

## WHAT IS PUBLICITY?

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It is commonly acknowledged that publicity is an essential agency for the control of trusts. Evidence of this appears on every hand. In the Conference on Trusts, held in Chicago in 1899, a conference which embraced all interests from all parts of the country and all schools of economic thought, there was scarcely a paper which did not give direct or implied assent to the proposition that trusts are under moral obligation, and should be placed under legal obligation, to expose their financial and operating accounts. The Industrial Commission, to whose investigation we are indebted for what little is known of trusts in this country, submitted three independent and, in some respects, conflicting sets of recommendations, but all of them acknowledged the significance of publicity. Most important treatises on this phase of the monopoly problem, such as those of von Halle, Ely, Jenks, and Clarke, while presenting different analyses of the situation, are united in their demand for publicity. The utterances of President Roosevelt upon this point are strong and emphatic; and even Mr. Dill, the avowed advocate of industrial combination, uses the phrase when discussing remedial measures.

So universal a consensus of opinion commonly indicates that the question involved is well advanced towards a satisfactory adjustment; but such a conclusion would be far from correct if applied to the present relation of publicity and trusts. Unfortunately, the word is capable of many meanings, and must be defined before it can serve as the rallying point of a constructive policy. Such being the case, an endeavor to analyze the principle of publicity, and to point out what should be the form of the law designed to secure its realization, seems pertinent and timely.

Any fruitful analysis of publicity requires that it be considered from at least three points of view. One must learn, first, its general significance, or the state of the public mind which publicity is designed to create; second, its particular significance, or the interests which publicity is designed to serve; and, third, its administrative significance, or the claim which publicity submits for successful realization.

#### THE GENERAL SIGNIFICANCE OF PUBLICITY.

The fundamental purpose of publicity is to establish in the community a condition of confidence. Secrecy in the administration of a power which in any way touches the interests of the community, gives birth to the suspicion that the power is unwisely or tyrannously administered. Not only does this state of mind impair the most successful use of the power in question, but, if the interests which believe themselves jeopardized are sufficiently important, it becomes a prolific source of political agitation and social unrest. The task of publicity is to allay this suspicion, and the statutory definition of publicity, in any particular case, must be as broad as the ground of suspicion which makes appeal to it necessary.

It may be said that this view of publicity is correct so far as the power in question is a public or political power, but that it does not apply in the case of private or commercial power. I am quite willing to admit this theoretic limitation, because it raises the question whether or not highly centralized commercial power can longer be regarded as a private power. There was a time when even political power was claimed as a private possession, and when the sovereign urged his right to administer that power without accountability to the people. We need not dwell upon the struggle that followed. The result is well known. The counter claim prevailed, and the public character of political power was irrevocably established for all peoples who acknowledge the principles of constitutional government. Accountability of public officers—that is to say, publicity in political affairs—followed as a matter of course. Commerce, trade, and industry, on the other hand, continued to be regarded as matters of private concern. For more than two centuries, English jurisprudence and English political philosophy have given formal consent to the distinction between political or public power, on the one hand,

and commercial or private power, on the other; and, until comparatively recent years, no serious criticism has been heard based upon the practical workings of this distinction.

It would be a mistake, however, to read from this fact the conclusion that English jurisprudence has ever given sanction to the doctrine that the rights of private property are superior to the necessities of public welfare. The courts upheld the claim of secrecy in business affairs because they assumed the efficacy of competition; and it must be admitted that, while industries were small, markets local, and the relations between producer and consumer continued to be personal relations, this assumption of the courts was reasonable. Wherever healthful competition holds sway, there is no ground for suspecting a tyrannous use of commercial power and, consequently, no demand for publicity. But industrial conditions have changed. Industries are becoming colossal. The local market is a thing of the past. The personal relation between producer and consumer, which for generations exercised a powerful moral restraint upon business conduct, no longer exists. The automatic restraints being weakened, artificial restraints have, in consequence, become a necessity. Neither the assumption of publicity for industries superior to the satisfactory control of competition, nor the assumption of secrecy for industries subject to such control, may be said to possess inherent vitality; they are merely working hypotheses for the administration of justice and for the organization of the State. Secrecy against a competitor is, doubtless, a right carried by the institution of private property; secrecy against the State is a privilege which the State sees fit to grant, but which can be recalled if necessary to allay the suspicion that the privilege conferred endangers the public welfare. Interpreted in this way, publicity seems to have ample legal justification, for it rests upon a fundamental principle of English jurisprudence.

