

FORUM

The Hostage of Harvard

TO THE EDITOR:

Scholars of nineteenth-century American literature do not often find much reason to be upset or confused about copyright claims. After all, nearly everything written in the nineteenth century is now in the public domain—but, as I have had to explain again and again to rooms full of students lately, there is one shameful, glaring exception: Emily Dickinson’s poetry.

As some of us know all too well, much of Dickinson’s verse is still under the copyright control of Harvard University and will continue to be for decades to come. This situation is uniquely harmful; here is why Harvard should release its copyright claim over Dickinson immediately.

In general, Harvard University Press must be approached for permission—and must be paid a licensing fee (determined by the press, not a third party)—to republish any substantial quotation of Dickinson’s words that are not in the public domain and that seem likely to generate income.

I say “that seem likely to generate income” because, narrowly, this is the focus of Harvard University Press’s licensing agreement, which explicitly requests print-run estimates for all texts quoting Dickinson. More generally, evidence that Harvard is primarily out to maximize its profit (at the expense of cultural custodianship and academic freedom) may be found online. Google an Emily Dickinson quotation, and look at the millions of search results, many of them quoting Dickinson without explicit permission from Harvard University Press. Perhaps it is an issue of enforceability, but one can see that the university’s permissions department spends little time filing suits against the reuse of Dickinson online: for example, on poetry blogs, nonorganizational literature websites, and other sites that do not generate significant revenue through subscriptions or ads.

Instead, Harvard University Press primarily focuses on controlling the right to reproduce Dickinson quotes in saleable books, journals, and anthologies. This has a stifling effect on scholars and publishers alike.

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Harvard University Press claims copyright over all works of Dickinson's that first saw print after the current public-domain cutoff of 1927, either in a Harvard University Press edition or in a book for which the university later purchased copyright claim. The major editions in question are the 1955 *Poems* and 1958 *Letters* volumes, edited by Thomas Johnson, and the 1998 *Poems Variorum*, edited by R. W. Franklin.

To be clear, Harvard claims copyright over Dickinson's texts, not over *images* of her texts (i.e., photos of her poetry or prose manuscripts). To reprint those is a separate process; one must contact the relevant archives, which in general are quite obliging and charge a miniscule fee, if any.

Harvard University Press is different, and the fact that one may transcribe Dickinson poems without ever touching a Harvard University Press volume does not seem to matter. (For the most infamous example, see Phillip Stambovsky's abortive edition of Dickinson poems, made without any reference to Harvard University Press volumes. It was to have been published by the University of North Carolina Press but was ultimately killed in the cradle by Harvard.)

Because Harvard's fee structure effectively negates any independent scholarly effort to retranscribe and reinterpret the poet's original writing in a comprehensive way, what results is perverse.

No comprehensive new edition of Dickinson's poems may be published by any press other than Harvard University Press or its subsidiary, Belknap Press. Indeed, none has.

No non-Harvard anthology may include any of her poetry first published after 1927—which is approximately half of all her poems—without Harvard's permission, and likely a fee.

No non-Harvard scholarly publication may quote her poems—nor retranscribe them if, say, a scholar believes the Harvard University Press volumes contain a transcription error—without Harvard's permission, and possibly a fee.

And, of course, Harvard is free to deny permission to anyone, at any time.

It is easy to imagine that an institution with such a financial interest in Dickinson's being publicly received and imagined in a certain way might be inherently prejudiced against the publication of unorthodox or unflattering studies of her—particularly (again) when those

seem poised to be profitable. Burdensome licensing fees would be an easy way to restrict such work, while claiming not to.

Such restrictions must currently be expected to continue indefinitely, until many or even all of the scholars reading this letter are retired. According to the US copyright laws in effect in the 1950s, and based on modifications made to those laws in 1976 and 1998, Harvard will hold copyright over half of all Dickinson's poems until the year 2050.

Indeed, the copyright-notice language in the 1998 three-volume Harvard University Press *Poems Variorum* seems to suggest that that work constitutes new intellectual effort, which, if upheld in court, would make 1998 the new starting line for a copyright claim. Were this so—and depending on whether Harvard claims that Franklin is an "author" in his role as editor, or that the volumes themselves are a work of "corporate authorship"—Harvard University Press's copyright control over many of Dickinson's poems, which is absolute, could last until 2093.

Even without such a reconstitution, however, the full copyright period, as it currently stands, will last absurdly long. Over even Dickinson's earliest poem, an 1850 valentine beginning "Awake ye muses nine," Harvard holds copyright until at least 2050. Two centuries after it was written. One hundred sixty-four years after the creator's death.

Disney's copyright over the mouse formerly known as Steamboat Willie seems downright fleeting, by comparison.

There is no other major nineteenth-century American author for whom this sort of situation exists; virtually all have moved into the public domain, as is assuredly the intent of current US copyright law. Only Harvard continues to flagrantly flout that intent.

Ever since its acquisition of the rights to Dickinson's work—a process whose history is disquieting, to say the least—Harvard has asserted blanket ownership of Dickinson's work in a way that often chills innovation, limits scholarship, silences authors, mocks the intent of US copyright law, and, effectively, holds Dickinson hostage for cash.

It is time they finally let her go free.

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