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DID HOLLYWOOD TAKE THEATRE “BY HOOK OR BY CROOK”?

A Master’s Thesis

Presented to

The Graduate College of

Missouri State University

In Partial Fulfillment

Of the Requirements for the Degree

Master of Arts, Theatre

By

Catherine Gurbaxani Wright

December 2018

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DID HOLLYWOOD TAKE THEATRE, “BY HOOK OR BY CROOK”?

Theatre

Missouri State University, December 2018

Master of Arts

Catherine Gurbaxani Wright

ABSTRACT

Hollywood and Theatre have been partners in producing entertainment for over 100 years. The relationship was fruitful for both parties, but Hollywood moguls and playwrights battled over ownership of the work and crafting of its creative nucleus, story and character. Theatre was the dominant entertainment right before the rise of motion pictures. Once Hollywood’s talkies closed the curtain on silent films, playwrights had a high creative worth to movie makers. In the cinema, story and dialogue were essential for its survival and growth. Playwrights were courted by the Hollywood studio heads but were not offered equal partnership as they were in theatre, despite the industry’s need for their work. This thesis attempts to answer two questions: first, were theatre and its playwrights hoodwinked by Hollywood into giving their literary assets away? Second, was the movie moguls’ participation in developing plays into movies worth authorship credit equal to the playwrights’ written words? Finally, ownership of authorship is connected to a broader, more consequential matter involving proprietorship of oneself and one’s work, which continues to be an issue in today’s creative culture.

KEYWORDS: Hollywood, playwrights, story and character, film history, golden era of Hollywood, damage done to theatre’s written art, improvement or impairment, literary assets, ownership of authorship.

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In the interest of academic freedom and the principle of free speech, approval of this thesis indicates the format is acceptable and meets the academic criteria for the discipline as determined by the faculty that constitute the thesis committee. The content and views expressed in this thesis are those of the student-scholar and are not endorsed by Missouri State University, its Graduate College, or its employees.

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This thesis is dedicated to the concept of written art and its creators contributing to the greater good for all ... everywhere. To the humans who encourage art, kindly and with an educated sensitivity that brings about a home for learning. To Father Frederick Tollini and Dr. Christopher J. Herr.

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INTRODUCTION

Did theatre play an important role in the advancement of movie making in the golden era of Hollywood (1920 to 1950)? During the first half of the twentieth century, Hollywood vied for a place in the world of art and commerce, but the movie moguls did not want to share the profits or prestige with the writers who created the scripts they used. Certainly, the invention of film jumped onto society's screen in a flash. The pure idea of static images moving quickly to form the illusion of movement, known as "persistence of vision," goes as far back as ancient Egyptian hieroglyphics, where primitive drawings are set in a sequence of movement (Dixon 1). However, the art and commercial savvy to present motion pictures worldwide is more a complicated mystery of ownership and fair practices when dealing with a creative product. During the early 1900's thru the early 1920's, secretaries, lower level journalists, and copywriters were relabeled scenarists, gag writers, or continuity writers, and commandeered to type out basic plot points. These scenarios were a storyboard for the director and actors to navigate the film's narrative; they were not considered an art form as much as a means to an end. Ian Hamilton, writer and theatre critic poignantly comments on silent film writing, "In their utter simplicity, [the films of that day] had no more use for words than a caveman had for a Christian name" (Hamilton 2). Edwin S. Porter, close associate of Thomas Edison and creator of America's first "Story Film" in 1899, *The Life of an American Fireman*, was known to jot his film's action on the back of an envelope (Stempel 12). Kenneth MacGowan, himself a film and theatre producer as well as a professor, noted in his 1956 essay, "When Talkies Came to Hollywood," that while Hollywood had set up a system of plot creation through the "dialogue directors," giving them complete charge of the production, they were still faced with the absence of skilled writers for dialogue.

As early as 1912, filmmakers were seeking serious writers as opposed to directors laying down plot points like train tracks for actors to glide across.

As the movie business moved forward in full motion and expanded its reach in the first part of the twentieth century, many advancements occurred. The most significant development was the invention of a soundtrack added to the film. This allowed actors' voices to be heard in sync with their mouths. The "talkie" was born. While the advent of sound film (which began in earnest with 1927's *The Jazz Singer*) was a joyous moment, the silent film plots fell prey to their limited story offerings (Hamilton 3). Movie producers needed a cure for the slight storylines of silent cinema and they knew just where to get them from theatre. Allan Scott, Broadway playwright and Oscar-nominated screenwriter in the golden age of Hollywood suggests, "There was no question they had the buildings, the equipment, the actors, the directors, and all the machinery to make pictures. Except that without writers, they were alone with blank pieces of paper, and all the machinery stopped" (McGillian 316). Theatre practitioners, specifically playwrights who knew how to generate believable dialogue, were recruited to aid in the production of motion pictures: "Hollywood hired playwright after playwright from Broadway. It didn't much matter whether their plays had been successes or flops. They knew how to write lines" (MacGowan 291). Theatre's playwrights were needed, but were they honored?

Additionally, history would help increase the importance of film by making it prosperous during the depression era of the late 1920's to early 1930's; audiences flocked to the cinema for escape and "by 1930, ninety million Americans were going to the movies at least once a week, and many families, especially in the larger cities, virtually lived at the movies... In the wake of the Crash, many were homeless and jobless, and theatres provided an inexpensive and entertaining way to pass the time indoors" (Dixon 90). However, this drive for Hollywood to be

a money maker in the Depression Era helped establish a culture of profit over art. The artistry of motion pictures took a second player position to the lead role of commerce: “When the Wall Street financial crash came in 1929, Hollywood had its survival problems too, economics and mechanics seemed to take precedence over artistry, and the latter was pushed into third place in terms of importance” (Everson 335).

Although theatre seemed to hold its literary merit in a higher position than film, it was not without its commerce-clutching ideals. Theatre historically indulged the desire for monetary rewards through visual spectacle, with an eye on the social decorum of the day. The actors, playwrights, and producers modified their creative work to lure a wider range of paying customers. Famed actress of the mid-nineteenth century, Adah Isaacs Menken, was enticed to aid the ailing Green Street Theatre, in Albany, New York, by playing the lead role in *Mazeppa*. Menken would stage a performance guaranteed to pack the house by offering nudity, violence, and a climactic crescendo. The Albany Evening Journal promoted the event of Menken in *Mazeppa*, riding naked on the back of a real horse, “not a stuffed dummy or anyone else – strapped to the back of Belle Beauty, and that those who knew what the play *Mazeppa* contained, well then you might see something you hadn’t seen before” (Miller 2). Both theatre and movies had some tactics in common, sensational promotion being one of them. Many movies steered towards the promotion-oriented and spectacle-driven, with many contributors vying for top billing and control. One claimant of the title of “inventor” of motion pictures was Thomas Alva Edison, who masterminded the idea of art for commerce: “Edison set down the basic precepts upon which commercial Hollywood movie production, distribution, and exhibition are still based: give the audience spectacle, sex, and violence, yet simultaneously pay lip service to the dominant social order” (Dixon 10).

While both media fell prey to the enticement of money, the theatre had established its social position and cultural standing for quite some time. Additionally, playwrights were a key element to the theatre and were given considerable control. This ownership of authorship was established in 1921 through the commitment of the Dramatist's Guild and its playwrights' allegiance to one another. This ownership of their words still stands firm today: "No one (e.g., directors, actors, dramaturgs) can make changes, alterations, and/or omissions to your script – including the text, title, and stage directions – without your consent ("Bill Of Rights")." Film was a new art form and therefore had the opportunity to change how the creative participants played their part in pictures. Film was exciting and mysterious; anything placed on the screen was an instant phenomenon. This is exemplified in Warner Brothers' first talkie, *The Jazz Singer*, which opened to mass audience appeal at Warner's Theatre in New York, October 6, 1927 (Hamilton 39). Financial necessity ignited Warner Brothers' decision to make a talkie and risk the picture company's financial existence to do it. They won the gamble and surpassed Paramount Pictures, Universal, and MGM in financial gain. Sensationalism, and not the written word, drove this monetary accomplishment. *The Jazz Singer's* playwright, Samson Raphaelson, noted that very few of his lines and funny moments made it on to the big screen, feeling as if his play had been tortured: "Jolson didn't have any comedy dialogue. The man's a terrific comedian... They gave him 'straight scenes' – terribly written synopsis dialogue; he just read them. ... A dreadful picture. I've seen very few worse" (Hamilton 39). Mr. Raphaelson's disgust at the complete disregard for the art of his characters and story show how from the beginning that the playwright's contribution was secondary to the spectacle. The sound element made this movie successful; it was the selling point and the playwright's words were altered and compromised.

Many of the original movie moguls saw their role as a “*Gesamtkunstwerk*”, stemming from Richard Wagner’s ideal total theatre, where one central person controlled all the elements and; in the movie producer’s view, this person would oversee both creative control and budgets. The movie producers denied theatre’s recognition that the playwright’s characters and story are the focal points, and therefore they rejected the proprietorship placed upon the playwright’s work. Certainly, some theatrical producers felt the same way about the writers they hired. For example, the Shubert family sought a similar command over their role as manager/producer. In a powerful battle for copyright in the early 1900’s and a last-ditch effort to have control of the playwrights’ plays, the Shubert’s shared the same vision as the film moguls, feeling that their overall role of financier and talent wrangler far outweighed the writers’ contributions. However, the Shuberts’ claims were challenged by, among others, Owen Davis, a Pulitzer Prize winning dramatist, who in 1926 successfully rebutted the Shubert’s argument for joint ownership of copyrights between producers and playwrights: “Owen Davis, on this, rose up in all his Harvard wrath against ‘ever turning over to anybody the right to change one syllable without the author’s consent’” (Gewirtz 117). Script ownership for the playwright was won and firmly established the Dramatist’s Guild’s power in ensuring that not one word of the playwrights’ scripts can be altered without their consent or the posthumous consent of their estate.

Movie moguls wanted to modify theatre’s long history with the playwright and reduce the importance of the writer’s stake in pictures. Darryl Zanuck, one of the great film producers of the 1920’s and 1930’s and three-time Academy Award winner, was in disbelief when screenwriters (many of them playwrights from New York’s theatre) decided to start their own union, the Screen Writers Guild (SWG), to protect their words: “Look at all I’ve done for you. You gave me stories and I turned them into pictures” (Hamilton 4). Obviously, Zanuck gave

voice to Hollywood's belief that film was not like theatre; it was a new art form, a different form, with a fresh frontier of storytelling through pictures rather than words, and the writer's position was subordinate.

This thesis is a probe into the first days when Hollywood solicited playwrights away from New York Theatre, showcasing the methods used by Hollywood to procure these playwrights and their plots. Diving deeper into this transitional time where playwrights went west for Hollywood gold, the potential status of movies versus the stature of the theatre will be questioned. The hope of this thesis is to examine theatres' playwrights input to the big screen, the value of the input, and the question of whether the playwrights' written art was taken with deceitful trickery while its authors were under the influence of Hollywood, or whether their collaboration with the studios was purely a financial agreement and only a part of a new creative form, the art of film.

