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0521853826 - American Women Authors and Literary Property, 1822-1869

Melissa J. Homestead

Excerpt

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Introduction: “Lady-Writers” and “Copyright, Authors, and Authorship” in Nineteenth-Century America

Not pay us for our toils of thought!
The struggling of our brains!
By old George Fox, the indignant blood
Is lava in my veins!
Shame on our country and its laws!
Strike, let the Bastille [*sic*] fall!
Down with the tyrant Publishers!
Hurrah for Faneuil Hall!

On October 10, 1847, the *Saturday Evening Post* published on its front page a group of poems, tales, and letters under the title “Copyright, Authors, and Authorship” by one of its regular contributors, Grace Greenwood (pseudonym of Sarah Jane Clarke, later Sarah Jane Lippincott).¹ As the head-note “explains,”

A short time since a friend of ours, a gentleman connected with the press, being in favor of an International Copyright Law, and feeling an interest in the encouragement of native genius by adequate pecuniary compensation, applied to many of our first authors for their opinions concerning these subjects, leaving them at liberty to embody their sentiments in the form of poems, letters, or sketches. But our friend, being called to the defence of his country, in the midst of his labors of love, left in our hands the important documents. It will be seen that the collection was not complete, several authors of note not having reported themselves; but such as it is, we give it to the public, to read and ponder and inwardly digest.²

What follows is actually a group of pieces written by Greenwood in the style of famous American writers of the era, most of them with the “author” identified only by initials that clearly correspond to the name of one those

¹ For an overview of her life and career, see Donna Born, “Sarah Jane Clarke Lippincott (Grace Greenwood),” in *American Newspaper Journalists, 1690–1872*, ed. Perry J. Ashley, vol. 43 of *The Dictionary of Literary Biography*, 303–8 (Detroit: Gale, 1985).

² Grace Greenwood, “Copyright, Authors, and Authorship,” in *Greenwood Leaves: A Collection of Sketches and Letters* (Boston: Ticknor, Reed and Fields, 1850), 283. For materials included in the original publication in the *Saturday Evening Post* and added subsequently, I hereinafter cite this edition in the text. The original appearance, including some items not included in *Greenwood Leaves*, is “Copyright, Authors, and Authorship,” *Saturday Evening Post*, 9 Oct. 1847, [1].

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famous writers. The series leads off with the rousing call to authorial action quoted above by “JGW” (John Greenleaf Whittier), summoning all American authors (or at least all Northeastern authors) to a meeting at Faneuil Hall, the scene of many meetings in support of the American Revolution, to discuss the question of international copyright. “Whittier’s” call is relatively inclusive, going out to Henry Wadsworth Longfellow at Harvard, William Cullen Bryant at his editorial desk for the *New York Evening Post*, FitzGreene Halleck at his counting house in New York, Lydia Huntley Sigourney in Connecticut mourning over a dead friend, and even the “Corinnes and Sapphos fair,/In Lowell factories dwelling,” who may have published works in the *Lowell Offering*. “Whittier” includes all of these authors because, according to the poem, they have one thing in common – they have not been adequately paid for their “toils of thought” and “struggling of [their] brains,” and rather than accept their martyrdom, they should stage a revolutionary overthrow of the law that oppresses them, the copyright law. Although “Whittier’s” call is gender inclusive, Greenwood tellingly partitions off “contributions” from women authors under the heading “Lady-Writers” (including her “own” contribution, the last item in the group, a “Letter from the West” signed “Grace Greenwood”). She thus suggests that gender potentially inflected the questions presented by copyright reform and that women writers had a different relationship to the law than did their male peers.

My study of women authors and literary property in the United States from the 1820s through the 1860s aims to answer precisely the question posed by Greenwood’s gender segregation of her parodies: what relationship did women authors have to the copyright law and to debates about its reform in the nineteenth century? If international copyright was, as many of the parodies of the male writers suggest, to be justified on the ground that men laboring in the field of letters should be able to provide financially for their wives and children, where did “lady-writers” fit in? More specifically, what are we to make of a seeming paradox at the heart of the relationship between women and the law: if, as nineteenth-century copyright advocates often insisted, the weak copyright law frustrated the development of American literature because it provided inadequate protection for and incentives to authors, how do we account for the spectacular commercial and popular successes of American women in the American literary market at midcentury?

