









## PREFACE.

At the date, now fourteen years since, of the first publication of these letters, the important case of authors *versus* readers—makers of books *versus* consumers of facts and ideas—had for several years been again on trial in the high court of the people. But few years previously the same plaintiffs had obtained a verdict giving large extension of *time* to the monopoly privileges they had so long enjoyed. Not content therewith, they now claimed greater *space*, desiring to have those privileges so extended as to include within their domain the vast population of the British Empire. To that hour no one had appeared before the court on the part of the defendants, prepared seriously to question the plaintiffs' assertion to the effect that literary property stood on the same precise footing, and as much demanded perpetual and universal recognition, as property in a house, a mine, a farm, or a ship. As a consequence of failure in this respect there prevailed, and most especially throughout the Eastern States, a general impression that there was really but one side to the question; that the cause of the plaintiffs was that of truth; that in the past might had triumphed over right; that, however doubtful might be the expediency of making a decree to that effect, there could be little doubt that justice would thereby be done; and that, while rejecting as wholly *inexpedient* the idea of perpetuity, there could be but slight objection to so far recognizing that of universality as to grant to British authors the same privileges that thus far had been accorded to our own.

Throughout those years, nevertheless, the effort to obtain from the legislative authority a decree to that effect had proved an utter failure. Time and again had the case been up for trial, but as often had the plaintiffs' counsel wholly failed to agree among themselves as to the consequences that might reasonably be expected to result from recognition of their clients' so-called rights. Northern and

Eastern advocates, representing districts in which schools and colleges abounded, insisted that perpetuity and universality of privilege must result in giving the defendants cheaper books. Southern counsel, on the contrary, representing districts in which schools were rare, and students few in number, insisted that extension of privilege would have the effect of giving to planters handsome editions of the works they needed, while preventing the publication of "cheap and nasty" editions, fitted for the "mudsills" of Northern States. Failing thus to agree among themselves they failed to convince the jury, mainly representing, as it did, the Centre and the West, as a consequence of which, verdicts favorable to the defendants had, on each and every occasion, been rendered.

A thoroughly adverse popular will having thus been manifested, it was now determined to try the Senate, and here the chances for privilege were better. With a population little greater than that of Pennsylvania, the New England States had six times the Senatorial representation. With readers not a fifth as numerous as were those of Ohio, Carolina, Florida, and Georgia had thrice the number of Senators. By combining these heterogeneous elements the will of the people—so frequently and decidedly expressed—might, it was thought, be set aside. To that end, the Secretary of State, himself one of the plaintiffs, had negotiated the treaty then before the Senate, of the terms of which the defendants had been kept in utter ignorance, and by means of which the principle of taxation without representation was now to be established.

Such was the state of affairs at the date at which, in compliance with the request of a Pennsylvania Senator, the author of these letters put on paper the ideas he had already expressed to him in conversation. By him and other Senators they were held to be conclusive, so conclusive that the plaintiffs were speedily brought to see that the path of safety, for the present at least, lay in the direction of abandoning the treaty and allowing it to be quietly laid in the grave in which it since has rested. That such should have been their course was, at the time, much regretted by the defendants, as they would have greatly preferred an earnest and thorough discussion of the question before the court. Had opportunity been afforded it *would* have been discussed by one, at least, of the master minds of the Senate;[1] and so discussed as to have satisfied the whole body of

our people, authors and editors, perhaps, excepted, that their cause was that of truth and justice; and that if in the past there had been error it had been that of excess of liberality towards the plaintiffs in the suit.

[Footnote 1: Senator Clayton of Delaware.]

