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The Cento, Romanticism, and Copyright

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Mature poets steal.

T.S. Eliot

The Sacred Wood

A COMPOSITION FORMED by joining scraps from other authors”: this is how Samuel Johnson defines the *cento* in his *Dictionary*, a definition that then joins scraps quoted from other authors like Pope, for particularly fitting illustrations of the word’s usage. This essay examines the genre of the cento in the period when new editions of Johnson’s *Dictionary* began to outlive him: the Romantic period, a period marked—like ours—by historic change in the regulation of copyright. I will proceed first by sketching the current status and outlining a brief history of copyright, which Jeffrey Galin glosses as a “limited monopoly of rights [...] designed to balance the needs of creators to make a reasonable return on their works and inventions for a limited period of time, with the work then turning toward the public domain to serve as fodder for the development of future creative works” (10).

This outline of copyright history will include a discussion of fair dealing, a copyright law exemption for users’ rights that seeks to counterbalance those of copyright holders; fair dealing has important bearing on my argu-

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ment as it concerns appropriation in cultural production. The essay then details the cento, in its supplementary relation to Romantic literature and ideology, and its complex relationship to creativity and criticism. In the process, salutary and symptomatic examples of the cento's use by William Hazlitt and William Wordsworth will be considered, two authors well known as major proponents, in their time, of the Romantic ideology of cultural production as original creation (McGann 91), as opposed to Augustan and postmodern theories of cultural production as imitation and bricolage. Hazlitt's and Wordsworth's uses of the cento illustrate the constitutive contradiction between copyright's rationale and the materialities of cultural production; their uses also suggest prototypical models of fair dealing, *avant la lettre*, as both a user's right and a resource for authorship. The essay concludes by considering the implications of the cento under the copyright regime of English Romanticism for appropriative art and scholarship under today's globalized regime.

As a genre of poetry composed entirely of quotations from other poems, the cento makes an interesting study for Romanticism and copyright: it flies in the face of Romantic tradition, it shows how copyright conditions the possibilities of cultural production, and it points up the contradiction between the cultural-legal hegemony of originality and the material processes of appropriation-based production. The point is not that the cento is popular or pivotal to English literature but, instead, that it poses a Derridean supplement to this literature and its prevailing Romantic ideology, an ideology that, as Robert Macfarlane suggests, "continues to prosper in the literary-cultural consciousness. If anything, indeed, it is more unshiftablely ensconced there than two hundred years ago, when it is generally taken to have been devised" (3).

A study of the cento and Romanticism has timely implications for copyright and cultural production today, in the context of a digitized media ecology of content abundance and the ensuing global "copyfight" over regulating this new mediascape. As Swedish Pirate Party founder Rick Falkvinge has argued, and as the worldwide January 2012 protest over the U.S.'s Stop Online Piracy Act (SOPA) made clear, this copyfight pits an increasingly draconian copyright regime not against commercial piracy but against civil liberties. Today's copyfight is a techno-cultural front in the class war, being waged on the 99 percent by the predominantly corporate copyright holders among the 1 percent, who deploy both repressive instruments and ideological strategies drawn from Romanticism. Appealing to the Romantic figure of individual, expressive authorship is a rhetorical weapon of choice for copyright maximalist interests which

are—it is important to stress—not individual creators, for the most part, but corporations (Marshall 2–3). So this essay refers to ideas of Romanticism and authorship that may seem old-fashioned to scholars versed in theoretical and historicist interrogations of them; however, these ideas still hold formidable popular purchase thanks to the culture industry’s “adapted Romanticism” (Adorno para 7). As Paul Saint-Amour observes, “the Romantic cult of the individual genius [...] has proven both durable and adaptable” (6), and it has become a standard, disingenuous justification for corporate lobbying and litigation against both the expansion of appropriation art forms (including user-generated content) and the exercise of users’ rights like fair dealing to protect and promote such art forms, not to mention criticism and education too. While recent court cases in Canada and the U.S. have been decided emphatically in favour of users’ rights, there are a number of corporate agreements, regulatory and legislative efforts, and trade talks, as well as terms and techniques determining device and content use, that heavily tilt the scales of today’s global copyright regime in favour of rights holders. For understanding these present transformations, possibilities, and imperilments of culture and knowledge production, the history of earlier appropriation art and copyright regulation affords a fair deal of illumination.

A Short History of Copyright and Fair Dealing

Copyright pretend[s] that every work of art is an invention distinctive enough to be patented.[...] Poetry can only be made out of other poems; novels out of other novels. All this was much clearer before the assimilation of literature to private enterprise concealed so many of the facts of criticism. (Frye 96–97)

From the advent of print in the fifteenth century to the late eighteenth century, the copyright or intellectual property (IP) regime in England can be summarized as a long period of increasing monopoly over published print works by an increasingly organized and regulated London publishing industry. In 1557 the Stationers’ Company was incorporated in London as the print industry’s intermediary; it registered all printed works, enforced intellectual property customs, and organized its members into a privileged and powerful cartel. The state licensed and guaranteed perpetual monopoly rights in printed texts to the printer-publishers that produced them, and the state pre-censored all print publications. In 1649 a state licensing system supplanted that of royally conferred privileges. In the

Restoration, state pre-censorship tightened, but the mid-century Licensing Act lapsed in 1695, leaving the Stationers' Company to privately regulate its members' practices until, in 1710, Parliament passed copyright legislation, the Statute of Anne. The statute reassigned copyright from a work's publisher to its author and limited its term to fourteen years, renewable once if the author outlived its expiry. The Statute of Anne enabled "the simultaneous emergence in legal discourse of the proprietary author and the literary work [...] two concepts [...] bound to each other" (Rose 91). Despite the statute's clear terms and recognition of authorship, the London publishers continued to claim perpetual copyright, which was upheld in English courts by injunctions against infringers who tried to reprint ostensibly out-of-copyright works; in contrast, Scottish law upheld the statute's limited term. Tensions and legal actions between English and Scottish publishers culminated in 1774, when, in *Donaldson v. Becket*, the House of Lords affirmed the statute and declared perpetual copyright claims illegal.

That decision stimulated a competitive market in old, "public domain" texts: prices fell, sales rose, and readerships grew. For new print works, though, prices rose sharply, to exploit their "brief copyright window" of statutory protection: prices for popular modern authors like Scott, Byron, and Landon were so high that the buying of books and even the renting of books from circulating libraries remained a luxury reserved for the wealthy: "A parliamentary inquiry of 1818 reported that books were more expensive at that time than they had ever been in the history of British books" (St Clair 196). This "brief copyright window"—as William St Clair calls this period of short-term copyright protection for newly published works (487)—lasted until 1808, when the statutory copyright term was doubled. In 1814 the term was unconditionally extended to twenty-eight years or the author's life, whichever was longer. And from 1836 the lobbying of publishers and authors like Wordsworth and Dickens culminated in the 1842 Copyright Act that effectively closed the brief copyright window and re-established long copyright. The 1842 act significantly extended the term of copyright protection to forty-two years from publication or, if the author was still alive thereafter, to seven years after the author's death (Zall 144). Since the early nineteenth century, the history of copyright has largely been about further lengthening it and internationalizing it, first in agreements among specific territories and later formalized globally in the 1891 Berne Convention (St Clair 55).

