

All About the Money? Authorship and Copyright in Ancient Rome



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Introduction

What would a Roman have thought of the notion of copyright concerning a work of literature?¹ When there were, for example, more than one hundred plays attributed to Plautus before Varro made a choice and kept only twenty one of them,² we can bet he would have been quite surprised.

The most problematic aspect from the point of view of the 21st century is that writers in ancient Rome did not always seek for money whereas nowadays authorship is mostly tied to the expectation of an income;³ income that one's works must bring to an author, and income that their works must bring to a publisher which introduces the problem of exclusivity on one side and the question of copyright on the other.

In ancient Rome it was of course possible for a writer to earn money; the playwright who, for example, sold a play to a magistrate who wanted to have it performed at the *Ludi* he was sponsoring.⁴ A second example is more complicated. When Statius was rewarded at the end of a lyrical competition by the emperor, he was thereby earning

- 1 On the notion of copyright and plagiarism in ancient times, see H.J. Wolff, *Roman Law. An Historical Introduction*, Norman 1951, p. 58 (there was no copyright then, which explains why people did not mind introducing some changes in the texts they were copying). See also A. Watson, *The Spirit of Roman Law*, Athens 1994, p. 17–19 on the different contracts of property. Some recent studies are much more focused on this topic, especially K. Schickert's *Der Schutz literarischer Urheberchaft im Rom der klassischen Antike*, Tübingen 2005: see her bibliography for older titles.
- 2 See W. Beare, *The Roman Stage. A Short History of Latin Drama in the Time of the Republic*, London 1950, p. 35–38 and J.C. Dumont &

M.-H. Garelli-François, *Le théâtre à Rome*, Paris 1998.

- 3 Plagiarism in the academic world is another kind of situation, since it is a matter of title and not of money.
- 4 See J.C. Dumont & M.-H. Garelli-François, *Le théâtre à Rome...*

money with his poems. But the fact is it does not seem to have been common; many writers composed a work to ensure one's propaganda, to please friends, or to obtain glory which, therefore, meant immortality.⁵ These authors did not earn any money with copies of their work whose circulation depended on a friend or a bookseller.⁶ What about their rights as authors?

This paper aims to study the legal notion of authorship in ancient Rome concerning literary writings.⁷ The period will be the Republic and the High Empire, from 240 BC to 117 CE. The first part shall deal with authors who earned their living with their literary output, while the second part shall focus on the authors

of Harry Potter or the complications of *Fifty Shades of Grey*. Was it easier in ancient Rome?⁸ The beginning of Roman literature offers some early examples of authors who earned their living with their plays including Titus Maccius Plautus, be it his real name or a pen name such as Molière for Jean-Baptiste Poquelin. Plautus is said to have earned a lot of money thanks to his comedies. According to his biography, which sounds a bit like a novel sometimes, Plautus would have even managed to earn his living the same way after the loss of his entire fortune in maritime trade.⁹ It seems it was really worth writing plays, but in actual fact, Plautus did not earn money solely as an author

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who did not write to earn money and likely had a more subtle way to conceive their authorship as in the cases of Cicero and Pliny the Younger.

1.1. To earn money by writing a work of literature, and even earn one's living, has probably never been easy in spite of some successes such as the adventures

5 See E. Sage, "The Profits of Literature in Ancient Rome", *CW* 10, 1917, p. 170–172.

6 See E. Rawson, *Intellectual Life in the Late Roman Republic*, London 1985, p. 42–44 and G. Cavallo, *Libri, editori e pubblico nel mondo antico*, Roma 1992.

7 We are thankful to Sebastien Evrard (University of Lorraine) for convincing us to study this topic, since there is not much bibliography and it is probably because we stand here at the crossroads between classical philology and law. See V.R. Perino, "Proprietà intellettuale nell'antichità: questioni teatrali", *Senecio*, Napoli, 2016, p. 34–77 on two aspects which we will not take into account here: firstly, the polemics among authors such as Terentius who was accused of using Greek models and abusing of the *contaminatio*, because these are literary polemics and not law, and then the copyright of sculptures and other works of art since we have chosen to concentrate on literature. See A. Plisecka, *Tabula picta. Aspetti giuridici del lavoro pittorico in Roma antica*, Padova 2011, p. 121–169.

of comedies: he was an *actor*, i.e. the leader of a band of actors. He did not earn his living only by writing but also by playing roles in his own comedies.¹⁰ He worked for magistrates who paid him to write a comedy for the games to come and there was also a contract between the magistrate who was in charge of some *Ludi*¹¹ and Plautus who gave exclusive rights to his play that it only be used on that occasion.

8 Martial does not seem to think it was possible to earn one's living this way in Rome, cf. Martial 3.38.

9 Cf. Gell. 3.3.14.

10 See H. Leppin, *Histrionen. Untersuchungen zur sozialen Stellung von Bühnenkünstlern im Westen des Römischen Reiches zur Zeit der Republik und des Prinzipat*, Bonn 1992, p. 84–90 and J.C. Dumont & M.-H. Garelli-François, *Le théâtre à Rome*, p. 32–34. Contra G. Duckworth, *The Nature of Roman Comedy. A study in Popular Entertainment*, Princeton 1952, p. 74 who does not consider Plautus an *actor*. It is possible Plautus started his career as an author and actor, and later gave up managing.

11 See G.E. Duckworth, *The Nature of Roman Comedy*, p. 76–79: the *Ludi Apollinares* were to be organized by the *praetor urbanus*.