The issue that was then evaded is now again presented, eminent counsel having been employed, and the opening speech having just now been made.[2] Having read it carefully, we find in it, however, nothing beyond a labored effort at reducing the literary profession to a level with those of the grocer and the tallow-chandler. It is an elaborate reproduction of Oliver Twist's cry for "more! more!"—a new edition of the "Beggar's Petition," perusal of which must, as we think, have affected with profound disgust many, if not even most, of the eminent persons therein referred to. In it, we have presented for consideration the sad case of one distinguished writer and admirable man who, by means of his pen alone, had been enabled to pass through a long life of most remarkable enjoyment, although his money receipts had, by reason of the alleged injustice of the consumers of his products, but little exceeded \$200,000; that of a lady writer who, by means of a sensational novel of great merit and admirably adapted to the modes of thought of the hour, had been enabled to earn in a single year, the large sum of \$40,000, though still deprived of two hundred other thousands she is here said to have fairly earned; of a historian whose labors, after deducting what had been applied to the creation of a most valuable library, had scarcely yielded fifty cents per day; of another who had had but \$1000 per month; and, passing rapidly from the sublime to the ridiculous, of a school copy-book maker who had seen his improvements copied, without compensation to himself, for the benefit of English children.

[Footnote 2: See *Atlantic Monthly* for October.]

These may and perhaps should be regarded as very sad facts; but had not the picture a brighter side, and might it not have been well for the eminent counsel to have presented both? Might he not, for instance, have told his readers that, in addition to the \$200,000 above referred to, and wholly as acknowledgment of his literary services, the eminent recipient had for many years enjoyed a diplo-

matic sinecure of the highest order, by means of which he had been enabled to give his time to the collection of materials for his most important works? Might he not have further told us how other of the distinguished men he had named, as well as many others whose names had not been given, have, in a manner precisely similar, been rewarded for their literary labors? Might he not have said something of the pecuniary and societary successes that had so closely followed the appearance of the novel to whose publication he had attributed so great an influence? Might he not, and with great propriety, have furnished an extract from the books of the "New York Ledger," exhibiting the tens and hundreds of thousands that had been paid for articles which few, if any, would care to read a second time? Might he not have told his readers of the excessive earnings of public lecturers? Might he not, too, have said a word or two of the tricks and contrivances that are being now resorted to by men and women—highly respectable men and women too—for evading, on both sides of the Atlantic, the spirit of the copyright laws while complying with their letter? Would, however, such a course of proceeding have answered his present purpose? Perhaps not! His business was to pass around the hat, accompanying it with a strong appeal to the charity of the defendants, and this, so far as we can see, is all that thus far has been done.

Might not, however, a similar, and yet stronger, appeal now be made in behalf of other of the public servants? At the close of long lives devoted to the public service, Washington, Hamilton, Clay, Clayton, and many other of our most eminent men have found themselves largely losers, not gainers, by public service. The late Governor Andrew's services were surely worth as much, per hour, as those of the authoress of "Uncle Tom's Cabin," yet did he give five years of his life, and perhaps his life itself, for far less than half of what she had received for the labors of a single one. Deducting the expenses incident to his official life, Mr. Lincoln would have been required to labor for five and twenty years before he could have received as much as was paid to the author of the "Sketch Book." The labors of the historian of Ferdinand and Isabella have been, to himself and his family, ten times more productive than have been those of Mr. Stanton, the great war minister of the age.—Turning now, from civil to military life, we see among ourselves

officers who have but recently rendered the largest service, but who are now quite coolly whistled down the wind, to find where they can the means of support for wives and children. Studying the lists of honored dead, we find therein the names of men of high renown whose widows and children are now starving on pensions whose annual amount is less than the monthly receipt of any one of the authors above referred to.

Such being the facts, and, that they are facts cannot be denied, let us now suppose a proposition to be made that, with a view to add one, two, three, or four thousand dollars to the annual income of ex-presidents, and ex-legislators, and half as much to that of the widows and children of distinguished officers, there should be established a general pension system, involving an expenditure of the public moneys, and consequent taxation, to the extent of ten or fifteen millions a year, and then inquire by whom it might be supported. Would any single one of the editors who are now so earnest in their appeals for further grants of privilege venture so to do? Would not the most earnest of them be among the first to visit on such a proposition the most withering denunciations? Judging from what, in the last two years, we have read in various editorial columns, we should say that they would be so. Would, however, any member of either house of Congress venture to commit himself before the world by offering such a proposition? We doubt it very much. Nevertheless it is now coolly proposed to establish a system that would not only tax the present generation as many millions annually, but that would grow in amount at a rate far exceeding the growth of population, doing this in the hope that future essayists might be enabled to count their receipts by half instead of quarter millions, and future novelists to collect abroad and at home the hundreds of thousands that, as we are assured, are theirs of *right*, and that are now denied them. When we shall have determined to grant to the widows and children of the men who in the last half dozen years have perished in the public service, some slight measure of justice, it may be time to consider that question, but until then it should most certainly be deferred.

