Johnson and Macpherson: Cultural Authority and the Construction of Literary Property

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In the spring of 1802, the painter Anne-Louis Girodet de Roussy de Trioson first exhibited his *Ossian and His Warriors Receiving the Dead Heroes of the French Army* to a French audience. While the work was of interest to the French for its allegorical content and its mix of classical and romantic styles, its provocative subject would have been most compelling to the English. The content of the painting was drawn from one of the great debates over literary property in eighteenth-century Britain, the debate between those Scots who believed that James Macpherson’s mid-century “translations” of works attributed to the legendary bard Ossian were authentic, and the English, led by Samuel Johnson, who considered them forgeries.

The controversy was well known. Ossian’s popularizer, James Macpherson, born in Highland Scotland in 1738, received his education in the Lowlands from men like Thomas Blackwell, whose work on Homer was a major influence. In 1758 he wrote and published a long but unsuccessful poem, *The Highlander*. After the failure of this, his only “legitimate” poetry, he aroused the interest of Scottish scholars with what he claimed were fragments of ancient Scottish verse. Their interest led in 1760 to his first successful publication, entitled *Fragments of Ancient Poetry Collected in the Highlands of Scotland and Translated from the Gaelic or Erse Language*. As a result, his Edinburgh supporters raised a subscription to finance Macpherson’s travels to rural Scotland so he could research additional Gaelic works, and, in the years between 1762 and 1765, he published a number of poems which he claimed were genu-

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ine ancient Scottish epics. Acclaimed by Europeans and Scots alike as
great epic works, Fingal, Temora, and The Works of Ossian were
immensely popular. Internationally known, they inspired not only
Girodet’s painting but many others, and served as the basis for at least
two operas, Les Barthes by Lesueur and Uthal by Mehul. But the
Ossian works exerted a local influence as well. They transformed the
image of Highland Scotland in the minds of both Lowland Scots and the
English, persuading many that the Highlands were typified not by
dreary, arid landscapes and an illiterate population, but by a primitive,
sublime grandeur from which both Lowlanders and the English had
much to learn.

Girodet’s 1802 painting captured the nexus of concerns that arose
around Macpherson’s popularizations of Ossian. In the painting,
Girodet foregrounds the famous bardic representative of Scottish High-
lord culture and splashes him with light, surrounding him on all sides
with symbols of European national interests. Here Ossian and the Ossi-
anic warriors welcome the French with outstretched hands, while a sol-
dier meant to represent the English stabs at a young French officer.
While granting Ossian status as a Scottish national symbol, the painting
marginalizes the English role: the Englishman is reduced to a mere
annoyance, a metaphoric hornet in a scene dominated by Austria,
France, and, most importantly, Scotland. Moreover, the work merges
issues of authorship and politics, not only making Ossian a cultural sym-
bol of Scotland, but also associating him with images of conquest and
invasion particularly frightening to the English. By juxtaposing the
larger than life bardic Ossian with the relatively insignificant English sol-
dier and his pen-like sword, Girodet endorses Scottish desires to repre-
sent Ossian—a bard working in an oral tradition valorized neither by
English literate culture nor by literary property law—as the primary cul-

46-47. For detailed discussions of Macpherson’s career, see Paul deGagone, James Macpherson

3. See Leah Leneman, “The Effects of Ossian in Lowland Scotland,” in Aberdeen and the
Enlightenment, ed. Jennifer Carter and Joan H. Pittock (Aberdeen: Aberdeen University Press,
1987), 257-362. For the effects of Ossian on English literature in particular, see Fiona J. Stafford,
“A Dangerous Success: Ossian, Wordsworth, and English Romantic Literature,” in Ossian

4. The issue of authorship is a complex one and recent discussions have taken different
directions. See Carla Hesse, “Enlightenment Epistemology and the Laws of Authorship in
Revolutionary France, 1777-1793,” Representations 30 (Spring 1990): 109-137; Peter Jaszi, “Toward
Mark Rose, “The Author as Proprietor: Donaldson v. Beckett and the Genealogy of Modern
from the ’Literary’: How to Historicise Authorship,” Critical Inquiry 17 (Spring 1991): 479-509;
Susan Stewart, Crimes of Writing: Problems in the Containment of Representation (Oxford: Oxford
University Press, 1991); Martha Woodmansee, “The Genius and the Copyright: Economic and
Legal Conditions of the Emergence of the ‘Author,’ ” Eighteenth-Century Studies 17 (Summer
tural representative of Britain. In the eighteenth-century battle to establish Britain's identity as English, rather than Scottish, Welsh, Irish, or some combination of these, England could ill afford to have Macpherson's Ossian become such a potent symbol of Scottish empowerment.5

The very popularity of Macpherson's project drew intense criticism from the English and from some Lowland Scots throughout the last third of the eighteenth century. They accused Macpherson of forging the poems, or, at best, of having created the stories from a few hints derived from Irish, not Scottish, songs and stories. In response, he equivocated. He never presented the original manuscripts for public inspection in England and, after a bitter feud with Johnson, refused to discuss the issue. As late as 1805, the Highland Society of Scotland formed a committee to produce a quasi-legal report on the work's authenticity. It concluded that the legends Macpherson claimed as real were indeed real, but that he had edited, rewritten, and inserted much new material.6 Other less invested forums were harsher. Over the years volumes have been written in attempts to prove either that Macpherson was the translator he claimed to be or that he was a fraud.7 But in the 1950s Derick S. Thomson established that Macpherson at least based his work on authentic Gaelic sources, including "some fourteen or fifteen Gaelic ballads."8 More recently, Howard Gaskill has advocated a reevaluation, one that sees Macpherson's work as based on an authentic oral tradition and views Macpherson himself as "under considerable pressure to produce something which could serve as a much-needed boost to national pride."9

Although scholars continue to be influenced by nationalist politics, the most reasonable and useful position still seems to be that of the Highland Report, which views Macpherson's works as a mixture of bardic tradition, folk tradition, and Macpherson's ingenuity. This view is supported

5. For discussions of English and British nationalism during the period and for discussions demonstrating the connection between national and cultural identity, see Linda Colley, Britons: Forging the Nation 1707-1837 (New Haven: Yale University Press, 1992); and Gerald Newman, The Rise of English Nationalism: A Cultural History 1740-1830 (New York: St. Martin's Press, 1987). Though not everyone will agree that either Scotland, England, or Great Britain were evidencing "nationalism" in the eighteenth century, I adopt Colley's argument that severe limitations on the use of the term tend to render it useless. Even to the most conservative eye, Scotland showed signs of desiring to imagine itself as a nation during the period, while England attempted to retain its status in constructing Great Britain's identity. For discussions of the interactions among Great Britain's regions, see Michael Hechter, Internal Colonialism: The Celtic Fringe in British National Development, 1596-1966 (Berkeley: University of California Press, 1975); and Tom Nairn, The Break-Up of Britain: Crisis and Neo-Nationalism, 2d ed. (London: Verso, 1981).


by Thomson’s much more recent statement that “Macpherson was neither as honest as he claimed nor as inventive as his opponents implied,” a claim based on the finding that “in Fingal, his most elaborate work, we can identify at least twelve passages, some of them fairly lengthy, in which he used genuine Gaelic ballad sources, sometimes specific versions.”

In short, although no one can argue for Macpherson’s honesty when he claimed in the introduction to the Fragments that “the translation is extremely literal,” the assumption that we can treat Macpherson’s Ossian solely as an eighteenth-century production also seems too extreme. Scholarship that unequivocally categorizes MacPherson as a forger fails to recognize him as operating in what might be called a cultural contact zone, the zone between English and Lowland Scottish literate culture on the one hand and Scottish oral culture on the other. Such interpretations erase traces of a legitimate Scottish oral tradition and criminalize Macpherson in order to undermine the political thrust of his works. A less interested examination of his career might reinterpret his production process as a further elaboration of practices common to the oral tradition itself, practices in which authors borrow from each other, constantly adding new work to what has been done before.

The bitterness of the debate over the works’ authenticity suggests that more than the usual distaste for forgery was involved. Instead, Macpherson’s reclamation of the Ossian tales and the ensuing struggle over their legitimacy represents a complex web of cultural and legal forces, one in which authors become politicized as national representatives. English and Lowland Scottish efforts to control British identity pressured Macpherson to internalize English constructions of authorship and text as he attempted to create a Scottish Highland epic capable of competing with the English canon. But the English categories he adopted were largely inapplicable to his fragmented, mostly oral sources. Refusing to admit the anonymous, diffused authorship of his sources or their orality, he not only overemphasized the authorial role of the bard, attributing works to Ossian when such attribution was hard to prove, but also claimed written sources when much of his information was orally transmitted. Only by

12. See Mary Louise Pratt on the “linguistic contact zone,” which she describes as involving “a linguistics that focused on modes and zones of contact between dominant and dominated groups,” in “Linguistic Utopias,” in The Linguistics of Writing: Arguments between Language and Literature, ed. Nigel Fabb et al. (New York: Methuen, 1987), 48-66.
distorting his material could he provide a product able to compete in a political marketplace, a marketplace that required a strong link between author and text so that nations could promote themselves through their subject-authored works. By adopting the values of literate culture, he thus exposed himself and his nationalist projects to the very challenges he was trying to avoid.

