

RESULTS OF THE COPYRIGHT LAW.

THE Copyright Act which became law March 4, 1891, and the provisions of which went into effect July 1 of the same year, did not constitute a new statute, but comprised simply amendments to certain sections of the statute relating to copyright, which had been in force since July, 1870.¹

It is not practicable to state with precision what the effects of the law have been during the two years of its operation, as there is a lack of trustworthy statistics concerning literary or publishing conditions either for the period prior to the act or for the present time. In arriving at any approximate estimate of these effects, it is in order, I judge, to consider: first, the results secured by authors, American or foreign; second, the results for American readers; and, third, the effect on American publishing conditions.

The most important results of the new copyright policy are naturally to be looked for in the literary relations between the United

¹ The most important changes in the law (omitting from present consideration a few matters of technical detail) were as follows: First: Its provisions, previously limited to the works of authors (under which term I include for convenience artists and composers) who were "residents of the United States," were extended to cover the productions of non-residents on condition that such non-resident author was a resident of a country which should concede to American authors similar privileges. Second: All editions of the works copyrighted must be entirely manufactured in the United States. This provision imposed a new restriction upon American authors, who had previously been at liberty to have their books manufactured on either side of the Atlantic. Third: The book, to secure American copyright, must be published in the United States not later than the date of its publication in any other country. The provisions of the act became operative between the United States and any foreign state only when the President had made announcement, by proclamation, that the necessary conditions of reciprocity had been fulfilled by such State. The proclamation of July 1, 1891, specified that the act was in force with Great Britain, France, Switzerland, and Belgium. Since that date the following countries have been brought within the operations of the act: Germany, in April, 1892; Italy, in October, 1892; Portugal, in July, 1893; and Spain and Denmark subsequently.

By the close of 1892, according to the report of the Librarian of Congress, more than nineteen thousand copyrights had been granted to foreign authors, composers, and designers. The figures for 1893 are not yet available.

States and Great Britain, relations which the supporters of international copyright naturally had particularly in view.

Before the Copyright Act, the more reputable of the English publishers who were not willing to "appropriate" American books were deterred from arranging for authorized editions by the certainty that, if the books found favor with the English public, "piracy" editions would promptly appear. The appearance of many American titles in the lists of the leading English publishers, and the increased importance of the publishing done by American firms through their branch houses in London, are evidence that satisfactory arrangements with American authors are now being made, and that there must be a substantial increase in the returns from their English editions. It is probable, nevertheless, that these English returns are less considerable than were hoped for. Certain authors who have assumed that the lack of international copyright was the only obstacle that prevented a transatlantic success have learned that there are other difficulties in the way. The English public is conservative. Scholarly readers are not easily convinced of the scholarly trustworthiness or importance of works "from the States," while in light literature, and particularly in fiction, the supply from English pens is more than sufficient to meet the demand. It is further the case that for the last two years, and particularly during the year 1893, there has been a continued depression in the book-trade of Great Britain, and the English booksellers have been less willing and less able to invest in "new and experimental lines of literature," to which class, in their opinion, books by transatlantic writers would necessarily belong. The sales in England of authorized editions of "average" American books have therefore increased less rapidly than was hoped. There has, however, been a steady growth in these sales, and it may be confidently predicted that the near future will witness a more rapid development. The gains, on the other hand, in the case of authors who can command a public, have doubtless been very substantial. American authors whose names have become known in England are beginning also to secure some receipts from Paris, Leipsic, Berlin, and Stuttgart, but for some time to come such Continental receipts can hardly be considerable.

