

**John Maxwell's Copyright Disputes:  
Manufacturing Cheap Fiction in the *Welcome Guest* and the Shilling Volume Library**

**Jennifer Phegley**

**Abstract**

In his early twenties, John Maxwell entered the London publishing scene as a scrappy and ambitious Irish immigrant with a strong desire to make a name for himself. What Maxwell lacked in gentility he made up for with his willingness to take risks and flaunt convention. Within a decade he had become one of the leading magazine entrepreneurs of his age. Between 1860 and 1862, a period in which he was frantically launching new periodicals and solidifying his partnership with Mary Elizabeth Braddon, Maxwell regularly appeared in the Court of Chancery as a party to copyright infringement lawsuits, some of which stemmed from his attempts to republish works by contributors to his magazine the *Welcome Guest* without seeking explicit authorial permission. This essay investigates what these disputes tell us about conceptions of the often vague laws pertaining to reprinting in the periodical press and examines how the outcomes of these cases shaped the development of Maxwell's publishing business as well as his burgeoning relationship with Braddon.

**Keywords**

copyright law; periodical publishing; reprinting; John Maxwell; Mary Elizabeth Braddon; penny press; the *Welcome Guest*

**Date of Acceptance:** 27 June 2022

**Date of Publication:** 4 July 2022

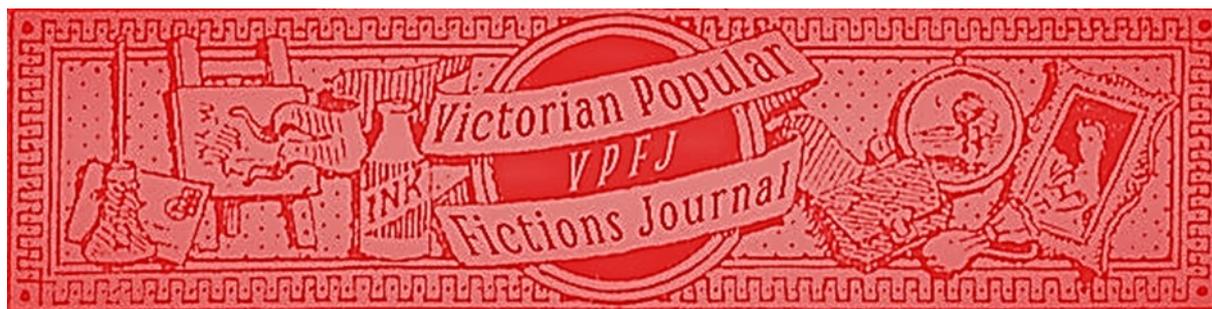
**Double Blind Peer Reviewed**

**Recommended Citation:**

Phegley, Jennifer. 2022. "John Maxwell's Copyright Disputes: Manufacturing Cheap Fiction in the *Welcome Guest* and the Shilling Volume Library." *Victorian Popular Fictions*, 4.1: 21-40. ISSN: 2632-4253 (online) DOI: <https://doi.org/10.46911/MQTR7637>



This work is licensed under a [Creative Commons Attribution 4.0 International License](https://creativecommons.org/licenses/by/4.0/).



## **John Maxwell's Copyright Disputes: Manufacturing Cheap Fiction in the *Welcome Guest* and the Shilling Volume Library**

**Jennifer Phegley**

John Maxwell came to London in 1839 as an orphaned 18-year-old Irish immigrant with a dream of making it in the publishing business. He gained experience by printing the works of Irish writer Gerald Griffin and working as a newsagent. By the 1850s, Maxwell had begun to make a name for himself in periodicals selling advertisements for the *Illustrated Times*, owned by publisher Henry Vizetelly. Following Vizetelly's lead, he sought opportunities to launch his own newspapers and magazines. What Maxwell lacked in gentility and connections, he made up for with an abundance of ambition, a willingness to take risks, and a penchant for flaunting convention. In 1858 he founded the notorious newspaper *Town Talk* (1858-9) with Edmund Yates as editor. When Yates was expelled from the prestigious Garrick Club for his uncouth critique of William Thackeray's character, Maxwell probably basked in the controversy his editor stirred up. As a publisher, he courted attention and thrived on conflict. His boisterous nature and sometimes unscrupulous practices turned out to be suitable for the rough-and-tumble mass-market magazine business.

Publishing historian Chester W. Topp describes Maxwell as having "a mania for founding magazines" (2003: xxviii). Robert Lee Wolff likewise notes that Maxwell "bought periodicals, sold them, and started new ones. He was always restless and often successful" (1979: 80). As Elizabeth J. Deis explains, Maxwell became "a successful, prosperous publisher" who was ultimately able to pass his lucrative business along to his sons (1991: 202). Indeed, within a decade he had become one of the leading publishing entrepreneurs of his age due in no small part to his partnership with Mary Elizabeth Braddon, whose talent for writing sensational fiction helped attract magazine audiences. Throughout the 1860s, Maxwell oversaw a handful of weeklies for working-class readers foremost among them the *Welcome Guest* (1858-64) purchased from Vizetelly on 17 October 1859 for £500 ("Maxwell v. Tinsley" 1862: 7). He also oversaw the Shilling Volume Library

series for Ward & Lock, which launched in November 1861 and ran through late 1862 or early 1863, producing close to thirty titles.<sup>1</sup> Maxwell used this series as a venue for reprinting works from the *Welcome Guest* and publishing new works by his loyal contributors. Maxwell's magazine and book series were both reliant as much upon the recycling of literary material as they were on Braddon's speedy production of sensational tales. His tightrope act of producing many new ventures at once to see what would be a "hit" with the mass-market reader forced him into bankruptcy proceedings in October 1862, but he would come back even stronger just a few years later as his personal and professional partnership with Braddon came to fruition.<sup>2</sup>

Maxwell hit the jackpot when he hired Braddon as a staff contributor to the *Welcome Guest*, as her ability to write for multiple markets must have exceeded his wildest expectations. He eventually became proficient at rebranding her down-market novels for more upscale audiences or taking them into different national markets under new titles. To understand how Maxwell developed these publishing practices and made them successful, it is useful to investigate what his copyright disputes tell us about his conceptions of the often vague laws pertaining to reprinting in the periodical press.<sup>3</sup> Between 1860 and 1862, as Maxwell was frantically launching new magazines, he landed in court no fewer than nine times for legal challenges brought by authors and publishers looking to stop his freewheeling reuse of works that were first published in the *Welcome Guest* or sought by him to prevent other publishers from printing works that first appeared in his magazines. Maxwell saw paid contributions to the *Welcome Guest* as seedlings that he could plant wherever he thought they would grow and prosper, whether in his other magazines or in his book series, without seeking permission from or sharing profits with the authors. Indeed, this was his business model. While Maxwell repeatedly failed to convince the court that his right to republish fiction and essays from his magazine superseded the rights of authors to control their own work, this litigation nevertheless shaped the development of his publishing business as well as his partnership with Braddon.

Isabella Alexander characterises the rapidly changing mid-Victorian publishing industry as a clash of "conservative forces" that fought to maintain the traditional structures of the book trade even while "the emergence of new players and new modes of production ... challenged existing hegemony" and questioned "the aim and role of copyright law" (2010: 119). Maxwell was decidedly on the side of the challengers as he repeatedly pushed against the limits of copyright statutes. In this essay, I focus on Maxwell's publication practices as a case study of the ways in which conceptions of copyright took hold in periodical culture, especially in the cheap press. Understandings of copyright often differed among members of the publishing trades and practitioners of the law. As Lionel Bently puts it in his discussion of copyright protections for periodicals, "there was widespread confusion amongst lawyers and sometimes

---

<sup>1</sup> The *Morning Post* for 22 August 1863 mentions the demise of the Shilling Volume Library in its laudatory account of the Tinsley Brothers' cheap edition of Braddon's *Aurora Floyd*, declaring that "the publication of this edition by Messrs. Tinsley derives additional importance from the cessation of the 'Shilling Volume Library,' in which some of Miss Braddon's earlier works appeared" ("*Aurora Floyd*" 1863: 3).

<sup>2</sup> In addition to the *Welcome Guest*, Maxwell published *Temple Bar* (1860-6), *Robin Goodfellow* (July through September 1861), the *Halfpenny Journal* (1861-5), *St. James's Magazine* (1861-8), the *Sixpenny Magazine* (1861-8), *Twice a Week* (1862) and *Every Week* (1862-3).