The figure of the writing woman as a successful commercial agent in the literary market troubled and repulsed many nineteenth-century critics and continues to trouble and challenge modern literary historians. Did nineteenth-century women authors wholeheartedly and successfully exploit, and even help invent, the structures of commodity capitalism, or did they maintain a psychological and emotional detachment from the market

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in which their texts circulated? That is, should we read nineteenth-century American women's popular authorship through Ann Douglas's *Feminization of American Culture* (and, more recently, Lori Merish's *Sentimental Materialism*) or through Mary Kelley's *Private Woman, Public Stage*?³

Recognizing copyright law as a crucial mechanism structuring the literary market and authors' relations to it complicates the question of how women authors engaged the market for literature. Copyright grants literary texts legal status as property – a peculiar kind of property, but property nonetheless. Thus laws regulating the ownership and control of property more broadly applied to copyrights, and under broader property law principles, women (and especially married women) had a profoundly different relationship to property than that enjoyed by their male peers. Whether or not women authors distanced themselves psychologically and emotionally from the market, the law effectively created a distance by refusing to grant most women the legal status of proprietors. One might expect the nonproprietary status of many women to discourage them from producing literary texts, but their productivity in the face of their dispossession belies the logic of copyright advocacy. Their rights to property, their labors, and their very persons often in doubt, women wrote and published anyway, and readers purchased their works in unprecedented numbers.

Concurrently with this burst of women's production and readers' consumption, advocates and opponents of international copyright argued in print over the law's allocation of power between authors and readers, with the anticopyright position and readers' interests effectively holding sway for most of the century. The questions raised by the copyright debates were thus part of every author's "scene of writing," to use Richard Brodhead's useful phrase from *Cultures of Letters*. As Brodhead argues, "A work of writing comes to its particular form of existence in interaction with the network of relations that surround it: in any actual instance, writing orients itself in or against some understanding of what writing is, does, and is good for that is culturally composed and derived."⁴ In the copyright debates, American culture attempted to compose just such formulations of what writing is, does, and is good for, and American writers who hoped to reach an audience and succeed would ignore such formulations at their peril. Publishers, who decided which works to circulate and how to circulate them, necessarily

3 Ann Douglas, *The Feminization of American Culture* (New York: Knopf, 1977); Lori Merish, *Sentimental Materialism: Gender, Commodity Culture, and Nineteenth-Century American Literature* (Durham: Duke University Press, 2000); Mary Kelley, *Private Woman, Public Stage: Literary Domesticity in Nineteenth-Century America* (New York: Oxford University Press, 1984; reprinted University of North Carolina Press, 2003).

4 Richard Brodhead, *Cultures of Letters: Scenes of Reading and Writing in Nineteenth-Century America* (Chicago: Chicago University Press, 1993), 8.

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tried to gauge which works met certain audience expectations and thus would be commercially successful; but publishers also played an important role in setting those expectations by, for most of the century, loudly and publicly arguing *against* the expansion of authorial rights through international copyright. Finally, the copyright debates were as much a part of the various “scenes of reading” in nineteenth-century America, scenes that structured readers’ individual experiences of literary texts, as they were part of authors’ “scenes of writing.” Especially at the dawn of the age of literary celebrity, readers read not just literary texts but authors, too, and the copyright debates contributed to the symbolic construction of American authorship.

For the remainder of this introduction, I continue to tease out the implications of the copyright debates for nineteenth-century scenes of reading and writing. I first continue my analysis of Greenwood’s parodies as a concrete and particular interpretation of the gendered implications of the copyright debates. I then use this particular instance to sketch out the broader claims of my project and its relationship to previous scholarship on copyright and literature and on women’s authorship in nineteenth-century America. Examining women’s authorship through the lens of copyright history and vice versa, I locate a convergence between women’s self-fashionings as authors and readers’ expectations and desires as both expressed through and shaped by the copyright debates. By locating such a convergence between women authors and a mass readership, I do not simply relocate the supposed easy triumph of popular women’s authorship to a slightly different location within the market, nor do I entirely re-distance them from the market, thus preserving them from the contamination of trade. Instead, I seek to recover and revalue the complex and contested nature of their engagements. Although the women I study attempted to exploit literary proprietorship as a mode of authorship, U.S. copyright statutes and their legal status as women sometimes subverted their aims and at times enabled other authorial modes. The recovery of these women’s experiences contributes to literary history, but it also can teach us about the present and the future of copyright as a mechanism structuring the relationship between cultural producers and consumers.