American publishers are now in a position to give to American fiction a larger measure of favorable attention than was possible when such volumes had to compete with English stories that had not been paid for; and the removal of this disturbing factor must have proved

a definite advantage to American novelists, and especially to the newer writers. This advantage has, however, been lessened or delayed by the fact that during the last year large stocks of "remainders" of the novels issued by the "reprinting" firms that have become bankrupt have been crowded upon the book-stands and offered at nominal prices. The disappointment of English authors with the results of the copyright law has been keener than that of their American brethren, because their expectations were so much larger. During the half-century in which international copyright has been talked about, many statements had been put into print and talked over in English literary circles, setting forth the enormous circulation secured in "the States" for unauthorized editions of English books, and particularly of English fiction; and large estimates were arrived at as to the great fortunes that were being made out of these editions by the piratical publishers. The writers whose names were known on this side of the Atlantic, and who, after arranging for authorized American editions, had received the honor of being pirated, convinced themselves—not unnaturally—that, when this piratical competition was removed, the payments from their authorized publishers could be very greatly increased. The authors who had secured neither the tangible advantage of an authorized edition nor the empty compliment of a piratical one, felt in many cases equally assured that it was only the lack of copyright protection which prevented American publishers from paying large sums for the privilege of introducing their books to the American public. With both groups of authors the phrase "the millions of American readers" was likely to be used. I have myself heard the phrase "the sixty-five millions of American readers." It was inevitable that the results should bring disappointment to such glowing expectations. As Mrs. Todgers plaintively remarked of her trials in keeping a London boarding-house: "A joint won't yield—a whole animal wouldn't yield—the amount of gravy they expect each day at dinner."

There has been, nevertheless, a substantial advance. The authors of the first rank (using the term simply for commercial importance) have certainly very largely increased the receipts from their American sales, while for authors of the second grade there has doubtless also been a satisfactory gain. I think it probable—though on such a point exact statistics are unobtainable—that in one division of literature, that of third-class or lower-grade fiction, there has been a decrease in the supply taken from England for American readers. There

never had been any natural demand in America for English fiction of this class, and it had been purveyed or "appropriated" chiefly in order to supply material for the weekly issues of the cheap "libraries." The lessening of the supply of this class of literary provender may be classed as one of the direct gains from international copyright.

English authors have to-day the satisfaction that they are able to place their books before their American readers with a correct and complete text. Before the amended Copyright Law, English books had to be reprinted on what might be called a "scramble system." It was often not practicable to give to the printing of the authorized editions sufficient time and supervision to ensure a correct typography, while the unauthorized issues were not infrequently—either through carelessness or for the sake of reducing the amount and the cost of the material—seriously garbled. The transatlantic author, who was then helpless to protect himself, can now, of course, arrange to give at his leisure an "author's reading" to his proofs.

The copyright law has, in my opinion, secured substantial advantages for American book-buyers. In one class of literature only have the prices increased. The cheapest issues of current new fiction sell at forty cents or fifty cents, in place of fifteen cents or twenty-five cents. It is to be borne in mind, however, that these prices do not stand for the same amount or for the same quality of material. The fifteen-cent "quarto" of the "libraries," hastily and often carelessly printed, was an offence to the eye and probably not infrequently an injury to the sight. It was not, in the proper sense of the term, a book, and could not be preserved as one. It was usually bought for railroad reading, notwithstanding the unsuitableness of its typography for such a purpose, and was often thrown away at the end of the journey. The decently printed half-dollar novel of to-day gives much better value for its cost, and may be preserved to be of service to many readers.

It is the case also that the fifteen-cent and twenty-five-cent "libraries" were not crushed out by the copyright law, but for some time before the passage of the law were rapidly coming to an end, as, even with the aid of pirated material, they could not be published at a profit. A large number of new concerns, impressed with the belief that money was to be made in the publishing of pirated fiction, had gone into the "reprint" business shortly before the passage of the Copyright Act. Their cut-throat competition speedily destroyed the very inconsiderable possibility of profit in the business. Books

available for reprinting became exhausted, so that it became difficult to secure enough material to keep up the weekly issues required to secure periodical postage rates, and, as one result, the stuff used for the weekly issues became more and more "rubbishy." Even before the act, there had been not a few failures among these "reprint" publishers. There have been more important failures since, and the "bargain" departments in the dry-goods shops are still working off the remainders of the bankrupt stock, much of it, like many other "bargains," dear at any price.