CHAPTER 1: BETTER A WITTY FOOL THAN A FOOLISH WIT

Are movies a unique form of art, as producers argued, with a totally new experience and a presentation grand enough to ask for fewer rights from the screenwriter than would be granted to a theatre playwright? Both formats have a lot to offer audiences and creators. Movies were new and technically superior; in the beginning the experience for audiences was profound. Theatre was well established with a visually tactile freshness and sensory satisfaction that is unmatched by a camera's lens. Robert Benchley, celebrated theatre critic and managing editor for *Vanity Fair*, *The Tribune*, and *The New Yorker* from 1920 to 1940, who was equally involved in the cinema as an actor, comments on the system of measurement for an artistic and sensory impact of the theatre versus cinema. Mr. Benchley, who was known for being "relentlessly unpretentious...reluctant to do anything that appeared to be straining to make a point" (Benchley xv), gives his assessment of both forms of art. He suggests that theatre cannot replicate the movies' ability to present real-life settings, such as a tropical storm, but the experience of watching a movie is imprisoned by the cameraman and the director's fancy on how the audience should view the action:

Stage productions involving rocky crags and storms at sea may look pretty sleazy in comparison with movies of their type, and now and then a drawing-room scene in the theatre seems strangely old-fashioned and unreal after some of the expert trickeries of the Silver Screen. But, boy, when you sit in a theatre and see a stage full of real girls, in real colors, performing chorus numbers in real flesh and blood, and can sit back in your seat (or forward) and take it in all at once with your own eyes, without having to be panned from left to right on camera, then you realize that all the movie millions in the world can't create a spectacle even to approximate it for all-round satisfaction of the senses" (Benchley 180).

Conversely, the art of movie making, given to the hands of a master story builder such as John Ford, acclaimed director of silent and sound films and six-time Academy Award winner,

can lend the process to a visual “information booth” (Dixon 97), where Ford weaves the actors, script, and camera into a master work of cinema. Ford, like Benchley, was known as a man committed to the creative work and uncompromising to the demands of popularity and financial gain. Nurturing all elements equally, the land he filmed, the actor he worked with, and the visual story, contributed highly to his success. John Wayne, interestingly noted how Ford re-designed the acting and dialogue for motion pictures: “Wayne famously observed, Ford taught him not ‘how to act, but to react’ to the other performers, to keep his gestures minimum, and to use his words sparingly” (Dixon 97). Ford’s directing utilized acting and dialogue in a different way than theatre and placed the dialogue as a subtler part of a whole creation. This commitment and overall orchestration has a large impact on filmmaking and shows that film is a collaborative medium with the written story only one of many important elements. Arguably both art forms, theatre and cinema, need the element of story to craft their play or film. Further, the plot is paramount for both the play or movie to be engaging and therefore profitable. The question is, “How much?”

The early days of Hollywood and its solicitation of the playwright begins with the “talkie” and the playwrights’ initial journey and experiences in Hollywood. Playwrights clearly made money in film, but the history of Hollywood tells a tale of baiting talent while pulling authorship out from under them. In the beginning, movies were a fascination and a privilege to be a part of, contracts were made with a wink and a passing comment of interest in your talent. Fatty Arbuckle did just that in his first feature film in 1917, *The Butcher Boy*. Buster Keaton, a 21-year-old vaudevillian and stage comedian, was invited to watch the filming. Arbuckle noticed the young man, leading him to beckon Keaton to “come over here kid, and fall when you get hit by this flour sack.” Keaton did, with talent, timing, and a knack for pratfalls. Arbuckle was

pleased and invited the young Keaton to film with him: “Keaton was currently appearing onstage in J. J. Shubert’s *The Passing Show*, receiving \$250 per week, \$300 when touring. Keaton recalled, ‘From the first day I hadn’t a doubt that I was going to love working in the movies. I did not even ask what I’d be paid to work in Arbuckle’s slapstick comedies. I didn’t much care...but I must admit being quite surprised to find just forty dollars in my pay envelope at the end of my first week as a movie actor’” (Neibaur 3). The sensationalism of film art was electrifying but ultimately, unions would have to be brought into action to protect the talent from foul treatment.

However, the theatrical world of Broadway was not immune to mistreatment of its talent as is showcased in the Battle of Broadway, the Dramatist’s Guild strike of 1919 (Hamilton 92). These unions were established to protect the rights and creative properties of the talent. In the case of the Dramatists’ strike of 1919, many famous stage stars represented the cause and therefore gained public support for the writers’ fight. The star-driven support helped the writers prevail. Also, it is important to note that the great producers of Broadway, like the movie moguls, could feasibly pick the next leading actor or writer from thousands of budding protégés. With a block buster hit it is crucial to have a master-planner steering the creation, picking the talent, and fueling the production with money, as well as a vibrant playwright or actor with unparalleled talent.

This growth in cinema stimulated the theatrical producers to partner with movie producers in brokering backstage deals which excluded the playwright. By 1926, the Dramatist Guild was fighting the effects of the theatre managers selling Hollywood film rights to plays behind without the playwright’s consent. Lee Shubert, a successful Broadway producer, felt his contribution to be the most important when he addressed the Dramatist’s Guild, “The Producer is

more important in the theatre than anyone else, including the author. I don't care how many plays a playwright writes, who could see them if there wasn't a producer? Who would know about a playwright unless a Producer invested his capital in it? That is why I say the Producer should *share* the copyright with the author" (Gewirtz 117).

Moreover, the theatrical writers of New York were in a new world with Hollywood and the playing field was paved with gold. In many instances, the playwright was given substantial sums for his works. During the early to middle 1920's, film established itself as a popular and profitable place in society. William de Mille, the brother of Hollywood producer Cecil B. Mille, was known for his playwriting work in theatre until he was introduced to the fast-financial gain afforded him in Hollywood, where in a day he could create two reels at \$25 each (Hamilton 4). By the late 1930's Clifford Odets, New York playwright and Hollywood screenwriter, was making \$2500 or more per week (Gibson 460-464, 583), a sum that was in the top 96% of weekly writer salaries at the major Hollywood studios (Dardis 30). Playwrights were coveted and commanded greater sums of money than the journalists and advertising people who were also being wooed.

In the playwrights' minds, their gifts were significant and their creative integrity was worth more than just monetary gain. Hence, they were looking for protection and declared the Academy of Motion Picture Arts and Sciences (AMPAS), established by Hollywood's head maestro Louis B. Mayer, ineffective in protecting their rights since it usually sided with the Studios and not the artist. This was certainly the case in 1933 when the Academy approved a 50% wage cut (Hamilton 93). Many writers, who had trusted the kindness of Hollywood moguls by working with the AMPAS, now sought protection from The Screen Writers Guild (SWG) which originated from the Photoplay Authors League (est. 1914) ("Photoplay" 3). During the

1920's the SWG was utilized as more a social club than protector of writer's rights. Then in 1933 SWG was enlisted to protect writers against the Hollywood producers and their unfair practices. That year SWG welcomed more than 200 new members topping over 500 members by the end of 1933. (Hamilton 93-94).

While in the clutches of Hollywood, playwrights struggled to gain legal control of their written words. The meaning of "work for hire" or "writer for hire" would be a forced concept not familiar to most playwrights. Theatre was an ephemeral creation; the play's script was the only enduring creative element and therefore had a material creative worth. In turn, the original forefathers of movie studios were credited with making Hollywood through their sweat and sheer will, and therefore their undying dedication might warrant ownership of the writers' creative rights.

CHAPTER 2: ALL OUR YESTERDAYS

The evolution of playwrights letting go of their one true asset, their creative work, is a pivotal part of the writers' expedition from theatre to Hollywood and therefore deserves historical groundwork in this thesis. To help navigate the playwright's slippery slope, it is important to visualize the events leading up to acquiescing their authorship. This history of playwrights' rights will encompass from the early 1900's to early 1940's.

In 1905 the photograph was copyrighted. A New Jersey court ruled that "a photograph which is not only a light-written picture of some object, but also an expression of an idea, a thought, a conception of the one who takes it is a 'writing' within the constitutional sense, and a proper subject for copyright" (Hamilton 92). Thus, establishing the authorship of photography as an art form that has ownership. By 1909

the Copyright Act was passed to protect ownership of original work through copyright. The types of works established are: "(a) Books, including composite and cyclopaedic works, directories, gazetteers, and other compilations, (b) Periodicals, including newspapers; (c) Lectures, sermons, addresses, prepared for oral delivery; (d) Dramatic or dramatico-musical compositions; (e) Musical compositions; (f) Maps; (g) Works of art; models or designs for works of art; (h) Reproductions of a work of art; (i) Drawings or plastic works of a scientific or technical character; (j) Photographs; (k) Prints and pictorial illustrations" ("An Act"). In the same year, a "work made for hire" clause was injected into the Copyright Act, allowing for a loop-hole for authorship to be owned by an employer of the original creator: "In a work made for hire, the employer or other person for whom the work was prepared is the initial owner of the copyright unless both parties involved have signed a written agreement to the contrary ("An

Act”).” Film studios were quick to assert their ownership of screenplays. A standard “Work For Hire” clause was put into screenwriters’ contract. This standard clause in writers’ contracts appeared sometime in the 1910’s, stipulating that all literary material composed, submitted, or produced by a writer during the terms of an agreement with a particular studio ‘shall automatically become the property of the producer who, for this purpose, shall be deemed the author thereof’ (Ross 10).” Further the case of Alice T. Yardley vs. Houghton Mifflin Co., helped solidify the corporation as author of artistic work created by an artist. This case started in 1905 when Yardley’s brother, Charles Y. Turner created a mural for the City of New York schools. Turner painted “The Marriage of the Waters” for DeWitt Clinton High School in New York City. Even though he copyrighted the mural on Oct. 30, 1905, there was no copyright provision in the agreement between Turner and the school. After his death in 1918, his sister continued the petition for copyright of the painting. However, the court ruled that ownership went to the school / New York City citing, “The fact that Mr. Turner took out a copyright herein is not a basis for an inference that the patron gave him such permission, especially when the patron – as did the Board of Education here – habitually sold postcard reproductions” (“Section”). This court decree aided employers to manipulate the copyright laws to their own proprietorship of works of art they merely payed for rather than conceived.

Writers were quick to fight back. In 1912, The Authors League of America (ALA) was established in New York, to protect and advocate for free expression and secure copyright for all authors of literature, drama, artistic and musical competition and in 1914, the Photoplay Authors’ League was formed with screenwriters in Hollywood to address photoplay rights. It would become the Screen Writer’s Guild in 1920.

In 1919-1921, the Dramatists League (a sub-section of the ALA) Strike / for Playwrights.

Playwrights strike along with the actors and stage craft members and secured a standard contract with copyright ownership. The Dramatists Guild vows to protect and advocate for free expression and secure copyright for all writers of stage and radio drama. Meanwhile, in Hollywood in 1927 The Academy of Motion Picture Arts and Sciences, created by movie producer, Louis B. Mayer, sets up a writer's division to address any worries or complaints the writers might have. This gives writers the illusion their rights are being protected through AMPAS. The AMPAS proved to be partial to the producers while being manipulative to its members. Blacklisting from the major Hollywood studios was dangerously apparent as John Howard Lawson, playwright confirmed: "A panic hit the studios, and a blacklist blossomed in Hollywood. It was dangerous to talk about the SWG in the studios, and it was worth your life to be seen in the studio lot wearing an SWG button. (Schwartz 75). Help from this coercive organization was needed to protect the writers. Some relief came in 1935 when the US Government formed the Wagner Act of 1935 allowing collective bargaining for trade unions. It outlawed blacklisting, intimidation tactics and *companies* to form unions. While this was helpful the playwrights turned screenwriters needed to strengthen their support. This was conceived by the SWG proposing amalgamation of east and west writers. The SWG and Authors League / Dramatists Guild attempt to amalgamate for protection and strength in numbers. Along with amalgamation, the SWG vows embargo to Hollywood movie makers. This embargo would be on all existing contracts (i.e. Long-term Contracts) and any sales of their material until May 1938. The Studios could survive with their library of scripts but the threat of joining with the east writers and their far greater rights was intolerable to the movie moguls.