I might refer, in further support of this distinction, to the fact that the socialization of the industrial process has, in large measure, destroyed the private character of business enterprises, and that, in so far as this is the case, the power which it generates is a public power, which, like all public powers, should be administered under conditions of strict accountability. It does not, however, seem appropriate to encumber this article with a line of reasoning which would render necessary the use of unfamiliar

words. The conclusion would be the same as that already reached, relative to the right of government to such information as may be necessary to enable the people to live in the enjoyment of equity and justice. The important fact is, reverting again to the definition of the phrase, that publicity should be defined by its functions, and that one of its functions is to dispel the suspicion that industrial power is used in a tyrannous manner, or to make it possible to specify the ground of complaint should investigation prove the suspicion well founded. Such is the general significance of publicity, and such the aim which a law that provides for publicity should hold in view.

#### THE PARTICULAR SIGNIFICANCE OF PUBLICITY.

The second suggestion for defining publicity holds in mind the particular interests jeopardized, or believed to be jeopardized, by the growth of colossal enterprises operating in a world's market. It will suffice for our present purpose to mention only the more important of these interests. These are: the interest of the investor; the interest of the independent or potential producer; and the interest of the consumer.

It would be a mistake to say that the public has no interest in easy and safe investments. Under the institution of private property in its present undeveloped stage, there is no other means of making provision for declining years. Moreover, it is of the utmost importance to continuous prosperity that consumption be steady and uniform from year to year. The economic necessity of high wages regularly paid is coming to be generally recognized; but the argument upon which this necessity rests applies with equal force to high dividends and regular interest, provided stocks and bonds are widely diffused among the people. The permanent interest of the investor coincides in every particular with what is known as the permanent interest of society.

It would also be a mistake to say that the investor can take care of himself. This is just what he can not do, unless he is possessed of sufficient property to protect his capital by becoming a promoter. It is a statement of stupendous significance, as indicating the insecurity of small investments, that the amounts paid by life insurance companies are, on the average, lost to the beneficiaries within seven years of the death of the insured. The small investor is exposed to the danger of the speculative pros-

pectus, which not infrequently is so highly colored as to be utterly untrustworthy; he is exposed also to the danger of being forced to sell, or induced to sell, through false rumors or incomplete statements relative to the industry in which he has placed his capital. Whatever the precise remedy for this unfortunate state of affairs may prove to be, it is evident that appeal in some form must be made to the principle of publicity, whose function it is to let in the light and let out the facts. Any comprehensive definition of publicity must hold in mind the continuance of the existence, and the encouragement of the growth, of the small investor. To kill the small investor is to make socialism inevitable.

The second of the particular interests named is that of the independent and potential producer. The chief argument in support of trusts rests upon the assumption that colossal corporations are essential to a low cost of production and on this account are the forerunners of low prices. It seems to me that this argument is sadly overworked; but, out of deference to the large number of conservative economists who judge it proper to march with the procession of present tendencies, it is temporarily conceded, in order to bring their view of the situation within our definition of publicity. Says Professor Clarke: "The key to the solution of the grave problems that are thus presented lies in the fact, that the independent producer is the natural protector of all the other threatened interests." Social and political considerations, also, urge the preservation of the independent man in industrial affairs. So far as his disappearance is due to the decrease of cost through the aggregations of large capital, no help, perhaps, can be offered. Possibly, none is to be desired. But so far as this is due to the fact that the small producer is exposed to "predatory competition," the government is in duty bound to grant its protection. This phrase "predatory competition" is taken from Professor Clarke's book, "The Control of Trusts." As defined by him, it embraces three classes of improper acts; namely, "favors exacted from railroads," "the local cutting of prices" (by which is meant the placing of goods on local markets at a sacrifice, in order to destroy local competition), and "the type of boycotting termed 'factor's agreement.'" Predatory competition thus defined is not competition at all; it is, again to quote Professor Clarke, "refined robbery;" and a citizen has the same right to protection from this refined robber as from the footpad or the pirate.