In the U.S. and Europe, the term is the author's life plus seventy years. Copyright in Canada currently protects a work for fifty years after the author's death, but Canada has long faced persistent pressure from U.S.

trade interests to lengthen the copyright term (Geist, “Leaks”) and to toughen copyright generally, which (as of this writing) the Harper government is doing by signing Canada to copyright-maximizing trade deals like the Comprehensive Economic and Trade Agreement (CETA) with the EU, as well as the Trans-Pacific Partnership (TPP), and by including in the copyright amendment act, Bill C-11, technology-specific provisions that favour rights holders over content users (a development that will be revisited in closing). The globalized maximalism of copyright’s new enclosures produces what James Boyle calls “corporate welfare” (8–9), entrenching the monopolistic dominance of a very few massively concentrated, conglomerate rights-holders, based in the U.S. and, to a lesser extent, in western Europe. As the *Worldmapper* project shows, “this means that a few people living in less than a tenth of the territories in the world [...] receive the US\$30 billion of net export earnings for these services” (Newman et al). For the sake of contrast, the next closest intellectual property exporters U.S. are the UK (with \$1.75 billion in net IP exports) and France (with \$1.5 billion). Yet economic evidence does not justify the extraordinary copyright maximalism sought in global trade talks and legislation today. Andrew Gowers’s 2006 report on IP for the UK Treasury cites both the 1840s term extension debate and postmillennial economic studies to conclude “that the length of protection for copyright works already far exceeds the incentives required to invest in new works,” that “the optimal length of copyright is at most seven years,” and “that the extra incentives to create as a result of term extension are likely to be very small beyond a term of 25 years” (50). The economic evidence suggests that the architects of the 1710 Statute of Anne, with its fourteen-year copyright term, may have had the right idea all along in limiting copyright term to something more like a decade than a century.

Another crucial aspect of copyright history concerns its stakeholders. Despite the 1710 statute’s turn to an emphasis on authorship, copyright before and since has tended to reflect more the economic interests of corporate concerns—publishers, printers, record labels, and film studios—than those of individual authors and artists. Until the mid-nineteenth century, an author sold her or his right to copy a work outright, to a publisher, for a fixed sum; the royalty system, in which the author earns marginal income on every copy sold, commenced in 1855 with a novel contract between Elizabeth Gaskell and Chapman and Hall (Saunders 139). Writers have since come to rely on royalty income; however, music and film copyrights tend to be corporately held, hence the ironic disingenuousness of “Big Content” companies and lobbies making appeals on behalf

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of romanticized “creators” (whom Big Content companies themselves routinely exploit, but that’s another story [see Masnick, “How Sony”]).

The Romantic period thus started during the first opening of the English public domain and ended amidst new enclosures of this domain. For discussing the cento, a crucial detail of copyright in the period concerns its control of quotation and adaptation. St Clair shows that before 1600, English print culture teemed with “anthologies, abridgements, and adaptations [...] verse miscellanies [...] and] collections of short quotations [...] known as *sententiae*, or in English ‘select sentences’” (66–67). But “after 1600, for about 180 years we find only a handful of newly compiled printed collections of quotations of English literature” (70). St Clair reads this change as a clampdown by the London print cartel on any and all appropriation of published texts—the cartel’s privately held intellectual properties—and he documents suggestive evidence that, after about 1600, “a regime intended to control the use of quotations from printed books unauthorized by the intellectual property owners [was] being put in place” (493).

The clampdown on quotation and adaptation was checked somewhat by a 1740 case, *Gyles v. Wilcox*, which ruled in favour of the defendant’s adaptation of Gyles’s text as a practice of “fair abridgment” (Rose 51) and provided the first of several precedents for fair dealing in copyright law. Fair dealing (whose U.S. counterpart is the more expansive fair use) is a limit on the copyright holder’s exclusive rights to a work (Boyle 66), a recognition that “not all copying should be considered infringement” (Hartnett 176), as in study, teaching, or criticism. In Canadian law, fair dealing is an exception to copyright for users to, within limits, reproduce copyrighted works, without permission or payment, for specified purposes, like research, study, criticism, review, reporting, and parody (Athabasca 2). An 1841 case in the U.S., *Folsom v. Marsh*, first formulated the principle of fair use and formalized the practical “tests” for determining whether or not a given use of copyrighted material is fair. Fair dealing was first enshrined in UK legislation in 1911 and in Canada in 1921 (Katz). Recent landmark Supreme Court decisions 2004 and 2012 have established and entrenched a “large and liberal” understanding of research and a correspondingly capacious interpretation of fair dealing. The decision also codified six tests for assessing the fairness of a given “dealing” (or re-use), according to the purpose, character, amount, nature, and effect of the work, and in consideration of alternatives to the dealing (CAUT 3).

Turning back to the late eighteenth century, we also see that the opening of the “brief copyright window” ended the long clampdown on quotation and adaptation, at least for the older texts it released into the public

domain. “[T]he moment that the restrictions on reprinting extracts from *certain older texts* were lifted in 1774,” writes St Clair, “we see a flood of verse and prose anthologies compiled almost entirely from those printed literary texts which were then released into the public domain” (72 emphasis added).

The cento belongs to a constellation of appropriative, curatorial genres like anthologies, abridgments, and adaptations that, in St Clair’s long historical view, have withered under more restrictive or maximalist copyright regimes, like that of the late sixteenth century to the late eighteenth, and bloomed under weaker or minimalist regimes, like that of the Romantic period, when the effects of the earlier *Donaldson v. Becket* case in 1774 became felt as an “explosion of reading” driven by a “revival of the types of printed text which had been discouraged after 1600: abridgements, adaptations and, above all, anthologies” (135; see also 495).

While reprints of older, public domain works boomed, appropriations and adaptations of newer, protected works were discouraged and suppressed. Because of the strong copyright protection of newer works, modern literature was for the rich, while the rest were confined to the “old canon”—rich in tradition but also “increasingly obsolete” (St Clair 224). However, a workaround to access modern literature emerged in the period revival of the early modern commonplace book or “album”: a do-it-yourself, manuscript compilation of literary excerpts (in which Scott and Byron figured prominently). Some albums were sold publicly; others were kept privately, sometimes passed on as heirlooms (226). In the 1820s, pre-selected print albums began to compete with and displace the do-it-yourself albums: “For the readerly freedom to control the texts to be reread [...] was substituted the confinement of receiving a commercially produced gift whose texts had already been pre-selected and pre-censored” (229).

