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The struggle for international copyright in the United States.

Bishop, Wallace Putnam

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THE STRUGGLE FOR INTERNATIONAL COPYRIGHT IN THE UNITED STATES

by

Wallace Putnam Bishop
(A. B., Brown University, 1935; A. M., Columbia University, 1943)

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Approved by

First Reader  

Second Reader  

Professor of History

Professor of History
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INTRODUCTION

This dissertation is concerned primarily with the economic and political aspects of the struggle for international copyright. It deals with economic motivations and a political contest.

There are several reasons for writing a dissertation on the struggle for international copyright. The principal reason is to explain why the United States, enlightened and progressive as it thought itself to be, delayed in adopting international copyright until long after most of the rest of the world had done so. Such an explanation helps one to understand this nation and its history, because it reveals something of the character of the American people during the nineteenth century. Another reason is that the struggle for international copyright involved some very interesting and historically important people. It shows a side of their lives about which little is known. In addition, this subject introduces facets of American civilization which are seldom dealt with in history — the importance of English writers to the Americans of the first half of the nineteenth century, the practices of nineteenth-century American publishers, the phenomenon of American authors engaging in lobbying and politics.

To obtain a full picture of the struggle for international copyright one must handle the story rather broadly, yet bring out the significant features of a number of subjects which, in themselves, could furnish material for further projects. Among these subjects are: the
income obtained from the United States by English authors; the income from the United States and from abroad of American authors; the full story of the organizations that were formed to fight for international copyright; the Southern opposition to international copyright; and the history of copyright in Congress. These cannot be treated exhaustively here; nor should they be, if one is to give the intended over-all view. The objective here is to survey the forest, and to inspect only those features of the trees which give the forest its particular and peculiar character.

The author wishes to acknowledge his debt to Professor Warren S. Tryon of Boston University for his valuable advice and his patience in repeated readings of these chapters; to Professor Robert V. Bruce of Boston University for his kind assistance; to Mrs. Helen Utlaat of Boston University for her friendly cooperation; to Dean Kenneth G. Ryder of Northeastern University for taking time out of his busy life to lend a very efficient hand to the completion of this project; to willing and able colleagues of the History Department at Northeastern; to Mrs. Wallace P. Bishop for her encouragement; and to Putnam Bishop for doing the chores while his father worked on his dissertation.
REVIEW OF THE WORK OF OTHER INVESTIGATORS IN THIS FIELD

There are sketches of certain aspects of the international copyright struggle in George H. Putnam's *Question of Copyright* and in R. R. Bowker's *Copyright, its History and its Law*. Of the two, Putnam's work is the more comprehensive. He had a very active part in many of the events with which he deals. He includes a chronological sketch of the procession of bills, memorials, treaties, and other actions. He also includes a few papers of special interest, such as Clay's Report and Simond's speech on international copyright. Much of his book is a resume of various copyright laws. Probably the most useful thing in it is his informed estimate of the effects of the passage of the first international law. Bowker's book is of less value than Putnam's because it is more concerned with the legal aspects. However, he includes a valuable brief history of the origins of copyright; and, like Putnam, he gives a sketch of the chronological events in the struggle for international copyright.

Probably both authors owe much of their knowledge of the copyright contest to Thorvald Solberg, Register of Copyrights at Washington in the 1880's. Solberg was the nation's leading expert on copyright from the 1880's to the 1920's. His pamphlet, *International Copyright in Congress, 1837-1886*, is the most comprehensive account of that subject. In his official position in Washington, he had access to Congressional files that included the memorials and petitions that had been sent to the National Legislature. The value of Solberg's work lies in his sketch of events and in his presentation of the names on, and the text of, some
memorials that received no more than a brief mention in the Congressional Globe and Record.

Incidentally, Senator Chace of Rhode Island gave much valuable information on the copyright struggle in his speech to the Senate on April 23, 1888. One suspects that most of his material came from Solberg who was the chief historian of the pro-copyright people.

No work more comprehensive than those already mentioned has been done on the subject of this dissertation. Certain phases of it have had some treatment. On publishers and their ways of doing business Donald Sheehan has made a valuable contribution, particularly in his exposition of Trade Courtesy. There are biographies or autobiographies of certain publishers, or histories of publishing houses, that reveal much of interest to this subject. Most valuable is J. Henry Harper's House of Harper, George H. Putnam's George Palmer Putnam, Earl L. Bradsher's Mathew Carey, J. C. Derby's Fifty Years Among Authors, and Samuel G. Goodrich's Recollections of a Lifetime. All of these were filled with odds-and-ends of information on the publishing trade. Raymond Shove's often-quoted Master's Thesis, written for the Graduate School of the University of Illinois, contains much information about the cheap book business. Frank L. Mott's Golden Multitudes has some useful material on publishing practices.

Nothing comprehensive has yet been done on the income of American author or on payments made by American publishers to English authors. In fact, a large portion of the material in this dissertation has previously never been used in reference to the copyright problem.
THE STRUGGLE FOR INTERNATIONAL COPYRIGHT
CHAPTER I

A BRIEF HISTORY OF THE DEVELOPMENT OF COPYRIGHT

Behind copyright is the theory that a writing is the property of its creator and that the creator has the right to protect his property from theft, and to make it a source of income to himself.¹

The idea of literary property goes back at least to the Romans. Cicero indicated it in his letters. It seems likely that the Romans made some kind of payment to authors.² There is an old story, which may be true, that the first court case involving copyright was one which came to the attention of King Dermott, at the Halls of Tara, in Ireland in the sixth century. In modern terminology this would probably be called the case of Finnian v. Columba. Columba had copied, without permission, a book created by his master, Finnian. The latter brought the matter to the king, who ordered the book returned.³ One must assume that Columba had intended no wrong, because he later became a great missionary and was finally canonized.

A better authenticated early use of copyright is that found in the Hanseatic cities of Germany. These were great trading cities of the late

¹R. R. Bowker, Copyright, Its History and Its Law, p. 1. "Copyright means the right to multiply those products of the human brain known as art and literature." On page five, Bowker says, "A writing is a property...In this type of property, the right of ownership consists in the right to prevent use of one's property without the owner's consent."

²Ibid., p. 8.

³Ibid., p. 9.
Middle Ages, such as Hamburg, Lubeck, Cologne, and Bremen. The governments of these cities protected a writer in his property during his lifetime, and fined those who infringed upon it.¹

In England, a certain type of copyright can be traced back to 1518. There is a record for that year which indicates that the Royal Printer had published the speech of a dignitary of the court, and that the Printer was protected by the Crown from unauthorized reprinting of the speech.² Early copyright was usually for the benefit of the publisher or printer. He owned the writing, whether he wrote it himself, copied someone's words, or hired someone to write it. However, there were occasions when copyright was given to an author. The first English copyright to an author was granted to John Palsgrave in 1530.³ Copyright was, in the sixteenth century, partly a matter of common law and partly of licensing the writing with the Stationer's Company. By decree of the star-chamber on June 23, 1585, every book was required to be licensed, and a man could not print another man's work because he could not obtain a license to do so.⁴ There is evidence that violaters were punished, under Elizabeth, and later.⁵

In 1681 ... the Stationer's Company adopted an ordinance or by-law, which recites that several members of the company have great part of their estates in copies [books]; that by ancient usage of the company, when any book or copy is duly entered in their register to any member, such person hath always been reputed and taken to be proprietor of such book or copy, and ought to have the sole printing thereof.⁶

¹Ibid., p. 12f.
²Ibid., p. 19.
³Ibid.
⁴George Ticknor Curtis, A Treatise on the Law of Copyright, p. 29.
⁵Ibid., p. 31.
⁶Ibid., p. 36.
There is a famous story of John Milton's adventures in copyright. Milton sold his common law copyright in 1667 to a printer named Simmonds, giving the printer the right to make thirteen hundred copies of *Paradise Lost*. It was agreed that five pounds would be paid to the poet immediately, and that another five pounds would be paid when the thirteen hundred were sold. A second edition brought the same bargain. After Milton's death, his widow received eight pounds for her rights and gave Simmonds a general release, which gave him full rights. He sold this later for twenty-five pounds to Brabazon Aylmer. This copyright was protected by a court injunction in 1739, and as late as 1752, was still being protected by the English courts.

In a copyright law that is often called the Act of Anne, England made copyright a matter of statute law in 1709. The Act went into effect in 1710. This was the first copyright statute the world had known. The preamble of this law is worth noticing.

Whereas printers, booksellers, and other persons have of late frequently taken the liberty of printing, reprinting, and publishing, or causing to be printed, reprinted, and published books and other writings without the consent of the authors or proprietors of such books and writings to their very great detriment, and too often to the ruin of them and their families; for preventing therefore such practices for the future, and for the encouragement of learned men to compose and write useful books; be it enacted, etc.

The Act provided that, after April 10, 1710, the authors of books

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1 Edward Marston, *Copyright, National and International*, p. 2f.
4 Curtis gives the entire act in his *Appendix*. 
already printed, who had not transferred their rights, or booksellers, or printers, or other persons who had acquired copies of any book in order to print or reprint, should have the sole right of printing the book for twenty-one years, and no longer; the authors of books already composed and not printed, or thereafter to be composed, and their assigns, should have the sole right of printing for fourteen years, with a penalty for printing without the consent of the proprietor. After the fourteen years, the author, if still alive, could renew for another fourteen.

To a layman the Act of Anne seems clear enough regarding the period of copyright allowed. But to lawyers it was not. Many insisted that the old common law provision of copyright in perpetuity still applied. This was fought over in a number of cases, but was not cleared up until 1769. In the meantime England was developing an impressive body of literature and it was becoming more essential to clarify the matter. The case of Millar v. Taylor seemed to do that.

This case involved The Seasons, by James Thompson. Thompson published the work in 1727, and in 1729 sold it to Andrew Millar. Millar continued to publish it long after the term of copyright had run out. In 1763, Robert Taylor, without permission, brought out an edition of the poem. Millar took him into court and the case was argued by England's most distinguished lawyers. The decision was in favor of perpetual copyright.1 This seemed to settle the question. But it did not. Five years later it was brought up again before the House of Lords, in the

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1Curtis, op. cit., pp. 54-58. Curtis was a lawyer, and believed that the decision here was a correct decision.
case of Donaldson v. Becket. The Lords decided, by a vote of twenty-two to eleven, against perpetuity. In other words, the set term for copyright in the Act of Anne prevailed over the perpetual copyright of the common law.

In 1814 the English enacted a new copyright law which allowed the author protection for twenty-eight years, with renewal for life if he survived the twenty-eight years. In 1842, another bill, in which the American George Palmer Putnam, had a hand -- he was then residing in London, and was called in as an adviser -- was passed. This gave the author copyright for life and seven years after, or for forty-two years from the date of the first publication, whichever was longer. Incidentally, Lord Macaulay, who disliked copyright, "being more interested in fame than fortune" opposed this bill.

Curtis, writing in 1847, complained that England had been inordinately slow in adopting adequate copyright laws.

Upon a review of the history of the rights of authors in England, it must be admitted that they have long had to struggle against a great weight of prejudice and illiberality in the legislature. Every important concession that has been gained for them has been won as a trophy from a well fought field. That a period of nearly a century and a half should have passed away, after the propriety of legislative protection had been admitted, before the enactment in England of the first law that does nearly adequate justice to authors, is indeed surprising. Addison is said to have been concerned in procuring the act of Anne to be passed. From his time to the present reign, authors, as a class, seem to have had little influence in parliament. Upon nearly all occasions, when their claims have been brought to the attention of the legislature, they have been so much entangled with the interests of

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2 Bowker, op. cit., p. 27.
3 Ibid., p. 28.
booksellers and publishers, in whose hands the great mass of literary property, existing at the time, has generally been found, that they have had to encounter all the national prejudice against monopolies. Gradually, however, the true merits of the question have worked themselves free from irrelevant issues, and the present reign has become distinguished by a measure, of which it was said in advance, by a venerable poet and petitioner, "that in this, as in all other cases, justice is capable of working out its own expediency."¹

The most interesting thing about that statement is that it sounds amazingly like some of the explanations which were given later as to why the United States was slow in adopting international copyright laws. It appears that this sort of thing was characteristic of Anglo-Saxons.

One important consideration in reviewing the history of English copyright is the matter of foreigners obtaining such copyright. This becomes a puzzling situation when one considers that Noah Webster, Cooper, and Irving were permitted to copyright their books in England before 1820, but that England did not pass an international copyright law until 1838. One explanation for this is that none of the English copyright laws specified that the recipient of copyright must be a citizen. Nor did they specifically forbid a foreigner from getting copyright in England. The law of 1838 would allow a foreigner who had published his book first in his own country to get copyright on that book in England, providing that his country reciprocated. But the English courts, interpreting their laws, allowed Americans to have copyright there if they were temporary residents, and later allowed them copyright by merely publishing there first.²

¹Curtis, op. cit., pp. 69-73.
²For more explanation on this, see below, p. 100.
This brings the English situation up to the time when their copyright laws began to be of real importance to Americans, when Americans began to have a literature to copyright in England. It is now necessary to examine the development of copyright in America.

In colonial America it is probable that copyright could be obtained by English common law in most of the colonies. However, Massachusetts had a statute law providing for copyright in 1673. But this protected only publishers, not writers.

During the Revolution there were at least four writers working to get copyright adopted in the new nation. The four were Jeremy Belknap, writer and one of the founders of the Massachusetts Historical Society, Tom Paine, the Revolutionary pamphleteer, Joel Barlow, the poet, and Noah Webster, author of a famous speller and later of an even more famous dictionary. The most enthusiastic of these was Webster. He had his speller to sell, and he wanted protection for it. He has sometimes been called the father of American copyright.

Webster began his travels in the cause of copyright in 1782, before the Revolution was over. He went first to the national capital, then in New York, to persuade Congress to recommend copyright laws to the states. Under the Articles of Confederation, by which this nation was then being governed, the Federal Government was unable to impose such laws on the states. It could only recommend that the states pass copy-

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1 Curtis, *op. cit.*, p. 76.
right laws. Nevertheless, Congress was obviously the place to start. But Webster was not successful there. He went on to try to induce the state of New Jersey to adopt a copyright law. Again he failed. But he had better luck in his home state of Connecticut, which enacted a copyright law in January, 1783. Next, with the help of General Schuyler, the Revolutionary hero, he succeeded in persuading New York to put through a law. In the same year (1783) a copyright act was passed in Massachusetts, partly through the work of Timothy Dwight, poet and later President of Yale, and at that time a member of the Massachusetts House of Representatives. 1

The preamble of the Massachusetts act showed a spirit of appreciation of literature which, later, was not common among American legislators. The preamble said:

Whereas the improvement of knowledge, the progress of civilization, the public weal of the community, and the advancement of human happiness, greatly depend on the efforts of learned and ingenious persons in the various arts and sciences: As the principal encouragement such persons can have to make great and beneficial exertions of this nature must exist in the legal security of the fruits of their study and industry to themselves; and as such security is one of the natural rights of all men, there being no property more peculiarly a man's own than that which is produced by the labor of his mind: therefore, to encourage learned and ingenious persons to write useful books for the benefit of mankind, Be it enacted, &c. 2

In May 1783, James Madison of Virginia and Ralph Izard of South Carolina led a movement to get a copyright resolution through Congress. They were successful. The resolution recommended that the states pass copyright laws that would protect authors for not less than fourteen years. 3


2Curtis, op. cit., p. 77.

3Webster, op. cit., p. 174.
Moved, perhaps, by the Congressional recommendation, New Jersey passed a copyright law in December, 1783. In November, 1785, Webster visited General Washington, who gave him a letter to the governor of Virginia and to the Speakers of both houses of the legislature. The outcome of this was that Virginia adopted a copyright law. After a Webster visit to Delaware, that state put through a copyright act in 1786.1

The United States Constitution, in Article I, Section 8, granted Congress the power "to promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries." On May 31, 1790, Congress passed a copyright act, superseding all state laws on the subject. Its most pertinent parts were:

(1) It gave copyright on maps, charts, and books.

(2) It gave copyright to citizens of the United States or residents therein.

(3) Copyright was given for a term of fourteen years, and the author was allowed to renew for another fourteen years if he were still alive at the termination of the first fourteen.

(4) It specifically stated that nothing in this act shall be construed to extend to prohibit the importation or vending, reprinting or publishing within the

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1Ibid., pp. 174-175. See below, p. 10 (next page), for a table listing the first copyright acts in the states. This table was compiled from information given by Thorvald Solberg, leading authority on copyright, and Register of Copyrights at Washington. (See footnote beneath the table.) Solberg did not discover any evidence of copyright in Delaware, though Webster says that he visited that state and that a copyright law was passed there. But Webster never tells the terms of the Delaware act. In a letter to Dunlap and Claypoole, dated March 1, 1787, Webster gives them information on copyright in the United States at that time, asking them to publish it. But in his list he omits both Delaware and New Jersey. See Letters of Noah Webster, Harry R. Warfel, ed., pp. 57-58.
# TABLE I

**STATE COPYRIGHT LAWS, 1783-1786**

<table>
<thead>
<tr>
<th>State</th>
<th>Date</th>
<th>Term of Copyright</th>
<th>Eligibility</th>
</tr>
</thead>
<tbody>
<tr>
<td>Connecticut</td>
<td>Jan. 1783</td>
<td>14 years, plus 14 more, if the author survives the first term</td>
<td>Inhabitant or resident of the U. S.</td>
</tr>
<tr>
<td>Massachusetts</td>
<td>Mar. 1783</td>
<td>21 years</td>
<td>Subject of the U. S.</td>
</tr>
<tr>
<td>Maryland</td>
<td>Apr. 1783</td>
<td>Same as Connecticut</td>
<td>No citizenship requirement</td>
</tr>
<tr>
<td>New Jersey</td>
<td>May 1783</td>
<td>Same as Connecticut</td>
<td>Same as Connecticut</td>
</tr>
<tr>
<td>New Hampshire</td>
<td>Nov. 1783</td>
<td>20 years</td>
<td>Subject of the U. S.</td>
</tr>
<tr>
<td>Rhode Island</td>
<td>Dec. 1783</td>
<td>21 years</td>
<td>Citizen of the U. S.</td>
</tr>
<tr>
<td>Pennsylvania</td>
<td>Mar. 1784</td>
<td>Same as Connecticut</td>
<td>Citizen of the U. S.</td>
</tr>
<tr>
<td>South Carolina</td>
<td>Mar. 1784</td>
<td>Same as Connecticut</td>
<td>No citizenship requirement</td>
</tr>
<tr>
<td>Virginia</td>
<td>Oct. 1785</td>
<td>21 years</td>
<td>Citizen of the U. S.</td>
</tr>
<tr>
<td>North Carolina</td>
<td>Nov. 1785</td>
<td>14 years, with no renewal</td>
<td>Citizen of the U. S.</td>
</tr>
<tr>
<td>Georgia</td>
<td>Feb. 1786</td>
<td>Same as Connecticut</td>
<td>Same as Connecticut</td>
</tr>
<tr>
<td>New York</td>
<td>Apr. 1786</td>
<td>Same as Connecticut</td>
<td>Same as Connecticut</td>
</tr>
<tr>
<td>Delaware</td>
<td></td>
<td>Does not seem to have passed a copyright law</td>
<td></td>
</tr>
</tbody>
</table>

Connecticut, Massachusetts, Rhode Island, New Hampshire, North Carolina, Georgia, and New York, all declared that their laws would benefit the citizens of other states only when those states reciprocated. Maryland and Pennsylvania said that their laws would not become effective until all other states had passed similar laws.¹

¹Thorvald Solberg, *Copyright Enactments, 1783-1900*, Library of Congress, Copyright Office, Bulletin No. 3, pp. 1-4. All of the material in this table was compiled from information given by Solberg.
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.¹

That last, of course, left the way open for the free reprinting of English books, which became such a big business in America later. It assured that the foreign authors would be at the mercy of American publishers.

Noah Webster, by then the best-selling American author, set out in 1826 to get the protection of authors extended to perpetuity. He enlisted Daniel Webster, who was always a friend of copyright, and Representative Ellsworth of Connecticut in this fight. However, the attempt was unsuccessful.² In 1829, Noah Webster tried again, helped once more by Ellsworth. A bill was drawn up, but it died in a House pigeon-hole.³ In the winter of 1830-31 Webster went to Washington and lobbied for a new copyright bill. He was successful, due mainly to the efforts of Daniel Webster.⁴

The Act of 1831 began with these words:

That from and after the passing of this act, any person or persons, being a citizen or citizens of the United States, or residents therein, who shall be the author of any book or books, map, chart, or musical composition, ... or who shall invent, design, etch, engrave, work, or cause to be engraved, etched, or worked from his own design, any print or engraving ... shall have the sole right of printing, reprinting, publishing, and vend-

¹For the entire act, see Curtis, op. cit., Appendix, p. 85.
²Webster, op. cit., p. 117.
³Ibid., pp. 177-178.
⁴Ibid., p. 178.
ing such book or books ...[etc.]... for the term of twenty-eight years....

The act gave the right of renewal for fourteen years. It had in it the same importation provision as the act of 1790.

Neither the act of 1790 nor that of 1831 had specifically forbidden foreigners to enjoy the rights of American copyright. In fact, on the face of them, it appeared that a foreigner might obtain copyright if he were a resident of the United States. But that proved not to be so. In 1838, Captain Marryat, the English author, tested the act of 1831. Marryat, living in the United States at that time, copyrighted one of his books here. Someone violated the copyright. The author brought the case to court, claiming that he was a resident of this country. The court ruled against him, declaring that "resident" meant one who had taken an oath of intention to become an American citizen.

Some Englishmen attempted to get their books copyrighted here by having a certain part of the book written by an American. This did not work, however, because a court could make the publisher reveal which parts of the book were American written. Then those parts could be left out and the book freely reprinted.

The English never did find a way of getting copyright for their authors or for their books in America, until the international copyright act of 1891.

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1For the entire act, see Curtis, op. cit., Appendix, p. 93.

2Graham Pollard in his introduction to I. R. Brussel's Anglo-American First Editions, 1826-1900, East to West, p. 11.

3Publisher's Weekly, XX, 7 (Aug. 31, 1881), pp. 163-164.
Although England was far ahead of this country in the matter of copyright, America did have domestic copyright before most of the European nations. It was in international copyright that the United States lagged. France adopted her first copyright law in 1793, the most liberal such law in the world. Under it foreigners were given the same protection as Frenchmen. Belgium had copyright treaties with other nations as early as 1853; Holland had them in 1855. The German states had agreements among themselves in 1837, while Prussia had made copyright treaties with other German states ten years earlier. The Scandinavian countries had agreements with one another in 1877. Russia first adopted copyright in 1823, but did not permit international copyright until after the United States had done so. Spain achieved a copyright law in 1879 and she made a number of international copyright treaties in 1880, while Portugal had both domestic and international copyright in 1867. Italy made foreign treaties in 1880. Latin American nations generally enacted copyright laws in the 1880's, and many of them had international provisions before the United States had any.¹

The United States went through most of the nineteenth century with no international agreements. Few Americans seem to have been unhappy about this situation. Not until 1837 was there any serious attempt to achieve international copyright. After that, two generations passed before an international copyright law was enacted.

This situation has puzzled many authorities on American literature.

¹Bowker, op. cit., pp. 398-419, passim.
America was an enlightened nation and a nation of readers. Why was it so slow to adopt international copyright? There were several reasons.

One reason was that there was a general lack of interest in the copyright question. Who cared, particularly, whether there was international copyright or not? Something like two hundred authors cared. So did a few publishers and some Englishmen, who did not matter. The nineteenth century was, on the whole, a glorious time for Americans — or, if not glorious, at least exciting. There were so many interesting things happening, and there was so much to think about. Copyright, in comparison with the great events that were unfolding all through the century, was a very minor matter. This is indicated in the autobiographies of the period. Men who played an important part in the copyright struggle did not, in later years, find it worth remembering. Senator John Sherman of Ohio is an example. At one time he became pretty excited about international copyright. But, if one looks through his autobiography, one never finds a mention of the subject. Senator Hoar of Massachusetts is another. He was a man of literary interests and a worker for copyright. But he ignored it entirely in his autobiography. So did Samuel L. Clemens, though he was one of the most ardent of proponents. James Russell Lowell was another of the leaders. Yet his published correspondence does not indicate that he had any interest in it at all; and his biographers disregarded it completely, showing what a small concern of his it really was.

A second reason was that the big publishers, the ones with influence, had no real desire for international copyright before the Civil
War. They were doing very well with things as they were. American publishers got off to a good start on free British books. It did not make sense to kill the goose who laid the golden eggs.

A third reason was the American standard of values. Matthew Arnold suggested that America was a middle-class, practical-minded nation, which admired a sharp bargain. It had, he said, "no spirit of delicacy", and it had no great respect for literary work.¹ James Russell Lowell said that Americans seemed to make a distinction between literary property and other property.² He did not explain this. Perhaps it was anti-intellectualism, a thing rather common among Americans, that caused that feeling.

A fourth factor in delaying international copyright was the opposition of the trades (printers, bookbinders, typesetters, and others), which had to do with book manufacturing. They were afraid that an international copyright law would wreck the cheap book business and, through that, throw the trades into a permanent depression.

A fifth reason was that Americans derived a great advantage from the cheap literature that was supplied them, involuntarily, by the British. There is no doubt that this did bring positive benefits. The literature was not only cheap; it was also the best literature in the world.

Before there could be international copyright there had to be

¹Matthew Arnold, "Copyright" in Irish Essays and Others, pp. 274-276.
²Quoted by Publisher's Weekly, XXXIV, 6 (August 11, 1886), p. 186.
an American literature that could compete with the British. An interest in international copyright had to be generated among the people and their representatives in Congress. The book manufacturing trades had to be shown that they would gain rather than lose by it, and the publishers had to be made to realize that it was essential to their continued prosperity.

Of the various groups involved in the copyright struggle it seems safe to say that the publishers were the key group. They were the most influential. A handful of publishers supported international copyright from the beginning. But most of them did not. When it was in the interests of the majority of publishers to have no international legislation there was none and there was no effective agitation for it. When it became the obvious interest of the publishers to have international copyright, then the cause began to move.

Authors, agitating almost alone for international copyright until after the Civil War, had little success. In the nineteenth century Americans did not take their authors very seriously. It was the business man who counted. Business men ran the government after the Civil War. What they wanted they got. Publishers were business men. When they wanted international copyright they pulled the trades and the politicians along with them, and they got it.

Obviously then, the part played by the publishers must be one of the main concerns of this dissertation.
CHAPTER II

PUBLISHERS AND THEIR PRACTICES: PIRACY AND TRADE COURTESY

When the United States passed its first copyright act, in 1790, it was a nation of four million people—a young, hard-working country in what was still largely a wilderness setting, with few of the refinements of life. There was no real American literature and the publishing business was in its infancy. In 1800 there were only two publishing houses, that of Mathew Carey in Philadelphia and the firm of Isaiah Thomas in Boston, which operated on anything approaching a national scale. Neither of these two had actually been able to develop a real nation-wide service. ¹

However, the American publishing business rose rapidly. By 1820 there were three important firms in Philadelphia: those of Carey, Moses Thomas, and Collins & Company; three in New York: J. & J. Harper, C. S. Van Winkle, and Kirk & Mercein; and four in Boston: Cummings & Hilliard, West & Richardson, Wells & Lilly, and Samuel T. Armstrong's. There were also Beers & Howe of New Haven and O. D. Cooke of Hartford. ¹ In the decade of the 1830’s some of the most famous houses were founded: Truman and Smith of Cincinnati in 1830; D. Appleton & Company in 1831; Lippincott in 1836; Little, Brown & Company in 1837. Just a little later came Wiley & Putnam (1840) and William D. Ticknor & Company (1843).

¹Earl L. Bradsher, Mathew Carey, pp. 17-19.
But while publishing was rapidly advancing, American literature was making only slow progress. In fact it was a long time before a true American literature emerged. That had its beginning, apparently, sometime between 1845 and 1855. ¹ Samuel G. Goodrich gave an indication of this when he estimated that in 1820 70% of all books manufactured in the United States were by British authors; in 1830, 60%; in 1840, 45%; in 1850, 30%; and in 1856, 20%.² In popular works, however, it was not until around 1870 that Americans could compete in their own country on even terms with English literature.³

The paradox of a nation with, at the same time, a slowly developing literature and a rapidly developing publishing business requires explanation. It is explained by the fact that the American people, who included "a prodigious number of readers" but lacked an adequate literature of their own, took advantage of the almost free and truly great literature that flowed across the Atlantic from England. American publishers seized

¹See M. F. Heiser, "The Decline of Neoclassicism, 1801-1848", Transitions in American Literary History, ed. H. H. Clark, p. 123. "A national American expression did emerge in the nineteenth century. There is no one quite like Emerson ... or like Thoreau, Hawthorne, Poe, Melville, or Whitman in English letters."

²Samuel G. Goodrich, Recollections of a Lifetime, II, pp. 388-389. These estimates, made by Goodrich in 1856, are accepted by such authorities as Spiller, Lehmann-Haupt, and Mott.

³Floyd Stovall, in his article, "The Decline of Romantic Idealism, 1855-1871", says that Whitman with his Leaves of Grass in 1855 cut from poetry the bonds of tradition, and the Eggleston did the same for fiction in America in 1871, with his Hoosier Schoolmaster. Clark, op. cit., p. 317. For evidence of the relative selling power of British and Americans in the American market, see the table of "best" and "better" sellers in this country during the 1870's. See below, p.

upon it eagerly and spread it all over the land, making a very good profit from it.

This was possible because there were no international copyright laws to protect English books in this country, and therefore neither payment nor permission to publish was required of the American. The English involuntarily supplied the United States with the best literature of the age. During most of the nineteenth century the British produced a succession of eminently readable authors -- Scott, Dickens, Marryat, Reade, Trollope, Thackeray, and Disraeli, among the novelists. Bradsher states that from _Waverley_ in 1814 to _The Mystery of Edwin Drood_, 1870, the year that did not produce at least one highly popular British novelist was a barren period.¹

It appears that American exploitation of the English began with the novels of Maria Edgeworth. It was not until Scott, however, that the exploitation became systematic.² Scott proved immediately to be immensely popular in America. He was a bonanza for American publishers. They had to pay neither him nor his publishers a cent, and they could reprint as many of his works as the public would buy. The American people seemed insatiable. The result was that Scott appeared in everything from fine bindings to paperbacks to penny newspapers. No one could possibly estimate the number of times his books were reprinted, though one authority guessed it was over 500,000 by 1823.³ Scott had a tremendous influence

¹Bradsher, _op. cit._, p. 82.
²Ibid.
on American thinking, both literary and social.¹

This business of reprinting British writers in this country, with only such payment as the publisher saw fit to give, must have seemed like an ideal situation to both publishers and readers. However, the publishers soon found that there was a fatal flaw in the system. Unregulated competition in the publishing of British books began to kill the profit. Therefore the publishers brought about their own regulation in a device called Trade Courtesy. For a while this worked well. But after the Civil War it broke down, due chiefly to the development of a new class of publishers, the cheap book men.

That story is the subject matter of the remainder of this chapter. It must start with a definition and explanation of literary piracy. The words "pirate" and "piracy" were pretty loosely used in the book trade, and, as Graham Pollard says, they were unfair terms,² for they were too severe in their implications. However, the word "pirate" was generally understood to refer to any publisher (of a book, magazine, newspaper, or any printed matter at all) who took advantage of the lack of international copyright laws to issue the work of a foreign writer without getting the writer's or his publisher's permission, and without just compensation. The chief operations of an American pirate were against English works. He "stole" them from the English author or publisher. He might also "steal" them from another American publisher who had received permission

¹Scott was particularly favored in the South, and Mark Twain and others have accused him of being responsible for the South's odd ideas of chivalry.

²Graham Pollard, Ibid., p. 1. "As long as the work of a foreign author was not legally protected it was common property, and it was no more piratical for a publisher to print it, than it was for a peasant to graze his pigs on common land.
to reprint and who was paying for that permission. Piracy was looked upon as being unethical by the best publishers, but it was not illegal until 1891. There was no way of checking it, except by unenforceable agreements among the publishers, or by retaliation. Its chief practitioners were the smaller publishers of cheap editions. However, most of the big and respected publishers also indulged in it occasionally, and some of them regularly.

Literary piracy goes a long way back in history and has been found in most countries at one time or another. It may be said that piracy in America really started in the 1770’s, and that the Irish first showed the Americans how to do it. Until the Act of Union in 1801, the English copyright laws did not apply to Ireland. Therefore the Irish could pirate English books. These books were sent from Ireland to America and sold there for low prices. This inspired the Americans and they began to pirate the pirated books, and finally to pirate the English originals.¹ Large-scale piracy began in this country, as has been seen, with the works of Maria Edgeworth and really became big business with those of Scott. Many of the early nineteenth century publishers seem to have made their principal income through piracy, and to have built themselves up from small beginnings to mighty enterprises on the profits from it.

Piracy often paid well. Yet there were circumstances in which it did not pay; that is, there were times when a certain amount of honesty was the best policy. A pirate who wanted to get a very popular English book absolutely free, without breaking a law, had to wait until the book

¹Hellmut Lehmann-Haupt, op. cit., p. 110.
had been published in England, in order to get a copy that he could reprint. By the time he had published the reprint his brother pirates had done the same thing and the competition cut his profits considerably. Therefore, it behooved the American who possessed the necessary resources, and who had a reputation for publishing the best in English and American works, to make an arrangement to get advance sheets of the book. This meant that an agreement had to be made with the English author or publisher. The advance sheets would allow the American to get the book published and distributed in this country before the pirates could obtain an English edition. To accomplish this the American had to spend money, plan well, and work fast.

Big publishers maintained agents in England whose duty it was to arrange for the advance sheets of new works by popular authors. These agents made themselves agreeable to publishers and authors, trying to line up future books for their houses. It was good policy to pay well (compared to other American publishers) because that would assure future books from the same source. There were cases in which advance sheets were obtained by less scrupulous means. Constable & Co., Scott's Edinburgh publishers, complained on one occasion in the 1820's that someone had stolen the advance sheets to one of the Waverley novels from their office. ¹ There were also instances in which employes of English publishing houses were bribed for advance sheets. An example of that is the Harper agent who bribed some of the pressmen at the plant of Dicken's publisher to get proof sheets of American Notes so that the Harpers could get the book out

¹ Bradsher, op. cit., p. 87.
before the authorized American publisher could.

Mathew Carey and his successors in Philadelphia were as clever at getting ahead of the pirates as anyone in the business. With an author like Scott, the best that an authorized publisher could hope to do was to get the new book out and on the market at least two days before the pirates could do so. That was sufficient. Carey, in a letter to his English agent, in June 1823, happily stated:

We have rec'd "Quentin Durward" most handsomely and have the game completely in our own hands this time .... In two days we shall publish it here and in New York and the Pirates may print it as soon as they please. The opposition edition will be out in about 48 hours after they have one of our copies but we shall have complete and entire possession of every market in the country for a short time.²

Such operations were beautifully organized. They began with the agent making arrangements with the British publisher. Usually these British novels were in three volumes. In 1822, Carey's agent bargained with Constable & Co. for Peveril of the Peak. As the advance sheets were printed they were handed over to the agent. He sent Volume I by the first ship out of Liverpool, the Robert Edwards.³ Before they were put on board ship, the bundles of advance sheets were arranged in such an order that they were all organized for setting the type in Philadelphia with a minimum of lost time.⁴ The second volume was sent, as soon as it was ready, on the next available ship, and the third volume was then sent along in

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¹ R. Shelton Mackenzie, Life of Dickens, p. 219.
² Letter from Carey to John Miller, June 17, 1823. Bradsher, op. cit., pp. 84-85.
³ Letter from John Miller to Carey, Sept. 21, 1822. Ibid., p. 129.
⁴ Ibid., p. 85.
parts by various ships, as it came off Constable's presses. This allowed Carey to have the first two volumes all printed up and ready for market before all of the third had arrived. To be sure that there was no slip-up, a second copy of Volume I was sent on the ship New York while duplicates of II and III went by other ships. Then a third set of duplicates were sent by different ships. For a considerable time almost every ship that went from Liverpool to America must have been carrying parts of this novel. To assure that no other American publisher could get the completed book before Carey, Constable had promised to let Carey's agent have the last sheets at least fourteen days before they were published in England. When these advance sheets arrived in Philadelphia, Carey went all out to get them in book form as quickly as possible. On one occasion he had nine printing offices working on one English book. On another, he engaged thirty compositors to work on one novel, and got it completed in thirty-six hours. When the book was ready for market Carey bought up all the seats on the mail coach to New York, to get his books on the market before anyone else could.

Carey, Lea & Blanchard, successors to old Mathew Carey, published Dickens for a while, giving him compensation, at times without solicitation. Once, however, when they offered Dickens £410 for advance sheets to Martin

1. Ibid., Appendix VIII, p. 129.
2. Ibid.
3. Ibid.
4. Ibid., p. 87.
5. Ibid.
6. This business of Carey's buying up the coach happened several times. J. C. Derby in Fifty Years Among Authors, Books, and Publishers (p. 551) tells of a race between Carey and Harper's to get out Bulwer's Rienzi, in 1836. Carey & Hart had twelve printers working on the book. They then bought up the coach and Mr. Hart, with 500 copies got aboard for New York.
Chuzzlewit, and Dickens turned them down, they not only reprinted that book without further negotiation, they also reprinted David Copperfield and Dombey and Son for good measure. One of the partners boasted of this, in a letter to the Literary Gazette. It is plain that they were not ashamed of this piracy.

Outside of the field of novels, and possibly poetry, the rivalry was not so keen among American publishers and there was less likelihood of piracy. Sometimes English publishers, hoping to get a little more out of a book for which there was not a very profitable market, would send advance sheets to various American publishers seeking out a buyer. At other times, when it was questionable whether the book would sell in America, the American publisher would import unbound sheets from England and bind the book himself, or would import the original edition. There were circumstances in which the American and British publishers paired off and made arrangements under which each gave the other first option on the export market. In such a case advance sheets on minor publications would be exchanged automatically. If the publisher who received the sheets did not want the book he might act as agent in trying to place it with someone who would publish it.