Can publicity reinstate normal competition? Possibly not, in

and of itself; but, when government shall undertake the task of restoring to the public the liberty of individual enterprise which the institution of private property assumes to be the inalienable right of every business man (and which, taken away, means inevitably the destruction of the historic institution of private property), it will be found necessary to assign to publicity a broader and more comprehensive interpretation than seems at present to be contemplated by many of its most pronounced advocates. Publicity is whatever is necessary to perform the work of publicity, and one of its tasks is to assist in keeping open the door of opportunity for the independent producer.

The third interest to be considered is that of the consumer. From the time of Moses to the present, industrial philosophy has interpreted the fair price to mean the cost price. Wherever competition guarantees this fair price, government is excused from the task of supervision; but wherever exclusive possession of the source of raw material, monopoly of the process of manufacture, or factious control of the market, enables a corporation to charge either more or less than the fair price for the service which it renders, it is incumbent upon the government to substitute the bookkeeping price for the monopoly price, which, in the absence of effective competition, is sure to be exacted. The determination of the bookkeeping price by which the purchaser is guaranteed justice against a monopolistic producer, is, or may become in extreme cases, one of the functions of publicity, and any definition of publicity which ignores this fact is an incomplete definition.

#### THE ADMINISTRATIVE SIGNIFICANCE OF PUBLICITY.

Theorists are too apt, in their study of particular questions, to overlook administrative considerations. It seems sufficient to them to conclude that a certain thing should be done, without inquiring what is implied in the doing of it. Statute makers, also, are prone to the same error. Their besetting sin seems to be the enactment of laws which impose tasks, but which do not, in clear and unmistakable language, grant adequate power for the performance of the tasks imposed. This fact goes far toward explaining what is called the incompetency of governmental administrative bureaus. It seems appropriate, therefore, in discussing the character and scope of publicity, to go beyond a simple statement of the ends desired, and to inquire respecting the powers

to be conferred, if the desired ends are to be attained. Three suggestions are offered as bearing on this phase of the subject.

*First.* A law designed to secure publicity, such as is necessary to enable government to dominate the industrial situation, must provide for the final determination of the industries which are to be subject to its jurisdiction. This implies, of course, an authoritative classification of industries. The general principle according to which such a classification should be made is manifest. Our industrial constitution—that is to say, that scheme of industrial rights and duties imposed by English jurisprudence—assumes not only the persistence of competition, but that the competition which persists will be normal in character and healthful in its working. The present necessity for an appeal to government is found in the fact that certain industries, or industries operated under certain peculiar forms of organization, lie beyond the influence of the healthful regulation of competition. It is this class of industries to which the rule of publicity applies, a fact which the law providing for publicity should definitely express.

Unfortunately, however, although the principle is simple, its application in our complex industrial order would be attended with difficulty. It is not easy to enumerate the tests of normal competition, nor is the idea of monopoly a simple idea. There are many degrees in monopolization; there are many conditions which give vitality to monopolistic organization. Some industries are by nature monopolistic, others are monopolistic through ownership of the source of supply, and still others become monopolistic through their dependence upon or agreement with what may be termed the fundamental industries—as, for example, railways. The situation is not, then, a simple one. It can not be understood without an investigation more far-reaching and exhaustive than would be possible for any legislative committee. While, perhaps, one cannot go so far as to say that the determination of what industries are to be brought within the jurisdiction of a law providing for publicity is in its nature an administrative act, it is certain that better results are likely to follow if the law contents itself with a statement of the end to be attained, with a delineation of the principles to be followed, and with the creation of such executive machinery as may be necessary for its effective administration. It is clear to me, although the Federal Court in its treatment of the Inter-State Commerce Commission seems



to hold a different opinion, that the realization of the principles of publicity and control means, among other things, a further development of judicial or semi-judicial functions on the part of the executive branch of the government. It is either this or a further development of administrative functions on the part of the judiciary; and, when the real meaning of such a tendency is appreciated by the people, I am confident they will choose the former alternative.