In addition, protective publishers in the London cartel that could not successfully rely on the custom of perpetual copyright found that they could exploit legal ambiguities over “originality.” To extend the term of copyrights due to expire, some publishers printed “special” or sparingly revised editions; some smaller publishers printed anthologies of quotations taken, at a remove, from periodicals (221). As the Scottish Lord Hailes complained of such devices in 1773, “the London booksellers *enlarge* the common-law right by conferring the name of *original author* on every *tasteless compiler*” (quoted in Rose 136). Mark Rose (among others) notes how that practice has continued to the present: “In the discourse of copyright [...] the goal of protecting the rights of the creative author is proudly asserted even as the notion of author is drained of content” (136).

As the ability of enterprising upstart publishers to compile copyrightable works from periodical excerpts suggests, the legal status of excerpting in reviews was an uncertain issue:

The eighteenth-century literary reviews [...] saw their main role as providing summaries of new books and often included substantial extracts. In 1797, quotations took up over half of the articles.[...] But this loophole was closing. The advancing intellectual property law and custom not only forbade anthologies and abridgements but quotations in reviews that were thought long enough to undermine sales. (186–87)

Some reviews pointedly tried to hurt sales this way: Shackell's *Register* reprinted most of Hazlitt's 1823 *Liber Amoris* "in eighteen closely printed columns of selections," notes Hazlitt's biographer Stanley Jones, "ma[king] it hardly necessary to lay down money to read it" (338).

Perhaps the most dramatic demonstration of the period's minimal but inconsistent copyright regime was in the legal withholding of copyright from works deemed seditious or obscene. Ruled by the courts as ineligible for copyright, the radical play *Wat Tyler* (1817) proliferated in pirate editions that could not be legally suppressed by its embarrassed author, the poet laureate Robert Southey (Perillo 17–21). Radical and pirate publishers quickly moved to publish similarly uncopyrightable works, like Lord Byron's *Don Juan* (1824) and Percy Shelley's *Queen Mab* (1825), and the copyright law that provided strong "textual controls" for state pre-publication censorship (St Clair 311) backfired spectacularly, propagating a "radical canon" of modern, subversive literature that was rapidly disseminated across England and among different classes (336).

The brief copyright window that conditioned Romantic literary production is thus characterized by contradiction and inconsistency. Perpetual copyright was illegal, but many publishers continued to claim it until at least the 1810s (113). Publishers prosecuted infringers, pirates, and generous quoters to defend their monopolies on original texts, but they also sometimes needed to vitiate the definition of originality to sustain copyright protection. Entrepreneurial writers and publishers also exploited the low legal threshold of "originality" to publish and copyright anthologies and other mainly or strictly intertextual works, provided they did not deal with works still in copyright; the law held no fair dealing exemption. And ironically—as has been more recently argued of Disney's turn from appropriation (Lessig 23) to litigation (158)—those authors producing new works, whose copyrights their publishers jealously protected, were beneficiaries

of a new and burgeoning public domain, which supplied their work with an old canon (of Milton, Shakespeare, etc.) from which they borrowed allusions, tropes, plots, and other literary elements (Macfarlane 29). The explosion of reading, the commodification of appropriative, intertextual forms, and the unresolved legal status of periodical quotation illustrate both the limits and opportunities of copyright as a legal foundation for cultural production both amateur and professional. Which brings us to the cento, a curious supplement to the Romantic period's curious copyright regime.

“Masterworks of tastelessness”

Authors do not really create in any literal sense, but rather produce texts through complex processes of appropriation and transformation. (Rose 8)

The cento is a genre with roots in antiquity (Okáčová 1). The Roman poet Ausonius formalized rules for composing a cento in the fourth century, establishing the genre as a form of poetry: lines lifted from Homer, Virgil, and the Bible and reworked as sacred Christian verse or as bawdy satire. The cento variously pays homage to, parodies, and/or perverts its source texts, recontextualizing its borrowings by finding new connections for them with equally recontextualized lines from other works. Wholly intertextual and structurally ironic—expecting its readers to recognize its sources and delight in their *détournement*—a traditional cento is its own generic mash-up: it looks like a lyric, but the apparent identity of its voice masks its technically dramatic or dialogic composition as a collage of different voices. In its ancient and early modern career it was widely read as a poetic form of satire; in the eighteenth century, both its forms and its functions became more varied. As a strictly intertextual collage form, the cento prefigures the visual collages of Victorian and Dada artists, the “cut-up” poetry of Dada and Beat poets, the dub and remix processes of DJ culture (among other “prospects of recording,” as Glenn Gould mused [331]), and the sample-saturated digital mediascape of mash-ups and aggregators, in which “everything is a remix” (see Ferguson and Rutherford). As a transformative and critical use of quotations from creative works, the cento also has implications for citation in scholarship, which will be considered in closing.

Saint-Amour calls the cento “the ultimate neoclassical form” and notes that it “thived during the eighteenth century and continued in the early nineteenth”: an 1806 cento repurposed Latin verse to celebrate Nelson (41);

Since antiquity,
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an homage to Shakespeare, “Formed from his Works,” celebrated his birthday in 1814 (221). Through the nineteenth century, the cento (also known as “mosaic” or “patchwork” poetry) kept its poetic basis, but it also became adapted to prose. An anonymous 1823 long prose cento lampooned the Scottish minister Edward Irving, taking the form of a mock court case. A 1798 conduct book, *The Cento: Being a Collection of Choice Extracts, from the Most Approved Authors; Chiefly designed for the Instruction of young Persons*, is also anonymous, suggesting that its producers perhaps sought to evade prosecution for infringement. One 1842 cento, to which we will return, borrowed pointedly from Wordsworth—a major lobbyist for copyright maximalism in his day—in order to lampoon said lobbying, which resulted that year in the more maximalist Copyright Act. By 1860, Charles Bombaugh could define the cento more expansively as “a *work* wholly composed of verses, or *passages* promiscuously taken from other authors and disposed in a new form or order, so as to compose a new work and a new meaning” (quoted in Saint-Amour 40–41, emphasis added).