By examining the intersections between discourses involving the Macpherson debates and those surrounding the development of English copyright law, we can reevaluate both the debates and the law, reading both as significant attempts to advance the cultural categories relevant to the use of literary texts to promote cultural hegemony. The privileging of the role of the author and of literate rather than oral culture, quite apparent in the discussions surrounding Ossian, was also inscribed in England's first modern copyright statute, the 1710 Act of Anne\(^\text{14}\) and in later developments in literary property law. These legal developments created a strong chain of associations linking national or cultural origin, identifiable citizen-author, and the text, thus constructing a connection which enabled nations to lay claim to their works. Such a cultural and legal frame, while initially benefiting highly literate and developed cultures, disadvantaged developing cultures dependent on oral sources and collaborative authorship for a sense of historical legitimacy.

Samuel Johnson emerged as the leader of the English anti-Macpherson movement. Examining his reaction to Macpherson, and the way the culture at large took up that reaction, is one way of exploring the larger cultural anxiety that focused on Macpherson and his works. As Gaskill notes, the entire debate occurred in a context of intensified anxiety about not only national identity, but also its relationship to literature and authorship. The vehemence of Johnson's reaction to the Scottish Macpherson's works, especially when compared to his more measured responses to other literary infractions, reveals an anxiety that goes beyond Johnson's usual concerns for honesty and fairness and suggests his interest in the larger issue of cultural control over national identity. Characterizing Macpherson as a man who "would tumble in a hogstye, as long as you looked at him and called to him to come out," Johnson did not hesitate to suggest that Macpherson was capable of stealing the spoons if invited to dinner.\(^\text{15}\) Although these comments may seem purely personal, they may also be read as coded references to Macpherson's career, as Johnson's musings on what he viewed as Macpherson's attention-getting, quasi-criminal forgeries. Having invited Macpherson to the

\(^{14}\) Statute of Anne, 8 Anne, ch. 19. For a detailed discussion of the Act of Anne's precursors, see L. Ray Patterson, Copyright in Historical Perspective (Nashville: Vanderbilt University Press, 1968).

table of the English literary establishment, the English soon found that Macpherson was turning their values to his own advantage, using them as tools to promote Scottish culture. Far from purely personal, Johnson’s attitude towards Macpherson was inextricably tied to his attitudes towards the Scots as a people. His responses to the idea that Macpherson’s Ossian might be authentic often became indictments of the Scottish character. At one point he remarked that even if old manuscripts could be found they would be merely “another proof of Scotch conspiracy in national falsehood,” while at another he claimed that any Scot who would defend the works proved merely that he “loved Scotland better than truth.”

Meanwhile, Johnson’s benign reaction to Thomas Chatterton’s quite similar English literary infraction reveals that the Macpherson controversy had a special significance for him. As Boswell points out, Johnson investigated the Chatterton incident just as he had investigated Macpherson, “enquir[ing] upon the spot” through personal inspection of Chatterton’s manuscripts and of the famous church where they were “discovered.” Yet, whereas Johnson’s reaction to Macpherson resulted in a trip to Scotland and a public denouncement of both Macpherson and the Scots who supported him, he reacted quite mildly to the English Chatterton. Remarking, “this is the most extraordinary young man that has encountered my knowledge. It is wonderful how the whelp has written such things,” Johnson summed up the Chatterton controversy by reversing the issues of forgery and literary worth, making Chatterton’s fraud indicative of his skill rather than of his mendacity.

As Fredric Bogel has pointed out, much of Johnson’s own writing “enact[ed] a fraying or dissolving into the texts of others.” Bogel details various instances in which Johnson’s relationship to writing intersects with and participates—however innocently—in literary frauds and crimes involving writing. In the first in 1749, Johnson ghostwrote a confession for William Lauder who had in turn written a faked scholarly work “proving” Milton to be a plagiarist. As Bogel notes, “when what is to be confessed is that the man has falsely accused one poet of plagiarism and falsely ascribed texts to the poets allegedly plagiarized, to write his confession for him is to come dangerously close to reenacting the original

18. Fredric Bogel, “Johnson and the Role of Authority,” in The New Eighteenth Century: Theory, Politics, English Literature (New York: Metheun, 1987), 199. Of course, such “fraying” was quite common during the period, generally passing unnoticed and unremarked. When one begins to examine the large number of authors who borrowed from each other, secretly collaborated, or presented forged historical documents as authentic, it is original production that begins to seem odd, not the “fraying” that Johnson displays in these incidents.
crime."\textsuperscript{19} More significant in light of the Macpherson controversy was Johnson's defense of William Dodd, accused of criminal forgery for faking Lord Chesterfield's signature on a £4,200 bond.\textsuperscript{20} Here Johnson assumed the "voice" of the forger, writing Dodd's letters and even his \textit{Last Solemn Declaration}. After ghostwriting a number of repentant letters for Dodd, Johnson wrote to him in his own voice, defending the act of forgery by saying, "Your crime, morally or religiously considered, has no very deep dye of turpitude. It corrupted no man's principles; it attacked no man's life."\textsuperscript{21}

But an incident that Bogel does not address sheds light directly on the Macpherson controversy. In 1782, William Shaw, a Scottish disciple of Johnson's, published the last of his series of attacks on Macpherson's Ossian. Given Johnson's history of ghostwriting, it is hardly surprising to discover that Johnson seems to have ghostwritten much of it. A comparative examination of Shaw reveals a curious mixing of Johnson and Shaw, as if Shaw had plagiarized a summary of Johnson's concerns about authenticity, lexicography, Macpherson, and Scotland.\textsuperscript{22} The final product, certainly edited if not written by Johnson, allows Johnson one last strike against Macpherson, a strike that went to press under the presumably less-interested name of a Lowland Scot rather than under the Johnson signature itself. As a whole, the pamphlet reveals the usual anxious imbrication of concerns about Ossian's authenticity and concerns about national identity. But one of its tropes points particularly to the national anxiety aroused by Macpherson's project. In a complicated metaphor, Johnson and Shaw equate hypothetical British uniforms with the missing Ossian manuscripts, thus hinting at the political significance of the Ossian works. Their conceit not only suggests the role that the Ossian works could play in constructing national identity—in "clothing" the British soldier—but also the high stakes involved in establishing the authenticity of Ossian.\textsuperscript{23}

When we compare Johnson's hostile reaction to Macpherson with his indulgent reaction to Chatterton and reconsider the Macpherson controversy in light of a larger contextual field in which ambiguous claims of ownership and authorship often went unchallenged, Johnson's reaction to Macpherson seems particularly provocative. The delicate interplay

\textsuperscript{19} Ibid., 200.
\textsuperscript{20} Ibid., 201.
\textsuperscript{21} Boswell, \textit{Life}, 832.
\textsuperscript{23} William Shaw, Appendix to "An Inquiry into the Authenticity of the Poems Ascribed to Ossian with a Reply to Mr. Clark's Answer," reprinted in \textit{Aberdeen and the Enlightenment}, 400.
between right and wrong, originality and collaboration, and legitimate and illegitimate acts of writing disintegrated when Johnson confronted Macpherson's literary irregularity, an irregularity distinguished by the relationship it constructed between original authorship and Scottish nationalism. Johnson's response to Macpherson suggests that he may have been reacting to Macpherson's promulgation of an explicit nationalist agenda quite similar to his own. As Johnson's Scottish double, Macpherson exercised the same naturalized nationalist impulse that appeared in Johnson's own works—the impulse that informs the Lives of the English Poets, the Dictionary, and the Preface to Shakespeare.

Although no one would assert that Macpherson directly modeled his career on Johnson's, both men engaged in what has lately been referred to as the "invention of tradition," an invention quite closely related to the nationalist urge. Both Johnson and Macpherson drew on the past to construct naturalized texts which mirrored the nationalistic anxieties and goals of their respective cultures. Not only do their dissimilar works reveal similar goals, they also use some of the same techniques. Political theorist Anthony Smith argues that what he calls "the cultural dimension of nationalist movements" manifests itself in two components: the scholarly search for legitimacy and the populist emphasis on community. Johnson's Dictionary, the Lives of the Poets, and other works provide many examples of the "scholarly" component of Smith's paradigm. In the Preface to his Dictionary, for instance, Johnson writes:

If the language of theology were extracted from Hooker and the translation of the Bible; the terms of natural knowledge from Bacon; the phrases of policy, war, and navigation from Raleigh; the dialect of poetry and fiction from Spenser and Sidney; and the diction of common life from Shakespeare, few ideas would be lost to mankind for want of English words in which they might be expressed.

By carefully connecting the project to "Englishness," Johnson suggests that English sources can provide the elements necessary for the construction of a cultural identity.

Macpherson's works provide examples of both the scholarly and the populist components of Smith's paradigm. Despite the real problems with Macpherson's scholarship, he structurally emphasizes the academic components of the Ossian works. His summaries at the beginnings of chapters attempt a sort of academic integrity, while the footnotes that tell us not only the background of the characters' names, but also that of

their diminutives, seem to parody academic style. Although Macpherson had neither the scholarly resources nor the historical foundations to duplicate for Scotland what Johnson was in the process of doing for England, his scholarly apparatus discloses a desire similar to Johnson’s for what Smith calls “legitimacy based on scholarly research.” But Macpherson is more successful at exemplifying the populist prong of Smith’s paradigm. As a whole, the Ossian poems are infused with a “nostalgia for the simplicity and sturdiness” of the primitive life of the people. As Smith tells us, “Homer, the Bible, and Ossian were valued, not merely for their intrinsic merits, but because they conjured up visions of the original spirit of a people in its most authentic and sublime aspects.”