*Second.* The law should confer upon the bureau or commission intrusted with its administration, power to prescribe a legal form of accounts for all concerns which come under its jurisdiction. To one who has had experience with government investigations into corporate accounts, no argument is needed in support of such a suggestion. It is easy for an accountant, so disposed, to give a false coloring to a transaction by an unusual distribution of charges. A current expense may be carried as an investment in such a manner as to increase unduly net earnings, and thus deceive the investor as to the value of the property. An improvement, on the other hand, may be charged as a current expense, which results in an erroneous statement of cost, thus misleading both court and legislature, should either be called upon to consider the question of a just or reasonable price for service rendered. Statutory bookkeeping is the only remedy for the many mischiefs incident to uncertain accounting.

A system of prescribed accounting finds further support when one considers that, even with the best intention on the part of accounting officers, a compilation of the reports which they render will not accurately portray the industrial situation, unless the reporting corporations keep their books according to uniform rule. The basis of accounting is classification, and sound classification consists in collecting items of the same sort under the same title. If, now, there be no uniformity in the use made of the titles of accounts by the several accounting officers, it is evident that a combination of their reports will result in bringing together incongruous items, thus rendering impossible the determination of a true average or the disclosure of a safe generalization. This consideration in favor of statutory accounting is especially pertinent to those who rely upon that indefinite though powerful force called "public opinion" for the control of corporate powers.

The man interested in corporate securities as an investor, has



a special reason for the advocacy of statutory accounting. His judgment relative to an investment rests quite as much upon a comparison of the current report with previous reports as upon an analysis of the current report itself. If, then, the corporate financier is at liberty to distribute the items of income and expenditure in an arbitrary manner, the usefulness of the report to the investor is very largely destroyed. It will be said that most corporations do, at the present time, maintain uniformity in their current reports. This may, perhaps, be true; but, in the same way that a small amount of false coin gives rise to the suspicion that all coins may be false, so the listing of securities of corporations whose accounts can not be trusted may be the occasion of widespread distrust with regard to all securities. The government ought to guarantee, not only the integrity of the reports which corporations make, but that the charges in the books from which the reports are made shall be uniform from month to month and from year to year.

The government, on its part, has a peculiar interest in the demand for statutory bookkeeping from all corporations subject to its supervisory jurisdiction. If each of these corporations—and their number, it may be assumed, will be very large—retains the privilege of formulating its own classification of charges, the task of gaining mastery over their accounts lies beyond the ability of any single office. If, however, the mastery of a single system of accounting implies the mastery of all, as would be the case if all industries of the same class follow the same accounting rules, this task would be greatly simplified. Each item would then mean the same thing for every reporting corporation, and it would not be necessary to enter upon a detailed analysis of each in order to arrive at its true meaning. Moreover, it would be impossible to locate reasonable suspicion relative to improper administration by the comparison of individual reports with what may be termed the typical report, were each corporation at liberty to follow its own whim in the classification of its charges. Such considerations as these, and there are others of the same sort, make it evident that the only hope for the successful exercise of supervisory control over the administration of private corporations, through the agency of an administrative bureau, lies in granting that bureau the right to prescribe the manner in which corporation accounts shall be kept.