<sup>3</sup> Due to the Covid-19 pandemic, I was unable to examine records for the relevant Court of Chancery cases housed at the British National Archives. My current analysis is based on press reports, most of which are from the British Newspaper Archive.

utter consternation amongst practitioners in the publishing trade” about what the law actually meant as “lawyers and legal commentators had to interpret existing legal rules and decisions and try to make sense of them” on the fly (2018: 693-4). The law was certainly unsettled and court rulings sometimes contradictory, leaving room for varying interpretations. Given this uncertainty, Will Slauter identifies several overarching questions that merit further scholarly investigation, including: “What role did copyright law play in the realm of newspaper and periodical publishing during the nineteenth century?” and “to what extent did specific concerns of newspaper and periodical publishing shape wider debates about copyright law?” (2018: 584). These questions have guided my consideration of Maxwell’s role in several copyright infringement cases in the early 1860s.

## Copyright Law and the Periodical Press

It is important at the outset to note that Maxwell’s model of reprinting works in multiple formats without necessarily seeking authorial permission was not unheard of, particularly in the penny press where publishers like Edward Lloyd and George Stiff were notorious for repurposing author’s works as they saw fit. However, the accepted practice among respectable publishers was to purchase an author’s copyright outright or to negotiate a profit-sharing agreement to reprint their work in new formats. According to Troy Bassett’s analysis of Bentley and Son’s records, “the largest variable” in “production costs was copyright” (2020: 117). While paper, printing, and advertising were fairly stable expenditures, the purchase of copyright from an author cost Bentley between £20 and £630 depending on reputation of the author and the size of print run (Bassett 2020: 119). In contrast, Maxwell often simply assumed his payment for a contribution to the *Welcome Guest* meant he had a right to republish that work, though at times he did pay those in his employ for the right to reprint specific works, including *Welcome Guest* editor Robert Brough’s *Marston Lynch*, and *Temple Bar* editor George Augustus Sala’s *The Seven Sons of Mammon*.

Was Maxwell driven solely by profit or might other factors have motivated him to reprint his contributors’ work without payment or permission? Maxwell’s tenure at the *Illustrated Times* working alongside literary Bohemians with radical political tendencies likely influenced his lack of respect for authorial copyright protections in favour of public access. Maxwell may also have been applying values he learned in the newspaper business as this was a segment of the marketplace that largely ignored authorial rights and relied instead upon a widely accepted culture of reprinting without permission, often sneeringly referred to as “scissors and paste journalism.”<sup>4</sup> Despite disdain for this commonplace practice in the press, Slauter points out that such indiscriminate “copying enabled news and commentary to spread; it helped editors fill their columns; and it promoted the circulation of literature, visual culture, and practical knowledge” (2018: 583). Bob Nicholson argues that the circulation of jokes in periodicals was akin to the circulation of unsigned newspaper articles in that “once a joke was sold, its writer ceased to have any claim on it; his name would never be printed alongside it, and he would assert no future ownership” (2020: 115). Jokes, like the news, were essentially copyright-free zones largely due to anonymity and repetition. Perhaps this context sheds some light on Maxwell’s tendency to overlook his authors’ rights in favour of the dissemination and reuse of magazine contributions. The problem for Maxwell was that jokes and news reports were not as highly valued by the law or the publishing trades as literary works.

---

<sup>4</sup> See Nicholson (2012), Pigeon (2017) and McGill (2013).

Ronan Deazley argues that the 1710 Copyright Act, often referred to as the Statute of Anne, was aimed at stabilising the book trade while introducing anti-monopolistic practices, but that it also offered “a much broader social focus” intended to advance the “production of useful literature” and the “spread of education” by encouraging “learned men to compose useful books” (2006: 13-14). For Deazley, the statute represents a “pragmatic bargain involving the author, the bookseller and the public” (2006: 14). However, some copyright historians maintain that the 1710 Act lacked a clear and coherent rationale (Lauriat 2016: 24). Its basic remit was to confer the right to print and reprint books, thus protecting booksellers and other members of the book trades from the infringement of their right to publish particular works. Alexander claims that courts were simply adjudicating among competing forces in the marketplace while weighing “concerns for the public interest” without taking any “single, authoritative approach” (2010: 156, 159). Since the Statute of Anne had only conceived of verbatim copies of books being reprinted, the courts were charged with determining what other forms of copying might constitute a violation of copyright, including abridgements, adaptations, translations, and reviews that included extensive quotation (Alexander 2010: 158). The resulting legal disputes were not resolved by the Copyright Acts of 1814 or 1842.<sup>5</sup> In fact, as publishers began to experiment with new literary forms such as periodical serialisation and cheap single-volume reprints, Alexander points out that their “attempts to capture different markets ... spilled over into litigation” as they tried “to persuade the courts to expand their protection” (2010: 195).

Cases of copyright infringement were thus brought before the Court of Chancery where plaintiffs typically sought an injunction to prevent the publication of an offending work.<sup>6</sup> Requesting an injunction was more immediate than seeking monetary damages and became the preferred route for copyright challenges. According to Alexander, the Court of Chancery “required a plaintiff to commence his suit with a Bill, in the nature of a petition, usually addressed to the Lord Chancellor. The Bill could complain of an injury actually suffered, or of a threatened wrong. The Bill required an answer by the defendant” and concluded with a response from the plaintiff (2010: 68). An injunction could be temporary (contingent upon a “full and perfect” answer from the defendant or until a full hearing could be held) or perpetual (if granted following a complete hearing); however, most defendants acquiesced to an initial injunction and few cases proceeded to a full hearing (68). The fact that there was no direct discussion of what constituted infringement in the law meant that judges had a great deal of flexibility in making these determinations. Over time, what was understood to constitute infringement expanded and copyright holders, usually authors or the publishers to whom they granted copyright, were increasingly privileged.

The 1842 Copyright Act had one key provision relating to periodicals that was crucial to Maxwell: section 18. According to Deazley’s “Commentary on Copyright Amendment Act 1842,” section 18 of the law:

---

<sup>5</sup> Slaughter points out that the Literary Copyright Acts of 1814 and 1842 codified the practice of registering a title at Stationer’s Hall to benefit from the “statutory remedies of infringement, but failure to register did not forfeit the copyright” (2018: 587). These Acts also “contained special provisions for magazines, reviews, and ‘periodical publications’” establishing that “it was sufficient to register the first number in order to enjoy the benefits of the statute for all subsequent numbers” (587).

<sup>6</sup> In “Equitable Infringement Remedies Before 1800,” H. Tomás Gómez-Arostegui points out that the Court of Chancery granted injunctions in printing disputes “without express statutory authorization” and it was not until 1862 “that statute expressly empowered courts to grant injunctive relief” (2016: 196).

introduced the first statutory provisions concerning employer-employee copyright relations. The Act set out that where a publisher had employed an author to contribute an essay or an article for publication in an encyclopædia, periodical, review or magazine, then the copyright in the work belonged to the publisher “as if he were the actual author thereof.” There were, however, two important qualifications to this basic position. First, the author could reserve the right of publishing his own work “in a separate form,” either expressly or impliedly, when contracting with the publisher. Second, should the publisher wish to republish the work within twenty-eight years of first publication, he could only do so with the consent of the author (or his assigns); thereafter, the right of publication reverted to the author for the remainder of the copyright term.

(2008: n.p)

Section 18 was criticised by legislators for being written in such obscure language that it was essentially “unintelligible” (Cooper 2018: 662). Indeed, the qualifications to a publisher’s copyright ownership seemed contradictory to some and left at least two grey areas for Maxwell, including what constituted authorial consent for reprinting and what constituted publication in a separate form. Maxwell’s actions indicate that he believed section 18 gave magazine proprietors some leeway in reissuing contributions if they had paid their writers since the provision considered magazine owners figurehead “authors” of collective works. However, the standards applied by the courts favoured actual authors over publishers and interpreted the right to republish in a very strict manner that prohibited anything other than reprinting entire issues of magazines. According to Elena Cooper, section 18 was widely debated throughout the second half of the nineteenth century and its impact on the periodical industry is worthy of further study (2018: 662). Alexander argues that in addition to focusing on the legal “pleadings, writs, and judgements,” scholars should also examine “the humans behind them, the economic forces at work on them, the ideas and ideologies encircling them” (2016: 194). Heeding these calls, I will consider broader cultural forces that may have influenced Maxwell’s insistence on of his right to reprint works published in his magazines before examining press accounts of three Chancery suits to determine how they shaped Maxwell’s publishing practices.