**“National necessity” versus “sweating wages”:
Readers and authors at odds in the antebellum
copyright debates**

For anyone who has not spent time browsing nineteenth-century periodicals, the pervasiveness of the copyright debates across the cultural spectrum can come as a surprise. The *Saturday Evening Post*, for instance, which published Grace Greenwood’s parodies, was a widely circulated weekly, published every Saturday night for appropriate reading Sunday in the family

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circle.⁵ When Greenwood wrote the parodies and when the *Post* accepted them for publication, both author and publisher clearly believed that moderately well informed readers, both men and women, and perhaps even older children, would understand and appreciate them. Not only did the editor assume a basic level of understanding, he assumed a great enough level of interest to devote almost the entire front page to the parodies, a space usually reserved for the fictional tales and novelettes that were the *Post's* bread and butter. Indeed, nowhere in the parodies, not in the headnote or in the parodies themselves, are the bare facts of the international copyright controversy even explained for readers. The U.S. copyright statute specified that its provisions protected only works authored by citizens of the United States or “residents therein.” Rather than leaving the unprotected status of works authored by noncitizens or nonresidents implicit, the law specifically permitted and even encouraged the appropriation of such works by U.S. publishers: “[N]othing in this act shall be construed to extend to prohibit the importation or vending, reprinting or publishing within the United States, of any map, chart, book or books, written, printed, or published by any person not a citizen of the United States, in foreign parts or places without the jurisdiction of the United States.”⁶ In response to this open invitation, publishers legally could, and did, publish cheap, unauthorized editions of works by English and other European authors (across the Atlantic, the British copyright law did not specifically exclude from protection works authored by persons who were not British subjects or residents, but as a practical matter, most American authors could not secure copyright protection for their works in Britain).⁷ According to U.S. copyright advocates, the exclusion of British-authored works from copyright protection caused American-authored works protected by copyright to be sold at much higher prices than “unbought” reprints of British works, and this price disparity made it difficult for American authors to find an audience and receive adequate compensation for their labors. Opponents of international copyright successfully argued that the law and its positive promotion of reprinting should remain undisturbed. The *Post* and Greenwood, however, assumed that average readers knew both these facts and the typical arguments for and against international copyright. By the time the *Post* published the parodies

5 On the history of the *Post* and other “story papers,” see Mary Noel, *Villains Galore: The Heyday of the Popular Story Weekly* (New York: Macmillan, 1954). On family reading of weekly literary magazines in newspaper format (focusing on a Southern paper, the *Spirit of the Age*), see Amy M. Thomas, “Literature in Newsprint: Antebellum Family Newspapers and the Uses of Reading,” in *Reading Books: Essays on the Material Text and Literature in America*, (Amherst: University of Massachusetts Press, 1996), 101–16.

6 Copyright Act of 1790, in Thorvald Solberg, ed., *Copyright Enactments of the United States, 1783–1906* (Washington, DC: Government Printing Office, 1906), 32, 34. Although Congress enacted many additions and amendments over the course of the nineteenth century, this section remained in effect.

7 This brief description of the law and trade practices for transatlantic authorship necessarily oversimplifies a very complex topic. See Chapter 5 for a more in-depth discussion.

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in 1847, both American and British authors had been petitioning Congress for ten years, urging the passage of an international copyright law that would better protect the “rights” of *all* authors by granting U.S. copyright protection to both resident and nonresident authors, while copyright opponents had mounted and maintained an effective defense against these efforts.

Authors rarely made copyright the direct subject of imaginative literature (which is precisely the source of the parody collection’s humor – who writes poems about copyright reform?), but readers of Greenwood’s parodies would have encountered more serious discussions of the question in many print media of the day – daily and weekly newspapers, popular monthly magazines like *Graham’s*, and high-toned quarterlies like the *North American Review*. Such discussions framed the question of copyright reform not as a specialized issue of concern only to lawyers and to a few interested parties in the publishing industry, but as a question with possible profound and immediate effects for all concerned – for readers, authors, and publishers, and for the American nation. Although some argued that *all* parties would benefit from reciprocal copyright arrangements with England and other countries, most recognized international copyright as a field of struggle between competing interests.⁸ Greenwood’s parodies frame the struggle as one between authors and publishers (in “Whittier’s” poem, authors plan to revolt against “tyrant publishers”), but more often the issue was framed as a struggle between authors and readers. Did copyright law protect absolute property rights of authors, or did the superior right of reader access (and the necessary corollary, the right of publishers to publish) trump authors’ rights? Should readers have to pay authors more or less than they were being paid, or did truly great authors not write for money at all?

