talked much but accomplished little.

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hiatus in American bibliography. However, to ignore the copyright records in this undertaking is to ignore one of the most valuable sources that could be used in the compilation.

All bibliographers of regional imprints should find the copyright records of particular interest, especially for certain types of works which are not normally recorded in library catalogs. Bibliographers of special subjects or forms of material will also find a search of the copyright entries productive of much information not otherwise available. Even though they may discover entries for titles which were never printed, yet the act of copyrighting the titles indi-

cates an intention to publish which is significant.

Further research needs to be done to establish other ways in which the copyright records may be used. For example, studies might be made to prove the value of the records as sources (1) for the printing and publishing history of the nation; (2) for indicating the trends in literary and artistic production; (3) for analyzing the subject matter of copyright. The urgent need, however, is to have the copyright records made immediately accessible, through their publication or by their transcription on cards, in a file which will be centrally located for use by bibliographers.