Since antiquity, the cento has drawn derision: for its perceived disrespect of sources, for its pedantry, and for its derivative, seemingly mechanical form (Okáčová 3). The latter criticisms became pronounced in the Romantic period, when, as Macfarlane argues, the turn from Augustan aesthetics (signaled for instance by Edward Young’s 1759 *Conjectures upon Original Composition*), the emergence of more individualized and democratized forms of subjectivity, and new efficiencies of mass production (as well, I would add, as the period’s copyright regime) all conditioned Romanticism’s “increased admiration of literary originality” (23). The proliferation of older public domain works and newer pirated ones, in multiple editions by multiple publishers, indicated new technologies and policies that occasioned a kind of “crisis of authenticity” in literature, “the anxiety that indebted work was in some way equivalent to the unthinking reproduction of machines” (24). Thomas Carlyle’s 1829 “Signs of the Times” remains one of the most symptomatic statements of this techno-cultural anxiety: “Literature, too, has its Paternoster-row mechanism, its Trade-dinners, its Editorial conclaves, and huge subterranean, puffing bellows; so that books are not only printed, but, in a great measure, written and sold, by machinery” (para 12).

On the shift in aesthetics and its impact on the cento, Reiner Herzog writes, “It was only after Romanticism and Historicism had propagated the originality and unique historicity of the artwork, and after literary historical positivism in the late nineteenth century revisited the tradition of the Cento on their premises, that general dis-

regard of the form developed” (6 n24).¹ As a critical verdict representative of this growing disregard, Herzog quotes a modern French description of the cento as a “masterwork of tastelessness” (6 n24).

While denigrating an author as a “centonist” in the period was to judge her or his work as unoriginal, *producing* a cento was to signal the producer’s affluence and command of literary resources and capital. As Saint-Amour suggests, “cento-making [was] necessarily an activity for the leisured classes. In its nineteenth-century resurgence, the cento enabled the members of this prime readerly demographic to write back through [...] reading, to produce a literature of extravagant consumption” (45–46). For example, a thirty-eight-line cento from 1875 was “said to have occupied a year’s laborious search among the voluminous writings of thirty-eight leading poets” (Dobson quoted in Saint-Amour 45); after all, this was long before Google. The sense of work invested being disproportionate to the quality of the final product contributed to the cento’s dismissal as “laborious trifling” (45): the work of dabblers, not authors.

But while the cento represents “a counterdiscourse to Romantic authorship” (Saint-Amour 40), it also exemplifies (like the album) the period’s commodification of appropriative forms. Toward the closing of the brief copyright window, during the transition from Regency to Victorian rule, the threshold of “originality” required to secure protection under copyright law was low enough that anthologists, compilers, and even centonists could get copyright protection for their largely or exclusively intertextual works (Rose 136, St Clair 221). Saint-Amour relegates to a footnote this rather surprising upshot of the period’s minimal but inconsistent copyright regime:

Although neither the cento nor the [album] is “fresh” in the Romantic sense of radically original, both meet copyright’s more modest standards of originality [...] Both genres belong to the category of works that are at once “derivative” of antecedent works and eligible for the copyright protection accorded “original” works. While none of these texts’ verbatim inclusions of protected works was itself copyright in its new context, the aggregate recombination (e.g. the whole cento [...]) was protected. (Saint-Amour 242 n59)

That is, despite its “mosaic” composition of more or less openly appropriated lines from other poets, the cento’s new *sequencing* supplied sufficient

1 I am grateful to Anne Korn for translating this quotation from the original German.

originality to qualify it as a new *work*, eligible for copyright protection, depending on the public-domain or protected status of its source material. This kind of protection had been established by the 1740 decision on “fair abridgement” and amidst the legal actions that led up to the outlaw of perpetual copyright in 1774, but it had also been established by the London print cartel’s own exploitations of legal ambiguities over “originality.”

The imitative, repetitive cento, then, both countered and exploited the Romantic discourse and legal institution of creative authorship, with their linked premises in “property, originality, personality” (Rose 128). Composing centos went hand in hand with compiling commonplace books: it was for aficionados and amateurs, not for professional authors, although it could sometimes prove publishable.

Hazlitt’s “bricolage of quotations”

No one, whether author or intellectual property owner, can reasonably claim that any substantial text has been compiled solely from privately owned materials. (St Clair 53)

The radical essayist William Hazlitt was a “key figure controlling the transmission of the idea of literary originality” in the period (Macfarlane 34), as exemplified in his literary lectures and his collection of essays on contemporary cultural and political figures, *The Spirit of the Age* (1825). The text demonstrates both the status of the cento in relation to the nascent Romantic ideology and the form’s increasing adaptation to prose. For instance, of the novels of anarchist philosopher William Godwin, Hazlitt writes approvingly that “there is no look of patch-work and plagiarism, the beggarly copiousness of borrowed wealth” (289). Hazlitt’s portraits of Lord Byron, the lawyer James Mackintosh, and William Wordsworth are especially noteworthy for their references to the cento. Writing of Byron, Hazlitt criticizes the poet’s style as too self-absorbed, and figures his productions as paradoxically solipsistic centos: “Lord Byron makes man after his own image, woman after his own heart; [...] he gives us the misanthrope and the voluptuary by turns; and with these two characters, burning or melting in their own fires, he makes out everlasting centos of himself” (*Spirit* 154).

To James Mackintosh’s *Lectures on the Law of Nature and Nations*, Hazlitt gives some suggestively faint praise: they “were after all but a kind of philosophical centos. They were profound, brilliant, new to his hearers; but the profundity, the brilliancy, the novelty were not his own” (*Spirit* 217). Ironically, Hazlitt mentions the cento first to criticize Byron’s poetry

for being too original and then to critique Mackintosh's lectures for not being original enough.

More ironically, while the content of Hazlitt's essays denigrates the cento in references like these, their form deploys it, thus articulating something of the contradiction between literary production and its regulation. As a "bricolage of quotations" (Paulin, *Day-Star* 27), Hazlitt's prose style "melts down not raw, but already processed material into a new and beautiful shape." According to Tom Paulin, "the essay as *cento*, as a patchwork of quotations, [is] part of the deep structure of Hazlitt's imagination" ("Introduction" xi), a reading echoed by David Chandler, as Paulin's co-editor of Penguin's single-volume Hazlitt selection, *The Fight and Other Writings*. Introducing the volume's notes, Chandler discusses how Hazlitt not only "quoted compulsively" but also "freely adapted the material he was quoting," and only rarely cited it. "The problem for the annotator," Chandler reflects, "is knowing when to stop" (553). A close reading of even just this one representative volume's notes reveals interesting patterns and preferences in Hazlitt's quotation practice. The majority of his quotations are from Shakespeare (Chandler 554), and many others are from public domain writers like Milton; however, Hazlitt also quotes extensively from the copyrighted works of his own contemporaries, including Byron, Coleridge, Keats, Scott, and Wordsworth.