*Third.* The law designed to realize publicity must, in some manner, make the accounting officer of the corporations in question personally responsible for the report which he submits. The most direct method of arriving at this result would be to follow the suggestion of a man who, at the time of his death, was the treasurer of one of the largest railway interests in the country. "In my opinion," he said in the course of a conversation upon this point, "you will never get what you are after until railway accountants are made public officials." This, perhaps, is an extreme suggestion. It may have been made in levity, though many a sane word has been spoken in jest. It is certainly true that the accounting officers of the class of industries for which publicity is demanded, should be forced to recognize a broader allegiance than to the corporations which give them employment. As a practical proposition, it may at least be urged, in the name of the principle of publicity, that a government bureau created for the purpose should have the right of visitation and examination, and that any deviation which may be discovered from the method of accounting prescribed by law, should be regarded as a misdemeanor chargeable to the accounting officer. Unless one is willing to go this length in providing for governmental supervision over corporate administration, one had better abandon the advocacy of publicity.

It is, of course, understood that the foregoing is merely an attempt to formulate a practical definition of publicity. The analysis does not touch the deeper question of governmental supervision and control over monopolistic corporations. It is evident, however, that, whatever the character of that supervision or control, adequate provision must be made for getting at the facts. This is essential, whether we rely upon public opinion to exercise a conservative influence in the management of corporations, or upon the legislature to prescribe reasonable conditions for corporate activity, or upon a semi-judicial administrative bureau to supervise monopolistic combinations. Indeed, from whatever point of view the trust problem is considered, publicity stands as the first step in its solution; and there is reason to believe that the further the government is willing to go in its statutory definition of publicity the greater likelihood is there that it may be excused from the necessity of exercising direct administrative control.

HENRY C. ADAMS.

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Tros Tyriusque mihi nullo discrimine agetur.

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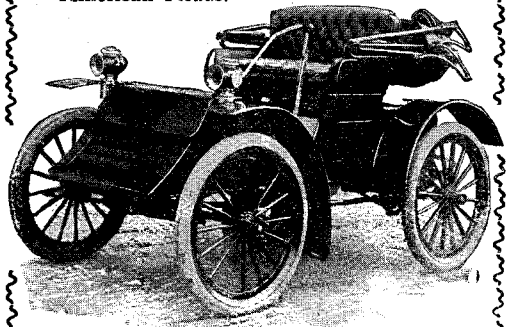
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1903 **MAGAZINE** 1903

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IN 1903

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Swinburne*

*Mary Johnston*

*Mark Twain*

*W. D. Howells*

*Edith Wharton*

*Maurice Hewlett*

*Mary E. Wilkins*

*Booth Tarkington*

*Robert W. Chambers*

*Amelie Rives*

*Margaret Deland*

*Henry Van Dyke*

*Thomas A. Janvier*

IN these pages are outlined some reasons for believing that HARPER'S MAGAZINE (which attracted a larger number of readers in 1902 than ever before in its fifty years of progress) will appeal to an even wider audience in 1903.

The promise for increased excellence is a certain one, though only a part of the good may be definitely foretold. In the matter of serial stories and continued series of articles, HARPER'S MAGAZINE will be different.

*It will not print more than one serial story at a time.*

*It will not print articles of a "news" nature.*

*It will not print consecutive series of short stories.*

*It will not print connected series of articles on any except possibly historical subjects.* Thus every number will come as a surprise. This was true of last year, when the most important, the most readable, the most authoritative articles were those which appeared without preliminary announcement.

A few of the things which can now be announced are:

THE PICTURES OF  
**EDWIN A. ABBEY, R. A.**

Mr. Abbey has for ten years been engaged upon the colossal work of illustrating Shakespeare's Tragedies for HARPER'S MAGAZINE. Many of his pictures will be paintings in color, others in pen and ink, handled with that delicacy and finesse which characterize all of Mr. Abbey's work. All of Mr. Abbey's illustrative work will appear in HARPER'S MAGAZINE. The text accompanying Mr. Abbey's pictures will be by the most notable living scholars and critics.