The two authors’ similar rhetorical strategies emerge when we compare the 1765 Preface to Shakespeare and the prefaces to the first and fourth editions of Ossian. These “scholarly” prefaces both lend credibility to the works they introduce and connect those works to populist roots. Here, Johnson and Macpherson reveal strikingly similar preoccupations with national history and the value of their individual cultures. Both indirectly compare their poets to the ancients; Shakespeare is compared to Homer and Ossian to Virgil. Johnson represents Shakespeare as having “the dignity of an ancient,” while Macpherson argues that Ossian is more ancient than the Irish bards. Both critics valorize the purity of their standard bearers, representing the works as fundamental to national culture, and unspoiled by subsequent events. Macpherson refers to both the simpler, purer times in which Ossian writes and the “simplicity and energy” which characterize Ossian’s prose. But most importantly, the two critics openly connect their projects to nationalist concerns. Johnson not only speaks of Shakespeare as pleasing his “country men,” but also universalizes his works, claiming that they are “the genuine progeny of common humanity.” Macpherson, in comparison, claims that all the traditions of Scotland and Ireland are founded on the Ossianic works.

Johnson’s and Macpherson’s interests in national identity were hardly singular ones. The larger culture mirrored each writer’s thematic concerns and the emotional level of their responses to each other. Their debate was played out in newspapers, pamphlets, and the theater. Typical of Scottish attacks was this Gaelic verse, untranslated in its day:

You are a slimy, yellow-bellied frog,
You are a toad crawling along ditches,
You are a lizard of the waste,
Crawling and creeping like a reptile.32

In the meantime, the English were just as active, with lines like the following appearing in 1777:

A common poet can revive
The man who once has been alive:
But Mac revives, by magic power,
The man who never liv'd before.
Such hocus-pocus tricks, I own,
Belong to Gallic bards alone.33

Sarcastic English attacks on Macpherson appear in almost every genre, from the “ballet pantomime” to manuscript “discoveries” which on closer examination turn out to be parodic imitations poking fun at the silliness not only of Ossian, but at the arguments of those who supported the works’ authenticity.34 The Airs, Duets, Choruses, and Argument, of the New Ballet Pantomime, (Taken from Ossian) Called Oscar and Malvina; or, The Hall of Fingal is typical: it mixes the bard’s heroic claims for the relationship between his “songs of triumph” and his “ancient race” with songs meant to demonstrate that heroism. The illustrative songs, in opposition to their claims of heroic origins, demonstrate the “low” forms that many believed were typical of Scottish culture, a “low” culture adequately represented by lines such as the following: “I romp’d to other day with Peggy the brown, And swore I’d give Jenny the fair a new gown.”35

Such satiric jabs at Scottish culture were typical of English efforts to denigrate their northern neighbors. While Highlanders were systematically and forcefully assimilated into mainstream culture after 1745, even Lowland Scots were encouraged to see their cultural differences as signs of inferiority.36 As William Ferguson notes, men such as Smollett

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33. Ibid., 49.
34. See The Prophecy of Queen Emma An Ancient Ballad lately Discovered: Written by Johannes Turgotus, Prior of Durham, in the Reign of William Rufus. To which is added by the Editor, An Account of the Discovery, and Hints Towards a Vindication of the Authenticity of the Poems of Ossian And Rowley (London, 1782).
35. The Airs, Duets, Choruses, and Argument, of the New Ballet Pantomime, (Taken from Ossian) Called Oscar and Malvina; or, The Hall of Fingal, as performed at the Theatre-Royal, Covent Garden. 3d ed. (London: Printed by W. Woodfall, for T. Cadell, In the Strand, 1791).
36. For the methods used by the English to incorporate “this durably foreign culture in with the rest of Britain,” which included replacing clan law with British law, outlawing Highland clothing, building military roads so that British troops could move more easily through the region, and teaching English, see Peter Murphy, “Fool’s Gold: The Highland Treasures of Macpherson’s Ossian,” ELH 53 (Fall 1986): 568-69. Roy Porter summarizes Scottish-English relations from an English perspective in English Society in the Eighteenth Century (New York: Penguin, 1986), 48-50.
"purged themselves of Scotticisms and fitted as far as they could into the mood and conventions of eighteenth-century English literature." 37 Many Scots thought themselves subject to assimilation. Typical is John Ramsay of Ochtertyre who noted that "the appearance of Tatler's, Spectators, and Guardians in the reign of Queen Anne . . . prepared the minds of our countrymen for the study of the best English authors, without a competent knowledge of which no man was accounted a polite scholar." 38 These Scots experienced English influence at least to the extent that they had to define themselves either through acceptance or rejection of English codes and systems. 39 Such evidence strongly suggests that Macpherson's production of the Ossian works constituted what Anthony D. Smith refers to as an example of "reactive nationalism," nationalism resulting from a weaker culture's attempt to avoid incorporation into that of a stronger. 40

But the relationship between the English and the Scots was more complex than a simple model of hegemonic assimilation can accommodate. England, the so-called stronger culture, suffered from its own heightened anxiety about national identity. Smith speaks of the English "rise of national sentiment" during the period and John B. Owen mentions national instability and the resulting insecurity "aggravated by the post-war depression, the emergence of new radical forces, and the growing dispute between Britain and her American colonies." 41 Others have suggested that English problems of national identity were exacerbated by the ascension of non-English monarchs, beginning with William and Mary. Past history and the threat of a dominating French empire led to paranoid imaginings of a French-Scottish alliance, the very alliance later depicted in Girodet's Ossian painting. Meanwhile, organized English efforts to eliminate "Scotticisms" from the vocabulary point to an anxiety as much linguistic as cultural. 42

Moreover, although many Scots associated the Enlightenment with Scotland's assimilation and with a resulting threat to Scottish identity, assimilation can also be understood as ready appropriation, not only of English ideas, but also of Dutch and other European ones. 43 Scottish

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39. Ibid., 62.
43. For a more detailed discussion of this dynamic, see Nicholas Phillipson, "Politics, Politeness
adaptability led to a degree of success which carried a threat of its own. Hume recognized the unsettling nature of the relationship between Scotland and England when he complained in 1757:

Is it not strange that, at a time when we have lost our Princes, our Parliaments, our independent government, even the presence of our chief nobility, are unhappy in our Accent and Pronunciation, speak a very corrupt Dialect of the Tongue which we make use of; is it not strange, I say that, in these circumstances, we shou’d really be the People most distinguished for Literature in Europe?44

Though Hume may have overestimated the power of the Scottish Enlightenment, he certainly hints at the threat the Scots presented to the English.45 By assuming English intellectual values and combining them with a superior Scottish education system, the Scots began to offer an intellectual challenge which the English found hard to attribute to simple assimilation.46 English anxiety in response to the Scottish threat appears in many forms, but most graphically perhaps in the many political cartoons representing the Scottish minister, the Earl of Bute, as sexually involved with the English Princess Dowager. As Linda Colley explains, “The accusation that one Scottish Minister was penetrating the mother of the King of England was symbolic shorthand for the real anxiety: namely, that large numbers of Scots were penetrating England itself, compromising its identity.”47

Nevertheless, if, as the Princess Dowager remarked of Bute in one lewd print, “A man of great parts is sure greatly to rise,”48 the rise of a Scot before 1760 would be within the realm of English institutions, whether political or literary. The Scottish Enlightenment may not have been “useless as an instrument of hegemony,” as Tom Nairn claims in his work on British nationalism, but prior to Macpherson’s 1760 Fragments, it lacked the populist connection to Scottish culture provided by the Ossian works.49 At the time Hume wrote his letter the English could still comfort themselves with the belief—adopted by Scots as well—that Scottish intellectual life was merely derivative of the English center. But the advent of Macpherson’s Ossian presented a new threat. The Ossian works suggested the possibility of a cultural shift in which Scots could combine the intellectual interests they were thought to have acquired

44. Quoted in Nairn, The Break-Up of Britain, 139.
46. For a comparative study of Scottish and English literacy rates and educational systems, see R.A. Houston, Scottish Literacy and the Scottish Identity (Cambridge: Cambridge University Press, 1985).
47. Colley, Britons, 122.
48. Ibid.
49. For further discussion of Scotland’s need for populist roots, see Nairn, The Break-Up of Britain, 143.
from the English with a tradition of their own, one that could not be seen as an English derivative because it derived from an independent and ancient Scottish past.