Returning to Hazlitt's portrait of Byron, for example, its first two pages alone include five explicit quotations: quoting *Coriolanus* (to great ironic effect), Hazlitt writes that Byron

holds no communion with his kind; but stands alone, without mate or fellow -

"As if a man were author of himself,
And owned no other kin." (*Spirit* 150)

Hazlitt's image of Byron is that of a modern "centonist," an image ironically composed in cento-like fashion itself, in a wry juxtaposition of originality and imitation, "extreme ambition of novelty" and "charges of plagiarism": Byron, Hazlitt writes, "takes the thoughts of others (whether contemporaries or not) out of their mouths, and is content to make them his own, to set his stamp upon them" (152). Is Hazlitt perhaps protesting too much? He quotes from his own contemporaries—never mind *himself*—as contentedly as Byron might. His portrait of Wordsworth, for example, cites his subject author nine times and his own prior work twice. In the notes to *The Fight*, not just Wordsworth but specific poems emerge as particular favourites for Hazlitt (as Paulin and Chandler produce him here, anyway):

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Hazlitt's
quotation
practice.

specifically, *The Excursion* (1814), “Ode on Intimations of Immortality” (1807), and “Lines Composed A Few Miles Above Tintern Abbey” (1798). Hazlitt quotes generous excerpts from *Excursion* and “Tintern Abbey” in his 1811 lecture “On Shakespeare and Milton” (*Fight* 108–09), enhancing the literary value of both “old canon” and contemporary writers alike in their cross-referential quotations that, as St Clair observes of appropriative works, “perform the selecting, canonising, and memorialising role [...] which has often been seen as among [their] essential purposes and characteristics” (71).

To these purposes we might add that of fair dealing: Hazlitt’s frequent and adaptive quotation of his contemporaries prototypes the practice of repurposing copyrighted works, and in writing that has furnished some foundational statements on literary Romanticism, no less. He quotes often but never substantially enough to compromise a contemporary work’s commercial prospects and usually, instead, to promote the work, implicitly or explicitly. His quotation from “Tintern Abby” in “On Shakespeare and Milton” misquotes lines 39 to 42 of Wordsworth’s poem to attribute its “burthen of the mystery” not to a “blessed mood” but to “them,” his subject authors (*Fight* 109). Then again, sometimes this promotional quotation backfires, as in “My First Acquaintance with Poets” (1823), where Hazlitt credits Chaucer with a line from *The Excursion* (253). As will be discussed below, Wordsworth was very protective of his intellectual property, so it is telling that the historical record shows no legal actions between them (the kinds of actions to which Hazlitt was no stranger²); as will also be discussed, Wordsworth modeled fair dealing in his own way too. Hazlitt’s divergent statements on and uses of centonism, then, aptly illustrate the contradiction between Romantic cultural-legal discourse and Romantic literary production and point to the kind of appropriation we now recognize as fair dealing.

2 In addition to developing a cento-like style in his essays, Hazlitt also pursued larger-scale quoting and compiling work that, in one illustrative case, was thwarted for including work by his literary contemporaries. Hazlitt’s *Select English Poets, or Elegant Extracts from Chaucer to the Present Time* included work by contemporary writers like Wordsworth, Coleridge, Byron, Shelley, Keats, and Scott, for which reason it was no sooner printed than it was “rigorously suppressed” (Birrell quoted in Gates 170). The book was suppressed in England, that is; as with many suppressed English works, the edition was shipped to the U.S. (which ignored and flouted foreign copyrights throughout most of the nineteenth century), where it “became widely known and highly regarded” while remaining “virtually unknown in England” (Gates 171–72).

Appropriation as Creativity and Criticism

Every poet is a thief. (U2)

Like Hazlitt's liberal and adaptive prose centonism, the cento's exhibition of judicious selection and sequencing illustrates that curation and editing are themselves profoundly *creative* writing processes. "The derivative nature of the cento is all too obvious," writes Zoja Pavolvskis; "what is not obvious is that the act of composing a cento is strikingly original" (71). Contemporary legal support for this view recently arose at the Supreme Court of Canada (which has ruled consistently to keep an appropriate balance in copyright), in its 2011 hearing of a fair dealing case, which included a discussion of appropriation in the creative process. As Michael Geist reports, Chief Justice McLachlin "noted that works often involve bringing together several other works into a new whole. When counsel responded that this was a compilation, the Chief Justice replied that it might actually be an entirely new work, bringing the issue of remix and transformative works to the Supreme Court of Canada" ("The Supreme Court").

T. S. Eliot—no stranger to the cento himself, as shown in *The Waste Land* (Ricks quoted in Eliot, *Inventions* 288)—has made this case for literature more generally, in his comment that "immature poets imitate; mature poets steal [...] The good poet welds his theft into a whole of feeling which is unique" (*Sacred Wood* 114). The widespread misquotation and misattribution of the comment lend it an irony that is amplified by the fact that Eliot's literary estate is infamously antagonistic to scholarly citation of his work, whether licensed or in fair use (Galín 11). Further amplifying this irony is the likeness to Eliot's famous comment of the U2 lyric quoted above, given U2's own copyright maximalism, from the 1991 *Island Records v. SST Records* case (see McCarvel) to lead singer Bono's recent opinion column calling to renew the crackdown on file-sharing by targeting Internet service providers, "whose swollen profits," he claims, "perfectly mirror the lost receipts of the music business." These reception contexts of Eliot's writing and U2's music demonstrate the particularly strong copyright protection presently afforded to what the law terms *creative* or *original* works in contrast to the weaker protection afforded to *factual* or *derivative* works (Galín 11). This reductive legal language might be understood as a sort of utilitarian variation on the Foucauldian distinction between *primary* and *secondary* orders of discourse; in addition, such language illustrates the Romantic premise of copyright law, in its privileging of originality and creativity.

The cento thus stands as a precursor to such radically intertextual forms of cultural production and critique.