A better example of the financial situation of authors might be Publius Terentius Afer who never was an actor: he must have sold his first *opus*, *Andria*, to an actor whom a magistrate had asked to perform a comedy for some *Ludi*, another scenario being the actor recommended him to the magistrate who bought a play directly from him. This manager might have been L. Ambivius Turpio, with whom Terentius was in touch.¹² But since, after his success, the poet was protected by what Pierre Grimal¹³ called « le cercle des Scipions » (Scipio Aemilianus' circle of friends), did he need to sell his other plays?¹⁴ The *Adelphi* which were performed in 160 BC at the funeral of Aemilius Paulus, the biological father of Scipio Aemilianus, were certainly a gift from the author to the man who had protected him.

1.2. Terentius also offers a transition between the independent author who earned money by selling a comedy or a tragedy and the poet who earned his living by writing for his *patronus*. In this situation there was no clear contract nor exclusive rights, and the case is then more complex which one can notice in the case of Ennius,¹⁵ who belonged to the second generation of writers in ancient Rome. He lived in the house of several important families; his first *patronus* seems to have been Cato the Elder who had noticed him during

a mission in Southern Italy and brought him to Rome. What was expected from a live-in poet for the price of this protection? Ennius praised the exploits of his protector, but he also entertained him and helped to educate his children. He gained some advantages in return, including Roman citizenship which a son of M. Fulvius Nobilior¹⁶ had managed to obtain for him. This was an honour, but it was also a legal and financial advantage. Indeed, Caesar offered the *ius civitatis* as an incentive to convince some Greek doctors to come and work in Rome.¹⁷ This financial advantage was bigger after the battle of Pydna in 168 BC than in 184 BC when Ennius became a *civis Romanus*, since the victory over the Macedonian king allowed for the reduction of taxes on Roman citizens at that time.

1.3. This might explain the case of another poet who enjoyed the protection of several members of Roman high society, namely Archias, who remains famous because of Cicero's speech in 62 BC during a trial.¹⁸ Born in the city of Antiocheia, this Greek poet came to Rome around 103 BC, and his way of life is a good example of this exchange of services between an author and his protectors who took him into their home, as he composed some poems to praise Marius and Lutatius Catulus,¹⁹ both consuls in 102 BC, and their victory over the Cimbers at Vercelli. He later obtained Roman citizenship thanks to the Luculli and became then Aulus Licinius Archias. This result has been attested since there was a contestation in a trial, but *when* it happened is much discussed and this might show how much Roman citizenship was a material advantage in those times, i.e. a reward for a live-in poet in exchange for his poems. A recent study²⁰ considers that Archias

12 G.E. Duckworth, *The Nature of Roman Comedy*, p. 72–73.

See W. Beare, *The Roman Stage. A Short History of Latin Drama in the Time of the Republic*, p. 156–158, cf. Terence, *Hec.* 57 (the actor bought a play from the author) and *Eun.* 20 (the actor is paid by the magistrates).

13 See P. Grimal, *Le siècle des Scipions*, Paris 1975.

14 The comedy *Hecyra* raises a problem since the representation was interrupted twice before a third performance; the manager of the actors' band might have considered the play not good enough, but it seems he trusted the author to the end and considered the problem came from the audience. See W. Beare, *The Roman Stage. A Short History of Latin Drama in the Time of the Republic*, p. 157: the actor seems to have given back the manuscript to Terentius in order for it to be improved.

15 See J. Penzel, *Variation und Imitation. Ein literarischer Kommentar zu den Epigrammen des Antipater von Sidon und des Archias von Antiocheia*, Trier 2006, p. 29–34 (biography). The remains of his poems are to be found in the editions of Vahlen and O. Skutsch.

16 Marcus Fulvius Nobilior was consul in 189 BC. That year he took Ennius in his staff when going to Etolia. See A. Walther, *M. Fulvius Nobilior. Politik und Kultur in der Zeit der mittleren Republik*, Heidelberg 2016, p. 180–207 on his ties with Ennius.

17 See J. André, *Être médecin à Rome*, Payot, Paris, 1987 (2nd ed.), p. 140.

18 See A. Coskun, *Cicero und das römische Bürgerrecht. Die Verteidigung des Dichters Archias*, Göttingen 2010.

19 See F. Hinard, *Sylla*, Paris 1985, p. 43–46 on this battle and p. 151 on the suicide of Lutatius Catulus.

20 See A. Coskun, *Cicero und das römische Bürgerrecht...*: this version can already be found in E. Gruen, *The Last*

attained the citizenship of the city of Heraclea in the 90s BC thanks to Marcus Lucullus, the younger brother of the more famous Lucius,²¹ during a trip from Sicily to Rome which might have been the usual yearly « tour du propriétaire » in the Sicilian estates or when returning

automatic consequence of becoming a citizen of Heraclea but does not say explicitly that the *lex Papiria* was enacted thereafter. Actually the chronology might be reversed; Archias got the citizenship of Heraclea after the law *Papiria* had been enacted in order to become



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after a mission on the staff of a governor. Then came the *lex Papiria* in 89 BC which granted Roman citizenship to the cities of South of Italy, and then Archias would have automatically become a *civis Romanus* immediately enrolled on the lists in 89 BC. But Cicero does not say any such thing in his speech:

Interim satis longo intervallo, cum esset cum M. Lucullo in Sicilia profectus, et cum ex ea provincia cum eodem Lucullo decederet, venit Heracliam: quae cum esset civitas aequissimo iure ac foedere, ascribi se in eam civitatem voluit; idque, cum ipse per se dignus putaretur, tum auctoritate et gratia Luculli ab Heracliensibus impetravit. Data est civitas Silvani lege et Carbonis: “Si qui foederatis civitatibus ascripti fuissent; si tum, cum lex ferebatur, in Italia domicilium habuissent; et si sexaginta diebus apud praetorem essent professi.” Cum hic domicilium Romae multos iam annos haberet, professus est apud praetorem Q. Metellum familiarissimum suum.²²

It all might also be based on a somewhat dubious interpretation of Cicero who underlines the auto-

Generation of Roman Republic, Berkeley 1974, p. 267 after the presentation of Reizenstein (*RE* 20) in 1885. See also E. Badian, “Notes on Provincial Governors”, *Studies in Greek and Roman History*, Oxford 1964, p. 79 who considers Archias became a *civis Romanus* only in 88 BC, which Coskun refuses.

21 On M. Terentius Varro Lucullus, see A. Keaveney, *Lucullus. A Life*, London 1992, p. 129 for a summary of his career (and p. 10 on Archias).

22 Cicero, *Arch.* 5–6.

automatically but indirectly a *civis Romanus*. This legal trick must have been used quite often to obtain Roman citizenship indirectly at a time when there was strong resistance in Rome to such awards. This abuse was proved extant by a law enacted in 65 BC to restrict it in the form of the *lex Papia de peregrinis*.²³ It does not change anything as far as our perspective is concerned, but it reinforces the idea that Roman citizenship was a great reward with legal and financial advantages for a live-in poet. It was a way to pay him, even if there was no written contract between him and his protectors. Archias indeed wrote an epic poem on Lucullus’ operations against Mithradates.²⁴

1.4. Each of these three cases offers a key to evaluate the situation of the poet Martial. Just like Plautus, he was a *civis Romanus*, and it wouldn’t have been possible to reward him with Roman citizenship; he was more interested in other material advantages that he could obtain thanks to his poems. Just like Ennius and Archias, Martial had powerful protectors, but the big difference is the Principate; instead of two or three members of high society there was the *Princeps*, and Martial lived under the Flavians who wanted to reward intellectuals.²⁵ Quintilian enjoyed a public chair, i.e. a salary coming from the then Emperor Vespasian,

23 See G. Rotondi, *Leges publicae populi Romani*, Hildesheim 1990 (1st ed. 1914), p. 377.

24 See A. Coskun, *Cicero und das römische Bürgerrecht...*, p. 25: Archias also helped to educate the two sons of Lucullus, *ibidem*, p. 66–67.

25 See H. Bardon, *Les empereurs et les lettres latines d’Auguste à Hadrien*, Paris 1940.

which amounted to 100,000 sesterces per year. The poet Statius, who won three times at the *Ludi Albani* after some competitions in the area of Naples, was granted rewards by the Emperor.²⁶ Martial was rewarded by Titus and Domitian,²⁷ firstly in 80 CE when he wrote the *Liber spectaculorum*.²⁸ He praises the two Princes for having given him the *ius trium liberorum*.²⁹

*Praemia laudato tribuit mihi Caesar uterque
Natorumque dedit iura paterna trium.* (3.95.5–6)

In other poems he asks Domitian for a reward:³⁰

*Sic ego: sic breuiter posita mihi Gorgone Pallas:
“Quae nondum data sunt, stulte, negata putas?”*
(6.10.11–12)

While Martial complains, Minerva, who was Domitian's favourite goddess, answers that the reward will come. It does not mean Martial had no other protectors; like his concurrent Statius he was in touch with L. Arruntius Stella (cos. suff. 101 CE).³¹ But the Emperor could offer much more money and also grant some social advantages in that Martial might have become an *equus Romanus* this way.³² And when he offers a list of the gained advantages, we find two houses mentioned:

*rumpitur invidia quod rus mihi dulce sub urbe est
parvaque in urbe domus, rumpitur invidia.* (9.97.7–8)

Whether these two pieces of real estate were a gift from the Emperor or, not unlike the gift of a home in Spain which was given to him by a Roman lady, from another protector when Martial decided to leave Rome for good, we don't know, but these material advantages were certainly a reward for his talent as a poet.

Writing could also be financially rewarding thanks to some protectors; did Martial earn money another way with his poems? He seems to have been in touch with some booksellers who did not hesitate at that time to ask famous writers to give them a copy of their works:

*Exigis ut nostros donem tibi, Tucca, libellos.
Non faciam: nam uis uendere, non legere.* (7.77)

Quintilian too had to face such a request which he finally accepted, fearing a bad and incomplete copy of his works be disseminated.³³ His aim then was not to earn money, but to protect the integrity of his intellectual work along with his reputation. Martial's case sounds a bit different, because if he had refused Tucca, it seems there might have been an agreement with at least one other bookseller:³⁴

*Exigis ut donem nostros tibi, Quinte, libellos.
Non habeo, sed habet bibliopola Tryphon.
“Aes dabo pro nugis et emam tua carmina sanus?
Non, inquis, faciam tam fatue.” Nec ego.* (4.72)

tribunus. The difference is of some importance for us, since the second interpretation makes an imperial reward of the statute of *equus*.