In producing the Ossian works, Macpherson necessarily came into conflict with ideas of authorship inscribed not only in English aesthetic practices but in English legal systems as well. That Macpherson represented Ossian as he did, as an identifiable single author producing written works, suggests the power of English cultural categories, a power supported by an entire body of English statute and case law. Of course, neither the Act of Anne nor other laws regarding writing were directly applicable to Macpherson’s “forgery.” Macpherson invaded no copyright when he appropriated old manuscripts or oral works and transformed them into the Ossian works. Nor was there any formal law prohibiting him from augmenting the Ossian material with his own work. Criminal forgery itself, punishable by hanging through most of the eighteenth century, had little in common with Macpherson’s acts since it required a direct economic motive. When we deal with the messy area of transgressive, yet not strictly illegal, acts of writing, we enter a realm that challenges the relationships between writing and ownership established in law as well as in society. Macpherson’s Ossian works symbolically violated the close bond which copyright law established between the author and the work, suggesting—in direct opposition to fundamentals of copyright law—that important works existed outside the realm of identifiable author and fixed text. Because authorship, authenticity, and national identity were all at stake, his acts provide a locus for investigation of the ways that legal doctrine defined the discourses that governed the Macpherson dispute—and the ways that Macpherson’s acts challenged the scope of those discourses.

The quasi-legal nature of the dispute is underscored by a report believed by many to provide finality to the controversy, the 1805 Report of the Committee of the Highland Society of Scotland, Appointed to Inquire into the Nature and Authenticity of the Poems of Ossian. The report, designed to settle authoritatively the question of Ossian’s authenticity, illustrates the ways in which a written culture tries to regulate the unruly practices of an oral one. Its editor, attorney Henry Mackenzie, who was trained in law both in Edinburgh and London, headed the effort to circulate a written set of “queries” which sound remarkably like legal interrogatories:

Have you ever heard repeated or sung, any of the poems ascribed to Ossian, translated and published by Mr. Macpherson? By whom

have you heard them so repeated, and at what time or times? Did you ever commit any of them to writing, or can you remember them so well as now to set them down? 52

The answers to such questions were to be recorded "with as much impartiality and precision as possible, in the same manner as if it were a legal question, and the proof to be investigated with a legal strictness." 53

Much of the lengthy document consists of what the report refers to as "testimony" and "affidavits," and many of these speak with regret of written records that might once have been available but have now been irretrievably lost. The committee's conclusions maintain an objectivity consistent with the tone of the report. Noting its belief that the oral poetry Macpherson had drawn on existed in "great abundance" and that the fragments located through the search contained "often the substance, and sometimes almost the literal expression . . . of passages given by Mr. Macpherson," the members nevertheless concluded that Macpherson made a practice of

inserting passages which he did not find, and to add what he conceived to be dignity and delicacy to the original composition, by striking out passages, by softening incidents, by refining the language, in short by changing what he considered as too simple or too rude for a modern ear, and elevating what in his opinion was below the standard of good poetry. 54

The committee members declined to decide "to what degree" Macpherson was guilty of these deviations from his sources. 55

Issues involving literary property and national identity also received attention in the more strictly defined legal context of reported cases. As Lord Auchinleck remarked in the 1773 Scottish case Hinton v. Donaldson, "anciently very valuable performances were preserved only by the memory. It is said Homer was so, and Ossian. When that was the case, what privilege could the author have?" 56 Notably, it is a Scottish jurist who remarks that some "very valuable performances"—oral performances—occur outside the protection of the law, but Auchinleck's argument is more developed than this. In fact, he defines exactly what is at stake in the controversy when he continues, "The poem of Chevy-chase, so much celebrated, and upon which we have a criticism of Mr. Addison, was, in my remembrance, repeated by everybody. Was there a copy of this little heroic poem? What privilege could the author have in it?" 57 By

52. Ibid., 3.
53. Ibid.
54. Ibid., 151-52.
55. Ibid.
57. Ibid.
comparing the works of Homer and Ossian to that “little heroic poem” Chevy-chase, Auchinleck emphasizes the great tradition of Scotland and juxtaposes it to what he sees as a lesser English tradition.\textsuperscript{58} Moreover, his remarks appear as part of a larger document in which each judge overtly rejects English law and values, a rejection quite obviously meant to maintain a firm cultural boundary between Scotland and what the justices refer to as a separate country. “I will not meddle with the law of England,” Lord Kennet begins, “in the first place because I do not profess to understand that law; and, secondly, because I think it should have no influence in determining upon the law of Scotland.”\textsuperscript{59} Each judge anxiously reiterates this concern to a greater or lesser degree, with even the most moderate non-separatist noting defensively, “I am to give my opinion with the majority of the English judges. If it had been on the other side, I should have given it with the same freedom.”\textsuperscript{60} Of course, the Scottish jurists were as firmly embedded in literate culture as their English counterparts and thus upheld the primacy of individualized authorship. But they also recognized the importance of those “valuable performances” unprotected under the law, and were quite aware of the battle for national identity that lay behind such questions. Hinton clarifies what remains buried in other literary property cases: disputes over literary property are embedded in questions of national and cultural identity. However “non-national” such disputes may seem at times, they have serious consequences for the survival of national and cultural traditions.\textsuperscript{61}

The many subtextual thematic connections between literary property and landed property further suggest the political anxieties attached to literary property. As Mark Rose remarks, “in the course of the literary property struggle, a profound transformation would be wrought in which copyright would come to be thought of not just as a regulatory system but as an absolute right of dominion over a property in principle little different from a parcel of land.”\textsuperscript{62} When eighteenth-century jurists began to view literary property more as a thing than as an act, they also began to conflate it with landed property. Francis Hargrave, for instance, even

\textsuperscript{58} The thrust of Auchinleck’s argument here is to relate the oral tradition to the literate tradition, and to assert that if works were not “owned” under the oral tradition, then copyright could not have been founded in natural law. The court ruled that no copyright in perpetuity could exist.

\textsuperscript{59} Hinton v. Donaldson, in The Literary Property Debate: Six Tracts, 1.

\textsuperscript{60} Ibid., 9.

\textsuperscript{61} The Union of Scotland and England in 1707 merged the Scottish and English parliaments, giving the Scots only limited representation at Westminster. After the Union, as T.C. Smout remarks in his history of Scotland, “there was little to stop England from totally absorbing Scotland, except those parts of the treaty guaranteeing the separate existence of the Church of Scotland and the Scottish law courts.” The Scottish jurists’ emphasis on separatism survived to make the court system a “rallying point of national consciousness today.” See T.C. Smout, A History of the Scottish People: 1560-1830 (New York: Charles Scribner’s Sons, 1970), 215-29.

\textsuperscript{62} Rose, “Author as Proprietor,” 63.
in the midst of arguing for the immateriality of literary property, frequently slips back into the language of land. Literary property has its "marks and bounds," he says. If someone pirates a work, "the intruding on this particular right is as much a trespass, a tort, a fraud, a violence, a damage, as an invasion of any other incorporeal property can be." The use of the language of military invasion to defend what was, after all, only a right to print, occurred as well in disputes directly applicable to Scottish-English tensions. According to Boswell, Johnson's *Lives of the English Poets* was meant to preclude a Scottish effort to publish a similar series. Reprinting a letter from Edward Dilly, Boswell reveals that Dilly—using language more appropriate to international war than to a literary dispute—remarks that the project, meant to "do honour to the English press," will repel the "idea of an invasion of what we call our Literary Property." Such a context suggests that Johnson's trip to the Hebrides went beyond both mere tourism and the desire to discredit Macpherson. Transforming his doubts about Macpherson into a physical and intellectual invasion of Scotland, Johnson reenacted the discursive invasions already at play. Of course, both Johnson's *Journey to the Western Islands of Scotland* and Boswell's *Journal of a Tour to the Hebrides* are replete with references to the Macpherson controversy and to Johnson's view that Macpherson was a forger. But a more ambitious agenda, one that went beyond debunking Macpherson, is also supported by the records of the trip. One of its oddest manifestations occurs in a scene in which Johnson and Boswell invade the home of an "old looking woman" for amusement. Since "Dr. Johnson was curious to know where she slept," they even ask to see her bedchamber. When she replies "with a tone of emotion," Boswell insists and goes "into the place where the bed was," using the opportunity to produce a lengthy detailed description of the woman's life, including the notation that she took snuff and barely spoke English. Their desire to enter into, to observe, and through these observations to evaluate every aspect of Scottish life, while debunking Scottish intellectual efforts in general, points to a political agenda that goes beyond the mere energetic exercise of curiosity.

Recognizing the highly politicized subtexts underlying eighteenth-century laws of literary property allows us to reread the Act of Anne in political terms. Both the Act, passed in 1710 shortly after the parlia-

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65. Ibid., 801-03.
67. It is probably more consistent with eighteenth-century views of the law to see positive law as subject to contestation rather than as establishing guidelines for behavior. Legal proclama-
mentary Union of Scotland and England, and the litigation that ended with *Donaldson v. Beckett* in 1774, occurred at times of increased tension between the English and the Scots. While the Act of Anne has been interpreted as related to concerns about administrative confusion generated by the Act of Union, the debates prior to the *Donaldson* case occurred in an atmosphere of competition between Scottish Enlightenment scholars and the English literary establishment. As if to control cultural merging, both the Act and subsequent cases privileged identifiable authorship to an unprecedented degree and inscribed in law the requirement that copyrightable works prove their existence through fixation in print or manuscript. Both strategies worked to promote the idea that author and work were an inseparable unit, and both helped identify works with the national or cultural origins of their authors. The Act vests the rights in literary property in the “Authors or Purchasers of such copies” and purports to encourage “learned men to compose and write useful books.” Thus it marks the first introduction of authorship into the law, for instance, for the first time allowing authors to register their works under their own names rather than under the names of members of the Stationer’s Company. The Act begins a stage in legal history in which disputes about publishers’ and booksellers’ rights were reconfigured as ones involving issues of authorship. With the Act, not only printers and booksellers, but also the oral tradition—already eclipsed by literate culture—officially lost their primacy.