In 1936, a poignant step to proclaiming the writers' conviction for authorship came on Academy Award Night, when Dudley Nichols, screenwriter of the movie *The Informer* refused

his Academy Award for best screenplay because of unfair practices, credit, and authorship. This defiance fueled the fire of resistance toward the producers and their tyranny. This increased the support for amalgamation and on May 2, 1936 the vote for amalgamation with the SWG took place. However, the SWG was persuaded by a few of the “pet” writers who worked with the producers (one notable producer was Irving Thalberg) and offered to set up the bogus vote for “amalgamation in principle”. This was a sneaky stalling tactic to make the SWG feel as if they won the fight. But SWG did not establish any hard determinations and merely the idea of accepting amalgamation. Right after this pseudo vote, intimidation from the producers to *not* recognize the SWG and to fire any SWG member was in full force. Then right after the amalgamation vote the Hollywood producers concocted a bait and switch maneuver and delivered a new organization, the Screen Playwrights, which was put in play to offer “rational” negotiations with the movie hierarchy. This action severely diluted the SWG membership and therefore strength. The Producers had infiltrated from inside the writer’s camp. SP was the only guild the producers recognized and therefore negotiated with them solely with a 5-year contract allowing minimum wage, notification of termination, sharing if other writers were working on an assigned project, fair credit practice. No authorship was addressed. In September 1938, a few months later, one of the masterminds for the SP, Irving Thalberg dies. Irving Thalberg was the driving force behind the SP and with this the SP slowly follows the same demise.

With low membership and compromised power, the SWG continues its crusade for bargaining power as the established union for screenwriters. Two years after Thalberg’s death and many petitions to the National Labor Relations Board (NLRB) from the SWG for unfair practices in Hollywood, the NLRB takes a vote on which organization should represent motion picture writers – SWG or SP. The vote was a landslide in favor of the SWG and is awarded

authority to represent writers in Hollywood. In 1940 SP contract was canceled. In 1941 producers acknowledge SWG as the sole representative to the writers of Hollywood. Minimum Basic Agreement (MBA) set in motion. A contract was honored but modified with a lukewarm outcome: granted closed shops (only union members); writers could arbitrate on credit issues. In 1942 the first Producer-Screen Writer Guild Inc. MBA was signed. Eight studios and three independent producers signed: Columbia, RKO, 20th Century Fox, Paramount, Universal, Warner Bros., Loew's Inc, Republic Pictures, Samuel Goldwyn, Hal E. Roach. What was given: 1. A union was established, 2. SWG had authority over all screenwriters, 3. Credit control / determination, 4. Closed shops put in place. What was lost: 1. copyright control, 2. only minimum salaries were established. Losing amalgamation was the biggest reason why control of their work was sacrificed for other deal points – namely credit and arbitration.

The above chronological history of the playwrights' rights in Hollywood shows a 40-year journey from the early 1900's to the early 1940's, when the playwrights allowed the movie moguls to manipulate their final devastating loss of authorship. Current events of that time helped the producers with their "smoke and mirror" tactics: The Depression and WWII, which allowed poverty and paranoia to create an illusion of un-American acts, such as unionization, and therefore postponement of the fight for ownership of authorship. The result left the screenwriters' rights in rubble. At the same time as the Depression, talkies were the biggest rage and everyone wanted more. The producers used this feature frenzy to bully writers into small offices to work night and day on scripts, enshrining a work-made-for hire scheme.

CHAPTER 3: ALL THAT GLISTERS IS NOT GOLD

How did this happen? The assumption would be that if these playwrights wanted to give away their coveted creative work, it would be for a paramount reason. However, the playwrights who came to Hollywood from the 1910's into 1940's gave their characters and story away for paychecks and pride, which was documented by many East Coast playwrights and authors after their art had been massacred by the movie moguls. The first tactic for the West Coast producers was to dangle a golden carat, cash! The movie moguls in the early part of the twentieth century wanted writers but they did not want to relinquish their control. This was accomplished by luring the playwrights with money. It was easy money so they didn't have to worry about cash coming in every week; it was guaranteed - just touch up a script, add some jokes, make a happy ending. If you need a place to stay, the moguls had it waiting for you. The streets of Hollywood were paved with writer's gold! Charles Bennett, a premier playwright in the late 1920's, was content to ride his theatrical success, having six plays produced in 1929. His second play was *Blackmail* starring famed actress Tallulah Bankhead. This play caught the eye of Alfred Hitchcock and was produced into the first British talking picture with Mr. Hitchcock at the helm. This catapulted Bennett into movies and screenwriting where his partnership with Hitchcock was formed, resulting in a hugely successful movie writing career. When Bennett was later interviewed by Pat McGillian, historian and biographer of Alfred Hitchcock, he asked Bennett about Hollywood and his experience from playwright to screenwriter. Bennett's response exemplified the soullessness of the silver screen:

Interviewer: *So why did you keep at it for nearly fifty years?*

Bennett: Money!

Interviewer: *Does Hollywood extract more than your life's blood?*

Bennett: Yes, I think of course it does. I think Hollywood is the greatest destroyer that a

writer can ever meet with. I think the greatest thing that can ever happen to a writer – like my dear friends, Sidney Gilliat and Frank Launder – is the fact that they never came to Hollywood. The worst thing in the world is for a writer to come to Hollywood. It destroys you (McGillian 48).

Oscar winner and acclaimed playwright for Broadway, Ben Hecht, was a master at writing while whining at Hollywood: “My own discontent with what I was asked to do in Hollywood was so loud that I finally received \$125,000 for four weeks of script writing” (Hamilton 72). A substantial sum even for today but calculated out for inflation, he yielded well over a million dollars in today’s money for one month’s work (“Inflation”).

Money was the main tool wielded by the Hollywood producers to anesthetize writers with any interest in owning their stories. Somehow, these savvy businessmen knew the worth of the written word and threw money at it. In fact, from most accounts even the hack writers of the day were being paid well beyond their worth. One of the writers that supported the producers’ utilizing profits as a means for control was Herman Mankiewicz. Mr. Mankiewicz established his writing career in the New York playwriting community as well as working on various high-level publications in their drama departments, notably, “The New Yorker” as a theatre critic. Mankiewicz came to Hollywood and wrote screenplays such as *Citizen Kane* with Orson Wells, for which he won an Oscar in 1941 (“The 14th”). Mankiewicz creatively noted, during the threat of a writer’s strike, that many writers, even mediocre ones, should be happy with the wealth Hollywood is giving them: “You’ll all go out on the streets carrying big signs saying ‘Help! Help! We’re only being paid seven and a half a week.’ And everybody will say, ‘How about those poor guys? Seven dollars and fifty cents a week.’ And somebody else will say, ‘No, seven hundred and fifty dollars a week’ and then duck because you will all be stoned to death” (Meryman 171). To which a Guild member rebutted, “Herman, we’re not doing it for the \$2,500 a week writer. We’re doing it for the \$250 a week writer,” to which Mankiewicz replied, “All the

\$250 a week writers I know are getting \$2,500” (Hamilton 96). These producers wanted their herd fat and happy; they got them fat, but happy was not so easy.

The Great Depression of 1929 left many East Coast writers in need of dough for their daily bread. Hollywood at the same time sent out an S.O.S. seeking real writers for their new talkies. This opportune collision of the onset of the Depression and newly created talkies allowed the movie moguls to hook talented writers with financial bait and reel them into the West without addressing the ownership of their written works. Soon after the Depression broke, in the early 1930’s, famed author and playwright Nathanael West would crawl back to Hollywood desperate for work; he was penniless and pleading to his agent, “I’ll work for as low as \$50 a week, anything even a reader’s job” (Hamilton 161). The films found a place for Mr. West and he enjoyed the financial success as a screen and treatment writer. Mr. West’s disdain for Hollywood was represented in his novel, *The Day of the Locust*. A New York Times review of his book from May 31, 1939 by journalist Robert Van Gelder, who shares the distorted feeling Mr. West had towards his Hollywood grave commented, “*The Day of the Locust*, is an affective grotesque based in West’s seemingly sincere conviction that, as a resident of Hollywood, he is mighty near being surrounded by crazy people. . . . The combination of climate, cheap living and the entertainment industry, Mr. West appears to believe, have concentrated in one city too many shoddy minds, too many lost people who have energy without rational purpose, who are natural mobsters, instinctive lynchings” (Gelder). West was respected for his abilities as a craftsman by both Hollywood and the New York authors and playwrights. Universal executive John Breen’s praise for his work on the film, *I Stole A Million*, was notable: “out of the 3,600 scripts and stories submitted for 1938, it is our unanimous judgement, here in this office, that this new treatment by Mr. West, is, by far, the best piece of craftsmanship in screen adaptation that we

have seen” (Hamilton 164). While known for his literary accomplishment, Nathanael West was supported by his work in the movies and was quick to acknowledge that his Hollywood career saved him many times: “I once tried to work seriously at my craft but was absolutely unable to make even the beginning of a living. At the end of three years and two books I had made a total of \$780 gross. It wasn’t a matter of making a sacrifice, which I was willing enough to make and will still be willing, but just a clear-cut impossibility” (Hamilton 165). The desperation for money during the Depression was a key component for the movie producers and their ability to commandeer some of the best talent from the East.

Another strong possibility is the playwrights from the East coast assumed they would receive similar treatment in the West and therefore ownership would be given for their written work. In the East, The Dramatists Guild, established in 1921 (from the original guild, The Author’s League of America, which was established in 1914), gave full ownership to their members’ creations. Its mission statement is, “To protect and promote professional interests of authors of dramatic and dramatico-musical works, to protect their rights in such works, and to improve the conditions under which their works are created and produced. To formulate type of production contracts with respect to such works” (“Bylaws”). Protecting authorship was one of the main reasons this guild came into play. The playwrights established “one-voice” when it came to ownership and as this group grew into the West it was united. The “Dramatist Guild is a promise that playwrights made to each other...It is an organization that brings together playwrights from all across the country, by bringing them together as a community and aggressively representing their interest it gives them a chance to reinforce the problems that each of them faces individually” (“Mission”). John Weidman, former President of the Dramatists Guild, and three-time Tony award winner (Cross), enforced emphasis on unity. Mr. Weidman

earned a B.A. from Harvard and went on to complete his studies for a J.D. at Yale Law School, and was one of the strongest advocates for playwrights' protection. He was immensely successful as a book writer for Broadway musicals and decorated with many awards for his work in Hollywood. He sums up the fortitude of the East and the theatres' tradition of ownership, "Playwrights' copyright was the most important 'legal collusion,' ...for as long as anyone can remember, dramatists going all the way back to Shakespeare have done their work within a stable framework, a common set of assumptions about how a play or musical makes its way from the page to the stage. Everyone has known who did what, who owned what, who was in charge, and who had the last word" (Cross).

Donald Ogden Stewart, who was a well-known author, humorist, and playwright in the late 1920's and into the 1930's was known for his gracious personality, witty way of writing, and overall good-natured approach. He was born into the high life and that is where he found a way of sharing his zeal and jocularly for odd-ball characters and eccentric folks that broke free from their high-end conventions to seek happiness and liberty. As the Oscar winning screenwriter of *The Philadelphia Story*, his transition to Hollywood was smooth, and the media elite gladly opened their arms and pocket books to forward his screenwriting endeavors. With both theatre and motion pictures in his repertoire as well as an Oscar win, he noted in an interview with Allen Eyles and John Gillet in 1969 how Hollywood shattered his expectations on his craft and his hopes: "One of the first things you had to learn was to not let them break your heart, because if you really put yourself into a script and began creating and caring terribly about it, then the producer, the director, and the star would go to work on it; and they would break your heart with what they would do to something you were very proud of." Mr. Stewart went on to put a humorous spin on his heartbreak for Hollywood ... "You became quite proud of being a good

screenwriter in the same way that -- I think it was Lewis Milestone who said it -- a machine-gunner, who, for instance, didn't like being a soldier in the army killing people but was interested in his craft" (McGillian 334-348).