## **Maxwell’s Radical Conception of Copyright**

Political radicals objected to what they saw as increasingly generous terms for authors established in the 1814 and 1842 Copyright Acts because they believed extending the term of copyright would constrain freedom of the press (Feather 1994: 143). The Copyright Act of 1814 advanced the cause of authors by expanding the duration of copyright to 28 years or the author’s lifetime, thus placing “the author at the very centre” of the publishing enterprise (Feather 1994: 124). The 1842 Act increased protections to 42 years from publication, extending beyond the author’s death. Catherine Seville points out that the opponents of prolonging authorial copyright feared “that presses would grind to a halt, and that books would become very scarce and expensive” (1999: 23). Those with radical sympathies also thought that “political repression followed from suppression of knowledge” since “educated people would be better able to play a responsible political role” (46). These activists supported cheap books for the masses as essential and condemned all so-called taxes on knowledge, which included the stamp, advertising, and paper duties, that were believed to curtail the circulation of affordable reading material. Seville argues that copyright itself was seen as a kind of tax on knowledge that was harmful to the working classes: “copyright was no longer a simple matter of rewards for authors, it was a deeply political issue” (1999: 47).

When the stamp tax was reduced in 1836, the circulation of newspapers did indeed begin to rise. Slaughter states that by 1856, the year after the tax was finally repealed, newspaper circulations had increased by as much as 70% (2019: 149). *The Times* feared that the market would be flooded with piratical papers if all taxes were abolished; however, the culture of reprinting had already come to dominate the news. While literary contributions were considered off limits, copying news stories was widely accepted, especially if credited to the original outlet or aimed at a different readership. Whether copying news from one source to another was considered “harmful, innocuous, or even beneficial” depended upon “who was copying, how soon they were doing it, whether they cited the sources, and where they were located in relation to one’s own customers” (Slaughter 2019: 9-10). Despite a general acceptance of the appropriateness of reprinting news items, Slaughter reports that some publishers sought protection for “the labor and investment that went into collecting and distributing news, regardless of whether such a property right was actually recognised by the law” (2019: 8). This echoes Maxwell’s approach to magazine publishing given that his aim was to protect original literary material curated within the pages of the *Welcome Guest*.

*The Times* sought to justify copyright protection for reporting “based on the expense and coordination involved” in compiling the news (Slaughter 2019: 161). In April 1855, *The Times* urged the House of Commons to “protect their investments against unfair competition,” arguing that gathering information from all over the world cost a great deal of money and involved processes such as “weeding, deciphering, interpreting, composing, and correcting” for which they deserved protection (qtd. in Slaughter 2019: 161). However, this was a losing battle. According to Slaughter, *The Times* increasingly found it difficult to compete with the provincial penny papers and its circulation figures declined from 65,000 in 1861 to 49,000 in 1883 as the cheap mass-market weeklies such as *Lloyd’s* and *Reynolds’s* soared to circulations of 100,000 (2019: 166). While the *Welcome Guest* sought to reach many of the same readers targeted by *Lloyd’s* and *Reynolds’s*, Maxwell’s magazine included more literary material than those papers. The literary nature of the *Welcome Guest* put Maxwell in a precarious position as he sought to protect his efforts as a publisher. Despite the failure of arguments in favour of labour and expense as considerations in copyrighting the news, Alexander points out that “literary property debates gave philosophical weight to the notion of labour” but firmly “linked it to the claims of authorial rights” rather to the business of publishing (2010: 181).

In 1853 and 1855 the advertising and stamp duties were repealed, followed in 1861 by the abolition of the duties on paper. The preface to the first bound volume of Maxwell’s *Welcome Guest* – which would have been published in April 1860, about nine months after he took ownership – reflects his vision for the magazine. It is telling that this announcement is shaped around three key issues: copyright, repeal of the paper duty, and the public good:

It may be fairly asserted, in the case of the *Welcome Guest*, that a larger amount of strictly copyright matter was never before offered at its price. And, it is fitting to observe, that under the new order of things certain to arise upon the abolition of the paper duty, the relative superiority and quantity of original recreative literature to be found in the *Welcome Guest* will be maintained.

(“Announcement” 1860: iii)

The claim that the material provided is “strictly” protected by copyright is notable in that it implies that the copyright for anything published in the magazine would be assigned to the proprietor. The announcement boasts that the magazine’s “200 exclusively original contributions ... written by forty-four authors of well-known position, and illustrated by twenty-five artists and engravers” makes the volume equivalent to “the usual three-volume

guinea-and-a-half novel” over which, it is implied, Maxwell is the sole owner (“Announcement” 1860: iii). Likewise, the preface to volume two (released in October 1860) pointedly explains that the “proprietors of the *Welcome Guest* have secured the copyright for this country, and commence the new volume with *The Prairie Flower*,” a serial by French author Gustave Aimard (“Preface” October 1860: iii). Given an 1851 copyright treaty with France that included protection for translations, it is likely that Maxwell had secured Aimard’s copyright and also that he paid a fee to his *Welcome Guest* staff member Lascelles Wraxall for translating the book. Maxwell would go on to give Aimard’s adventure novels a prominent place in his publishing enterprises, which suggests that these volumes were profitable and unencumbered by legal complications.<sup>7</sup> Tellingly, these communications with readers seem designed to bolster Maxwell’s case for copyright ownership rather than to appeal to his audience’s interests.

A further examination of attitudes held in the Bohemian circles in which Maxwell worked sheds light on his insistence that he owned material initially published in the *Welcome Guest*. In *Pirating Fictions*, Monica Cohen explains that the reprint business “was growing expeditiously and democratically through a ripple effect whereby cheaper and more compact reprint formats gradually reached a wider and less affluent readership” reflecting the “antimonopolistic” impulses “of free trade and cheap access” in which “exclusive rights – whether belonging to authors or publishers who purchased the original copyrights – expire after a reasonable amount of time”; however, each successive copyright act throughout the century “put some brakes on the pace of growth in the reprint industry and did so in the name of the author” (2017: 48). Despite the incremental but significant shift toward authorial rights, an alternative narrative of piracy gained strength and prevalence even among authors themselves. As Cohen argues, “many of the same writers who suffered from literary piracy of their fiction also fictionalised maritime pirates not as bloody or fierce renegades but in ways that celebrate them as collaborative storytellers and comedic entertainers” (2017: 2). Perhaps for Maxwell providing eclectic sources of entertainment for the masses in the form of cheap magazines and books (from which he, of course, hoped to profit) was a driving force that outweighed increasingly romanticised notions of authorship. If this seems too generous a notion for a man sometimes accused of paying for manuscripts based on weight rather than quality, perhaps it is not so far-fetched to believe that his views were influenced by his participation in a Bohemian culture that valued collective authorship and collaboration.

Catherine Feely’s study of the journal *The Thief*, a short-lived publication edited by Henry Mayhew along with Gilbert Abbot à Beckett and published by William Strange in the early 1830s, reveals that a literary publication that “brazenly stole from other periodicals” actually set forth a fairly sophisticated rationale for its much derided scissors and paste journalism (2014: 497, 498). Feely argues that the philosophy of the magazine’s Bohemian editors “provides insights into a radical print culture which used piracy as a tool” (2014: 498). The editors argued that with literary thievery running rampant in the press, their publication was at least honest in declaring its practice of borrowing literary material from other sources. Furthermore, they claimed to be “making literature more accessible to the working classes” by using reprinting as an integral “tool of the anti-establishment press” (2014: 501). Maxwell seems to have had a similar affinity for rebellion against more respectable publishing enterprises, particularly when it came to defying one of the driving concepts behind the early

---

<sup>7</sup> For more information on international copyright treaties, see Seville (2006). In his examination of the Bentley and Sons publishing archive, Bassett finds that foreign reprints were very lucrative for the publisher: “in the case of foreign works, Bentley paid either nothing or token amounts” of no more than £20, though translation fees did add to the cost by an additional £20-50 (2020: 117-18).

penny press as a way to disseminate “useful knowledge” to the masses. Indeed, the *Welcome Guest’s* subtitle, “a magazine of recreational reading for all” emphasises entertainment over what could be interpreted as condescending self-improvement. Delivering quality entertainment to a mass audience was Maxwell’s goal, but instead of using humour to critique standard publishing practices or clipping selections from other magazines to fill his pages as *The Thief* did, he maintained that the original material printed in his magazine remained under his control and could be recirculated in new forms for the masses. This way, he could continue to disseminate the contents of his magazines in multiple formats. To see how Maxwell’s approach to periodical copyright played out, I turn to three court cases that reinforce Barbara Lauriat’s point that “popular perceptions of the law” in the period “may have as much historical significance as what the law, in fact, was” (2016: 21). Maxwell’s lawsuits illustrate that periodical publishers sometimes espoused interpretations of copyright law that were in direct opposition to what authors and judges believed was reasonable.

