

# Introduction

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In a heated exchange with director Danny Mann at the 1992 Inge Festival in Kansas, playwright Edward Albee succinctly articulated what he saw as the relationship between the playwright and his director:

ALBEE: Theatre is not merely the furnishing of pleasure or fun. It's engagement of thought, of self, of mind.

MANN: But it has to have emotion. The play *has* to have emotion. And the director has to add it, handle it; he has to help actors to deliver emotion. The director determines and defines what emotions should be included in the play. When you direct, you want the audience's participation—which has to do with emotion, not just with cerebration, not just thought or idea!

ALBEE: [*strenuously objecting*] A first-rate play's text has *not* just cerebral ideas; it has *all* the emotions right there! In a great play, the playwright does *not* need the director's 'help'. The good director translates what is already there in the play; he does not have to *create* it in a first-rate play. It's in the subtext.<sup>1</sup>

Having waged numerous battles over the previous four decades in order to assert his authorial rights over his

plays—including several attempts to close productions of the Pulitzer Prize-winning *Who's Afraid of Virginia Woolf*<sup>2</sup>—Albee sees the playwright as the authorial source, and therefore the original rights holder, commanding ultimate authority over it. For him there is a clear distinction between the ‘creative act’ and the ‘interpretative act’. In his view, directors, designers, actors etc. do not create: it is their job to interpret what the writer has created. Without his original work, they would have no function at all. If anything, Albee’s position appears to have hardened with age: earlier this year he said that his advice to the playwright, new or established, working in the American theatre was to tell every other theatre worker, ‘Go fuck yourself!’<sup>3</sup>

Legally in the United States—and in most respects this is mirrored in Australia—a copyright framework has been constructed which gives Albee every right to assert his authority over his original dramatic work. In Australia, copyright protects authors of works, including dramatic works, by virtue of Part 3 of the Australian *Copyright Act 1968* (Cth).<sup>4</sup> The copyright owner and the original author are not necessarily the same person, but it is usually the case that the writer is the first owner of the copyright.<sup>5</sup> For all that, in the more than 500 pages that constitute the *Copyright Act*, the word ‘playwright’, the actual author of a dramatic work, is never once to be found. Nevertheless, the *Copyright Act* and the courts have constructed a framework whereby dramatic-work authorship is defined by a fundamental requirement that ideas be expressed in material form. Put another way, rewards go to those individuals whose work consists in producing tangible material—what will be referred to in this

essay as ‘fixed’ and ‘static’ material—as opposed to artists who operate in a ‘fluid’ and ephemeral way. It is a legal framework that has been used to minimise the number of original-authorial contributions.<sup>6</sup>

They might not rate a mention in the *Act*, but unlike directors and other ‘non-writer collaborators’ in text-based theatre,<sup>7</sup> playwrights do record the results of their creative output in material form. Consequently, in most cases they are considered the original authors and enjoy the benefits the *Act* provides, benefits that include the right to exploit the work<sup>8</sup> and concomitant ownership rights.<sup>9</sup> By contrast, collaborators such as directors, who make a significant artistic contribution to the realisation of the original work, do not enjoy the same financial benefits. Directors and actors are paid a wage or else a negotiated fee. The playwright, on the other hand, receives no such fee or wage, only his royalty cheque, which is a percentage of the box-office receipts his work has attracted.

Tensions between writer and non-writer collaborators are not new, though they have been in the news in recent times. Over the last two decades a number of disputes have played out in the press and the courts, commanding the attention of journalists and legal scholars in both Australia<sup>10</sup> and America;<sup>11</sup> and their prevailing line of argument challenges Albee’s hard distinction between the playwright as creator and the non-writer collaborator as interpreter. In light of a number of public disputes between non-writer collaborators and canonical playwrights, or the estates of canonical playwrights, more and more commentators have argued that the current framework is problematic and/or there is a need for greater