Interpretations of the Act elevated both authors and the legal view that author and work were inseparable. While the Act did place limitations on authors’ rights—partly through limiting the terms of authorship to twenty-one years and partly through other administrative restrictions—subsequent cases focused on the new preference accorded to authors rather than on the ways the Act attempted to limit their rights. This dynamic, while illustrating the difficulty of using the law to legislate

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68. For a discussion of the administrative threat posed by the Union, see David Saunders, *Authorship and Copyright* (London: Routledge, 1992), 52.


70. There is much debate about whether the Act benefited booksellers or authors. Although booksellers initiated the Act for economic reasons, by setting into motion the discourse of authorship, they began a paradigmatic shift which eventually resulted in the ascendancy of authors. For an argument that focuses on the bookseller’s role, see L. Ray Patterson, *Copyright in Historical Perspective* (Nashville: Vanderbilt University Press, 1968). For an argument focusing on authors, see Alvin Kerman, *Samuel Johnson and the Impact of Print* (Princeton: Princeton University Press, 1989).

71. See Trevor Ross, “Copyright and the Invention of Tradition,” *Eighteenth-Century Studies*, 26 (Fall 1992): 5-7. In *Millar v. Taylor*, Judge Aston discusses one method authors used to avoid the
cultural change, also demonstrates the ways that a law can accelerate a change that serves a contemporary need. As Michel Foucault asserts, the shift in the understanding of authorship in the eighteenth century involved a new construction of the author as part of "the solid and fundamental unit of the author and the work."  

Literary discourses came to be accepted only when endowed with the author-function. We now ask of each poetic or fictional text: from where does it come, who wrote it, when, under what circumstances, or beginning with what design? The meaning ascribed to it and the status or value accorded it depend upon the manner in which we answer these questions. And if a text should be discovered in a state of anonymity—whether as a consequence of an accident or the author’s explicit wish—the game becomes one of rediscovering the author.  

While Foucault’s attribution of this transition to the new relationship between the individual and private property is convincing, he restricts his discussion to the most central aspects of the "relationship between text and author," relinquishing what he calls a "sociohistorical" investigation to others. Thus, he leaves open the question of what the relationship between author, work, and national or cultural origin might be. Extending Foucault’s analysis to consider the interaction between new ideas of authorship and national identity reveals a public as well as a private dimension to this relationship, one shaped, in England at least, by questions of the nation. The intensified interest in the producer of works—reflected in both aesthetic and legal frames—was instrumental to a new politicization of authorship which connected works to national identity. By interpreting the Act of Anne as a statute that closely identified authors with their works, England valorized an author-work connection that allowed works to be treated as national symbols. Only by constructing identifiable nationalized authors, such as Shakespeare, could the nation seize possession of works meant to define national identity. Conveniently for the English, the very requirements of identifiable authorship and fixation that created a strong author-work connection discouraged the production of works based on an oral tradition. Delimiting the construction of legitimate authorship tended to devalue anonymously or collectively authored works originally produced orally, works typical of cultures with strong oral traditions such as Highland Scotland.  

Although the persistence of agreements among booksellers and the length of term provided by the Act together served to delay significant

73. Ibid., 109.
litigation for a number of years, by the late 1760s and early 1770s the debates about literary property focused on the value of the inseparable bond between the author and the work. While the Act of Anne had limited authorial rights to a term of years, those booksellers who held titles to popular works and wished to retain them ignored the term limitations of the Act and argued for a natural law or common law right in which authors retained an interest in their works "in perpetuity." The theory that an author "naturally" retained an eternal property interest in his or her works represented the most extreme example of the idea of author and work as inseparable. Such an idea—promoted in copyright tracts by Francis Hargrave and Catharine Macaulay among others—was fundamentally opposed to the practices of collaborative production and fluctuating open-ended work necessary to the oral tradition. In 1769, Millar v. Taylor ratified copyright in perpetuity, agreeing that indeed the author's rights precluded any statutory limitation.\(^4\) As L. Ray Patterson points out in his historical study of copyright law, Millar represented the apogee of the author-work bond in English law. Here, the law gave authors the most exclusive rights in their works, allowing either authors themselves or their assigns, usually booksellers, to preclude others from printing their works indefinitely.\(^5\)

Thus, both when Macpherson first issued the Ossian works in the early 1760s, and when he issued his fourth edition in 1773, making further claims to the works' authenticity, the legal concept of authorship was securely rooted in the notion of the author as a specific individual rather than a multiple or anonymous entity. Under Millar v. Taylor, for instance, if one could prove that a work was "published without a name," "not claimed," or with "an author being unknown," one could prove that no literary property interest existed.\(^6\) More metaphorically, Francis Hargrave related ownership to individuality as part of his argument for copyright in perpetuity. As he attempted to counter the proposition that literary property was too amorphous to merit protection, he argued for its individualized character:

There is such an infinite variety in the modes of thinking and writing, as well as in the extent and connection of ideas, as in the use and arrangement of words, that a literary work really original, like the human face, will always have some singularities, some lines, some features, to characterize it, and to fix and establish its identity.\(^7\)

In this context, for Macpherson to produce a document helpful in promoting the Scottish national cause in English circles, he had to produce

\(^4\) Millar v. Taylor, 201.
\(^5\) Patterson, Copyright in Historical Perspective, 168-72.
\(^6\) Millar v. Taylor, 224.
\(^7\) Hargrave, "An Argument in Defence of Literary Property," 7.
one authored by a single identifiable person who was also a symbol of a great Scottish past. When he claimed Ossian as author of the works, he denied the existence of a transhistorical authorial collaboration, erasing both his contributions and those of the countless Scottish and Irish bards—multiple, anonymous, and diffuse—who had told and retold the Ossian stories.

Johnson’s reactions to Macpherson support the argument that authorship objections were key to the eighteenth-century critique of Macpherson. Johnson’s doubts regarding the authenticity of the Ossian works support Foucault’s analysis, reflecting Johnson’s culture in emphasizing not only authorship, but authorship ratified by authorial identification. Boswell quotes Johnson exclaiming, “The tale of Clanranald has no proof. Has Clanranald told it?” And in the Journey Johnson insists on the necessity of Ossian’s physical existence: “But this is the age in which those who could not read, have been supposed to write; in which the giants of antiquated romance have been exhibited as realities. If we know little of the ancient highlanders, let us not fill the vacuity with Ossian.” When Boswell reviews Johnson’s attacks on Macpherson’s works in his Journal of a Tour to the Hebrides, he repeatedly refers to the problem of “authenticity” as one of authorship. The question is always whether “Ossian composed all that poem as it is now published.”

Asking whether any man of their time could have written the Ossian works, Johnson’s response reveals single authorship as related to his objections: “Yes, sir. Many men, many women, and many children.” At one point, Johnson expresses a view remarkably close to what the Highland Report found and twentieth-century scholars believe: “He has found names, and stories, and phrases, nay passages in old songs, and with them has blended his own compositions, and so made what he gives to the world as the translation of an ancient poem.” Yet, for Johnson, such a conclusion, far from suggesting that Macpherson’s work may have some value as the authentic record of Scottish culture, instead confirmed that Macpherson’s Ossian “is not a translation from ancient poetry.” For the work to promote the Scottish nation, Macpherson must prove that Ossian “composed all that poem” alone and that Macpherson’s role was only that of a literal translator.

Even when Johnson was not speaking directly to the Macpherson controversy, his remarks about copyright link the author directly and individually to his works. Through his public statements, Johnson was integrally involved in efforts to construe literary property law as law pro-

78. Boswell, Life, 588.
79. Johnson, Journey to the Western Islands, 119.
tecting authors. In Boswell’s *Journal of a Tour to the Hebrides*, Johnson argues that authors should have property rights even over blasphemous or nonsensical works. According to the rule of the anti-copyright faction, Johnson remarks ironically, “when a man’s house falls into decay, he must lose it.” Flawed writing belongs to its author. Johnson’s campaign against literary piracy provides further examples of his intensified response to those who would interfere with authorship rights. In a public advertisement to rogue printers written in 1759, he threatens to sue them for their transgressions and then use the money to support prostitutes. Those who steal a man’s work are no better than “prostitutes in whom there yet appears neither penitence nor shame.” By comparing rogue printers first to pirates and then to prostitutes, he reveals his commitment to an uninterrupted economic and moral bond between author and work.

Johnson incorporated such ideas into his construction of the English literary tradition. Even in his *Adventurer* lament over “the universal eagerness of writing,” Johnson describes his age as one of authors, not of readers or printers or compilers. Such an emphasis informs his procedures in the *Preface to Shakespeare* and the more than fifty *Lives of the English Poets* where he foregrounds his commitment to a type of literary analysis that gives prominence to particularized authors and to their connection to their works. It is Boswell who connects this heightened interest in authors and their lives to issues of English identity. Noting that Johnson is codifying an English tradition, Boswell remarks that such “principles and illustrations of criticism . . . might form a code upon that subject, such as no other nation can show.”