### ***Vizetelly v. Maxwell: Rough-and-Tumble Competition among Magazine Proprietors***

Writer Hain Friswell was at the centre of a convoluted case brought by Henry Vizetelly against defendants Friswell, John Maxwell, and George Vickers in May 1861.<sup>8</sup> Friswell had been a minor contributor to the *Welcome Guest* under Vizetelly’s leadership. Among the articles he submitted to the magazine was one about the murder of a woman by her minister. While Vizetelly did not publish the piece in the magazine, he thought it would be suitable for a book on crime among the upper classes. According to the *Morning Herald*, Vizetelly claimed Friswell submitted a prospectus and that he issued a contract and paid Friswell in November 1859 for a book entitled *Criminal Curiosities* (“Vizetelly v. Friswell” 1861: 7). In March 1861, Vizetelly spotted an advertisement for a work forthcoming from George Vickers with the exact title he claimed to have discussed with Friswell. What’s more, it featured the same essay on the murder of Miss Ray by Reverend Hackman that he had considered for the *Welcome Guest*. According to *The Critic*, Vizetelly sought an injunction “to restrain the defendants, Maxwell and Vickers, from employing Friswell to edit or compose articles for any such work” (“Vizetelly v. Friswell, and Others” 1861: 611-12).

For his part, Friswell agreed that Vizetelly had paid him ten pounds in November 1859. However, Friswell claimed he thought the money was offered for either past or future *Welcome Guest* contributions. The timing of the payment is interesting as Maxwell had already been announced as the new owner of the magazine, so if payment were for future articles they would not have been intended for the *Welcome Guest*. In any case, the *London Evening Standard* asserted that Friswell “positively alleged that no binding contract was ever entered into” and that “the original idea for the work was suggested by him to the plaintiff” and that if part of the payment was intended as pre-payment for the project, it was done without Friswell’s understanding or consent (“Vizetelly v. Friswell” 1861: 7). The *Morning Herald* reported that Vice-Chancellor William Page Wood reviewed the evidence and concluded that the court ought not to interfere with the publication of the work in question since Friswell

---

<sup>8</sup> Maxwell’s publishing partnership with Vickers was mutually beneficial and would continue for at least two decades.

“might well have supposed from the conduct of the plaintiff, that he had given up the idea of bringing out the work, as a long interval had been allowed to lapse between the time they last met upon the subject and the time when the defendant’s work was advertised” (“Vizetelly v. Friswell” 1861: 7). Friswell was thus free to publish with Maxwell and Vickers. In absence of evidence of any specific agreement between Friswell and Vizetelly, the vice-chancellor ruled in favour of the author. While this verdict favoured Maxwell, the same principle would go against him in other cases.

Given the scant evidence in support of Vizetelly’s claim, it is possible that his lawsuit was motivated by his antipathy for Maxwell. A year earlier in March 1860, a violent altercation broke out between Maxwell and Vizetelly’s brother Frederick that resulted in Frederick’s abrupt departure from his staff position at the *Welcome Guest*. As reported in *Reynolds’s Newspaper*, Vizetelly took Maxwell to court for assaulting him. In his testimony, he describes an office brawl that broke out over his failure to post an important editorial letter addressed to contributor Augustus Mayhew. After a battle of words, Frederick claims that Maxwell snuck up behind him, pulled his chair out from under him, grabbed a poker from the fireplace, and threatened to pummel him with it:

I fell, and he knelt upon me, and said he would knock my – teeth down my throat. He then seized me by the beard ... and tore it out at the roots. I grasped the poker in self-defense, and at that instant, the room door opened, and someone came in upon which the defendant let go his hold on the poker, and addressing the person who entered, he said “See, he has taken up the poker against me!”

(“Disgraceful Fracas between Employer and Employed” 1860: 6)

Their combat continued from room to room until Vizetelly admits he struck Maxwell forcefully enough to launch the publisher’s shoulder, along with his own hand, through a glass door. While Maxwell offered to help cleanse the lacerations on his hand, Vizetelly refused assistance and instead reported the event to the police. Maxwell had no opportunity to present a defence as the alderman followed the lead of the policeman on the scene who called the event a “quarrel between gentlemen” and asked the men to shake hands and go their separate ways, to which both parties eventually agreed (“Disgraceful Fracas between Employer and Employed” 1860: 6). This incident highlights the rough-and-tumble publishing world in which Maxwell and the Vizetelly competed.

Maxwell’s victory in the Friswell case must have been particularly sweet given Vizetelly’s disdain for him, which remains apparent more than three decades later in his memoir *Glances Back*. In his book, Vizetelly does not hesitate to declare Maxwell a sucker for purchasing the *Welcome Guest*, noting that, while he started the magazine with the respectable circulation of a hundred and twenty thousand copies, he soon determined that he would not be able to make a profit (Vizetelly 1893: 9-10). Vizetelly explains:

I managed to lose between two and three thousand pounds by it. Mr. John Maxwell (Miss Braddon’s husband), fancying there was still money to be made out of what had promised to be a triumphant success, in an evil moment for himself was daring enough to buy this unlucky *Welcome Guest* from me, and lost another couple of thousand pounds over the publication before he determined to abandon it.

(Vizetelly 1893: 9-10)

Vizetelly's assessment is biting, as is much of his memoir in which he describes many of his former associates as hapless, incompetent, alcoholic, or merely lucky.<sup>9</sup> However, I would disagree with his assertion that the magazine was a failure for Maxwell given its crucial role in giving him access to a team of writers whose work he would fold into his Shilling Volume Library series, a few of whom he would work with for decades to come. Furthermore, owning the *Welcome Guest* facilitated Maxwell's crucial life-long partnership with Braddon and built a foundation for his successful publishing imprint.

### **Mayhew v. Maxwell: The Affirmation of Authorial Rights under Section 18**

Augustus Mayhew is best known for his work with his brother Henry on *The London Labour and the London Poor* (1851) and his novel based on that journalistic experience, *Paved with Gold, or the Romance and Reality of the London Streets* (1858). He was also a staff contributor to the *Welcome Guest*, which featured his serials *Blow Hot, Blow Cold* and *The Finest Girl in Bloomsbury*.<sup>10</sup> In December 1860 Mayhew requested an injunction against Maxwell and his associates at Ward & Lock for the republication of "The Fifth Wedding Ring" included in the 1858 *Welcome Guest* Christmas number *The Wedding Rings of Shrimington-Super-Mare*. As *The Critic* put it, Mayhew "the well-known author" and Maxwell "the speculative publisher" appeared in court where Maxwell argued that he had the right to include Mayhew's story in his Shilling Volume Library reprint of the Christmas issue because he was the copyright owner ("Mayhew and Maxwell" 1860: 720). Mayhew was outraged when he spotted an advertisement in the *Welcome Guest* for *The Wedding Rings, and Some Stories about Those Who Wore Them for Better or for Worse* to be published by Ward & Lock. He testified that "his tale was not composed upon terms that the copyright in it should belong to the proprietor of the *Welcome Guest* so as to enable him to publish it in separate form" ("Mayhew and Maxwell" 1860: 720). Maxwell's lawyers protested the requested injunction, arguing that as the proprietor of the *Welcome Guest* he was entitled to republish the Christmas issue "as he liked, and at a different price, and in a different shape" ("Mayhew and Maxwell" 1860: 720). The press reported the case widely because it was immediately recognised as an important precedent for copyright law applicable to the controversial section 18 of the 1842 Copyright Act.

Maxwell was not alone in interpreting section 18 as protecting his ownership of the material printed within his magazine, as long as contributors had been compensated for their work. Cooper points out that Vice-Chancellor Sir John Leach ruled in *Barfield v. Nicholson* (1824) that section 18 was reliant upon the idea that a collective work like a magazine "would not be sustainable unless there was protection for the interests of the publisher" who paid for the contributions and took on the expense and risk of publication (2018: 664). Thus, as Lord Justice Vaughan Williams later concluded in *Lawrence & Bullen v.*

---

<sup>9</sup> While writing *Glances Back*, Vizetelly suffered from a mysterious ailment as well as financial duress. He applied to the Royal Literary Fund for assistance on three occasions between 1891 and 1893 despite the income from his memoir (Kirkpatrick 2016: 444).

<sup>10</sup> *Blow Hot, Blow Cold* ran from 17 December 1859 through 17 March 1860 (*Welcome Guest*, vol. 2: 12-25) and *The Finest Girl in Bloomsbury* ran from 14 June 1860 to 12 January 1861 (*Welcome Guest*, vol. 2:, 42-53 and vol. 3: 54-68).