The establishment of steamship lines in 1838 made for faster communication with England and allowed the American to obtain English books

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1 Letter from Henry C. Lea in the American Literary Gazette and Publisher's Circular, IX, 2 (May 15, 1867), p. 36.
2 Donald Sheehan, This Was Publishing, pp. 69-70.
3 Ibid., p. 70.
4 Ibid.
or advance sheets more quickly than previously.\(^1\) The invention of new paper-making machines and of the cylinder press, around 1840, made possible cheaper books than ever.\(^2\) The paper-back and newspaper reprints of novels made their appearance.

Newspaper reprints of novels began on a large scale in 1841, when two New York weeklies got into bitter competition. One of these was Harper's New World, the other a sheet called Brother Jonathan.\(^3\) They were mammoth affairs, four feet long and eleven columns wide, with close print that some said was a danger to the reader's eyesight. Most of the space was devoted to reprints of English novels, in serial form. As the competition became keener they began to issue supplements and extras which included a whole novel and sold, finally, for six cents a copy. Bulwer's Zanoni was published in its entirety by both papers, almost simultaneously. However, this business of reprinting in supplements a complete novel was stopped in 1842 when the Post Office ruled that such supplements had to be mailed under book rates, rather than newspaper rates.\(^4\) Nevertheless, newspapers all over the country continued to serialize English novels. Such novels were the main support of many a rural newspaper, a fact that helped make these papers strong, bitter-end fighters against international copyright.

Magazines began to assume some importance in American publishing

\(^{1}\)Orians, op. cit., p. 185.
\(^{2}\)Ibid., Also see Lehmann-Haupt, op. cit., p. 130.
\(^{3}\)Lehmann-Haupt, op. cit., p. 130.
\(^{4}\)Ibid.
as early as the 1830's. Naturally, they too went in for reprinting English literature. The four great English Reviews -- the London, Edinburgh, Foreign, and Westminster -- were being duplicated in American reprints and cost only two dollars each a year,\(^1\) while Graham’s Magazine, using only American authors, cost five dollars a year. In spite of that Graham’s did very well for a number of years.\(^2\) Many of the big publishing houses put out their own magazines -- Harper’s, Scribner’s, Putnam’s, and Ticknor & Fields, among others. Most of them found the use of English reprints very profitable.

One of the worse features of piracy was the mutilation of the works pirated. The work was too long and had to be cut down; or the ending was not the sort that American readers liked, and had to be changed; or the characters were changed, or new ones were added, or some of them had to be omitted. Not even the greatest of English authors could escape this sort of thing at the hands of American publishers of cheap literature. Robert Browning mentions an example of mutilation, in which he does not make it quite clear who did the mutilating. But from the tenor of his letter one assumes it was an American. In Paris Browning ran into a reprint of one of Dicken’s books which had been "strengthened and lengthened" by adding at the end some of Thackeray’s Yellowplush Papers. One Parisian praised the latter part of the book, to Browning, as being Dicken’s best work.\(^3\) Publishers might even change the wording of the greatest poets -- Words-


\(^3\) Letter from Robert Browning to Elizabeth Barret Browning, October 27, 1845 in George Haven Putnam, *George Palmer Putnam*, p. 87.
worth, for instance. A word might be taken out and a new one added, or
the title might be changed. Sometimes illustrations were changed, as in
Thackeray's *Pendennis*. One American publisher, John W. Lovell, was
somehow able to pirate Thackeray's own steel engravings for his edition.

One fascinating example of piracy is the Chicago & Alton Rail-
road's issuing timetables in 1872 with prints of Browning's poetry on
them, to divert the customers as they sped through the countryside.

Another piratical *coup* occurred as the result of a rivalry between the
*New York Times* and the *New York Sun*. The *Times* tried to get the advance
sheets of Swinburne's *Locrine*. However, the *Sun* got them first, for si-
multaneous publication with the poem in London. The *Times* then had its
London correspondent obtain an extra set of sheets from Chatto & Windus,
Swinburne's publishers, and cable the poem over. Two cables were used in
the process. The poem had to be repeated, as all cable messages were, both
at Valencia and at Newfoundland. It took two expert operators in this
country an entire evening to receive and transcribe it. The fact that it
was in blank verse with broken lines made it all the more difficult. Yet
only trifling errors were made. The whole operation cost somewhere between
two and three thousand dollars.

Charles Reade related an interesting case of American newspaper
piracy. An editor of a Dublin paper pirated Reade's *It is Never Too Late*

1Carl J. Weber, "American Editions of English Authors", Nineteenth
33.

2Ibid., p. 34.  
3Ibid., p. 35.  
4Ibid., p. 28.

5*Publisher's Weekly*, XXXII, 23 (Dec. 3, 1887), p. 832.
to Mend and ran it under the title, Susan Merton. When Reade threatened him with a suit, the Irishman said that he had not realized that he was pirating an English book, because he had taken the story from the New York Dispatch, which had published it as Susan Merton, a Tale of the Heart, with no author mentioned.¹

There was a type of piracy which robbed the British of their own legitimate markets. This involved American pirates who extended their operations across the border into Canada. One aspect of that problem was presented in a letter to two English authors, written in the 1870's.

I am afraid, should you be pleased to send advance sheets, I shall not be able to do anything with them in Canada. The book trade has been completely demoralized here, and the plan now adopted by the U. S. publishers of issuing at 10¢, 15¢, and 25¢ works formerly published at $1.00 or $1.50 has ruined the little market we had. Although we have a copyright law protecting the republication of British authors, it is virtually a dead letter so far as protecting us. The cheap American editions come in, in spite of everything. The story you sent us last December is a case in point. Failing to get a purchaser for serial form, I thought it next best to publish it ourselves in a volume, but no sooner was it issued than it was met by the English periodical and a Harper's 10¢ edition, and with the exception of about fifty copies, the edition is now high and dry on our shelves.²

This over-the-border piracy had been going on for years. Canadian readers were as avid for cheap literature as were Americans, and gladly violated their own laws to get it in the form of American reprints. In 1847 England recognized the futility of trying to prevent this traffic and passed the Foreign Reprints Act to apply to the Canadian situation.

¹Charles Reade, The Eighth Commandment, p. 266.
This legalized the importation of English copyrighted books made in the United States but put a big 10.5% duty on them. The proceeds from this tax were to be distributed among the British authors whose books were involved. However, as a result of this, no British author received enough return to do him any real good, and American reprints continued to get into the Dominion, as freely as ever.  

Publisher's Weekly said in 1878,

There have been many cheap American reprints of English copyrighted books sold in Canada, and their sellers have escaped punishment for the simple reason that they have been far away from the interested English publishers, or any person representing them who cared to go to the expense and trouble of prosecution, and that the Canadian market is comparatively unimportant.

New copyright laws were passed for Canada in 1875 and in 1886. But they had small effect on the continued importation of American reprints.3

With the lack of international copyright the American book trade might have descended into complete chaos if the publishers had not found a method of regulating themselves to some extent. This method of regulation was called "Trade Courtesy" or "Courtesy of the Trade". It began in the 1840's.4

Trade Courtesy applied to the publication of foreign books. The rules for it were not in all cases certain. One rule was that the first publisher to bring out a new foreign author in this country "owned" that author. No one else could publish his works. Some publishers tried, with

1 Marston, op. cit., p. 29.
2 Publisher's Weekly, XIV, 23 (Dec. 7, 1878), p. 780.
varying success, to enforce that rule. They succeeded best if they frequently brought out new works of the author. If they thought that they could hold on to an author for years on the strength of one book, they usually found that they were seriously mistaken. Sometimes the publisher would expect no more than to hold one book. But usually each of the big publishers had his stable of English authors; as the Harpers had Trollope and Dickens, among many others; Ticknor & Fields had Tennyson; and Roberts Brothers had Jean Ingelow. The publisher could rent or sell his rights to other publishers, as Harper's did once with its rights to Dickens, renting them to T. B. Peterson & Brothers. Under the Trade Courtesy system a publisher could not make an offer to an established British writer who was connected with another publisher unless that author indicated a desire to make a change. And even if the author did want to make a change he was not always allowed to do so. At first, Trade Courtesy did not necessarily require an agreement with the author involved, or his English publisher. However, after the Civil War a publisher was not granted Trade Courtesy if he did not pay for the books he took. In the post-War period the publishing houses refined the system a little further by adopting an "official" periodical, the New York Commercial Advertiser, in which to set forth their claims to foreign authors. When the American made an arrangement with a British author or publisher he posted that fact in the Advertiser. By so doing he established a claim to the work cited. If another publisher an-

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1 See below, p. 48. Case of Harper's and Dickens.

2 See below, p. 41. Case of Trollope and Harper's.
ounced the same work, he was referred to the previous announcement of the first publisher, and he gave way, theoretically.  

It was the big publishing firms that invented and carried out the policy of Trade Courtesy. But there was nothing exclusive about it, and all might join if they wished. Sheehan lists the following houses as generally respecting Trade Courtesy: Lippincott; Osgood; Appleton; Roberts Brothers; Putnam; Harper's; Macmillan; Dutton; Holt; Houghton Mifflin; Little, Brown; Dodd, Mead. 

Modern authorities are rather cautious in their appraisal of this system. It obviously was better than no system at all, and seems to have brought some benefit to all concerned. It was not, however, an adequate substitute for international copyright, from the point of view of the American and English writers and of some publishers. 

The Trade Courtesy system worked well in a dispute over the right to publish the correspondence of Alexander Von Humboldt, in 1860. Carleton & Rudd had an early copy of the German edition translated and prepared for production. They then discovered that Appleton's had obtained advance sheets of the English edition and was going to publish. An agreement was made by which Carleton & Rudd paid Appleton's the £40 that the latter had invested in the project, and Appleton's willingly withdrew.

But Trade Courtesy had some serious faults. Some said that it tended to give the big publishers a monopoly of the best English authors and that

1 Sheehan, op. cit., p. 64.
2 Ibid., p. 66.
3 For the effectiveness of Trade Courtesy see Shove, op. cit., p. viii, and Sheehan, op. cit., p. 65.
4 Ibid., p. 63.
the publisher of small resources had no chance. Moreover, the cheap publishers ignored it altogether. Here is what George Munro, one of the most famous cheap book publishers, said about it:

My contemporaries have called me a pirate. Posterity will have a truer word with which to characterize my work -- that of reformer. The cheap libraries have broken down the Chinese or rather American wall of trade courtesy and privilege. For whose benefit was it erected? For the foreign authors? Not at all, but for a monopoly of publishers in this country. They dictated the terms, and precious low, too, to the authors, on a basis of non-interference among themselves.

John W. Lovell, probably the most hated of the cheap book publishers, said this:

In olden times it was "every man for himself" and only after firmly established businesses had been built up, largely through reprinting foreign works, it was found a matter of policy by certain houses not to infringe upon each other. By this means legitimate or illegitimate competition has been largely done away with, and the publishing houses, if not the public greatly benefited.

Another fault in Trade Courtesy lay in the fact that there evolved a tendency for publishers to announce everything written in England as being theirs. Parton made the point that, just because twenty-five years ago a publisher had paid an English author £25, and has paid nothing since, the publisher should not be allowed to think that he owns that author. Trade Courtesy fell all apart in one famous case: a controversy between Scribner's and Harper's that became a cause célèbre in the 1880's. Carlyle's Reminiscences had been edited by Froude, an Englishman whose work

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1 James Parton, who was very much interested in obtaining of international copyright, had a low opinion of Trade Courtesy. See his Topics of the Time, "International Copyright", p. 114.


3 Ibid., XV, 16 (April 19, 1879), p. 471.

4 Parton, op. cit., p. 114.

5 Ibid., p. 115.
Scribner's had regularly published. But Harper's considered that Carlyle was their author, and they claimed that they had an agreement over this book with one of Carlyle's agents. Neither publisher would back down and both produced editions of the work. Harper's, in retaliation for their loss of part of the market for the book, published afterwards some of Scribner's best English titles in cheap books. ¹

After the Civil War there was a great increase in the number of publishers, among them many who put on the market hordes of cheap books. The competition became stiffer and the situation was becoming thoroughly chaotic by the 1880's. Trade Courtesy broke down and the American publishing business seemed headed for complete ruin. As a result, the opposition to international copyright laws, even among the greediest and most unscrupulous publishers, began to disappear rapidly. This cheap book phenomenon requires some consideration.

The term "cheap book" does not include dime novels. Those were in a category by themselves. They were written especially to be dime novels. The "cheap books" were not written to be cheap books. They might be cloth-bound or paper-bound, but were usually paper-bound. They sold for anything between ten cents and fifty cents. The earliest cheap books came out in the 1830's and 1840's. However, they were not very successful at that time and there was relatively little publishing of cheap books until the 1870's.²

² Shove, op. cit., p. vii.
In the 1870's declining prices of paper and improved presses helped the cheap libraries.\textsuperscript{1} Then there came a great flood of cheap books. They inundated the land and threatened to drown all conscientious publication. The cheap book printers had the reputation of being the most ruthless of American publishers. Probably, on the whole, they deserved it. Yet not all of them did. \textit{Publisher's Weekly} said that some publishers of cheap books paid a good price for advance sheets.\textsuperscript{2} It also stated that the \textbf{Franklin Square Library} printed no work for which another publisher had remunerated a foreign author or without the permission of any other publisher who might have published it. They customarily paid an honorarium to a foreign author.\textsuperscript{3}

This was not the common case, however. The cheap book publishers made things difficult for other publishers and for foreign authors. In the early 1880's Ouida had the sale of her books by authorized publishers wrecked by George Munro. Munro did send her some conscience money and offered to purchase future advance sheets. But Ouida was not pleased by this transaction, and did not accept it in good grace.\textsuperscript{4} Actually few cheap publishers paid anything. And they made it very difficult for those who did pay for what they printed to get their money back.

The wave of cheap books started with Donnelly, Lloyd & Company of Chicago, who, in 1875, founded the \textbf{Lakeside Library}. Most of their

\textsuperscript{1} Ibid., pp. 4 and 15.
\textsuperscript{2} \textit{Publisher's Weekly}, XXIII, 17 (April 28, 1883), p. 498.
\textsuperscript{3} Ibid., XV, 12 (March 22, 1879), p. 340.
\textsuperscript{4} Letter from Ouida to the \textit{London Times}, Quoted by \textit{Publisher's Weekly}, XXIV, 6 (Aug. 11, 1883), p. 165.
books sold for fifty cents. Two years later came a plethora of such libraries: George Munro's Seaside Library, Norman Munro's Riverside Library, Leslie's Home Library, and Beadle & Smith's Fireside Library. All of them were selling popular English novels at ten cents. In 1878, Harper's, to defend themselves, brought out the Franklin Square Library. In 1882, John V. Lovell founded Lovell's Library, and Dodd, Mead & Company, and Putnam's also founded cheap libraries. In 1883 Henry Holt created his Leisure Hour Series, selling novels at from twenty cents to thirty-five cents. In 1884 Norman L. Munro established his second library, the Munro Library, which produced pocket-sized books. The bottom was hit when F. M. Lupton's Leisure Hour Library offered a complete novel for three cents. Shove says that by 1883 there were at least six libraries in which twenty cents was the highest price charged at retail for any book. At that time more than half of the cheap reprints had been sold at ten cents a copy.

In Boston, in 1887, pirated novels of the best English authors were being sold by dry-goods retailers for seven cents each. This happened because of the custom which had developed whereby publishers took back unsold copies of reprints from booksellers for the original price. When a publisher took back a large lot he would, instead of selling them for waste paper, offer them to a dry-goods concern, promising to put new covers on them with the imprint of the merchant on the cover, and to sell

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1 Everything in this paragraph, up to this point, comes from Shove, op. cit., pp. 5 through 17, passim.
3 Shove, op. cit., p. 15.
them for so many thousands at five cents a copy. They were then sold with the dry-goods.¹

The cheap book industry suffered from the fact that the books available for reprinting were becoming exhausted by the last of the 1880's. The standard works of the past had all been reprinted by then; and, since they had to issue their books weekly, to get periodical postal rates, they became desperate for material. They ran out of popular out-of-copyright Americans, like Mrs. Southworth, and were finally reduced to the lowest of English trash. No one was making much money on that.² Price wars made the situation worse.³

By 1884 the market had become saturated with cheap reprints.⁴ There had ceased to be high profit in them⁵ and George Munro said that he could see international copyright on the way and would welcome it.⁶ Plainly, the chaos created by cheap book publishing had much to do with bringing on the international copyright law of 1891. When the reprinting of foreign works and out-of-copyright American books was no longer profitable, almost everyone was ready for international copyright, or anything at all that would restore order and profit.

¹Publisher's Weekly, XXXII, 7 (Aug. 13, 1887), p. 196.
²Ibid., XXXIII, 3 (Jan. 21, 1888), p. 45.
³Ibid., XXXII, 2 (July 9, 1887), p. 38.
⁴Shove, op. cit., p. 17.
⁵Ibid., p. 28.
⁶Ibid., pp. 17-18.
CHAPTER III

PUBLISHERS AND THEIR PRACTICES: TREATMENT OF ENGLISH AUTHORS

The advocates of international copyright had, of course, many arguments. But their favorites were these:

(1) The lack of international copyright had retarded the development of American literature. American writers, it was said, were unable to compete with the cheap English books that were pouring into America. American publishers preferred to publish English works because there was better profit in them, since the English author needed to be paid little or nothing. American readers preferred to read English books because they were cheaper, and because the Americans had acquired a taste for English literature. With this situation, American literature was badly retarded.

(2) With the lack of international copyright American publishers discriminated against American authors. An American, it was said, could seldom make a career of writing. Promising young writers were discouraged before they started. If an American author did get recognition, his income was severely limited because of the cheap English competition, and because he had no foreign market.¹

(3) With no international copyright, the influx of cheap English literature perverted American taste. E. C. Stedman set forth this argument

¹The first two arguments will be dealt with in the next chapter.
as well as anyone. He said that successive generations of American readers had been imbued with foreign sentiments, and "for wholesome and original reading" there had been substituted, very often, French and English reprints "whose sole merit is that they sold for only a dime." ¹

(4) It is the fourth argument that is the concern of this chapter. That argument said that the lack of international copyright caused great injustice to English authors. The latter were exploited by American publishers. Scott, who gave Americans so much, got almost nothing from them, and died a bankrupt, when, if he had received his just dues, he might have died a millionaire. Great popular novelists like Dickens, who brought something of great value into the lives of millions of Americans, were very badly treated. Americans were practicing a form of thievery. So went the argument. It made an impression that has lasted to this day. Even modern authorities on nineteenth century literature have accepted it.

There are, in this contention, two elements -- English authors and American publishers. The side of the authors will be considered first.

Listen to Anthony Trollope:

If you, my reader, be a popular author, an American publisher will take the choicest work of your brain and make dollars out of it, selling thousands of copies of it in his country, whereas you can, perhaps, only sell hundreds of it in your own; and will either give you nothing for what he takes, -- or else will explain to you that he need give you nothing, and that in paying you anything he subjects himself to the danger of seeing the property which he has bought taken from him by other persons.²

¹E. O. Stedman, speech made in Washington, March 17, 1888. Laura Stedman and George M. Gould, Life and Letters of Edmund Clarence Stedman, II, 1, 112. This was a frequently used argument, but one that does not stand up well under close examination. It is very patriotic, however, in that it assumes that American literature was likely to be more wholesome and original than that of foreigners. The argument ignores the fact that the reprints of such British authors as Scott, Dickens, and Anthony Trollope (who were wholesome by most standards, and certainly original) were the most popular of foreign books among Americans.

In another of his books Trollope said, "I cannot say that I never had a shilling of American money on behalf of my work, but I have been conscious of no such payment." ¹ Charles Reade complained that none of the Anglo-Saxon countries treated authors well and that in America the English author was "fully and formally outlawed." ² Matthew Arnold said that men of science had been well paid for their writings by American publishers, but not men of letters. "Certainly I have never received from first to last, a hundred pounds from America, though my books have been, I believe, much reprinted there." ³ Dickens complained louder and longer than anyone else. He conceived a very low opinion of Americans in general.

I'll tell you what the two obstacles to the passing of an international copyright law with England are: firstly, the national love of "doing" a man in any bargain or matter of business; secondly, the national vanity. "Any author should take pride in being liked in America," "The Americans read him: the free, enlightened, independent Americans; and what more would he have? Here's reward enough for any man ...." As to telling them they will have no literature of their own, the universal answer (outside of Boston) is, "We don't want one. Why should we pay for one when we can get it for nothing? American people don't think of poetry, sir. Dollars, banks and cotton are our books, sir." And they certainly are in one sense; for a lower average of general information than exists in this country on all other topics, it would be very hard to find.

There were many others, among British authors, who complained as bitterly.

A number of English authors picked the Harpers as their pet hate among American publishers. Harriet Martineau, in 1838, referred to them

¹ Anthony Trollope, _An Autobiography_, p. 275.
² Charles Reade, "The Rights and Wrongs of Authors", in _Readiana_, p. 129.
³ Arnold, op. cit., p. 273.
as "the redoubtable piratical publishing house in New York."¹ Some called them the "Harpies".

In 1862 an altercation between Harper's and Anthony Trollope aroused the interest of the literary world. It began in a letter that Trollope sent to the London Athenaeum on September 2, 1862. Trollope said that Harper's had been reprinting his books for years, all without any reference to him. "But they paid some small sum on, as I think, each work to my English publishers." In 1859 he was in New York and went to see the publishers and offered them the early sheets for a book he was writing on the West Indies. They said that they did not want the book. Nevertheless, Trollope said, they later applied to his London publishers for it and "paid ... a small sum for the privilege of reprinting." On his next book, Orley Farm, Trollope resolved to keep the foreign rights in his own hands, instead of turning them over to his London publisher, as he had previously. He tried to negotiate with Harper's London agent, Sampson Low. Trollope mentioned the price that he expected. Low refused it and told him that if he did not "accede to Messrs. Harper's price that Messrs. Harper could and would publish it without any terms." The writer then gave up on it and went back to his old arrangement, whereby his London publisher handled his foreign rights. A new agreement was made with Harper's, and the publisher and Trollope split the proceeds.

That is the first time that Messrs. Harper's republication of my works has produced for me a dollar. I was not contented with the bargain, I will confess, but I was specially discontented with the manner of the bargain. I was compelled to sell my wares to one man, and he had the privilege of naming his own price!

¹Harriet Martineau, Autobiography, p. 398.
In the autumn of 1861 he went to the United States, he continued, and called on Mr. Fletcher Harper in New York to protest against his treatment. Mr. Harper was very civil. Trollope asked him "whether in the event of my making an engagement with any other American publisher as to the reprinting of a work of mine, he would make reprisal by printing it also." Harper replied that he would not. Then Trollope, evidently thinking that he was through with Harper's, went to Lippincott in Philadelphia and arranged with the latter for the reprinting of *North America*. Lippincott received the early sheets, but Harper somehow got hold of others first, went all out to make up an edition of it, and got it out and on the market four days ahead of the Philadelphia firm. Harper's edition sold "at a price -- 60¢ or 2s 6d -- which must, I believe, entail a loss upon themselves."

Bitterly, the Englishman finished his tale:

"You are Mr. Harper's property" has been said to me, "and we don't dare touch you." It was in vain that I declared that I had not made myself over to Messrs. Harper. "He has put his hand upon you," I was told, "and we cannot interfere."

A little over a month later Fletcher Harper's reply was printed in the *Athenæum*. It was dated September 20, 1862. He itemized his points.

(1) He admitted that Harper's paid nothing for the republication of Trollope's earlier works. But he said that the author's publishers, "to whom he has assigned all his pecuniary rights in these works, received from us what was agreed upon as a fair price for all they had to sell, namely, the 'early sheets'."

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(2) He said that Trollope wanted £400 for *Orley Farm* and that it was not worth that much to Harper's. They gave Trollope's publisher £200.

(3) In the matter of *North America*,

Mr. Trollope's recollection of our conversation is incorrect. I did not tell him that we should not republish his book. I knew, on the contrary, that we should publish it; because we are known as his publishers; because we had money invested in stereotype plates of his previous works; and because, having laid out large sums in introducing to the American public, by publishing and advertising, his earlier works, we were not likely to let another house step in and monopolize the market we had created. What I did say was, that we give him as much for the early sheets as any other house would give — to wit £200, the same we had paid for *Orley Farm*—or, if he preferred it, the copyright which is usually paid to American authors, 10% on the sales. Knowing that no other publisher could afford to give as much as we could for the book, I added that if he could get elsewhere better terms than we could give him, we would not republish the book. Mr. Trollope made us no offer of any kind, but went to Philadelphia and engaged one of the most respectable houses in the country — Messrs. Lippincott and Company — to bring the work out on terms which he will not care to make known. I was not willing that our series of "Trollope's Works" should be broken to suit caprice or whim, and we republished the book, and were fortunate enough to be able to publish it in advance of the edition from the early sheets.

It affords me great pleasure to remember that the great firm to which I belong, has in the course of the last thirty years, paid more money to British authors than all the other publishers in America together. I am confident that we alone have paid, in the last five years, more money to British authors for early sheets than British publishers have paid to American authors for early sheets since the first book was printed in this country.

At the close of his letter Harper got in a solid dig at his antagonist. He said that early sheets are paid for "according to the popularity of the author. We do not despair of being able, some day, to pay Mr. Trollope as much as we pay Mr. Dickens or Mr. Wilkie Collins."  

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Trollope, still kicking, replied in the next issue of the *Athenaeum*:

The Messrs. Harper affect to deal with English authors and publishers, but they do so with a threat in their mouth, "If you do not sell to us at our price," they say, "we will take your goods without any price." This is what we call piracy.

He went on to repeat that Harper had told him distinctly that he would not republish the book if Trollope took it elsewhere, and he ended by deploring the practices of American publishers in general. 1

One strongly suspects that Mr. Trollope was prone to hyperbole. His letters to the *Athenaeum* in 1862 reveal that he had received at least a shilling for the reprinting of his books, in spite of what he said in his autobiography in 1883. 2 The fact is that he did get some money from American publishers. He might have received more if he had not turned his foreign rights over to his English publisher. After Trollope's statement in his autobiography, a certain Elzevir, in Boston, took the trouble to check up on Trollope's income from America. He found that Appleton's and Harper's had paid the Englishman's publishers about $16,500 total. 3 How much of that Trollope himself got is not known. If he did not get a goodly cut he is not worth anyone's sympathy.

Harper's was the largest of the American publishing houses during most of the nineteenth century. Sir Charles Lyell, in 1849, said that its

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1Ibid., No. 1826 (Oct. 25, 1862), pp. 529-530.
2See above, p. 41.
scale of operations was surpassed only by two or three houses in England.\(^1\) In 1861 it was having sales of over two million volumes a year.\(^2\) It ran a monthly magazine, in which it reprinted many English novels, and a weekly paper. It also maintained a number of libraries of reprints. It is credited, in fact, with starting the American cheap book industry, in 1830, with its Family Library,\(^3\) which eventually contained 187 titles,\(^4\) and its Library of Select Novels. The latter library, in 1872, consisted of 378 novels in all, and sold at between fifty and seventy-five cents a book. Among its authors were Miss Bremer, G.P.R. James, Horace Smith, Lever, Mrs. Ellis, Mary Howitt, Mrs. Marsh, Mrs. Gaskell, Miss Bronte, Wilkie Collins, Mrs. Trollope, Miss Murdock, George Eliot, Miss Braddon, Mrs. Oliphant, Annie Thomas, George McDonald, Edmund Yates, Holme Lee, Anthony Trollope, and Thackeray.\(^5\) In 1878 the Harpers created the Franklin Square Library to meet the competition of the new cheap book libraries that were

\(^1\)Lyell, op. cit., II, p. 250.

\(^2\)Sheehan, op. cit., p. 22

\(^3\)Shove, op. cit., p. vi.

\(^4\)J. Henry Harper, The House of Harper, p. 63. This book contains much important information. Its accuracy as to prices paid and other facts useful to this dissertation has been attested to by a number of other references. Sheehan, who examined most of the Harper records, supports J. H. Harper in much of what he says.

\(^5\)Publisher's Weekly, II, 7 (Aug. 15, 1872), p. 152. The list, as given in Publisher's Weekly. It does not specify which of the Brontes was meant.
arising at that time. This library sold its books at twenty cents and under. It did very well against the competition.

The Harpers were very successful business men. They had a great influence in the field of publishing and in the literary world. Its importance probably made it subject to more criticism than most houses. Indubitably some of the complaints were justified. Take the case of Fredrika Bremer, for example. Miss Bremer was a Swedish writer who came to this country, apparently without much understanding of the situation here, to get an American edition of her works published. Her American publisher was G. P. Putnam. She had little money and hoped to make her way here by what she earned from her books and from lectures. However, her source of income was seriously threatened when Harper's announced their intention to pirate her books. To forestall this, Putnam took Miss Bremer to see Fletcher Harper. Mr. Harper was, as always, courteous, but he said that courtesy was one thing, business another. He had no mercy on the Swedish lady.

Nevertheless, there were those who loved the Harpers, even among English authors. G. P. R. James, for example, wrote them, "I cannot but feel as I have always declared, that you have uniformly treated me with kindness and liberality and that you have been eminently gentlemanly and fair in all of our mutual dealings." Thackeray once called Harper's

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1 Harper, op. cit., p. 1466.  
2 Shove, op. cit., p. 9.  
3 Putnam, op. cit., pp. 144-145.  
4 Harper, op. cit., p. 102.
"a house which shows itself inclined to act in a kind and friendly manner to English literary men."¹ F. W. Robinson spoke of the Harpers "fair dealing in the matter of advance sheets," and Katherine S. MacQuoid said "Messrs. Harper have always paid me for any of my works that they have printed .... I am sure that many other English authors will be ready to testify to the fair dealing and prompt payment of Messrs. Harper and Brothers."² Similar testimony came from Amelia B. Edwards,³ Walter Besant, William Black and Thomas Hardy.⁴ George H. Putnam called Harper's "a house which makes a practice of paying for its English literary material, and which lays great stress upon courtesy of the trade."⁵ Frank Luther Mott, speaking of Harper's magazine and weekly, stated that "Harper's was roundly abused on all sides for its use of English material; yet Harper's paid more for advance sheets of English serials than it would have had to pay for the work, it is safe to say, of any living American writer."⁶

A Harper-hater might say that those Englishmen who praised the American firm were perhaps easy to please. But Charles Reade was not easy to please, as a perusal of some of his non-fiction will quickly indicate. Yet Reade wrote to Harper's in 1859, "You see I trust you with the confidence of a friend. In that you must blame your own friendly and gentle-

²Publisher's Weekly, XXIII, 24 (Dec. 9, 1882), p. 869.
⁴Ibid., XXXVIII, 23 (Dec. 6, 1890), p. 924.
⁵Ibid., XV, 12 (March 22, 1879), p. 351.
⁶Frank Luther Mott, A History of American Magazines, 1865-1885, p. 16.
man-like way of doing business." Elwin, Reade's biographer, states that Reade's connection with Harper's was "the longest and least refractory of his relations with publishers, and subsisted to the end of his life." Not that Reade's relations with the Harpers were always smooth. On one occasion Reade wrote to Sampson Low, Harper's London agent, protesting that the Harpers had paid $5000 for The Tale of Two Cities, "which was not a masterpiece," and gave him only one-twentieth of that sum for his A Good Fight, "which was a masterpiece." On another occasion Reade assigned the rights to a serial to J. R. Osgood, of Boston. But Harper's stole it and ran it in their Weekly. When Reade expostulated, the Harpers "promptly closed his mouth with a substantial cheque."

One who complained most vociferously about the treatment he received from Harper's, and from other American publishers, was Charles Dickens. In 1867 the American Literary Gazette printed a statement, of which Dickens was alleged to be the author, that, up to Dombey & Son (1847), the Englishman had received nothing from this side of the water for reprints of his books. Henry C. Lea replied to Dickens in the next issue of the Gazette that his firm had paid £50 for Pickwick without any solicitation, and £60 for the advance manuscript of the latter part of Oliver Twist. The Gazette itself

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3 Ibid., p. 147.
4 Ibid., p. 223.
5 American Literary Gazette, IX, 1 (May 1, 1867), pp. 5-6.
6 Ibid., IX (May 15, 1867), p. 36.
reported that Dickens had received £200 from Ticknor & Fields before Dombey & Son, and that it regarded Mr. Dickens' statement as being ungenerous, if not dishonest. It said that the author had received "nearly $20,000 in gold from a single American firm -- that of Harper and Brothers." The periodical reproduced a letter from Harper's to T. B. Peterson which listed payments made to Dickens, amounting to £3900.\(^1\)

Dickens was not always so unhappy about American publishers. In 1837, when he was younger and more humble, he received £25, unsolicited, from Carey of Philadelphia. Dickens wrote the American firm a very grateful letter, expressing his pleasure with the treatment he had received, and actually refusing to accept the money. He asked only for an American copy of the book.\(^2\)

The table at the end of this chapter, which certainly does not pretend to cover all payments made to Dickens, show that he received $40,395 in total from Americans, figuring an English pound at five American dollars, which was the value of the pound at that time.

The London *Publisher's Circular* said, in 1871, that American publishers "often pay liberally for advance sheets."\(^3\) In 1855 Ticknor &

\(^1\)Ibid., IX, 3 (June 1, 1867), p. 68.


\(^3\)Quoted by *Publisher's Weekly*, I, 2 (Jan 25, 1872), p. 36. It appears that the earliest payment made by an American publisher to an English author was made by Carey, Lea & Blanchard. Between 1825 and 1830 that firm, according to Henry C. Lea, was regularly paying Scott £75 per Waverley novel. They paid him £100 for *Tales of the Crusades* and £300 for *Life of Bonaparte*. Letter from Lea to the *American Literary Gazette*, IX, 2 (May 15, 1867), pp. 36-37.
Fields paid Browning for publishing a volume of his poems. Browning was delighted with the treatment he received from them.\(^1\) Ticknor & Fields, by an unsolicited payment to Tennyson, in 1842, and regular payments thereafter, earned the undying gratitude of that poet.\(^2\) Thackeray once made the statement that "for my own sake, as well as that of my literary brethren in England, I am sincerely rejoiced to find how kindly the American publishers are disposed towards us."\(^3\)

Edward Marston, the English publisher, in talking about something else, incidentally indicated that many English authors thought it was not unprofitable to deal with the Americans. Marston said that English authors could get copyright in Canada by furnishing a written description of their work to the Minister of Agriculture there, and a copy of the book, to be deposited in the Library of the Parliament of Canada. Then, in a footnote on this, he says,

> It is a curious fact that many English authors, instead of availing themselves of this means of securing their copyright in Canada, abandon their colors for filthy lucre, go over to the enemy, and make arrangements with American publishers, whereby, for a consideration which they believe to be larger than they could obtain in Canada, the American edition is to have full circulation in Canada. In this case the American publisher arranges with some Canadian whose name appears in the imprint of the Canadian portion of the edition.\(^4\)

Further confirmation of the fairness of American publishers is given in a letter reprinted in Publisher's Weekly, in 1880. The authors

\(^1\) Weber, op. cit., p. 28.

\(^2\) Caroline Ticknor, Hawthorne and His Publisher, p. 3. These payments do not appear in the Cost Books of Ticknor and Fields, edited by Tryon and Charvat. That does not mean, however, that they were not made. They could have been made and not recorded in the books.

\(^3\) Putnam, op. cit., pp. 144-145.

of the letters sign themselves "Two English Novelists."

We have received in past years from Messrs. Osgood of Boston, Messrs. Harper and Brothers, Messrs. Appleton, and other New York publishers, substantial sums for advance sheets of our novels. We received a sum of money for the serial rights — i.e., the appearance of the story week to week in some American publication — and we further received a handsome sum of money upon the publication of the complete work in volume form.¹

Joseph Harper claimed that "the compensation to popular British authors for their early sheets is quite as large as that paid to home authors (excepting for school books) under the copyright law."² And George Haven Putnam stated that the sums paid to English authors by American publishers "are often very considerable, and have not infrequently been even larger than the author's receipts from their English editions."³ He said that leading English authors like George Eliot, Miss Murdock, William Black, R. D. Blackmore, Wilkie Collins, Thomas Hardy, Mrs. Alexander, Tyndall, and Huxley, and many others had received liberal payments from their American publishers.⁴ Publisher's Weekly testifies, in 1878, that most English authors were then getting the equivalent of copyright.⁵

William H. Appleton spoke of the scientific and historical works he was publishing in the '80's, and mentioned the ten per cent royalty he was paying to such writers as Spencer, Darwin, Huxley, Tyndall, Lubbock, Bastian, Carpenter, Bagehot, Bain, Tylor, Lyell, Maudsley, Jevons, Roscoe, and Miss Buckley. He paid the same royalty to all authors of the Inter-

¹ Publisher's Weekly, XVIII, 10 (Sept. 4, 1880), p. 265. This is a reprint of a letter written to the London Times of Aug. 13, 1880.


⁴ Publisher's Weekly, XV, 12 (March 22, 1879), p. 351.

