

beginning the chronicle of the kingbird babies, I should like to give my testimony about *one* member of the family. As a courteous and tender spouse, as a devoted father and a brave defender of his household, I know no one who outranks him. In attending to his own business and never meddling with others, he is unexcelled. In regard to his fighting, he has driven many away from his tree, as do all birds, but he never picked a quarrel; and the only cases of anything like a personal encounter were with the two birds who insisted on annoying him. He is chivalrous to young birds not his own, as will appear in the story of his family. He

is, indeed, usually silent, perhaps even solemn, but he may well be so; he has an important duty to perform in the world, and one that should bring him thanks and protection instead of scorn and a bad name. It is to reduce the number of man's worst enemies, the vast army of insects. What we owe to the flycatchers, indeed, we can never guess, although, if we go on destroying them, we may have our eyes opened most thoroughly. Even if the most serious charge against the kingbird is true, that he eats bees, it were better that every bee on the face of the earth should perish than that his efficient work among other insects should be stopped.

Olive Thorne Miller.

INTERNATIONAL COPYRIGHT.

FIFTY-THREE years ago certain American and British authors petitioned Congress for an act to establish what is now known as International Copyright. These petitions were referred to a committee, and in due time the committee reported in favor of the legislation prayed for. Very few committee reports in our history can show such a list of distinguished names among their signers as this first report on international copyright; for the chairman of the committee who drew the report was Henry Clay, and his four associates were Daniel Webster, James Buchanan, William C. Preston, of South Carolina, and Thomas Ewing. One would have thought that the support of five such men would have sufficed of itself to carry any measure which, like this, was wholly outside of party politics; and yet the very opposite happened. The little men and selfish interests long since forgotten were too powerful for the well-remembered big men of enlarged views, and the report served only to show that the five states-

men who signed it were ahead of their time and their civilization,—a distinction in leadership which apparently they still continue to enjoy on this subject, in regard to our time and our civilization of the present year of grace.

Without tracing the history of international copyright during the half century which has come and gone since Henry Clay wrote his now famous report, it is enough to say that within recent years the movement in behalf of honesty in copyright has taken on new life and has been pushed with fresh vigor. Conflicting interests for some time prevented action, but finally they were reconciled, and in the last Congress the House committee were able to say in their report that, "for the first time, authors, publishers, type-setters, electrotypers, booksellers, and all others engaged in making and distributing books have with singular unanimity agreed upon a bill which they ask us to pass." To this list may be added the association of American newspaper publishers who,

on February 13, 1890, gave their hearty approval to the demand of American authors for the fuller security of literary property, and who commended the bill for international copyright as "in the interest of the national honor and welfare." The bill, thus powerfully supported by interests so diverse, and as important as they are intelligent, came to a vote in the House of Representatives on May 2, 1890, and was defeated. In recent years a similar bill has passed the Senate, but the question has never before come to a vote in the House. The vote by which the bill was defeated and the arguments made in opposition to it are not a little depressing; and even if the reconsideration which is still open should succeed, there would be no reason to change this criticism. If it had been a matter of annual failure, the vote would not have been nearly so important, for the result would merely have marked the comparative progress or decline of the movement; but it is disappointing to the last degree to know that after half a century's discussion a bill providing for international copyright should come for the first time to a vote in the House of Representatives and suffer a serious defeat. International copyright is one of those rare questions where it is very difficult to discover more than one side, and for this reason it is not easy to argue in its behalf with proper coolness and discretion. The only way, however, to deal with any question is to practice patience, and to understand the arguments, or what pass for arguments, against a measure demanded alike by common honesty and common sense.

Let it be said frankly, at the outset, that international copyright is not a panacea for all existing wrongs, or a solution of any considerable number of the problems which disturb humanity. Like all measures of improvement, it excites among those most interested much enthusiasm, and its ardent supporters give

to it a reach and importance which no single legislative measure ever has possessed or ever will possess. It is well that this should be the case; for if the movement did not excite just such enthusiasm, its chances of life and of success would be small indeed. At the same time, it must be remembered that the zealous claim of the earnest supporters of any proposition, no matter how well founded, are sure to arouse resentment, while human nature is constituted as it is now and always has been. Hotspur was but the type of humanity when he was wroth with the dapper courtier who told him, weary from the fight, that

"The sovereign'st thing on earth
Was *parmaceti* for an inward bruise."