In light of such formal and legal distinctions, the cento—a remix of existing works at once derivative and unique—embodies an intertextual kind of creativity like that of parody. And parody is well understood to serve a critical function; as Linda Hutcheon points out in *The Poetics of Postmodernism*, the “parodic intertextuality” of postmodern art sometimes critiques not just its source material but also copyright and cultural property, the “ideological and economic underpinnings to the idea of originality” (190). Recognizing the cento as a parodic creative form means recognizing its critical function as commentary (Verweyen and Witting 172–73). An appropriative cultural production, whether a cento, a collage, or even a DJ mix, becomes legible as criticism according to the principles of selection and organization that structure it (McCutcheon, “For the record”). The recognition of appropriation as criticism is well established in postmodernist and postcolonialist theories of readerly rewriting, repetition with difference, and counter-discourse and is gaining wider purchase in humanities and legal scholarship on copyright issues in appropriation art. Rebecca Tushnet argues that because sexuality is a possible interpretation of original works that authors may not explicate, the sexualization of works constitutes a transformative use exposing a latent meaning; that is, it constitutes criticism (“My Fair Ladies” 275–78). We find this form of appropriation as criticism, for example, in Elisa Kreisinger’s *Queer Carrie* project, which remixes *Sex and the City* footage, and in Jonathan McIntosh’s “Buffy vs Edward (Twilight Remixed)”; both videos remix popular Hollywood television shows to challenge Hollywood’s heteronormative and patriarchal narratives and to promote fair use.³

The cento thus stands as a precursor to such radically intertextual forms of cultural production and critique, which are as readily enabled by new media technologies as they are challenged by changing copyright laws. The cento constitutes a kind of *meta*-genre that simultaneously, paradoxically subverts the principle of genre: the cento is a simulacrum of literature, cutting up literature to comment on it, blurring the boundaries between primary and secondary cultural forms.

Given the popular explosion of reading and the pitched periodical hostilities that characterized the Romantic period, the centos produced at that time often demonstrated the genre’s critical function. The anonymous “cento of criticism” on Irving makes the critical function abundantly clear, in the text’s title and its lengthy caricature of Irving’s “quackery” (Anonymous 4). Similarly, the didactic 1798 *Cento* calls attention both

³ I am grateful to Sarah Mann for the references to Tushnet and Kreisinger.

to its pedagogical purpose and to its critical discernment, “in being able to select the good and useful from the pernicious and hurtful.” Significantly, neither editors nor the “Most Approved Authors” are named; only the printer’s name provides any specific attribution, although the telling absence of the printer’s address hints that the book may be a piracy. The preface justifies the text’s anonymity and total lack of acknowledgement by alluding to the copyright regime: “It may not be amiss, perhaps, just to mention one thing [...] the not mentioning the different authors, from whose works the following pieces are compiled. [...] some of them were not known when this collection was made; owing to many of the pieces being extracted without noticing any of the authors, before there was any intention of making them public” (1). That this cento articulates its compiler’s anxiety over possible infringement action—in what it says and, just as much, in what it doesn’t say—suggests that not all centos qualified for copyright protection. Even during the brief copyright window, printed works dealing in extensive adaptation and quotation appeared to enjoy inconsistent copyright at best, tempered by case-specific contingencies, business customs, and the dispositions and cultural capital of the compilers and their sources’ authors alike.

In 1842, the year of the term-extending Copyright Act, a satirical miscellany called *George Cruikshank’s Omnibus* deployed the cento to great critical effect. The book includes a chapter called “Original Poetry,” attributed to “Sir Fretful Plagiary” (the name of the critic character in Richard Brinsley Sheridan’s 1779 play *The Critic*). The chapter consists of centos and commentary and in its lampoon of “originality” becomes legible as a retort to the copyright act, as Saint-Amour notes (267). “*These poems bear no resemblance to anything ever before offered to the public,*” the commentary claims, introducing the first of its “original” poems: “Ode to the Human Heart,” a cento of lines from both public-domain and protected works, including a pointed sample of “Intimations of Immortality” by Wordsworth, who had lobbied for years to win perpetual, posthumous copyright for authors. The first two stanzas read as follows:

Blind Thamyris, and blind Mæonides,
Pursue the triumph and partake the gale!
Drop tears as fast as the Arabian trees,
To point a moral or adorn a tale.

Full many a gem of purest ray serene,
Thoughts that do often lie too deep for tears,
Like angels’ visits, few and far between,
Deck the long vista of departed years. (35)

The commentary subverts its own claims to originality, and sharpens the satire, by adding a footnote to the first stanza that reads like a legal disclaimer, while repeating the original appropriation. The footnote feigns bafflement that “the printer’s devil had taken upon himself to make the following additions to these lines,” then reprints the first stanza with parenthetical annotations that acknowledge the composition’s sources: “(Oh! it’s Dr Johnson),” reads the annotation added to the fourth line. “What does he mean?” the footnote rhetorically asks. “Does he mean to say he has ever met with any one of those lines *before*?” (35). This chapter of the *Omnibus* deflates the discourse of original genius with its repetitious insistence on its centos’s “originality” and reasserts the intrinsic intertextuality of literary production. In one especially suggestive passage, the satire strikes at Wordsworthian claims to originality and Hazlitt’s misquotations alike, while also putting in question the originality of Eliot’s remark: arguing that too few modern poets “want that greatest art, the art to steal,” the commentary “hold[s] that in all cases of literary borrowing, or robbery (for it comes to the same thing), it is ten million times better to rob or borrow without the least disguise, equivocation, or mutilation whatsoever. Take the line as you find it” (38).

Wordsworth’s “favourite passages”

The possibility of pure origination makes possible the notion that language—that most public and publicly created of domains—can be privatized by an individual. (Macfarlane 2–3)

But despite the flagrancy of the *Omnibus*’s provocation, Wordsworth could hardly complain of such sampling. Much has been written on Wordsworth’s work for copyright reform; much less on his work as a published “centonist.” Susan Eilenberg calls Wordsworth’s interest in copyright “excessive” (352); it suggests both an obsession with literature’s profitability and a lack of business acumen. Wordsworth could not have easily afforded many of his own books (St Clair 202). Yet he urged at least one acquaintance who had bought his work not to lend it (Eilenberg 353), exerting a kind of physical rights management. He lobbied for perpetual copyright, arguing it would drive down book prices (Zall 142), while publishers lobbied for it knowing that a longer copyright term would keep prices high (St Clair 207–08).

And while Wordsworth professed the original genius of Romantic authorship, he was, as John Hayden shows, a writer well versed in appropriating an extensive repertoire of English literature. To illustrate the

“eclecticism” and “extent” of Wordsworth’s borrowings, Hayden composes his own cento out of the many references to poetic forbears that he finds in no less a touchstone than “Tintern Abbey.” Hayden’s comparison of the cento to “Tintern Abbey” counters the traditional reception both of Wordsworth “as preeminently a Romantic poet and of originality as preeminently a Romantic virtue” (214–15). Moreover, as Hayden observes, Wordsworth himself published a cento in the 1835 *Yarrow Revisited* volume.

According to Wordsworth’s “advertisement” to *Yarrow*, the book compiles “miscellaneous poems” initially intended for “interspers[ing]” in other selected or collected editions; instead, Wordsworth has gathered these into “a separate volume,” in “consideration of [...] purchasers of his former works, who [...] would have reason to complain if they could not procure [these pieces] without being obliged to re-purchase what they already possessed” (v). In other words, while Wordsworth had intended to release a new “best of” album that would include previously uncollected pieces, he instead gathered the latter into their own B-sides album.