Even blatant lies were used to give the perception that the playwrights would own their work. Sam Goldwyn, one of the first and top movie producers of all time as well as the "Goldwyn" in Metro-Goldwyn-Mayer (MGM), was desperate for talent and devised a plan to give playwrights, authors, journalists etc. the guarantee of grandeur and top billing by putting out a "thirty-two page brochure as an insert in two leading Hollywood trade papers" announcing the formation of a prestigious association called the *Eminent Authors* (Hamilton 18). Goldwyn offered the illusion of control to the writers and assured them that they would be treated justly but in reality he merely preyed upon their ego by establishing a body of artisans meriting a swanky 32-page brochure. Further, dollars, many dollars, were given for their screenplays. A ten-thousand-dollar advance (with one-third of the profits for the film) were guaranteed for any screenplay optioned within a 90-day period. With one third of the profits on the back-end, playwrights were given the impression that they had ownership of their script with high earnest money as a show of good faith. Rice, a Pulitzer Prize-winning playwright and writer of 24 plays, (Christiansen) fell prey to Goldwyn's bait and switch tactics where Goldwyn offered up what he could not deliver. Rice later wrote, "I had accepted Goldwyn's offer largely on the strength of his promise of free creative scope. But he had reckoned without the scenario department's entrenched bureaucracy. The practitioners of the established patterns of picture making saw in the invasion from the East a threat to their security. Beneath the surface affability there was a sort of struggle of power" (Rice 179). No real authorship was obtained and many playwrights fell prey to the phony promises.

CHAPTER 4: SOUND AND FURY

The advent of talking pictures was the other cause for the Hollywood headmen to gain control. It was the “Great Talkies Panic” (Hamilton 45) when sound came to the movies. The “talkies” were here to stay and needed professional writers to put dialogue on the screen. Movie watching increased at a phenomenal rate...leaving the movie moguls hungry for meat on their celluloid skeleton. Ian Hamilton, noted literary critic and biographer, comments on the search for good writers during the surge of silver screen spectators: “By 1930, cinema audiences in America had almost doubled (from 60 million per week in 1927 to 110 million), and the new sound movies, far from limiting themselves to monosyllables, or sticking to music and traffic noises, had become suddenly word-hungry” (Hamilton 43). The call was answered by many playwrights. Hollywood boasted 354 full-time screenwriters by the end of 1931 and 435 had part-time work. A substantial number were playwrights (Hamilton 43). In 1929, S.N. Behrman, a leading playwright with the hit play *The Second Man* under his belt, was courted by Columbia’s head executive Frank Capra to come west. Reluctantly, he accepted an offer for \$1,250 a week to venture to Hollywood while keeping his playwriting close. His experience there led to his next theatrical creation *Biography*, which exposed his disdain for the hand that fed him with one of the characters dreaming of the time when “men won’t have to prostitute themselves in Hollywood” (Hamilton 44). The disdain was real but hunger during the depression was dire, as Behrman confessed: “Without Hollywood...I would have died of malnutrition long ago” (Hamilton 45).

Given the necessity for writers, producers creatively concocted a plan to have several writers work on one script, under one roof. This structure would allow for no production idle

time and diminish the power of a single writer's manuscript. A decree from the Warner Bros studio in the early 1930's:

A writer was expected to appear at the studio at nine o'clock in the morning and leave at five o'clock. He was expected to restrict his outside calls to the minimum; they were monitored...A writer was not permitted on the set without written permission from Jack Warner. This was a regulation. A writer was never invited to see his rushes. He was never invited to a preview. If he wanted to see his own pictures on the screen, he paid his money and went in and saw them. This was regulation (McGillian 296-97).

Piecemeal writing resulted in ambiguous authorship. Even actors could tinker with the script while performing their lines: "An MGM actor would usually feel grand enough to tamper with a script, and since Thalberg would have made sure that the script in question had been the work of at least half a dozen writers, no one greatly cared" (Hamilton 76-77). Many writers who contributed substantially to the final product never knew if their name would be on the screen or not. Credit was not guaranteed and the best way to secure a screen credit was to be one of the last writers that contributed to the script. Donald Ogden Stewart noted how securing credit was more scheme than scribe: "It became a game to be the last one before they started shooting so that you would not be eased out of screen credit" (Banks 42). In the case of *Gone With The Wind*, famed Pulitzer Prize winning playwright Sidney Howard was awarded the Oscar for the screenplay. However, Mr. Howard was one of many contributors to the monumental movie: in all, approximately sixteen different writers contributed to the epic motion picture (Breimer 1). While Howard was a heavy contributor to the screenplay for *Gone With the Wind*, many award winning playwrights and novelists were contributors, including Ben Hecht, a highly respected New York playwright, who wrote a fair amount of the movie's dialogue; F. Scott Fitzgerald, a world renowned, best-selling novelist (Breimer 1), who restored many of Margaret Mitchell's plot lines, and John Lee Mahin, noted screenwriter known for his adventurous spirit and saucy yet sophisticated panache (McGillian 241-242). Even David O. Selznick, the producer and movie

heavy-weight, claimed at one point to have written the whole screenplay himself (McArdle). The credit issue in film was a painful realization that playwrights who had expected similar treatment in the West were not anywhere close to owning their work.

Pride was another vice the Hollywood producers used in their favor. In Hollywood, there are the “below-the-line” crafts persons and the “above-the-line” artisans. The below-the-line are the lighting (electric), grip (movers of objects), leadperson (set decorator crew), costumes, production coordinator, locations coordinator, construction coordinator, sound mixer, prop master etc. These crew members are equal to a carpenter called to fix a door, a stylist at a department store, movers, or construction workers. They do not get residuals off their work and are considered the “hired help,” the laborers. Their contributions are needed but have less creative worth than the actor, director and writer who are “above-the-line”. The cinema laborers are all part of one union, IATSE (International Alliance of Theatrical Stage Employees, Moving Picture Technicians, Artists and Allied Crafts of the United States, Its Territories and Canada) (“About”), which was established in 1893 for New York theatre stagehands and carried over from stage to screen. The below-the-line workers in both industries were united in their conviction for equal and fair treatment; East met West and their partnership was strong: “We represent virtually all the behind-the-scenes workers in crafts ranging from motion picture animation to theatre usher” (“About”). The strength of their union was so strong that when faced with the possibility of pay cuts during the Depression, they threatened a strike and would not take a cut in pay. In *The Writers: A History of American Screenwriting and Their Guild*, Miranda J. Banks sums up IATSE’s strength and the power of their amalgamation: “The union argued that its members were not paid well enough to be able to afford the cuts and still feed their families... Though they were paid little, their jobs were vital. Studio head Jack Warner of Warner

Bros., Harry Cohn of Columbia, Carl Laemmie of Universal, Winfeld Sheenhan of Fox, and Louis B. Mayer gathered and ultimately agreed not to cut the earnings of those who made fifty dollars or less a week. Cognizant of the critical role these workers played in the daily functioning of the production machinery, the moguls bent to this massive union. For the first time, a union held its ground against the industry” (Banks 30-31). Irving Thalberg, who normally was antagonistic toward unions, was sympathetic to this movie making caste, noting that these below-the-line workers were conducting “back-breaking work with few guarantees, little protection, and no rights” (Vieira 306).

Workers did not have a tangible creative craft that could be copyrighted; therefore, their employment was based on crafting from another creator’s vision. Conversely, the writers who came from New York felt they held a loftier position in the theatre and literary world; they did not want to consider themselves blue-collar workpeople. Billy Wilder, academy award winning screenwriter for *Sunset Boulevard* and *The Apartment*, shared in his memoirs how the lines of technician versus talent affected many. Mr. Wilder poetically described F. Scott Fitzgerald’s (author of *The Great Gatsby* and *The Last Tycoon*) bewilderment at his job writing for moving pictures: “He made me think of a great sculptor who is hired to do a plumbing job” (Zolotow 72). Fitzgerald himself, who was wooed by various famed producers, was flabbergasted at the machinery of the feature film studios exclaiming, “This is not art. This is an industry” (Phillips 27). The great producers of Hollywood seized the screenwriters’ self-importance as a tool in the fight for sovereignty. Feeding the flame of the writer’s ego, Irving Thalberg was quick to show the screenwriters the displeasure of being pictured as an unskilled grunt: “Those writers are living like kings. Why on earth would they want to join a union, like coal miners or plumbers” (Thomas 186)?

The savvy businessmen of Hollywood did not stop at discouraging the writers from allying themselves with unions. While shelling out money and banking on the playwright's egos, the producers worked at adding a seemingly minor "work-for-hire" clause to the writers' contracts. As the playwrights came west for movie making, they did not look at the fine print of their deals. To the Broadway writers, movies were a silly little diversion that would hardly take much time or effort. Dorothy Parker, a native New Yorker, known *Vanity Fair* theatre critic and one of the founding leaders of the Screen Writers Guild, confessed that her flippancy towards screenwriting as an easy, after-thought was damaging: "I had my opinion of writing for the screen. I regarded it – all right sue me – with a sort of benevolent contempt... Why, I could do that with one hand tied behind me and the other on Irving Thalberg's pulse. Well I found out, and I found out hard, and I found out forever. Through the sweat and the tears shed over my first script, I saw a great truth... You've got yourself to face, and you have to live with yourself. You don't – or at least, only in highly exceptional circumstances – have to live with your producer" (Schwartz 60). Parker, after the work-for-hire clause indentured the writers to their servitude, desperately solicited some sort of united front that would take back what rightfully belonged to the writer.

In 1905, some of the first main movie producers realized that their hold on the creative talent needed a little legal brawn. They went to Congress and petitioned for the work-made-for-hire clause to be added into copyright laws. It was, and the work-made-for-hire provision includes, "part of a motion picture or other audio-visual work" (Donaldson 10). The Hollywood producers hijacked the contracts and injected the work-for-hire language before anyone could scream "help!" Thus, the contracts yielded language that read:

Artist acknowledges that all of the results and proceeds of Artist's services hereunder are and will be created by Artist as a 'work-made-for-hire' and/or a work specially ordered or

commissioned by Studio for use as a part of a contribution to a collective work, as part of a motion picture or other audiovisual work with Studio being deemed the sole author of such results and proceeds. Artist acknowledges that Studio is and shall be the sole and exclusive owner of all right of every kind and nature in, to, and with respect to Artist's services hereunder and the results and proceeds thereof and that Studio shall have the right to use, refrain from using, change, modify, add to, subtract from, and to exploit, advertise, exhibit, and otherwise turn to account any or all of the foregoing in a manner and in any and all media (including, without limitation, in and in connection with theatrical and nontheatrical motion pictures [including, without limitation, remakes and sequels], all forms of television, radio, legitimate stage, videodiscs, video cassettes and all other home video devices, phonograph recordings, publications and merchandising), whether now known or hereafter devised, throughout the world, in perpetuity, in all languages, as Studio in its sole discretion shall determine (Breimer 3).

David Harmon, a known advocate of the WGA, started his career in radio in New York. Mr. Harmon wrote for the top talent in radio including Frank Sinatra's premiere radio program, "Reflections" as well as "Armstrong Radio Theatre" and "Superman." With the advent of film, he crossed over to screenwriting only to be confounded by the contract's fine print: "I discovered, much to my chagrin, when I got out here, that I no longer owned what I wrote. In New York, I leased it to the studios for one showing. I come out here and find out Harry Cohn [President of Columbia Pictures] is the author, which put me into shock" (Harmon 14-15). As the playwrights popped in for a quick financial fix by dabbling with being a screenwriter, the movie maestros were swiftly and destructively slipping in a "work-made-for-hire" clause. Frank Pierson, Oscar winning screen writer for *Dog Day Afternoon* and president of both the WGAw (1981-1983 and 1993-1995) and the Academy of Motion Picture Arts and Sciences (2001-2005) (Yardley), explains how absurd but dire the work-for-hire addition to the writer's contract was: "Work-for-hire says that Pope Julius II and so on painted the Sistine Chapel ceiling and Mad King Ludwig of Bavaria wrote Wagner's operas...[T]he employer is deemed to be the author. And that's the source of our problem" (Banks 12).