Harry Percy's natural and proper instinct was undoubtedly to reply that people hitherto had always got along very well with mutton tallow, and that he was opposed to "*parmaceti*;" but as there were other circumstances of irritation, his answer was even less considerate. It is important, therefore, — more important than many persons realize, — to place any measure of reform on the exact ground which belongs to it, and which will be found in the end to be the strongest. It is seldom worth while to enter into a discussion of natural rights or the immutable principles of abstract justice; for the things which pass under those names are usually anything but natural or immutable, being almost invariably the fruits of much hard fighting and debate, slowly established by man in his long journey, through the centuries, over the rough and dusty road which has brought the race from the dim lands of savagery to the point we have reached to-day. The best, surest, and most convincing way to argue this or any similar question is to stick to the facts and conditions which now confront us, and to prove by them that the cause we advocate rests on grounds of right and justice much stronger than anything which nature or abstract reasoning can give.

This is especially true of international copyright; for international copyright is a question of property of a very refined sort, and property rights, more truly than almost anything else, have been the results of much painful human labor, and of much argument drawn from expediency and from the illogical logic of facts. Property in its origin is a simple question of force. The famous line that "they should take who have the power, and they should keep who can," sums up the earliest conception of property rights. As men emerged from barbarism, and began to form communities and states and to establish governments, organized society intervened to protect its members in their enjoyment of the property rights which each man had maintained before by the strength of his own right hand. Thus the title deed replaced the sword as an evidence of ownership, and the lawyer superseded the man at arms as its defender. Property in land and in things visible and corporeal is now of great antiquity, and the same idea has been extended more recently to evidences of property as well as to the property itself. During this development, however, the rights of property advanced in another direction. At first, they were admitted and guarded only among the members of the community or of the state which made the protecting law. The property rights of the alien and the stranger were not recognized in the beginning; they have been only slowly and grudgingly acknowledged, and they did not become complete until comparatively recent times. The last step of all to be taken was that which recognized property in ideas, and which gave to the inventor and the writer an owner's legal right in the product of their brains. By the Statute of Anne, property in literature, or copyright, received its legal recognition in the English-speaking world; and when the framers of the Constitution came together, they too recognized the rights of the

inventor and the writer by giving to Congress the power to pass patent and copyright laws. As in the case of other property rights, the next step was to accord to the foreigner and outsider the same legal protection in the matter of ideas which was given to the natives of the state. This has now been done by all nations of high civilization except the United States. In this country, we recognize property, both personal and real, and protect it by law; and we offer the same protection to the real and personal property of the stranger within our gates as to that of our own citizens. We also give protection to our own authors, but there we stop. We say in effect to the outsider, "Your pocket-book and your merchandise are as safe here, under our laws, as the pocket-book or the merchandise of the American citizen, and those who take them from you without warrant of law shall be punished according to law. To your ideas, however, — a species of property which we, in common with the rest of the civilized world, recognize as such among our own citizens, — we will give no protection and no recognition: these ideas and thoughts of yours we will take; we will pay you nothing for them, and you shall have no redress." That is a plain statement of the case as it stands to-day. We steal the literary property of foreign authors, and decline to give up the engaging practice. No effort has ever been made to controvert the statement that we rob the foreign author, but it appears to have little effect on those who advocate literary piracy. Apparently, it is necessary to argue with these persons on this point, although it seems preposterous, at this stage of the world's history, to make a very detailed argument in behalf of the eighth commandment. The proposition that it is not right to steal has been established so long that most persons have got out of the way of thinking it necessary to support it with elaborate reasoning; yet this very proposition, that it is

not right to steal from the foreign author and thinker, is one that the opponents of international copyright brush aside, with a fine disregard which gives one a respect for their audacity, whatever may be thought of their morals or their understanding.

When one's opponent, however, says in substance that he does not care whether the taking of the property of foreign authors is right or wrong, according to the principles of right and wrong accepted among all civilized men, it is at least obvious that it is a waste of time to attempt to argue with him on that ground. The only thing to do is to meet him on his own ground, and deal there with what he is pleased to call his argument. That which he puts forward under this honorable name consists of two parts, — a misstatement of facts and an appeal to prejudice.