The most active and earnest of all the advocates of literary *rights* was, two years since, if the writer's memory correctly serves him, the most thorough and determined of all our journalists in insisting

on the prompt dismissal of thousands and tens of thousands of men who, at their country's call, had abandoned the pursuits and profits of civil life. Did he, however, ever propose that they should be allowed any extra pay on which to live, and by means of which to support their wives and children, in the interval between discharge from military service and re-establishment in their old pursuits? Nothing of the kind is now recollected. Would he now advocate the enactment of a law by means of which the widow and children of a major-general who had fallen on the field should, so far as pay was concerned, be placed on a level with an ordinary police officer? He might, but that he would do so could not with any certainty be affirmed. She and they would, nevertheless, seem to have claims on the consideration of American men and women fully equal to those of the authoress of "Lady Audley's Secret," already, as she is understood to be, in the annual receipt from this country of more than thrice the amount of the widow's pension, in addition to tens of thousands at home.[1]

[Footnote 1: The London correspondent of Scribner and Co.'s "Book Buyer" says that Miss Braddon's first publisher, Mr. Tinsley (who died suddenly last year), called the elegant villa he built for himself at Putney "Audley House," in grateful remembrance of the "Lady" to whose "Secret" he was indebted for fortune; and Miss Braddon herself, through her man of business, has recently purchased a stately mansion of Queen Anne's time, "Litchfield House," at Richmond.]

It is, however, as we are gravely told, but ten per cent. that she asks, and who could or should object to payment of such a pittance? Not many, perhaps, if unaccompanied by monopoly privileges that would *multiply the ten by ten and make it an hundred!* Alone, the cost to our readers might not now exceed an annual million. Let Congress then pass an act appropriating that sum to be distributed among foreign authors whose works had been, or might be republished here. *That* should have the writer's vote, but he objects, and will continue to object, to any legislative action that shall tend towards giving to already "great and wealthy" publishing houses the *nine* millions that they certainly will charge for collecting the single *one* that is to go abroad.

"Great and wealthy" as they are here said to be, and as they certainly are, we are assured that even they have serious troubles, against which they greatly need to be protected. In common with many heretofore competing railroad companies they have found that, however competition among themselves might benefit the public, it would tend rather to their own injury, and therefore have they, by means of most stringent rules, established a "courtesy" copyright, the effect of which exhibits itself in the fact, that the prices of reprinted books are now rapidly approaching those of domestic production. Further advances in that direction might, however, prove dangerous; "courtesy" rules not, as we are here informed, being readily susceptible of enforcement. A salutary fear of interlopers still restrains those "great and wealthy houses," at heavy annual cost to themselves, and with great saving to consumers of their products. That this may all be changed; that they may build up fortunes with still increased rapidity; that they may, to a still greater extent, monopolize the business of publication; and, that the people may be taxed to that effect; all that is now needed is, that Congress shall pass a very simple law by means of which a few men in Eastern cities shall be enabled to monopolize the business of republication, secure from either Eastern or Western competition. That done, readers will be likely to see a state of things similar to that now exhibited at Chicago, where railroad companies that have secured to themselves all the exits and entrances of the city, are, as we are told, at this moment engaged in organizing a combination that shall have the effect of dividing in fair proportion among the wolves the numerous flocks of sheep.