⁵ Ibid., XIII, 9 (March 2, 1879), p. 246.
national Science Series, and for all the volumes of the Scientific, Literary, and Historic Primers. Lecky and Robertson, he said, were paid the same royalty as was paid to American authors. He also told of paying Beaconsfield ten percent for Endymion. 1

George Palmer Putnam is credited for having initiated the royalty system for paying authors. 2 He even extended this to English authors. In their case he started with royalty payments to Elizabeth Barrett and Carlyle. 3 He paid Carlyle ten per cent of the selling price of all copies of Cromwell. 4 Others took this up. In 1855 Charles Reade received a contract for a ten percent royalty from Ticknor and Fields. However, the publishers put into the contract a clause saying that if Reade's work were pirated they would not pay the royalty. But the author protested and Ticknor took out the clause. 5 Around the 1870's the royalty system became more general and American publishers began to make smaller initial payments to best-selling English authors and to pay them royalties on the copies sold. However, if the sale of the American edition was not sufficiently large to pay costs, it was considered ethical to pay no royalties. 6

Examples of the working of the royalty system are Roberts Brothers' offer of payment to the English poet, Edwin Arnold, of a ten per cent royalty after the first thousand copies had been marketed; 7 Webster's givin

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1Ibid., XXIII, 24 (Dec. 9, 1882), p. 867.
2Lehmann-Haupt, op. cit., p. 112.
3Ibid.
4Letter from Carlyle to Emerson, (April 30, 1846), Putnam, op. cit., p. 104.
6Sheehan, op. cit., p. 69.
7Raymond L. Kilgour, Messrs. Roberts Brothers Publishers, p. 164. Many publishers insured themselves against loss by refusing to make any payment to the author until 1000 copies of his book had been sold. They paid royalties on everything above that.
offerings. Smalley offered Stanley, who was sure to sell well, one half profits for a book on Africa. 2

There is no doubt that many English authors sold better in this country than they did in their own. One reason for that was that the American level of education was higher than the English. Another was that books were cheaper in the United States than they were in Great Britain and were thus available to more people. That was true until at least the 1860's. After that the price of English books was considerably reduced. 3 Meredith believed that Americans appreciated him more than the English, and was very happy with his treatment here. 4 Both Hood and De Quincey got their real start in America and later were appreciated in England. 5 Thackeray had a better sale in America than in England. 6 Macaulay's first collected volume of essays was published in America. 7 Carlyle sold well in this country before he sold at all in England. 8

Carlyle, in fact, did not have much reason for complaining about his treatment in the United States. He first made his reputation here; and he was helped by the fact that he had here a good and influential friend to look after his interests. Carlyle and Emerson worked for each

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1 Samuel Charles Webster, Mark Twain, Business Man, p. 368.
2 Ibid., p. 370. Stanley had claimed once that he was an American citizen, and therefore eligible for American copyright. It turned out eventually that he was not. He was a British citizen.
3 Shove, op. cit., p. 1.
4 Kilgour, op. cit., p. 219.
5 Derby, op. cit., p. 554, and Putnam, op. cit., p. 197.
6 Frank Luther Mott, Golden Multitudes, p. 135.
7 Derby, op. cit., p. 554.
8 Townsend Scudder, The Lonely Wayfaring Man, p. 37.
other in their own countries. Each wrote introductions for the other, and they got one another's books published. It was through the help of Emerson that Carlyle got his start in profitable writing. In a letter dated May 10, 1839, Emerson told his friend that he had made an agreement with a Boston publisher to put out Carlyle's *Select Miscellanyes* and pay the author one dollar on each copy sold. In the same letter Emerson indicated that he was handling Carlyle's *French Revolution*. In a later letter Emerson sent the Englishman $242.22 for *Miscellanyes*. In 1839 Emerson worked out a deal whereby Mr. Brown of C. C. Little & Company would take the plates for one of Carlyle's works, use them, and pay the author a price for each copy, then return the plates.

From the foregoing sketch of the relations between English authors and American publishers, it seems fair to draw the following conclusions:

(1) That the Englishmen and their American supporters exaggerated the evils of the situation. Many Englishmen did receive large amounts of American money. It is true that the amount of money received was not proportionate to the number of their books sold in this country. That fact seems to have driven Dickens almost crazy. Although he did get a good income from his American sales, he could never forget what he might have obtained if he had received a ten per cent royalty on all of his books published in the United States.

(2) A number of English authors got their start in the United States. After they were read in America, and became popular here, they began to sell

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1 Charles E. Norton, *The Correspondence of Thomas Carlyle and Ralph Waldo Emerson*, I, p. 159.


at home. Carlyle and De Quincey are examples of that. Though they may not have received much money from America, their publication here was of great value to them.

(3) The reprinting of British books made possible the rise of the great American publishing houses. These firms gave the British books the widest possible circulation in America.

(4) The system did not work too badly for most American publishers. The fact is that the American publishers did prosper. And it is very difficult to deny that it was good for American readers. Nowhere in the world did any other people get so much good reading so cheaply. Some complained that much of this reprinted foreign literature was trash. But certainly Scott, Dickens, Trollope, Reade, and other top-flight British novelists did not put out trash; and they were read everywhere.

In reference to the charges of the English authors, it should be pointed out that men like Dickens, Trollope, and Carlyle were not very reasonable men in such cases as these. They were artists, and as such they were super-sensitive, emotional and temperamental. When such men descend to practical affairs they are not to be taken very seriously. They often do not make good sense, though they always sound good. When such men had a grievance, and those named had many all through their lives, they made the most of it, dramatized it, shed tears over it, assumed attitudes, emoted, and put on displays of marvelous pyrotechnics that made a tremendous impression on their admirers. The London Bookseller once said:

We know what irresponsible children of impulse some authors are in the matter of writing letters to newspapers and dragging their real or supposed grievances before the public .... Some authors ... have a settled conviction that they are habitually cheated by all with whom they have dealings. They like to proclaim themselves victims: it accords with the traditions of gen-
ius, and is a part of the regular stage business whenever they appear before the public in their professional character.¹

¹London Bookseller, July 5, 1884 quoted by Publisher's Weekly, XXVI, 4 (July 26, 1884), pp. 131-132.
TABLE 2

AMERICAN PAYMENT TO FOREIGN AUTHORS

The material for this table was taken from the most available sources. It does not pretend to be definitive, or anything approaching that. To make it so would be a thesis project in itself. The value of the table is that it does give some idea of payments made to foreign authors. If it does nothing else, it shows that some such payments were made. It at least hints at fairly generous payments in some cases. The reader might feel inclined to question some of the sources. Yet the figures that appear here have been accepted by the best authorities. Several of them are cited in the book by J. Henry Harper. Harper’s figures seem to be pretty generally accepted as accurate. Sheehan saw most of the surviving papers of the big New York publishers, including those of the Harpers. He does not question J. Henry Harper’s figures, but uses them himself. Also those figures are confirmed by some of the authors whom Harper’s published. The accuracy of Derby is questioned by some. But Mott accepts his figures. So did Publisher’s Weekly. See the issue for Jan. 24, 1885. Notice that the Cost Books of Ticknor and Fields confirm at least one of his figures for Tennyson. For lack of space, the names of the authorities are abbreviated. P-W means Publisher’s Weekly.

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*This is Robert's total payment to her, for all her poems.*
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CHAPTER IV

THE ORDEAL OF AMERICAN AUTHORS

American literature was retarded. Its progress was much slower than literary men thought it should be. There were few American writers in the early part of the nineteenth century, and what there were, seemed poor imitations of their overseas cousins. Cultured Americans had an inordinate admiration for the English, and tended to over-rate anything English and under-rate anything American. This was particularly true in literature.

Noah Webster recognized that fact. In a letter to Benjamin Rush, in 1800, Webster spoke of the advantage of having a book published first in England. If it went well there, it was sure to sell in the United States. The British critics were widely read in this country, he said, and a book's success here depended upon its character in Great Britain. Many others must have had the same idea.

One who did, many years later, was Richard Henry Wilde. In 1843 he petitioned Congress for the benefits of copyright for a book which he, an American citizen, was about to publish in England. He could get copyright in England, under her laws at that time. But he needed a special dispensation here, because the United States law required that, to obtain American copyright, a book must be published here either before, or simultaneously with, its publication elsewhere. Wilde's was a book on

Italian literature. He told Congress that there was no market for it in the United States until it had made a reputation in England. He wanted to be certain that, having made a reputation, it would not be pirated by his fellow countrymen. There was some debate in the Senate over Wilde's bill. Senator Tappan offered an amendment to the bill by which the same privilege would be given to all Americans. This was defeated. Senator Buchanan was most prominent in arguing against Wilde, thus keeping his anti-copyright record consistent. The bill eventually passed. Wilde seems to have been highly regarded. It is to be hoped that his book was well received by the English. Such a book would have needed their recommendation more than most.

Americans took the attitude that anything which departed very noticeably from the English style, subjects, and manners, was not literature. Originality was not acceptable. John Neal, in 1823, stated that Americans call an author great not because he is great, or because Americans have read him, but because English critics have called him great. Griswold said in 1853 that the best accepted American authors were those who most closely copied the English.

All of this would seem to indicate that the preference of Americans for English themes and English authors played an important part in retarding the development of a truly American literature.

1Wilde's petition was first introduced into the Senate on Dec. 12, 1842. Congressional Globe, XII, 3 (Dec. 14, 1842), p. 41. 26th Congress, 2nd Session. The bill was not introduced until Jan. 10. It was passed on the 24th. See Ibid., XII, 9 and 12, pp. 141, 181, 192.


However, when contemporaries spoke of the retardation of American literature they did not blame it on the superiority of British writers, or on the preference of American readers for British style and British themes. They were much more likely to blame it on the lack of international copyright laws. Because of that, they said, young writers could not get started in this country, and established authors could not make a living. In 1840, Washington Irving told this story:

We have a young literature springing up, and daily unfolding itself with wonderful energy and luxuriance, which, as it promises to shed a grace and lustre upon the nation, deserves all its fostering care. How much this growing literature may be retarded by the present state of our copyright law, I had recently an instance, in the cavalier treatment of a work of merit, written by an American, who had not yet established a commanding name in the literary market. I undertook, as a friend, to dispose of it for him, but found it impossible to get an offer from any of our principal publishers. They even declined to publish it at the author's cost, alleging that it was not worth their while to trouble themselves about native works, of doubtful success, while they could pick and choose among the most successful works daily poured out by the British press, for which they had nothing to pay for copyright. ¹

A little over forty years later, the American Copyright League, in a petition, said, "Under the existing circumstances, only a small proportion of American authors are able to earn a competency by the pursuit of authorship alone." ² Julian Hawthorne said somewhat the same thing, at about the same time.

I will engage to entertain at dinner, at a round table five feet in diameter, all of the American novelists who make more than a thousand dollars a year out of the royalty on any one of their novels, and to give them all they want to eat and drink,

²Petition to Congress, Feb. 1884. See Below, p. 132.
and three of the best cigars apiece afterward, and a hack
to take them home in; and I will agree to forfeit a thousand
dollars ... if twenty-five dollars does not liquidate the
bill and leave enough over to buy a cloth copy of each of
the works in question, with the author's autograph on the
fly-leaf. 1

Many American novelists and poets could not depend upon their
literary endeavors to make a living, but had to have other sources of
income. Some, like Emerson, lectured to augment their incomes. Nathaniel
Hawthorne, Melville, Bayard Taylor, Lowell, Bret Harte and others had
government jobs. (Several of our presidents showed their appreciation
of American literature by appointing authors to consulates or ministries;
Bryant and Whitman were newspapermen. Howells, Gilder, Eggleston, and
Stedman were magazine editors.

Many authors helped their finances by writing for the magazines,
which paid well. In 1885, Publisher's Weekly said,

The successful men of today are those who look to the
magazines, rather than to the publishers of books as such,
for the greater part of their income, and if it were not
for the first use of novels, short stories, and miscellaneous
papers by the magazines, the American author would have a
poor chance indeed of earning his livelihood. 2

By 1850 America had a surprising number of popular magazines.
Mott says that there were around 2500 periodicals other than newspapers
published in this country between 1850 and 1865. 3 The most prosperous
in that period were the New York Ledger, which claimed a circulation of
400,000 copies weekly; Tucker's Country Gentleman, which sold one quarter
million in 1858; Frank Leslie's Illustrated, which sold 164,000 in 1860;

1 Publisher's Weekly, XXXIII, 24 (June 13, 1888), p. 963.
2 Ibid., XXVII, 26 (June 27, 1885), p. 732.
Harper's Weekly, which had a circulation of 120,000 by the end of 1861; The American Messenger, with 190,000 by 1850; Gleason's Pictorial, boasting 103,000 in 1856; Godey's Lady's Book with 150,000 in 1860; and Harper's New Monthly, which averaged 110,000 between 1850 and 1865.¹

The magazine situation was best for authors after the War. There was a boom in magazines then. In 1865 there were 700 magazines in circulation; in 1870, 1200; in 1880, twice that; in 1885, 3300.² In 1874 the New York Weekly, a cheap story-magazine, advertised a circulation of 350,000. In 1885 the Youth's Companion had 350,000. Both Harper's Monthly and its Weekly had over 100,000. Scribner's Monthly had 200,000 in 1885. So did Century Magazine. Godey's had over 100,000 in 1865. Peterson's had over 150,000 in the 1870s, the Ladies Home Journal had 270,000 in 1885, the Delineator 165,000 in 1885, Frank Leslie's Popular Monthly 100,000 in 1884.³

In spite of this, apparently an author could not make a living on magazine writing alone, for Mott says that "to provide $2000 as a minimum income for moderate comfort, a magazine author had to sell an article a week; and certainly few could do that."⁴

Among the things that bothered American authors was the fact that they were so inconsiderately pirated by the British. "If English publishers could now be persuaded to deal as fairly by American authors as American publishers treat English writers, our literary men of the day would be much richer than they are," said Publisher's Weekly in 1878.

¹Ibid., pp. 10-11.
²Mott, Magazines, 1865-1885, op. cit., p. 5.
³Ibid., p. 7.
⁴Ibid., p. 14.
It goes on to tell of an American house paying an English author $10,000 for one book and says that the "generality" of English authors got "fair equivalent of what they would pay here in copyright." But, it said, £100, at most, was almost the limit of English payments to American authors. In England there was no system of trade courtesy to protect foreign authors. English piracy of American authors was bound to be different from American piracy of English authors. For one thing, the British knew less of American literature than the Americans knew of British literature. There was not the demand for American literature in England. There was also not as much market for cheap literature in England as there was in the United States, because the lower classes there were not as literate as in the United States. Yet Americans were pirated, and the English pirate was no more scrupulous than his American counterpart.

Carlyle once wrote, "We have pirates waiting for every American thing of mark." Some of the English went at least as far as the worst of the American publishers. For example, an English publisher, named Hotten, pirated one of Mark Twain's books, renamed it Screamers and Eye Openers, and added five chapters that he composed himself. Louisa May Alcott's Little Women was pirated in England and split into two parts, one called Little Women, and the other Little Wives. This wrecked her

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2 The Correspondence of Thomas Carlyle and Ralph Waldo Emerson, 1834-1872. No editor or author named. Houghton, Mifflin Co., II, p. 61. April 3, 1844.

sale by Sampson Low, her authorized English publisher.\(^1\) For a while Emerson received some "modest remittances" from England. But the pirates took over and soon the remittances ceased altogether.\(^2\) The pirates were selling reprints of Emerson's *Essays* at two shillings.\(^3\) Habberton's *Helen's Babies* was pirated by several publishers. Habberton said that he received £50 from England, then no more. One English house, taking its material from American magazine installments, could not wait for the last chapter, and published Habberton's work without its ending. Another came out with a new last chapter, written by an Englishman, completely changing the ending.\(^4\) There were forty pirated editions of *Uncle Tom's Cabin* in Great Britain and its colonies within a year after its publication in America.\(^5\) It was more widely translated than any of Scott's or Dickens' novels.\(^6\) Longfellow was pirated in England and sold there extremely well. Routledge, of London, mentioned selling 6000 copies of Longfellow's poems in cheap editions from June to June, 1884-1885.\(^7\) Apparently Longfellow never got much from his foreign sales, though, on one occasion his publisher, Ticknor & Fields, sold the early sheets of

\(^1\) *Tbid.*  
\(^2\) *Putnam, op. cit.*, p. 106.  
\(^3\) *Correspondence of Carlyle and Emerson, op. cit.*, II, p. 44.  
\(^6\) *Mott, Multitudes, op. cit.*, p. 108.  
Miles Standish to an English publisher for £150. Incidentally, the same publishers also received £200 for Hawthorne's *Blithedale Romance*. They considered that an unusually generous payment. Mrs. E.D.E.N. Southworth became all the rage in Britain in pirated editions. Susan Warner did well among the English and received considerable sums from there until unauthorized editions cut in on her profit. Henry G. Bohn, the English publisher, told of the rivalry in Britain for Irving. Three or four published him. Cooper, Lowell, Holmes, Mrs. Prentiss, Dr. Mayo, Miss Phelps, Bayard Taylor, were all pirated in England. About 50,000 copies of Bellamy's *Looking Backward* were pirated and sold in England by the end of February, 1890. One interesting sidelight to this piracy was the sale of cheap editions of American books in the railroad stations in India. There Lew Wallace's *Fair God* and *Ben-Hur* sold for fifteen cents each; Anna Katherine Green's *Leavenworth's Case*, twelve cents; Longfellow's poems for ten cents; Emerson's essays for twenty cents; Frances H. Burnett's novels for one fifteenth of what they would

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bring back home. "Uncle Remus," Bret Harte, Mark Twain, were all sold
in cheap editions there. 1

George P. Putnam, in 1846, made up the following classification
of American books pirated in England during the previous five years: 2

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In 1853 Putnam included 750 titles in a schedule of American
books pirated in England. 3

In piracy, American books were often badly mutilated. The author's
name was frequently left off his reprinted works. Sometimes the name
was changed, or the book was published under a different title, or under
a variety of titles.

It was fairly easy to plagiarize the work of Americans in England,
for the English had so little acquaintance with American literature.
In 1879, the English publisher, Randolph, issued some articles that had
been sent to him by a fellow-countryman. He thought them fresh and
original. They turned out later to be the work of Henry Ward Beecher. 4

Dr. Irenaeus Prime was once sent a volume bearing the name of an English
author. He was asked if it was likely to be of interest to Americans.
Dr. Prime found it to have been plagiarized from himself. 5

1 Publisher's Weekly, XXXVII, 8 (Feb. 22, 1890), p. 303.
2 Putnam, op. cit., p. 54.
3 Ibid., p. 398.
4 G. H. Putnam in Publisher's Weekly, XV, 12 (Mar. 22, 1879),
p. 351.
5 Ibid.
Among the most pernicious examples of piracy of American authors was that carried on by the Canadians. For instance, they pirated Howells' Aroostook, got out five editions of it and never paid the author a cent. \footnote{Letter from Howells to Clemens, Sept. 9, 1879, Life in Letters of William Dean Howells, Mildred Howells, ed., I, p. 276.} Worse than that, they took popular American novels, republished them in cheap form, and then sold them by mail to American readers at a lower price than the American publishers could. There was no way to stop it, because of the postal treaty, which stated that matter prepared and mailed in one country must be delivered in the other. \footnote{Publisher's Weekly, XIV, 23 (Dec. 7, 1878), p. 780.} Sometimes the Canadians sent reprints of American books to book sellers in the western United States, where the books would undersell the American editions. \footnote{Tbid., XIV, 18 (Nov. 2, 1878), p. 534.} On one such occasion Harper's stopped the sale of Canadian reprints of one of its books by suing every man who sold it. \footnote{Howells to Clemens, Sept. 17, 1879, Letters of W. D. Howells, op. cit., p. 277.} Sometimes such books were sold in the East. Howells saw a pirated Canadian edition of Life on the Mississippi on sale in Albany. \footnote{Tbid.} Publisher's Weekly told of a Canadian reprinter who sent out circulars to dealers advertising reprints of one of Mark Twain's books and some of Mrs. Holmes and Miss Fleming. \footnote{Publisher's Weekly, XXII, 2 (July 8, 1883), p. 23.} Samuel Clemens complained that Canadian publishers would buy advance sheets from pressmen and printing boys, and thus get out a pirated edition before the American publisher could get out the legitimate edition. \footnote{Clemens to Charles Webster, July 1, 1881, Mark Twain, op. cit., p. 263.}
did the Canadians steal from American authors, they even tried to steal
the market from American pirates. At one time Bulwer-Lytton’s Pausanias
was being sold in the United States by three publishers -- Lippincott,
Harper, and a Canadian.1

During 1879, Publisher’s Weekly sent out questionnaires to
various authors, asking them, among other things, what they thought they
had lost because of a lack of international copyright. Here are some of
the answers.

T. D. Woolsey, Yale College: his International Law was printed
in England. No money was sent him.2

E. C. Stedman: received half copyright on only one of his
books which was published abroad.3

Susan Warner: claimed that her Wide, Wide World sold
much better in England than in the United States. The English
sold a quarter million copies. She said that 10,000 copies
of Queechy were sold in a single English railroad station.
But she got little for it.4

Marion Harland: had four books published in England. Received
$100 each for three of them. The fourth was published simul-
taneously by two London firms and the author received nothing.5

E. P. Roe: got £100 each for two books published in England.6

1Publisher’s Weekly, IX, 9 (Feb. 26, 1876), p. 249.
2Ibid., XV, 13 (Mar. 29, 1879), p. 352.
3Ibid., p. 353.
4Ibid., XV, 13 (Mar. 29, 1879), p. 397. For a different view
of Miss Warner’s profits in England, see above, p.
6Ibid., XV, 13 (Mar. 29, 1879), p. 396.
S. I. Prime: four of his books were printed abroad without his permission. One sold about 100,000 copies. For that he got only $100.¹

Edward Eggleston: got $600 total for four novels.²

Donald G. Mitchell: one book cut up and published in an English magazine under the name I. Marvel. Another altered and put out cheaply, for which the publisher paid him £10. For another he received a copy of the book from the publisher and nothing more. He had others published, for which he received nothing.³

Charles Dudley Warner: one of his books was published simultaneously in London and Boston. He got nothing because "a cheap edition of a book of the title and partly the same matter destroyed the market of the genuine book."⁴

Publisher's Weekly said,

A small honorarium, £100 at most, is practically the limit of English payments in this country, even for the books that sell abroad by the 10,000, and a leading American author, whose many books are favorites and widely selling abroad, states that his returns from England have never reached a total of £200.⁵

One fascinating example of English thievery of American works involved Charles Reade -- Charles Reade, who was so vociferous against American piracy. Mrs. Frances Hodgson Burnett was an Englishwoman who had married an American and come to the United States to live. She wrote a number of books, the best known today being Little Lord Fauntleroy, and copyrighted them in this country. Charles Reade dramatized one of Mrs. Burnett's books, That Lass O' Lowries, without her permission. He intended to publish the dramatization in England and America. Somehow word of this got back to her. Dr. Burnett, writing for his wife, protested to Reade. The playwright, in his reply, said that actually

Mrs. Burnett had no stage rights to the book, but that he would, nevertheless, pay her something for it, out of his profit. He complained of the treatment that he had received in the past from Americans. He was not inclined to take the matter lightly. He said:

The scribblers and thieves of the nation have never consented to share with me, they have always taken every cent, and driven me entirely off the American stage by means of my own talent and labor.

No egg can be roasted all on one side. I cannot be divinely just to American citizens in a business where they never show me one grain of human justice or even mercy; and as long as your nation is a literary thief you must expect occasional reprisals ... 

Mrs. Burnett herself replied to him. One might say that she brought up the heavy artillery.

Washington, D. C.
October 27, 1878

Dear Sir:

I have just been reading your reply to Dr. Burnett’s letter, and I see from it that somehow a little misunderstanding has arisen. I did not see Dr. Burnett’s letter before it was sent, but I can scarcely think he meant to ask from you what you seem to fancy. I am a young woman and an Englishwoman, but I am not young enough to expect anything from my compatriots which the law does not demand for me. My "Lass" was condescendingly printed in England with the announcement on the front page that it was done with the "special permission" of the authoress, and I was informed of that fact by a letter from Messrs. Warne and Company, nobly accompanied by a gift of a yellow-backed copy of the book, which I shall ever cherish sacredly and tenderly as a delicate tribute from a generous publisher to a grateful author -- a publisher who even went to the god-like length of saying that he should be glad to give to the world any other book I might write -- upon the same terms. A gentleman of the name of Hatton, in conjunction with another of the name of Mathison, wrote a play, founded on the story, which made of Jane Lowrie a big-boned, maudlin young woman with a sentimental passion for a pretentious prig, of Alice Barholm an entrancing creature with all the engaging jauntiness and abandon of a barmaid, and also improved the other characters
in the most encouraging manner. These gentlemen of course paid me nothing, but I was not young enough to expect such romantic lavishment, and besides I felt it was only fair that they should have all they could make as recompense for writing such a play. If I had written such a play I should expect to be remunerated handsomely. When I read it I was so moved by -- shall we deal in glittering generalities and call them conflicting emotions -- that I wrote a long letter to you, giving you all the permission I owned -- nay, even begging you as an act of generosity to rescue the people I am fond of from dramatic infamy, and make a good play, which I knew you could do if you took it in hand. I did not ask you to give me any of the proceeds of it, I did not think of that at all; what I cared for was something else. After I had written the letter I thought that perhaps, as the thing had been spoiled already, you would not care for it, and did not send it. I wish I had now, because I might have retained an illusion or two. Until now I fancied that a man's Right was enough for him, notwithstanding other people's Wrong. But the point is that I wish you to feel quite at ease on the score of my asking you to share anything of the proceeds of your play with me. As it is, it would only be a fine accentuation of myself to demand what other people don't get.

I have no rights in England, notwithstanding I have lived more than half my life there; but I have rights in America, and it is because you have tried to infringe even on these that I protest. I wrote "Lass" here, copyrighted it here, and it will be played here. If anyone attempts to produce another version I shall defend myself -- as I can. You have been badly treated in America, I have no doubt, but did an American dramatist ever write a play on a book of yours and take it to England and have it played there in the face of a version of your own already copyrighted and sold? If it ever was done it was pretty hard, wasn't it? I think it was, and I sympathize with you -- and I hope you like my sympathizing with you.

With many thanks for your generous offers -- and they are generous -- since you have so conclusively proved that I have no rights anywhere --

I remain yours respectfully,

Frances Hodgson Burnett

Thus, from many authors, some publishers, and all advocates of international copyright, one gets a gloomy picture of the state of American literature during the nineteenth century. It was said repeatedly

1 Publisher's Weekly, XIV, 18 (Nov. 2, 1878), pp. 535-536.
that American writers could make no profit and that American literature was withering on the vine.

It is expedient to examine this situation in two periods -- the period before the Civil War and the period after.

In the period before the Civil War American literature, as a whole, was not prosperous. Yet there were a number of individuals who did well financially in it, who sold well and made a living from their literary endeavors. It is not the intention of this dissertation to make an exhaustive survey of the incomes of American authors. That, in itself, would be a dissertation topic. The purpose here is to show that it was possible for an American to do profitable writing.

Few American poets could earn a living, either before or after the War. But then, poets are not expected to make a living. Traditionally, they are poor, tormented souls, in all times and places. Poe lived up to that tradition wonderfully. Very few others did much better. Yet there was American poetry, though it was said, during the copyright struggle, that American poetry could never develop under the conditions that accompanied the lack of international copyright. Longfellow was one of the most prosperous of our literary men. Charvat calls him the first American writer to make a living from poetry.\footnote{William Charvat, "Longfellow's Income from his Writings, 1840-1852." The Papers of the Bibliographical Society of America, Vol. XXXVIII, 1943, p. 10.} Publisher's Weekly printed an estimate that, in this country alone, Longfellow's books sold 325,550 volumes from 1839 to 1857, and that, between 1867 and 1881, 194,000 volumes of his collected works were sold.\footnote{Publisher's Weekly, XXI, 12 (Mar 25, 1882), p. 291.} From 1845 to 1852 Longfellow averaged, from his writings, almost $2000 a year, which was
a good, comfortable income for those days.\textsuperscript{1} Charvat concludes his article by saying that Longfellow's success "suggests that the lack of international copyright was not necessarily an insuperable obstacle to the development of American literature."\textsuperscript{2}

Serious non-fiction writers might be put in the same category, financially, with poets. They are not today, and never were, expected to become very prosperous from their writings. Yet despite that and the fact they were faced with the formidable competition of the English, some nineteenth century Americans did fare pretty well.

Prescott once said, "Who will give \$2.00 a volume for Prescott, when they can buy Macaulay for 75¢?\textsuperscript{3} The assumption here, of course, is that the American historian was not likely to compete successfully with cheaper books from the highly popular British historian. Prescott's words were used as an argument by the pro-copyright people. It was a favorite type of argument with them.

It was generally accepted that Macaulay did outsell Prescott by a considerable amount, and it was assumed, from this, that Prescott received little financial consideration for his writings.

On this situation, one should point out that the difference in the sales of the two men could not be laid entirely to the lack of international copyright and the difference in prices. Whether one bought Prescott or Macaulay depended to an important extent upon one's interests.

\textsuperscript{1}Charvat, \textit{op. cit.}, p. 20. \textsuperscript{2}Ibid., p. 21.
\textsuperscript{3}Harper, \textit{op. cit.}, p. 138.
\textsuperscript{4}The only figures that the author of this dissertation could find on comparative sales of Prescott and Macaulay are those on p. 93.
It seems reasonable that Americans were much more likely to be interested in English history than they were in Spanish history. Which would sell better in America today, a good history of England or a good history of Spain?

It is possible that Prescott's sales might have been improved if he had shown more concern with making sales. Mott says,

If Prescott's Conquest of Mexico had been published at a low price, it would undoubtedly have made a tremendous hit. But its author cared more for the praise of English and American critics and men of letters than for the acclaim of the multitude. He was a man of sound scholarly culture.

However that may be, the available figures show that Prescott did not go entirely unrewarded for his work. According to Harry Thurston Peck, Ferdinand and Isabella sold nearly 18,000 copies up to the time of the author's death. For this book Bentley, of London, paid a total of £879, and, in America, Harper's paid him $1.75 a copy. For The Conquest of Mexico Longman's offered Prescott £300 down and £200 more after the sale of 1500 copies. Murray, another Englishman, offered him half the profits. However, Prescott preferred Bentley, with whom he had previously done business, and that publisher gave him £650 for the

1 Mott, Multitudes, op. cit., p. 95.
2 Harry Thurston Peck, William Hickling Prescott, p. 95.
3 Correspondence of William Hickling Prescott, 1833-1847, Roger Walcott, ed. This is the total of sums mentioned in three letters to Thomas Aspinwall -- the letters of Jan. 30, 1843, on p. 330; April 1, 1843, on p. 343; and May 30, 1844, on p. 470.
book. One reason why the price was not better was that the pirates were beginning to discover Prescott. 24,000 copies of Mexico were sold by the time of the author's death. Harper's sold 4,000 of them in four months, and for 5,000 copies they paid $750. The author once told Edward Everett that he had refused $15,000 for that book, in outright payment for the copyright. He chose to take royalties instead. Of the Conquest of Peru 17,000 were sold up to Prescott's death. Bentley paid £800 for it and Harper's one dollar a copy. Of Philip II, more than 8,000 were sold in six months in this country alone. Prescott said that he had received $17,000 for Philip II "and other works" in six months, in 1852.

Admittedly, this is not a clear or complete picture of Prescott's financial returns. He had three publishers in the United States -- Harper's, Lippincott, and Phillips, Sampson & Company. It is not possible here to give much idea of what he got from each. Phillips, Sampson &

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1Ibid., letter from Col. Thomas Aspinwall, June 19, 1843, p. 371.
2Peck, op. cit., p. 95.
3Prescott's Correspondence, op. cit., letter to Frederick Catherwood, April 30, 1841, p. 162.
5Prescott's Correspondence, op. cit., letter to Edward Everett, April 10, 1843, p. 350.
6Peck, op. cit., p. 95.
7Ibid., p. 85.
8Ibid., p. 81.
9Ibid., p. 116.
10Ibid., p. 117.
Company gave him fifty cents per volume for one of his works. But which one, and how many were sold, is not known. Lippincott, for his chief works, gave Prescott a bonus of $5000 to $6000 per annum. There is no indication of how long this went on. What Harper’s paid him in all and what the English publishers contributed in total is also not known. The only value that the figures above pretend to is that they show that Prescott did get substantial returns on his works.

Washington Irving sold well both here and in England. And he appears to have been financially successful. George P. Putnam claimed that he had paid Irving $20,000 for four year’s sales. He said that The Life of Washington sold 1,000 copies, which could not have been very profitable. For Columbus the author received £3000 from England, but for his Washington he got only £50 from the same source, because of piracy. Carey and Lea offered Irving $4,000 for the right to print

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2. Ibid.
3. Henry C. Carey claimed that the Harpers paid Hotley and Prescott, or their heirs, about $50,000 each on the copyright for their works. Carey got his information from “a daily journal.” H. C. Carey, The International Copyright Question Considered, footnote, pp. 5–6. This figure could not be authenticated.
5. Putnam, op. cit., p. 245.
5000 copies of Astoria.\(^1\) James Parton, in his article on international copyright, written in 1867, makes much of the case of Motley. Parton estimated that it cost Motley $24,000 to write his History of the Dutch Republic, and implied that the author might never get his money back. However, in 1877, Harper's Weekly stated that Motley had been paid $60,000 by the Harpers.\(^2\)

Certain particular non-fiction works of the pre-War period showed that, when Americans wrote something that the public liked, there was a good market for them. Ingraham's The Prince of the House of David was a best seller in 1855;\(^3\) Headley's Napoleon and His Marshalls, published in 1846, had fifty editions by 1861;\(^4\) Sparks' Life of Washington had twenty-four editions in its first decade; Dana's Two Years Before the Mast sold well but did not bring its author much money because he sold his copyright for $250. However, Dana received a larger sum in England, from Moxon.\(^6\) Dr. E. K. Kane, who published a book on Arctic exploration in 1856, received $65,000 royalties for the first year.\(^7\) A work by Professor Anthon brought him $100,000 from Harper's.\(^8\) From the New York

\(^1\)Letter to Irving, Bradsher, op. cit., p. 90.
\(^2\)Publisher's Weekly, XII, 1 (July 7, 1877), p. 8.
\(^3\)Mott, Multitudes, op. cit., p. 94. \(^4\)Ibid., p. 96.
\(^5\)Ibid. \(^6\)Ibid., p. 101.
\(^7\)Oberholtzer, op. cit., p. 371.
\(^8\)Publisher's Weekly, XII, 1 (July 7, 1877), p. 8.
Edward Everett was paid $10,000 for an article a week for a year. Little, Brown & Company paid a copyright of about $40,000 for Daniel Webster's speeches.

Among the novelists, serious or otherwise, there were few Americans who could make a living on their writing alone. But there were some. Cooper was one. He earned enough by 1826 to take his family to Europe. In December, 1831, Cooper wrote his sister-in-law that his income for the year would be nearly $20,000 and that he expected to return to America in a few years with a "comfortable independence." But he never did become financially independent. Yet he did make a living, and a fairly comfortable one.

One hardly needs to mention the success of Harriet Beecher Stowe. Susan Warner's Wide, Wide World was one of the best sellers of the nineteenth century. The book, published in 1851, brought in $4,500 in its first six months, and, by 1889, had sold about 450,000 copies. Miss Warner died in 1885. Mrs. E.D.E.N. Southworth "for more than sixty years ... had a wide following. When she died in 1889 her books were still

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2 Derby, op. cit., p. 673.

3 James Grossman, James Fenimore Cooper, p. 49.


6 Publisher's Weekly, XXXVI, 1 (July 6, 1889), p. 11.
selling in great numbers."\(^1\) For a while, T. B. Peterson was paying her royalties of $6000 per year.\(^2\) Thompson's *Green Mountain Boys* sold fifty editions between its publication in 1839 and 1860.\(^3\) Montgomery's *Nick of the Woods* went into twenty-five editions.\(^4\)

As to playwrights, there never were any in the nineteenth century who could come even close to making a living. Boker, America's best dramatist of the century, earned no more than a total of $1500 for five plays produced between 1849 and 1856.\(^5\) After the Civil War there were a few successful plays, but no really successful playwrights. The best explanation for this doleful situation seems to be that the Americans could not compete with the great stream of English and European plays that flowed into this country in pirated editions.\(^6\) If there had been plays of equal quality produced in this country they would have sold. But there were not.

Over and over again a person studying American literature in the nineteenth century runs into the argument that it was the cheapness of British books in this country that kept Americans from reading native works. However, this argument that book-price determined American tastes in literature does not stand up under close examination.

One who rejects this argument is Warren S. Tryon. He believes that this matter of British authors consistently outselling Americans became a matter that touched national pride. American patriotism demanded

\(^1\) Mott, *Multitudes*, op. cit., p. 142.
\(^2\) *Publisher's Weekly*, XXXIX, 2 (Jan. 10, 1891), p. 28.
\(^3\) Mott, *Multitudes*, op. cit., p. 93.
\(^4\) Ibid.
\(^5\) Spiller, et. al., *Literary History of the United States*, p. 239.
\(^6\) Bradsher, op. cit., p. 110.
an excuse. It could not be that the British authors were more readable than the Americans. It had to be a matter of price.¹

Common sense and an ordinary understanding of human nature does not support the price argument of the pro-copyright people. It is true that, in the field of cheap and sensational literature, where the name of the author does not count, people might shop for books, to some extent, according to price. But a person who has any literary taste at all, or one who simply has some idea of what he wants in the way of literature, is not going to buy a ten cent novel just because it is cheaper than a twenty-five cent edition. If you have A, an obviously superior American author, and B, a clearly inferior British author, and A's books sell at fifty cents while B's books sell at ten cents, is a person who is at all discriminating going to buy B rather than A, to save forty cents? If A and B are of about equal merit, one might expect more regard on the part of the buyer for price. Yet people usually have definite preferences as to literature, and are willing to pay something more to get just what they want. Actually the difference in cost between a decently printed British reprint and a good, but cheap American-written book was not usually great.

Tryon has made an interesting comparison of the sales in this country of Longfellow and Tennyson. The two poets were contemporaries and are generally accepted as being about equal in the quality and appeal of their poetry.