The opponent declares that international copyright ought not to be permitted because it will make literature dear, and thus injure the American people at a most important point; and this is all he says, although he says it at great length and with many rhetorical decorations. The attack can be answered as briefly as it is made. The statement that international copyright would make literature dear is a mere assertion, with no fact to warrant it. Whether books shall be published in cheap or in expensive editions depends entirely on the character of the book and the conditions of the market. The United States, with its vast reading population, demands cheap books of the popular kind; and the people of the United States, accordingly, will have cheap books, whether there is international copyright or not, for an inexorable law obliges the seller of anything to meet the demands of his market. The English system of the three-volume novel, published at a high price and obtained through circulating libraries, is peculiar to England, is as clumsy as the English

currency, and would have been done away with long ago were it not for the intense conservatism of the English people. It is a thoroughly bad system, and never could and never would be transferred to any other country. France and Germany both have international copyright, and both furnish the people with cheaper books than any we have ever been able to produce in this country. The French and the Germans have their "libraries" or "series" just as we have, and they are sold as low as five, and even two, cents a number. But there is one marked and painful difference between the cheap publications of France and Germany and our own: they are made up of all that is best in the literature of their respective countries and of the world, while at least ninety per cent. of our publications of a similar character contain what is worst and most trivial in literature. The reason for this poor quality in the cheap publications of America is the absence of international copyright. The publishers who make their living from cheap publications, being tempted by the desire for novelty, and by the fact that they can get the latest works of foreign authors without paying anything in return, are led to confine themselves almost exclusively to current foreign publications. The result, of course, is that the great mass of these reprints consists of fiction; and as the amount of good fiction is extremely limited, while the demands of these cheap libraries are incessant, it comes to pass that the vast majority of these publications are novels of the poorest class, either absolutely vicious or hopelessly debilitating to the mind. If an international copyright law were passed, the cheap libraries would go on, because the market requires them, and literature would be no dearer, although the profits of the publisher might be less. But instead of reprinting all the trash that comes from the presses of London and Paris, the pub-

lishers, having to pay copyright to every writer, would print only the best books, because they would desire to have, so far as possible, something intrinsically valuable for their money; and at the same time they would take the work of the American writer more quickly than that of the foreigner. In other words, under international copyright we should have just as much cheap literature as at present, but there would no longer be a temptation to discriminate against the American author and against decent literature generally, in order to reprint anything foreign, no matter how bad or how poor, merely because it cost nothing. In fact, the temptation would be reversed. Publishers would be encouraged to reprint in cheap forms only the best of modern books, upon which it was worth while to pay copyright, or the best of those books on which copyright had expired, for the simple reason that only the best, in this latter instance, would survive.

So much for the argument that international copyright would make literature dear to the people. It is so false that it is difficult to discuss it patiently. International copyright would leave the price of popular literature just where it is, and at the same time would improve its standard enormously.

Now for the second part of that which the foes of international copyright call their argument, but which is in reality a mere appeal to prejudice. It is said by them that the measure is in the interests of the publishers, so that they may form a trust, and raise the price of literature for their own benefit, and incidentally for the benefit of a few American authors and of foreign authors generally. Like most appeals to prejudice, this allegation is absolutely untrue. The only trust in books that has come to light thus far is one which has been proposed in foreign reprints, and that which promotes a trust is the present restriction upon the American

author. It is not profitable to print an American author's works, no matter how popular, in a cheap form, because it is necessary to pay him copyright, while the works of the foreign writer can be obtained for nothing. Thus the American writer is deprived of his right to copyright in other countries, is shut out from the best part of his own market, is sometimes shut out from his own market entirely, and is always severely discriminated against, while the great body of the American people are driven to read the works of foreign writers, and are not permitted, on account of the price, to read those of their own.

It is untrue, therefore, that this bill would benefit the publishers or would create trusts. It is perfectly true that it would benefit the American author. It would enable him to secure copyright in other countries where his works are reprinted, and, what is of infinitely more importance, it would give him a fair chance in his own market, and not subject him to the ruinous competition of stolen goods. It is also true that it would benefit the foreign author. The royalty which belongs to the foreign author, and of which we now deprive him would, under international copyright, go into his pocket instead of into the pocket of the American publisher; for it is a complete delusion to suppose that the fruits of this stealing go to the American people. Robin Hood, we are told in various pleasant ballads and legends, took from the rich to give to the poor; but it is to be feared that robbery has degenerated since that time, or else that the accounts which we get of ancient thieving are like many other attractive traditions, largely mythical. The modern robber, so far as observation teaches us, does not, as a rule, distribute the fruits of his theft among his less fortunate fellow-citizens. In accordance with the enlightened selfishness which lies at the bottom of modern civilization, he puts the product of his labors into his

own pocket; and in accordance with this same principle, the men who rob the foreign author of his copyright put that copyright into their pockets, and not into the pockets of those to whom they sell the spoils of their victims.