On all former occasions Northern advocates of literary monopolies assured us that it was in that direction, and in that alone, we were to look for the cheapening of books. Now, nothing of this sort is at all pretended. On the contrary, we are here told of the extreme impropriety of a system which makes it necessary for a New England essayist to accept a single dollar for a volume that under other circumstances would sell for half a guinea; of the wrong to such essayists that results from the issue of cheap "periodicals made up of selections from the reviews and magazines of Europe;" of the "abominable extravagance of buying a great and good novel in a perishable form for a few cents;" of the increased accessibility of

books by the "masses of the people" that must result from increasing prices; and of the greatly increased facility with which circulating libraries may be formed whensoever the "great and wealthy houses" shall have been given power to claim from each and every reader of Dickens's novels, as their share of the monopoly profits, thrice as much as he now pays for the book itself! This, however, is only history repeating itself with a little change of place, the argument of to-day, coming from the North, being an almost exact repetition of that which, twenty years since, came from the South—from the mouths of men who rejoiced in the fact that no newspapers were published in their districts, and who well *knew* that the way towards preventing the dissemination of knowledge lay in the direction of granting the monopoly privileges that had been asked. The anti-slavery men of the present thus repeat the argument of the pro-slavery men of the past, extremes being thus brought close together.

Our people are here assured that Russia, Sweden, and other countries are ready to unite with them in recognizing the "rights" now claimed. So, too, it may be well believed, would it be with China, Japan, Bokhara, and the Sandwich Islands. Of what use, however, would be such an union? Would it increase the facilities for transplanting the ideas of American authors? Are not the obstacles to such transplantation already sufficiently great, and is it desirable that they should be at all increased? Germany has already tried the experiment, but whether or not, when the time shall come, the existing treaties will be renewed, is very doubtful. Where she now pays dollars, she probably receives cents. Discussion of the question there has led to the translation and republication of the letters here now republished, and the views therein expressed have received the public approbation of men whose opinions are entitled to the highest consideration. What has recently been done in that country in reference to domestic copyright, and what has been the effect, are well exhibited in an article from an English journal just now received, a part of which, American moneys having been substituted for German ones, is here given, as follows:

"We have so long enjoyed the advantage of unrestricted competition in the production of the works of the best English writers of the past, that we can hardly realize what our position would have been had the right to produce Shakespeare,

or Milton, or Goldsmith, or any of our great classic writers, been monopolized by any one publishing-house,—certainly we should never have seen a shilling Shakespeare, or a half-crown Milton; and Shakespeare, instead of being, as he is,' familiar in our mouths as household words,' would have been known but to the scholar and the student. We are far from condemning an enlightened system of copyright, and have not a word to say in favor of unreasoning competition; but we do think that publishers and authors often lose sight of their own interest in adhering to a system of high prices and restricted sale. Tennyson's works supply us with a case in point—here, to possess a set of Tennyson's poems, a reader must pay something like 38\_s\_ or 40\_s\_—in Boston you may buy a magnificent edition of all his works in two volumes for something like 15\_s\_, and a small edition for some four or five shillings. The result is the purchasers in England are numbered by hundreds, in America by thousands. In Germany we have almost a parallel case. There the works of the great German poets, of Schiller, of Goethe, of Jean Paul, of Wieland, and of Herder, are at the present time 'under the protecting privileges of the most illustrious German Confederation,' and, by special privilege, the exclusive property of the Stuttgart publishing firm of J. G. Cotta. On the forthcoming 9th of November this monopoly will cease, and all the works of the above-mentioned poets will be open to the speculation of German publishers generally. It may be interesting to our readers to learn the history of these peculiar legal restrictions, which have so long prevailed in the German booktrade, and the results likely to follow from their removal.

"Until the beginning of this century literary piracy was not prohibited in the German States. As, however, protection of literary productions was, at last, emphatically urged, the Acts of the Confederation (on the reconstruction of Germany in the year 1815) contained a passage to the effect, that the Diet should, at its first meeting, consider the necessity of uniform laws for securing the rights of literary men and publishers. The Diet moved in the matter in the year 1818, appointing a commission to settle this question; and, thanks to that su-

preme profoundness which was ever applied to the affairs of the father-land by this illustrious body, after twenty-two years of deliberation, on the 9th of Nov., 1837, decreed the law, that the rights of authorship should be acknowledged and respected, at least, for the space of ten years; copyright for a longer period, however, being granted for voluminous and costly works, and for the works of the great German poets.