About six months before it published Greenwood’s parodies, the *Post* published a long and vigorous anticopyright editorial tackling just such questions, framing the struggle over copyright as a struggle between authors greedy for more money and power and American readers craving knowledge. Copyright advocates often accused copyright opponents of “literary agrarianism,” associating their lack of respect for literary property with contemporary radical critiques of property ownership and attempts to give the poor access to farmland.⁹ The *Post* editorial does not deny this characterization but embraces it, claiming that reader “hunger” for books trumped

8 Throughout this study, I adopt and adapt the terminology of Pierre Bourdieu’s sociology of literary production, particularly the notion of “the field of cultural production” as structured by conflict. “The Field of Cultural Production, or: The Economic World Reversed,” in *The Field of Cultural Production: Essays on Art and Literature*, ed. Randall Johnson (New York: Columbia University Press, 1993), 34.

9 See, e.g., Cornelius Mathews’s labeling anticopyright “an allowable agrarianism of ideas.” *The Better Interests of the Country, in Connexion with International Copy-right* (New York: Wiley & Putnam, 1843), 9.

As Martin Buinicki argues in his analysis of James Fenimore Cooper’s dual engagements in debates over rights in real property (land) and literary property, land was hardly an unproblematic ground from which to figure the stability of literary property during the “Anti-rent wars” of the 1830s

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even the author's property rights in his literary crops: "Now, granting that an author has as much and the same right to his book, as the farmer has to the products of his orchard or his field, it does not follow from this, that his right is absolute and without limitation. As the rights of property in the latter, may justly upon occasion be made to yield to the strong demands of bodily hunger, or national necessity; so may the right of an author in his works, be made to yield before the mental hunger of the masses of society."¹⁰ Although each of Greenwood's parodies takes on the particular style and subject matter of the author parodied, almost all of the pieces focus on the pathos of authorship in a nation that privileged readerly voraciousness over authorial property rights, particularly the pathos of the author and the author's family starving for lack of adequate financial return for his literary labors. That is, whereas the *Post* claimed that the law should first and foremost allow readers to satisfy their mental hunger, the "authors" argued that the law should protect authors and their families from physical starvation.

Of Greenwood's thirteen parodies (including "Whittier's"),¹¹ the first nine parodies are of male authors, and of those nine, only the Whittier parody reaches beyond the situation of the male author to include women. Instead, the "authors" repeatedly focus on the inability of male authors to support their wives and children through writing. A macabre tale by "EAP" (Edgar Allan Poe) tells of an author immolated in a garret, having abandoned his wife and family. As the ghastly Adolphus Twigg tells the narrator, "You see before you the victim of the miserable compensation awarded to native genius, and of the want of a law of International Copyright!" (p. 290).¹² A narrative poem by "FGH" (FitzGreene Halleck) describes the situation of a poet who awakens from a dream of the glories of the court minstrel's life to the reality of the sheriff banging on his door, the poet's creditors having sent the sheriff to collect debts (pp. 292–3) (a parody ironically appropriate to a man who was lauded as "the American Byron" for his satiric long poem "Fanny," but who also worked in the banking industry for most of his adult life in order to earn a living). While his wife distracts the sheriff, the poet hides in his meal-chest and plans to leave the country on the morning boat. The remaining pieces by the "men" comment on

and 1840s. "Negotiating Copyright: Authorship and the Discourse of Literary Property Rights in Nineteenth-Century America," PhD diss., University of Iowa, 2003, 63–5.

10 "International Copy-Right," *Saturday Evening Post*, 10 Apr. 1847, [2].