Ultimately, ego, money, a naiveté that playwrights' rights would be similar to their

authorship for the stage, and the work-for-hire clause helped Hollywood's producers gain control of the playwrights. The entertainment producers of the early twentieth century went to a great deal of trouble to keep the writers under control. Why? Perhaps the answer lies in their art. With the actors, they knew that a star would be in front of the camera and hiding them from the world and their public was impossible. In other words, if an actor performed on the screen ... they got billing, prestige and authorship of their craft. No one could hide it. Additionally, the art of an actor was not entirely tangible. While it was cemented in celluloid, it still had an ephemeral nature. One night's performance was unique. Directors too had an impermanent nature to their contributions in movies. Their talents had an air of etherealness; their artistry was used in the movie but to be exactly reproduced for another film would be impossible. Directors took on a role of wrangler with a "boots on the ground" reality that gave them leverage for control of their rights. As an added worth, both actors and directors were needed once a movie was underway, and, after filming commenced, the cost to replace the actor or director was substantial. However, writers were in the background, churning out the script long before casting or directing commenced. Robert Towne, screenwriter for the movie *Chinatown*, which garnered both an Oscar and Golden Globe for his script, noted the importance and the impatience the screenwriter yields: "Until the screenwriter does his job, nobody else has a job. In other words, he is the asshole who keeps everybody else from going to work" (Banks 3). This overt and caustic reaction to writers from the movie producers is exemplified many times in the Golden Era of Hollywood. One of the biggest names in Hollywood history was producer and MGM head of production Irving Thalberg. Mr. Thalberg defiantly demanded an explanation for the writer's worth from one of his script doctors, Lenore Coffee: "What's all this business about being a writer? It's just putting one word after another." implicitly demoting the writer to the level of

fry-cook. Ms. Coffee replied, “Pardon me, Mr. Thalberg. It’s putting one *right* word after another” (Banks 3). In 1933, when the SWG was gaining power and over 500 members had joined, Jack Warner, studio head at Warner Brothers, let his writers know that their continued involvement in unionizing would not only end in loss of their livelihood but complete blacklisting: “There are a lot of writers in the business who are active in the SWG now who will find themselves out of the business for good and it wouldn’t be a blacklist because it would all be done over the telephone” (Schwartz 76). These big producers were obviously worried about the writers and their creative control. Unionization was the only way to help the writers break thru the moguls’ curtain.

Unionization has been a notable part of the American fabric since the late 1800’s. To explain the writers’ fight for unionization, a short history of America’s unions and their rise will help pave the way. In the late 1800’s to early 1900’s, laborers in America made an aggressive push to procure decent conditions and fair wages in the work place. The New York Times reported that union membership more than doubled between 1910 to 1920, from 2,052,402 to 4,975,1000 (“Complete” 8). In December 1886, a major step forward to securing these rights began with a meeting of thirty-eight trade unionists, “hoping to create a new nationwide labor federation” (Greene 19). Cigar makers, miners, carpenters, tailors, bakers and iron molders were among the young unions that hoped for a nonpartisan alliance, with a primary focus on staying pure and simple regarding their goals of wages and working conditions (Greene 56). The American Federation of Labor (AFL) was created and the labor force of America took a grand step to forming a “voice” for decent treatment.

In theatre, IATSE had been established for the stagehands but the more “creative” laborers of theatre, (i.e. writer, actor, and director) were not part of this group. And, while most

laborers, which AFL supported, worked in labor positions that predominantly had static and monotonous job duties and conditions, the actors' and writers' labor was harder to categorize since their work was creative in nature. The actor was the first of the creative-laborers to utilize the AFL's decrees to establish fair practice. However, the "actor-laborer" was not the quintessential model seeking support in matters of working conditions and wages. The quest for equity was harder to visualize because of the perception the public had of the actor as well as the actor's personal evaluation of their job. Labor for most of the population was arduous and lacked personal expression or enjoyment. Many publications and newspapers acknowledged that the actor received accolades as well as money from their labors. *The Outlook*, an important weekly publication from New York during the early to mid 1900's, noted, "the artist (actor) has certain rewards which the factory laborer, for instance, does not have" (Seagrave 145) suggesting the actors are blessed with adornment and applause as well as a paycheck. Producers of the theatre added greatly to this perception. The actor, in the producer's opinion, contributed the least but was and the most compensated for their labor. Lee Shubert, a prominent theatre producer, actively supported this perception: "No person who delivers as little as the actor is paid so much" (Seagrave 145). For a lot of theatrical performers their labor was one of passion for the art. For the public, the mere accolades and celebrity seemed substantial payment. Theatre was not an easy "labor" to categorize. Trav S. D. notes in his book, *No Applause Just Throw Money*, how unique an industry theatre is in the industrial age "one of the basic premises of industrialism is that the manufacturer is able to provide a standardized product of uniform quality" (S.D. 85). This minimizes expense and maximizes the profit for the manufacturers.

However, in theatre, the length and complexity of the show varied greatly, bringing another layer of challenge in negotiating standardized labor regulations: "no one set formula

existed...[and]...it was a peculiar art form in and of itself, and how it manifested itself into a product varied” (S.D. 87). Although the two groups fought for similar goals on a common stage of equity, this eclectic ensemble of ordinary laborers and the extraordinary theatre actors and writers joining forces within the AFL resulted in a caste clash where ego of position would hinder cooperation and therefore unity. Additionally, one of the most notable issues regarding actor equality was the nuances that fostered unrest among the actors and writers. A caste-system played a major role in the hope for unionizing and potentially had the possibility of putting pride before impartiality. As Frank Gilmore, playwright and a founder of Actor’s Equity Association founded on May 26, 1913 noted in joining forces with the AFL, “Why should the actor hesitate? Is it professional false pride or stupidity, or empty-headed vanity? Ours is not a profession. It isn’t even a trade. It hasn’t even the dignity of a vocation. It’s only a job! And half the time we don’t get paid for it” (Royston 3). On August 7, 1919, the AEA officially started their strike and twelve New York shows did not perform that evening (Royston 3-5). The strike progressed quickly. On August 16, IATSE and the musician’s union, the American Federation of Musicians, supported the AEA strike. On August 26, the AFL President Samuel Gompers announced they would endorse the efforts of the AEA and their strike for fair treatment. Finally, on September 6, the AEA settled with the producers after 30 days and 37 productions closing. In 1924, the AEA went on strike again, this time for closed shops, which would allow only union members to be hired. These actions of the dedicated actors to create a fair Minimum Basic Agreement (MBA) were duplicated for the playwrights of New York, and in 1921 the Dramatists Guild was founded to establish protection directly for playwrights and lyricists (Fine 69).

In 1925, the threat of Hollywood colluding with theatre managers against writers was secretly taking place. Fox Film Corporation had covertly collaborated with seven major

theatrical managers on Broadway to receive funding for film rights as well as weekly compensation for the collusion (Gelder 1993). The Dramatists Guild together with Actors Equity Association took action. These major unions were swift to gather all their members together to create a standard contract for the theatre producers (Fine 69). In the theatre, the threat of rights being taken away by unscrupulous Broadway managers working behind the backs of playwrights to cut movie deals with Hollywood was altogether unacceptable, and playwrights united and took a stand. In the end, the playwrights threatened to retract their plays and cease to create new ones until the Guild's proposed contract was signed. In 1926 a five-year MBA was granted to the Dramatist Guild: "With Belasco and the Shuberts finally signing on, the Dramatists Guild had successfully negotiated a contract with the New York theatre managers that lasts to this day. What they had won was autonomy over their work; no one could change a word of their play without the author's permission; the author had final say over casting and director; subsidiary rights for touring and amateur production were controlled by the author; and film sales could not be forced upon the playwright" (Gewirtz 119). This was a victory for theatre and its playwrights. And by the early 1900's, Hollywood would welcome playwrights, authors and journalists into their world, but, unlike the playwrights, the same victory for control over their work did not happen for the screenwriters. As the screenwriters were being placated with affluence and arrogance, they were being stripped of their creative work. Their last hope was the formation of the Screen Writers Guild and joining forces through amalgamation with their sister union, The Dramatists Guild.

CHAPTER 5: MUCH ADO ABOUT NOTHING

By the time the playwrights realized they were hoodwinked into writing without rights because of work-for-hire clauses, they had signed many studio contracts which made them nameless cogs in the studio machine. Their screen credit status was ambiguous and they did not know how many writers were working on any given script. Ultimately their pay was in flux and their authorship in the hands of corporations. Playwrights turned screenwriters needed to secure a contract that would combat the power of the studios over their work.

The SWG had a rough start; as other organizations, supported by the movie powerhouses, tried to take their place. For example, in 1927, Louis B. Mayer created a writer's division of The Academy of Motion Picture Arts and Sciences (AMPAS) to help deal with the writers' demands ("Birth"). This organization, known as the "company union," allowed the studios to sway outcomes of arbitration between the writers and their employers. Dorothy Parker remarked at the dubious protection writers received from AMPAS: "Looking to the Academy for representation was like trying to get laid in your mother's house. Somebody was always in the parlor, watching" (Hamilton 93). Mr. Mayer smugly remarked later in his life that the Academy was a way to dilute the SWG's strength. He further revealed that he knew showering the talent with flattery was helpful in deflecting their desire for more important rights. By creating the Academy Awards, Mr. Mayer shrouded some of his more devious desires for creative control: "I found the best way to handle [filmmakers] was to hand medals all over them. If I got them cups and awards they'd kill themselves to produce what I wanted. That's why the Academy Award was created" (Kurin 89).

In 1933 AMPAS went too far when it approved a 50% pay cut to the writers to help the

ailing Studios. The studio heads would take 35% (Wilkins). Louis B. Mayer put on a spectacular show to his employees, claiming that MGM would go under these cuts. However, this 50% pay cut was not asked of the craftspeople who had established unions, (i.e. IATSE) to bargain and protect its members' interests. The outcome of the pay cut was that the big bosses didn't lose much money, since bonuses, their predominant source of revenue, stayed intact. Approximately 25% of net profits were divided and handed to the studio main men. Mayer lived in the lap of luxury with white leather walls on his office and a wraparound desk with a soundproof telephone booth for private calls (Eyman 4).

Other events at the same time halted the need for the writers to create a strong union and garner creative charge. President Roosevelt's National Industrial Recovery Act (NIRA), under the authority of the National Recovery Administration (NRA), created a Motion Picture Code supporting a more cooperative environment and asking for the AMPAS to hold the reins of this partnership of producers and union (Banks 47-49). The NRA tried to implement a "five-by-five" committee, allowing for five writers and five producers to come together and work out any disagreements. The idea seemed hopeful but in the end the Academy demanded all the same ownership and control and therefore increased on the need for the SWG to fight on their own. They solicited Washington to help the writers' and recognize the inadequacy of the NIRA to help with their causes. In May 1935, the US Supreme Court deemed the NIRA unconstitutional and the five-by-five committees were scrapped. Realizing that they were on their own in fighting the studios, the playwrights left their memberships with the AMPAS and joined SWG in abundance. Further supporting the playwrights stand to fight was the Wagner Act of 1935, which established the National Labor Relations Board to handle relations between the unions and the employer: "Senator Robert R. Wagner of New York, was to guarantee employees 'the right to self-

organize, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purpose of collective bargaining or other mutual aid and protection” (“National”). By 1935, the SWG was the best way for screenwriters to protect their words.