The format and the production process of the *Dictionary* further illustrate Johnson’s elevation of authorship and his construction of the relationship of an author to his work as that “solid and fundamental unit” delineated by Foucault. The definition of the word “author” in the *Dictionary* focuses on originality, comparing the author to God: “The first beginner or mover of any thing, he to whom anything owes its original.” The *Dictionary*’s very citation form, carefully attributing its various examples to hundreds of individual, mostly English, authors, reaffirms both his respect for the role and its connection with national culture. Even the subsequent abridged versions of the *Dictionary*, which sometimes omit the examples and quotations themselves, provide the reader with a list of names of the mostly English authors used to illustrate the definitions. In fact, the first abridgement of 1756, supervised by Johnson, not only follows this practice, but underscores the point by advertising the definitions as “Authorized by the Names of the Writers in whose

83. Ibid., 148.
84. Boswell, *Life*, 244.
85. Ibid., 1091.
Works they are found."  

The production process of the first edition of the *Dictionary* illustrates the ways in which diffused, collaborative authorship is transformed into individualized, identifiable authorship. As Allen Reddick’s detailed analysis of Johnson’s work habits demonstrates, the *Dictionary* was a collaborative work in which multiple authors participated. The final product, significantly the first of his works to announce his authorship on the title page, rested not only on thousands of authors’ quotations, but on the labor—which may or may not have been confined to transcription—of Robert Shiels, Alexander Macbean, Francis Stewart, and V.J. Peyton, of whom only Peyton was English. Moreover, Johnson relied heavily on previous lexicographers, including Nathan Bailey and Benjamin Martin, and borrowed from John Wallis and others for the “History of the Language” and the “Grammar” which he included with the first edition. As Reddick remarks, “At the heart of the work lies a tension between its implicit claims to a unified authority and the presence of such diffuse and disparate—and sometimes competing—authorities.” Recognizing the collaborative nature of Johnson’s achievement underscores our awareness of his need to produce an individualized, identifiable author in order to produce a nationalized text. For if the author of the great English *Dictionary* proved to be not English, but multiple and partly Scottish, the *Dictionary* could not operate as the “national monument” which many immediately claimed it to be.

The impact of this emphasis on those Scots attempting to construct a tradition from works composed collaboratively and anonymously can easily be imagined. If the culture accepts Johnson’s claim that repetition does not imply authorship, the mere fact that a work can be repeated orally or has been transcribed lends its producer no claim to authorial ownership. Instead, such practices imply multiple authors or a diffused collaborative authorship. The elevation of the solid unit of author and work places the insecure culture in a position in which the need to establish a definite authorship of a specific manuscript may seem of overwhelming importance. That the Scots did accept the English prioritizing of the identifiable single author is evidenced by the Edinburgh literary establishment’s insistence that Macpherson discover Ossian-authored epics, an insistence which pressed Macpherson to claims of authorship beyond what his sources could support.

Although Macpherson’s most obvious responses to these pressures appear extratextually in his claims for Ossian as author and for manu-

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87. Ibid., 62.
88. Ibid., 27, 51, 9.
89. Ibid., 2.
script sources, he also uses various literary devices within his texts to bolster his claims for Ossian’s existence. His primary intratextual response to English pressure appears in the gradual elevation of the importance of the bard in the works themselves. When his Ossian productions are viewed as a whole, they can be seen to construct a role for Ossian as a sort of master bard and overarching author. As Macpherson progressed from *Fragments* to the later “epics,” his insistence on Ossian as author became more and more pronounced. In a sense, he adopted Johnson’s techniques, demonstrated in the production of the *Dictionary*, by replacing the multiple authors of the Scottish tales with Ossian, a single author who could readily be identified with Scottish nationalism. More than a mere literary device, Macpherson’s hyperbolic treatment of bards in general and of Ossian in particular was a political act meant to elevate the bard to a position equal to England’s “author.”

But in a system in which the author and the work are seen as a unit, the authenticity of the author rests in part on the authority produced within the work itself. Both Macpherson and Johnson demonstrate the ways in which the author proves his value and demonstrates his authority by making readers believe his narrative; only a credible work can provide a tool for demonstrating national worth. Macpherson bolsters the authenticity of his author through the construction of an internally self-authenticating text. By including the bard, Macpherson tells us the story of how the story will be told, relying on our eventual experience of the story to confirm the work’s internal prediction that it will eventually be told. In a similar way, Macpherson addresses the issue of the importance of the work’s historicity. A typical passage laments, “We shall pass away like a dream. No sound will remain in our fields of war. Our tombs will be lost in the heath. The hunter shall not know the place of our rest.”

What remedies this situation is, predictably, the bard’s ability to preserve history in song. In essence, Macpherson provides the reader not simply with a famous author, the bard Ossian, nor with a seemingly authentic text, but with a packaged product in which author and text tend to authenticate each other.

Johnson, though not driven by Macpherson’s need to bolster questionable sources, also builds authenticity into his narratives. *Lives of the English Poets* abounds with devices that work within the text to lend the narratives authority and credibility. Johnson’s prose style communicates authority. His oft-noted periodic sentences, his aphorisms, and his sententious manner all contribute to the authoritative feel of the work. Meanwhile, his narrative techniques reinforce stylistic claims to authority. He typically begins a *Life* by presenting a detailed, extremely accurate biographical description of his subject. Moreover, he makes

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frequent references to earlier biographers, thus telling histories within histories and doubling the perceived verifiability of his account. When he questions earlier biographers’ accuracy, he calls attention to his own precision. Remark, for instance, that “[t]he life of Cowley . . . has been written by Dr. Sprat, an author whose pregnancy of imagination and elegance of language have deservedly set him high in the ranks of literature; but his zeal of friendship . . . has produced a funeral oration rather than a history,” Johnson urges us to consider his own account as more accurate than Sprat’s “oration.”

Even within Johnson’s discussions of the poets’ works he often refers to questions of accuracy and truth. By reproving Cowley for writing about unfamiliar situations, he implies that he himself writes works based on hands-on experience and personal research. And when he criticizes Milton’s Comus for its improbable action, he implies that his own works exemplify the probable. By admonishing the poets for their failures to uphold his standards, he reinforces our faith in the truth of his own narrative.

The elevation of identifiable authorship, underscored by its ratification in an authenticating text, has aesthetic and legal implications that extend beyond the internal workings of the literature involved. Identifiable authorship—necessary if one wishes to connect texts to nations through their citizen-authors—requires written, not oral proof. Oral works are always subject to diffusion, to editing by their oral transmitters. Thus, in a way that seems quite natural to any literate culture, the English linked their emphasis on identifiable authorship to an insistence on a written, if not printed work. This insistence on fixation, connected as it was to proof of the relationship between the author and the work, was codified in English copyright statutes and cases, most notably and publicly in the Act of Anne. Although Stationer’s Company policies and the Act’s precursors had laid the groundwork for the Act’s fixation requirement, by connecting fixation to authorship, the Act moved the requirement into the realms of public and aesthetic discourse. Of course, simply locating the regulation of culture in a written form itself assumes the end of the influence of the oral. But the Act reemphasizes the powerful position of literate culture through its internal preoccupation with the act of writing. This preoccupation produces a text so concentrated on writing and print that it leaves no room for the consideration of oral productions. The Act’s recording provisions, advertising sanctions, even its penalties (“One penny for every sheet”) assume a literate, print culture. Enforcement of the Act was predicated on an author’s having recorded his title in the “register book” of the Stationer’s Company and on his having provided “nine copies of each book or books, upon the best paper” for the use of the royal and other libraries. The Act’s intensified emphasis on

writing combined with its timing, only a few years after the national identity crisis caused by the Act of Union, suggests that establishing a nation's culture as primarily literate worked to legitimate that nation. One way to insure that the Union of Scotland and England became an incorporating rather than a confederating event was to reinscribe in law what the two cultures already knew—the hegemony of a dominant literate, print culture over an oral culture.

As the law construing fixation developed, it occasionally shifted back and forth between emphases on manuscript and print, but never implied that works in oral form could achieve property status. Whereas Judge Aston in Millar v. Taylor argued that only through print does the work become "a distinguishable subject of property" and that writing without publication is a "useless sound,"92 Hargrave concluded in his 1774 Argument in the Defense of Literary Property that "the subject of the property is a written composition." Print for Hargrave was simply the requisite of the industry, not of copyright, implying that the important distinction lay between oral and literate productions. Oddly, even as the developing field of copyright law gradually tended towards a view of literary property as intangible, the entire concept of literary property as property depended on the material word. Thus, while Hargrave struggled to argue for a form of property not defined by any concrete object, he found himself unable to avoid a continuing return to fixation as a basis for the property he was trying to define:

A literary composition can subsist and have duration, only so long as the words, which establish its identity, are represented by visible and known characters expressed on paper, parchment. . . . The original manuscript, or a written or printed copy, being authenticated, will equally serve the purpose; but one must remain within the power of the person who claims the appropriated right of printing the work, or the exercise of the right must unavoidably cease from the want of a subject.93

In a world in which many different sorts of evidence can authenticate a work, the only evidence that Hargrave can imagine consists in "visible and known characters." Works not fixed in print are unimaginable as legal entities.