11 When the pieces were published in *Greenwood Leaves* in 1850, Greenwood added an additional parody by "OWH, MD" (Oliver Wendell Holmes), changed the byline on one of the lady writers' poems from "Kate Carol" to "FSO" (Frances Sargent Osgood – "Kate Carol" was an identifiable pseudonym and persona of Osgood – thanks to Eliza Richards for explaining this puzzling change), and removed her own "Letter from the West," replacing it with a new "Fable from the Burmese" by "FF" (Fanny Forrester – "Fanny Fern" had not yet begun her pseudonymous career in 1850).

12 For Poe's complex and contradictory relationship to the sort of literary nationalistic rhetoric that Greenwood puts in his mouth, see Meredith McGill, *American Literature and the Culture of Reprinting, 1834–1853* (Philadelphia: University of Pennsylvania Press, 2003), chap. 5.

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the immense gulf between some ideal of authorial eminence and power and the reality of American authorship. For instance, “The Author of ‘Typee’” (Herman Melville) describes the glories of the life of a poet on the island of Typee (the best lodge on the island, food and precious oils supplied through voluntary taxation, the prettiest maiden for a bride, and even the choicest enemy for his cannibalistic pleasure), so that American Christians “might learn a lesson from the savages” about how authors should be treated (p. 294). Although copyright reform was not the direct subject of *Typee*, Melville’s book, as well as two volumes of Poe’s poems and tales, were published in Wiley & Putnam’s “Library of American Books,” a series that linked its American literary nationalist project with copyright reform by featuring a quotation from the *Address of the American Copy-Right Club* on the paper cover of each book: “Sundry citizens of this good land, meaning well, and hoping well prompted by a certain something in their nature, have trained them selves to do service in various Essays, Poems, Histories, and books of Art, Fancy, and Truth.”¹³ By featuring this motto on the covers, George Palmer Putnam, a publisher exceptional during the 1840s for his strong public support of international copyright, meant to frame *Typee* as a service to American readers, but in Greenwood’s parody, “the author of ‘Typee’” seems more interested in what his countrymen and –women can do for him than in what he can do for his countrymen and –women.

In the small subsection titled “Lady-Writers,” Greenwood includes only four authors, and without the same tight unanimity of theme found in the generic, unmarked section of (male) authors. In a “Letter from New York” in the style of her widely read and reprinted columns for the *National Anti-Slavery Standard*, “LMC” (Lydia Maria Child) expresses faith that copyright reform is “one of the reforms of the age,” as important as the abolition of war and capital punishment (p. 303). In a brief lyric, “Kate Carol” (Frances Sargent Osgood) poetically protests that “precious poetesses” should be protected from “vulgar wants and harsh distresses” of common life, that their clothing should be as pretty and bejeweled as their verses (pp. 304–5). “LHS” (Lydia Huntley Sigourney) poetically laments that she cannot publish a collection of a dead female friend’s poetry because a publisher tells her, “It would not pay” (p. 306). Finally, Grace Greenwood, adopting her most typical newspaper genre of the letter, writes a “Letter from the West” addressed to the fictional man who “collected” the pieces, balancing Child’s “Letter from New York” geographically and in content. Greenwood begins

13 Herman Melville, *Typee a Peep at Polynesian Life During a Four Months’ Residence in a Valley of the Marquesas* (New York: Wiley & Putnam, 1846). Reading Greenwood’s parody of Melville out of context, John Evelev suggests she is castigating him for insufficient professionalization in his early career. “‘Every One to His Trade’: *Mardi*, Literary Form, and Professional Ideology,” *American Literature* 75, no. 2 (2003): 305–33. On Putnam’s publishing and copyright activities, see Ezra Greenspan, “Evert Duyckinck and the History of Wiley and Putnam’s Library of American Books, 1845–1847,” *American Literature* 64, no. 4 (1992): 677–93; and Greenspan, *George Palmer Putnam: Representative American Publisher* (University Park: Pennsylvania State University Press, 2000).

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her letter with the anticipated benefits to readers of copyright reform, claiming that it will be both “an immeasurable benefit to the native genius” and a benefit to readers, who will be delivered “from foreign stupidity and mediocrity – what Coleridge calls ‘brain-dribble.’” However, she quickly turns to more self-interested motivations, lampooning the arguments of copyright opponents (such as her editor at the *Post*) who claim that authors should write not for dollars but for “pleasure,” “fame,” or “posterity.” If America wants its authors to work hard enough at their labors to “sweat” so that their poetic products will be good, says Greenwood, it must pay authors “sweating wages.”