While the SWG was gaining members and strength, it was also developing a plan to persuade New York playwrights and authors through their union, the Dramatist Guild, to join forces. Amalgamation was the key to winning back their authorship. While pay and credit were very important, the idea for amalgamation was a way to mirror their New York counterparts’ authorship rights. This put the movie bosses on full alert: “Mayer and the other studios heads weren’t concerned about having to pay the talent more as much as they were concerned with losing complete creative control over their films” (Wilkins). Many attempts were made to derail the momentum of SWG, including Irving Thalberg’s push to sign his writers to an exclusive MGM contract disallowing any union membership. If his writers did not sign the contract, they would find themselves outside the golden gates of MGM (Dunaway 154). SWG was further determined to put an embargo on their written works as part of the amalgamation plan; Article XII of the plan determined that the SWG, the Authors’ League of America and the Dramatists League would refuse to produce any written work for the studios for three years, until May 1938 (Hamilton 95). The movie moguls would be stuck with no scripts coming in and no literary work from the East Coast to adapt ideas and stories from. This attempt at uniting was the only way to gain back their rights; it was a mighty crusade that propelled the Studio emperors into an apex of anger: “For the first time in this confrontation with his underlings, Irving was not the benign teacher but the little czar... We would not have blinked had L.B. [Mayer] roared out a threat to close the studio unless we gave up the guild idea, but when Irving Thalberg made this threat in

chilling tones we were shocked into a dread silence which revealed his enormous power over us” (Marion 240). In 1936, the gauntlet was thrown down by the writers when Dudley Nichols refused an Academy Award for his screenplay *The Informer* (Gray). Nichols, who began his career in New York’s theatre and journalism circuit as a theatre critic, was a wildly accomplished screenwriter, creating over 60 screenplays. He was also president of the SWG from 1938-1939 (Schwartzburg 1). This gesture took the writers out of their studio corner cubbies and into the spotlight of Hollywood. The SWG was in full force and it seemed the vote for amalgamation was their ticket back to fair practices.

A vote for amalgamation was close at hand and the picture powerhouses had come to a standstill. The producers deployed all the tricks they could conjure, including using the press to attack the screenwriters as un-American. At the head of the fight was *The Hollywood Reporter* and *Los Angeles Examiner*, owned by William Randolph Hearst. These publications presented the producers as great givers of gold and the writers as ungrateful goons: “The beneficiaries of the industry generally should not allow greedy and selfish cliques to kill the prolific geese which have laid such marvelous golden eggs for all. There are no such golden eggs to be found in the world” (Banks 52). The SWG members were accused of being an organization with communist tendencies that wanted to destroy a whole industry. Irving Thalberg’s biographer, Roland Flamini, sums up the paranoia placed on the playwrights: “Seen from the producer’s perspective, what had started out as an attempt to form a writers’ union now seemed more like a communist attempt to infiltrate, subvert, and perhaps ultimately control the motion picture industry” (Flamini 206).

With the SWG members having to fight an ugly fight against the producers and the press, there was a divide on how extreme they should be. Unfortunately, the divisions within the SWG

undermined its solidarity, putting a crack in the amalgamation foundation, and causing some writers to become empathetic to producers. John Lee Mahin and James K. McGuiness, both New York journalists and screenwriters, were two of the more prominent SWG members who supported the producers and felt their guild had overstepped: “They declared that the leadership was going too far and might put the Guild in the hands of the eastern Reds, a prospect they found intolerable” (Banks 52). Many guild members hoped for a more amicable compromise and were ready to solicit a subtler, softer approach to achieving their goals. The pinnacle moment happened when Mr. McGuiness and Mr. Mahin decided they were ready to support their guild and encouraged the vote for amalgamation. This was a surprise but a welcome support of unity. The pair suggested that while unity with their New York constituents was good in principle, the West Coast needed a little autonomy. This appeased the worries of the waffling writers who did not want to be overly forceful. This suggestion “in principle” to unite was a device for destruction handed down by inside the SWG brethren. It was the kiss of death, and the vote was made on May 1936 to amalgamate in principle. However, it did not establish any specifics: “Many of the writers were bracing for fireworks at the meeting; the Hollywood police department was even summoned in case things got out of hand...A number of the conservative members called for a vote, not about amalgamation but rather for the principle of amalgamation with the Authors League of America...The process seemed reasonable, and the membership voted overwhelmingly in favor” (Swartz 66). The dagger had been slung straight into the SWG’s heart. The rest of the story mirrors a Hollywood film noir with a bait and switch ending. In return for the achieving amalgamation in principle, the SWG allowed three liberal board members to be replaced by three conservatives. These conservative board members then took the opportunity to call a vote to rescind Article XII, releasing the proclamation of not signing any contracts or

contributing any written materials to the studios after May 1938. The vote passed. After this the producers doubled their efforts to undermine the SWG. They introduced a milder guild, the Screen Playwrights (SP), which would offer supportive and amicable negotiations. Many SWG members defected to SP and the movie mammoths decreed they would only work with the SP. A five-year contract was put in place, allowing minimum wage, notification of termination, sharing if other writers were working on an assigned project, and fair credit practice. Authorship was *not* addressed. The SWG went underground but still held fast to proper protection and ownership rights for their writers. After exhaustive solicitation to the National Labor Relations Board (NLRB), SWG was acknowledged as the only guild to represent Hollywood's writers.

The work of the Hollywood magnates was magnificent and not without merit! Their maniacal dedication is what *their* legends are made of. Their zeal for the craft was remarkable and perhaps deserved more of the over-all control than theatre producers would receive. For example, one of the grandest barons of the big screen, Harry Cohn, Columbia Pictures studio head, was known for his tenacity. Mr. Cohn came from a working-class background and was known for being overbearing, unscrupulous, tightfisted, and a temperamental dictator of his movie empire. He gave skin and bone to his work; it was his life's blood. Frank Capra, who won Oscars for both producing and directing the play to movie, *You Can't Take It With You*, collaborated with Harry Cohn on many films and felt both disdain and awe for this self-made tycoon. When Mr. Capra decided he had enough and was walking out the door, Harry Cohn, enraged, explained his self-sacrificing fidelity to his life's work:

His face whitened and contorted. Foam flecks appeared in the corners of his mouth as he suddenly turned on me with unexpected fury, 'You think this is easy for me, you goddamn dago? Yes! I'm crying! I started Columbia with spit and wire and these fists, made one-reel comedies with no money to pay bills. I stole, I cheated, beat people's brains out to build Columbia: got known as a crude, loudmouth son-of-a-bitch. But I built Columbia. Into a major studio....to me, goddam you, Columbia is – is – not just my love.

It's my baby, my *life*. I'd die without Columbia (Capra 233).

Equally, Irving Thalberg was relentless and very successful in his pursuits of Hollywood grandeur. By the time he was 20, he was running Universal Pictures. He also co-founded MGM, won numerous Oscars, produced a plethora of films, and helped many actors become icons. The Academy of Motion Pictures has a special award in his honor, awarded only when the board feels a producer shows exemplary achievement (Vieira xiii). Thalberg is synonymous with Hollywood and his passion of pictures contributed to his early death. Charles MacArthur, playwright of *The Front Page* and Academy award winning screenwriter, expressed Mr. Thalberg's only desire; movie making, "He didn't know how to rest, or play or even breathe without a script in his hands" (Hamilton 102). Thalberg lived his work which consumed his life and health. Thalberg worked tirelessly overseeing mammoth films such as *Mutiny On The Bounty* and *The Good Earth*, leading to his untimely demise at the age of 37. Thalberg gave his soul to building the grand world of Hollywood.

No doubt the dedication of these movie masters is close to how kings rule their countries, but does it allow for the procurement of someone else's personal property? Though, sleepless nights, stress and sheer sweat endured by a dedicated producer are praiseworthy, it is hard to crown "management" as a copyrightable creative work. In many cases, studio heads were known for putting "reading" as a secondary function to their producing and would glance through potential movie scripts, books or plays: "I would rather take a fifty-mile hike than crawl through a book."-Jack Warner was remembered saying; Sam Goldwyn acknowledged, "I read part of it all the way through" (Hamilton 81). While humorous, this lack of literary competence could be behind their penchant for oppressing their literate laborers. "Write whatever you like as long as there's a love scene and the girl jumps in the volcano at the end"-David O. Selznick (Dowd).

CHAPTER 6: FAREWELL TO ALL MY GREATNESS

When playwrights entered the world of movie making they had one offering: characters and story. They pioneered west into uncharted territories of ownership and throughout their journey encountered many hardships. While they foresaw a land of gold with money and credit being handed to them, they did not anticipate the abuse, neglect, and entrapment they encountered. Granted, these babes-in-the-woods had no idea to what extent their stories would be stolen, nor did they protect their plots from being pillaged. Naiveté and neglect fed a fire of profit and exploitation allowing the Hollywood establishment to mistreat and violate the playwrights of theatre. Ben Hecht recounts one of these abusive moments in Hollywood where his craft, as well as his physical being, was tortured on re-writing *Gone With The Wind* after it had commenced production. The script that the famed producer David Selznick bragged about crafting wasn't working and Mr. Hecht was summoned to write a successful screenplay for which he was not given credit. All production stopped, millions of dollars were wasted and the writer was essential to make the movie a money maker. Mr. Hecht and director Vic Fleming, who won an Academy Award for directing *Gone With The Wind*, were required to work exhausting hours with minimal sustenance to achieve a great script with story and character in one week:

After three weeks of *Gone With The Wind*, David had decided his script was no good and that he needed a new story and new director. The shooting had been stopped and the million dollar cast was now sitting by collecting its wages in idleness.... We worked for seven days, putting in eighteen to twenty hours a day. Selznick refused to let us eat lunch, arguing that food would slow us down. He provided bananas and salted peanuts. On the fourth day a blood vessel broke in Fleming's right eye, giving him more an Indian look than ever. On the fifth day Selznick toppled into a torpor while chewing on a banana. ... Thus on the seventh day I had completed, unscathed, the first nine reels of the Civil War epic" (Hecht 455-56).

If the writers of Hollywood did not bend to the unethical request of relinquishing authorship, they would be punished and their livelihood threatened. George Seaton, playwright and Academy Award-winning screenwriter for *Miracle of 34th Street*, while under contract with MGM, was bullied to the point of almost physical threats for being a member of the SWG and standing up for his union and their fight. Mr. Seaton remembers a commissary encounter clearly where the animosity turned ultimatum: “You still in the SWG? You better get out of that commie organization or you won’t be here long” (Schwartz 76). Darryl Zanuck threatened a deadly conclusion to coerce the playwrights into giving up authorship: “If those guys set up a picket line and try to shut down my studio, I’ll mount a machine gun on the roof and mow them down” (Schwartz 60). Irving Thalberg threatened to shut the whole studio down, everyone would be jobless, an entertainment empire obliterated if the writers took a stand and saved their authorship by introducing Article XII restricting all services and any sale of their work after May 2, 1938, if the studio hiring or buying was not signatory to the Guild. Mr. Thalberg showed the true worth of the playwrights through his overly frantic response to the writers’ potential strike: “If you wish to put all these people out of work, it is your responsibility. For if you proceed with this strike, I shall close down the entire plant, without a single exception. Make no mistake, I mean precisely what I say. I shall close the studio, lock the gates, and there will be an end to Metro-Goldwyn-Mayer productions. And it will be you – all you writers – who will have done it” (Thomas 267-268). Additionally, the writers were entrapped in an unethical seven-year contract concocted by the Studio heads to keep their most essential artisan faceless and behind bars. This contract allowed the studio to own the writer for seven years but could hire them whenever they wished. Employment was not guaranteed but servitude was demanded; the writers were contractually bound to their signatory studio for seven years with income being optional. Aldous

Huxley, a famed novelist of over 50 books including *Brave New World*, (Reiff 101), explains the seven-year contract's incarceration. Huxley noted at each studio there were "rows and rows of hutches, each containing an author on a long contract at a weekly salary. You see their anxious faces peering through the bars ... There are authors on some lots whom nobody has seen for years. It's like the Bastille" (Banks 43). Obviously, the writer was invaluable, moreover, their words were crucial, and in a do or die moment, the writer is the key element to making an emotional roadmap for the actors, directors, and designers to work from. Theatre and the Dramatist Guild knew the eminence of the written word, but Hollywood vehemently and violently denied their contribution.