¹W. S. Tryon, "Nationalism and International Copyright: Tennyson and Longfellow in America." American Literature, XXIV. (1952), p. 301.
In approximately the first thirty years in which the two poets were marketing their literary wares in America, and including all the various poetical works of the two authors, whether in collected or separate formats, the sales of Tennyson amounted to 400,770 copies; of Longfellow, 374,786 copies. Thus out of three-fourths of a million copies the two poets sold, the excess in sales of Tennyson over Longfellow amounted to less than 26,000 copies. It might be added that in amounts spent for these books by American purchasers more money went over the counter for Longfellow than for Tennyson. Americans spent for their Longfellows $960,000, for their Tennysons, $600,000. The slightly higher retail price asked for an American copyrighted work over an English non-copyrighted reprint appears not to have curtailed the sales of the native production.1

Ticknor and Fields, in an edition of Tennyson's collected poems, published in 1854, advertised the poetical works of Longfellow at $2.00 and the collected works of Tennyson at $1.50. A volume of Evangeline retailed at seventy-five cents, while a volume of In Memoriam cost fifty cents.

One of the most important publishing enterprises in the country was the publication of textbooks. Our schools used American written textbooks almost exclusively. Publisher's Weekly boasted in 1889 that American textbooks were as cheap as those of any country, and as well made and effective.2 It was a big business with small profits.3 About one hundred houses in the country published textbooks, and about ten of those did a really big business.4 Of those, the biggest were Ivison, Blakeman & Company; A. S. Barnes & Company, Harper & Brothers; and D. Appleton & Company, all of New York; and Van Antverp, Bragg & Company

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1 Ibid., pp. 308-309.
2 Publisher's Weekly, XXXVI, 3 (July 20, 1889), p. 45.
3 Ibid., p. 46.
4 Ibid.
of Cincinnati. Some of the textbooks sold tremendous amounts. Webster's Speller, by 1860, may have had something like thirty million sales, according to Mott. It did have thirty-five million from 1855 to 1890, when Appleton's had it. Peter Parley's Geography sold two million. Smith's Grammar sold "several million" and Sander's Reader sold thirteen million by 1860 and two million a year throughout the 1860's. McGuffey's Readers sold a total of something like 122 million. Yet it appears that textbook writers were not, on the whole, well paid. Mott says that Goodrich, who wrote Peter Parley's Geography, received only $300 for it, and that McGuffey got $1000 and an annuity for his Readers. Ticknor and Fields paid a royalty of one cent, eight mills to their leading textbook writer of the 1840's and 1850's. His name was Josiah F. Bumstead, and he wrote two readers, for which, over a period of thirteen years, he received a total of $2,250.05. It is to be hoped that he had some other way of making a living.

The following table indicates the importance of the textbook industry, as compared with other types of books:

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\(^1\) Ibid., XXXVI, 14 (Oct. 5, 1889), p. 513.

\(^2\) Mott, Multitudes, op. cit., p. 299

\(^3\) Ibid., p. 300. All of these figures are from that source.

\(^4\) Ibid., p. 299

\(^5\) Ibid., p. 300

\(^6\) Tryon & Charvat, Cost Books, op. cit., passim.
TABLE 3
VALUE OF BOOKS MANUFACTURED IN THE UNITED STATES, 1820-1850.1

<table>
<thead>
<tr>
<th></th>
<th>1820</th>
<th>1830</th>
<th>1840</th>
<th>1850</th>
</tr>
</thead>
<tbody>
<tr>
<td>School books</td>
<td>$750,000</td>
<td>$1,100,000</td>
<td>$2,000,000</td>
<td>$5,500,000</td>
</tr>
<tr>
<td>Classical Books</td>
<td>250,000</td>
<td>350,000</td>
<td>550,000</td>
<td>1,000,000</td>
</tr>
<tr>
<td>Law Books</td>
<td>200,000</td>
<td>300,000</td>
<td>400,000</td>
<td>700,000</td>
</tr>
<tr>
<td>Theological Books</td>
<td>150,000</td>
<td>250,000</td>
<td>300,000</td>
<td>500,000</td>
</tr>
<tr>
<td>Medical Books</td>
<td>150,000</td>
<td>200,000</td>
<td>250,000</td>
<td>400,000</td>
</tr>
<tr>
<td>Others</td>
<td>1,000,000</td>
<td>1,300,000</td>
<td>2,000,000</td>
<td>4,400,000</td>
</tr>
</tbody>
</table>

In trying to explain the sad situation of American writers in the nineteenth century, these are words of wisdom:

It must be remembered that authorship, save in exceptional cases, is an ill-paid vocation, and that complaints ... are to be met in all periods and countries.... Certainly, not all of the troubles of American authorship can be blamed upon the lack of international copyright.2

The rise of an American literature in the middle of the nineteenth century has been dealt with previously in this dissertation. Goodrich’s figures, cited in Chapter II,3 show the increasing importance of American written books in mid-century. However, these estimates have to do with all types of books, including textbooks and others which could not be called literature. Goodrich treated somewhat more specifically with literature in another estimate in which he claimed that in 1856 the popular reading of the masses was three-

1 Composed from figures given by Goodrich, op. cit., II, pp. 380-387.
2 Mott, Magazines, 1865-1885, op. cit., p. 16.
3 Above, p.18.
fourths American written, and that three fourths of the authors of new novels and romances published in America were Americans. However, though his figures have been accepted by modern authorities, they seem somewhat over optimistic.

A later set of figures, from another source, indicate either that Goodrich's trend towards the Americans slowed down or that he exaggerated.

<table>
<thead>
<tr>
<th>Year</th>
<th>Total number of new books published in England</th>
<th>Total number of books copyrighted in the United States</th>
</tr>
</thead>
<tbody>
<tr>
<td>1884</td>
<td>4307</td>
<td>9555</td>
</tr>
<tr>
<td>1885</td>
<td>3985</td>
<td>9986</td>
</tr>
</tbody>
</table>

These figures, again, include much that could not be classified as literature. The very prolific American textbook industry, for example, would account for some of the American advantage.

More significant, probably, is what Richard Henry Dana said in 1891, on the eve of the adoption of international copyright. In an editorial in the New York Sun of February 13, 1891, he said that half of the fiction read in the United States at that time was American written and the other half British, and that the production of domestic fiction went on at a rapid rate without the stimulus of international copyright.

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1. Ibid., p. 388.
4. This is taken from a speech by Senator Vance of North Carolina in Congress, Feb. 13, 1891. Congressional Record, 51st Congress, 2nd Session, Vol. XXII, Part III, p. 2615. The events after copyright was adopted seem to bear out Dana, in that International copyright brought no great change in the literary situation in this country. His estimate of U.S. vs. British fiction is fairly well confirmed by Table 3, p. 95.
Yet there were those who insisted that the conditions of American authors remained very poor right up to the adoption of international copyright. Sheehan, a modern authority, says that the British continued to dominate the American market to 1891. Kilgour, another modern, claims that in 1872 cheaper English books were driving American books off the market. He says that in 1865 importations from abroad amounted to $289,310. In 1871 they were slightly less than two million. In 1887, Henry Holt asked where were the successors to Irving and Hawthorne, Motley and Longfellow, Bryant and Emerson to be found? The lack of international copyright was keeping the young authors down. The sales of American authors had fallen off about two-thirds. A survey made by Charles H. Sergel in The Critic for August 27, 1887, adds to the gloom. Mr. Sergel surveyed the sales of a wholesale bookstore whose trade extended over the northern half of the Mississippi Valley. He compiled figures for the past five years, gave the most popular author a rating of 1000 and figured all the other sales on the basis of that. He did not include the cheap library sales. Only two categories of literature were listed.

1 Sheehan, op. cit., p. 99.
2 Kilgour, op. cit., p. 110.
3 Publisher's Weekly, XXXII, 23 (Dec. 3, 1887), p. 886.
4 Quoted by Publisher's Weekly, XXXII, 10 (Sept. 3, 1887), p. 251.
Dana Estes said in 1886:

For two years past, though I belong to a publishing house that emits nearly one million dollars worth of books per year, I have absolutely refused to entertain the idea of publishing an American manuscript. I have returned many scores, if not hundreds, of manuscripts of American authors, unopened even, simply from the fact that it is impossible to make the books of most American authors pay, unless they are first published and acquire some recognition through the columns of magazines. Were it not for that one saving opportunity of the great American magazines which are now the leading ones of the world and have an international reputation and circulation, American authorship would be at a still lower ebb than at present.

At about the same time Henry Holt told a Congressional Committee:

The effect of this state of affairs [the lack of international copyright] on the opportunities of American authors to get into print is very disastrous. I have unused manuscripts in my safe and have lately sent back manuscripts which ought to have been published, but I was afraid to undertake the publication; the market would not support them. I lately published, I think, the most important American work of fiction with a single exception that I ever published. The critics received it with praise. I had to write the author the other day that it had been a financial failure. She is a poor girl of great talent. Her old parents are living, and she has to support them and an old family servant.

This tear-jerker makes the situation about as dismal as it could be.

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From that it appears that American literature was fading and dying away in the period after the Civil War. But one should not accept the evidence of those who were working for international copyright without some questioning. In consideration of this seemingly sorry state of American literature in the '70's and '80's, it might be interesting to look through Mott's list of best and "better" sellers for those two decades in America, and determine what authors were doing well in this period, and when their first books were published, so that one may know who, if anyone, was getting his start during that time. Table 4, on the next page, gives that information.1

If this table proves nothing else, it does prove that American literature was not being driven out of existence in the 1870's and 1880's. It proves that there were, in fact, quite a number of young American writers getting their start in that era.

To complete the picture, it should be worth while to look at some of the individual successes of the time.

Among the novelists, two whose writings were outstandingly profitable were Mark Twain and William Dean Howells. The latter always sold well and his Modern Instance and Silas Lapham were both best sellers in the 1880's.2 Howells was said to receive $5000 for any serial printed in Century Magazine. So was Henry James.3 Mark Twain, with his fiction,
TABLE 3
BEST SELLERS AND "BETTER" SELLERS IN THE UNITED STATES DURING THE 1870's AND 1880's WITH THE DATE AT WHICH THE AMERICANS FIRST BROKE INTO PRINT.

<table>
<thead>
<tr>
<th>American</th>
<th>1867</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Bret Harte</td>
<td></td>
<td>E. Fitzgerald</td>
</tr>
<tr>
<td>L. M. Alcott</td>
<td>1863</td>
<td>C. Reade</td>
</tr>
<tr>
<td>E. Eggleston</td>
<td>1871</td>
<td>J. Verne</td>
</tr>
<tr>
<td>E. P. Roe</td>
<td>1872</td>
<td>R. D. Blackmore</td>
</tr>
<tr>
<td>J. Habberton</td>
<td>1876</td>
<td>J. R. Green</td>
</tr>
<tr>
<td>T. L. Haines</td>
<td></td>
<td>E. Zola</td>
</tr>
<tr>
<td>L. W. Yaggy</td>
<td></td>
<td>G. Flaubert</td>
</tr>
<tr>
<td>Mark Twain</td>
<td>1867</td>
<td>L. Halsey</td>
</tr>
<tr>
<td>A. K. Green</td>
<td></td>
<td>J. Spyri</td>
</tr>
<tr>
<td>Henry George</td>
<td>1871</td>
<td>R. L. Stevenson</td>
</tr>
<tr>
<td>J. C. Harris</td>
<td>1880</td>
<td>H. R. Haggard</td>
</tr>
<tr>
<td>M. Sidney</td>
<td>1881</td>
<td>L. Tolstoi</td>
</tr>
<tr>
<td>Lew Wallace</td>
<td>1873</td>
<td>M. Corelli</td>
</tr>
<tr>
<td>J. W. Riley</td>
<td>1883</td>
<td>H. Gaine</td>
</tr>
<tr>
<td>H. W. Smith</td>
<td></td>
<td>Mrs. H. Ward</td>
</tr>
<tr>
<td>F. H. Burnett</td>
<td>1872</td>
<td>G. de Maupassant</td>
</tr>
<tr>
<td>E. Bellamy</td>
<td>1880</td>
<td>B. Disraeli</td>
</tr>
<tr>
<td>A. C. Gunter</td>
<td>1872</td>
<td>W. Collins</td>
</tr>
<tr>
<td>H. Alger</td>
<td>1856</td>
<td>C. Dickens</td>
</tr>
<tr>
<td>J. T. Trowbridge</td>
<td>1853</td>
<td>S. Smiles</td>
</tr>
<tr>
<td>W. C. Bryant</td>
<td>1808</td>
<td>E. Jenkins</td>
</tr>
<tr>
<td>W. H. Seward</td>
<td></td>
<td>W. Black</td>
</tr>
<tr>
<td>Will Carlton</td>
<td>1871</td>
<td>J. Forster</td>
</tr>
<tr>
<td>J. G. Holland</td>
<td>1855</td>
<td>George Eliot</td>
</tr>
<tr>
<td>A. E. Young</td>
<td></td>
<td>F. G. P. Guizot</td>
</tr>
<tr>
<td>A. W. Tourgee</td>
<td>1879</td>
<td>Mrs. Hemans</td>
</tr>
<tr>
<td>S. P. Greene</td>
<td></td>
<td>A. Trollope</td>
</tr>
<tr>
<td>F. M. Crawford</td>
<td>1882</td>
<td>F. W. Farrar</td>
</tr>
<tr>
<td>W. D. Howells</td>
<td>1869</td>
<td>T. Hardy</td>
</tr>
<tr>
<td>E. W. Wilcox</td>
<td>1872</td>
<td>J. McCarthy</td>
</tr>
<tr>
<td>G. W. Peck</td>
<td>1871</td>
<td>H. M. Stanley</td>
</tr>
<tr>
<td>H. H. Jackson</td>
<td>1866</td>
<td>Ouida</td>
</tr>
<tr>
<td>J. Hay</td>
<td>1871</td>
<td>R. Broughton</td>
</tr>
<tr>
<td>J. Strong</td>
<td></td>
<td>H. Conway</td>
</tr>
<tr>
<td>A. E. Barr</td>
<td>1872</td>
<td>M. G. Tuttiet</td>
</tr>
<tr>
<td>Uriah Smith</td>
<td></td>
<td>R. Kipling</td>
</tr>
<tr>
<td>M. Holley</td>
<td>1873</td>
<td>E. Lyall</td>
</tr>
<tr>
<td>P. Cox</td>
<td>1874</td>
<td></td>
</tr>
<tr>
<td>M. Deland</td>
<td></td>
<td></td>
</tr>
<tr>
<td>A. Edes</td>
<td></td>
<td></td>
</tr>
<tr>
<td>C. Reid</td>
<td></td>
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</tr>
</tbody>
</table>
non-fiction, and very profitable lecturing, earned enough so that he was able to live very comfortably and still squander a fortune or two on his wild ideas. For a significant sample of his income, one might notice that, around 1887, he was receiving $5000 a year in royalties from Chatto and Windus, English publishers. Other samples of money earned by American novelists include $5000 to F. Marion Crawford for Mr. Isaacs; the $5000 Cable earned for each of his magazine serials; Mary Jane Holmes' $4,000 to $6000 each for serials in the New York Weekly; Henry Ward Beecher's $30,000 for Norwood, from Bonner of the New York Ledger; Frank Stockton's $5000 for a novel from the magazine Once a Week; the great success of Gunter's Mr. Barnes of New York. Edward Bellamy's Looking Backward, published in 1888, had sold 301,000 copies by January, 1890. Lew Wallace's Fair God sold 150,000 in his lifetime and his Ben-Hur sold 290,000 in its first eight years. Habberton's

1 Quoted from Pall Mall, Publisher's Weekly, XXXI, 14 (April 2, 1887), p. 492.
3 Mott, Magazines, 1865-1885, op. cit., p. 16.
4 Ibid.
5 Derby, op. cit., p. 203.
7 Mott, Multitudes, op. cit., p. 142.
8 Publisher's Weekly, XXXVII, 8 (Feb. 22, 90), p. 303.
9 Mott, Multitudes, op. cit., p. 173.
Helen's Babies, published by Peterson Brothers in 1875, had sold over 200,000 copies by 1887. Helen Hunt Jackson evidently found writing profitable. When she died in 1886 she left an estate of $12,642.51, apparently chiefly accumulated through her writings, and was still owed $2,119.75 in royalties.2

As for purveyors of trash -- one would have to go far and look long to find two more prosperous than Horatio Alger and Ned Buntline. The latter was receiving $20,000 a year for his serials from Street and Smith.3

Many of the children's books brought their authors a fine profit. Harris's Uncle Remus, Margaret Sidney's Five Little Peppers, Mrs. Burnett's Little Lord Fauntleroy were all spectacular successes.4 Louisa May Alcott earned something like $200,000 with her books.5 Harlan P. Halsey, who called himself "Sleuth," made about $15,000 per year with his boy's books.6

There were non-fiction writers who could write profitably, in the post-War period. Grant and Blaine cannot be counted among the professional writers, of course, and probably do not prove much toward

1 Publisher's Weekly, XXXI, 4 (Jan. 22, 1887), p. 83.
3 Mott, Magazines, 1865-1885, op. cit., p. 16.
5 Oberholtzer, op. cit., p. 213.
6 Publisher's Weekly, XXXVII, 24 (June 14, 1890), p. 798.
advancing the thesis now under consideration, though the former earned about $500,000 by his book, and the latter an estimated $131,250 by his. Henry Ward Beecher, who was a professional writer, among other things, received a first payment of $5000 from C. L. Webster & Company for his *Life of Christ.* Henry George’s *Progress and Poverty* was "a success from the start." American humorists did well. Carleton’s *Artemus Ward, His Book; Josh Billings’ Farmer’s Almanac* sold 130,000 copies "to the great profit of both author and publisher."

All of the above is designed to prove that Americans would sell well when they turned out something that the public liked.

Naturally, American authors hoped to get an income from their sales overseas as well as at home. During most of the nineteenth century it was possible for Americans to get copyright in England, if they went to the trouble to do so. Until 1842 British law required residence in England to get a book copyrighted. But it did not need to be more than a temporary residence. Noah Webster spoke of going to England to publish one of his books in 1813. (How he planned to do

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3 *Publisher’s Weekly*, XXXI, 14 (April 2, 1887), p. 191.
5 Both of these items from *Publisher’s Weekly*, XXIX, 20 (May 15, 1886), p. 62.
that with a war going on between England and the United States does not concern this paper.) In 1826 he tried to publish his dictionary in England. He hoped to import the English edition into this country and persuaded Daniel Webster to push a special act through Congress by which the dictionary would be allowed into the United States duty-free. The whole scheme failed, however, because no Englishman would publish it.\footnote{Spiller says that American literature really began when Irving had his \textit{Sketch Book} published in England in 1819 and thus received an income on it from both sides of the Atlantic.\footnote{Letter to Daniel Webster, Sept. 30, 1836. \textit{Ibid.}, pp. 117-118. Also Harry R. Warfel, \textit{Noah Webster, Schoolmaster to America}, p. 358.} While Cooper was in England he had his books published simultaneously in that country and in the United States.\footnote{Spiller, \textit{op. cit.}, p. 236.}

In 1842 England changed her copyright laws. There was much controversy as to what the new laws meant until they were somewhat clarified by two court decisions, one in the case of \textit{Jeffreys v. Boosey}, in 1854, and another in the case of \textit{Low v. Routledge}, in 1868. By this act and its interpretations residence was no longer a requirement for copyright. One could get a copyright merely by publishing in England first or simultaneously with publication elsewhere. Such copyright gave protection throughout the British Empire. A large number of Americans took advantage of this and published many of their books first in England. Among them were Holmes, Hawthorne, Mark Twain, Bret Harte, Henry James,
Longfellow, Lowell, Joaquin Miller, Melville, Harriet Beecher Stowe, and Whittier. 1 Louisa May Alcott resided in England for a while and had *Old-Fashioned Girl* and *Little Men* copyrighted there. 2 James Field took proof sheets of *Walden* to England in 1854, to get that book copyrighted there. 3

It was said that a writer could obtain copyright in England if he registered his book in the Libraire Nationale in Paris. This was possible because of the copyright agreements between England and France. 4 But it does not appear that many Americans bothered to do that. There were easier ways.

Many Americans obtained copyright in England and the Empire through Canada. Until 1875 British copyright law applied to Canada. A temporary residence in Canada would give one copyright there and in the entire Empire, including England itself. Eventually, however, the Canadians became tired of giving Americans copyright while America refused to reciprocate. Therefore, in 1875, the Canadians passed a law of their own which required that, to get copyright in Canada, one must be "domiciled" there. This confused Americans thoroughly, and


3 Tryon & Charvat, *Cost Books*, op. cit., p. 289. Fields wrote Thoreau, June 10, 1854, "In order to secure Copy (sic) in England, the book must be published there as soon as here, and at least 12 copies published and offered for sale."

they were some time in discovering that "domicile" meant a permanent residence there. In 1881 Mark Twain went to Montreal and stayed there for two weeks, hoping thus to get Canadian copyright and British at the same time for The Prince and the Pauper. To his chagrin and the surprise of many Americans (Publisher's Weekly, for example) he could not in that way get copyright in Canada. What he did get for his trouble was this: he had copyright throughout the British Empire and in England itself, but he did not have Canadian copyright. This is a little confusing, and it is no wonder that the great American humorist said that no one could understand the Canadian copyright laws. ¹ As a result of his action Mark Twain was protected against any Canadian reprint being made of his work. Yet it would have been possible for an American copyrighted work of his to be imported into Canada, if the 12½% duty were paid.² In fact, The Prince and the Pauper was reprinted in the western United States and imported into Canada.³

It was still convenient for an American to go to Canada to get copyright in England. Howells⁴, Henry Ward Beecher, Mrs. Stowe, and Frances Hodgson Burnett all did that.⁵

¹Ibid., XX, 27 (Dec. 31, 1881), p. 885.
³Ibid., XXIII, 11 (Feb. 17, 1883), p. 316.
⁴Howells, op. cit., letter to his father, May 11, 1879, p. 268.
⁵Publisher's Weekly, XXIII, 11 (Feb. 17, 1883), p. 316.
CHAPTER V

THE FIGHT FOR INTERNATIONAL COPYRIGHT TO 1865

The fight for international copyright started in 1837. From that time until the Civil War it was weak and unpromising, carried on sporadically in Congress and the State Department by authors and some publishers. One politician, Henry Clay, showed real enthusiasm for it over a period of about five years. But he had many other things on his mind and, after 1842, seems to have lost interest. His published correspondence mentions it only once, and his biographers do not mention it at all. Charles Dickens succeeded in stirring up some excitement over the cause. But his visit in 1842, and its unpleasant aftermath (Martin Chuzzlewit and American Notes), probably aroused as much antagonism as support. The authors of the day pretty unanimously endorsed it. But they were handicapped by their traditions and the circumstances, and were unable to carry on the sort of fight needed. Among the publishers, only George P. Putnam seemed to be really ardent for international copyright. Most publishers did not want it. The politicians were absorbed in the sectional contest. They had no time to spare for questions like copyright.

Before 1837 there seems to have been no real demand at all for international copyright. One reason for this, obviously, is that there was very little American literature to protect before that time. Noah Webster, who worked so hard for domestic copyright, showed no signs of ever having given a thought to international copyright. Neither Irving
nor Cooper seem to have worried about it before 1837. As for others who might have acted on it, the nation's publishers -- what there were of them before 1837 -- were growing big on the profits of cheap, reprinted British books, and had no thoughts to spare for international copyright; the reading public was happy to have the cheap reprints; the politicians had no incentive to do anything.

"The earliest advocacy in international copyright that I have met with is by John Neal in The Yankee in 1828," said Samuel G. Goodrich. But Neal got nowhere with his advocacy, as far as is known. Nahum Capen, of the publishing firm of Marsh, Capen, and Lyon, did better. In 1836 he wrote to Daniel Webster and Henry Clay in favor of international copyright laws, and perhaps he should be given some of the credit for the first action on it.

In that same year, Miss Harriet Martineau, already a well-known English writer, was visiting the United States and preparing to write a book on her travels. One of the sights to see in America in those days was Henry Clay. Miss Martineau saw him and evidently spoke earnestly to him on the need of an international copyright law. It may be that Clay promised her that he would try to do something about it.

In January, 1837, Miss Martineau joined with Thomas Carlyle, Thomas Moore, and fifty-four other British authors, including Robert

Southey, Maria Edgeworth, Henry Hallam, William and Mary Howitt, and J. P. R. James to petition the American Congress for the passage of an international copyright law. The petition mentioned the injustice of American treatment of British authors and expressed the idea that both American authors and the American public suffered.\(^1\)

It seems likely that this memorial, together with the personal plea of Miss Martineau and the letter of Nahum Capen, inspired Clay to act. On February 2, 1837, Henry Clay stood up in the Senate and began the long fight for international copyright.

*Gales and Seaton's Register of Debates* describes the beginning:

Mr. Clay said that he begged leave to present to the Senate a memoir or address from certain living authors of Great Britain. Among the subscribers to it would be recognized some of the most distinguished names in the literary world -- names (he said) with which we have been long familiar, and whose admirable productions have often instructed and delighted us all. They represent that, owing to the want of legal protection in the United States, they are deprived of the benefit here of their literary property; that their works are published without any compensation being made to them for their copyrights; that they are frequently altered and mutilated, so as to effect injuriously their reputations; and that an arrangement which they, or some of them, had made with booksellers in the United States, to secure a fair and just remuneration for their labors, had been defeated by the practice of other booksellers. They therefore request the passage of a law, by which their right of property will be protected.

I am quite sure, Mr. President, (continued Mr. Clay) that I need not say one word to commend this address to the attentive and friendly consideration of the Senate, and every member of it. Of all classes of our fellow-beings, there is none that has a better right than that of authors and inventors, to the kindness, the sympathy, and the protection of the Government. And surely nothing can be more reasonable than that they should be allowed to enjoy, without interruption, for a limited time, the property created by their genius. Unfortunately, but too often dependent upon that alone, if they are deprived of it, they are bereft of

the means of subsistence. The signers of this address may, with more confidence, indulge the hope of the passage of the law which they solicit, from the consideration that, according to the liberality of the British practice, the security of copyright is not restricted to British subjects, but is equally enjoyed by foreigners. And I understand that there are instances of American authors who have availed themselves of it.

Mr. President, when we reflect what important parts of the great republic of letters the United States and Britain are, and consider their common origin, common language, and similarity of institutions, and of habits of reading, there seems to me to be every motive for reciprocating between the two countries the security of copyrights. Indeed, I do not see any ground of just objection, either in the constitution or in sound policy, to the passage of a law tendering to all foreign nations reciprocal security for literary property.

After Clay was finished, Senator Preston spoke briefly. He said that it was in the interest of American publishers to "seize upon foreign works without price, and republish them." He continued:

The consequence was, that the labor of foreign authors was converted to the use of publishers here, who often sent into the market a most despicable article in point of execution, entirely unworthy of the state of the arts in this country. Publishers, therefore, had arrayed themselves against the object of this memorial; and the subject thereof resolved itself into a complicated question of free trade and protection of the mechanical arts, with which is numbered the art of printing. On this subject Mr. P. was not prepared to decide. They had two authors to our one, and were, therefore, more interested in the protection of mental labor; while we published three or four books to their one, and were, therefore, more interested in protecting publishers....

Senators Calhoun and Grundy then made a few remarks recommending that the memorial be sent to a select committee, rather than to one of the regular committees of the Senate. Then Buchanan of Pennsylvania spoke:

Mr. Buchanan said that when this question came to be considered it would be a vexed and difficult question. He would not discuss it now, but he saw an interest involved far beyond that of publishers, to whose interest he would pay a smaller regard; and that was the interest of the reading people
of the United States. Cheap editions of foreign works were now published and sent all over the country so as to be within the reach of every individual; and the effect of granting copyrights asked for by this memorial would be, that the authors who were anxious to have their works appear in a more expensive form would prevent the issuing of these cheap editions; so that the amount of republications of British works in this country, he thought, would be at once reduced to one half. But to live in fame was as great a stimulus to authors as pecuniary gain; and the question ought to be considered whether they would not lose as much of fame by the measure asked for, as they would gain in money. It was especially well worthy of the committee to go beyond publishers, and ascertain what would be the effect on the acquisition of knowledge in this vast country.1

This is a significant debate because it began the more than fifty years of argument over the copyright issue. It is also significant for the arguments given. Neither proponents or opponents improved very much on those given in this first debate. Buchanan was the first of the Pennsylvania opponents of international copyright. He remained an opponent of it through his career in the Senate. He hit upon, in his first effort, the chief and best argument of the anti-copyright people. Preston's argument helps one understand why the copyright fight was unsuccessful in the years before the Civil War.

The Select Committee to which the memorial of the British authors was sent, was made up of Clay, Preston, Buchanan, Webster, and Ewing.2 On the 16th, Clay reported for the committee and accompanied his report with a bill.

Senator Clay's efforts for copyright evidently greatly encouraged Miss Martineau. She wrote him from England in May, 1837.

2Putnam, Copyright, op. cit., p. 40.
It gives me great pleasure to acknowledge on behalf of many authors, besides myself, your exertions on the copyright business. I thought that I was sure, both of what your convictions and efforts would be; and I rejoice that my confidence has been justified. We are exceedingly pleased with your Report, and have strong hope that our object may be attained next session. The American newspapers seem to show a more and more favorable disposition toward our claim, and some solid proofs have reached the hands of one, at least, of our authors (Professor Lyell) of the feeling which honorable American publishers entertain of the injury we suffer. Several hundred copies of Lyell’s fifth edition of his Geology, in four volumes, have been ordered from England by booksellers in Boston, New York and Philadelphia, and the money in full transmitted with the order. A highly creditable proceeding....

The Clay Bill was turned over to the Patent Committee, which made an adverse report on June 25, 1838. Five times between 1837 and 1842, Clay submitted his bill. This bill, among other things, called for the manufacture of all American copyrighted books in America, a provision that was a controversial feature of later bills.

Clay must be given credit for having made a really good try. But the time was not yet ripe. Tremendous changes had to come before such a bill could be passed.

During Clay’s attempts, petitions and memorials from all over the nation flooded Congress. Philadelphia publishers, typographical organizations of Washington and New York, booksellers of Boston, and publishers of Hartford all opposed the measure. Washington Irving, Edward Everett, Rufus Choate, John Quincy Adams, William Cullen Bryant, and publishers like W. H. Appleton and George P. Putnam publicly favored the bill.

3. See Appendix, p.195 for a more complete list.
In 1842, the British Prime Minister, Lord Palmerston, suggested that the United States and Great Britain enter into a copyright agreement. However, nothing came of this. But the Representatives took no action on it and the treaty died.

The fight for international copyright received some encouragement from the visit of Charles Dickens to this country in the first half of 1842. Dickens went all over the nation and received a good many free meals. The adulation of him was at times embarrassing, both to him and to level-headed Americans. But he did not get the copyright that he came after and he made himself very unhappy and rather bitter because of the opposition that he ran into.

According to Dickens, he had to contend with hatred, fear, and much unreasonableness. He did not carry away a high opinion of the Americans. He had the idea that, though many Americans wanted international copyright, they did not dare fight for it.

Washington Irving, Prescott, Hoffman, Bryant, Halleck, Dana, Washington Alston -- every man who writes in this country is devoted to the question, and not one of them dares to raise his voice and complain of the atrocious state of the law.2

The Englishman was urged not to pursue the subject of international copyright any further during his visit. He wrote, "I believe that there is no country, on the face of the earth, where

1. Bowker, op. cit., p. 346. Bowker said that this treaty was brought before the House of Representatives on April 12, and discussed, but rejected. The Congressional Globe has no record of this treaty either in House or Senate.

there is less freedom of opinion on any subject in reference to which there is a broad difference of opinion than this..."  

Before a great Dickens dinner in New York in February, the committee for the dinner tried to persuade Dickens to leave the "hornet's nest of copyright" alone at the dinner — "not to pursue the subject, although they said everyone agrees with me," but Dickens refused. He expressed his determination to go into it. The committee then resolved to support him. Irving would toast international copyright and Cornelius Mathews would reply in a speech defending it.

Mathews in his speech argued primarily for the welfare of American literature and American authors. That the profit on pirated books was stolen was too miserably obvious to need demonstration. But what was the effect on native letters, he asked, when unscrupulous publishers could snatch the writings of Ainsworth, Bulwer, Lever, and Dickens without payment of a single penny? What hope was there for the young native writer? The 'enormous fraud practiced upon their British brethren' was also a blight upon a national literature... Statesmen would be willing to devise provisions to give both British and American authors their just due...

Most of the New York newspapers ignored this speech, which further infuriated Dickens. Some of the newspapers "asserted that he was no gentleman, that he was a mercenary scoundrel, that he was abusing the hospitality of the United States...."

2. Ibid.
3. Ibid., p. 386.
4. Ibid., p. 389.
5. Dickens to Forster & Chapman, February 24, 1842, Ibid.
There were a number of Americans who were not at all favorably impressed by Dickens. Goodrich said that Dickens brought with him letters and petitions from eminent British authors,

some of them couched in offensive terms, and demanding copyright on the principle of absolute justice. In order to carry the point at a blow, the whole British press burst upon us with the cry of thief, robber, pirate, because we did precisely what was then and had been done everywhere -- we printed books not protected by copyright.1

George William Curtis was equally critical.

If Mr. Dickens, instead of dining at other people's expense and making speeches of his own, when he came to see us, had devoted an evening or two in the week to lecturing, his purse would have been fuller, his feelings sweeter, and his fame fairer. It was a Quixotic crusade, that of the copyright, and the excellent Don has never forgiven the windmill that broke his spear.2

Throughout the remainder of the 1840s there were memorials and petitions to Congress and the founding of the American Copyright Club,3 but no action by Congress.

Nevertheless, the movement was not dead. In 1843 a petition arrived in Congress from ninety-seven publishers, printers, and binders, headed by George P. Putnam, asking for international copyright legislation. This used arguments and language typical of most of those asking for legislation. It said in part:

Your memorialists, deeply interested, not only as booksellers in particular, but also as American citizens in general, in the greatest possible diffusion of knowledge and sound literature, are fully convinced by their experience as traders in books, that the present law regulating literary property is

3. See Appendix, p. 195 and 198.
seriously injurious both to the advance of American literature and to that very extensive branch of American industry which comprehends the whole mechanical department of bookmaking. It is alike injurious to the business of publishing, and to the best and truest interests of the people at large. Your memorialists, after a careful and mature consideration of the important subject, are fully satisfied that the great interests of knowledge, of the industry, of those who provide the community itself, would be most essentially promoted by the passing of a law which would secure to the authors of all nations the sole right to dispose of their compositions for publication in the United States (whether they may be published in foreign countries or not); provided, always, the book be printed in the United States within a certain time (to be settled by law) after its publication in a foreign country; and provided, also, that the copyright for this country shall be transferable from the author to American resident publishers only. 

At the same time a counter petition arrived from Philadelphia, the center of opposition to international copyright. This very likely contained such words as those in a petition presented on March 19, 1838:

Senator Buchanan of Pennsylvania presented a petition of Horace Binney and sundry other citizens of Philadelphia, in which they state that a large amount of property is invested in the bookselling business, and asking for an investigation for the purpose of convincing Congress that great injury would result from the passage of the international copyright bill.

Or it might say that

International copyright would be productive of the most deleterious consequences to a very important branch of the national industry -- bookmaking establishments. Unemployment would result. The price of books would go up.

Some of these anti-copyright petitions said that international copyrights would transfer the book manufacturing industry to England.

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1. Solberg, Copyright in Congress, op. cit., p. 11. For the signatures on this petition see Appendix I, p. 197.
4. Same petition as above. This part of it is not given in the Globe. It appears in Solberg, Copyright in Congress, op. cit., p. 6.
Others said that it would be hostile to the general diffusion of knowledge.

In 1848, George P. Putnam, John Jay, W. C. Bryant, and others sent in another pro-copyright memorial. Its main points were that the want of international copyright produced

1. Injury to American authors, in regard to sale of their books at home and abroad.
2. Injuries to American publishers and artisans connected with the book trade, by rendering the business speculative and unsafe.
3. A disadvantageous situation for the reading public and the nation at large.

In the 1850's the stream of memorials to Congress flowed on. It is interesting to note that among them was one from the American Medical Association, favoring copyright. In 1852 there was a petition from Washington Irving and James Fenimore Cooper, among others. With Congress absorbed in the slavery issue, it is not strange that these memorials were given short shrift. It is probably safe to say that in those days the sentiment for international copyright was pretty well confined to the Northeast. The South would do nothing that men like Whittier, Sumner, Greeley, John Quincy Adams, and Emerson wanted. The West was not yet very literary minded; and where it was, it wanted cheap English literature for its people.

1. Petition brought in by Representative Calhoun of Massachusetts, June 4, 1838. Ibid.
2. Ibid., p. 12.
3. See Appendix, p. 199.
In the early 1850's there was talk of making a treaty with England for international copyright, thus by-passing the House of Representatives. President Fillmore, in 1852, wrote to the Harpers, asking them for their views on such a treaty. The Harpers replied without enthusiasm. They said that they would

abstain from taking any steps to influence the action of our government in regard to it. Feeling entirely confident, that, under your administration, nothing of such marked and far-reaching consequence to the best interests of the country will be done without the most full and impartial inquiry into its direct and remote results upon all the parties to be affected by it, we are quite content to submit our own interests and opinions to whatever action the good of the country may induce you to take.¹

Nevertheless, early in 1853, Edward Everett, one of the staunchest supporters of copyright through the years, and Secretary of State under Fillmore, took steps to prepare the way for a treaty. He called upon certain publishers to submit to him what they deemed to be the necessary requirements for a treaty. Five publishers made recommendations. They were Appleton, Putnam, Scribner, Carter & Brothers, and Stafford and Swords. In the meantime, a new copyright League had been formed, with George P. Putnam as Secretary. This organization sent a letter to Everett, urging the treaty. Among the signers were Charles Scribner, D. Appleton & Company, Mason Brothers, and C. S. Francis.