Except in this class of cheap fiction, there has been with copyrighted foreign books a steady tendency to lower prices. Before, it was the frequent practice of the publisher of a higher-grade book (knowing that if it secured for itself a preliminary success, he would have to contend later with piratical competition) to secure for his first edition the highest price that the market would bear. In the cases in which there was no second edition, this high price remained the only price to the readers who had to have the book. Now, the American edition of such a work is planned at once for the widest possible market, and to this end is issued at a popular price. The publisher knows that, when he can control the market, a wide sale at the low price demanded by the requirements of American readers secures in the end the most remunerative results. The prices, therefore, of literature other than fiction—that is, of history, biography, science, and the like—are lower than before. On this point I will cite the testimony of Mr. Spofford, the Librarian of Congress, who is in a position to know:

"The first great benefit of international copyright has been the gradual decline in the price of standard foreign works. Before the passage of the act,—when, for instance, an English publishing house could not be protected in its editions of important medical and scientific works by foreign authors,—the only course to pursue was to charge a very high selling-price for a limited market, which rarely extended beyond Great Britain. Works of this class are now, however, planned to secure a market on both sides of the Atlantic, and the result is much larger sales at popular prices. This brings a substantial advantage to the more scholarly readers of the community, who are able to secure, at lower prices than heretofore, editions of scientific works which have been carefully printed to meet their own special requirements. The dread that the bill would create publishing monopolies proves to have been entirely unfounded. One of the most noteworthy results of the law, from the American standpoint, has been the cleansing effect upon the character of reprinted fiction. By far the larger proportion of the cheap novels of an undesirable character with which the market has been flooded during the past fifteen years were the work of English or French authors. A group of publishing houses in the United States, which made a specialty of cheap books, vied with each other in the business of appro-

priating English and Continental trash, and printed this under villainous covers, in type ugly enough to risk a serious increase of ophthalmia among American readers."

There is a noteworthy increase in the number of international undertakings, works, or series, the contributions to which are written by the best authorities on special subjects, the writers for which are secured from this country, from England, or from the Continent, wherever the best men happen to be. Such international publications existed before the copyright, but were then carried on at a special disadvantage. Now, the editorial work can be done with proper deliberation, and the publishers can afford to pay the best writers for the best work. The cost of the authorship (and of the illustrations, if any are required) being divided between two or more markets, publishers are able to give to the readers, at a moderate price, the best material in a satisfactory and attractive form. Publications of this class often require several years for their preparation, and two years is not a long enough period to enable this phase of the results of copyright to be fairly tested. With an adequate protection of property in literary productions, irrespective of political boundaries, we can confidently expect in the near future a large development of such international undertakings,—a development which will prove of direct service to both writers and readers and to the work of higher education.

While the artists of the Continent whose creations, reproduced in the form of engravings or photogravures, are available for sale in the United States, are deriving from the law, if not as large returns as were at first hoped for, yet substantial advantage, the Continental authors have been very seriously disappointed, and seem to have legitimate grounds for their disappointment and for their criticism. These authors complain that they have been invited to a "barmecide feast," and that they have "thanked us for nothing." The condition that the work, to be protected by American copyright, must be manufactured in this country, and that the American edition must be published not later than the edition in the country of origin, causes inconvenience and difficulty to the authors of England; but it is practically prohibitory in the cases of works originally issued in a foreign language. It is almost impossible for a French or German author to arrange to issue his book in this country (either in the original or in a translation) simultaneously with the publication abroad. The resetting in the original language, for such limited

sale as could be looked for here, would be unduly expensive, while time is required for the preparation of a satisfactory translation. As a result of this restriction, but few French or German authors have been able to secure the protection of the act, and the French Society of Authors, to whose initiative and efforts were chiefly due the international copyright system now in force throughout Europe, has found occasion to criticise very sharply the procedure of the Americans in granting literary copyright in form while withholding it in fact.