26 See R. Nauta, *Poetry for Patrons. Literary communication in the Age of Domitian*, Leiden 2002, p. 195–199. Statius was defeated at the *Ludi Capitolini* in the early 90s CE; these games had been instituted by Domitian in 86 CE and happened every four years. This Prince had also instituted the *Ludi Albani* to honour the goddess Minerva: these games seem to have been annual (*ibidem*, p. 328–329), see R. Nauta, *Poetry for Patrons...*, p. 328–335.

27 Cf. Martial 4.27.

28 See the recent edition of K.M. Coleman, *M. Valerii Martialis Liber spectaculorum*, Oxford 2006, p. XLV–LXXX.

29 Cf. Martial 9.97. This advantage, granted by the prince since Augustus' reign, allowed one to be exempted of honorific and ruinous charges, for example.

30 Cf. Martial 4.27: *da, Caesar, tanto tu magis, ut doleat.*

31 See R. Nauta, *Poetry for Patrons...*, p. 211–212.

32 See W. Allen Jr, “Martial: Knight, Publisher poet”, *CJ* 65, 1970, p. 345–357: since Martial writes he was a *tribunus*, the question is to know whether he got the tribunate because he was an *equus* or if he became *equus* thanks to his charge of

33 Cf. Quintilian, *IO* 1 pr. 7 et 7.2.24.

34 See E. Rawson, *Intellectual Life in the Late Roman Republic...* and P. White, “Bookshops in the Literary Culture of Rome”, in: W.A. Johnson & H.N. Parker (eds.), *Ancient Literacies. The Culture of Reading in Greece and Rome*, Oxford 2009, p. 278–279. Martial was in touch with four booksellers: Secundus (1.2), Pollius Valerianus (1.113), Atrectus (1.117) et Trypho (4. 72 et 13, 3). Atrectus and Secundus had their shop on the Argiletum, which was the centre of book-trading in Rome: see T. Peck, “The Argiletum and the Roman Book-trade”, *CPh* 9, 1914, p. 77–78 and E. Sage, “The Publication of Martial's Poems”, *TAPhA* 50, 1919, p. 168–176.

Trypho was a very famous bookseller³⁵ in the 90s CE in Rome. Now, does Martial refuse to give his book to Quintus simply because he does not like this man who seems to think it is not worth paying some money and thus attributing real value to Martial's work, or does he refuse because he hopes to earn some money from the bookseller which would be close to modern notions of copyright? This is still impossible to determine. Still, a hint might be given by another poem:

*Non urbana mea tantum Pimpleide gaudent
otia, nec vacuis auribus ista damus
sed meus in Geticis ad Martia signa pruinis
a rigido teritur centurione liber,
dicitur et nostros cantare Britannia versus.
quid prodest? Nescit sacculus ista meus. (11.3.1–6)*

The brevity of the last sentence, which is very sharp, underlines the dissatisfaction of Martial though it was a sign his talent was recognized in every part of the Roman Empire. The question would be to decide whether the reader should take this sentence at face value, meaning that the kind of agreement between an author and a bookseller in Rome – where they both lived – could not exist in other places far away from the centre, or read rather more between the lines and then Martial seems to just feign disdain for this success. We might choose an intermediate interpretation; money in itself is not the most important factor but is used by the poet as a symbolic way³⁶ to assess how highly his talent was recognized.

How are we to understand, then, the numerous complaints about plagiarism one can find in Book I?³⁷ No

less than eight poems are about this specific problem³⁸ which Martial seems to have met when he was already famous after three books,³⁹ at around 85–86 CE. Some *patroni* of the poet pretended to be the authors of his poems,⁴⁰ and Martial proffers two names: Fidentinus, and Celer.⁴¹ Actually it was quite easy to be a victim of plagiarism in ancient Rome because of the different steps within the process of writing.⁴² Firstly there was a time to write a first draft in solitude, then came the second step which saw a semi-public dissemination of the draft either by mail or via a lecture in front of a happy few who could give advice. The third step was to improve and modify the first draft. Then, finally, the author would read his final draft again in front of a larger audience in order to make it known.

All in all, no one could prevent someone from getting the work of a writer one way or another and organizing a *recitatio* while pretending to be the author of what he read. Martial could be very sarcastic about it:

*Quem recitas meus est, o Fidentine, libellus:
sed male cum recitas, incipit esse tuus. (1.38)*

The plagiarist could ask the author directly to read his poems:

38 See M. Citroni, *M. Valerii Martialis. Epigrammaton Liber primus*, Firenze 1975, p. XXII–XXIII.

39 See J.P. Sullivan, *Martial. The unexpected classic*, Cambridge 1991, p. 15–24: Book I was published around 86 CE, so after the *Liber spectaculorum* had been written in 80, and after the *Xenia* and the *Apophoreia* (very often presented as books XIII et XIV) published in 84.

40 Another case of plagiarism was to let the poet which one protected present Martial's poems as his, cf. Martial 1.52.1–3 when he compares his verses to freedmen who would be enslaved again, which was forbidden by the *lex Fabia de plagiaris* (*Inst.* 4.18). See K. Schickert, *Der Schutz literarischer Urheberchaft...*

41 See the prosopographical results of R. Moreno Soldevilla, A. Marina Castillo & J. Fernandez Valverde, *A Prosopography to Martial's Epigrams*, Berlin 2019 and M. Citroni, *M. Valerii Martialis. Epigrammaton...*

42 See G. Galimberti Biffino, "Oralité et écriture dans la circulation littéraire. Le cas de Pline le Jeune", in: Y. Perrin (ed.), *Neronia VIII. Bibliothèques, livres et culture écrite dans l'empire romain de César à Hadrien*, Bruxelles 2010, p. 263–272.