A treaty was drawn up by Everett, with the help of Senator Sumner, Chairman of the Committee on Foreign Relations. The treaty was

² Solberg, International Copyright in Congress, op. cit. p. 4.
³ Putnam, Memorial, op. cit., p. 168.
⁴ Putnam, Copyright, op. cit., p. 42.
signed at Washington by Everett and John Fiennes Crampton, British minister to the United States. The President laid it before the Senate in a message on February 18, 1853. There it was tabled. About a year later, on February 24, 1854, President Pierce transmitted the signed treaty to the Senate for ratification. Senator Sumner had it referred to his committee. A number of petitions now hit Congress. Senator Seward, of New York, brought one in from his state against ratification, and Senator Chase of Ohio submitted the petition of "R. M. Brown and others", also against. The treaty died in committee, because, said George Haven Putnam, American printers were insisting that foreign books copyrighted in this country must also be manufactured here.

It appears that it was not only the printers who were against it. In February, 1854, Cyrus W. Field & Company, paper wholesalers of New York, sent Harper's a petition against international copyright. Field and Company spoke, in the letter accompanying the petition, of a separate bookseller's petition that was then circulating. The Company said that it was also stirring up the bookbinders and printers of its area. The petition that they had sent to the Harpers had been signed by, among others, a number of paper houses.

After this, the Cause seems to have pretty well died. There were still too many Americans against it. Bohn, the English publisher, said in 1851 that he had been informed by American publishers, whom he did

1. Ibid.
not name, that there was no chance of obtaining an international copy-
right act at that time.

There was no further action of any importance until January 18,
1858. On that date, Congressman E. J. Morris of Pennsylvania introduced
a new copyright bill. It received two readings and disappeared into the
Library Committee from which it never emerged. In February 1860, the
same man brought in another bill which met the same fate, this time in
the Committee on Foreign Relations.

During the War there were few thoughts left for international
copyright. Yet it proved to be a weapon of war. In 1861, the Confed-
erate government put through an international copyright law. It helped
to keep the English friendly.

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1. Bohn, op. cit., p. iii.
CHAPTER VI

THE PROONENTS OF INTERNATIONAL COPYRIGHT

One cannot go further into the copyright struggle without a pause to examine the two sides of the controversy. It is essential to discover who the antagonists were, geographically, politically, socially, economically, and ideologically; and what sort of arguments they used and the type of action they took to achieve their objectives.

The next chapter will discuss the opponents. This one deals with the proponents.

It will be discovered that those who fought for international copyright were chiefly from the Northeast; most of them, but by no means all, were Republicans (or, earlier, Whigs); they were backed by the "best people"; and they were conservatives.

The struggle was weak and ineffective until it was taken over by young men who were professional writers, as distinguished from the gentleman writers who led the fight before the War. It moved ahead with the founding of organizations, like the American Copyright League, that knew how to use the numerous weapons available.

Before the story of the organizations and their methods is told, it is necessary to look at the individuals who made the fight.

The earliest and most ardent supporters of international copyright came from New York City, and that place, with the enthusiastic backing of Boston, led the battle all the way. New York and Boston
bombarded Congress with memorials and petitions. The earliest of these, which Henry Clay presented to Congress on February 20, 1837, contained 154 names, most of them from New York. Dickens' visit in 1842 had its greatest effect in New York and Boston. The first copyright organization, the American Copyright Club, had its origin in New York; its officers were exclusively New Yorkers; and its membership was mostly from Boston and New York. The most effective later organizations were those of the same two cities. The earliest big publishers to advocate international copyright were Putnam and Appleton, both of New York, Ticknor of Boston, and Lippincott of Philadelphia.

In general, it was the Northeast that supported copyright. That fact will become more evident as this chapter goes on. However, the Northeast was not unanimous in its support. Philadelphia, in spite of Lippincott, was a very important center of opposition.

Socially and economically the supporters of international copyright were of the upper half of the nation. Many professional men backed it, and one finds the names of doctors, lawyers, clergymen, professors, and editors on the memorials that came into Congress, and in the membership lists of the copyright organizations. The partial list of members of the American Copyright League, in 1884, has on it a large number of professors, representing Columbia, Harvard, Yale, West Point, Williams, Johns Hopkins, Stevens Institute, University of Mississippi, University of Virginia,

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1 This memorial was read by Senator Chace in a speech to the Senate, April 23, 1888. Congressional Record, 51st Congress, 1st Session, Vol. XIX, Part IV, p. 3240.

2 See Appendix I, p. 199.

3 See memorial of 1843, Appendix I, p. 197.
Vassar, Rutgers, Cornell, Beloit, and Vanderbilt. 1 Early editors whose names show up on the side of copyright were Thurlow Weed, Francis Preston Blair, William Cullen Bryant, and Parke Godwin. Later, such editors as R. W. Gilder, R. U. Johnson, and R. R. Bowker were leaders in the struggle.


Even business men backed copyright. It is a little surprising to find, on an early petition to Congress from Boston, the names of such men as William Almy, S. A. Appleton, Amos Lawrence, and J. S. Wright, all of them involved in cotton manufacture. 3

It is to be expected, of course, that from the beginning the authors of the nation would practically unanimously favor international copyright. They were the ones who expected to benefit most directly from it. From John Neal and Cooper and Irving on, they gave it their ardent backing.

The publishers make a somewhat different story. Many of them, fattening on the profits from cheap pirated English books, were slow

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2 Putnam, Question of Copyright, op. cit., p. 57.
3 See Appendix I, p. 196.
to get behind the movement. However, by 1870, most of the respectable publishers favored it. Notable exceptions were the Carey clan of Philadelphia -- Henry C. Lea, Henry C. Carey, and Henry Carey Baird -- the Harpers in New York, and Dana Estes in Boston. After 1870 the Harpers began slowly to change their minds, and, in 1878, definitely came out for copyright. Dana Estes saw the light about a year later when piratical American publishers stole his very profitable monopoly in the United States of reprinting the British children's magazine, Chatterbox.\(^1\) After this he became one of the most valuable copyright leaders. Lea began to work for copyright in the early '80s, and Carey ceased to be in the opposition when he died in 1879. Baird, however, remained a menace to the movement to the very end.\(^2\) The cheap book imbroglio of the 1880s brought practically all the publishers, even those like George Munro and John Lovell, to see the wisdom of international copyright.

In 1884, Publisher's Weekly took a survey of publishers on the copyright question. To its questionnaire it received fifty-five answers. Only three opposed international copyright. Thirty-one were for the current copyright measure in Congress, the Dorsheimer Bill. Nine were definitely against that particular bill.\(^3\) Since that was one of the more controversial of copyright bills, it is not strange that several, who favored the issue were against the bill. However, it might be pointed out

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\(^1\) Raymond L. Kilgour, *Estes and Lauriat*, pp. 188-201, passim.


\(^3\) *Publisher's Weekly*, XXV, 13 (March 29, 1884), p. 378.
that, during this contest for copyright, there were a number of people who always professed to favor it but who, somehow, never could be satisfied with any action that promised to obtain it.

In 1890, when the opposition was badly broken down, Simonds listed the proponents of copyright as being President Harrison, ex-President Cleveland, leading American authors, American musical composers, sixty colleges, leading educators, two hundred leading librarians, American newspaper publishers, printers, The Electric Club of New York, Cardinal Gibbons, and American magazines, as well as 281 leading newspapers. At about the same time, the Department of Superintendent of the National Educational Association came out in a resolution for international copyright.

Perhaps it is the politicians who give the best indication of all as to who was for and who was against this measure. Before the Civil War the most prominent proponents were Clay, a Whig, whose "American System" favored the business interests; Webster, of Massachusetts, another Whig and supporter of big business; Fish of New York, Whig and later Republican, and a wealthy aristocrat; John Quincy Adams, and Charles Sumner, of Massachusetts, both men of culture and literary interests, and Gentlemen in the nineteenth century sense.

1 In March, 1890, over 200 librarians signed an appeal to Congress, prepared by the American Copyright League, for copyright. Publisher's Weekly, XXXVII, 13 (March 29, 1890).
2 Simonds, op. cit., p. 7.
3 Publisher's Weekly, XXXVII, 8 (February 22, 1890), p. 300.
After the Civil War the leaders for copyright in Congress were such men as George E. Adams, Representative from Illinois, who was brought into the fight by General McClurg and the plutocratic Chicago League for copyright; and Senator Aldrich of Rhode Island, who, in plutocracy, needed give way to no man. He was an arch-protectionist Republican. Two others were J. D. Baldwin of Massachusetts, Republican editor and author, and a member of the Library Committee (a Joint Committee); and Jonathan Chace, a high protectionist Rhode Island cotton manufacturer — Republican, of course. Then there was William M. Evarts, a very successful and prosperous New York lawyer, a Republican Senator; George F. Hoar of Massachusetts, a Republican with literary interests, involved in many gentlemanly good causes of his day; Senator Hawley of Connecticut, a Republican editor and a protectionist; Lodge of Massachusetts, ever-faithful Republican, representative always of the business interests, and a writer; Orville Platt of Connecticut, a stand-patter Republican, a writer of sorts, high protectionist, and Chairman of the Senate Patent Committee; Simonds of the same state and party, and member of the House Patent Committee; and Wolcott of Colorado, Massachusetts born and Harvard bred, a right-wing Republican. Another was Benjamin Butterworth of Ohio, Chairman of the House Patent Committee, and pretty much an independent in his political views, though theoretically a Republican.

Joined with these in the good cause was a motley group of Democrats: W. C. Breckinridge of Kentucky, an editor and a low-tariff man; Patrick Collins of Massachusetts, a Cleveland supporter and a former labor union man; S. S. Cox of New York, another Cleveland man, and a writer; W. E.
Dorsheimer of New York, one-time Tammany man, but a Cleveland backer, and a writer and editor; and McAdoo of New Jersey a conservative Representative.¹

That list tells one a number of things about the proponents of copyright. One of the most interesting things that it tells is that the copyright movement was not a liberal cause at all. One might have expected that it would be. But the liberal element of the period did not favor international copyright. It was rock-ribbed conservatives who put it over.

Those, then, are the individual proponents. But more important than individuals in the fight for international copyright were the organizations. Beginning with the formation of the American Copyright Club, in 1843, there was a succession of organizations created to forward the cause. The American Copyright Club was headed by William Cullen Bryant, and had about two hundred members in all, most of them authors and editors.² In 1855, the New York Publisher's Association, or American Book Publisher's Association, as it was often called, was founded. William H. Appleton was its most important President. It faded out in the early days of the Civil War,³ without any conspicuous accomplishments. On April 9, 1868, the American Copyright Association was formed, with W. C. Bryant as President, George William Curtis, Vice...

¹Most of the personal data on the members of Congress comes from the Dictionary of American Biography.
²See Appendix, p. 199.
³Putnam, Memorial, op. cit., p. 168.
President, E. C. Stedman and George P. Putnam, Secretaries.\(^1\) This did not achieve much and it was replaced in 1883 by the American Copyright League, which saw the fight through to the end.

The American Copyright League was the most effective of all the copyright organizations. After a poor beginning, it developed into a professional, imaginative, and hard-fighting lobby and publicity bureau for the cause. It requires more attention than the earlier Clubs and Associations.

Its founders were George Parsons Lathrop, Brander Matthews, Edward Eggleston, R. W. Gilder, E. L. Youmans, Henry James, Jr., George W. Cable, Laurence Hutton, and H. C. Bunner. None of these, one might notice, are considered today to be top-flight writers, except James. James quickly withdrew from the League when he discovered that it would concern itself only with the grievances of American authors. He believed that the only wrongs that really needed redressing were those of the British authors.\(^2\) He was not very seriously missed. One of the chief reasons for the futility of the previous copyright organizations had been that there were too many men like James in their top positions. The American Copyright League became known, for obvious reasons, as the Author’s League.

In January, 1884, the League sent a letter to Secretary of State

\(^1\)Ibid., p. 168.

\(^2\)Information on the founding of the League comes from G. P. Lathrop’s report as quoted in Publisher’s Weekly, XXXIII, 3 (Jan. 28, 1888), p. 59.
Frelinghuysen, asking for a copyright treaty with England.\(^1\) However, nothing came of this.

The League spent \(\$660.15\) between March 30, 1883, and January 1, 1885 -- not a magnificent sum, but perhaps sufficient at the time.\(^2\)

In 1885 the League had about seven hundred members.\(^3\) Its president was James Russell Lowell, with Stedman vice president, Lathrop secretary, and R. U. Johnson treasurer.\(^4\)

In April of that year it held the first of its Author's Readings. These were public affairs, designed to arouse interest in copyright and to raise money to advance the good cause. The authors gave readings from their own works. Perhaps the idea had come from Dickens, who had given such readings very successfully during his tour of the United States in 1867. In the first of the League's events there were readings by George W. Curtis, Julian Hawthorne, Will Carleton, W. D. Howells, R. H. Stoddard, H. H. Boyesen, H. C. Bunner and F. Hopkinson Smith.\(^5\)

The League backed the Dorsheimer Bill in 1884.\(^6\) But there was some trouble over this. Many League members did not like the manufacturing clause in the bill. This stated that all books copyrighted in

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\(^1\)For more information on this, see below, p. 168.

\(^2\)To the Members of the American Copyright League, Anon. p. 3.

\(^3\)Publisher's Weekly, XXVIII, 20 (Nov. 14, 1885), p. 668.

\(^4\)Ibid., XXVII, 15 (April 11, 1885), p. 450.

\(^5\)Ibid., XXXIII, 3 (Jan. 28, 1888), p. 60.

\(^6\)For the provisions of this bill, see below, p. 169f.
America must be manufactured in America, and was put in to appease the trades which had to do with book manufacture. Lathrop was angered by the opposition to this clause and objected that some members regarded the copyright question as purely a moral question and would make no compromise when compromise was essential to get any form of copyright. Because of this Lathrop resigned as secretary.¹

Publisher's Weekly, strongly pro-copyright, was criticising the League in the middle of 1885. The Weekly said that the League's Council had planned inadequately for its work; that the League had lost by resignation several of its leading members. "In some respects it hindered rather than helped the cause it had at heart."² Later, the Commercial Advertiser objected that the League had never held a convention; that a small group took its business upon themselves and defended their actions solely on the grounds of abstract rights and eternal justice, which was completely impractical.³

In November, 1885, the American Copyright League held its first formal meeting. It then drew up the following constitution:

CONSTITUTION OF THE AMERICAN COPYRIGHT LEAGUE

Article I: This Association shall be called "The American Copyright League".

Article II: The object of the American Copyright League shall be to procure the abolition, so far as possible, of all discrimination between the American and the foreign author, and to obtain reforms of American copyright law.

Article III: Any persons may become a member, if approved by

¹Publisher's Weekly, XXXIII, 3 (Jan. 28, 1888), p. 59.
²Ibid., XXVIII, 1 (July 4, 1885), p. 16.
³Quoted by Publisher's Weekly, XXVIII, 20 (Nov. 14, 1885), p. 670.
the Council, by signing the constitution and paying two dollars a year.

Article IV: There shall be an annual meeting of the American Copyright League in the first week of November, at a time and place to be designated by the Council, to hear reports, to elect a Council for the ensuing year, and for the transaction of other business.

Article V: The government of the League shall be vested in a Council of thirty members, which shall have power (1) to select from its own number an Executive Council of five members, (2) to fill vacancies, (3) to elect its own officers, who shall be the officers of the League, (4) to make expenditures for the objects of the League, (5) to call meetings.

Article VI: This constitution may be amended by a two-thirds vote of those present at a meeting of the League, to be called on the request of any five members of the League, or at any annual meeting. But no amendment shall be made, except upon one month's written or printed notice sent to every member of the League. Such notice to be accompanied by a copy of the proposed amendment.¹

The League supported the Hawley Bill,² and though the bill had no chance of passing in the form approved by the League, most of the League members refused to consider any compromise on it. Publisher's Weekly was rather bitter about this. "The Copyright League was organized for the promotion of international copyright. But for its existence, it is not improbable that some kind of copyright act would by this time have been procured." But they would not compromise, though Lowell and Clemens would. The attitude of those two "awakened the hope that the League might be induced to take hold of the question in a practical way and help in getting what could be got."³ Unfortunately, this was a vain hope, and, in November, 1887, the Weekly said that the League was not effective because,

¹Publisher's Weekly, XXXIII, 3 (Jan. 28, 1888), p. 61.
²See below, p. 172ff for the provisions of this act.
³Ibid., XXXI, 9 (Feb. 26, 1887) p. 312.
those in control of the organization, several of whom had no direct or personal interest in copyrights, or knowledge of the practical difficulties and conditions of the reform, failed to see the absolute necessity of attempting to unite all the forces in favor of some compromise plan.¹

The compromise that the Weekly had in mind was one that would get the support of the Typographer's Unions and other organizations involved in the manufacture of books, as well as the politicians influenced by these organizations. Later the League took a more realistic attitude, and, in 1887, voted to give its Council and Executive Committee greater latitude and discretion in backing bills in Congress. This meant that they would compromise.²

In 1888 the League made itself more effective by giving Eggleston the job of conferring with the typographical unions and with the powerful Henry C. Lea. Col. Knox and R. U. Johnson were assigned to work on Congress and on editors and newspapermen throughout the country, and R. R. Bowker was to be the League's contact with the publishers.³

On November 28, 1887, the League put on another of its Author's Readings, at Chickering Hall, in New York. The program:⁴

Introduction of the Chairman

By the Right Reverend H. C. Potter, Bishop of New York

Address by the Chairman

James Russell Lowell

The Fatal Anecdote

Mark Twain

¹Ibid., XXXII, 23 (Dec. 3, 1887) p. 883.
²Ibid., XXXIV, 22 (Dec. 1, 1888) p. 882.
³Ibid.
⁴Robert Underwood Johnson, Remembered Yesterdays, p. 262.
A Prophetic Retrospect

The Heart of Love Lies Bleeding, and
The Follower.

Selection from The Zadoc Pine Labor Union

Scene from Au Large

When the Frost is on the Pumpkin, and
The Educator

On November 29 there was another such reading, in which the audience heard from Lowell, Richard Malcolm Johnston, Charles Dudley Warner, Thomas Nelson Page, Howells, Frank R. Stockton, George William Curtis, and James Whitcomb Riley.¹

These two meetings netted the League more than $4,000.²

On March 7, 1889, there was a similar reading at the Museum in Boston. Everybody who was anybody in Boston attended. The participants were O. W. Holmes, Mark Twain, Charles Dudley Warner, Mrs. Julia Ward Howe, R. M. Johnston, Francis Hopkinson Smith, John Boyle O'Reilly, George W. Cable, and Thomas W. Higginson. The estimated profit on this was $2,000.³

There was also a Reading in Washington. President Cleveland attended it and gave a reception afterwards.⁴ This brought the League $667.73.⁵

¹Ibid.
²Ibid., p. 263.
³Publisher's Weekly, XXXV, 11, (March 16, 1889) p. 407.
⁵Publisher's Weekly, XXXIV, 22 (Dec. 1, 1888) p. 884.
A Reading in Brooklyn at the Academy of Music brought in more money. The Honorable Seth Low presided and Eggleston, Gilder, E. L. Bynner, Robert Grant, W. H. Gibson, Francis Hopkinson Smith and Theodore Roosevelt did the reading.\textsuperscript{1} Incidentally, Roosevelt became a member of the League Council in 1890, at the same time as Andrew Carnegie.\textsuperscript{2}

At the end of 1888 the League listed its receipts at $5,808.18 and its expenditures at $4,134.85.\textsuperscript{3}

Stimulated by the request of the American Copyright League for a publisher's copyright association, a meeting of publishers was held on December 29, 1887, at Delmonico's in New York.\textsuperscript{4} Out of this came the American Publisher's Copyright League, usually called the Publisher's League. William H. Appleton was president; George H. Putnam, secretary; and Charles Scribner, treasurer. The executive Council consisted of those three and James W. Harper, H. O. Houghton, Craig Lippincott, A. D. F. Randolph and Dana Estes.\textsuperscript{5} The constitution of the new organization stated that it's object was to cooperate "with American authors in securing international copyright."

By the end of January, 1888, there were fifty-six houses represented in the Publisher's League. Most of them were from New York, but

\textsuperscript{1}Ibid., XXXVI, 25 (Dec. 21, 1889), p. 959.
\textsuperscript{2}Ibid., XXXVIII, 20 (Nov. 15, 1890), p. 703.
\textsuperscript{3}Ibid., XXXIV, 22 (Dec. 1, 1888), p. 884.
\textsuperscript{4}Ibid., XXXIII, 3 (Jan. 21, 1888), p. 66. For the charter members, see Appendix, p.
\textsuperscript{5}Ibid., p. 67.
\textsuperscript{6}For the constitution, see Appendix.
Boston was well represented, and there were houses from Baltimore, Cincinnati, Philadelphia, Hartford, and Chicago. By 1889 the League comprised, according to *Publisher's Weekly*, "with but few exceptions, the publishing trade of the country." Booksellers and printers were brought into it as associate members for a ten dollar initiation fee.\(^1\) The League spent $4,000 on the good cause in the first year.\(^2\)

Other copyright organizations were set up in various places. At Boston an International Copyright Association of New England was created in a meeting at the Parker House on December 12, 1887. Charles W. Eliot was president and Dana Estes secretary.\(^3\) The Boston and New York Leagues got together in a Joint Campaign Committee, with George H. Putnam as secretary. Another league was formed in Chicago in 1890. This was a rather gold-plated affair. The first meeting was held at Mrs. Potter Palmer's residence. They formed a western branch of the American Copyright League. General McClurg became president. Others among the officers were Mrs. Palmer, Marshall Field, George A. Armour, Reginald De Koven, Mrs. Wirt Dexter, Captain Charles King, Mrs. Henrotin, and Mrs. Mary Hartwell Catherwood.\(^4\)

The funds of the Author's League, the Publisher's League, and the Boston Association were united in 1889. Men were sent west to organize pro-copyright sentiment. Lathrop went to Chicago; Putnam to Colorado and

\(^1\) *Publisher's Weekly*, XXXV, 5 (Feb. 2, 1889), p. 97.


\(^3\) Proceedings at the Meeting for the Formation of the International Copyright Association. Remarks of H. O. Houghton. For the full slate of officers, see Appendix, p.

\(^4\) *Publisher's Weekly*, XXXIX, 11 (March 14, 1891), p. 399.
Minnesota. They presented their subject to the book trade and the general public, held meetings, organized state and local leagues. Putnam, in Colorado, got up a petition to send to Senator Teller and Representative Townsend, signed by the Governor, the Chief Justice, and most of the Associate Justices of the State Supreme Court, as well as the mayors of Denver, Boulder, and Colorado Springs, and by the principal booksellers of the state and leading citizens in general.¹ New Leagues were established in St. Louis, Cincinnati, Minneapolis, Denver, Buffalo, and Colorado Springs.² The cooperation among the Author's League, the Publisher's League, and the League of Boston developed into a Conference Committee on International Copyright, before the end of 1889. This, besides the three just mentioned, included the Typothetae (employing printers), the International Typographical Union, and the American Library Association. The membership "included Republicans, Democrats, and Mugwumps, protectionists, revenue-reformers and free-traders."³

Some of the arguments of the pro-copyright people have been mentioned. Now they must be discussed more thoroughly. The principal arguments are set forth in a petition to Congress in 1884, for the Dorsheimer Bill.

PETITION TO CONGRESS

The American Copyright League
Representing American Authors and Journalists, asks you to support the Dorsheimer Bill on the following grounds:

¹Ibid., XXXVII, 10 (March 8, 1890), p. 335.
²Putnam, Copyright, op. cit., pp. 49-50.
1. Defense of recognized property

Copyright to American authors, being established by law, should be defended by law, like all other forms of recognized property. But, by the denial of copyright to foreigners, American literary works are exposed to a competition with foreign works that have not been paid for.

No other American industry is obliged to suffer from a rivalry with stolen goods.

2. Injury to American authors

The want of international copyright subjects American writers to an extensive piracy of their works by foreign publishers, causing the authors great loss.

Under existing circumstances, only a small proportion of American authors are able to earn a competency by the pursuit of authorship alone.

The Bill, by providing for reciprocal rights from foreign governments, will secure profit to American authors in the foreign markets where they are now plundered, and thus doubly stimulate our literature.

3. Constitutional provision

It is for the good of the country to encourage a national literature which shall inculcate American ideas at home and abroad.

The Constitution of the United States (Art. I, Sect. VIII, 8) empowers Congress "to promote the progress of science and useful arts by securing, for limited times, to authors and inventors the exclusive right to their respective writings," etc. But by its failure to render the rights of all authors secure, Congress has practically defeated, hitherto, the intent of the Constitution in this respect.

4. Cheapness of books

The Bill, not being retroactive, all foreign books published before its passage may still be issued at the lowest prices. As for new foreign books, American publishers, protected by the tariff, can outbid the foreign publisher for our market. Understanding the popular demand here for moderate priced books, that will, from self-interest, continue to meet that demand. The richest nation in the world ought not to plead that it cannot afford to pay for literature.

A number of American copyright works have been issued at fifty cents, and even less, as soon as the public demand became widespread; showing that there is nothing in the nature of copyright which need prevent books from being cheap.

5. This is not a question of Free Trade or Protection

It is a question of permitting our citizens who produce books to have an even chance for recompense.
The book manufacturing interest is already protected by the tariff. If any condition were attached that foreign books must be manufactured here, that interest would then receive a double protection — by tariff and by special enactment — which no other manufacturer receives. The American author also, being compelled, reciprocally, to manufacture abroad for the foreign market, would often be placed at a great disadvantage.

6. Present communistic tendency
To continue a license to pillage foreign authors, in the supposed interest of "cheap literature", is virtually to encourage immoral and communistic tendencies.

7. Justice and policy
Broad principles of justice and of policy are involved. We recognize these principles when we grant patent right to foreigners. Why not, then, grant copyright?

Since the tariff played some part in their arguments, it might be well to look briefly at the tariff situation. The tariff on books was first applied in 1789, when a duty of 5% was put on imported books. The tariff of 1816 increased this to 15%, but between then and the Civil War it varied from 8% to 15%2 In 1846 it was 10%; in 1864 it was up to 25%,3 and it stayed there until after 1891. This type of tariff on books was not usual in the world at that time. According to the New York Post, in 1888, twenty-eight nations, including most of the great ones, had a tariff on exceptional kinds of books. Only two European nations had a tariff on ordinary books: Spain and Switzerland.4 The fact that the United States had such a tariff while others did not is, of course, explained by the fact that this country was, in general, a high

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1 A copy of the original is bound in the Boston Public Library.
3 Ibid., p. 204.
tariff nation, and by its unique copyright situation. There was never any serious controversy over the tariff on books, though academic people, scientists, and foreign language groups did not like it. The tariff seemed essential to keep British publishers from competing in the American market, as they might have done if given the chance, since their lower labor costs allowed them usually to manufacture books more cheaply than we could, without the most blatant piracy. The tariff bars were let down somewhat in 1890, when the McKinley Tariff permitted the free entry of books not written in England.

To return to our arguments -- the most feared argument of the opposition to international copyright was the argument that, without copyright, it was possible for Americans to have the cheapest literature in the world, and that, with international copyright, the price of books would go up, thus depriving Americans of much reading matter. The opposition liked to make up long lists of English books, showing what they sold for in England, and how much more cheaply the same books sold in the United States. The proponents of copyright claimed that such lists did not mean much.

The English prices quoted were usually first editions, high priced because of the English library system [most English readers got their books from libraries, rather than buying them] and the fact that six shillings, five shillings two shillings, sixpence, or even one shilling editions (\$1.44 to \$2.40) of saleable books follow a year or more afterward, was entirely ignored.

1 Lehmann-Haupt, op. cit., p. 204.
2 Ibid.
3 See Chapter VIII, p.
4 Publisher's Weekly, XXXVII, 19 (May 10, 1890) p. 613.
Moreover, while they listed the most expensive English editions, they listed, with them, the cheapest American editions.\(^1\) The proponents pointed out that the English began to turn out a cheap literature in the 1860s, as cheap as ours and better printed.\(^2\) This was used to refute the argument that international copyright would bring the end of cheap books. The American Copyright League said that in France, "where literary property is sedulously guarded, and the greatest liberality is shown to foreign authors, the system of cheap books flourishes..."\(^3\) France put out the cheapest books in the world.\(^4\) It followed from this that Americans could, with international copyright, continue to turn out cheap books. American publishers, not finding British books cheaper to produce, would turn out larger editions of American written books; and bigger editions meant cheaper books.

McAdoo, in a House of Representatives debate, May 2, 1890, submitted a list of titles of cheap reprints from the "Stealside Library." These were books of which Americans were to be deprived by international copyright: A Wilful Woman, Ladybird's Penitence, Her Own Deception, We Kissed Again With Tears, The Black Poodle, The Mother's Secret or Whose Child was She? He pointed out that most of the great works of English authors were out of copyright and could be printed free whether there was

\(^1\)Simonds, op. cit., p. 6.

\(^2\)Shove, op. cit., pp. 1 and 18.

\(^3\)Publisher's Weekly, XXVII, 15 (April 11, 1885), p. 450.

\(^4\)Ibid., XXIX, 10 (Mar. 6, 1880), p. 334.
international copyright or not.¹

The proponents argued that British merchandise in this country was protected by American laws. Why not British writings?² A foreign inventor was protected here by a patent. What was the difference between an inventor and a writer?³ To anti-copyright protectionists, like Henry C. Carey, the proponents said that the infant industry of American authorship needed protecting.⁴ To those worrying about monopoly and saying that American authors were trying to monopolize the American Market, they replied that "the only question of monopoly involved is that of the men who are now allowed to monopolize without cost the work of other men's brains and hands."⁵

Simonds maintained that useful books on science from England were kept out of the United States because they were not profitable to pirate. No publisher would attempt them unless he was sure of having the whole market to himself.⁶

¹Ibid., XXXVII, 19 (May 10, 1890), p. 616.
²Clay's Report. See Putnam, Copyright, op. cit., p. 45.
³Ibid.
⁴Publisher's Weekly, XXXIII, 15 (Jan. 21, 1888), pp. 44-45.
⁵Ibid., XXVIII, 15 (April 11, 1885), p. 480.
⁶Simonds, op. cit., p. 7.
CHAPTER VII

THE OPPOSITION TO INTERNATIONAL COPYRIGHT

The opponents of international copyright had one good argument and many poor ones. They had powerful lobbies and effective propagandists. But their efforts were not as well coordinated as those of the proponents, and circumstances were against them. Aside from the increasingly disorderly condition of the book business after the Civil War, there was the fact that American literature was catching up with the British in its appeal to American readers. Also, the technical improvements in book manufacturing were making it possible to turn out cheap books, even if the publisher had to pay copyright. Thus the opposition was fighting a losing fight.

In the end there remained in opposition only a few obviously selfish interests and a hard core of politicians, most of them from the South. One is tempted to suggest that the latter held out neither for ideological reasons nor in support of selfish interests, but only because they were men who customarily and automatically voted against any measure advocated by the classes in the North who supported such things as hard money and high tariffs.

There has been set forth in this dissertation the opinion that the best argument of the anti-copyright people was the one in which they spoke of the advantages of a cheap literature. In general, the
argument was that, without international copyright, Americans had the cheapest and best literature in the world, and that the United States had become a great nation of readers, in which everyone, from highest to lowest, could afford the best books. The Hour expressed it this way, in 1883:

There are at least six libraries ... in which 20¢ is the highest price charged at retail.... More than half of the cheap reprints have been retailed at 10¢ per copy.... The print and paper in these is no worse than in the ordinary newspaper....

Within a year ... there have appeared two or three series in ordinary book shape and type, yet with little or no increase in price, cost ranging from 15¢ to 25¢.

At such prices the poorest man can afford to read, and among the two thousand or more volumes already issued in very cheap form he can find, if not everything he wants, at least a great deal that pleases him. Instead of subscribing to a public library and finding, nine times in ten, that the book he wants is "out", he can for the same amount of money buy outright twenty or thirty books.

The Hour goes on to speak of the great literary awakening caused by cheap books in this country. It says that many who could not afford good American books — people of the intelligentsia, like clergymen and teachers — could satisfy their longing for good books by buying cheap reprints.¹

Back in the 1840's Sir Charles Lyell was impressed by what cheap literature had done for America.

It may ... be strictly said of English writers in general, that they are better known in America than in Europe.... Of the best English works of fiction, published at 3l shillings in England, and for about sixpence here /the United States/ it is estimated that about ten times as many copies are sold in the United States as in Great Britain; nor need we wonder at this, when we consider that day laborers in an American village often purchase a novel by Scott, Bulwer, or Dickens, or a popular his-

¹Quoted by Publisher's Weekly, XXIII, 17 (April 28, 1883), pp. 498-9.
tory, such as Alison's Eur. (£13 in England and 16 shillings in America), and read it in spare moments, while persons in a much higher station in England are debarred from a similar intellectual treat for reasons of economy.

Lyell then mentions the steady increase of the reading public in America and says that as the increase continued "the quality of the books read is decidedly improving. About four years ago, 40,000 copies were printed of the ordinary common-place novels published in England, of which sort they now sell about 8000."¹

Years later, the Scientific American had its own version of this same argument.

Under the influence of the present copyright laws our home publishers have for years been enabled to fill the country with the choicest books and periodicals at the lowest prices. The educative effects of this vast supply of standard literary matter have been astonishing. We have become the greatest reading people in the world.²

Thus, the reading public greatly benefited by a lack of international copyright. So did the publishers, or some of them, obviously. The booksellers and the book makers benefited. But did the authors benefit? They did not seem to think so. However, there were some people who thought they did.

Lyell denied that authors suffered. He justified his denial by saying of Prescott's Ferdinand and Isabella, of his Mexico, and of his Peru, that very large editions had been sold at high prices, and that

¹Lyell, op. cit., p. 251. One need not wonder where Lyell got his information. He gives it coincidental with an account of a visit to the Harper plant. The Harpers were, of course, strongly anti-copyright at that time.

²C. N. Bovee, Jr., The So-Called Copyright Bill, p. 11.
Prescott had received a good profit from this. The Scientific American said, in 1888, that, under the copyright system of that time

no citizen who can produce anything worth reading lacks for employment or emolument. It is agreed on all sides that no country was ever blessed with so many able authors as the United States. They ought to be well rewarded, and under the law as it stands they are.

A. J. Hopkins, in a speech to the House of Representatives, said in 1890,

The State and the people have done nearly or quite as much for the author as he has for them. Take the United States, for example. The founding of our common school system, the establishment of academies, the creation of great universities, the collection of large libraries, and the general diffusion of intelligence among our people have created a condition of affairs that for our authors has placed them on a vantage ground as compared with many other callings and vocations. Their surroundings and associations first inspire and then develop their literary ability, and if they possess any originality or real merit they have a reading constituency in their country who are not slow to recognize their claims.

Hopkins said that American authors had a great reading market in this country. He compiled figures from Publisher's Weekly and found that the number of books published in this country had increased 112 per cent from 1880 to 1888. He estimated that 4,437,000 volumes had been published in that eight-year period.

It was said that even with their international copyright the British in the '70's and '80's were turning out books as cheap as those printed in the United States. This was used as an argument for interna-

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1 Lyell, op. cit., p. 252.
2 Quoted by Bovee, op. cit., p. 12.
3 Reported by Publisher's Weekly, XXXVII, 19 (May 10, 1890), p. 613.
4 See above, p.
tional copyright. Yet there are witnesses against that argument. J. R. Robertson, a Canadian, said in 1888 that if Canadians bought cheap American editions of Haggard’s books they paid only 25¢. But if they bought British editions they had to pay 6 shillings sterling.¹ The Canadian Bookseller of Toronto said the same year that a Canadian could sell ten copies of an American book to one of the same book manufactured in Britain.²

Bovee stated that with international copyright the price of English books in America would increase 100 per cent to 500 per cent.