"In the course of time, however, a copyright for ten years proved insufficient even for the commonest works; it was therefore extended by a decree of the Diet, dated June 19, 1845, over the natural term of the author's life and for thirty years after his death. With respect to the works of all authors deceased before the 9th of November, 1837— including the works of the poets enumerated above—the Diet decided that they could all be protected until the 9th of November, 1867.

"It was to be expected that the firm of J. G. Cotta, favored until now with so valuable a monopoly, would make all possible exertions not to be surpassed in the coming battle of the Publishers, though it is a somewhat curious sight to see this haughty house, after having used its privileges to the last moment, descend now suddenly from its high monopolistic stand into the arena of competition, and compete for public favor with its plebeian rivals. Availing itself of the advantage which the monopoly hitherto attached to it naturally gives it, the house has just commenced issuing a cheap edition of the German classics, under the title 'Bibliothek für Alle. Meisterwerke deutscher Classiker,' in weekly parts, 6 cts. each; containing the selected works of Schiller, at the price of 75 cts., and the selected works of Goethe, at the price of \$1.50. And now, just as the monopoly is gliding from their hands, the same firm offers, in a small 16mo edition, Schiller's complete works, 12 vols., for 75 cts.

"Another publisher, A. H. Payne, of Leipzig, announces a complete edition of Schiller's works, including some unpublished pieces, for 75 cts.

"Again, the well-known firm of F. A. Brockhaus holds out a prospectus of a corrected critical edition of the German poets

of the eighteenth and nineteenth century, which we have every reason to believe will merit success. A similar enterprise is announced, just now, by the Bibliographical Institution of Hildburghausen, under the title, 'Bibliothek der deutschen Nationalliteratur,' edited by Heinr. Kurz, in weekly parts of 10 sheets, at the price of 12 cts. each. Even an illustrated edition of the Classics will be presented to the public, in consequence of the expiration of the copyright. The Grottesche Buchhandlung, of Berlin, is issuing the 'Hausbibliothek deutscher Classiker,' with wood-cut illustrations by such eminent artists as Richter, Thumann, and others; and the first part, just published, containing Louise, by Voss, with truly artistic illustrations, has met with general approbation. But, above all, the popular edition of the poets, issued by G. Hempel, of Berlin, under the general title of 'National Bibliothek sämmtlicher deutscher Classiker,' 8vo. in parts, 6 cts. each, seems destined to surpass all others in popularity, though not in merit. *Of the first part (already published), containing Bürger's Poems, 300,000 copies have been sold, and 150,000 subscribers' names have been registered for the complete series. This immense sale, unequalled in the annals of the German book-trade, will certainly induce many other publishers to embark in similar enterprises.*" — Trübner's *Literary Record*, Oct. 1867.

Judging from this, there will, five years hence, be a million of families in possession of the works of Schiller, Bürger, Goethe, Herder and others, that thus far have been compelled to dispense with their perusal. Sad to think, however, they will be of those cheap editions now so much despised by American advocates of monopoly privileges! How much better for the German people would it not have been had their Parliament recognized the perpetuity of literary *rights*, and thus enabled the "great and wealthy house" of Cotta and Co. to carry into full effect the idea that their own editions should alone be published, thereby adding other millions to the very many of which they already are the owners!

At this moment a letter from Mr. Bayard Taylor advises us that German circulating libraries impede the sale of books; that the circulation of even highly popular works is limited within 20,000; and that, as a necessary consequence, German authors are not paid so

well as of right they should be.[1] This, however, is precisely the state of things that, as we are now assured, should be brought about in this country, prices being raised, and readers being driven to the circulating library by reason of the deficiency of the means required for forming the private one. It is the one that *would* be brought about should our authors, unhappily for themselves, succeed in obtaining what is now demanded.