35 See G. Cavallo, *Libri, editori e pubblico nel mondo antico...* and H. Blanck, *Das Buch in der Antike*, München 1992, p. 126–127.

36 See H. Zehnacker, in: H. Zehnacker & J.C. Fredouille, *Littérature latine*, Paris 1993, p. 309 on the provocative poet.

37 See S. McGill, *Plagiarism in Latin Literature*, Cambridge 2012, p. 74–113. The problem reappears once in Book II, cf. Martial 2.20: *Carmina Paulus emit, recitat sua carmina Paulus./ Nam quod emas possis iure uocare tuum*. Vitruvius had already complained about plagiarism and asked for legal protection, cf. *De Arch.* 7 pr. 3.

*Vt recitem tibi nostra rogas epigrammata. Nolo:
non audire, Celer, sed recitare cupis.* (1.63)

If the author was his client, then an indelicate *patronus* could put him under pressure. Another solution was to attend a semi-public lecture and transcribe what had been read, and Martial mentions a very careful man whose memory was good enough to allow him to know the poems by heart:

*Sic tenet absentes nostros cantatque libellos
ut pereat chartis littera nulla meis:
denique, si uellet, poterat scripsisse uideri;
sed famae mauult ille fauere meae.* (7.51.7–10)

As the poet notes, this fan could have been a plagiarist, but since he was knowledgeable in the law too, *iure*

Once again it might be just provocation, but Martial then underlines another interpretation of authorship, wherein the author sells his work – a novel, an essay, and even a dissertation sometimes – and gives the right to the buyer to pretend he wrote it without, essentially, being a plagiarist. “As long as I am paid, it is all right to play another part and give up my authorship”, Martial appears to say, but it is not sure he really meant it. In another poem⁴⁴ he explains the indelicate should pay not only for the work, but also for the author’s silence:

*Aliena quisquis recitat et petit famam,
non emere librum, sed silentium debet.* (1.66.13–14)

Martial does not seem to have been willing to keep silent, because even if his literary work was a way to



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madens, he used his memory just for pleasure to read the verses he enjoyed. Nevertheless, others would use their skills to make a copy in order to read it later and this is precisely what some booksellers did when an author refused to give them a copy of his work. A third way was to buy a copy in a bookshop.⁴³ Martial offers, quite cynically, a deal to a plagiarist:

*Fama refert nostros te, Fidentine, libellos
non aliter populo quam recitare tuos.
Si mea uis dici, gratis tibi carmina mittam:
si dici tua uis, hoc eme, ne mea sint.* (1.29)

attain rewards, authorship meant *fama* and *gloria*, which one can notice in the following poem:⁴⁵

*Ante fores stantem dubitas admittere Famam
teque piget curae praemia ferre tuae?
Post te uicturae per te quoque uiuere chartae
incipiant: cineri gloria sera uenit.* (1.25.5–8)

Praemia should not be taken literally, but in association with the vocabulary of glory it is probably figurative; Faustina’s reward will be fame.⁴⁶ It is worth noting that this preoccupation is already present in Book I, though much more important and concerning Martial himself in Book X, maybe at a time when he

43 See E. Rawson, *Intellectual Life in the Late Roman Republic...* and P. White, “Bookshops in the Literary Culture of Rome”, p. 278–279. The bookseller got a text either by obtaining it from the author, or by transcription of a speech during a process, by someone he had sent or someone else who came to sell him his transcription. The first version of the *Pro Milone* seems to have been diffused that way.

44 See M. Citroni, *M. Valerii Martialis Epigrammaton...*

45 Pliny the Younger wrote the same kind of invitation to friends who were reluctant to diffuse their work, cf. *Epist.* 2.10.

46 See M. Citroni, *M. Valerii Martialis Epigrammaton...*

could no longer hope for rewards under the Antonine Emperors who were reluctant to favour him:

*At chartis nec furta nocent et saecula prosunt,
Solaque non norunt haec monumenta mori.*
(10.2.11–12)

These verses might remind us of some letters by Pliny the Younger once more, because they simply affirm what most Roman writers thought; writing

tial's point of view his reputation might suffer from the poor quality of these poems:

*Procul a libellis nigra sit meis fama,
Quos rumor alba gemmeus vehit pinna* (10.3.9–10)

The problem is not directly money-based, but rather one of reputation; a bad reputation could mean fewer rewards. On the other hand there were interpolations, i.e. books where his verses were mixed with the verses



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allows one to escape annihilating death because literary work will remain for posterity with the glory of the poet. Nevertheless, we are not very far away from the law because of the *furta*: the thieves, probably to be understood as plagiarists here, don't matter when it is all about glory in posterity.

The importance of glory explains why Martial protests when some verses are disseminated under his name. There could be different ways and for different reasons; we'll not give too much importance to those verses which were forged in order to harm a friendship,⁴⁷ though calumny has something to do with the law, but we'll concentrate on the two other kinds of forgery. On the one hand, the easiest way was to compose a poem and pretend it was written by Martial:

*Vernaculorum dicta, sordidum dentem,
Et foeda linguae probra circulatricis,
Quae sulphurato nolit empta ramento
Vatiniorem proxeneta fractorum,
Poeta quidam clancularius spargit
Et volt videri nostra. Credis hoc, Prisce?* (10.3.1–6)

This could be a way to sell a book of poems to a bookseller he would not have taken otherwise. From Mar-

of someone else who then pretended Martial had written the whole book:

*Quid, stulte, nostris versibus tuos misces?
Cum litigante quid tibi, miser, libro?* (10.100.1–2)

Was it a question of money? It might have indeed been a way to earn money when selling to others a patchwork of verses which one would have heard in a semi-public lecture and of other verses to complete, mixed with the satisfaction of diffusing one's own work even if under another name. But once more Martial considers it from the point of view of *fama*. From a legal standpoint, Martial's poems might better be taken as a mix of old standards and of modernity leading to modern-day copyright because he was living in a time wherein there were professional booksellers.