That the price would increase is proven by the fact that many works which are now sold in the United States for 20¢ per copy cannot be had in England for less than 50¢ to $1.00 or more per copy. This is because they are copyrighted in England but not in the United States.³

Bovee gives the following table of George Eliot’s works:⁴

<table>
<thead>
<tr>
<th>Title</th>
<th>Cheapest English edition</th>
<th>Cheapest U.S. edition</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Mill on the Floss</td>
<td>$.87</td>
<td>$.20</td>
</tr>
<tr>
<td>Middlemarch</td>
<td>1.87</td>
<td>2.00</td>
</tr>
<tr>
<td>Daniel Deronda</td>
<td>1.87</td>
<td>2.00</td>
</tr>
<tr>
<td>Adam Bede</td>
<td>.87</td>
<td>2.00</td>
</tr>
</tbody>
</table>

This sort of thing was a favorite device of the anti-copyright people. In 1844, John Campbell made up this list:⁵

<table>
<thead>
<tr>
<th>Title</th>
<th>Cheapest Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pickwick Papers</td>
<td>$5.00</td>
</tr>
<tr>
<td>D’Israeli’s Amenities of Literature</td>
<td>10.00</td>
</tr>
<tr>
<td>Nicholas Nickleby</td>
<td>5.00</td>
</tr>
<tr>
<td>Southey’s Poetical Works</td>
<td>12.50</td>
</tr>
</tbody>
</table>

¹Publisher’s Weekly, XXXIV, 17 (Oct. 27, 1888), p. 611.
²Ibid., p. 613.
³Bovee, op. cit., p. 16.
⁴Ibid., p. 17.
⁵John Campbell, Considerations and Arguments Proving the Inexpe-
   diency of an International Copyright Law, p. 4.
And in 1853 Henry C. Carey gave this: 1

<table>
<thead>
<tr>
<th>Title</th>
<th>Cheapest English edition</th>
<th>Cheapest U. S. edition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jane Eyre</td>
<td>$5.00</td>
<td>$2.00</td>
</tr>
<tr>
<td>Hallam’s Middle Ages</td>
<td>7.50</td>
<td>1.75</td>
</tr>
<tr>
<td>Macauley’s History of England</td>
<td>4.50 per vol.</td>
<td>$.40</td>
</tr>
</tbody>
</table>

At the end of his pamphlet Bovee made a long list comparing English and American prices of certain books. Below is a partial reproduction of that list: 2

<table>
<thead>
<tr>
<th>Author and book</th>
<th>English price</th>
<th>Am. price</th>
<th>Am. reprint</th>
</tr>
</thead>
<tbody>
<tr>
<td>Trollope, Life of Cicero, 2v.</td>
<td>2½s</td>
<td>$9.60</td>
<td>$3.00</td>
</tr>
<tr>
<td>Fitzgerald, Life of George IV</td>
<td>30</td>
<td>12.00</td>
<td>2.00</td>
</tr>
<tr>
<td>Trevelyan, Life of C. J. Fox</td>
<td>18</td>
<td>7.20</td>
<td>2.50</td>
</tr>
<tr>
<td>Trevelyan, Life and Letters of Macaulay</td>
<td>36</td>
<td>14.40</td>
<td>1.75</td>
</tr>
<tr>
<td>Green, History of England, 4v.</td>
<td>6½l</td>
<td>25.60</td>
<td>10.00</td>
</tr>
<tr>
<td>Kinglake, Crimean War, 4v.</td>
<td>96</td>
<td>38.40</td>
<td>8.00</td>
</tr>
<tr>
<td>Ranke, Universal History, Vol. I</td>
<td>16</td>
<td>6.40</td>
<td>2.50</td>
</tr>
<tr>
<td>McCarthy, History of Our Times, 2v.</td>
<td>48</td>
<td>19.20</td>
<td>2.50</td>
</tr>
<tr>
<td>Reid, Life of Sydney Smith</td>
<td>21</td>
<td>8.40</td>
<td>3.00</td>
</tr>
<tr>
<td>Taylor, Autobiography, 2v.</td>
<td>32</td>
<td>12.80</td>
<td>3.00</td>
</tr>
<tr>
<td>Wallace, Russia</td>
<td>2l</td>
<td>9.60</td>
<td>2.00</td>
</tr>
<tr>
<td>Bagehot, English Constitution</td>
<td>7s 6d</td>
<td>3.00</td>
<td>2.00</td>
</tr>
<tr>
<td>Bain, Political Essays</td>
<td>4½s 6d</td>
<td>1.80</td>
<td>1.50</td>
</tr>
<tr>
<td>Kossuth, Memoirs of my Exile</td>
<td>10s 6d</td>
<td>4.20</td>
<td>2.00</td>
</tr>
<tr>
<td>Lecky, England in the 18th Century, 4v.</td>
<td>72</td>
<td>28.80</td>
<td>9.00</td>
</tr>
<tr>
<td>Jackson, Old Regime</td>
<td>21</td>
<td>8.40</td>
<td>2.25</td>
</tr>
<tr>
<td>Kemble, Records of a Girlhood</td>
<td>31s 6d</td>
<td>12.60</td>
<td>2.50</td>
</tr>
<tr>
<td>Maine, Popular Government</td>
<td>12</td>
<td>4.80</td>
<td>2.75</td>
</tr>
<tr>
<td>Symondi, Renaissance in Italy, 5v.</td>
<td>80</td>
<td>32.00</td>
<td>10.00</td>
</tr>
</tbody>
</table>

Senator Zebulon Vance of North Carolina stood up in the Senate on February 13, 1891, and intoned this noble sentiment: "I had rather, Mr. President, be the means of placing a cheap book ... in the hands of one poor, ambitious boy, which might stimulate him to great exertions in life

1Henry C. Carey, Letters on International Copyright, p. 3.
2Bovee, op. cit., p. 23. For Simond’s argument against this sort of thing, see above, p. 134.
than to put a million dollars in the pockets of the Harpers, or any other publishing house, by this copyright bill.\(^1\)

Publisher's Weekly said in 1884 that "the opposition to an international copyright bill comes ... from a ... fear on the part of Congressmen that they would hear from their constituents if they did anything to increase the price of books."\(^2\)

It appears that those who opposed international copyright may be placed in certain general categories:

<table>
<thead>
<tr>
<th>Against copyright</th>
<th>For copyright</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) The man in the street</td>
<td>(1) Authors, almost unanimously</td>
</tr>
<tr>
<td>(2) Most of the South</td>
<td>(2) Most publishers</td>
</tr>
<tr>
<td>(3) Many in the West</td>
<td>(3) Most of the Northeast</td>
</tr>
<tr>
<td>(4) Most Democrats</td>
<td>(4) Colleges</td>
</tr>
<tr>
<td>(5) Organized labor (until the very end)</td>
<td>(5) Cultured people</td>
</tr>
<tr>
<td>(6) Country newspapers</td>
<td>(6) Most of the wealthy</td>
</tr>
<tr>
<td></td>
<td>(7) Most conservatives</td>
</tr>
</tbody>
</table>

Samuel Goodrich said, in 1856, that he believed that the great majority of the American people opposed international copyright.\(^3\) Whether this is true or not, many politicians apparently believed that it was, right up to the time the international copyright bill was passed. Spencer says that the opposition to international copyright was Jeffersonian.\(^4\) Presumably he referred to that element which believed in states' rights, governmental economy, low taxes, and low tariffs. A Jeffersonian would favor the agricultural interests and therefore, in the 1880's, would probably be a Free Silver man.

\(^{1}\) Congressional Record, 51st Congress, 2nd Session, Vol. XXII, Part III, p. 2614.

\(^{2}\) Publisher's Weekly, XXV, 13 (March 29, 1884), p. 379.

\(^{3}\) Goodrich, op. cit., p. 360.

\(^{4}\) Spencer, op. cit., p. 145.
In the year 1890, two important measures put through Congress were the Sherman Silver Purchase Act and the McKinley Tariff. To find out what sort of men were voting against international copyright, it is enlightening to examine the votes in the Senate on these issues, and see if the opponents of international copyright were Jeffersonians, in accordance with the definition given of a Jeffersonian of the 1880's.

On August 4th, 5th and 7th, 1890, the Senate was voting on amendments that raised tariff duties on various items. There was a total of four such votes during that time. The following Senators voted against the raises:

1

| Barbour, Va. (D) | George, Miss. (D) | Payne, Ohio (D) |
| Barbour, Va. (D) | George, Miss. (D) | Payne, Ohio (D) |
| Bate, Tenn. (D)  | Gorman, Md. (D)  | Plumb, Kans. (R) |
| Bate, Tenn. (D)  | Gorman, Md. (D)  | Plumb, Kans. (R) |
| Blackburn, Ky. (D) | Hampton, S. C. (D) | Ransom, N. C. (D) |
| Blackburn, Ky. (D) | Hampton, S. C. (D) | Ransom, N. C. (D) |
| Butler, S. C. (D) | Harris, Tenn. (D) | Reagan, Tex. (D) |
| Butler, S. C. (D) | Harris, Tenn. (D) | Reagan, Tex. (D) |
| Carlisle, Ky. (D) | Jones, Ark. (D)  | Turpie, Ind. (D) |
| Carlisle, Ky. (D) | Jones, Ark. (D)  | Turpie, Ind. (D) |
| Cockrell, Mo. (D) | McPherson, N. J. (D) | Vance, N. C. (D) |
| Cockrell, Mo. (D) | McPherson, N. J. (D) | Vance, N. C. (D) |
| Coke, Tex. (D)   | Morgan, Ala. (D)  | Vest, Mo. (D) |
| Coke, Tex. (D)   | Morgan, Ala. (D)  | Vest, Mo. (D) |
| Colquitt, Ga. (D) | Paddock, Neb. (R) | Voorhees, Ind. (D) |
| Colquitt, Ga. (D) | Paddock, Neb. (R) | Voorhees, Ind. (D) |
| Daniel, Va. (D)  | Pasco, Fla. (D)   | Walthall, Miss. (D) |
| Daniel, Va. (D)  | Pasco, Fla. (D)   | Walthall, Miss. (D) |
| Payne, Ohio (D)  | Payne, Ohio (D)   | Payne, Ohio (D) |

On the vote for an amendment to the Bullion Bill (question of coinage of silver) July 10, 1890, one finds these Senators voting together on the Free Silver side of the issue:

2

| Barbour, Va. (D) | Gorman, Md. (D) |
| Barbour, Va. (D) | Gorman, Md. (D) |
| Bate, Tenn. (D)  | Gorman, Md. (D) |
| Bate, Tenn. (D)  | Gorman, Md. (D) |
| Blackburn, Ky. (D) | Hampton, S. C. (D) |
| Blackburn, Ky. (D) | Hampton, S. C. (D) |
| Butler, S. C. (D) | Harris, Tenn. (D) |
| Butler, S. C. (D) | Harris, Tenn. (D) |
| Carlisle, Ky. (D) | Jones, Ark. (D)  |
| Carlisle, Ky. (D) | Jones, Ark. (D)  |
| Cockrell, Mo. (D) | McPherson, N. J. (D) |
| Cockrell, Mo. (D) | McPherson, N. J. (D) |
| Coke, Tex. (D)   | Morgan, Ala. (D)  |
| Coke, Tex. (D)   | Morgan, Ala. (D)  |
| Colquitt, Ga. (D) | Paddock, Neb. (R) |
| Colquitt, Ga. (D) | Paddock, Neb. (R) |
| Daniel, Va. (D)  | Pasco, Fla. (D)   |
| Daniel, Va. (D)  | Pasco, Fla. (D)   |
| Payne, Ohio (D)  | Payne, Ohio (D)   |


2 Ibid., p. 7109.
On the vote for international copyright, on February 18, 1891, and on March 4, 1891 (the last vote taken on it), one finds these Senators voting against international copyright:¹

<table>
<thead>
<tr>
<th>Bate</th>
<th>Coke</th>
<th>Harris</th>
<th>Pierce, N. D. (R)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Berry</td>
<td>Cockrell</td>
<td>Jones, Ark. (D)</td>
<td>Pugh</td>
</tr>
<tr>
<td>Call</td>
<td>Daniel</td>
<td>Mitchell, Ore. (R)</td>
<td>Reagan</td>
</tr>
<tr>
<td>Carlisle</td>
<td>George</td>
<td>Pasco</td>
<td>Vance</td>
</tr>
<tr>
<td>Casey, N. D. (R)</td>
<td>Hale, Me. (R)</td>
<td>Pettigrew, S. D. (R)</td>
<td>West</td>
</tr>
</tbody>
</table>

Most of the men voting against copyright were Southerners; and, of course, most of them were Democrats. A sprinkling of western Republicans is noticeable. There is one eastern Republican — Hale of Maine. His vote is explained by the fact that he was notorious for his devotion to the status quo. There were men who had consistently opposed copyright whose names do not appear in the vote against it. Some of them finally voted for it. Some did not vote at all. In the debates in the Senate, one found Gray of Maryland and Plumb of Kansas quite conspicuously against copyright. Ransom of North Carolina and Walthall of Mississippi had voted against the Chace Bill in 1888. Daniel of Virginia, a man who always had much to say, played quite similar parts in both the Free Silver fight and the copyright fight. Among those against international copyright in both houses there were gold men like Gray of Maryland and Sherman of Ohio; and there were protectionists like Hale of Maine and Kelley of Pennsylvania. One Free Silver man who favored copyright was Tucker of Virginia, who was Chairman of the House Judicial Committee; and one low-tariff man who favored copyright was Breckinridge of Kentucky. But most of the gold men and the high tariff men supported copyright, and most of the Free Silver and the low tariff men opposed it.

On the whole it may be said that the international copyright movement in Congress was a Republican affair, though it was by no means entirely so. Samuel L. Clemens, perhaps in one of his disillusioned moments, said in 1890, that there was no hope of getting an international copyright bill passed by a Republican Congress. Publisher's Weekly thought this was unjust, and said, "The bill [Chace Bill] was passed by a Republican Senate and it received in the last Democratic House the adhesion of a great body of Republicans, while on the other hand, many Democrats were slow to give their adhesion because of the restrictive features of the bill."¹ In contradiction to Clemens was the fear of the proponents in December, 1890, that they would never get their bill through a Democratic Congress, and that it had to be passed before the Democratic Congress took over in March, 1891.² Though the proponents were very careful not to let international copyright become a partisan affair, the fact is that more Republicans favored it than did Democrats.³ In this the Southern Democrats, who were pretty unanimously against it, make the difference.

The South was almost, but not quite, unanimously against international copyright, if we may judge by the stand taken by its representatives in the Senate. The West was also strongly against it. An Englishman who visited this country in 1876 reported that the farmers did not like international copyright because they had "a growing conviction of the inutility and injurious effects of the system of patents." Representative

¹Publisher's Weekly, XXXVII, 1 (Jan. 4, 1890), p. 7.
²See below, p. 137.
³See the votes on the Platt-Simonds Bill, Appendix XIV, pp.
McAdoo of New Jersey said at the American Copyright League's celebration dinner, April 13, 1891, that the opposition was particularly stiff among the western farmers,

where there is a popular feeling against copyright in general, stimulated by the experience of the Western people with patent laws. Our friends of the Farmers' Alliance have become very much prejudiced against the protection of products of the brain, whether that production be a book or an invention of a material thing.

The Grange, through its cooperatives, had tried unsuccessfully to fight the great farm machinery monopoly. The Farmers' Alliance was carrying on the fight. The monopoly fed on patents which gave it exclusive manufacturing rights, and allowed it to stifle all competition and charge the highest possible prices. The patents were sometimes obtained by rather unscrupulous means; or, at least, so thought the farmers.

One of the favorite arguments against international copyright was that it would create a monopoly. It was not quite clear who would benefit from the monopoly. Some said that British publishers would. Some said American publishers. Some only hinted at it darkly, without saying just who would have the monopoly. The Scientific American appears to suggest vaguely that it would be a monopoly for British publishers, or British authors, when it says, "The money paid to American authors remains within the country. The extension of copyright monopoly to foreigners would enable them to draw millions out of the country." Bovee thinks it would be a monopoly for American publishers. He says,

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1Publisher's Weekly, XXXIX, 16 (April 18, 1891), p. 569.
2Quoted by Bovee, op. cit., p. 12.
by giving to the publishers an absolute control of the sale of a book, they will be given the power to fix the price they will make as great as they can. The greater the demand for the work the higher they will raise the price.¹

The Harpers, before they changed their mind about copyright, were also using the "monopoly" argument. When C. E. Appleton, of the London Athenaeum, proposed to them an international copyright plan in 1875 by which American publishers would take English books and manufacture them and then pay the English authors royalty, James Harper wrote to him:

But your remedy, I fear, would be worse than the disease. It would create a monopoly which would make books dearer, check the appetite for reading, contract the market and ultimately enfeeble the publishing and bookselling business.²

In 1873, Harper had written Charles Reade that international copyright would create a monopoly in this country for British publishers, "a monopoly which would be injurious to the entire publishing business of America and ultimately to the diffusion of good books at low prices."³ Of somewhat like mind was Henry C. Carey, who said that copyright would bring monopolization, either by English firms, who would drive American publishers out of business, or by great American firms.⁴ In the debate in the House in May, 1890, Representative Mills of Texas spoke of international copyright as giving a monopoly to foreign authors,⁵ and in the Senate in February, 1891, Daniels of Virginia said that it would create

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¹Ibid., p. 17.
³Ibid., letter of Sept. 9, 1873, p. 343.
⁵Publisher's Weekly, XXXVII, 19 (May 10, 1890), p. 615.
a publishing monopoly, and would make foreigners rich out of American pockets.¹

The fact seems to be that the term "monopoly" was a favorite scareword of the 1880's. Similar to the word "socialism" today, it was tagged on anything that one did not like.

Among those against copyright one should no doubt include the anti-intellectuals, the super-patriots, and the materialists. Representative O. B. Potter, of New York, is a good example of this type of opponent. In a letter to Publisher's Weekly, written April 11, 1884, Potter wrote:

I am in favor of protecting authors, whether foreign or American, by copyright so far as this can be justly done consistently with the interests of the people of this country; but I doubt very much whether an author in a dukedom or other unimportant foreign country should be afforded the protection of the courts of this great country in exchange, upon equal terms, for similar rights to be given to American authors in countries of so much less importance and extent.

In this country, unlike most others, fortunately, laboring men and their families all read, and it is certainly for the interest of the people that good books be brought within their reach at a reasonable price, and that no policy should be supported by their government which will exclude or prevent this. In my judgment, the subject requires very careful consideration; more so than I have thus far been able to give it. I do not think that foreign authors, who generally do not write much in advance of the thought of the world, should receive a higher degree of protection, or for a longer period, than is afforded to that class of our citizens who, by their inventions, enlarge the boundaries of or create new human arts. At the present time the country seems bent upon destroying, or reducing to the minimum, the protection to American inventors, who have contributed more to the progress, happiness, wealth, and achievements of the country than all the foreign authors since the days of Shakespeare.²

²Publisher's Weekly, XXV, 17 (April 26, 1884), p. 509.
The cheap book publishers, of course, opposed international copyright until the cheap book business got badly out of control. Among publishers, however, the center of resistance was always in Philadelphia. There were three big publishers there who were predominant in opposing international copyright. All of them were descendants of Mathew Carey. One of them was Henry C. Carey, an economist and publisher, and son of Mathew. He did not believe in copyright, yet he had the reputation of making adequate payments to British authors whose works his firm reprinted. He was a protectionist and an intense nationalist. He was also strongly anti-British. The second of this very influential triumvirate was Henry Carey Baird, grandson of Mathew Carey, and a publisher also. He wrote much on economic themes, was a protectionist and at the same time a Greenbacker. The third was Henry C. Lea, another grandson of Mathew Carey. He was the most learned of the three, a historian and political reformer as well as a publisher.¹

In 1873, Henry Carey Baird presided over a meeting in Philadelphia concerning the various bills before Congress at that time. He was the chief inspiration for the following resolutions adopted by this meeting:

(1) That thought, unless expressed, is the property of the thinker; when given to the world, it is, as light, free to all.

(2) As property it can only demand the protection of the municipal laws of the country to which the thinker is subject.

(3) The author of any country, by becoming a citizen of this country, and assuming and performing the duties thereof, can have the same protection that an American author has.

¹Biographical information is taken from the Dictionary of American Biography, passim.
(4) The trading of privileges to foreign authors for privileges to be granted to Americans is not just, because the interest of others than themselves may be sacrificed thereby.

(5) Because the good of the whole people, and the safety of republican institutions, demand that books shall not be made costly for the multitude by giving the power to foreign authors to fix their price here as well as abroad.

(6) We oppose the bill as proposed in New York because it would enable the foreign author and his assignee in this country, by an absolute monopoly in the production, to fix the price of his book without fear of competition.

(7) Because the great capitalists on the Atlantic seaboard would naturally represent to foreign authors their world-wide reputation; the security of authors in dealing with them; their greater facilities for the distribution of books, thus centralizing the production of them in a few hands.

(8) Finally, because the reprints of really valuable works on science, which are now published at prices so low in this country that the day-laborer can afford to purchase them, would be raised by an "international copyright", or a proposed modification thereof, beyond his means, and he would be obliged to confine his purchases mainly to cheap literature, not improving to his mind, frequently immoral in its tendency, and inculcating, not rarely, principles dangerous to the peace of society.¹

Armed with the above resolutions, a delegation from Philadelphia was sent to the hearings on copyright before the Library Committee in Washington. The delegation was headed by W. P. Hazard and Roger Sherman. Sherman, a prosperous Philadelphia publisher, thought along the same lines as the Carey clan. Hazard, according to an anonymous person who wrote to Publisher's Weekly, represented the Philadelphia paper dealers and the type setters.² They financed his trip and he eventually made a report to

¹Publisher's Weekly, I, 3 (Feb. 1, 1872), pp. 69-70. W. B. Evans, bookseller of Philadelphia, who favored copyright, refuted one of Baird's arguments by saying that in twenty years no day laborer had bought a scientific work from him. Publisher's Weekly, I, 5 (Feb. 15, 1872), p. 131.

them, which Publisher’s Weekly printed. There is nothing in the report of interest to this paper except the mention that artists were represented at the meeting by Thomas Nast, who opposed copyright.¹

Years later, in 1886, Roger Sherman stated his reasons for opposing international copyright:

I. Because it is the clamor of two hundred authors against the interests of 55,000,000 people.

II. Cheap literature is a large factor in cheap education, and the unparalleled intellectual development in the United States is due to cheap literature.

III. Because it is another step toward yielding our Market to the English manufacturers; a market in which they took no part in creating, and whose creation they would have prevented if they could.

IV. Because it would grant to foreigners a privilege which the Founders of our government intended should be granted only to its citizens for the purpose of encouraging a national literature, and not for the pecuniary benefit of individuals.

V. Because it would be the foreign publisher and not the author who would benefit.

VI. Because of the difficulty of carrying out the law in accordance with its spirit, and of opening a wide door for frauds against the interests of our working classes.

VII. Because it is against the spirit of our Constitution that the minority shall dictate to the majority, and that monopolies shall be created for raising the price of a necessity.

VIII. Because it is a pretense that native authors cannot live in competition with free literature. The American market is ready and willing to take more good literature than native talent can offer, and is compelled to seek foreign productions.

IX. Because if a sufficiency of good American literature were offered, it would drive out the worst of the foreign, which would never become acclimatized, and create a healthy demand for better works.

¹Publisher’s Weekly, I, 8 (March 7, 1872), p. 208.
X. Because the works of the best foreign authors stimulate our own to greater efforts, and afford that healthful competition so necessary to ultimate success.

XI. Because the experience of the past foreshadows the future, and owing to the cheapness of the editorial advantages offered by our national policy to the masses we can show more intellectual development in the United States than can be shown in any other country of the world.

XII. Because it would be wrong to force the people to pay for what they now have free, and create difficulties where now none exist.1

Another influential source of opposition to international copyright was the American News Company, which distributed the Lakeside and the Seaside Libraries, and which held out to the bitter end against the measure.2

Yet another strong opponent was the country newspapers. Almost every rural weekly added to its appeal and its size by taking what were known as "patent insides". These "insides" consisted of a sheet or two which the paper bought, filled with advertising and reading matter, usually in the form of British novels. There might be room in the sheets for local items, which the paper put in itself. These padded out the paper and made it more attractive. Much of this sort of material was supplied by one organization, the American Press Association. Obviously, an international copyright would make it expensive to get the material for the "insides".3 There was a lobby in Washington working in the interests of

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1 Roger Sherman, Open Letter to the Members of the American Copyright League, pp. 1-2

2 Letter from the Harpers to A. D. F. Randolph, Harper, op. cit., p. 446.

the American Press Association and the rural newspapers, against international copyright.1

Some papers stole their own novels. Such piracy was justified by Colonel Schleicher of Albany, a newspaper publisher, in these words: "We don't steal for ourselves; we steal for the benefit of the public."2

Eventually the country newspapers and their suppliers began to come around to international copyright. It was pointed out to them that the Chace Bill would not interfere with their "patent insides", since under the bill material from British magazines, upon which they were depending to a great extent, could not practically be copyrighted, because of the simultaneous publication clause.3

One of the chief reasons why international copyright was so long delayed was the opposition of the trades that had anything to do with the manufacture of books. The opposition here came from both employers and employees, and both were strongly organized. The outstanding organizations in the trades having to do with book manufacturing were the Typographers' Unions and the Typothetae, or employing printers. Both had a great deal of weight with Congress. It was on their account that the manufacturing clause was adopted for the Chace Bill and the Platt-Simonds Bill. The demand for this clause was due to the fear that the British, with cheap labor and cheaper materials (due to America's high tariffs) would take all book manufacturing away from this country, if there were an interna-

2 Publisher's Weekly, XXXIV, 13 (Sept. 29, 1888), p. 486.
3 Ibid., XXXVII, 7 (Feb. 15, 1890), p. 276.
tional copyright. The opponents of copyright claimed that its lack had encouraged paper manufacturing, chemical, type, and printing industries. It had helped support the railroads, the steamship lines, and the telegraph. The coming of international copyright would deprive many paper makers, printers, and countless others involved in the process of book manufacturing, of their livelihood. These people preferred no copyright at all. But, if there had to be a copyright, they wanted a manufacturing clause — a provision that all books copyrighted in America must be manufactured in America. This would preserve the nation's bookmaking industry. They also wanted a clause prohibiting the importation of foreign books. Eventually, when the international copyright bill gave them those things, they began to show more enthusiasm for copyright.

The most powerful of the Typographers' Unions, that of New York, was supporting international copyright by the middle 1880's, and played a major part in bringing it about. However, Typographers outside of New York dragged their feet. In 1888, at a convention in New York, the New York Typographers were unable to persuade their outside brothers to join the cause. The over-all feeling of the convention was that copyright would benefit no one but the publishers.

The Typothetae came out for international copyright at their national convention in 1889, and appointed a delegate, Theodore De Vinne,

1Bovee, op. cit., p. 12.

2Publisher's Weekly, XXXIV, 13 (Sept. 29, 1888), p. 488.
to act in conference with the copyright leagues. They emphasized that all copyrighted books must be published in America. 1

Another powerful trade organization, the National Lithographers Association, had refused to have anything to do with the Chace Bill. But, when the House passed the Platt-Simonds Bill in December, 1890, and it looked as though copyright were inevitable, the Lithographers demanded a part in determining the provisions of the bill. 2

In July, 1890, Samuel Gompers, president of the American Federation of Labor, came out in favor of international copyright and of the Platt-Simonds Bill. 3 This must have helped swing the book manufacturing unions.

The manufacturing clause and the ban against the importation of foreign books did much to convert the unions and employers of the book manufacturing trades. Also, there were two arguments made which evidently the trade interests accepted. One of these was that the manufacturing clause would bring printing here that had previously been done abroad, and that the passage of the Platt-Simonds Bill would transfer the publishing business of the world from England to the United States. That, of course, would mean more work than ever for the American book makers. 4 The other argument was that the reprint business was just about played out in 1890.

1 Ibid., XXXVI, 15 (Oct. 12, 1889), p. 539.
3 Publisher's Weekly, XXXVII, 8 (Aug. 23, 1890), p. 227.
J. L. Kennedy of the Typographers' Union said that, in 1890, "only scores of printers are employed in such work where formerly hundreds were employed."\(^1\)

CHAPTER VIII

THE STRUGGLE FOR INTERNATIONAL COPYRIGHT, 1865 TO 1891

The post-Civil War period was a time of tremendous economic expansion and population expansion. It brought great changes in all phases of American life, and it, naturally, had great effect on American literature and all facets of the book business -- writing, manufacturing, and publishing. Americans, in this period, though no more talented than in any other, were certainly more vigorous, more materialistic, and less fastidious than ever. These qualities all showed up in book production with the result that things got badly out of hand. Accompanying this wild development was the fight for international copyright -- now more realistic and sustained than it had been before the War. A new crop of authors and publishers sprang up after the War, and they were, in keeping with the times, less dealers in, and producers of, art than they were professional men. They knew much better than their predecessors how to fight for what they wanted. The international copyright movement, after a halting beginning, picked up momentum in the late 1870's and, in spite of stubborn opposition, became irresistible in the middle 1880's, and battled its way to final victory as the 1890's began.

As soon as the Civil War was finished, the agitation for international copyright was renewed. In February, 1866, the petitions began to come into Congress. During February, March and April, Senator Sumner alone presented eleven petitions for international copyright.

In November, 1867, Dickens arrived in the United States for a sec-
ond visit. Once more, he hoped to stir up sentiment for copyright. This
time he gave readings of his works in various cities, and was greeted ev-
everywhere with tremendous enthusiasm. In 1868, Anthony Trollope came over.
He came in a semi-official capacity, in that he had a commission from the
British Foreign Office to work for copyright.\(^1\) He too was feted, feasted
and acclaimed. It is not possible to tell what effect these two English-
men had on the international copyright movement. At least they probably
did awaken some new enthusiasm for it.

On January 16, 1868, Congressman Arnell of Tennessee offered a res-
olution to the House requesting the Library Committee to inquire into the
subject of international copyright, and to determine the best means for the
encouragement of cheap literature and the protection of authors.\(^2\) The res-
olution went through, but that was the last heard of it. In February,
J. D. Baldwin, Representative from Massachusetts, introduced a copyright
bill, which had the approval of the Copyright Association of New York. It
went to the Library Committee, but was lost in the excitement of the im-
peachment of President Johnson, and was never brought out.\(^3\)

From 1870 to 1873 there was an all-out fight for the cause, with
both sides mobilizing their full forces.

It started with a new proposal for a treaty. In 1870, the British
Minister, Thornton, suggested a treaty, which became known as the Clarendon
Treaty. \(^4\) This aroused little enthusiasm among American publishers be-


\(^2\) Solberg, *Copyright in Congress*, op. cit., p. 144.

\(^3\) Putnam, *Copyright*, op. cit., p. 143.
cause they believed that it too much favored the British publishers. Among those opposing it was W. H. Appleton, long an advocate of international copyright. It was not even seriously considered in America.

On December 6, 1871, Representative Cox of New York -- the famous "Sunset" Cox -- introduced a new copyright bill, practically identical with the one brought in by Baldwin in 1868. The bill had two readings and went to the Library Committee. Cox did not let it die there, but pressed for consideration in a resolution which he put through on December 18. In January, the Library Committee announced that it would hold a hearing on the bill, and invited all interested parties to attend.

Before the hearing, other bills were introduced. One was backed by the Copyright Association, with Charles Bristed taking the lead in trying to get Congressional consideration for it. This bill proposed simply that the authors of any country that gave American authors copyright would be given all the benefits of United States copyright. A feature of this bill which brought opposition to it was that it could be accused of ignoring the interests of American publishers. Under it a book manufactured in England could get full protection in this country. Not only the American publishers, but the workmen who had a part in the manufacture of books did not care for this bill.

Along with that measure, something new in copyright proposals was presented to the Library Committee by Representative Elderkin. Senator

1 Supplement to Publisher’s Weekly, Letter to London Times, Oct. 1871.
2 Solberg, Copyright in Congress, op. cit., p. 16.
3 Publisher’s Weekly, I, 3 (Feb. 1, 1872), p. 69.
4 Ibid., I, 4 (Feb. 8, 1872), pp. 94-95.
Sherman of Ohio, and Congressman Beck of Kentucky, neither of whom was impressed by the usual copyright proposals, took this up and made it into a bill. Under it any American publisher could reprint any British author, if the publisher paid a 5% royalty.\(^1\) This was meant to be a compromise measure, a substitute for copyright. But it seems to have aroused little interest among authors and publishers. Apparently there were too many uncertainties in it, and too little morality. Sherman, though he seemed to have all the qualifications of a good proponent of copyright, proved to be one of its irreconcilable opponents. R. U. Johnson, in trying to explain this, said that he thought that Sherman was somewhat confused on the subject of literary property.\(^2\)

There was another bill in Congress at that time, one submitted by the New York publisher, W. H. Appleton. This bill had strong support in New York, and was the measure that was taken most seriously. It was designed to afford the American publisher maximum protection. It provided that

\begin{enumerate}
\item No person except an American publisher shall hold copyright of a foreign book in the United States -- and he only as the assignee of the author.
\item The book must in every part be manufactured in the United States of home made material.
\item All foreign editions of such works shall be absolutely excluded from the country.
\item The book must be registered in the United States and pub-
\end{enumerate}


lished here within three months of its original publication. 1

While all of this was occurring, a memorial came to Congress from a number of British authors, urging copyright. Among the signatures were those of Herbert Spenser, Sir John Lubbock, John Stuart Mill, C.A. Lewes, J.A. Froude, John Morley, Thomas Carlyle, and Harriet Martineau. 2 It is interesting to note that the last two had signed a similar memorial to America, thirty-five years before. It is significant too, that this was the last such memorial from England. Perhaps the English discovered that their importunities did at least as much harm as they did good with an American Congress.

With the first threat of a serious attempt to obtain international copyright, the Philadelphia publishers met in January, drew up a memorial against copyright, and appointed a committee to attend the hearings on the various bills before Congress. 3 Henry C. Baird presided over the meeting. A correspondent of Publisher's Weekly gave his version of what went on there. Baird, he said, was the ruling spirit, seconded by W. P. Hazard. Henry C. Lea and others aligned themselves with Baird. Notable dissenters were W.B. Evans and Walter Lippincott. However, "the great bulk of the Philadelphia publishers have abstained from taking any active part in the controversy and may as well be counted for as against the measure." Baird, he goes on to say,

has a selfish interest, in that most of his profit comes from piracy. The present movement in favor of copyright emanated from your city, and there is an intense feeling of jealousy existing

1Publisher's Weekly, I, 3 (Feb. 1, 1872), p. 71.
2Ibid., I, 4 (Feb. 8, 1872), pp. 94-95.
3Ibid., I, 3 (Feb. 1, 1872), p. 69.
here, which excites opposition to anything you may originate. ¹

As if to prove the above accusation, Baird wrote to the same periodical on March 4th, taking its editor to task for not presenting the anti-copyright side. He said, "Do not, in conducting your journal, overlook the fact that New York is not the United States of America, and that she is becoming less so every day." ²

This essay at copyright was, indeed, pretty exclusively a New York fight. And it may be that conditions for copyright were not much better in Boston than they were in Philadelphia. A Bostonian writes (February 12, 1872):

As to international copyright our publishers ostensibly take but little interest in it. The leading houses seem to feel that a law, satisfactory and just to all parties concerned, is not to be expected on the present basis of human nature ..., that the best law that could be passed would discriminate in favor of a few great houses and to the serious detriment of the small dealers...³

It should be added that even New York was not unanimous. One prominent New York house, Harper's, opposed it. So did Putnam, and Hurd & Houghton, insofar as the Appleton Bill was concerned. The daily press of New York was almost unanimous against the bill. ⁴ As a matter of fact, Publisher's Weekly quoted a Mr. Seymour who declared that only a very small minority of publishers favored Appleton's bill. ⁵

The hearing of the Joint Committee on the Library met on February 12.

⁴Ibid., p. 134.
⁵Ibid., pp. 134-135.
This committee was made up of Senator Morrill of Maine, Chairman; Senator Howe of Wisconsin; Senator Sherman of Ohio; and Representative Peters (Maine), Wheeler (New York), and Campbell (Ohio).\(^1\) A Philadelphia delegation was there, headed by W.P. Hazard, with J. Potter and Roger Sherman to back him. This group stated that it was against any international copyright law whatever, at that time. Among others there, was a man named Hubbard with rather mysterious connections. He claimed to represent only the people, but he brought with him a letter from the Harpers, opposing copyright. He was probably the same man whom we shall find much later at a hearing on the Chace Bill.\(^2\) The pro-copyright people were represented by certain members of the American Copyright Association: Bristed, Youmans, A.E. Andrews, and R.G. White. The New York publishers were there in the persons of Appleton, Sheldon, and Van Nostrand.\(^3\)

It was almost a year before Senator Morrill made his report for the committee. It was made on February 7, 1873, and it killed off all proposed legislation up to that time. Morrill made these points:

(1) These copyright measures would make English books more expensive, which "would be a hindrance to the diffusion of knowledge among the people and to the cause of education."

(2) They would be "of doubtful advantage to American authors as a class."

(3) They would wreak "an unquestionable and permanent injury to the manufacturing interests concerned in printing books."

(4) Besides, there was no agreement among even the proponents of copyright.

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1. Solberg, Copyright in Congress, op. cit., p. 17.
2. See below, p.174.
(5) And such measures would bring on a commercial spirit that
would be damaging to literature. 1

With Morrill's report, the best attempt to get copyright, up to
that time, died. The spirit seems to have gone out of the movement. Though
a new bill (the Banning Bill) was introduced in February, 1874, no one paid
much attention to it and it quickly disappeared. Publisher's Weekly did not
even bother to mention it. In January, the Weekly had said, "The American
movement for international copyright is at present quite asleep."

Probably the depression that began in 1873 had much to do with this
period of quiescence. For there was no more activity until the depression
was over.

C. E. Appleton, an Englishman interested in international copyright,
visited this country for some months in 1876. After he got home he made a
report in the Fortnightly Review. He said that those in favor of copyright,
without any qualifications, included the authors of New England and a small
number of publishers. Also favoring it were "the highest class of newspa-
papers, not only in New England, but throughout the country, whether free
traders or protectionists, whether Democrats or Republicans. . . ." In the
opposition stood

the Pennsylvania school which opposes international copyright
of all kinds and with whatever qualification. Of this school, Phila-
delphia is the head and the aged and much respected economist,
Mr. Henry C. Carey, is the thinking brain. To this school one firm
in New York of the first importance, Messrs. Harper and Brothers, of
Franklin Square, may be said with reservations, to belong, and it
does not want friends among the trades which are ancillary to the
publishing trade, such as type-founders, paper-makers, and binders

1 Ibid., III, 8 (Feb. 22, 1873), pp. 191-194.
throughout the nation.
Between these two extremes there are three or four smaller
groups in favor of international copyright under conditions, but
differing as to what are the best conditions. We may call these
groups of intermediate opinion collectively the New York school...1

In 1878 a new attempt was made at a copyright treaty. This marks
a change of heart for the Harpers. Now they came over to the side of copy-
right. This was a matter of the utmost importance to the copyright fight,
for, as C.E. Appleton said, "It must be remembered that so far as any in-
fluence upon Congress is concerned, the little finger of Mr. Harper is
thicker than the loins of all the literary and scientific men in the
United States put together."2

The Harpers now joined with W.H. Appleton in a proposal to amend
the old Clarendon Treaty of 1870 in such a way as to bring about "full
reciprocity in English and American copyright, subject to manufacturing
provisos."3 On November 25, 1878, Harper's wrote to Secretary of State
Evarts advocating such a treaty and suggesting that a joint commission of
English and Americans be appointed by the Secretary and the British Foreign
Minister to look into it.4 This proposal became known as the "Harper Treaty".

As the Harpers conceived it, it did not seem likely to find many
adherents in England, for it required an English author to get his book
copyrighted in America by a certain time, or not at all. That meant that
if the author could not find an American publisher in time he could be

1 C.E. Appleton, op. cit., pp. 237-238.
2 Ibid., p. 293.
3 Publisher's Weekly, XV, 4 (Jan. 25, 1879), p. 79.
4 Supplement to Publisher's Weekly, p. 2.
freely pirated.\(^1\) It would be particularly hard on an unknown author.