**ALGERNON CHARLES SWINBURNE**

No living writer on literary subjects commands the attention of the world more completely than Mr. Swinburne. During the coming year he will contribute to HARPER'S MAGAZINE a number of brilliant literary articles. Other notable writers who will write on literary subjects are Theodore Watts-Dunton, Arthur Symonds, Joseph Knight, W. J. Rolfe, etc.



# HARPER'S MAGAZINE

## for 1903

### A NEW ROMANCE By MARY JOHNSTON

AUTHOR OF "TO HAVE AND TO HOLD"

Miss Johnston's new story is entitled "Sir Mortimer." It is a psychological study deeper than her previous work, and is of a more delicate literary texture; it maintains a higher artistic level and displays a new and maturer genius. Miss Johnston ranks anew from this work. "Sir Mortimer" is a romantic love story of the Elizabethan period. The romance will be illustrated by F. C. Yohn, and will run through the summer months.

### MARK TWAIN

The famous author of "Huckleberry Finn" and "Tom Sawyer" will write only for HARPER'S during 1903. Mr. Clemens will contribute frequent short stories—possibly a novelette.

### WILLIAM DEAN HOWELLS

Mr. Howells also will write only for HARPER'S during 1903. He will continue to conduct the "Easy Chair," and will contribute short stories, essays, and poems.

### EXPLORATION AND TRAVEL

Representatives of the MAGAZINE are now travelling in unexplored parts of the world. Their narratives will appear during the coming year. Negotiations are now being carried on with Captain Sverdrup, who has just penetrated to the extreme of the Arctic regions, to write of his adventures and discoveries; and with Sven Hedin, the distinguished explorer, to tell of his perilous journey in Tibet; J. B. Connolly and H. Reuter-dahl, the artist, have made a trip with the far northern whalers, in the interest of the MAGAZINE; I. Zangwill, the English novelist, and Louis Loeb, the painter, have travelled for the MAGAZINE through little-known parts of Italy. A special representative of the MAGAZINE is now making a trip on foot through the strange mountain districts of Greece and Turkey.

[OVER

*Woodrow Wilson*

*George E. Woodberry*

*Goldwin Smith*

*Lew. Wallace*

*Theodore Watts-  
Duntun*

*Alice Meynell*

*Alice Brown*

*Alfred Ollivant*

*Brander Matthews*

*Chester Bailey Fernald*

*Josephine Dodge  
Daskam*

*E. S. Martin*

*I. Zangwill*

*Sarah Orne Jewett*

*Octave Thanet*

# HARPER'S MAGAZINE

for 1903

A FEW OF THE ART-  
ISTS WHOSE WORK  
WILL APPEAR IN  
HARPER'S MAGAZINE  
FOR 1903

*Edwin A. Abbey, R.A.*

*Howard Pyle*

*F. C. Yohn*

*Elizabeth Shippen  
Green*

*Albert Sterner*

*W. T. Smedley*

*Walter Appleton Clark*

*Sarah Stilwell*

*H. Reuterdahl*

*E. M. Ashe*

*H. C. Christy*

*André Castaigne*

*Lucius Hitchcock*

*Peter Newell*

*F. Luis Mora*

*Jessie Wilcox Smith*

*Fletcher Ransom*

## THE DUTCH IN NEW YORK

For some years Mr. Thomas A. Janvier has made a study of the Dutch period in New York. The result of his researches is a story of that period, which differs most radically in its conclusions from the narratives of Irving and the early chroniclers. It gives the truth about this period for the first time. This history will be illustrated from contemporary engravings and documents.

## THE STATE AND PROPERTY

John Finley, Professor of Politics, Princeton University, is making a personal study of the legislatures of thirty of our states. He will write on questions of state government, ownership of property, and other points equally vital to every citizen.

## ECONOMIC AND INDUSTRIAL

Professor Richard T. Ely will contribute a number of papers on economic and sociological communities in the United States, which, as the representative of HARPER'S MAGAZINE, he has visited and is studying.