2.1 This, then, sees us arrive at the case of the writers who did not try to earn money or any material advantage; as already mentioned, they aimed at defending their political choices, and at pleasing friends, which explains why Caesar or Pliny the Younger would never have had the idea to make money with their literary work. And then they did not earn anything when a copy of their work was diffused. What can one learn from a situation where authorship did not necessarily mean copyright? Cicero's is an interesting case which lies somewhere between hoping for glory and maybe

47 Cf. Martial 10.33.

being willing to earn money with his works, at least if we follow some interpretations.⁴⁸ The authorship of his speeches, treatises and letters is doubtless,⁴⁹ even if many people took part in the process of their creation. The first occasion was the choice of the topic; concerning the speeches it was a matter of political events. Once the speech had been read, Cicero could change it and we now know the version we have is quite different sometimes of what the audience heard.⁵⁰ The aim of the diffusion of these speeches was not to earn money; Cicero wanted to ensure the success of his position by making it clear in the provinces where people would have heard about the trial or the discussions in the Senate without having the details. Of course he also aimed at being admired...

to his being sent into exile by Clodius. This explains why Cicero officially denied being his author, though admitting the facts in a letter to Atticus:

*Scripti equidem olim ei iratus, quod ille prior scripserat, sed ita compresseram ut numquam emanaturam putarem. Quo modo exciderit nescio. Sed quia numquam accidit ut cum eo verbo uno concertarem et quia scripta mihi uidetur negligentius quam ceterae, puto ex se probari non esse meam.*⁵²

Cicero had multiple chances to be believed, considering the fact that many fakes were diffused...⁵³

2.2. The treatises leave no place for contestation of authorship. It could start with the invitation of



What can one learn from a situation where authorship did not necessarily mean copyright?

This explains why there is almost never any argument about his authorship, except when suddenly an old invective *In Clodium et Curionem*⁵¹ is diffused, precisely at the most embarrassing time for him due

to an *amicus* – the Latin word for a friend and political ally – who asked Cicero to write a treatise for him. For some of them – Caelius⁵⁴, Trebonius⁵⁵ or Dolabella⁵⁶ – the topic did not matter as long as it could be more or less related to them. Some relatives could be much more precise; Atticus suggests Cicero write a book on geography,⁵⁷ then later a letter which would be a political programme for Caesar.⁵⁸ In the same

48 See R. Sommer, “T. Pomponius Atticus und die Verbreitung von Ciceros Werke”, *Hermes* 41, 1920, p. 389–422.

G. Cavallo, *Libri...* (and “Libri scribi scritte a Ercolano”, *CronErc* 13, suppl., 1983) is convinced Atticus was an editor, like H. Blanck, *Das Buch in der Antike*, p. 125. Contra E. Rawson, *Intellectual Life in the Late Roman Republic*. Also J.J. Philipps, “Atticus and the Publication of Cicero’s Works”, *CW* 79, 1986, p. 227–237. Recently A. Dortmund, *Römisches Buchwesen um die Zeitenwende. War T. Pomponius Atticus (110–32 v. Chr.) Verleger?*, Wiesbaden 2001 who does not follow Cavallo, and M. Buckley, “Atticus, Man of Letters, Revisited”, in: K. Sidwell (ed.), *Pleiades Setting. Essays for Pat Cronin on his 65th Birthday*, Cork 2002, p. 15–33.

49 There is an exception: the famous invective against Sallust, which is probably a fake written by students of a school for rhetoric: see R. Syme, *Sallust*, Berkeley 1964.

50 See J. Humbert, *Les plaidoyers écrits et les plaidoiries réelles de Cicéron*, Paris 1925.

51 Cf. Cicero, *Att.* 3.12.2 (July 58 BC).

52 Cf. Cicero, *Att.* 3.12.2 (July 58 BC).

53 Cicero mentions an epigram on the *lex Aurelia* which circulated under the name of his brother Quintus when this one was trying to be edile, though it was a fake, cf. *Q.Fr.* 1.1.8.

54 Cf. Cicero, *Fam.* 8.3.3 (June 51 BC). On Caelius (Cicero’s student, praetor in 48 BC) see M. Dettenhofer, *Perdita Juventus*, München 1994 and P. Cordier, “M. Caelius Rufus, le préteur récalcitrant”, *MEFRA* 106, 1994, p. 533–577.

55 This lieutenant of Caesar once asked Cicero to be a character in one of his treatises, cf. *Fam.* 12.16.4: see R. Etienne, *Les Ides de Mars*, Gallimard, Paris, 1973, p. 154–155.