*Aflalo* (1903), section 18 reinforced “the principle ... that the publisher was the author” of the overall “plan and scheme” of a work, thus providing “the claims of the publisher with an authorial justification” (2018: 664). The notion that a publisher, upon paying for a periodical contribution, represented the author was, however, severely constrained by the fact that “the contributor retained control over the publication of the contribution in separate form despite the vesting of ‘property’ in the publisher” (Cooper 2018: 665). The *Mayhew v. Maxwell* decision by Sir William Page Wood confirmed that section 18, despite naming publishers or proprietors as copyright holders, only maintained their right to each periodical issue in its full original form with its exact contents intact. Given that a periodical issue was highly unlikely to be reprinted in full at a later date, this ownership may have prevented other publishers from copying entire issues of periodicals, but it did not allow proprietors to repurpose individual contributions.

*Saunders’s Newsletter and Daily Advertiser* reported that Maxwell’s case hinged on the argument that the Shilling Volume Library edition was essentially a republication of the *Welcome Guest* Christmas issue even if the title differed from the original (“*Mayhew v. Maxwell*” 1860: 1). Indeed, Maxwell claimed that advertisements in the *Welcome Guest* acknowledged it as a reprint of the Christmas number and that it was published “in much the same form” despite being encased in “fancy boards” (“*The Welcome Guest in Chancery*” 1860: 3). The fact that the *Welcome Guest* was registered at Stationer’s Hall and Mayhew’s story was not remained a point of contention for Maxwell. However, Vice-Chancellor Wood quickly dismissed this line of reasoning, declaring that registering a work did not alter the requirement that authorial permission be obtained in order to legally reprint the story in a new format. Indeed, the presumption of joint ownership of the material published in the magazine under section 18 gave protections to both Maxwell and Mayhew, though Mayhew’s was more wide-ranging as it went beyond the magazine issue. Vice-Chancellor Wood upheld Mayhew’s right to seek an injunction, declaring that “there had been no assignment of the copyright; the author had not given his consent, and therefore the proprietor could not publish the tale ... otherwise than as part of the Christmas number of the *Welcome Guest*” (“*Mayhew and Maxwell*” 1860: 720). The Vice-Chancellor also ordered a hearing and ultimately issued a perpetual injunction in February 1861, which emphasised the importance of the case (“*Mayhew v. Maxwell*” 1861: 7).

This ruling had consequences for other periodical editors, owners, and publishers. In a November 1863 suit involving the *London Journal*’s unauthorised reissue of stories originally published in the magazine in 1849 as *The Chronicles of Stanfield Hall* by John Frederick Smith, Vice-Chancellor Sir John Stuart cited the *Mayhew v. Maxwell* case as a precedent establishing that “the proviso in the 18<sup>th</sup> section of the Copyright Act ... was intended to benefit and protect authors” and was “wisely so construed” when Vice-Chancellor Wood determined that it did not “vest in the proprietors or publishers of periodical works an absolute right to the productions contributed for those works, but only a license to use such productions for a particular purpose” agreed to by the author (“*Authors’ Rights: Smith v. Johnson*” 1862: 8). Thus, in both the case of the *Welcome Guest* and of the *London Journal* “they could not now publish” any tales previously included in the magazines “singly” or in any way “separately or apart from” the magazine issue in which they originally appeared without receiving the author’s consent (“*Authors’ Rights: Smith v. Johnson*” 1862: 8). According to the *Morning Herald*, the lawyers for the *London Journal* put on a vigorous defence, arguing that under section 18, the author “had no copyright; his only right was to prohibit any publication in a separate or single form” without other stories or literary material, whereas in this case the defendants published “in a supplementary form parts of the tales, just as if they were published

for the first time, though not always conjoined as they were in the first instance” (“Smith v. Johnson and Wilson” 1863: 7). The argument that reprinting was acceptable if it was within the same magazine to which the author first contributed the selection was not successful and the precedent set in *Mayhew v. Maxwell* prevailed. This was a resounding victory for authorial rights and a repudiation of the claims of periodical proprietors under section 18.

Despite the positive outcome of *Mayhew v Maxwell* for authors, Cooper highlights many later calls for revisions to section 18 based on the perception that authors did not have adequate protections for their periodical contributions. The 1875-8 Royal Commission, the 1890s Society of Authors, and the 1898 Copyright Association each indicated that despite the precedent set in *Mayhew v. Maxwell* and its reiteration in the case of *Smith v. Johnson and Wilson*, the law remained unsettled (Cooper 2018: 666-9). Both authors and publishers continued to be uncertain about who could reprint a work separately from its original periodical context. Was it only the publisher who was required to seek permission from a periodical contributor or did a contributor also have to seek permission from a publisher during the initial 28-year period of joint ownership? While the courts may have been consistently ruling in favour of authorial rights, authors were still not confident that they had full control of their literary productions.<sup>11</sup> In an 1892 editorial, art and literary critic Harry Quilter asserted that an author’s

right to prevent the publisher from reprinting in a separate form has been expressly declared by the law not to be “copyright” (*Mayhew v. Maxwell*) ... but there is one point so strange, and on first sight, so unreasonable in the legal practice as to be worth stating. This is, that though the author can prevent separate publication of his article by the proprietor thereof, he cannot prevent its publication by anyone else. And we are, therefore, met by this seeming paradox, that the only men who may not publish the article separately are the author who wrote and the proprietor who paid for it. The paradox is, of course, only a seeming one; for the proprietor can prevent what the author cannot, and it is the right which more than anything else proves that the law considers him to be the owner of the copyright. I would merely remark, in conclusion, that many writers ignore, and editors and publishers seldom enforce, the law on this subject.

(1892: 6)

Section 18 thus perpetuated an untenable situation in which authors had sole right to reprint, but proprietors still held the copyright and neither had full control over republication. Yet, as Quilter admits, in practice authors were protected by established industry practices and, in the cases of *Mayhew v. Maxwell* and *Smith v. Johnson and Wilson*, by court rulings as well.

Maxwell’s attempts to repackage Mayhew’s Christmas story appear to have ended Mayhew’s relationship with the *Welcome Guest*. Throughout the late fall of 1860, when Mayhew would have understood that Maxwell intended to republish his story without permission, his serial *The Finest Girl in Bloomsbury* began to falter, appearing only sporadically between October 1860 and January 1861, when it finally concluded. After this, Mayhew published no additional work in the magazine. But by this time, Maxwell had found a willing partner in Braddon who would generate a continuous stream of high quality and engaging material for his magazines, the Shilling Volume Library, and, ultimately, for John Maxwell & Co. publishers.

---

<sup>11</sup> In their 1897 copyright bill, the Society of Authors recommended that “in the case of contributions to reviews, magazines, or other periodicals, copyright would be owned by the author, with the proprietor ... merely acquiring ‘the sole right of publishing the same as part of the review, magazine or periodical but not otherwise’” (Cooper 2018: 674). This was essentially the rule established in *Mayhew v. Maxwell*.

### **Maxwell v. Tinsley: G. A. Sala Plays Both Sides**

Upon purchasing the *Welcome Guest* from Vizetelly, Maxwell contended that he held the copyright to everything in the magazine except a few specific essays and Sala's *How I Tamed Mrs. Cruiser* ("The Law of Copyright" 1862: 3). He further claimed to have purchased separately from Sala the rights to works included in *The Ship Chandler*, a book he published as volume 17 of the Shilling Library in May 1862 ("The Law of Copyright" 1862: 3; Advertisement for *The Ship Chandler* 1862: 4). When Maxwell learned on 14 July 1862 that the Tinsley Brothers were publishing Sala's *Accepted Addresses*, a book that featured several of the same selections included in his own volume, he asserted that this "was an infraction of his copyright in the *Welcome Guest*" and sought an injunction "to restrain Messrs. Tinsley Brothers from publishing, selling, or otherwise disposing of" the *Welcome Guest* stories that made up about a third of *Accepted Addresses* ("Messrs. Tinsley Brothers ..." 1862: 59).<sup>12</sup> The Tinsley brothers were adamant that they had the exclusive right to publish a volume of Sala's contributions to the *Welcome Guest* because in February 1862 Sala had sold them "all his copyright estate and interest, present and future, vested and contingent" (1852: 59). Furthermore, they declared that Sala had officially signed these works over to them at Stationer's Hall in July of that year.