While the Copyright Act is defective as well in its bearing upon the interests of Continental authors as in sundry other respects, and ought in my judgment certainly to be amended, I am of opinion that it would be unwise at this time to make any effort to secure such amendments. The public opinion which creates and directs legislative opinion is not yet sufficiently assured in its recognition of the rights of literary producers, to be trusted to take an active or intelligent interest in securing more satisfactory protection for such producers. There would be grave risk that, if the copyright question were reopened in the present Congress, we might, in place of developing or improving the copyright system, take a step backward, and lose the partial measure of international copyright that it has taken the efforts of half a century to secure.

The provision establishing international copyright is only a clause in the general Copyright Act, and the whole act ought before many years to be carefully revised. Work of this kind, instead of being referred at the outset to a Congressional committee whose interest in the subject or ability to consider it intelligently could not with certainty be depended upon, ought to be entrusted to a Commission of experts selected for the purpose, which should be instructed to take evidence and to submit a report to serve as a basis for legislation. This is the system that has been pursued with the copyright legislation of England, France, Germany, and Italy, and is what might be termed the scientific method of arriving at satisfactory legislation on subjects of intricacy or complexity.

Among the recommendations that would be placed before such a Commission would be one for the lengthening of the term of copyright. The present term (twenty-eight years, with a right of renewal to an author, to his widow, or to his children, for fourteen years) is shorter than that of any civilized country. The British term is forty-two years, or the life of the author and seven years, whichever

term be the longer; the German, the life of the author and thirty years; the French, the life of the author and fifty years. The amended British law now pending in Parliament (the Monkswell bill) accepts the German term, the life of the author and thirty years. Under the American law, an author may see his earlier productions pirated during his own lifetime, as happened to Longfellow, and, more recently, to Donald G. Mitchell.

By the time an amended copyright bill is in shape for consideration, it is probable that the typographical unions will have convinced themselves that they do not require the aid of the "manufacturing" provision forbidding the importation of foreign type or plates for copyrighted books. Such a provision has no logical connection with copyright, but belongs rather with the prohibitory division of a tariff act, such as that which now forbids, as equally dangerous and undesirable, the importation of obscene literature and of ships. When, with a developed public opinion and a more robust condition of mind on the part of the typographers, the conclusion has been reached that the manufacturing condition can be spared from the Copyright Act, the United States will be free to unite with the other civilized nations of the world in accepting the world-wide copyright of the Berne Convention.

GEO. HAVEN PUTNAM.

A CHRISTMAS REMINDER OF THE NOBLEST WORK IN THE WORLD.

THE fact that appeals most strongly to students of social conditions in our day is the apparent tendency of city life to corrupt the very young. Here in New York, despite evidence that persistent, loyal efforts to check this perilous tide has begun to tell, the police are constantly found marvelling at the hardihood with which mere boys are trying to "break their way into prison." Whenever a particularly bold robbery is perpetrated and the robbers hunted down, they turn out as a rule to be very young lads, graduates from the gangs in the tenement-house districts. So in Chicago, when representatives of the Women's Christian Temperance Union went the round of the low dives, the strong impression they appear to have borne away with them was less of the vileness of those whom they found there—that was expected—than of their extreme youth. Many of them seemed the merest children, and doubtless were. The census tells the same story of all great cities. The drift of the population everywhere to the commercial and industrial centres may be held to account for their larger share of crime, but not for this other fact of their becoming thieves so much earlier than formerly. What, then, is the influence in city life that so perverts its youth? I make it out to be its loosening of home-ties by a variety of causes, but, chief among them all, by the tenement. There may be a home in a barrack, but a city of barracks can never be a city of homes. All the influences and instincts of tenement life do violence to the home ideal,—are bent upon destroying it. And they do destroy it, with the result that they rob our youth of the strongest of the natural forces which make for good at the age when character is formed.

To restore the lost balance, then, it is necessary to erect a barrier first of all against the influence of this tenement which causes the mischief. Abolish it we cannot; and, as for improving it to the point of comparative harmlessness, here in New York we are, let us say, rather slow about it. The enemy cannot be circumvented. It is necessary to face him squarely and in open fight. This is what