Both the law and commerce supported the English belief that orally-transmitted works merited little consideration. Although some authors enthusiastically attempted to preserve oral works in print, none attempted to create a continuing market for orality. Works like Johnson's Dictionary completely rejected oral culture, eschewing oral expression and the colloquial in favor of words expressed in the language of

authors.\textsuperscript{94} As Reddick says, the \textit{Dictionary} was the first "to attempt . . . to determine its meanings according to word usage as it was encountered in the works of authors in the language."\textsuperscript{95} Such efforts expressed larger political goals involving the fixation of national identity in print. When in his "Preface" Johnson writes, "tongues, like governments, have a natural tendency to degeneration; we have long preserved our constitution, let us make some struggles for our language," he relates his effort to preserve the language in writing to political goals. Denouncing the "tongue," an analogy for oral culture, he compares the English language to the English Constitution itself.\textsuperscript{96} His method of providing examples of the meanings of words attempts to formalize and codify a national culture defined by the use of written, not oral, sources. The image of Johnson's black slave, Francis Barber, practicing writing the words "England England" on the back of slips used to produce the \textit{Dictionary} vividly points to the issues involved in determining to study a language solely through its written works.\textsuperscript{97} By neglecting words current in oral expression, literate-based dictionaries can neglect an entire population.\textsuperscript{98}

Johnson's 1773 trip to Scotland provides a site for investigating the entanglement of the distaste for oral culture with the construction of national identity. His need to accomplish this mission through a personal journey, to be recorded in not one but two books, takes on new meaning in the context of a battle over versions of authorship and texts that demanded the elevation of the author and the primacy of the written word. Of course, Johnson's attitude towards the Scots was far more complicated than Boswell's assertion of "his prejudice against Scotland" suggests.\textsuperscript{99} At times Johnson expresses respect and admiration for the Scots he meets, particularly for the Highlanders. Yet a characteristic passage from his \textit{Journey} reveals that he most respects those Scots who have absorbed English values, particularly those concerning language. "Those highlanders that can speak English, commonly speak it well, with few of the words, and little of the tone by which a Scotchman is distinguished," he says in one of his more tolerant passages.\textsuperscript{100} More characteristic of his remarks are those in which he expresses a violent distaste for oral culture: "The nation was wholly illiterate. Neither

\textsuperscript{94} Reddick, \textit{Making of Johnson's Dictionary}, 35.
\textsuperscript{95} Ibid., 15.
\textsuperscript{98} In Boswell's \textit{Journal of a Tour to the Hebrides} Boswell and Johnson muse on "how curious it was to see an African in the north of Scotland, with little or no difference of manners from those of the natives." The association of a possibly illiterate northern Scots servant with a possibly illiterate African slave acts as a marker of difference which, for Boswell and Johnson, distinguishes the Highlanders from the English and even from the educated, literate Lowlander Boswell. See Boswell, \textit{Journal of a Tour}, 201.
\textsuperscript{99} Ibid., 165.
\textsuperscript{100} Johnson, \textit{Journey to the Western Islands}, 57.
bards nor senachies could write or read; but if they were ignorant, there was no danger of detection; they were believed by those whose vanity they flattered."¹⁰¹ Later he remarks that the state of the Scottish bards was more hopeless than the state of contemporary illiterates. "He that cannot read, may now converse with those that can; but the bard was a barbarian among barbarians, who, knowing nothing himself, lived with others that knew no more."¹⁰² Johnson's hierarchical placement of literacy over orality almost always appears in valuative terms: "When a language begins to teem with books, it is tending to refinement . . . Speech becomes embodied and permanent . . . and the best obtains an establishment. By degrees one age improves upon another. . . . But diction, merely vocal, is always in its childhood. As no man leaves his eloquence behind him, the new generations have all to learn."¹⁰³ Orality, never considered as simply an alternative to literacy, is instead associated with mendacity, barbarianism, and ignorance.

The 1782 pamphlet which William Shaw and Johnson wrote together provides some additional comments on the oral tradition. If Ossian "never heard of letters, his poems could therefore only float along the stream of tradition, in which they might be mutilated, corrupted, and confounded with a thousand others; and a traditionary error, once admitted, cannot be corrected."¹⁰⁴ With Johnson, Shaw associates orality with extreme results involving mutilation and corruption. His language suggests a concern with the mutilation of the "stream of tradition" itself, a tradition which Shaw saw as almost wholly English. Significantly, when Shaw, motivated by Johnson's urgings, went to the Highlands to gather information for a Gaelic dictionary, he failed, not because the words were unavailable, but because he wouldn't talk to people who knew Gaelic. When Shaw was sued by his subscribers for failing to produce a dictionary of the quality he had promised, a subscriber testified that Shaw "was not solicitous to hold conversation or enter into any correspondence with those who were deemed deeply conversant in the Gaelic language" and, in fact, had apparently attended more to gathering subscribers than to gathering Gaelic words.¹⁰⁵

Neither Johnson, nor Shaw, nor the English at large could have been expected to question the hegemony of literate over oral culture. In fact, their unquestioning acceptance of that relationship—especially in the face of the continual mixing of oral and literate culture that went on throughout the century—provides evidence for literate culture's power in shaping English and Scottish relations. Comparative studies of literate

¹⁰¹. Ibid., 114.
¹⁰². Ibid., 117.
¹⁰³. Ibid., 116.
¹⁰⁵. Sher, "Percy, Shaw and the Ferguson 'Cheat,'" in Ossian Revisited, 217, 241 n.36.
and oral cultures commonly argue that literate cultures tend to devalue oral ones as part of a desire to establish cultural dominance. ¹⁰⁶ But, such English efforts to identify England as literate self and Scotland as illiterate other ignored the reality of what Deborah Tannen has called “the oral/literate continuum.” As Tannen points out, “literate tradition does not replace oral. Rather, when literacy is introduced, the two are superimposed upon and intertwined with each other.”¹⁰⁷ The English insistence on a purely literate identity reveals an anxiety about hierarchy as much as any reality about stages of development. In fact, both England and Scotland occupied close positions on Tannen’s oral/literate continuum. Most of the English as well as most Scots were still illiterate, and, if anything, the Lowland Scots had a higher literacy rate and a more developed educational system than the English did.¹⁰⁸ England continued to cling to many habits typical of oral cultures until at least the nineteenth century. No better example of the intertwining of oral and literate culture exists than that of the Johnson-Boswell relationship in which Johnson spoke and Boswell wrote. Representing a practice located ambiguously on the oral-literate continuum, their relationship also functions as an ironic reversal of the literate-oral split which the English tried to impose on the Scots. By defining itself as literate and Scotland as illiterate, England could devalue the Scottish oral tradition and, with it, Scottish claims to cultural equality.

Johnson and his culture’s insistence on the primacy of print tended to define the Macpherson controversy.¹⁰⁹ Despite both Macpherson’s and Blair’s freely-made admissions that they worked from oral sources, Johnson insisted on reframing the debate in terms that, as Gaskill remarks, denied “the existence of any kind of written literary tradition in Gaelic Scotland.”¹¹⁰ Johnson’s objections to Macpherson, when not focusing on his failure to prove Ossian’s authorship, concentrate on the lack of written records. “As there is no reason to suppose that the inhabitants of the Highlands and Hebrides ever wrote their native language, it is not to be credited that a long poem was preserved among them,” he argues.¹¹¹ Although at one point he implies that if Macpherson had not claimed to have manuscripts, he “might have fought with oral tradition much longer,” his other remarks indicate that even the existence of a strong oral tradition would not have legitimated Macpherson’s enterprise:

¹⁰⁸ B.A. Houston, Scottish Literacy and the Scottish Identity (Cambridge: Cambridge University Press, 1985).
¹¹⁰ Ibid., 8.
¹¹¹ Boswell, Life, 614.
Why do you think any part can be proved? The dusky manuscript of Egg is probably not fifty years old; if it be an hundred, it proves nothing. . . . There are, I believe, no Erse manuscripts. None of the old families has a single letter in Erse that we heard of. . . . Everything is against him. No visible manuscript; no inscription in the language: no correspondence among friends: no transaction of business, of which a single scrap remains in the ancient families.  

Numerous other comments disparage Macpherson for his failure to provide a writing: "I believe there cannot be recovered, in the whole Erse language, five hundred lines of which there is any evidence to prove them a hundred years old. Yet I hear that the father of Ossian boasts of two chests more of ancient poetry, which he suppresses, because they are too good for the English."  

Johnson's attempt to require a writing to authenticate works produced in an oral tradition by a blind poet is a move typical of a literate culture, or of one trying to identify itself as such.  

In fact, the English critique of Macpherson's Ossian almost always points back to literate culture itself. For instance, behind the pressure on Macpherson to provide a writing authenticating the Ossian works lurks a desire for fixity and stability that is in itself antithetical to oral culture. Welsh antiquarian Lewis Morris, one of Macpherson's contemporaries, analyzed the desire for text more astutely than most when he recognized that what was important was not so much the writing itself as the existence of a work unaltered since the third century: "If they were handed down by illiterate shepherds or minstrels, without rhyme or numbers, pray what was the bondage that kept the words together?"  