In this book’s section called “Evening Voluntaries,” the ninth piece (“IX” 177) is a cento, or as Wordsworth describes it, a “compilation” (175):

IX.

Throned in the Sun’s descending car
What Power unseen diffuses far
This tenderness of mind?
What Genius smiles on yonder flood?
What God in whispers from the wood
Bids every thought be kind? [Akenside 153]

O ever pleasing Solitude,
Companion of the wise and good, [Thomson 346]
Thy shades, thy silence, now be mine,
 Thy charms my only theme;
My haunt the hollow cliff whose Pine
 Waves o’er the gloomy stream;
Whence the scared Owl on pinions grey
 Breaks from the rustling boughs,
And down the lone vale sails away
 To more profound repose! [Beattie 62–63]

As Wordsworth says in the poem’s parenthetical preface, the poem joins “a fine stanza of Akenside,[...] with a still finer by Beattie, by a couplet of Thomson” (175). In the version shown here, I have added parenthetical citations of Wordsworth’s sources, so the reader may compare his borrowings

with the original works. The resulting compilation is a vesper mediation on solitude imbued with sublimity; in it, each quotation occupies a different place in Wordsworth's sequence than that which it occupies in its original poem. Wordsworth joins two stanzas that are similar in rhythm and theme with an intervening couplet that sustains this rhythm while carrying forward the first stanza's rhyme. Wordsworth borrows very modestly from his sources, especially from Thomson, whose work was at the centre of the disputes that led to the outlawing of perpetual copyright in 1774. Nevertheless, all these sources were technically in the period's public domain, leaving him free to exploit them commercially without risking infringement.

His preface to the poem, however, still registers anxiety over potential infringement. The preface to "IX" reads as follows, and for our purposes it is perhaps of more interest than the poem itself:

For printing ["IX"], some reason should be given, as not a word of it is original: it is simply a fine stanza of Akenside, connected with a still finer by Beattie, by a couplet of Thomson. This practice, in which the author sometimes indulges, of linking together, in his own mind, favourite passages from different authors, seems in itself unobjectionable: but, as the *publishing* such compilations might lead to confusion in literature, he should deem himself inexcusable in giving this specimen, were it not from a hope that it might open to others a harmless source of *private* gratification. (Wordsworth 175)

The preface illustrates how the cento problematizes both Romanticism and copyright. Wordsworth defends "this practice [...] of linking together [...] favourite passages" as an "unobjectionable" mental exercise; and he "excuses" its publication as a means to the "private" enjoyment of readers. Wordsworth denies the poem any originality, describing it as a private "indulgence" and as a "specimen" of possible "confusion in literature." (Such confusion *did* later occur, in misattributions of Thomson's "clichés" about nature to Wordsworth [St Clair 285].) His preface affirms the cento genre's function as an unclearly primary and secondary form, even as literary criticism: Wordsworth judges Beattie's stanza as "finer" than Akenside's and, in appropriating these "favourite passages" from all three authors, in this way promotes them, activating the cento's canon-forming function in both private and public terms. Wordsworth's preface encodes the arguments that he (together with politicians like Thomas Noon Talfourd) would more explicitly make for stronger copyright: arguments on behalf of imaginative literature and its value to the nation (Vanden Bossche 50).

But in “hoping” the work would produce “private gratification,” the preface also encodes the arguments that opponents of the 1842 Copyright Act would make: on behalf of useful knowledge and its value to the public interest (46). In addressing copyright, the preface justifies the poem’s publication by speculating on its *private* value to readers, “private” not as “property” but as what we’d now call “personal, non-commercial” use. This makes for a curious disavowal of the commodity status of the printed cento itself, an object of commercial profit to Wordsworth justified for the non-commercial pleasure it might afford the reader who pays for it.

The resulting contradictions between public and private in Wordsworth’s rationale show the pressure copyright exerts over literary production: as is made explicit here, this cento, like the whole institution of copyright, “stands squarely on the boundary between private and public” (Rose 140). The preface demonstrates Wordsworth’s preoccupation with copyright, in its conscientious acknowledgements and its anxiety over “*publishing* such compilations” at a time when compilations and quotations held uncertain and contested copyright status. In the process, the preface and the poem, taken together, comprise a prototype for what would later be recognized as fair dealing. Wordsworth justifies his “prey[ing] ... on the Leaves of ancient Authors” (Pope) as a service to readers and a duty to posterity.

Contrary to more cursory surveys of Romantic attitudes to the cento, then, period writers display not a straightforward rejection of the genre but, rather, a more ambivalent and contradictory disavowal of it; both Hazlitt and Wordsworth sometimes reject it, sometimes exploit it. Similarly, Macfarlane finds more ambivalence and diversity among Romantic writers over the definition of originality, arguing that this ambiguity and diversity are only simplified and homogenized into “Romantic ideology” in the Victorians’ retroactive, “selective editing” and construction of Romanticism (33). Given the growing maximalism of copyright since 1842, we might understand the broader Victorian construction of Romanticism (Faflak and Wright 3) as a production of cultural history conditioned by a consolidating and expanding copyright regime. The same period whose ascendant ideology of authorial originality demoted the cento to sub-literary status is that whose fraught copyright regime cultivated the revival of this and similar appropriative genres (St Clair 135).

Rights Holders and Users' Rights

There is no such thing as an autonomous text or an original genius that can transcend history. (Hutcheon *A Theory of Adaptation* 111)

Late Romanticism reveals an instructive moment of copyright regime change: a moment on the cusp of the first of significant and still-continuing copyright term extensions; a moment on the cusp of the formalization of fair dealing; a moment rich with literary forms that demonstrate the contradictions of copyright (sometimes sensationally, as in the *Wat Tyler* affair). The cento genre in the Romantic period represents a literary precedent for fair dealing and for later cut-up, mixed-up, and mashed-up cultural forms; it also provides an object lesson in how copyright regulation contradictorily conditions cultural production, determining its acceptable forms, its very possibilities. The cento points up contradictions between the practices and regulation of literary production that can illuminate the stakes of the current copyright and help us as scholars to recognize and reflect on our own positions in this copyright.