## THE ENGLISH LANGUAGE

Articles on the English language, its problems, growth, its future, etc., will be a feature of the MAGAZINE for 1903. In the January number Professor Kittredge, of Harvard, will write of "The Coinage of Words." Later both Professor Kittredge and Professor Brander Matthews, of Columbia, will contribute in this field.

## LITERATURE

Professor George E. Woodberry, of Columbia, will write of a number of the most significant periods in American life and letters. Literary essays will be contributed by Mrs. Alice Meynell, Mr. Howells, and Miss Agnes Repplier.

## CHILD LIFE

In its stories and pictures of child life HARPER'S MAGAZINE has developed a new field—one of the greatest human interest. Even more attention will be paid

# HARPER'S MAGAZINE

## for 1903

to this field during the coming year. Roy Rolfe Gilson will contribute several of his beautifully simple and truthful studies of child life, and arrangement has been made with Miss Sarah Stilwell to paint a series of child pictures, which will be reproduced in color.

### SCIENCE AND ARCHÆOLOGY

The most authoritative accounts of important archaeological discoveries by great scholars will appear in HARPER'S MAGAZINE. Professor Boni, who has conducted the investigations in the Forum at Rome, will write of his remarkable discoveries. Professor Hilprecht, of the University of Pennsylvania, will write of equally important discoveries in the East. Experiments are now being conducted in every field of science, and the final authorities will write of every notable development. Problems of life and psychological questions will be treated in a popular yet authoritative manner.

### EARLY AMERICAN EXPLORERS

One of the leading American historians will tell the romance of the early adventurers in this country—men who, like Cortez, De Soto, Ponce de Leon, came from the most brilliant courts of Europe to fight their way through the unbroken forests of the new country.

### SHORT STORIES

HARPER'S MAGAZINE will print in each number more short stories than any other illustrated magazine. In this branch of fiction the MAGAZINE has always been famous. It has published the best work of noted and new writers alike, and has been perhaps the strongest factor in developing short-story writing to its present perfection. Not less than seven short stories of varied types and wide range of interest will appear in each number of the MAGAZINE for 1903. The list of authors who will contribute stories includes the names of every notable story writer in this country and England. Some of the names are given in the margins.

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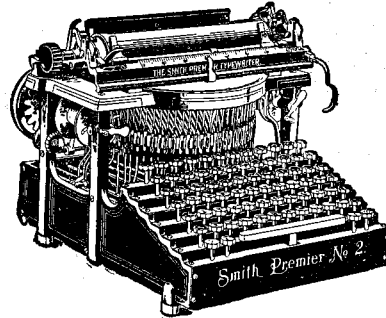