It turned out to be controversial even in America. In February, 1880, a memorial favorable to it, signed by John Jay, James Grant Wilson, and Nathan Appleton was received by Evarts. In August a memorial from fifty-two authors, including Longfellow, Holmes, Whittier, and Emerson approved the treaty.\(^2\) President Hays told W. D. Howells that his administration would act for international copyright if the authors and publishers could agree among themselves on the basis for a treaty.\(^3\) But there were many who did not like the Harper Treaty. Some authors did not like it because of its requirement that all United States copyrighted books must be manufactured in America. They pointed out that England was a free trade nation, while the United States was protectionist, and that England would not give us a reciprocal agreement if we insisted on the manufacturing clause. They said that the tariff protects the book industry anyhow.\(^4\) George H. Putnam objected to the manufacturing clause because complete remanufacture in the United States would be too expensive. He suggested that English and American publishers could share the cost of manufacture.\(^5\) The New York Post stated that the Harper Treaty was finally beaten because of its attempt to compel the foreign author to publish his book in this country.\(^6\)

\(^1\)Publisher's Weekly, XXV, 7 (Feb. 16, 1881), p. 201.

\(^2\)Both memorials in Publisher's Weekly, XVIII, 25 (Dec. 18, 1880), p. 835.

\(^3\)Howells to Clemens, May 28, 1880, Howells, op. cit., Vol. I, p. 287.

\(^4\)Publisher's Weekly, XXXI, 2 (Jan. 8, 1887), p. 45.

\(^5\)Ibid., XXV, 7 (Feb. 16, 1881), p. 203.

Nevertheless, the treaty idea persisted for some years. Dana Estes later remarked that, in spite of the opposition to it, it might have been successful when Blaine took it up under Garfield's administration, if Garfield had not been assassinated. In May, 1881, talks concerning such a treaty were held between Lord Granville and the United States Minister to England, James Russell Lowell. But nothing came of them. The Arthur administration showed interest in a treaty also, and the State Department made confidential inquiries of authors and publishers on March 18, 1882. There was little agreement in the answers received, and Secretary of State Frelinghuysen stated that he thought it would be easier to amend existing copyright laws than it would to get a treaty through.

In 1880, while the treaty was being discussed, Philadelphia moved into action to counter the treaty with a bill of its own. The bill was drawn up by Henry C. Lea, who now became a supporter of international copyright. Lea's bill contained the manufacturing clause, as might be expected. A rivalry developed between the treaty and the bill. The Book Trade Association of Philadelphia backed the bill as did seventy-three signers of a petition of December, 1880. Professor Theodore D. Woolsey of Yale waged a one-man fight for the bill, sending three petitions to the House in three days, as well as getting his name among the seventy-three of the big petition. For the opposition, Senator Cameron of Pennsylvania

1 Proceedings at the Meeting for the Formation of the International Copyright Association. This is from a speech by Estes, p. 3.
2 Publisher's Weekly, XXV, 6 (Feb. 9, 1881), p. 170.
brought into the Senate a memorial with many names from Massachusetts, New York, Pennsylvania, and Connecticut, favoring the treaty.

The bill failed in committee, but there was no stopping the movement now.

Samuel Clemens, in his wild way, wrote to Congress in March, 1880, asking for a law making the sale of pirated books a penal offense, punishable by fine and imprisonment "like any other type of stealing". There is no evidence that Congress did anything about this.

Another idea was produced by Representative William E. Robinson of New York. He introduced a bill in March, 1882, which was going to take care of American literature in an elegant and elaborate way. He wanted to create a United States Office of Literature in the Interior Department, and a United States Commissioner of Literature. The bill would also bring international copyright. Robinson asked for an appropriation of $1,290,000 for this. The bill never got beyond the Committee on Patents.

In December, 1883, Congressman Patrick Collins of Massachusetts brought in a new copyright bill which went to the Committee on Patents where it was lost.

Early in 1884, there began the last great offensive. From then until 1891 there was little let-down. Slowly the opposition was driven back. But it was a hard fight.

On January 8, 1884, Dorsheimer of New York presented a bill to the House for international copyright. It was a straight grant of privileges

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1Howells, op. cit., p. 284.
2Solberg, Copyright in Congress, op. cit., p. 21.
to foreign authors equal to those which were given to American authors, and it contained no provision for manufacture in America. This bill was sponsored by the American Copyright League, though its author had not consulted with them before drawing up the measure. After the usual two readings, the bill went to the Judiciary Committee at Dorsheimer's request. Dorsheimer was a member of this committee. On February 5th, it was reported out favorably and placed on the calendar. On the 18th it was debated.

The bill provided for a twenty-five year copyright for a foreign author, or copyright for life, if he did not live twenty-five years. There could be no renewal. Some objected to the fact that the copyright ended with the author's death. It was pointed out that Americans got twenty-eight years plus fourteen years renewal, and that it would not be fair to discriminate against foreigners. To meet this objection, the Judicial Committee inserted an amendment which gave foreigners the same terms as Americans.

It proved to be a very controversial bill. Even some of the authors did not like it. Both E. C. Stedman and A. W. Tourgee discovered objections to it. Others found holes in it, and it seemed that no two of the holes were alike. In Boston, Lee & Shepard still preferred a treaty,

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1 Publisher's Weekly, XXXIII, 3 (Jan. 21, 1888), p. 59.
2 Ibid., XXV, 3 (Jan. 19, 1884), p. 54.
4 Ibid., XXV, 6 (Feb. 9, 1884), p. 169.
5 Ibid., XXV, 8 (Feb. 23, 1884), pp. 232-234.
6 Ibid., pp. 234-238.
and Roberts Brothers did not like the bill at all, though they had long
advocated international copyright. On the other hand, Little, Brown;
Cuppes, Upham & Company; Houghton, Mifflin & Company; Osgood; and Dana
Estes all supported the bill. Harper's was willing to accept it. So
was Century Company, E.P. Dutton & Company, Putnam's, Scribner's, Holt's,
and George Munro. The chief objection was the lack of a manufacturing
clause. Henry C. Lea and Henry Carey Baird and other protectionists,
like Representative Kelley of Pennsylvania, opposed it. In Congress the
most formidable opposition was led by Representative Deuster of Wisconsin.
Deuster, in the course of the debate, read an excerpt from the Chicago
Tribune, opposing copyright, saying that it was a monopolistic
scheme to make books dear. The Boston Advertiser said that Deuster was
opposing the bill because he was connected with a German publisher in
Philadelphia who imported and reprinted German books.

Petitions came into Congress from citizens of Media, Pennsylvania,
and from the Chicago Trade and Labor Association, against the measure.

The bill finally failed because its managers could not get the
two-thirds vote necessary to suspend the rules and fix a day for its con-
sideration. The vote was 156 for and 99 against.

In the post-mortems, Publisher's Weekly said that the bill failed

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1Ibid., XXV, 10 (Mar. 8, 1884), pp. 300-301.
2Ibid., XXV, 7 (Feb. 16, 1884), pp. 201-202.
3Ibid., XXV, 8 (Feb. 23, 1884), p. 238.
4Feb. 25, 1884, quoted by Publisher's Weekly, XXV, 9 (Mar. 1, 1884),
p. 263.
5Congressional Record, 48th Congress, 1st Session, Vol. XV, Part II,
p. 1203.
partly because this had been a do-nothing Congress, and partly because there had been no meeting of minds among authors, publishers, and others, as to what kind of a bill they wanted.\(^1\) It was pointed out that there had been too many political measures on the calendar ahead of it, and that this was a presidential election year and the Congressmen were anxious to get to the hustings.\(^2\) Dana Estes called it a "very crude bill which did not meet the views of either authors or publishers."\(^3\)

In his message to Congress, in December, 1884, President Arthur included a paragraph urging international copyright.\(^4\)

Petitions continued to come into Congress. The most notable of these was one in December from the Music Teachers National Association.

In January, 1885, two bills were brought before Congress, one in each house. On the 5th, Representative English of Indiana presented a bill which applied only to plays.\(^5\) This was referred to the Judicial Committee and pigeon-holed there. On the 8th, Senator Hawley of Connecticut submitted a bill to his house. This one was backed by the American Copyright League. A duplicate bill was brought into the House of Representatives by Tucker of Virginia and was referred to the Judicial Committee, of which Tucker was Chairman. The Hawley Bill went to the Senate Judicial Committee. Under this bill a foreign author could either import the finished book into this country or have it published here. If he imported it, he would have

\(^{1}\)Publisher's Weekly, XXVI, 2 (July 12, 1884), p. 32.

\(^{2}\)G. W. Green, quoted by Publisher's Weekly, XXXIII, 3 (Jan. 28, 1888), p. 60.

\(^{3}\)Ibid., p. 71.

\(^{4}\)Solberg, Copyright in Congress, op. cit., p. 23.

\(^{5}\)Putnam, Copyright, op. cit., p. 45.
to pay a 25% tariff. In either case he would be protected by copyright.¹

The Harpers favored the Hawley Bill, in spite of the lack of a manufacturing clause.² In February, Representative Spooner of Rhode Island presented a number of petitions in favor of the bill, among them one from the Boston Handel and Haydn Society.

When the winter session of Congress came, the Hawley Bill was still in the Judicial Committee. On December 14, it was transferred to the Patent Committee. It was supported there by the Chairman of the Committee, the man who now came to the fore as the leading advocate of copyright in Congress, Senator Platt of Connecticut. Platt's great influence in the Senate made him a powerful asset to the movement. On January 13, 1886, Platt got a resolution through the Senate to authorize the Patent Committee to take testimony on international copyright.

A week later, January 21, 1886, Senator Chace of Rhode Island tendered another bill. This one differed from the Hawley Bill in that it provided for American manufacture of foreign books. It also required the foreign author to register his book here within fifteen days after publication in his own country. No import of foreign books would be allowed. The bill did not provide for reciprocity on the part of other nations. It would give foreigners copyright for forty-two years. Henry C. Lea was Chace's chief adviser on this measure.³ The Chace Bill also went to the Patent Committee.

The public hearing on the Chace Bill and the Hawley Bill was held

¹Publisher's Weekly, XXIX, 7 (Feb. 13, 1886), p. 255.
³Publisher's Weekly, XXXIII, 15 (Sept. 18, 1887), p. 515.
by the Senate Patent Committee on January 28, 1886. Those who spoke at the hearing included Samuel L. Clemens, Gardiner G. Hubbard, James Russell Lowell, James Welsh of the Typographical Union of Philadelphia, Henry C. Lea, Roger Sherman, Henry Carey Baird, and George Haven Putnam. As a whole, the Author's League opposed the manufacturing clause, but Clemens and Lowell spoke for it at this hearing, and earned the praise of Publisher's Weekly by so doing. 1

The Hawley Bill did not have much chance. It was opposed by the Typographer's Unions and by many in Hawley's own constituency. Hawley abandoned it himself, and spoke to the committee in favor of the Chace Bill. 2

Petitions were received from typographical unions in Norwich, Connecticut; Portland, Maine; Erie, Pennsylvania; Chicago; Bloomfield, Illinois; Council Bluffs, Iowa; and Oshkosh, Wisconsin. Some of them were entirely against copyright in any form. But most of them favored the Chace Bill and opposed the Hawley Bill. The Music Teachers were heard from again, in favor of the Chace Bill. The Central Labor Union of Philadelphia opposed all copyright. The Trades and Labor Association of Cincinnati came out against the Hawley Bill and for the Chace Bill.

On May 21, 1886, the Committee on Patents ordered Chace to report his bill to the Senate. On the 28th the bill was reported out favorably. But Chace himself, evidently thinking that he did not have the backing to put it over, moved for an indefinite postponement. It came up for con-

1 Publisher's Weekly, XXXIII, 3 (Jan. 26, 1886) p. 62. See Appendix for complete list of those who spoke at this hearing. Also see Chap. VII, p. 111 for Publisher's Weekly's praise of Clemens and Lowell.
2 Dana Estes, Proceedings ... of the Copyright Association, op. cit., p. 9.
sideration again on June 17. Chace was not present, so it was held over. On July 12th it was up again, and held over again. The 49th Congress went out of existence with nothing further done on copyright. Chace had apparently found that he could not get the support to get the bill through.

In the fall of 1886, George Walton Green, Samuel Clemens, and R. U. Johnson visited President Cleveland to ask his support for copyright. Cleveland was sympathetic, and, in his message to Congress, on December 6th, he called for an international copyright measure.

In 1887 a new type of copyright proposal was made. This was the Royalty Stamp Plan. Under this the foreign author would have to procure a distinctive type of stamp. The American publisher would buy the stamps from the author, and each book sold in this country would bear the stamp. This plan, however, had very few adherents, and suffered a still-birth.

1887 went past with a minimum of action on copyright. Publisher's Weekly explained this by saying that Congress was "apathetic ... and ... more likely to heed its fears as to what printers, paper-makers and other persons who are supposed to control large numbers of votes might do, rather than to consult the interests of the smaller class of citizens authors whose interests are primarily involved...".

Chace, however, had not given up. In December, 1887, he brought out his bill again, before the 50th Congress. Once more it went to the Patent Committee. At the same time Breckinridge of Kentucky presented a

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1 Publisher's Weekly, XXXI, 2 (Jan. 8, 1887), p. 45.
2 Ibid., XXXII, 24 (Dec. 10, 1887), pp. 919-920.
3 Ibid., XXXI, 9 (Feb. 21, 1887), p. 312.
like bill to the House. It was referred to the Judicial Committee. A hearing on the Chace Bill was set for March 9, 1888. The Author's League got busy and, under the direction of Brander Matthews and T. M. Coan, sent each member of Congress a description and explanation of the bill.

At the hearing, the American Copyright League was represented by Stedman, Eggleston, Bowker, and Green; the Typographers (who were backing the bill\(^2\)) by Cummin of New York, Chance and Welsh of Philadelphia, and Corcoran of Boston; the Publisher's League by William Appleton, Putnam, Febiger of Philadelphia, and Estes; the booksellers by Merrill of St. Paul.\(^3\) The members of the Senate Committee were Hiscock, Platt, Jones, and Teller, the Chairman; the first two were pro-copyright and the last two ordinarily against it.

In the House the Judiciary Committee held its own hearing. Breckinridge and Dr. Welling, President of the Washington Copyright Association, both spoke for the bill. So did the Typographical leaders and Putnam, Houghton, Eggleston, Clemens, and Green.\(^5\)

The bill was reported back to the Senate on March 19, 1888. The Author's League got busy again and had an appeal published in all of the influential newspapers, to persuade readers to urge their congressmen to vote for the bill.\(^6\) The bill was debated in the Senate on April 23rd and

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\(^{2}\) Ibid.

\(^{3}\) Ibid.

\(^{4}\) Ibid.

\(^{5}\) Ibid.

\(^{6}\) Ibid.
During the debate, Senator Plumb, of Kansas, an opponent, asked Chace if the bill were a protective measure or supported by protectionists. Chace replied that it had nothing to do with the tariff. A tariff might be put on the books or not, without affecting this measure. He said that its backers were men of all shades of opinion, and that it was not a political issue. In that same vein, Publisher's Weekly said later that "leading Free Traders favor the bill heartily, as an approach to international justice, despite its manufacturing clauses, while Protectionists are satisfied with these specific provisions." It should be identified with neither, said the periodical. There was danger in that.

There seems to have been more interest than ever stirred up around the country, and a host of petitions and memorials descended upon Congress.

On May 9th the bill was brought up for vote in the Senate, and passed, 34-10. This was the first time that an international copyright bill had ever been voted on in Congress. The chief opposition came from Senators Daniel of Virginia, Sherman of Ohio, Hale of Maine, Pasco of Florida, Vance of North Carolina, Reagan of Texas, and Plumb of Kansas.

The bill was sent to the House on the 11th where it went to the Judicial Committee. On the 21st it was reported out favorably and put on the calendar, where it occupied a rather low position. Breckinridge and Collins worked hard to get it up and out. Finally Collins brought in a resolution to have December 5th set aside for the consideration of

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the bill. But by the House rules a single objection could block this, and
the objection was forthcoming, from Representative Rogers of Arkansas.

Congress had many things on its mind that year. There was a tariff
act that was absorbing everyone's interest, and there was the presidential
election.

Some interesting, but rather unimportant resistance to copyright
had shown up during 1888. One source of it was a Washington lawyer, named
Gardiner Hubbard. He attended one of the hearings, but would not say for
whom he was working. Finally he claimed to be there in the interests of a
small Philadelphia publisher named Kohler. No one believed him and his lack
of frankness tended to turn the committee against him, according to George
H. Putnam. Another source of opposition was a well-known firm of lawyers,
Arnoux, Rich, and Woodford of New York. They had been retained by a person
or persons unknown to circulate a petition against copyright, and otherwise
stir up opposition.

In January, 1889, the Republicans were absorbed in putting through
pension bills and the Democrats were busy blocking them, and there was no
chance for copyright. But in February it was decided to bring the Chace
Bill onto the floor of the House for debate on the 4th. Speaker Carlisle
had promised that he would recognize Breckenridge or Randall (another who
was interested in copyright) on that day. However, on the 4th other matters

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came up: the Pacific Railroad Funding Bill, an inter-state commerce bill, and a bill on the Maritime Canal Company of Nicaragua. The international copyright bill never had a chance. It was crowded back on the calendar. Its only hope seemed to be to get a day when the rules could be suspended, as they could every Monday, and have it taken up out of its regular order on the calendar. However, the opponents of the Pacific Railroad Funding Bill did not dare allow a suspension of rules. Filibusters prevented that and the opponents of copyright took a hand in keeping the filibusters going. Lewis E. Payson of Illinois spent one whole day filibustering against both the Pacific Bill and the copyright bill.¹

There were rumors circulating about in these days that the British were taking a hand in the game and bribing someone or other to keep the bill from passing. The Typographers, for example, claimed that British publishers were supporting some of the opposition, because they were "afraid to lose business if the bill becomes law."²

In the spring of 1889 Count de Keratry came to the United States as a special representative of the French Government to work for international copyright agreements between his country and the United States. He was received by Secretary of State Blaine. Then he went back home, drew up a treaty and returned with it to this country. The State Department asked the American Copyright League for its opinion on such a treaty. The matter came before the Conference Committee for Copyright and the latter


turned it down, stating that it wished to do nothing that would prejudice the chances of the Chace Bill, which it expected to pass at any moment.\footnote{Ibid., XXXVI, 23 (Dec. 7, 1889), p. 897.} Keratry was still here in 1891 and took part in the victory celebration after the passage of the Platt-Simonds Bill.

President Harrison, in his message to Congress in December, 1889, recommended copyright legislation.

Senator Chace retired to private life in 1889. Senator Platt then took his place in the copyright fight. In December, Platt reintroduced the Chace Bill, with certain modifications in it, on the advice of Thorvald Solberg, Register of Copyrights in Washington.\footnote{Ibid., XXXVI, 23 (Dec. 7, 1889), p. 896.} Now there was much maneuvering, with bills brought in and thrown out in a way to make one's head spin. Platt's Bill, S. 232, disappeared and was replaced by S. 2221, drawn up by the Patent Committee. On January 6, 1890, Breckinridge introduced H. R. 3853 and the Senate decided to discuss that, rejecting 2221. In February, 3853 was put aside in favor of H. R. 6941, introduced by Adams of Illinois. This one came up for debate in the House on May 1, 1890. After long debate it was defeated. In the meantime, Representative Simonds of Connecticut, a member of the Patent Committee, had brought in a new bill, H. R. 7213. That went on the calendar, but died with the Adams Bill. On May 16th, Simonds brought in still another bill, H. R. 10254. That was put aside and Simonds reported out a substitute bill, 10881.

In the midst of this hodge-podge of bills there were debates and
Congressional hearings. The most significant debate came on the Adams Bill, on May 2nd. Payson and Hopkins of Illinois attacked the bill and called it a publisher's monopoly. Bland of Missouri, Anderson of Kansas, and Culberson and Mills, both of Texas, all attacked the bill. *Publisher's Weekly* said that a primary factor in its defeat had been the country newspapers. It reported a rumor that was circulating in Washington that the American News Company was behind the opposition, though ostensibly pro-copyright.¹

Gardiner Hubbard turned up again, at a hearing before the House Judicial Committee, in January. It was discovered now that he was a leading figure in the Bell Telephone Company, and a very wealthy man. His motives in opposing copyright were never quite clear. He used the monopoly argument against copyright. Someone pointed out that it ill-befitted Bell Telephone to protest against monopolies.² The Publisher's League was very grateful to Mr. Hubbard for his contribution, saying that his testimony had been of exceptional value in making friends for copyright.³

The firm of Arnoux, Rich, and Woodford also appeared again, still busily earning their fee. One of the firm, C. N. Bovee, Jr., as well as Arnoux, who was head of the New York Bar Association, came before the Judicial Committee to make his protest. Bovee said that they represented a large publisher, but would not give his name.⁴ *Publisher's Weekly* refused

³ *Publisher's Weekly*, XXXVII, 10 (Mar. 8, 1890), p. 355.
to believe this, and speculated on the real identity of the firm's client. It suggested the possibility of the American News Company, or country newspapers, or British publishers or printers. The mystery was never satisfactorily solved. Bovee had published a pamphlet in 1888, against the Chace Bill. The pamphlet contributed nothing new to the opponents arguments, but repeated old points made by some of the more famous of anti-copyrighters.

In the summer of 1890 international copyright was forgotten as Congress held its long-drawn-out argument over the McKinley Tariff.

Another of the odd bills, by another opponent of conventional copyright, was brought into the Senate that year. This was the Teller Bill, drawn up by John M. Ella, a Chicago lawyer. It would have retained the current system of reprinting, but would pay a 10% royalty. The publisher would pay the royalty to the government and it would pay the author. This never got through the committee.

Petitions came into Congress from all over the nation, even from such unlikely places as Arkansas. Most of them were from teacher's groups, college faculties, and typographical unions. Practically all of them favored international copyright.

With the winter session of Congress, the fight continued. On December 2nd Simonds brought out his H. R. 10881 for debate. On the vote to consider it Simonds won, 132-74. But the opposition was stubborn.

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1Ibid., XXXVII, 19 (May 10, 1890), pp. 613-618.
2See Bibliography.
3Publisher's Weekly, XXXIX, 2 (Jan. 10, 1891), p. 23.
Payson and Hopkins, Blount of Georgia, and Kerr of Iowa were the most refractory. They tried to delay proceedings by calling for roll call after roll call, including roll calls to reconsider roll calls. On the 3rd the debate continued. Springer of Illinois, Peters of Kansas, Gates of Alabama, and Kerr led the opposition. Breckinridge, Farquhar of New York, McAdoo of New Jersey, Butterworth of Ohio, Cummings of New York, all argued for the bill. They were successful and by the end of the day it had passed, 139-95.¹

On the next day this bill came up to the Senate and was ordered to be laid on the table. Senator Platt became its sponsor and it became known as the Platt-Simonds Bill.

Salient features of the bill were its manufacturing clause and the provision that no more than two foreign books could be imported on the same invoice.

On February 9th the bill was brought before the Senate on the motion of Senator Platt. Platt pointed out that the bill was very similar to the Chace Bill, upon which the Senate had already voted favorably. Senator Frye of Maine then spoke, saying that he was in favor of international copyright, but that the Platt Bill did not protect lithographers, photographers, and plate engravers. These, it seemed, were all Maine industries which Frye thought it his duty to protect. His colleague, Hale, supported him in this. Frye offered an amendment under which the manufacturing provision would be extended to all lithographic work. Reagan of Texas also offered an amend-

¹Ibid., p. 60.
ment, which was voted down. He objected to levying tribute on readers for the benefit of printers and other workers, and declared that he would not vote for such a bill. His colleague, Coke, also spoke against it. So did Sherman of Ohio; he did not like the prohibition of the importation of foreign books. Platt replied to him, saying that Sherman misunderstood the purposes of copyright. This bill, he said, was not to benefit the British author, but was to benefit the American author, who would get copyright in foreign countries. Hoar of Massachusetts also spoke for copyright. He wanted an explanation of the non-importation clause. Platt answered that any foreign edition could be imported, but only two at a time. Evarts stood up and stated that the Frye Amendment would jeopardize the whole bill, and should be kept out. Platt spoke again, saying that the present bill had already passed the Senate as the Chace Bill. It had passed the House. Let's not complicate it by this amendment. Hawley then spoke for and Blair against the bill. When the vote was taken on the amendment it passed, 27-24. Sherman then offered an amendment. However, the House adjourned before it could be debated or voted.

During the day memorials had come in against the Frye Amendment from the Boston Art Club, John Andrew & Son of Boston, the Gravure Etching Company of Boston, the Paint and Clay Club of Boston, the Papyrus Club of Boston and the Boston Society of Architects; also from General Francis A. Walker of Boston, the Heliotype Printing Company of Boston, and the American Library Association. The word, apparently, had come quickly to Boston, and

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1 This paragraph comes from the Congressional Record, 51st Congress, 2nd Session, Vol. XXII, Part III, pp. 2378-2393.
2 Publisher's Weekly, XXXIX, 7 (Feb. 14, 1891) p. 289.
Bostonians were alert.

On the afternoon of the 11th the bill came up again and was held over until the morning of the 12th. The debate now was on the Sherman Amendment, which called for the free importation of all books, subject to the duty. On the 13th the Sherman Amendment was adopted, 25-24. The discussion continued on the 14th. Daniel of Virginia was proving to be the most stubborn opponent. A weekend intervened and the strife was renewed on the 17th. Amendments by Daniel and Vance tried vainly to wreck the measure. At last, on the 18th it was brought up for vote and passed, 26-14.

It then went to a Conference Committee, consisting of Platt, Hiscock, and Gray for the Senate; and Simonds and Buchanan for the House. The Sherman Amendment was ignored and the provision to allow only two books on an invoice was restored. On March 3rd Platt gave the Conference Committee report to the Senate. Sherman, in a warm debate, objected strongly to his amendment being thrown out. He reminded the Senate that they had given it a favorable vote, and he said that he objected to the Platt-Simonds Bill because it gave a foreign author the right to determine whether his book would be published in this country or not. Because it prohibited the importation of books it created a monopoly. In a vote on the Sherman Amendment, Sherman won 33-28, and the bill went back to the Conference Committee.

The Conference Committee reported late that night. The House had

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2 Ibid., p. 2819.

3 Ibid., p. 3847.

4 Ibid., Part IV, p. 3853.
been adamant. The Sherman Amendment was still left out. The Senator from Ohio protested vehemently. He said that the majority of the Senate conferees had been pro-copyright and that this was not according to parliamentary usage. Hiscock defended the conference report, but Gray let it be known that he had refused to sign the report. There was more debate, with Wolcott, Evarts, Aldrich, Daniel and Carlisle all speaking. The Senate voted to concur with the report of the Conference Committee, 27-19. After three other bills had been disposed of, Pasco moved to reconsider the copyright vote. But there was no quorum. Pasco complained that the bill was being signed by the Speaker and by the President of the Senate, though his motion had not been acted upon. Hale backed him in this (probably one of the few times that Hale and Pasco had ever agreed upon anything) and protested that the bill was being railroaded.

At midnight on March 3rd, the session was officially over. But the Senate extended the official day into the 4th, as they could. At 6:15 A. M. they recessed to 9 o'clock. As soon as the recess was over Pasco offered a resolution to recall the bill from the House of Representatives. The resolution lost by a vote of 29-21. During the roll call on the resolution Hale had tried to interrupt with a request for unanimous consent to present a conference report on the Deficiency Bill. Platt shut him off. Thus the international copyright bill was finally passed.

All of the maneuvering and scheming that went into the passage of the Platt-Simonds Bill do not, of course, appear in the Congressional Record.

1 Ibid., p. 3888.
Years later, R. U. Johnson, Secretary of the American Copyright League and chief lobbyist in Washington for the Joint Committee that represented the united movement of the various organizations of authors, publishers, employing printers, workmen in the printer's trades, and others who advocated international copyright, told the story of his efforts to get the bill passed.

The election of 1890 brought the overturn of the Republicans in the House of Representatives. Shortly after the election, Johnson wrote to Henry Cabot Lodge, Republican Representative from Massachusetts, urging the passage of the international copyright law during the lame duck session, so that the Democrats would not get credit for it. Lodge was sympathetic and wrote to R. W. Gilder, Johnson's associate on Century Magazine, saying that there would be no chance of getting international copyright through a Democratic House, and that he would work for its passage before the Democrats took over.¹

To get the bill through the Senate, it was necessary to impress its importance on the Steering Committee who had charge of the calendar. Johnson, in Washington, visited all of the members of that committee and asked them to put the Platt-Simonds Bill at the top of the list. However, a labor bill got first place. The copyright bill was given second place, Senators Hoar and Evarts taking the lead in the Committee to get it there.²

¹R. U. Johnson, op. cit., p. 242-244.
²Ibid., pp. 245-246.
Johnson made an appeal to every doubtful Senator through the newspapers of the Senator's state and through constituents or others likely to be influential with the Senator. His classmates, clergymen, former business associates, were all enlisted in this fight to influence the Senator. It was realized that no international copyright bill could be passed against the opposition of the unions. The National Lithographers Union had held aloof from the Chace Bill. But, after the passage of the Platt-Simonds Bill in the House in December, 1890, the Lithographers decided to play a part in the affair. It was they who got Senator Frye to present his amendment. This provided Johnson with a crisis, for it would have shut out drawings, etchings, paintings, and sculpture done by Americans in Europe. It stirred up great controversy. He was able to persuade the Lithographers to compromise, finally. They would accept the manufacturing clause applying only to books, lithographs, chromos, and photographs.

Johnson urged people to write or telegraph their Senators. He tried to get the cooperation of superintendents of schools, ministers, college professors, and administrators particularly. Andrew Carnegie was brought up in support of the bill. The Typographical Union played a leading part in bringing pressure on the Senators.

When the bill passed the Senate on the night of March 3-4, Lodge saw to it that it was signed immediately by the President of the Senate, Levi P. Morton. Then the bill went back to the House. Simonds took charge.

1 Ibid., p. 246.  
2 Ibid., p. 246-249.  
3 Ibid., pp. 249-253.
of it there, aided by Lodge and George E. Adams of Illinois. At about 2 A.M. the House took up the bill. As soon as it passed, Lodge hurried it to the engrossing room to shove it through there and get it before President Harrison for his signature as soon as possible.  

When the word was brought to the Senate of the passage of the bill by the House, Senator Pasco of Florida rose to protest against the manner in which the bill had been railroaded through, and moved reconsideration. During the recess Johnson and his colleagues conferred with Senator Platt. Platt realized that the Senators were tired out, and that many might fail to show up at nine for the final vote on the measure. It was decided, therefore, to make a special effort to get out as many as possible who favored the bill. Johnson, Appleton, and Scribner each took a certain number of Senators to see personally, to deliver to them notes from Platt demanding their presence at nine o'clock. This was successful, and when the Senate met, the motion to reconsider was voted down. 

The Platt-Simonds Act was to go into effect on July 1st. It included these provisions:

(1) Copyright was granted to authors, whether resident or non-resident, for a term of twenty-eight years. A further term of fourteen years was granted to the author or his survivors. However, copyright to foreign authors had to be reciprocated by the foreign author's nation.

(2) A foreign book had to be published in the United States no later than it was published in the home country.

1 Ibid., p. 257.
2 Ibid., pp. 258-259.
(3) All manufacturing of books, photographs, chromos, and lithographs had to be done in the United States. However, maps, charts, dramatic and musical compositions, engravings, cuts and prints, paintings and art works of all kinds could be copyrighted in this country without being manufactured here.

(4) Foreign copyrighted books, photographs, chromos, lithographs, or the plates thereof could not be imported for sale. Not more than two copies at any one time could be imported for use, and these were subject to duty. But books and pamphlets in languages other than English could be imported free of duty.

(5) There was to be no copyright for books published before July 1, 1891. This was the act that was finally adopted, fifty-four years after the first attempt to obtain international copyright in this country. With that the history of the international copyright movement is finished. Only a few concluding words are necessary.

Would the United States really have been better off if it had adopted international copyright laws earlier? Suppose that such laws had been passed with the first domestic copyright law in 1790. What difference would it have made?

Scott, Dickens, and their ilk would still have outsold Americans, just because they had a much greater appeal than any of the Americans. Their works, however, would not have been as widely spread as they were without copyright. Would American literature then have received more encouragement? Perhaps. But it is not at all certain. With the Americans and the British on equal terms in costs to the publishers and to the pub-
lic the British might still have monopolized the market in the first half of the century. Macaulay might still have outsold Prescott. Dickens and Scott would almost certainly have outsold anyone the Americans had. Thackeray, Reade, Trollope, George Eliot, all would have sold well. It is conceivable that, even with international copyright, American authors might have found the competition too stiff.

Would the American people have gained? That is the real crux of the situation. One is forced to say that they obtained great advantages from the cheap literature that came in from England. Even in the long run they do not appear to have been hurt in any way by the lack of copyright. It seems quite possible to argue that the whole situation worked out for the best, as far as the American people were concerned. They received good, cheap literature for many years. Then, when things got out of hand, and the time had obviously come when more regulation was essential, the international copyright law was enacted.

Would publishers have gained by having international copyright sooner? Yes, they might have gained by having it sooner, but not by having it before the Civil War. The fact that, in the pre-War period, they could publish English literature without paying English authors or publishers gave a tremendous boost to American publishing. It gave many publishers their start. It helped them grow and prosper, and, in doing that, created the conditions in which an American literature could thrive when it finally did develop. Furthermore, it made for decentralization and prevented monopolization. But eventually it got American publishing into a serious crisis and, by the 80's international copyright was overdue, as far as the publishers were concerned.
Now, what was the result of the passage of the international copyright act in 1891? In general, it may be said that its effect was not startling, one way or the other. It fulfilled few of the promises of the proponents or the misgivings of the opponents. Actually, it did not seem to make a great deal of difference.

Some have claimed that the coming of international copyright gave American authors a new lease on life and allowed them to replace British authors in the American market. Charles Scribner said, in 1900,

The American author has been benefited ... in that there is more encouragement for the publisher to pay the American author when he cannot take for nothing the works of English authors. It is an interesting fact that since the law was passed, books which have had the greatest sale in America are by native authors ... whereas a few years ago such a list would be made up almost entirely of the books of foreign authorship.¹

Sheehan said that Scribner's statement was confirmed by other publishers, and British books now disappeared from the best-seller lists in America. "The law was not wholly responsible, but was undoubtedly an influential factor."²

That may be, yet there is much evidence that the British authors were already being replaced, before 1891, by Americans. Look back to the "best-seller" list taken from Mott, in Chapter IV.³ The English were simply running out of first class writers and the United States was developing more. In the 1890's where did one find in England writers like

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¹ Sheehan, op. cit., p. 99.
² Ibid., p. 218.
³ See p. 95.
The price of American books did go up after the passage of the Platt-Simonds Act. The proponents had said that such a thing would not happen. However, the rise in prices was not unreasonable. Many of the paper-bound books now disappeared, as did Munro’s Seaside Library and Harper’s Franklin Square Library. The book trust that the opponents had foreseen did not materialize, nor did anything like it.

American books sold well in England, and American publishers with branches in England did increased business. But in the fields of scholarly works and fiction the English competition was too stiff for Americans to break. On the whole the English returns to Americans were less than had been hoped for. But American publishers were able to give more attention to young American writers.

International copyright proved to be a disappointment to British writers, who had expected to be paid royalties for millions of American readers. Things were not that good, by any means. However, top-grade and even second-grade English writers did make some gain.

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1 Sheehan, op. cit., p. 216.
2 Ibid.
3 Putnam, Copyright, op. cit., p. 164.
4 Ibid., pp. 164-165.
5 Ibid., pp. 165-166.
APPENDIX I

SIGNIFICANT PETITIONS AND MEMORIALS FOR AND AGAINST INTERNATIONAL COPYRIGHT IN THE 1830'S AND 1840'S

(1) February 15, 1837--memorial for international copyright, signed by

Henry W. Longfellow  Robert Montgomery Bird
Professor Felton         Willis Gaylord Clark
John Neal                  Robert Morris
Rufus Daves             George M. Wharton
William A. Duer                 H. Biddle
Dr. McVicker                  T. K. Wharton
George P. Morris

There were thirty authors who signed this petition. Those given here were listed by Thorvald Solberg, International Copyright in Congress, 1837-1886, pp. 4-5.


(3) February 20, 1837--a petition from professors at the University of Virginia. From a speech by Senator Chase, April 23, 1838. Congressional Record, 50th Congress, 1st Session, Vol. XIX, Part IV, p. 3240.


APPENDIX I (continued)

(8) April 10, 1838--Buchanan presented a memorial of Richard Penn Smith and others, against copyright. This was identical to the memorial of January 15, with different names. Solberg, Copyright in Congress, p. 7.

(9) April 16, 1838--Congressman Fletcher of Massachusetts presented a memorial from the booksellers of Boston, against copyright. Solberg, Copyright in Congress, p. 7.

(10) April 24, 1838--Clay presented a petition from New York containing 136 names for copyright. Among the names were:

<table>
<thead>
<tr>
<th>Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>Henry Ogden</td>
</tr>
<tr>
<td>Theodore Sedgwick, Jr.</td>
</tr>
<tr>
<td>Grenville Sackett</td>
</tr>
<tr>
<td>John McVickers</td>
</tr>
<tr>
<td>William A. Duer</td>
</tr>
<tr>
<td>Charles Anthon</td>
</tr>
<tr>
<td>Cornelius Mathews</td>
</tr>
</tbody>
</table>

From Solberg, Copyright in Congress, p. 8.


(13) June 13, 1842--Representative Toland of Pennsylvania and Senator Buchanan of Pennsylvania both brought in a petition against copyright signed by C. Sherman and T. and J. W. Johnson, all of them from Philadelphia. Solberg, Copyright in Congress, p. 9.

(14) January 15, 1844--memorial of Nahum Capen of Boston for copyright, to House of Representatives. Solberg, Copyright in Congress, p. 11.