The long trend, since the late Romantic period, toward more copyright maximalism impacts critics and scholars, especially those who investigate creative works like art and literature, since creative works are more strongly protected by copyright than factual works. This trend is producing several chill effects over how we conduct such investigations. One of the most pervasive of these effects is simply the loaded character of public discourse on copyright, which corporate rights owners dominate with language that best serves their interests; thus, we frequently refer to digital copying as “piracy,” although most digital copying purposes are non-piratical (Lessig 53). Another effect is the tightening restriction on how scholars use quoted material, restriction imposed by publishers, literary estates, and sometimes even disciplinary organizations. Publishers normally request scholarly authors to minimize or just exclude quotations of creative works; as David Orr notes, the fees asked by rights holders for poetry excerpts can fluctuate wildly. At the 2011 congress panel on scholarly publishing, one university press representative put the matter bluntly: “If you want to quote song lyrics or a poem in your book, I’ve got one word for you: *don’t*.” By way of offering an example, the representative mentioned that two lines of a Bob Dylan song could cost \$4000 in permission fees. The American Psychological Association’s online instructions for APA journal authors set out strict and specific allowances for quotation; single text extracts shorter than four hundred words, or a series of extracts shorter than eight

hundred, constitute the association's fair use limit; the instructions advise authors to seek permission for any longer extracts ("APA"). Major authors have weighed in on public copyright debates with statements that antagonize educators (as in Access Copyright's 2011 PR video "Canadian Writers Speak Out") or evince a disturbing unfamiliarity with copyright law (see Knopf on Margaret Atwood's misrepresentations of "fair dealing"). Several organizations post guidelines for copyright and fair dealing that are far more conservative than the law allows; for example, the AUCC's 2012 Fair Dealing Policy, which many universities have adopted, arbitrarily imposes a limit of "up to 10% of a copyright protected work" (AUCC 1), despite the absence of any such quantification in the legal language of fair dealing. Amidst the globalized changes taking place in the copyright regime and the more specific uncertainties surrounding educational copying and reference practices, uncertainty and litigation-averse conservatism about fair dealing prevail in Canadian universities and affiliated institutions.

To counter the kind of claims and arguments that corporate rights holders and intermediaries like Access Copyright have used to divide authors and educators (Doctorow), three points are worth making. First, the history discussed here has focused on prototypical practices of fair dealing by major authors because they model this practice for authors *and* educators alike (particularly for English teachers, to whom the subject authors are well known). Second, rights holders routinely pursue actions against other authors and creators, not just against critics and educators: in the fall of 2012, the estate of William Faulkner sued Sony Pictures for a nine-word misquotation from Faulkner's 1950 *Requiem for a Nun*, used in Woody Allen's 2011 film *Midnight in Paris* (Masnick "Faulkner"). Rights holders single out neither critics and educators, nor parties perceived to have deep pockets (as the Jammie Thomas case shows [Sandoval]), but litigate far more indiscriminately, as evinced by the proliferation of copyright "trolls" (law firms that scour the Internet for litigation opportunities) and anti-infringement software that automatically blocks the online distribution of copyrighted content (as dramatized in the abrupt shutdown of the 2012 Hugo Awards webcast; see Newitz). Third, the globalized hegemony of neoliberalism, with its ruthless structural suppression of the arts and humanities—of social critique—on pretenses of "fiscal responsibility" means that authors and educators have far more common cause for solidarity and collaboration than differences over copyright regulation.

The potential consequences of these varied but related chill effects over quotation and appropriation in contemporary art and knowledge production are considerable (as even a cursory browse of *Chillingeffects.org*

The potential consequences of these varied but related chill effects over quotation and appropriation in contemporary art and knowledge production are considerable.

suggests; the site monitors legal actions, like cease-and-desist letters, over Internet activity). Legal scholars and users' rights advocates like Michael Geist, James Boyle, and Jeffrey Galin point out that fair use and fair dealing only stay on the books if they get regular, vigorous exercise. Failure to do so is to risk losing this user's right altogether, under the persistent pressure of rights-holder lobbying and litigation. This increasingly chilly and jittery climate that surrounds copying in cultural and knowledge production, and in teaching and research, makes recent rulings in Canada and the U.S. all the more welcome as assertions of fair dealing that entrench it as a robust user's right, toward restoring balance in copyright law. In *Cambridge v. Georgia State* (2012), a group of major academic publishers sought an order against Georgia State University for the unlicensed copying of text excerpts for teaching purposes; the court found this copying constitutes permissible fair use (Knopf, "Georgia"). Later in 2012, the Supreme Court of Canada issued decisions in five copyright cases concerning collecting societies and fair dealing. In some cases, collecting societies pursued actions against various businesses and institutions as attempts to curb, if not redefine, fair dealing. In other cases, institutions pursued actions against the collecting societies: *Alberta (Education) et al. v. Access Copyright* saw every province and territory except Quebec take on Access Copyright (AC) for a K-12 educational copying tariff.

In all five cases, far from curbing fair dealing, the Supreme Court decided emphatically in favour of fair dealing as a user's right, "reaffirm[ing]," as CAUT says, "the right to copy portions of materials without permission or payment for non-commercial research and education purposes." This year's "quintet" of decisions reinforce a large and liberal interpretation of study and research, as well as fair dealing itself; in addition, they introduce the principle of technological neutrality in copyright (meaning no differences among media, e.g. between print and digital, should apply in copyright law). (McCutcheon "Copyright quintet")

In addition, the Canadian government's long-awaited copyright reform act, Bill C-11, is now law and provides important entrenchments and expansions of fair dealing as a user's right. These gains are mitigated, however, by "anti-circumvention" provisions that prohibit users from circumventing digital rights management (DRM) or the other technological protection measures (TPMs) commonly found on items like e-books, DVDs, and smartphones, despite the many lawful purposes for doing so (Geist "The case" 205). The new language of technological neutrality in the 2012

Supreme Court decisions may trump the bill's anti-circumvention provisions (Geist "Beyond"). While this difference between legal ruling and legislation remains an open question for now, it shows that contradictions abide in copyright regulation and that fair dealing is finally gaining leverage to restore balance in the copyright regime, which has too long favoured rights holders over and against users, audiences, and consumers. It is up to educators and cultural producers alike to exercise the new gains in fair dealing, and the reasons for doing so are legion, advancing broader public interests in the face of a neoliberal government that is actively attacking Canadians' "social literacy" and "manufacturing ignorance" (Brodie).

Without fair dealing, the "breathing room" it affords innovation brings us one step closer to the return of perpetual copyright and the fossilization of the public domain, which would represent a dire impoverishment of public culture and intellectual life. As critics and scholars of creative works, we have no less a responsibility than that of the courts to assert fair dealing, to quote critically and confidently, and to legitimize licensing alternatives like Open Access, in the service of a "large and liberal" research imagination and a better balance in copyright between users' and rights holders' interests. Today's predominantly corporate rights holders must not be allowed the complete control over the means of cultural production that is the implied end of every new trade talk or legislation in which copyright is put on the table. In that end is also the end of cultural diversity and freedom of any expression not amenable to the venal economic orthodoxy of neoliberalism. So "come, writers and critics who prophesize with your pen, and keep your eyes wide. The chance won't come again."⁴

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4 Oh! It's Bob Dylan.

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