One hesitates to offer any argument in behalf of international copyright other than that which is contained in the simple statement that it is right and honest. Nevertheless, there are many cogent arguments resting upon the foundation of expediency and good sense. If we establish international copyright, we shall benefit American authors, who surely deserve fair play at the hands of the American people. The writers of the United States, the journalists, the essayists, the novelists, and the historians, all men who work with their pen, would be benefited by this law; and that which helps one class of the community without injuring another helps all. The writers of the United States do not ask Congress for subsidies or subventions, for bounties or protection. They ask simply for a fair field and justice. They ask that American publishers shall not be offered a premium to buy the writings of outsiders. To this they are entitled, and their character and importance among an intelligent and free people demand that the justice which cannot long be refused shall be speedily accorded. To the men who share with the writers in the making of books, to the printers who set the type and pass the sheets through the press, to the binders, the electrotypers, and the rest, the bill which has been under discussion would be of great benefit, for it would enlarge at once the amount of work involved in book-making. All foreign books, practically, for which there was any demand would be reprinted here, and many works which it now does not pay to reprint, and which are sold in foreign editions, under international copyright, would be made and printed in the United States. Moreover, the

United States has the largest number of readers of any nation in the world, and international copyright would surely make New York the centre for the publication of books written in the English language, because business will always concentrate in the largest market.

More important than any of these considerations is the fact that international copyright would go far to shut out the flood of cheap foreign fiction with which we are now deluged. By our existing laws, we force into the hands of the boys and girls, of the young men and women, of America, at the most impressionable age, when the mind is especially touched by works of the imagination, a mass of fiction which presents a set of ideas, social, moral, and political, utterly different from our own, and in most respects much worse. By our barbarous discrimination against the American writer and against good literature, we compel them to read the "scrofulous French novel on gray paper, with blunt type," and second-rate English fiction, devoted to describing the British aristocracy from the point of view of the footman and the lady's-maid. Let us have a system which shall encourage the publication, in the cheapest possible forms, like that of France and Germany, of the best literature in the world, and which shall also encourage the cheap publication of the works of American writers who are in sympathy with American ideas and American thought.

The world owes a greater debt to its writers of books, probably, than to any other men who have lived. In the noble words of Dr. Johnson, they are the men who "help us to enjoy life, or teach us to endure it." It is an insult to the most generous people on earth to suppose that they would grudge to the men and women who minister to their amusement and their instruction, who comfort them in the hour of sickness or weariness, with whom they have laughed and cried, and shuddered and rejoiced, the

small percentage which is awarded to the author upon each copy of his book. The American people are more than ready to do this act of justice, and the trusts and combinations so much cried out against will be found, not on the side of the American author, but against him, — among the news companies and the publishers of cheap reprints, who stimulate and sustain the opposition made against international copyright in the name of the people, and who cannot be convinced even of the truth of Dr. Franklin's maxim, that honesty is the best policy, if nothing more.

For the sake of the American author who is now robbed, for the sake of the

foreign author who is now plundered, for the sake of that vast body of people who read books in the United States, and upon whom we now force all the worst and cheapest stuff that the presses of the world pour forth, a bill for international copyright ought to be passed. Most of all, it ought to be passed for the sake of the country's honor and good name. It does not become the United States, holding high place in the forefront of the nations, to stand like a highway robber beside the pathway of civilization, and rob the foreign author of his property with one hand, while it deprives the American author of his rights with the other.

Henry Cabot Lodge.

HAVERHILL.

1640-1890.

READ AT THE CELEBRATION OF THE TWO HUNDRED AND FIFTIETH ANNIVERSARY OF THE CITY, JULY 2, 1890.

O RIVER winding to the sea!
We call the old time back to thee;
From forest paths and water-ways
The century-woven veil we raise.

The voices of to-day are dumb,
Unheard its sounds that go and come;
We listen, through long-lapsing years,
To footsteps of the pioneers.

Gone steepled town and cultured plain,
The wilderness returns again,
The drear, untrodden solitude,
The gloom and mystery of the wood!

Once more the bear and panther prowl,
The wolf repeats his hungry howl,
And, peering through his leafy screen,
The Indian's copper face is seen.

We see, their rude-built huts beside,
Grave men and women anxious-eyed,