This process-erasing preoccupation with product, typical of literate society, sees the text as closed and fixed, whereas oral practitioners constantly create and recreate whatever work they perform. As Walter Ong says, for oral practitioners "the integrity of the past was subordinate to the integrity of the present."  

Thus, the English emphasis on "the integrity of the past," resting for its authenticity on a fixed work dating back to the third century, could effectively erase not only Ossian, but any attempt to establish a Scottish oral tradition.

Macpherson's inconsistent response to these demands for textuality reveals a tellingly partial internalization of the English rejection of oral tradition. This appears most clearly when he equivocates regarding the

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114. Shaw attempts a response to criticisms of this contradictory requirement in the "Reply" when he says, "I look not for Ossian's own hand writing, but I look for a transcript of a transcript." See Curley, "Johnson's Last Word," 61.
orality of his sources. Although, as noted earlier, both Macpherson and Blair initially claimed oral sources, when pressured by the English to provide written ones, they allowed the argument to shift. Macpherson's response to such pressure involved hiding whatever manuscripts he had and denying the orality of his sources. Moreover, he seemed himself to accept the English devaluation of oral sources. Known to mutter complaints against the bards who had erred in transmission, he internalized, even as he tried to defend himself against, the English disparagement of the oral tradition. In doing so, he joined other Lowland Scots like Shaw who rejected oral evidence "with indifference and hostility." 117 Unlike Macpherson, Shaw refused to consider evidence of the Ossian legends when "application was made to some old man, or superannuated fiddler, who repeated over again the tales." 118 In this anti-oral context, no one should be surprised that Macpherson claimed far greater access to written manuscripts than the facts warranted. He never seemed content to provide the world with the transcriptions of oral material that twentieth-century scholars such as Thomson praise him for collecting, and much of his battle with Johnson centered on his supposed failure to find and display his written records in that locus of literacy, the book shop. In internalizing the rejection of the oral tradition, he undermined his celebration of Ossian as blind bard by his continuing suggestions that printed sources existed. Typical is his response to Thomas Jefferson's request for copies of the manuscripts. Instead of admitting their paucity, he claimed that they were so bulky that he had no time to transcribe them. 119 Like Shaw, he seems caught between literate and oral culture, evincing a desire to preserve the oral tradition while simultaneously rejecting the practices that typify it.

Ironically, the English rejection of oral culture ultimately proved untenable for the English themselves. In the end, they found they could not do without certain flexible practices typical of orality. Although initially helpful in defining a national canon, authorship in perpetuity—with its intensified bond between author and work—tended to narrow the circulation of texts in ways that also limited authors' efforts to construct a national tradition. Such limitations constrained authors in their attempts to extend the English literary tradition and, in the end, became obstacles to the national canon-building efforts that they originally tended to facilitate. As the English gradually discovered, the practice of allowing free access to a whole range of sources—common in the oral, but not in the literate tradition—is essential to establishing and maintaining a national tradition, whether oral or literate. Not until Donaldson v. Beckett, decided in 1774, did the English courts ratify this subtler under-

117. Sher, "Percy, Shaw and the Ferguson 'Cheat,' " in Ossian Revisited, 220.
standing of the interaction between the author's rights to his literary property and more public, cultural rights. Johnson's own intellectual struggle with these issues is representative of the gradual transition experienced by the culture at large. All his life, he vacillated between supporting authors' rights and what might be called cultural rights, the rights of the public to the use of creative works. At times he argued that authors should have almost unlimited rights in their property, at others that their rights should be limited—perhaps to one hundred years, perhaps to seventy-five, perhaps to fifty. In 1773, he summarized what he saw as the conflict between authors' rights and public rights in a conversation with Boswell:

There seems to be in authours a stronger right of property than that by occupancy; a metaphysical right, a right, as it were, of creation which should from its nature be perpetual; but the consent of nations is against it, and indeed reason and the interests of learning are against it; for were it to be perpetual, no book however useful, could be universally diffused amongst mankind, should the proprietor take it into his head to restrain its circulation. . . . For the general good of the world, therefore, whatever valuable work has once been created by an author, and issued out by him, should be understood as no longer in his power, but as belonging to the publick.

Johnson's views were supported by at least some eighteenth-century jurists like Justice Yates, who, in his dissent in Millar v. Taylor, trumpeted, "Shall an author's claim continue, without bounds of limitation; and for ever restrain all the rest of mankind from their natural rights?" Yates's opinion—representative of the faction opposed to copyright in perpetuity—proved to be influential, eventually becoming law in the Donaldson case. Johnson, Yates, and the English Parliament recognized that authorship and what came to be called the public domain must work together, legally identifying not only the author but the essential connection between author and nation, and giving the author a prominent role as cultural representative of the nation. Without free access to the public domain, the author's role as cultural representative is limited. As David Lange has noted, "As access to the public domain is choked, or even closed off altogether, the public loses too: loses the rich heritage of its culture, the rich presence of new works derived from that culture, and the rich promise of works to come." But Johnson's support of the public domain, which he based in a con-

120. Donaldson v. Beckett, 98 Eng. Rep. 257 (1774). The case was heard on appeal before the House of Lords. For a full procedural account, see Rose, "The Author as Proprietor."
121. Boswell, Life, 546.
cern for the "general good of the world," stopped when he considered Macpherson's Ossian, despite the fact that Macpherson's practices were consistent with public domain theory. Just as Macpherson accessed the oral tradition, re-presenting it in a form far more acceptable to a literate culture, authors after Donaldson were given greater access to the public domain, allowing them to borrow from and reimagine their own cultural heritage. But, embedded as he was in a career devoted to literate culture and to constructing a literary tradition from written sources, Johnson could not have been expected to recognize these similarities. Rather, he viewed Macpherson's effort as a threatening illegitimate attempt to create literary property where none had existed before. His support for the public domain and his simultaneous opposition to the Ossian works—which could, after all, move into the sort of public domain constructed by Donaldson only if rescued and reformulated by Macpherson—were complex and contradictory gestures designed to promote English culture and offset the threat of the Scots. The very inconsistency of Johnson's position underscores the political potential of the public domain and the political agenda behind the anti-Macpherson movement.

Seen in this light, Johnson's own projects seem even more closely affiliated with Macpherson's. Both involve efforts to recover fragments of cultural property from the public domain by fixing them in printed, authoritative texts. While Macpherson attempted to rescue the fragments of a Scottish oral tradition and popularize them in a printed vehicle respected enough to compete with the English tradition, Johnson, not only in the Lives but also in the Dictionary and his edition of Shakespeare, collected and reframed materials in ways meant to add to their legitimacy as national texts. The production process of works like the Dictionary—curiously similar to the production process Macpherson used—relied upon ready access to works of others, an access that could be denied if the premises of Millar v. Taylor were fully imagined and enforced. 124 Without access to sources, such a project would have been impossible, bogged down in the constant need to obtain permissions from hundreds of owners of copyrighted works. To facilitate such projects and, in a more general sense, to ease all transmissions of the cultural heritage, English copyright law was in the end forced to create a space for practices fundamental to the oral tradition. But even as the law moved towards recognizing collaborative practices, it continued to deny the significance of an oral past. The devaluation of oral culture appeared not only in the many attempts to associate it with mendacity and igno-

124. Of course, a sort of informal public domain existed prior to Donaldson. No one threatened to sue Johnson for infringement based on the quotations in the Dictionary. However, copyright protection of the works selected for inclusion in the Lives of the English Poets was an issue. See Boswell, Life, 803. The question is complicated by earlier cases protecting the producers of abridgements and compilations; see Jaszi, "Toward a Theory of Copyright," 472.
rance, but in the failure to recognize that the construction of the public domain for written works drew on a practice which had always been associated with the vitality of the oral tradition.

Considering the relative power positions occupied by Macpherson's Scotland and Johnson's England and the eventual English acceptance of practices similar to those which were condemned in attacks on Macpherson, the continuing reduction of the Macpherson controversy to issues of forgery, and thus to questions of ethics, seems unwarranted and unproductive. By examining his work in the context of the cultural, legal, and political contexts that dictated its form, we can learn much not only about the cultural tensions that influenced constructions of authorship but also about the ways these tensions were played out in the legal arena. Here we have seen how Macpherson, in response to pressure from both English and Scottish literate culture, accepted the construction of the author as inseparable from the work in order to produce a work with which to promote the Scots. The resulting controversy reveals the politicized origins of presumably abstract aesthetic and legal concepts such as "authorship" and "work" and calls into question their naturalized status. Far from evidencing "the law of nature and truth, and the light of reason, and the common sense of mankind," as Judge Aston claimed in *Millar v. Taylor*, literate ideas of author and text appear to be carefully constructed to meet societal goals specific to particular historical periods.

In Macpherson's case, the quasi-criminalization of his work as forgery and the refusal to acknowledge its value in recuperating the Scottish oral tradition reveal more about English-Scottish relations than about the Ossian poems themselves. The struggle between England and Scotland to represent British identity was one in which the oral tradition had to be devalued to ensure the dominance of the English literary canon in defining a British identity. The question of who would represent Britain's identity—so strikingly figured in Girodet's painting—influenced areas as seemingly unrelated to national identity as authorship and work. In the battle to establish this identity, Ossian became, not the national symbol that the French painter imagined, but a casualty of a cultural war.