[Footnote 1: New York *Tribune*, Nov. 29]

The day has passed, in this country, for the recognition of either perpetuity or universality of literary *rights*. The wealthy Carolinian, anxious that books might be high in price, and knowing well that monopoly privileges were opposed to freedom, gladly cooperated with Eastern authors and publishers, anti-slavery as they professed to be. The enfranchised black, on the contrary, desires that books may be cheap, and to that end he and his representatives will be found in all the future co-operating with the people of the Centre and the West in maintaining the doctrine that literary *privileges* exist in virtue of grants from the people who own the materials out of which books are made; that those privileges have been perhaps already too far extended; that there exists not even a shadow of reason for any further extension; and that to grant what now is asked would be a positive wrong to the many millions of consumers, as well as an obstacle to be now placed in the road towards civilization.

The amount now paid for public service under our various governments is more than, were it fairly distributed, would suffice for giving proper reward to all. Unfortunately the *distribution* is very bad, the largest compensation generally going to those who render the smallest service. So, too, is it with regard to literary employments; and so is it likely to continue throughout the future. Grant all that now is asked, and the effect will be seen in the fact, that of the vastly increased taxation ninety per cent. will go to those who work for money alone, and are already overpaid, leaving but little to be added to the rewards of conscientious men with whom their work is a labor of love, as is the case with the distinguished author of the "History of the Netherlands."

Twenty years ago, Macaulay advised his literary friends to be content, believing, as he told them, that the existing "wholesome copyright" was likely to "share in the disgrace and danger" of the more extended one which they then so much desired to see created. Let our authors reflect on this advice! Success now, were it possible that it should be obtained, would be productive of great danger in the already not distant future. In the natural course of things, most of our authorship, for many years to come, will be found east of the Hudson, most of the buyers of books, meanwhile, being found south and west of that river. International copyright will give to the former limited territory an absolute monopoly of the business of republication, the then great cities of the West being almost as completely deprived of participation therein as are now the towns and cities of Canada and Australia. On the one side, there will be found a few thousand persons interested in maintaining the monopolies that had been granted to authors and publishers, foreign and domestic. On the other, sixty or eighty millions, tired of taxation and determined that books shall be more cheaply furnished. War will then come, and the domestic author, sharing in the "disgrace and danger" attendant upon his alliance with foreign authors and domestic publishers, may perhaps find reason to rejoice if the people fail to arrive at the conclusion that the last extension of *his own privileges* had been inexpedient and should be at once recalled. Let him then study that well-known fable of Aesop entitled "The Dog and the Shadow," and take warning from it!

The writer of these Letters had no personal interest in the question therein discussed. Himself an author, he has since gladly witnessed the translation and republication of his works in various countries of Europe, his sole reason for writing them having been found in a desire for strengthening the many against the few by whom the former have so long, to a greater or less extent, been enslaved. To that end it is that he now writes, fully believing that the *right* is on the side of the consumer of books, and not with their producers, whether authors or publishers. Between the two there is, however, a perfect harmony of all real and permanent interests, and greatly will he be rejoiced if he shall have succeeded in persuading even some few of his literary countrymen that such is the fact, and

that the path of safety will be found in the direction of letting well enough alone.

The reward of literary service, and the estimation in which literary men are held, both grow with growth in that power of combination which results from diversification of employments; from bringing consumers and producers close together; and from thus stimulating the activity of the societary circulation. Both decline as producers and consumers become more widely separated and as the circulation becomes more languid, as is the case in all the countries now subjected to the British free trade influence. Let American authors then unite in asking of Congress the establishment of a fixed and steady policy which shall have the effect of giving us that industrial independence without which there can be neither political nor literary independence. That once secured, they would thereafter find no need for asking the establishment of a system of taxation which would prove so burdensome to our people as, in the end, to be ruinous to themselves.

**H. C. C.**

PHILADELPHIA,

*Dec.* 1867.

**LETTERS**

**ON**

**INTERNATIONAL COPYRIGHT.**