While movie producers have determined playwrights to only be a bit-player in the new form of art (motion pictures) it is impossible to believe that without them the pictures would come alive. A story must be told and therefore well-formed characters should live and breathe, love and falter under the propriety of their creator. Theatre writers were in the forefront of the new art form of movies and therefore held a considerable amount of the responsibility. Ian Hamilton reported in his expose on Hollywood and its writers, *Writers in Hollywood*, that in the late 1920's to the mid 1930's the predominant writer solicited by cinema were playwrights who went west: "in 1927-28, the total number of plays produced on Broadway had reached an all-time high – 264 of them fluttering in and out of the city's eighty theaters during the course of the year... 'there was no shortage of nothing whatsoever' ... And so Hollywood began to buy dialogue by the ton" (Mordden 89).

Although the populace may see the theatre and movie industries as a non-crucial, superficial medium, if we look at the bigger picture of any creator holding on to their ownership, the playwright holding onto authorship may represent an ideology with greater worth. Although

monetary gain is a part of the purpose of possession, the principle of authorship is more important and could hold a higher responsibility on the world's stage. With Google winning the lawsuit, *Authors Guild v. Google, Inc.* in 2015, the U.S. District Court of Appeals deemed the scanning of millions of books without the permission of the author as *lawful*: "Google's unauthorized digitizing of copyright-protected works, creation of a search functionality, and display of snippets from those works are non-infringing fair uses" (Selyukh). The slippery slope started. Above it is argued that the playwright gave away their soul, in essence their DNA, when they went to Hollywood to offer their creative intellectual property. These West Coast playwrights turned screenwriters did not unite with their East Coast brethren and sold their stories and characters to corporations. "I remember the first time I discovered that something I had written for *Cavalcade of America* was copyrighted, and it said on the copyright card: 'Author: DuPont Company.' I remember, I came face to face with the realization that DuPont was the author of what I had written" (Barnouw). Erik Barnouw, playwright, Peabody award winner for his documentary, "Words At War", and chairman of the Writer's Guild of America in 1957, was shocked to find that not even a breathing person laid claim to his creative work.

In big business ownership, the creative self is entangled in a bureaucratic tug-of-war. While copyrighted work is still covered in most situations, the line is blurred in our modern-day media. Facebook is a prime example, as the photo and video content entered into your Facebook page is allowed to be shared with few restrictions. Facebook's Terms and Conditions states, "for content that is covered by intellectual property rights, like photos and videos (IP Content), you specifically give us the following permission, subject to your privacy and application settings: you grant us a non-exclusive, transferable, sub-licensable, royalty-free, worldwide license to use any IP content that you post on or in connection with Facebook (IP License). This IP License

ends when you delete your IP content or your account unless your content has been shared with others, and they have not deleted it” (Bailey). If the IP owner is not diligent in understanding their rights and protecting their creative work, the ownership is given away indefinitely.

Facebook depends on a very vague and veiled IP sharing situation to thrive. While this situation seems benign in nature, in that we are sharing appealing pictures of our pet, child, garden etc., everyone should own their creative self - completely. The main question, is where does this end? In the age of computer-generated-imagery (CGI), it is easy to take the likeness of a human actor and faithfully reproduce them in digital form. This is exemplified in digital likenesses seen in movies and in theatrical productions where holograms stand in for actors. “Rogue One” recreated actor Peter Cushing as the character Grand Moff Tarkin after the actor’s death in 1994. While this was a digital “miracle”, and for the most part celebrated as a way to honor this greatly admired thespian, there were some that questioned the overall precedence setting of an actor and his ownership after death. “*The Huffington Post* called it ‘a giant breach of respect for the dead.’ and *The Guardian* said it worked ‘remarkably well’ but nonetheless described it as ‘a digital indignity’” (Itzkoff). Lucasfilm creators suggest that this type of work is very costly and labor intensive and therefore would not be an optimum source of actor creation. This lackadaisical approach was prevalent in the 1920 – 40’s when movies came to be successful:

The Broadway carpetbaggers arrived proclaiming theatre to be a higher calling and movies a degrading pit stop, a smug conviction... Nearly all the first-rate playwrights of the 1930’s and 1940’s, spent time in the film colony... for the likes of George Abbott, Sidney Howard, Robert E. Sherwood, S.N. Behrman, Marc Connelly, Moss Hart, Richard Rodgers and Oscar Hammerstein, Laurence Stallings, Maxwell Anderson, Lillian Hellman, Samson Raphaelson, George S. Kaufman, Sidney Kingsley, Clifford Odets, and John Van Druten... playwrights immeasurably enhanced the standard of motion pictures by their contributions, they also, by and large, scurried back to New York to mount their next production (McGillian 5).

Playwrights underestimated the power of the screen and gave away their creative DNA; it is time

to remember that history can repeat itself. Lucasfilms understood that the ethical path was to receive permission from the Mr. Crushing's estate and therefore, unlike Google, adhered to the copyright parameters of ownership of an actor's legacy (Itzkoff). Lucasfilms needed the estates' blessing joining forces with them to create their space epic; Google determined the author's creative DNA was theirs for the taking.

Successful collaboration can be achieved when ownership is clearly established. Theatre has long established that the playwright has the final word when producing the play but even the greatest playwrights realize another input is needed. Alan Schneider, acclaimed American theater director and Tony award winner for his direction of Edward Albee's, *Who's Afraid of Virginia Woolf?*, was known for his cooperation with the playwright. While Mr. Schneider held "star power" equal to that of as Mr. Albee, he worked closely with the playwright to achieve one author's vision. Mr. Schneider also partnered with Richard Barr, a Tony award-winning producer who worked on many of Edward Albee's works. Despite Mr. Barr's acclaim, which was equivalent to that of his colleagues, he worked tirelessly to promote the playwright's vision. Mr. Barr's inventive nature, and his idea that preview showings be held in New York instead of the traditional premiere in another town, was immensely helpful to Mr. Albee's first major Broadway show, *Who's Afraid of Virginia Woolf?* (Rothstein). From the play's first draft, Schneider and Barr were consulted and respected for their directorial and producer prowess, but never regarded as the owner of the characters and the story. Schneider recounts that the respect was reciprocated as they read the play for the first time:

I remember vividly the hand-to-hand passage and piling-up of those papers in that steadily darkening room, page after page of Edward's lightning-like words exploding in my brain. How many pages? Could it last? I felt as though I were being hit over the head with a succession of concrete blocks, and yet I didn't want them to stop hitting me. Edward Albee, who was piercing the darkness with these unexpected, pulsating flashes of light. Those two marriage partners, Martha and George, were like dinosaurs battling on

the cliff of emotional survival (Vogel 20).

Richard Barr and Alan Schneider were both in awe of the script, hailing it “remarkable” and claiming their devotion to the journey of Martha and George. In rehearsals, all three men worked together to come to an accord on creative choices. Support and compromise played crucial roles but the one author’s voice was respected. Mr. Schneider recalls,

I’ll never forget the day I’d finished staging the first act. ... Richard, bless him, shot up from his seat, beaming. ‘I think its excellent work,’ ... We all looked at a slightly nervous Edward Albee, in baggy sweater and dirty tennis shoes, roaming around the back of the auditorium all by himself. After a few unspoken dots, his head slightly turned, he said: ‘Well...it’s not all the way I had seen it.’ I turned pale, inside as well as out. ‘What was wrong?’ (Edward) ‘I’m not sure It’s all different.’ Richard, bless him, came in with, ‘Well, I loved it!’ (Schneider) ‘Okay,’ I persisted. ‘What’s different?’ ... Edward prowled up and down the aisle a moment. ‘Well, I think Honey and Nick sit down too soon. I didn’t see them sitting down that soon.’ ‘Oh,’ I said ‘I think I can handle that. ... And so it went. Act 2 seemed reasonably ‘there’ to Edward when he saw it a few days later (Vogel 20).

All the participants of Mr. Albee’s premiere respected the words as part of Mr. Albee’s creative self and treated the play with this in mind. In theatre, Edward Albee was the creator and the guardian of Martha and George’s journey. In movies, the argument for ownership of your creative self can take on a graver tone. Ownership of the playwright’s self is at stake.

Playwrights who write for movies need to pull back the reins and not allow their characters and story to be owned by anyone but themselves; they alone can share their DNA and allow any sort of reworking with their permission.

CONCLUSION

In our new technological world, off-shoots of the playwrights' mismanagement of IP can create a toxic environment for more than just the writer. Perhaps an actress, whose face could conceivably become iconic, has been deceived into serving her visage on a silver platter for the production company to manipulate in any way they choose. In other words, if an actress feels her likeness is best served in movies made for all ages to enjoy, then this actress would not want her face to represent anything harsh or untoward. Perhaps her youthful glow as everyone's perfect girl is taken to a new level with the filmmakers through digital wizardry. If money is to be made with her "character" being presented in a sultrier situation, what's to stop our new movie moguls from making her more mischievous or even obscene? In this scenario, not beyond the realm of possibility, relinquishing one's likeness without a fight can lead to critical consequences. As if the psychological DNA of a writer is being severed from their emotional self.

Although creative DNA has an ethereal nature to it, the misappropriation warrants a path of human thievery. In the human life drama, *HeLa*, the name given to a cell harvested from Henrietta Lacks, a poor African American woman born in 1920 who was diagnosed with cervical cancer, exemplifies the tragedy of not securing proper permission for possession of your personal self. While she was being treated for cancer, the doctor seized her cells for his own experiments with no ownership rights given to Ms. Lacks; she did not know they were being sold, spread, and tested throughout the world. "With Henrietta unconscious on the operating table in the center of the room, her feet in stirrups, the surgeon on duty, Dr. Lawrence Wharton Jr., ... picked up a sharp knife and shaved two dime-sized pieces of tissue from Henrietta's cervix" (Skloot 33). These cells were given to a doctor who was trying desperately to keep any human cells alive and

growing. HeLa grew like a weed and stayed alive...a feat that had not happened (Skloot 40-41).

Taking Ms. Lacks cells without her permission seems unabashed, a violation of a person and their physical self. However, we can propose that a psychological gene may be comparable to a physical gene; your body *and* your mind have scientific value. Did the Hollywood heavies dissect creative genes from playwrights? Dr. Viatcheslav Wlassoff, who worked at the National Institute of Genetics reported on a new gene being discovered, the “creativity” gene. In his genetic research, Dr. Wlassoff has found many profound studies that link creativity to physical features of the brain. “A study by scientists at Cornell University found that creative individuals like artists, musicians, and writers tend to have a peculiarity in the structure of their brains – they have smaller mass of corpus callosum. The corpus callosum is a cluster of nerve fibers that connect the two hemispheres of the brain” (Wlassoff). While only a dime size slice of Henrietta was taken the result was a magnitude of cells ... Henrietta’s cells. In this same vein, virtually speaking, the playwrights’ creative cells were harvested in the hopes for them to grow. In the case of Hollywood and the proliferation of movies, movie moguls have taken the creative DNA of the playwrights and put them in a movie petri dish hoping for them to flourish in great proportions. In many cases, they did. These Hollywood heavyweights are masters at promoting a movie but if the story and characters do not stimulate the desire for watching and sharing with others to watch...it will not grow. In Obie award-winning Jose Rivera’s essay, *Assumptions About Writing Plays*, he fervently proclaims the writing being part of the playwright’s physical self,

(6) Each line of dialogue is like a piece of DNA: potentially containing the entire play and its thesis; potentially telling us the beginning, middle and end of the play.

(13) Invest something truly personal in each of your characters, even if it’s something of your worst self.

(15) You write from your organs. Write from your eyes, your heart, your liver, your ass --
- write from your brain last of all.

(36) A writer cannot live without an authentic voice (Vogel 258-261).