56 Cf. *Att.* 13.10.2 and 14.2. Dolabella was Cicero’s last son-in-law and an officer of Caesar: see M. Dettenhofer, *Perdita...*

57 Cf. *Att.* 2.4.3.

58 Cf. *Att.* 13.26.2.

vein as the speeches, it was not a matter of copyright nor money; it was quite often an intellectual challenge with almost a nationalist aspect, as the Latin language was expected to surpass the Greek one in all literary forms. Once the topic was chosen, there were other occasions to play a part, not to mention the help of the owners of big private libraries⁵⁹ such as Atticus who lent books⁶⁰ when Cicero asked for them, or Faustus, Sulla's son, who allowed him to come and work in his house,⁶¹ and some relatives could intervene directly on the composition when making stylistic remarks or suggestions about the characters:⁶² Sallust suggested a change⁶³ in the *De re publica* while Cicero read a first draft of this treatise for some friends in his villa in Tusculum.

2.3. The last sequence could sometimes be the most problematic. Indeed, once Cicero had finished writing, he sent the draft to his friend Atticus who owned a team of slaves very well-trained in copying,⁶⁴ in order to have a presentable version. Sometimes Cicero noticed a mistake about a name or even remembered he had already used the same preamble,⁶⁵ and then felt like modifying his draft. But some relatives may have come to visit Atticus and preview the work of Cicero in his house, not mentioning the boldness of those who managed to obtain a copy:

*Scripta nostra nusquam malo esse quam apud te, sed ea tum foras dari cum utriusque nostrum videbitur. Ego et librarios tuos culpa libero neque te accuso et tamen aliquid quiddam ad te scripseram, Caerelliam quaedam <habere quae nisi a te> habere non poterit. Balbo quidem intellegebam sat faciendum fuisse, tantum nolebam aut obsoletum Bruto aut Balbo incohatum dari.*⁶⁶

Cicero was furious to see a perfectible – *incohatum* – draft diffused, and felt embarrassed that the addressee would not be the first – *obsoletum* – to read his work, because in ancient Rome the choice of the addressee was as important as the treatise if not more so. The author offered a literary work as a *pignus*, a pledge of good relationship and of political alliance, and what mattered then was the tie which was established and claimed between two names.⁶⁷

3.1. Pliny the Younger⁶⁸ will be our second case. He belonged to political elites, became consul then governor of Bithynia-Pontus, and was much richer than Cicero. He also played the part of literary adviser within a circle of friends, and his letters are a precious testimony on authorship. It seems at first sight the process of writing is the same;⁶⁹ an author writes a first draft on his own, then asks for the point of view of some selected friends who can suggest some modifications, either during a *recitatio* or after it:

Verum haesitanti mihi, omnia quae iam composui vobis exhiberem, an adhuc aliqua differrem, sim-

59 See E. Rawson, *Intellectual Life in the Late Roman Republic...*

60 He also helped from time to time when some chronological details had to be checked: see Y. Benferhat, "Quand il n'y a rien à transmettre: le droit de la propriété intellectuelle, Atticus et la diffusion des oeuvres de Cicéron", *Fundamina* 19, 2013, p. 1–11.

61 Cf. *Att.* 4.9 (55 BC): see H. Blanck, *Das Buch in der Antike...*

62 Cf. *Att.* 12.12.2 and *Att.* 13.16.1. Cicero explains the problem of characters in his treatises in a letter from June 45 BC, cf. *Att.* 13.19.3–5.

63 Cf. Cicero, *Q. Fr.* 3.5.1–2.

64 Those slaves are named in the letters: Musca (*Att.* 12.40.1), Pharnace (*Att.* 13.44.3 and 29.3), Anteus (*Att.* 13.44.3) and Salvius (*Att.* 9.7 and 13.44.3). The aim was to have copies without any typos, which happened quite often then, cf. *Q. Fr.* 3.5.6.

65 Cf. *Att.* 16.6 (preamble used twice) and *Att.* 12.6a.1 (a mistake about Aristophane).

66 Cicero, *Att.* 13.22.3 on Book 5 of *De Finibus* in 45 BC.

67 Appius Claudius wrote in 51 BC a *Liber auguralis* he dedicated to Cicero who was an augur like him, cf. *Fam.* 3.4.1: after the quarrels and critics about the Cilicia, it was time to be *amici* again. In 46 BC Trebonius wrote a book for Cicero, cf. *Fam.* 15.21.1–3. Long before that, in 54 BC Quintus Cicero invited his brother to write an epic poem for Cesar, cf. *Q. Fr.* 3.7.6.

68 See N. Methy, *Les lettres de Pline le Jeune. Une représentation de l'homme*, PUPS, Paris, 2007.

69 See R. Winsbury, *Pliny the Younger. A life in Roman Letters*, London 2014, p. 16–22 and p. 168–169, and also G. Galimberti Biffino, "Oralité et écriture dans la circulation littéraire. Le cas de Pline le Jeune"...

*plicius et amicius visum est omnia, praecipue cum affirmetis intra vos futura, donec placeat emittere.*⁷⁰

Intra vos is the condition put to the exchange; the draft must not be diffused, and the friend who asked for it must help to improve it, but only with suggestions which Pliny would take into account later:



The authorship seems to be diluted and even dissolved during this friendly exchange of literary works.