Maxwell's case once again relied upon an understanding of section 18 that gave reprinting rights to magazine proprietors despite his definitive loss in the Mayhew suit. However, this time his claim was bolstered by a declaration stating that during the 28 years of joint ownership, neither the magazine owner nor the author "could publish the article separately without the consent of the other," thus implying that Sala had no right to consent to the Tinsley reprint on his own ("Maxwell v. Tinsley" 1862: 4). In addition, Maxwell insisted that he had previously obtained permission from Sala to republish his work as a part of the Shilling Volume Library but no documentation of that agreement was presented to the court ("Maxwell v. Tinsley" 1862: 6). *The Critic* reported that the night before appearing in court, Maxwell obtained an affidavit from Sala expressing uncertainty about his right to sell his essays from the *Welcome Guest* ("Messrs. Tinsley Brothers ..." 1862: 59). As a result of this dramatic turn of events, Maxwell's lawyer "rested the whole case on Mr. Sala's doubt as to his ownership in what he had taken to market" (1862: 59).<sup>13</sup> This underscores the continuing confusion over what was really meant by "joint ownership" outlined in section 18. According to the *Morning Advertiser*, Sala considered his work in the *Welcome Guest* as "dead-lock copyright," held by both "the proprietor of the publication and the author" just as Maxwell's lawyers argued ("The Law of Copyright" 1862: 3). However, while Sala agreed that Maxwell might have a joint right to his work originally printed in the *Welcome Guest*, he denied selling the copyright of *The Ship Chandler* to Maxwell.

---

<sup>12</sup> The works in question include Sala's "The Perfidy of Captain Slyboots," "The Murderous Ischvostchik," "The Journeyman Carpenter," "Quelk, Circumnavigator," "Poor Robin Redbreast," "Montaulieu," and "About Shrimington."

<sup>13</sup> According to Gómez-Arostegui, it was commonplace for a copyright injunction case to include several detailed affidavits supporting or countering the merits of a complaint. These sworn statements "functioned as the principle method for obtaining testimony" (2016: 200, 206). A Chancery hearing was essentially "a bench trial decided on written proofs," including sworn answers, depositions recorded by agents of the court, and documentary evidence such as newspaper advertisements (210). The hearing consisted primarily of the reading of documents into court records with the counsel on each side debating the claims and presenting closing arguments prior to the court's ruling.

An affidavit from Vizetelly further damaged Maxwell's case by claiming "that in selling the *Welcome Guest*" he "most particularly and repeatedly informed Mr. Maxwell" that he "had no right or interest whatever in any of Mr. Sala's articles that had appeared in the *Welcome Guest* any more or otherwise than forming a part of the *Welcome Guest*" ("Messrs. Tinsley Brothers ... " 1862: 59). All three cases discussed in this essay were based on the republication of work that was originally obtained by Vizetelly rather than Maxwell. This raises the question of whether Maxwell may have reasonably assumed that he had gained rights to each of these works upon purchasing the *Welcome Guest*. Indeed, Sala's affidavit casts Vizetelly's statement in a different light. Sala apparently consulted with Vizetelly about whether he had any "legal right to cede his share" in the ownership of his copyright for the *Welcome Guest* selections and Vizetelly told him that he had permission to do so because, when he sold "the copyright of the *Welcome Guest*" to Maxwell, "he had reserved to himself all the copyright in the said several tales" ("The Law of Copyright" 1862: 3). In other words, Vizetelly, like Maxwell, purported to hold a stake in the copyright of the early *Welcome Guest* contributions that would require his consent to republish. The details of the sale were not put in writing so, as was often the case, it was one man's word against the other. Both Vizetelly and Maxwell continued to assert copyright ownership in the face of rulings that clearly denied their right to reprint selections without explicit authorial consent. They now claimed joint ownership as a means of approving or denying an author's decision to reprint in a new form.

Heightening an already complex situation was the fact that at this time Sala was still in Maxwell's employ as editor of *Temple Bar* (1861-3). Peter Blake colourfully imagines "these two bohemians," Sala and Maxwell, celebrating the potential for a "generous return" on *Temple Bar* over "cigars and brandy" as they realised "that the momentum provided by the *Cornhill* meant that the market was ripe for another shilling monthly" (Blake 2010: 189). While neither man got rich off of *Temple Bar*, Sala's reliance on Maxwell for a steady and lucrative income as editor may have induced him to make a statement on Maxwell's behalf, even if turned out to be equivocal and unconvincing.<sup>14</sup> Whether or not Sala sold his copyright twice – to both Maxwell and the Tinsleys – remains an open question. Sala was notoriously erratic and a terrible manager of his own finances, so it is conceivable that he might do so.

Blake paints a rather rosy picture of the Sala-Maxwell relationship given the grouching Sala did about Maxwell behind the scenes. In his letters to Edmund Yates, his sub-editor for *Temple Bar*, Sala disdainfully calls Maxwell a liar, a conman, and a thief as well as using unflattering nicknames for his boss such as McSwell and Don Duffero (*Letters of G.A. Sala* n.d.: 91-5). He also threatens to quit his editorship several times and wishes for the hastening of Maxwell's bankruptcy (*Letters of G.A. Sala* n.d.: 96-7). Yet, he was clearly reliant upon Maxwell financially, which probably accounts for his bitterness. In December 1861, Sala convinced Maxwell to sell back the copyright for his novel *The Seven Sons of Mammon* for £100, which he immediately sold to the Tinsleys for a profit (Edwards 1997: 74). Sala and Maxwell both had volatile personalities, but they would maintain a social relationship for decades to come, probably due in large part to Braddon's efforts.

---

<sup>14</sup> P.D Edwards points out that Sala garnered £250 per year for his contributions to *Temple Bar*, which was more than Braddon received from Maxwell at the time (1997: 74). *The Times* reported that Mrs. S.C. Hall was earning an annual salary of £150 for her editorship of Maxwell's *St. James's Magazine*, which was likely less than he would have offered Sala for the same job ("Maxwell v. Hurst." 1862: 11). Thus, Sala may have been earning as much as £400-500 per year from his work on *Temple Bar*.

Ultimately, Sala's doubts about his own rights did not sway Vice-Chancellor Stuart who rejected Maxwell's request for an injunction. Not surprisingly, the ruling reaffirmed the precedent set in *Mayhew v. Maxwell* that joint proprietorship allowed an author to republish their work separately but a magazine proprietor could only reprint it in the exact format in which it first appeared ("Maxwell v. Tinsley" 1862: 4). Not only was Maxwell's request for an injunction denied, but he was also ordered to pay court expenses for the Tinsley Brothers ("Maxwell v. Tinsley" 1862: 6). The Tinsleys did not seem to be concerned that Maxwell had already profited from his own reprint of Sala's *The Ship Chandler* as their new edition would likely attract a higher class of readers.

### **Maxwell's Bankruptcy and Rebirth as a Publisher of Three-Volume Novels**

Over the course of 1861 and 1862, a majority of the works Maxwell curated for the Shilling Volume Library were directly reprinted from the *Welcome Guest* or penned by the magazine's contributors. An 1861 full-page advertisement in *The Athenaeum* marketed the Shilling Volume Library alongside other Maxwell/Ward & Lock collaborations, including the *Sixpenny Magazine*, *Temple Bar*, and Aimard's *Tales of Indian Life and Adventure*. Echoing Maxwell's announcement of his first volume of the *Welcome Guest*, the series was touted as a triumph of the repeal of the paper duty that would "present the buyer with the utmost possible value in both quantity and quality" (Advertisement for the Shilling Volume Library 1861: 752). By June 1862, the series contained 23 titles, which it disingenuously claimed "were never before printed" (Advertisement for the Shilling Volume Library 1862: 779). Of the titles listed, two had recently been serialised in the *Welcome Guest* (Braddon's *Lady Lisle* and E. P. Rowell's *Recollections of a Relieving Officer*) and two story collections were largely derived from works published in the magazine (Braddon's *Ralph the Bailiff and Other Stories* and Sala's *The Ship Chandler*). A handful more were penned by *Welcome Guest* contributors, including three works by William Russell written under the pseudonyms of Waters and Lieutenant Warneford; two translations and one original work from Lascelles Wraxall; and one volume each from Percy Fitzgerald, Hain Friswell, and Robert Williams Buchanan, whose *Storm Beaten* was originally co-written with another uncredited Maxwell acolyte, Charles Gibbon. Thus, Maxwell successfully leveraged his magazine ownership to gain access to Ward & Lock resources for publishing the authors he had cultivated.