As Greenwood’s parodies suggest, when authors sat down to write, they confronted a vision of the tenuous position of American authors in a culture that refused to give legal protection to their literary property fully commensurate with the protection given to other forms of property. The copyright debates suggest that both authors and readers understood that to take on the role of author was to subject oneself to dispossession at the hands of publishers and readers and to lose (or be denied access to) certain forms of cultural power. The specter of the powerless author as slave, stripped of his rights in his own person, his labor uncompensated and his property turned into public property, haunts antebellum copyright advocacy. By framing her copyright parodies with a poem in the persona of abolitionist poet John Greenleaf Whittier, Greenwood hints at this figure of the author as slave. One of the poets “Whittier” calls to Faneuil Hall, the scene of the revolutionary overthrow of the “enslavement” of American colonists to the British crown, is a fellow abolitionist poet, William Henry Burleigh:

Ho, brother Burleigh, leave “the cause” –
 Slaves, masters, chains and all!
 Let’s battle for *ourselves* awhile –
 Be off, to Faneuil Hall!

(p. 284)

That is, rather than battle for the right of the slave to himself and to the fruits of his labor, the abolitionist poets should join together to abolish authorial slavery, the taking of “the toils of thought” and “struggling of [the] brains” by “tyrant Publishers” (and the readers they serve) in the absence of international copyright.

The (white) male authors ventriloquized in Greenwood’s parodies consistently rail against the constraints imposed by a copyright law that did not allow them to claim the perfect title to their literary properties that they believed was theirs by right. Greenwood’s “ladies,” however (with the exception of Greenwood herself), do not represent themselves as wronged literary proprietors. “Sigourney” worries about the effects of the law not on herself but on her poor dead friend, whose poetry will fail to find an audience; “Child” seeks reform for the benefit of others, whether they be

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murderers condemned to die or dispossessed authors; and “Osgood” gestures toward the literary market as a source of wealth while disdaining to engage its mechanisms – “precious poetesses” should simply *have* beautiful things *before* warbling their songs rather than worrying about whether or not their warblings will pay.

How should we read this refusal of Greenwood’s “ladies” to argue for a stronger copyright law on their own behalf? Are they merely genteelly avoiding the taint of trade? Are they enacting a genuinely different mode of authorship in which they understand their literary labors to be a form of disinterested service on behalf of others? Are they strategically effacing authorial self-interest at a time when readers were not disposed to look kindly on the demands of greedy authors? Greenwood’s parodies of the “lady-writers” hint at one or more of these motives, singly or in combination, for each woman author she targets, and in my subsequent case studies of actual women authors, I find them similarly various in their methods of authorial self-representation and in their motives. Crucially, however, in Greenwood’s parodies, the apparent distance of each woman from the market created by her refusal to argue on her own behalf also registers, I propose, the legal status of women as nonproprietary subjects. The (male) authors, as proprietary subjects in other spheres of activity, have clear cause for indignation at being “enslaved” by readers and publishers, but the legal status of the ladies excludes them from even the possibility of such indignation at being dispossessed. If, as popular feminist antebellum reform rhetoric would have it, women become the property of their husbands upon marriage (little more than slaves), the ladies are already slaves, with no ground for common protest with their male peers.

Greenwood’s own pointed call for “sweating wages” for authors significantly departs from this norm, but she subsequently distanced herself from this public articulation of a strong proprietary position. Greenwood eliminated her “Letter from the West” when she reprinted her parodies in *Greenwood Leaves* in 1850 (and she misleadingly claims in her introduction to the appearance of the parodies in this book that she published them anonymously in the *Post*). These revisions suggest that she came to understand the power that the seemingly marginal position of “lady-writer” offered in the face of continuing mass resistance to international copyright law. What could be gained by publicly castigating her readers on her own behalf when accommodating herself to readers’ desires might be more profitable? Rather than include her sarcastic personal letter arguing that publishers and readers would have to pay her much more if they wanted her to write better poetry and sketches, she substituted a sentimental and gently humorous sketch by “FF” (Fanny Forrester) about a female fairy leaving the paradise of fairyland to devote herself to the plight of poor (male) poets on earth. Crucially, the absence of her own voice as a strong advocate of copyright reform transforms the parodic aim of the collection as a whole. In the *Post*, she seems to