In times of great oppression coupled with the opportunity for exploitation, such as the Depression and the onset of talking movies, survival was the theatre scribes top priority, and perhaps survival was all they could muster. This is where the playwrights fell into a well-laid trap of short-term wealth while being stripped of their long-term security: their authorship:

“Some of the very greatest names in all of modern literature have spent considerable periods of their lives working as contract writers in Hollywood, with varying degrees of involvement. It was the case with most of them that their working in Hollywood became a matter of financial salvation. Even Bertolt Brecht poetically proclaimed after he arrived in Los Angeles in the summer of 1941:

Every morning, to earn my bread,
I go to the market, where lies are bought.
Hopefully
I join the ranks of the seller.
(Dardis 6)

However, after the hard times have passed action is needed to balance what is right and what is wrong. The authorship of a writer on all levels, not just the best-selling writers, is a battle worth fighting. Stories *can* stop being told until ownership is back in the hands of the actual persons that put ink to paper or fingers to keyboard to create master-plans rich with characters and story that all movie artisans can work from. Ergo, the injustice imposed on the playwrights turned screenwriters’ needs to be rectified. It is important as an ethical framework of society, relinquishing one’s self is not an option.

The Hollywood powerhouse producers had conviction, which they backed up with grit and their own type of creativity. They were determined and would not take “no” for an answer – not ever! “I don’t want it good, I want it Tuesday!” - Jack Warner (Hamilton 81). If only the

playwrights would have had these movie mogul's moxie! Orson Welles, noted for his talents and achievements in theatre, radio, movies as an actor, director, writer, and producer receiving both the Oscar and Grammy among other awards and accolades, said the writer...“should have the first and last word in film-making, the only better alternative being the writer-director – but with the stress on the first word” (Corliss xxii).

WORKS CITED

- “The 14th Academy Awards Memorable Moments.” *Academy of Motion Picture Arts and Sciences*, 2015, www.oscars.org/oscars/ceremonies/1942/memorable-moments.
- “About the IATSE.” *IATSE*, www.iatse.net/about-iatse.
- “An Act to Amend and Consolidate the Acts Respecting Copyright.” *U.S. Copyright Office*, www.copyright.gov/history/1909act.pdf.
- Bailey, Jonathan. “Does Facebook Really Own Your Photos?” *Plagiarism Today*, 13 May 2015, www.plagiarismtoday.com/2015/05/13/does-facebook-really-own-your-photos/.
- Banks, Miranda J. *The Writers: A History of American Screenwriters and Their Guild*. Rutgers University Press, 2015.
- Barnouw, Erik. Interview by the Writers Guild Oral History Project. *WGA*, Spring 1978, www.wgfoundation.org/programs/the-writer-speaks/.
- Benchley, Robert. *Benchley at the Theatre*. The Ipswich Press, 1985.
- “Bill of Rights.” *Dramatists Guild*, www.dramatistsguild.com/advocacy/bill-of-rights/.
- “Birth of the Academy.” *Academy of Motion Picture Arts and Sciences*, 2015, www.oscars.org/academy-story.
- Breimer, Stephen. *The Screenwriter’s Legal Guide*. Allsworth Press, 1999.
- Brenman-Gibson, Margaret. *Clifford Odets: American Playwright*. Atheneum, 1981.
- “Bylaws.” *Dramatists Guild*, www.dramatistsguild.com/about-the-guild/bylaws/.
- Capra, Frank. *The Name Above The Title*. MacMillan, 1971.
- Christiansen, Richard. “Elmer Rice: The Playwright Behind the Scene.” *The Chicago Tribune*, 30 September 2001, articles.chicagotribune.com/2001-09-30/news/0109300100_1_streat-scene-elmer-rice-lyric-opera.
- “Complete Text of President Coolidge's Speech to the Farmers' Federation in Chicago.” *The New York Times*, 8 December 1925, p. 8., timesmachine.nytimes.com/timesmachine/1925/12/08/99371588.html?pageNumber=8.
- Corliss, Richard. *Talking pictures: Screenwriters of Hollywood*. Overlook Press, 1974.

- Cross, Lucy. "John Weidman." *Masterworks Broadway*, 2007, masterworksbroadway.com/artist/john-weidman/.
- Dardis, Tom. *Some Time in the Sun: The Hollywood Years of F. Schott Fitzgerald, William Faulner, Nathanael West, Aldous Huxley and Jame Agee*. Limelight Editions, 1976.
- Dixon, Winston and Foster, Gwendolyn. *A Short History of Film*. Rutgers Press, 2008.
- Donaldson, Michael C. *Clearance Copyright: Everything you need to know for Film and Television*. Silman-James Press, 2008.
- Dowd, Maureen. "FILM: Bucks and Blonds: Joe Eszterhas Lives The Big Dream." *The New York Times*, 30 May 1993, www.nytimes.com/1993/05/30/movies/film-bucks-and-blondes-joe-eszterhas-lives-the-big-dream.html.
- Dunaway, David King. *Huxley in Hollywood*. Anchor Books, 1989.
- Everson, William K. *American Silent Film*. New York, New York: Oxford University Press, 1978.
- Eyman, Scott. *Lion of Hollywood: The Life and Legend of Louis B. Mayer*. Simon & Schuster, 2005.
- Fine, Richard. *James M. Cane and the American Authors' Authority*. University of Texas Press, 1992.
- Flamini, Roland. *Thalberg: The Last Tycoon and the World of M-G-M*. Crown Publishing, 1994.
- Gelder, R.V. "A Tragic Chorus." *The New York Times*, 21 May 1993, archive.nytimes.com/www.nytimes.com/books/97/06/22/reviews/hollywood-locust.html.
- Gewirtz, Aurthur. *Art, Glitter, and Glitz, Mainstream Playwrights and Popular Theatre in 1920's America*. Praeger Publishers, 2004.
- Gray, T. "Oscar and Politics Over the Decades, From Marlon Brando to Jimmy Kimmel." *Variety*, 1 March 2018, variety.com/2018/vintage/news/oscar-politics-controversy-marlon-brando-jimmy-kimmel-1202711409/#!.
- Greene, Julie. *Pure and Simple Politics: The American Federation of Labor and Political Activism, 1881-1917*. Cambridge University Press, 1998.
- Hamilton, Ian. *Writers in Hollywood: 1915-1951*. Carroll & Graf Publishers, Inc., 1990.
- Harmon, David and Monaster, Nate. Interview by the Writer's Guild Oral History Project. *WGA*, 15 February 1978, www.wgfoundation.org/programs/the-writer-speaks/.
- Hecht, Ben. *A Child of the Century*. Simon and Schuster, 1954.

- “Inflation Calculator.” *US Inflation Calculator*, 2018, www.usinflationcalculator.com.
- Itzkoff, D. “How ‘Rogue One’ Brought Back Familiar Faces.” *New York Times*, 1 January 2017, www.nytimes.com/2016/12/27/movies/how-rogue-one-brought-back-grand-moff-tarkin.html.
- Kurin, Richard. *The Smithsonian’s History of America in 101 Objects*. Penguin, 2013.
- Marion, Frances. *The Hollywood Writers’ Wars*. Macmillan, 1971.
- McGillian, Patrick, ed. *Backstory 1: Interviews with Screenwriters of Hollywood’s Golden Age*. University of California Press, 1986.
- MacGowan, Kenneth. “When The Talkies Came To Hollywood,” vol. 10, no. 3, *The Quarterly of Film Radio and Television*, 1956, pp. 288-301.
- McArdle, Phil. “Sidney Howard: From Berkeley to Broadway and Hollywood.” *The Berkeley Daily Planet*, 18 December 2007, www.berkeleydailyplanet.com/issue/2007-12-18/article/28760.
- Meryman, Richard. *MANK: the wit, world, and life of Mankiewicz*. Morrow, 1978.
- Miller, Chuck. “Is that a naked women on a horse, on stage in Albany?” *Times Union*, 3 October 2009, blog.timesunion.com/chuckmiller/it-that-a-naked-woman-on-a-horse-on-stage-in-albany/241/.
- “Mission and History.” *Dramatists Guild*, www.dramatistsguild.com/about-the-guild/.
- Mordden, Ethan. *The American Theatre*. Oxford University Press, 1981.
- “National Labor Relations Act (1935).” *National Archives and Records Administration*, www.ourdocuments.gov/doc.php?flash=false&doc=67#.
- Neibaur, James L. *The Fall of Buster Keaton: His Films for MGM, Educational Pictures, and Columbia*. Scarecrow Press, Inc., 2010.
- “Photoplay Authors’ League Organized.” *Mariposa Gazette*, 30 May 1914, p. 3. *California Digital Newspaper Collection*, cdnc.ucr.edu/cgi-bin/cdnc?a=d&d=MG19140530.2.51&e=-----en--20--1--txt-txIN-----1.
- Phillips, Gene D. *Fiction, Film, and F. Scott Fitzgerald*. Loyola University Press, 1986.
- Reiff, Raychel Haugrud. *Aldous Huxley: Brave New World*. Benchmark, 2010.
- Rice, Elmer. *Minority Report*. Simon & Schuster, 1963.

- Ross, Andrew. *No Collar: The Humane Workplace and It's Hidden Costs*. Temple University Press, 2003.
- Rothstein, Mervyn. "Richard Barr, 71, Stage Producer and Theatre League Head, Dies." *The New York Times*, 1 January 1989, www.nytimes.com/1989/01/10/obituaries/richard-barr-71-stage-producer-and-theater-league-head-dies.html.
- Royston, Peter. "Why Should the Actor Hesitate?" *Actors Equity Association*, 2006, www.actorsequity.org/timeline/timeline_firstyears.html.
- Schwartz, Nancy Lynn. *The Hollywood Writers' Wars*. Knopf, 1982.
- Schwartzburg, Molly. "The Door." *The University of Texas at Austin*, norman.hrc.utexas.edu/bookshopdoor/signature.cfm?item=190#1.
- S.D., Trav. *No Applause ~ Just Throw Money: The Book That Made Vaudeville Famous*. Faber and Faber, Inc., 2005.
- Seagrave, Kerry. *Actors Organize: A History of Union Formation Efforts in America, 1880 - 1919*. McFarland & Company, Inc., 2009.
- "Section 07C Renewal Registration Rights: Next-of-Kin." *Copyrightdata.com*, 2007, chart.copyrightdata.com/c07C.html.
- Selyukh, Alina. "Google's Book-Scanning Project Is Legal, U.S. Appeals Court Says." *National Public Radio*, 16 October 2015, npr.org/sections/thetwo-way/2015/10/16/449172748/googles-book-scanning-project-is-legal-u-s-appeals-court-says?t=1542757799721.
- Skloot, Rebecca. *The Immortal Life of Henrietta Lacks*. Random House, Inc., 2010.
- Stempel, Tom. *Framework: A History of Screenwriting in the American Film*. Syracuse University Press, 2000.
- Thomas, Bob. *Thalberg: Life and Legend*. Doubleday & Co., 1969.
- Vieira, Mark A. *Irving Thalberg: Boy Wonder to Producer Prince*. University of Berkley Press, 2010.
- Vogel, Paula. *The American Theatre Reader: Essays and Conversations from American Theatre Magazine*. Theatre Communications Group, 2009.
- Wilkins, Randall. "The Academy and the 50% Pay Cut". *The Designer's Assistant*, 19 February 2007, thedesignersassistant.com/2012/02/19/the-academy-and-the-50-pay-cut/.

Wlassoff, Viatcheslay. “Decoding Creativity – It’s In the Genes!” *Global Neuroscience Initiative Foundation*, 2014, brainblogger.com/2014/12/14/decoding-creativity-its-in-the-genes/.

Yardley, William. “Frank Pierson, Oscar-Winning Writer Dies at 87.” *The New York Times*, 25 July 2012, www.nytimes.com/2012/07/25/movies/frank-pierson-oscar-winning-writer-dies-at-87.html.

Zolotow, Maurice. *Billy Wilder in Hollywood*. Putnam, 1977.