Just three years into his "speculative" publishing ventures, Maxwell had stretched beyond his means and was forced to declare bankruptcy, bringing about the demise of his Shilling Volume Library collaboration with Ward & Lock. However, he quickly bounced back with his own publishing imprint, John Maxwell & Co., in 1863. He now targeted a higher circulating library audience, though he continued to use *Welcome Guest* stalwarts: Aimard, Braddon, Fitzgerald, Gibbon, and Sala prominent among them. In addition, he reissued some of the books he had published with Ward & Lock but geared them toward more elite readers. He also made an effort to recruit women writers, who had been scarce in the *Welcome Guest*. Bassett's research shows that Maxwell had one of the strongest records of publishing female authors; women wrote 58.8% of the John Maxwell and Co. titles (2020: 68). Braddon was the third most prolific writer of multi-volume fiction throughout the century with 51 titles – nearly tied with Florence Marryat's 53 but still well behind Margaret Oliphant's 71 novels (Bassett 2020: 42). However, Braddon was not solely responsible for Maxwell's publication of a large percentage of books by women. He actively cultivated writers like Mary Cecil Hay, Dora Russell, and Rita (a.k.a. Mrs. Desmond Humphries).

As a part of his bankruptcy settlement, Maxwell was forced to sell his prized magazines, including the *Welcome Guest*, the *Halfpenny Journal*, *Temple Bar*, and *St. James's Magazine*. These brought in £6,000, a sum applied to his total debt of £20,000 which was required to be paid “one half in cash” immediately and “one half in three to six months” (“Trade News” 1862: 188; “Money and Market Intelligence” 1862: 7). He lost his home, including all of his furniture, the proceeds of which went toward the amount owed; however, the fact that “the accounts of the firm were announced to have been satisfactorily kept, and the drawings of the debtor ... reasonable” was at least one point in Maxwell’s favour as he sought to revive his business (“Trade News” 1862: 188). He was ordered to assign all proceeds from his estate to his creditors John Hodge (wholesale stationer), James Edwards (printer), and Richard Tanner (wholesale stationer) (“Notice [of Maxwell Bankruptcy]” 1862: 6347). While the remaining details are unclear, Maxwell apparently worked out deals with George Vickers and Ward & Lock that allowed him to maintain some control over – and some share of the profits from – the magazines he once owned.<sup>15</sup>

Maxwell’s aggressive business tactics along with his romantic relationship with Braddon were the keys to his continuing success.<sup>16</sup> When in April 1863 Braddon gleefully reported to Edward Bulwer-Lytton that she sold *Eleanor's Victory* and *John Marchmont's Legacy* “at the highest rate to be screwed out of a publisher for the class of book I can write,” there is no doubt that it was Maxwell who turned the screws (“Devoted Disciple” 1974: 13). He negotiated remarkable deals for these novels with the Tinsley Brothers, securing £4,000 and retention of the copyright after two years – a deal that is even more remarkable given that he had so recently fought against them in court (Carnell 2000: 149). But Maxwell was much more than an effective negotiator. Through his partnership with Braddon, he was able to maintain an impressive if unheralded publishing business that would span the entire literary marketplace, appealing to both working and middle-class audiences with an array of periodicals, three-volume novels, and yellowbacks. Graham Law outlines Maxwell’s prescient contracts with new literary syndicates in the 1870s, noting that his trailblazing arrangements not only insured Braddon’s payment from the provincial press and international outlets but also provided a new model for the publication of fiction (2000: 43).

---

<sup>15</sup> Topp notes that Maxwell’s “relations with Ward, Lock, & Tyler lead one to believe that his company became a subsidiary of the latter.” In addition to joint advertisements in the *Athenaeum* for John Maxwell & Co. and Ward & Lock in 1863, and Ward, Lock, & Tyler in 1864 and 1865, Topp surmises that Maxwell “went into receivership in 1862 and in December of that year executed a deed of assignment of his estate and effects” to the publisher (2003: xxvii). Similar circumstantial evidence indicates that Maxwell handed the *Welcome Guest* off to George Vickers & Co. Topp claims that in 1878 John & Robert Maxwell publishing was affiliated with Vickers and that “both companies” were likely “under the Ward, Lock, & Co. umbrella” (xxvii).

<sup>16</sup> Maxwell and Braddon benefitted financially from the fact that they were unable to marry prior to his declaration of bankruptcy since he was legally married to another woman. This protected the profits from Braddon’s first three novels, *The Trail of the Serpent* (reprinted by Maxwell in 1861 after having been a dud in its original serialisation under the title of *Three Times Dead* in 1860), *Lady Lisle* (serialised in the *Welcome Guest* and published in Ward & Lock’s Shilling Volume Library in 1861), and *Lady Audley's Secret* (begun in Maxwell’s magazines *Robin Goodfellow* and reserialised and completed in the *Sixpenny Magazine* in 1861).

Maxwell's savvy publishing practices were not hailed by all. They earned him a nasty reputation as a manufacturer of cheap novels for the halfpenny press who operated more like a factory owner than a publisher ("The Manufacture of Novels" 1867: 354). In a series of snide editorials in the *Athenaeum* between 16 February and 18 March 1867, Maxwell was taken to task for his practice of publishing novels under unique titles for various markets – both for different classes of readers and in different nations. One writer accuses Maxwell of relying on "a patchwork of many hands" to produce his literary fare, as if his authors were merely cogs in a machine ("The Manufacture of Novels" 16 March 1867: 354). The accusation that Braddon was a hack writer underlies these complaints and Maxwell did not hesitate to forcefully defend his partner. Discussing a reprint of Braddon's *The Black Band* issued under another title in the United States, Maxwell argues that the novel "will one day challenge criticism" by proving itself to be a book "of a strong and popular interest quite as worthy of republication as any of the tales reproduced from halfpenny and penny journals by Messrs. Hurst & Blackett, and by other equally well-esteemed novel publishers" ("The Manufacture of Novels" 23 March 1867: 387). Hurst & Blackett and Tinsley and Brothers were competitors with whom Maxwell would gladly have been associated.

Despite attracting the disdain of the literary elite, Maxwell was a real contender in the mid-Victorian publishing world. In fact, he ranked a respectable ninth among producers of multi-volume novels between 1861 and 1870, producing 42 titles (3.2% of the market) just behind the well-known Smith, Elder with 55 titles (4.3% of the market) (Bassett 2020: 59). Hurst and Blackett dominated the business with 244 titles (19.1%) while the Tinsley Brothers maintained second place with 180 titles (14.1%) (Bassett 2020: 59). Astonishingly, Maxwell's best year as a publisher of multi-volume novels was 1864, just two years after his bankruptcy. According to Bassett, Maxwell was the second highest producer of three-volume novels that year with 18 titles to Hurst and Blackett's 26 (63). Though the upstart Irishman continued to be regarded as an outsider, or even as a bit of a scoundrel, Braddon referred to him as "the masterful John Maxwell" for his part in managing her long and successful career (Carnell 2000: 137). Indeed, it was Maxwell's insistence on getting the most mileage out of every publication that enabled Braddon's emergence as a literary powerhouse and, in turn, allowed the couple to live comfortable lives and leave a substantial legacy to their children.

As their son W.B. Maxwell concluded:

my father ... was very prosperous, but he never made the tremendous profits that nowadays are possible ... On the other hand, ... he annually gathered enough to maintain the whole cost of our family life, and thus my mother was enabled to put by all her earnings.

(*Time Gathered* 1938: 162-3).

In the face of many legal failures and a potentially catastrophic bankruptcy, Maxwell's gambles ultimately paid off. By aggressively pushing the boundaries of copyright law, creatively navigating the terms of his bankruptcy, and effectively marketing his authors to a variety of audiences in multiple forms, Maxwell clawed his way to the top of the publishing industry. Together, he and Braddon forged one of the most productive husband and wife publishing partnerships of the century.