SIGNATURES IN PETITION FROM CITIZENS OF BOSTON FOR COPYRIGHT. PRESENTED BY SENATOR RIVES, APRIL 24, 1838.

Edward Everett  
George Bond  
William G. Lambert  
Alfred Slade  
Henry A. Johnson  
Charles H. Mills  
Samuel A. Appleton  
William Almy  
L. F. Stoddard  
George William Gordon  
John A. Blanchard  
William J. Bellows  
Caleb Andrews  
Daniel K. Chud  
Charles Scudder  
David W. Horton  
David S. Dutton  
William W. Stone  
Joshua Webster Jr.  
N. Day Kimball  
H. Gasset Jr.  
Oscar Gasset  
James McGregor  
Daniel Chamberlin  
J. Huntington Wolcott  
Samuel Frothingham  
Charles R. Bond  
Joseph M. Brown  
F. A. Durivage  
George S. Hillard  
R. Choate  
William J. Niles  
T. Lewis Stackpole  
C. C. Felton  
W. B. English  
Meldon Somerville  
Isaac Knapp  
Willard Phillips  
Joseph Willard  
Frederick Emerson  

Isaac Boyle  
John Brooks Fenno  
R. J. Cleveland  
George William Bond  
Nathaniel Greene  
Henry G. Foster  
Thomas Odiorne  
William B. Lawrence  
William Lawrence  
Samuel Lawrence  
Amos A. Lawrence  
Henry Rice  
Thomas S. Wild  
Henry Loring  
George A. Fiske  
Charles B. Blaney  
Alanson Tucker Jr.  
Aaron Sweet  
T. F. Holden  
A. J. Gray  
H. G. Hutchins  
George Foster  
Daniel McGregor  
Horatian Bigelow  
George T. Curtis  
John W. Gorham  
John S. Wright  
Thomas Lord  
E. P. Whitman  
P. Greeley, Jr.  
Henry F. Baker  
Thomas J. Shelson  
Thomas Tileston Jr.  
Isaac C. Pray Jr.  
Edward G. Loring  
Epes Sargent Jr.  
E. J. Austin  
W. W. Tucker  
J. B. Wright  

MEMORIAL ORIGINATED BY GEORGE P. PUTNAM AND PRESENTED TO THE SENATE BY SENATOR CHOATE DECEMBER 15, 1843, FOR INTERNATIONAL COPYRIGHT. PRESENTED TO THE HOUSE THE SAME DAY BY JOHN QUINCY ADAMS. SIGNED BY:

Publishers and booksellers of New York--
D. Appleton & Company
John Allen
Bartlett & Welford
Alexander V. Blake
T. J. Crowen
Robert Carter
M. W. Dodd
Edward Dunnigan
Charles S. Francis & Company
Charles J. Polson
J. and H. G. Langley
Jonathan Leavitt

Publishers of Boston--
T. H. Carter & Company
Crocker & Brewster
William Crosby & Company
Robert Davis
Joseph H. Francis
Harrison Gray
Jenks & Palmer
Lewis & Sampson
D. S. King & Company
William B. Fowle
B. B. Mussey
Otis, Broaders & Company

Printers of New York--
William Osburn
James P. Wright
John F. Trow
J. H. Jennings
Thomas B. Smith

Printers of Boston--
Samuel G. Drake
Elizabeth P. Peabody
W. J. Reynolds
Saxton, Pierce & Company
Tappan & Bennet
W. D. Ticknor & Company
Thomas H. Webb
David H. Williams
R. H. Sherburne
N. Capen
Benjamin Bradley

Bookbinders of New York--
Samuel Middlebrook
Colton & Jenkins
Edward Walker
James Liner

George Hogg
A. T. Canfield
Edward G. Taylor

APPENDIX III
APPENDIX III (continued)

Booksellers of Hartford and New Haven--
John C. Wells  
Gordon Robbins Jr.  
Sidney Babcock  
Benjamin Noyes  
Croswell & Jewett  
Dunie & Peck  
A. H. Maltby

Booksellers and publishers in Philadelphia--
George S. Appleton  
J. B. Lippincott & Company  
J. Wheatham & Son  
Hogan & Thompson  
Edward C. Biddle  
A. S. Barnes & Company  
Carpenter Wharton  
H. Hooker  
T. Elwood Chapman  
Henry F. Annas  
Thompson & Brown  
John W. Moore  
William G. Wardle  
James B. Longacre  
T. K. & F. G. Collins  
Judah Dobson  
Richard S. H. George  
R. W. Pomeroy

Booksellers of various places--
John Owen, Cambridge, Massachusetts  
Babcock & Co., Charleston, S. C.  
Samuel Hart, Sr., Charleston, S. C.  
Pliny Miles, Watertown, N. Y.  
William Wilson, Poughkeepsie, N. Y.  
Francis Putnam, Salem, Mass  
Henry Whipple, Salem, Mass.  
L. W. Hall & Co., Syracuse, N. Y.  
W. B. & C. E. Peck, Buffalo, N. Y.  
O. G. Steele, Buffalo, N. Y.  
George Tracy, Utica, N. Y.  
Bennett, Backus, & Hanley, Utica, N. Y.  
J. Tiffany, Utica, N. Y.  
Allen, Morrill & Wardwell, Andover, Mass.

APPENDIX IV

OFFICERS OF THE AMERICAN COPYRIGHT CLUB, 1843.

William Cullen Bryant, President
Gulian C. Verplanck, Vice President
Cornelius Mathews, Corresponding Secretary
Evert A. Duyckinck, Recording Secretary
A. W. Bradford, Treasurer

Executive Committee

Charles F. Hoffman  John Reese
C. F. Briggs  Robert Tomes
Parke Godwin  N. J. Raymond

Members

William Cullen Bryant  George B. Cheever
Cornelius Mathews  John L. Stephens
A. W. Bradford  Gulian C. Verplanck
C. F. Briggs  Evert A. Duyckinck
John Reese  Charles F. Hoffman
H. J. Raymond  Parke Godwin
Fitz Green Halleck  Robert Tomes
John Jay  Francis L. Hawkes
George Folsom  James Lawson
Orville Dewey  Edwin Forrest
Charles Wilford  William Appleton
Jacob Harvey  William Page
Wesley Harper

Partial List of Associate Members

John Quincy Adams  Horace Greeley
George Bancroft  Nathan Hale, Jr.
Nicholas Biddle  Nathaniel Hawthorne
Francis P. Blair  Oliver Wendell Holmes
Crestes A. Brownson  Washington Irving
W. H. Channing  Rufus King
Henry Clay  Henry W. Longfellow
Richard Henry Dana  James Russell Lowell
Edward Everett  Edgar Allan Poe
Ralph Waldo Emerson  George F. Putnam
Hamilton Fish  Jared Sparks
Albert Gallatin  Daniel Webster
Asa Gray  Thurlow Weed

There were 175 associate members in all. Those above were given by William Cullen Bryant in his pamphlet, An Address to the People of the United States in Behalf of the American Copyright Club, p. 1.
On this date Senator Sumner of Massachusetts presented a memorial to the Senate. He said that it was signed by "authors, publishers, booksellers, printers, editors, paper dealers, and citizens." It asked for a law "for the benefit of American literature, which shall give to British authors and publishers the same right to their literary property in the United States that the law of England offers reciprocally to the authors and publishers of this country."

At the same time Sumner presented a petition to the same effect. "Among the illustrious petitioners are James Fenimore Cooper ... Jonathan Wainwright, Herman Melville, William Cullen Bryant, George P. Putnam, Washington Irving, Rev. Dr. Francis L. Hawks, Dr. Edward Robinson, Rufus W. Griswold, Bayard Taylor, and John Jay."

APPENDIX VI

A MEMORIAL OF AMERICAN AUTHORS

The undersigned American citizens who earn their living in whole or in part by their pen, and who are put at disadvantage in their own country by the publication of foreign books without payment to the author, so that American books are undersold in the American market, to the detriment of American literature, urge the passage by Congress of the international copyright law, which will protect the rights of authors, and will enable American writers to ask from foreign nations the justice we shall then no longer deny on our part.

Henry Abbey
Lyman Abbott
Charles Kimball Adams
Henry C. Adams
Herbert E. Adams
Oscar Fay Adams
Louisa May Alcott
Thomas Bailey Aldrich
Edward Atkinson
Leonard W. Bacon
Hubert H. Bancroft
Charles Bernhard
Ameria E. Barr
Henry Ward Beecher
Edward Bellamy
William Henry Bishop
Hjalmar H. Boyesen
R. R. Bowker
Francis F. Browne
Oliver B. Bunce
H. C. Burner
Frances Hodgson Burnett
Edwin Lassettier Bynner
G. W. Cable
Lizzie W. Champney
S. L. Clemens
Titus Kanon Coan
Robert Collyer
Clarence Cooke
George Willis Cooke
J. Esten Cook
A. Cleveland Cox
George William Curtis
Charles de Kaye
Eugene L. Didier
John Dimitry
Nathan Haskell Dole
Maurice Francis Egan

Edward Eggleston
George Carey Eggleston
Richard T. Ely
Edgar Fawcett
Charles Gayarre
Richard Watson Gilder
Arthur Gilman
James R. Gilmore
Washington Gladden
Harpe Godwin
Robert Grant
F. V. Greene
Edward Greeley
William Elliot Griffis
Hattie Tyng Griswold
W. M. Griswold
Louise Immogene Guiney
John Habberton
Edward E. Hale
J. Hall
William A. Hammond
Marion Harland
Joel Chandler Harris
Miriam Coles Harris
William T. Harris
James A. Harrison
J. M. Harte
Bret Harte
Thomas Wentworth Higginson
Edward S. Holden
Oliver Wendell Holmes
James K. Hosmer
W. D. Howells
Ernest Ingersoll
Helen Jackson
Sarah O. Jewett
Rossiter Johnson
Ellen Olney Kirk
APPENDIX VI (continued)

Thomas W. Knox
Martha J. Lamb
Henry Cabot Lodge
Benson J. Lossing
J. R. Lowell
Hamilton W. Mabie
James McCosh
John Bach McMaster
Albert Matthews
Brander Matthews
Edwin D. Mead
Donald G. Mitchell
T. T. Munger
Simon Newcomb
R. Heber Newton
Charles Ledyard Norton
Grace A. Oliver
John Boyle O'Reilly
Francis Parkman
James Parton
P. Y. Pember
Thomas L. Perry
Ben: Perly Poore
David L. Proudfoot
Isaac L. Rice
Charles F. Richardson

E. P. Roe
J. T. Rothrock
Philip Schaff
James Schouler
Horace E. Scudder
Eugene Schuyler
Isaac Sharpless
Albert Shaw
George William Sheldon
E. V. Smalley
Ainsworth R. Spofford
Edmund G. Stedman
Frederick J. Stimson
Frank R. Stockton
R. H. Stoddard
Maurice Thompson
Moses Coit Tyler
Francis H. Underwood
William Hayes Ward
Susan Hayes Ward
Charles Dudley Warner
David A. Wells
Horace White
William D. Whitney
John G. Whittier
Constance Fenimore Woolson

A facsimile of the original of this document is in the Boston Public Library. It is bound. The only title it has is the title given here. There is no date given on it. But, written in pencil on the first page, is the date, November 1888. The signatures are reproduced in this.
APPENDIX VII

THE AMERICAN COPYRIGHT LEAGUE

(1) Partial List of the Membership of the American Copyright League, 1884. This is from a list of 528 names. The best known are the following:

Louisa M. Alcott  
Thomas Bailey Aldrich  
W. F. Adams  
C. F. Adams Jr.  
Rev. Lyman Abbott  
Adam Badeau  
Francis Hodgson Burnette  
Rev. Henry Ward Beecher  
John Burroughs  
Edward Bellamy  
W. H. Bishop  
H. H. Boyesen  
Noah Brooks  
C. C. Buel  
O. B. Bunce  
Rev. Phillips Brooks  
Prof. John W. Burgess  
Samuel L. Clemens  
George W. Cable  
Rev. J. F. Clarke  
Rev. Robert Collyer  
S. S. Cox  
G. W. Curtis  
J. W. DeForest  
Mary Mapes Dodge  
Dr. Edward Eggleston  
Charles W. Eliot  
Richard T. Ely  
Mrs. James T. Fields  
John Fiske  
Parke Godwin  
E. L. Godkin  
Walcott Gibbs  
Rev. Washington Gladden  
R. W. Gilder  
Henry W. Grady

William Dean Howells  
Oliver Wendell Holmes  
Mark Hopkins  
Lafcadio Hearn  
Charles G. Hurd  
Julian Hawthorne  
William James  
Helen Hunt Jackson  
Sarah O. Jewett  
R. U. Johnson  
Henry Cabot Lodge  
D. R. Locke  
J. T. Morse Jr.  
Hamilton Wright Mabie  
J. B. McMaster  
Joaquin Miller  
Brander Matthews  
Donald G. Mitchell  
Dr. S. Weir Mitchell  
Prof. C. E. Norton  
Francis Parkman  
F. L. Olmsted  
James Parton  
E. M. Pease  
Harriet B. Stowe  
E. C. Stedman  
A. G. Sedgwick  
H. W. Shaw  
Prof. W. G. Sumner  
Frank R. Stockman  
Hon. Carl Schurz  
Mrs. Bayard Taylor  
Mary Virginia Terhune  
Bayard Tuckerman  
Moses Coit Tyler  
Charles Dudley Warner
APPENDIX VII (continued)

John Hay
Julia Ward Howe
Edward Everett Hale
Joel Chandler Harris
T. W. Higginson

Henry Watson
John Greenleaf Whittier
Theodore D. Woolsey
Col. G. E. Waring
Prof. E. L. Youmans

This is from a pamphlet entitled Partial List of Members--American
Copyright League.

(2) Names of those who signed the letter to Secretary of State
Frelinghuysen from the American Copyright League, January, 1884, asking
for a copyright treaty with England:

John Bigelow  H. H. Boyesen  N. Brooks
R. Collyer  Howard Crosby, D.D.  Edward Eggleston
Sidney Howard Gay  R. W. Gilder  Parke Godwin
George Walton Green  Laurence Hutton  Barnder Matthews
H. C. Potter  A. Thorndike Rice  R. Henry Stoddard
Bayard Tuckerman  Charles D. Warner  E. L. Youmans

George P. Parsons

This comes from Publisher's Weekly, XXV, 6 (Feb. 9, 1884), p. 170.

(3) The Executive Committee of the American Copyright League, 1885:

John Bigelow  Hjalmar Hjorth Boyesen
Noah Brooks  Robert Collyer
Howard Crosby  Edward Eggleston
G. W. Folsom  Sidney Howard Gay
Richard Watson Gilder  Parke Godwin
George Walton Green  Laurence Hutton
Jonas M. Libbey  Brander Matthews
H. C. Potter  A. Thorndike Rice
Arthur G. Sedgwick  Edmund Clarence Stedman
Richard Henry Stoddard  Bayard Tuckerman
Charles Dudley Warner  E. L. Youmans
G. P. Lathrop, Sec.
R. U. Johnson, Treas.

From To the Members of the American Copyright League, a pamphlet,
APPENDIX VII (continued)

(4) First Council of the American Copyright League:

John Bigelow        E. P. Roe
H. H. Boyesen       R. U. Johnson
Robert Collyer      Charles Barnard
Howard Crosby       T. M. Coan
R. W. Gilder        Thomas W. Knox
George W. Green     Hamilton Mabie
Laurence Hutton     E. Monroe Smith
Brander Matthews    Bayard Tuckerman
H. C. Potter        E. L. Youmans
A. G. Sedgewick     Morgan Dix
E. C. Stedman       Henry W. Alden
Charles D. Warner   W. H. Bishop
S. L. Clemens       Mrs. B. N. Harrison
Poultney Bigelow    Mrs. L. W. Champney
                    Thomas Maitland

From Publisher's Weekly, XXXIII, 3 (Jan. 28, 1888), p. 61.

(5) Council of the American Copyright League, 1887 and 1888:

Council of the League, 1887:

A. G. Sedgewick        E. C. Stedman
Thomas W. Knox         H. H. Boyesen
W. H. Bishop           J. H. Morse
T. Munson Coan         G. W. Green
Dr. Howard Crosby      Brander Matthews
E. P. Roe              Laurence Hutton
Monroe Smith           R. U. Johnson
R. W. Gilder           Dana Estes

The Council for 1888 included the same persons, with the exception of Estes and Morse, and with the addition of:

J. R. Lowell          Robert Collyer
Bronson Howard        G. W. Curtis
Frank R. Stockton     H. C. Bunner
Charles D. Warner     S. L. Clemens
E. Eggleston          W. D. Howells
G. W. Cable           H. M. Alden

Publisher's Weekly, XXXII, 20 (Nov. 12, 1887), p. 679.
APPENDIX VII (continued)

(6) Officers of the American Copyright League, 1889:

President ............Lowell
Vice Presidents ......Stedman, Lew Wallace, Eggleston
Secretary ............R. U. Johnson
Treasurer ............Col. Thomas W. Knox

Executive Committee ...Eggleston, Green, Johnson, Knox, Bowker.

Publisher's Weekly, XXXVI, 20 (Nov. 16, 1889), pp. 691-2

(7) Officers of the American Copyright League of Chicago, 1890:

President ............ General McClurg
Vice Presidents .... Prof. Swing, Franklin MacVeagh, Joseph Kirkland, and Charles L. Hutchinson.
Other Officers ... Marshall Field, George A. Armour, E. G. Mason, Hobart C. Taylor, Reginald De Koven, Mrs. Potter Palmer, Mrs. Wirt Dexter, Capt. Charles King, Mrs. Henrotin, and Mrs. Mary Hartwell Catherwood.

Publisher's Weekly, XXXVII, 9 (March 1, 1890), p. 330
APPENDIX VIII

THE INTERNATIONAL COPYRIGHT ASSOCIATION OF NEW ENGLAND

(1) Formation of the International Copyright Association of New England.

The letter of invitation to the meeting which resulted in the founding of this organization was written in Boston, December 20, 1887, and signed by:

James Russell Lowell
Thomas Bailey Aldrich
Charles Francis Adams
Alexander H. Rice
Charles Fairchild
Charles W. Eliot
Francis A. Walker
John Bartlett
Thomas Niles
Louis A. Roberts

Oliver Wendell Holmes
John Lowell
Richard Henry Dana
Samuel D. Warren
Henry Lee
William F. Warren
Elmer H. Capen
Henry O. Houghton
Benjamin H. Ticknor
Dana Estes

The stated purpose of the meeting was "to organize a local association for cooperation with the Author's Copyright League of New York."

Mr. Estes declared in his opening address that he wanted not only authors in this new association, but also publishers, papermakers, printers, binders, college presidents, distinguished lawyers, and editors of leading newspapers.

From Proceedings at the Meeting for the Formation of the International Copyright Association, Parker House, December 27, 1887, passim.

(2) Officers of the International Copyright Association of New England, 1887

President: Charles W. Eliot
Vice Presidents: John Lowell, Francis Parkman, Henry O. Houghton
Treasurer: Thomas B. Aldrich
Secretary: Dana Estes
Assistant Secretary: Warren F. Kellogg


Publisher's Weekly, XXXIII, 3 (Jan. 31, 1888), p. 73
APPENDIX VIII (continued)

(3) Officers of the International Copyright Association of New England, elected December 30, 1890.

President ------- Francis A. Walker
Vice Presidents -- J. R. Lowell, W. W. Goodwin,
                 H. O. Houghton
Treasurer --------- Charles C. Soule
Secretary --------- Dana Estes

Assistant Secretary -- Francis H. Little
Directors ----------- Alexander H. Prince, N. S. Shaler,
                   E. H. Clement, John D. Long, Benjamin H. Ticknor,
                   Herman W. Chaplin, Samuel E. Elder.

_Publisher's Weekly, XXXVII, 1 (Jan. 4, 1890), p. 7._
APPENDIX IX

THE AMERICAN PUBLISHER'S COPYRIGHT LEAGUE

(1) The Articles of Organization of the American Publisher's Copyright League.

I. The name of this Association shall be "The American Publisher's Copyright League."

II. The object of this Association shall be to cooperate with American authors in securing international copyright.

III. The officers shall be a President, a Secretary, a Treasurer, to be elected annually on the last Thursday in December.

IV. Membership shall be limited to American publishers who favor international copyright.

V. Each member shall pay twenty-five dollars entrance fee and twenty-five dollars for annual dues on or before the monthly meeting on the last Thursday in February.

VI. Regular meetings shall be held on the last Thursday in each month. Members shall be notified of the meeting by the Secretary. Nine members shall constitute a quorum. Special meetings may be called by the President on the written request of seven members.

Publisher's Weekly, XXXIII, 3 (Jan. 21, 1888), p. 66.
APPENDIX IX (continued)

(2) Those who attended the first meeting of the American Publisher's Copyright League, December 29, 1887.

A.D.F. Randolph & Co.  Thos. Whittaker
G. W. Dillingham  Ivison, Blakeman & Co.
Robert Carter & Bros.  Phillips & Hunt
J. B. Lippincott Co.  Taintor Bros. & Co.
Robert Clarke & Co.  Estes & Lauriat
Cushings & Bailey  Charles L. Webster & Co.
A. C. McClurg  E. & J. B. Young & Co.
Little, Brown & Co.  Geo. R. Lockwood & Son
Sheldon & Co.  Baker & Tailor Co.
John Wiley & Sons  Chas. Scribner's Sons
Lee & Shepard  Dodd-Head & Co.
Ticknor & Co.  A. C. Armstrong & Son
A. S. Barnes & Co.  G. P. Putnam's Sons
The Century Co.  Clark & Maynard
F. A. Stokes  Henry Holt & Co.

Publisher's Weekly, XXXIII, 3 (Jan. 21, 1888), p. 66.

(3) Houses which joined the American Publisher's Copyright League on January 21, 1888.

American Publishing Co.  Fords, Howard & Hurlbert
Oliver Ditson & Co.  D. Lockwood & Co.
Ginn & Co.  Roberts Bros.
John W. Lovell  F. A. Stokes & Bro.
Mark M. Pomeroy  R. R. Bowker
Van Antwerp, Bragg & Co.  M. L. Holbrook
John B. Alden  George Munro
Hubbard Bros.  Street & Smith

Publisher's Weekly, XXXIII, 3 (Jan. 21, 1888), pp. 67-68
APPENDIX X

THE JOINT COMMITTEE ON INTERNATIONAL COPYRIGHT, 1889

(1) Members

American Copyright League: Eggleston, Johnson, Knox, Green, Bowker, Lowell, Stedman, Gilder.


Typographical Unions: W. E. Boselly and later, Charles J. Dumar.

Typothetae: Theodore L. DeVinne.

American Library Association: Frank P. Hill

Thorvald Solberg.

Publisher's Weekly, XXXIX, 10 (March 7, 1891) p. 370.
APPENDIX XI

MEETINGS CONCERNING THE APPLETON BILL, 1872

(1) Meeting held in New York, January 6, 1872, to consider W. H. Appleton's bill for international copyright.

Those who approved the bill

D. Appleton & Company
Sheldon & Company
Lee, Shepard & Dillingham
A.D.F. Randolph & Company
W. H. Bidwell
Robert Carter & Brothers

Those who opposed the bill

James Miller
C. Scribner & Company
E. R. Pelton
Collins & Brother


(2) Meeting held in Philadelphia, January 27, 1872. Those present:

Henry C. Baird
Roger Sherman
Thomas Mackellar
James R. Nicholson
A. G. Elliot
Walter Lippincott
National Publishing Company
W. W. Harding

Jesseup & Moore
Cowperthwaite & Company
J. E. Potter & Company
W. B. Evans & Company
Gaskell & Gressmer
Porter & Coates
Henry C. Lea

From Publisher's Weekly, I, 3 (Feb. 1, 1872), p. 69.
APPENDIX XII

THE HARPER TREATY AND THE LEA BILL, 1880

(1) Petition of those backing the Harper Treaty. Signatures:

Henry W. Longfellow                A. Cleveland Coxe
Oliver Wendell Holmes              Harriet Prescott Spofford
Ralph Waldo Emerson                L. P. D. Casnola
James T. Fields                    George Ticknor Curtis
John Greenleaf Whittier            E. P. Whipple
Thomas Bailey Aldrich              George H. Boker
William Dean Howells               I. I. Hayes
John William Draper                John Bigelow
Simon Newcomb                       Asa Gray
Charles Dudley Warner              E. L. Youmans
Samuel L. Clemens                  William Dwight Whitney
Charles E. Norton                  William A. Hammond
George William Curtis              George Cary Eggleston
George Bancroft                    Epes Sargent
Paul B. DuChaillu                  Thomas J. Conant
James Parton                       Harriet Beecher Stowe
Frank Vincent Jr.                  Ernest Ingersoll
Benson J. Lossing                   S. S. Cox
S. Irenaeus Prime                  Parke Godwin
C. Edwards Lester                  Helen Jackson
Charles Nordhoff                   M. E. Anderson
Louisa May Alcott                  J. T. Trowbridge
John Esten Cooke                   R. Shelton Mackenzie
Sidney Lanier                      Susan Warner
Paul Hamilton Hayne                 Anna B. Warner
M. Schele Devere                   Philip Schaff
Mary A. Sprague                    Henry W. Bellows
Will Carleton                      Lewis H. Morgan
Mary L. Booth                      Donald G. Mitchell
E. D. G. Prime                     Virginia W. Johnson
Edward Eggleston                   Elizabeth Stuart Phelps
Harper & Brothers                  D. Appleton & Company
Charles Scribner’s Sons           A.D.F. Randolph & Company
G. W. Carleton & Co.               Dodd Mead & Company
John Wiley & Sons                  D. Van Nostrand
Ford’s                             Howard & Hallbert
A. S. Barnes & Company            A. C. Armstrong & Son
W. J. Middleton                   E. P. Dutton & Company
R. Worthington                    Baker, Platt & Company
Robert Carter & Brothers          Sheldon & Company
G. P. Putnam’s Sons                Henry Holt & Company
Thomas Y. Crowell & Company       James R. Osgood & Company
William Ware & Company             A. K. Loring
APPENDIX XII (continued)

Robert S. Davis & Company
Ginn & Heath
Little, Brown & Company
Lockwood, Brooks & Company
J. B. Lippincott & Company
T. B. Peterson & Brothers
American Baptist Publishing Society
Robert Clarke & Company
Jansen, McClurg & Company


(2) Petition of those backing the Lea Bill. Signatures:

Theodore Woolsey
Edward Everett
J. G. Holland
Mary Napes Dodge
Dr. Austin Flint
Dr. Austin Flint Jr.
C. L. Brace
Dr. J. C. Dalton
Robert Patterson & Company

Hildreth Printing Company
T. S. Arthur
Alfred Stills
H. C. Lea's Sons & Company
Porter & Coates
Henry C. Baird & Company
J. M. Stoddard & Company
T. B. Peterson & Company
Mackellar, Smith & Jordan

APPENDIX XIII

THE HAWLEY BILL AND THE CHACE BILL

(1) Those who spoke at the hearings on the two bills, January 28, 1888:

Howard Crosby
George Walton Green
Horace E. Scudder
James Welsh
Roger Sherman
George H. Putnam
Senator Hawley
Samuel L. Clemens
James Lownes
Dana Estes
Josiah R. Sypher

A. G. Sedgwick
George T. Curtis
G. C. Hubbard
R. R. Bowker
Henry C. Baird
Henry Holt
W. H. Browne
J. R. Lowell
H. C. Lea
A. R. Spofford

Publisher's Weekly, XXXIII, 3 (Jan 21, 1888), p. 62

(2) Senate vote on the Chace Bill, May 9, 1888:

For

Allison, Iowa, (R) Edmunds, Vt. (R) Morgan, Ala. (D)
Bate, Tenn. (D) Evarts, N. Y. (R) Paddock, Neb. (R)
Blair, N. H. (R) Farwell, Ill. (R) Quay, Pa. (R)
Blodgett, N. J. (D) Faulkner, W. Va. (D) Turpie, Ind. (D)
Bowen, Colo. (R) Frye, Me. (R) Pasco, Fla. (D)
Brown, Ga. (D) Hampton, S. C. (D) Payne, Ohio (D)
Butler, S. C. (D) Hawley, Conn. (R) Sawyer, Wis. (R)
Chace, R. I. (R) Hiscock, N. Y. (R) Spooner, Wis. (R)
Cullom, Ill. (R) Ingalls, Kan. (R) Wilson, Iowa (R)
Davis, Minn. (R) Mitchell, Ore. (R) Wilson, Md. (D)
Dolph, Ore. (R)

Against

Berry, Ark. (D) Pugh, Ala. (D) Saulsbury, Del. (D)
Call, Fla., (D) Ransom, N. C. (D) Vance, N. C. (D)
Bustis, La. (D) Reagan, Tex. (D) Walthall, Miss. (D)
Jones, Ark. (D)

APPENDIX XIV

THE PLATT-SIMONDS BILL

(1) Senate vote on the Platt-Simonds Bill, February 18, 1891.

For

Blair, N. H. (R)  Hampton, S. C. (D)  Platt, Conn. (R)
Carey, Wyo. (R)  Hawley, Conn. (R)  Plumb, Kans. (R)
Chandler, N. H. (R)  Higgins, Del. (R)  Sanders, Mont. (R)
Cullem, Ill. (R)  Hiscock, N. Y. (R)  Sawyer, Wis. (R)
Dixon, R. I. (R)  Hoar, Mass. (R)  Stanford, Cal. (R)
Dolph, Ore. (R)  McConnell, Ind. (R)  Stewart, Nev. (R)
Evarts, N. Y. (R)  McPherson, N. J. (D)  Warren, Wyo. (R)
Farwell, Ill. (R)  Mitchell, Ore. (R)  Washburn, Minn. (R)
Faulkner, W. Va. (D)  Morrill, Vt. (R)  Wilson, Iowa (R)
Frye, Me. (R)  Paddock, Neb. (R)  Wilson, Md. (D)
Gray, Del. (D)  Pasco, Fla. (D)  Wolcott, Colo. (R)

Against

Bate, Tenn. (D)  Coke, Tex. (D)  Pettigrew, S. D. (R)
Berry, Ark. (D)  Daniel, Va. (D)  Pugh, Ala. (D)
Call, Fla. (D)  George, Miss. (D)  Reagan, Tex. (D)
Carlisle, Ky. (D)  Harris, Tenn. (D)  Vest, Mo. (D)
Casey, N. D. (R)  Jones, Ark. (D)

APPENDIX XIV (continued)

(2) The last vote on the Platt-Simonds Bill. Vote on the Pasco motion to request the House of Representatives to return the bill, March 4, 1891. If the motion had carried, the bill would have been lost.

**Yea**

<table>
<thead>
<tr>
<th>Berry, Ark. (D)</th>
<th>Gray, Del. (D)</th>
<th>Pierce, N. D. (R)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Call, Fla. (D)</td>
<td>Hale, Me. (R)</td>
<td>Plumb, Kans. (R)</td>
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<td>Casey, N. D. (R)</td>
<td>Harris, Tenn. (D)</td>
<td>Reagan, Tex. (D)</td>
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<tr>
<td>Cockrell, Mo. (D)</td>
<td>Jones, Ark. (D)</td>
<td>Sherman, O. (R)</td>
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<tr>
<td>Daniel, Va. (D)</td>
<td>Mitchell, Ore. (R)</td>
<td>Vance, N. C. (D)</td>
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<tr>
<td>Coke, Tex. (D)</td>
<td>Pasco, Fla. (D)</td>
<td>West, Mo. (D)</td>
</tr>
<tr>
<td>Faulkner, W. Va. (D)</td>
<td>Pettigrew, S. D. (R)</td>
<td>Walthall, Miss. (D)</td>
</tr>
</tbody>
</table>

**Nay**

<table>
<thead>
<tr>
<th>Aldrich, R. I. (R)</th>
<th>Farwell, Ill. (R)</th>
<th>Platt, Conn. (R)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Allens, Wash. (R)</td>
<td>Frye, Me. (R)</td>
<td>Sanders, Mont. (R)</td>
</tr>
<tr>
<td>Blodgett, N. J. (D)</td>
<td>Hampton, S. C. (D)</td>
<td>Sawyer, Wis. (R)</td>
</tr>
<tr>
<td>Butler, S. C. (D)</td>
<td>Hawley, Conn. (R)</td>
<td>Shoup, Id. (R)</td>
</tr>
<tr>
<td>Carey, Wyo. (R)</td>
<td>Hoar, Mass. (R)</td>
<td>Spooner, Wis. (R)</td>
</tr>
<tr>
<td>Chandler, N. H. (R)</td>
<td>Jones, Nev. (R)</td>
<td>Stewart, Nev. (R)</td>
</tr>
<tr>
<td>Dixon, R. I. (R)</td>
<td>Manderson, Neb. (R)</td>
<td>Warren, Wyo. (R)</td>
</tr>
<tr>
<td>Dolph, Ore. (R)</td>
<td>Morrill, Vt. (R)</td>
<td>Washburn, Minn. (R)</td>
</tr>
<tr>
<td>Edmunds, Vt. (R)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

BIBLIOGRAPHY

1. GENERAL WORKS


Solberg, Thorvald. *The Development of International Copyright Relations Between the United States and Foreign Countries*. No publisher, no date given. Printed in Germany. A pamphlet in the Boston Public Library.

Solberg, Thorvald. *International Copyright in Congress, 1837-1836*. This is Pamphlet No. 18 in a collection called *Copyright Miscellany* in the Boston Public Library. Boston: John W. Luce & Co., 1939.


2. WORKS CONTEMPORARY TO THE COPYRIGHT STRUGGLE


Goodrich, Samuel G. Recollections of a Lifetime, or Men and Things I Have Seen, in a Series of Familiar Letters to a Friend; Historical, Biographical, Anecdotal, and Descriptive. 2 vols. New York and Auburn: Miller, Orton & Mulligan, 1856.


Supplement to *Publisher's Weekly*. Pamphlet in the Boston Public Library. Bound. No date, no editor, no publisher named.


3. PERIODICALS


Publisher's Weekly, Vol. III (1873) through XXXIX (1891) see above.
THE STRUGGLE FOR INTERNATIONAL COPYRIGHT

The writer of this dissertation has attempted to do the following: first, to give a chronological history of the struggle for international copyright; second, to present a general description of the economic effects of the lack of international copyright on the book industry, on the authors concerned, both British and American, and on the American people; third, to determine who favored and who opposed international copyright, and why they did so; fourth, to discover the reasons that the United States delayed so long in adopting copyright for foreigners; and fifth, to establish those causes which eventually led to the enactment of international copyright laws.

In 1790 the United States passed its first copyright act. However, this act did not allow American copyright to foreign authors. It was not until 1836 that there was any important agitation for altering this situation. The first serious attempt to obtain copyright for foreigners came early in 1837, when Henry Clay introduced an international copyright bill in the Senate. This was the real beginning of the struggle. It continued until March, 1891, when Congress passed the Platt-Simonds Bill, the first American international copyright measure.

The fact that there was no international copyright law was very important in the rise of American publishing. The American publishers prospered and expanded greatly on the profits derived from reprinting the works of the popular British writers, to whom the publishers were required
to pay nothing. Early in the nineteenth century the Americans began to "pirate" British authors — that is, to reprint their works without permission or payment. Probably the novelist Maria Edgeworth was the first to suffer this fate. Then Scott, Dickens, Thackeray, Reade, and many others were reprinted in America. With this came prosperity for American publishers. Beginning in the 1830's American publishing began to expand impressively. This expansion was assisted by the large growth of population and by the fact that most Americans were readers; it was also aided by the great flow of books from England that could be reprinted and that found an eager market among the Americans.

With this, American readers were receiving an inexpensive literature of the highest quality.

British writers, with Dickens the most vociferous, protested angrily against being used in this way. They complained that their creations were being stolen from them. Yet a system of payments to British authors had developed in America, and it is evident that many of the authors received a very good income from America.

American writers complained that American literature was being seriously retarded by the competition of cheap English books, and that an American could not make a living by his pen — that, with no international copyright, he was prevented from earning money either at home or abroad. Yet Americans could obtain English copyright, if they published first in England. Many of them did so. Some who did not were pirated by the English as unscrupulously as the English writers were pirated by the Americans. Nevertheless, there were Americans who, in spite of English competition,
could make a living on writing. It appears certain that an American who could equal the appeal of the English authors, could sell well in the United States, even though his books cost more. There is evidence that by the 1880's in the United States the Americans were competing on at least even terms with the British.

The fight for international copyright, in Congress and out, was sporadic and ineffective before the Civil War. This was due partly to the lack of a real urgency for any such legislation. Almost everyone, except the authors and a few publishers, was satisfied with things as they were.

After the Civil War, however, the situation began to change. There were factors at work which were making international copyright laws inevitable. The passing away of the great popular British writers; the increasing attractiveness to American readers of American writers; the chaotic competition in the publishing industry which resulted from a lack of regulation, all contributed to an increasing desire for reform. Younger, tougher-minded men took up the fight and pressed it through Congress. The big publishers joined them in this. Organizations of publishers and authors lobbied and propagandized to such effect that, by 1891, almost all who were concerned in any way, except for a few special interests and a hard core of politicians in Congress (most of them representing the people of the South and West), favored international copyright.
Wallace Putnam Bishop was born in Nashua, New Hampshire, December 8, 1910. His parents were Frederick C. Bishop and Dora Arline Bishop.

He attended the public schools in Groton, Massachusetts, and was graduated from the high school there in 1929. He then attended the Lawrence Academy, in Groton, and was graduated in 1931. He received a Bachelor's Degree from Brown University in 1935, and a Master of Arts Degree from Columbia University in 1943. He taught in the high school at Poultney, Vermont, from 1941 to 1943. After nearly three years in the Navy, he taught in 1946-1947 at the high school in Center Moriches, Long Island. In 1947 he was appointed an Instructor of History and English at Northeastern University. In 1949 he became Instructor of History and Government. Today he is Assistant Professor of History, and for 1958-1959, Acting Head of the History Department at Northeastern.