*Quod superest, rogo ut pari simplicitate, si qua existimabitur addenda commutanda omittenda, indicetis mihi.*⁷¹

After the changes, the book was read within a wider circle of relatives who would discover it this way, and finally the author could take the decision to disseminate his work. The friends who had enjoyed his work got copies; Pliny would find his books in a bookseller's shop not only in Rome,⁷² but also in Lugdunum.⁷³

While the process of writing seems to be the same, the context was actually completely different because of a stable constitutional settlement under the Antonines which brought an end to the link between literary leisure and games of political alliances. Pliny the Younger shares his taste for literature with friends who belong to the same social circle of high administration. Another difference with Cicero is that all these literary works we hear of in Pliny's letters don't seem to have been published (except for Tacitus's monographs) or at least were not meant for posterity. The aim was not to write a long-lasting *opus*, but to amuse themselves and have fun by exchanging poems and sharing a mutual taste

⁷⁰ *Epist.* 3.10.2–5.

⁷¹ *Epist.* 3.10.2–5.

⁷² See P. White, "Bookshops in the Literary Culture of Rome"...

⁷³ *Epist.* 9.11.2: *Bibliopolas Lugduni esse non putabam ac tanto libentius ex litteris tuis cognovi venditari libellos meos, quibus peregre manere gratiam quam in urbe collegerint delector.*

for literature. Quality is not to be searched for in the composition of the poem but in the ties which one is forging and keeping up by offering the poem.

3.2. Last but not least, a third difference is that things go much further among Pliny's friends, because the authorship seems to be diluted and even dissolved⁷⁴ during this friendly exchange of literary works. There are at least two examples of this, the first being when

Pliny sends a draft with variants:

*Postea enim illis ex aliqua occasione ut meis utar, et beneficio fastidi tui ipse laudabor, ut in eo quod adnotatum invenies et superscripto aliter explicitum. Nam cum suspicarer futurum, ut tibi tumidius videretur, quoniam est sonantius et elatius, non alienum existimavi, ne te torqueres, addere statim pressius quiddam et exilius, vel potius humiliter et peius, vestro tamen iudicio rectius.*⁷⁵

The context might not be a literary game this time, but rather an administrative problem, which is suggested by the word *libellum* at the very beginning of the letter:

Libellum formatum a me, sicut exegeras, quo amicus tuus, immo noster – quid enim non commune nobis? –, si res posceret uteretur, misi tibi ideo tardius ne tempus

⁷⁴ See A. Plisecka, "Accessio and Specificatio Reconsidered", *TR* 74, 2006, p. 45–60: writing a poem with four hands may remind us of the *mulsum* obtained by honey and wine both provided by a different owner. Who is then the owner of the result obtained with the disparition of each ingredient considered in itself? It seems to be a co-property. On the other hand, the case of the introduction of Pliny's verse in a bigger poetic work written by a friend of his may remind us of the insertion of a stone in a metallic work of art; the owner of the stone loses his ownership.

⁷⁵ *Epist.* 7.12.4–5.

*emendandi eum, id est disperdendi, haberes. Habebis tamen, an emendandi nescio, utique disperdendi. Ὑμεῖς γὰρ οἱ εὐζήλοι optima quaeque detrahitis.*⁷⁶

If it is an administrative document which Pliny must prepare for a friend of friend who asked him to do so, it sounds quite natural that he would send a first draft to be sure everything is in order. But *libellum* might also be a literary work, which is the interpretation of A. Sherwin-White in his commentary.⁷⁷ And then this becomes a case of a piano for four hands so to speak, even if the friend has to chose between two variants written by Pliny who remains the only author.



We have seen many ways to earn one's living as an author in ancient Rome, and quite a number of meanings concerning authorship.

The second case looks like that of a sampling nature, whereby Pliny sends something to a friend who is allowed to insert it, completely or in part, into his own literary work after having asked for it:

*Epistulam tuam iucundissimam accepi, eo maxime quod aliquid ad te scribi volebas, quod libris inseri posset. Obveniet materia vel haec ipsa quam monstras, vel potior alia.*⁷⁸

We can only presume the friend will use Pliny's work as a quotation, i.e. with the mention of Pliny the Younger, then the authorship of Pliny continues within a literary work written by another, not unlike a sample within a song nowadays. In any case what

matters, then, is the friendship between the two men and not the authorship, for there is no robbery to speak of since Pliny agreed.

Conclusion

We have seen many ways to earn one's living as an author in ancient Rome, and quite a number of meanings concerning authorship. But whatever the case it should be clear that authors wrote most of all for posterity-and-glory-based reasons. Pliny encourages Octavius to present his poems to his friends in order to avoid someone else potentially pretending to be the author,⁷⁹ by reminding him that a literary work is

a *monumentum*, i.e. a souvenir left to the others which allows one to escape from mortal condition. And with these words he is the heir of Cicero who wrote the same. Besides this tradition, one should not neglect the remarks of Martial who took a step forward toward modern times with copyright.⁸⁰

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⁷⁶ *Epist.* 7.12.

⁷⁷ See A. Sherwin-White, *The Letters of Pliny. A historical and social commentary*, Oxford 1966, p. 416–417.

⁷⁸ *Epist.* 9.11.1: *Epistulam tuam iucundissimam accepi, eo maxime quod aliquid ad te scribi volebas, quod libris inseri posset. Obveniet materia vel haec ipsa quam monstras, vel potior alia.*

⁷⁹ *Epist.* 2.10.3–4: *Enotuerunt quidam tui versus, et invito te claustra sua refrugerunt. Hos nisi retrahis in corpus, quandoque ut errone aliquem cuius dicantur invenient. Habe ante oculos mortalitatem, a qua asserere te hoc uno monumento potes; nam cetera fragilia et caduca non minus quam ipsi homines occidunt desinuntque.*

⁸⁰ Many, many thanks to Paul Du Plessis for helping me to improve the translation of this paper into English.

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