## Bibliography

- Advertisement for the Shilling Volume Library. 1861. *The Athenaeum* (7 December): 752.
- Advertisement for the Shilling Volume Library. 1862. *The Athenaeum* (14 June): 779.
- Advertisement for *The Ship Chandler*. 1862. *Saunders's Newsletter and Daily Advertiser* (29 April): 4.
- Alexander, Isabella. 2010. *Copyright Law and the Public Interest in the Nineteenth Century*. Oxford: Hart Publishing.
- Alexander, Isabella. 2016. "Determining Infringement in the Eighteenth and Nineteenth Centuries in Britain: 'A Ticklish Job.'" In *Research Handbook on the History of Copyright Law*, edited by Isabella Alexander and H. Tomás Gómez-Arostegui, 174-94. Cheltenham, UK: Edward Elgar.
- "Announcement." 1860. *Welcome Guest*. Volume one, second series: iii-iv.
- "Aurora Floyd." 1863. *Morning Post* (22 August): 3.
- "Authors' Rights: Smith v. Johnson." 1862. *Sheffield Daily Telegraph* (21 November): 8.
- Bassett, Troy. 2020. *The Rise and Fall of the Victorian Three-Volume Novel*. London: Palgrave Macmillan.
- Bently, Lionel. 2018. "The Confusion, Uncertainty, and Dissatisfaction with the Legal Protection of Newspaper and Periodical Titles in Nineteenth-Century England." *Victorian Periodicals Review*, 51.4: 692-715. DOI: <https://doi.org/10.1353/vpr.2018.0050>
- Blake, Peter. 2010. "The Paradox of a Periodical: *Temple Bar Magazine* Under the Editorship of George Augustus Sala (1860-1863)." *London Journal*, 35.2: 185-209. DOI: <https://doi.org/10.1179/174963210X12729493038414>
- Carnell, Jennifer. 2000. *The Literary Lives of M.E. Braddon*. Hastings: Sensation Press.
- Cohen, Monica F. 2017. *Pirating Fictions: Ownership and Creativity in Nineteenth-Century Popular Culture*. Charlottesville: University of Virginia Press.
- Cooper, Elena. 2018. "Copyright in Periodicals during the Nineteenth Century: Balancing the Rights of Contributors and Publishers." *Victorian Periodicals Review*, 51.4: 661-77. DOI: <https://doi.org/10.1353/vpr.2018.0048>
- Deis, Elizabeth J. 1991. "John Maxwell." In *Dictionary of Literary Biography: British Literary Publishing Houses, 1820-1880*, edited by Patricia J. Anderson and Jonathan Rose, 200-3. Detroit and London: Gale Research.
- Deazley, Ronan. 2006. *Rethinking Copyright: History, Theory, Language*. Cheltenham, UK: Edward Elgar.
- Deazley, Ronan. 2008. "Commentary on *Copyright Amendment Act 1842*." In *Primary Sources on Copyright (1450-1900)*, edited by L. Bently & M. Kretschmer. Accessed through: [www.copyrighthistory.org/cam/tools/request/showRecord.php?id=commentary\\_uk\\_1842](http://www.copyrighthistory.org/cam/tools/request/showRecord.php?id=commentary_uk_1842)
- "Disgraceful Fracas between Employer and Employed." 1860. *Reynolds's Newspaper* (11 March): 6.
- Edwards, P. D. 1997. *Dickens's Young Men*. Aldershot: Ashgate.
- Feather, John. 1994. *Publishing, Piracy and Politics: An Historical Study of Copyright in Britain*. London: Mansell Publishing.
- Feely, Catherine. 2014. "'What say you to free trade in literature?' *The Thief* and the Politics of Piracy in the 1830s." *Journal of Victorian Culture*, 19.4: 497-506. DOI: <https://doi.org/10.1080/13555502.2014.967545>
- Gómez-Arostegui, H. Tomás. 2016. "Equitable Infringement Remedies Before 1800." In *Research Handbook on the History of Copyright Law*, edited by Isabella Alexander and H. Tomás Gómez-Arostegui, 195-227. Cheltenham, UK: Edward Elgar.
- Kirkpatrick, Robert J. 2016. *Pennies, Profits and Poverty: Biographical Directory of Wealth and Want in Bohemian Fleet Street*. London: Robert J. Kirkpatrick.

- Lauriat, Barbara. 2016. "Copyright History in the Advocate's Arsenal." In *Research Handbook on the History of Copyright Law*, edited by Isabella Alexander and H. Tomás Gómez-Arostegui, 7-26. Cheltenham, UK: Edward Elgar.
- Law, Graham. 2000. *Serializing Fiction in the Victorian Press*. Basingstoke: Palgrave.
- "The Law of Copyright." 1862. *Morning Advertiser* (1 August): 3.
- "The Manufacture of Novels." 1867. *The Athenaeum* (16 March): 354; (23 March): 387.
- "Maxwell v. Hurst." 1862. *The Times* (18 February): 11.
- "Maxwell v. Tinsley." 1862. *Daily Express* (26 July): 4.
- "Maxwell v. Tinsley." 1862. *Morning Herald* (London) (25 July): 7.
- "Maxwell v. Tinsley." 1862. *Morning Post* (25 July): 6.
- "Mayhew and Maxwell." 1860. *The Critic* (8 December): 720.
- "Mayhew v. Maxwell." 1860. *Saunders's Newsletter and Daily Advertiser* (7 December): 1.
- "Mayhew v. Maxwell." 1860. *The Times* (6 December): 10.
- "Mayhew v. Maxwell." 1861. *Morning Post* (23 February): 7.
- Maxwell, W. B. 1938. *Time Gathered*. New York: D. Appleton-Century Co.
- "Messrs. Tinsley Brothers, John Maxwell, Henry Vizetelly, and G.A. Sala." 1862. *The Critic* (August): 59.
- "Money and Market Intelligence [Maxwell Bankruptcy]." 1862. *The Times* (7 November):
- McGill, Meredith L. 2013. *American Literature and the Culture of Reprinting, 1834-1853*. Philadelphia: University of Pennsylvania Press.
- McKenzie, Julie, ed. *Letters of G. A. Sala to Edmund Yates*. Victorian Fiction Research Guides 5.19-5.20. Victorian Secrets. <https://victorianfictionresearchguides.org>
- Nicholson, Bob. 2012. "'You Kick the Bucket and We Do the Rest': Jokes and the Culture of Reprinting in the Transatlantic Press." *Journal of Victorian Culture*, 17.3: 273-86. DOI: <https://doi.org/10.1080/13555502.2012.702664>
- Nicholson, Bob. 2020. "'Capital Company': Writing and Telling Jokes in Victorian Britain." *Victorian Comedy and Laughter*, edited by L. Lee, 109-39. London: Palgrave Macmillan. DOI: [https://doi.org/10.1057/978-1-137-57882-2\\_5](https://doi.org/10.1057/978-1-137-57882-2_5)
- "Notice [of Maxwell Bankruptcy]." 1862. *London Gazette* (12 December): 6347.
- Pigeon, Stephan. 2017. "'Steal It, Change It, Print It': Transatlantic Scissors and Paste Journalism in the *Ladies' Treasury*, 1857-1895." *Journal of Victorian Culture*, 22.1: 24-39. DOI: <https://doi.org/10.1080/13555502.2016.1249393>
- "Preface." 1860. *Welcome Guest*. Volume two, second series: iii-iv.
- Quilter, Harry. 1892. "Literary Copyright." *The Globe* (31 October): 6.
- Seville, Catherine. 1999. *Literary Copyright Reform in Early Victorian England: The Framing of the 1842 Copyright Act*. Cambridge: Cambridge University Press.
- Seville, Catherine. 2006. *The Internationalisation of Copyright Law: Books, Buccaneers and the Black Flag in the Nineteenth Century*. Cambridge: Cambridge University Press. DOI: <https://doi.org/10.1017/CBO9780511495274>
- Slauter, Will. 2018. "Introduction: Copying and Copyright, Publishing Practice and the Law." *Victorian Periodicals Review*, 51.4: 583-96. DOI: <https://doi.org/10.1353/vpr.2018.0044>
- Slauter, Will. 2019. *Who Owns the News?: A History of Copyright*. Stanford: Stanford University Press.
- "Smith v. Johnson and Wilson." 1863. *Morning Herald* (20 November): 7.
- Topp, Chester W. 2003. *Victorian Yellowbacks & Paperbacks, 1849-1905: Longmans, Green & Co.; C. H. Clarke; John Maxwell & Co.; Tinsley Bros*. Volume 6. Denver: Heritage Antiquarian Bookshop.
- "Trade News [Maxwell Bankruptcy]." 1862. *The Critic* (December): 188

Vizetelly, Henry. 1893. *Glances Back Through Seventy Years*. Vol. 1, London: Kegan Paul.

“Vizetelly v. Friswell.” 1861. *Evening Standard* (3 May): 7.

“Vizetelly v. Friswell.” 1861. *Morning Herald* (London) (4 May): 7

“Vizetelly v. Friswell, and Others.” 1861. *The Critic* (11 May): 611-12.

“The *Welcome Guest* in Chancery.” 1860. *Nottingham Journal* (7 December 1860): 3.

Wolff, Robert Lee. 1974, “Devoted Disciple: The Letters of Mary Elizabeth Braddon to Sir Edward Bulwer-Lytton, 1862-1873.” *Harvard Library Bulletin*, 12.1: 5-35.

Wolff, Robert Lee. 1979. *Sensational Victorian: The Life and Fiction of Mary Elizabeth Braddon*. London: Garland.