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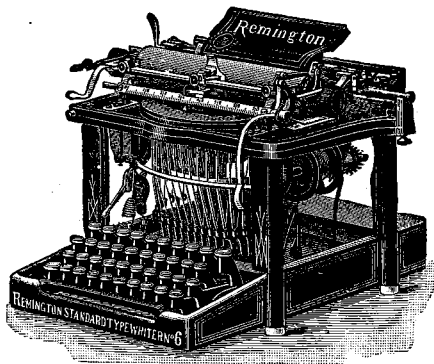
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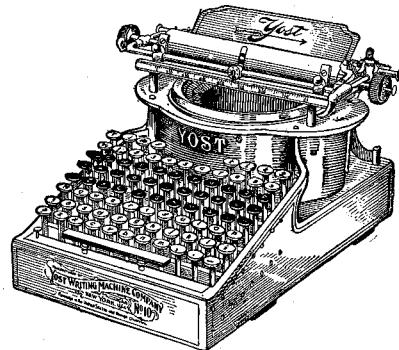
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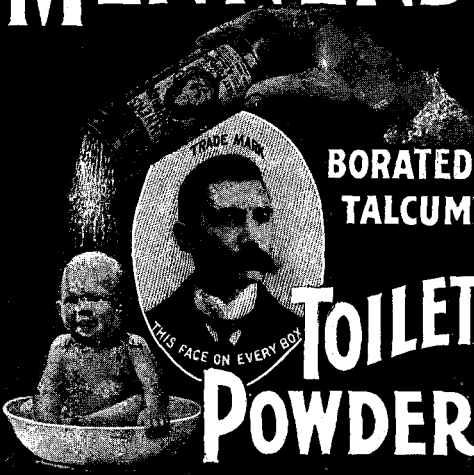
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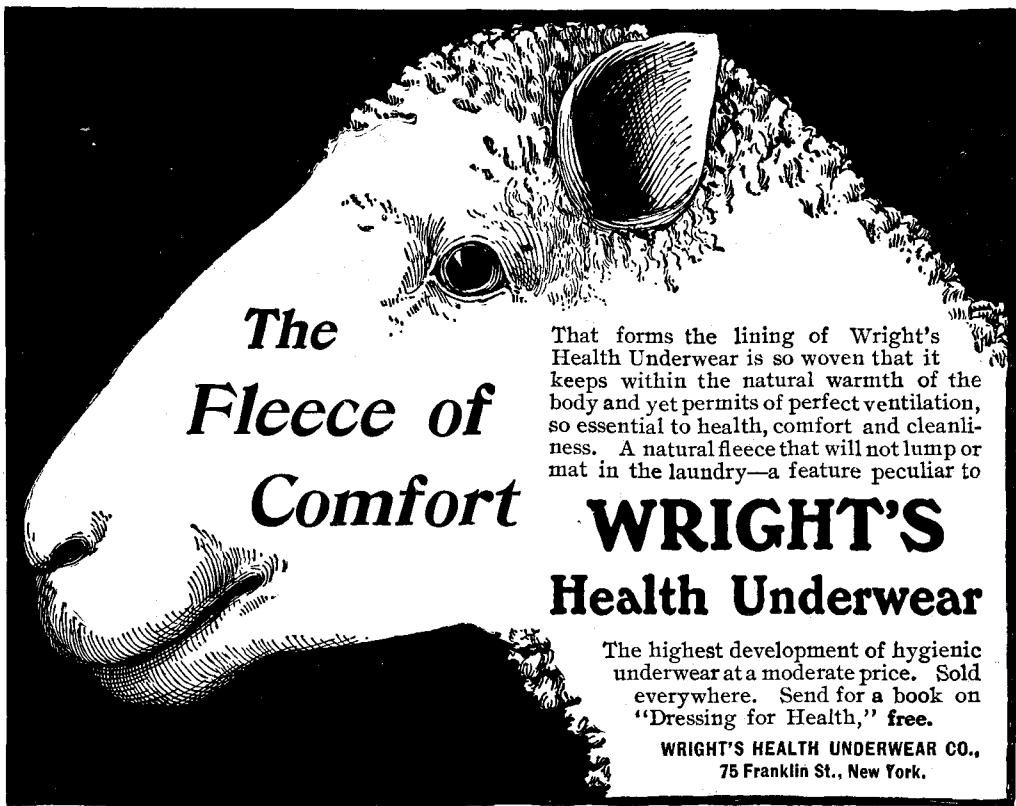
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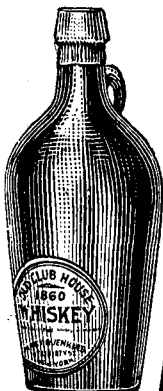
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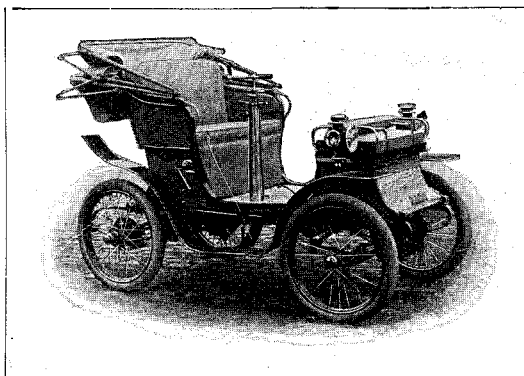
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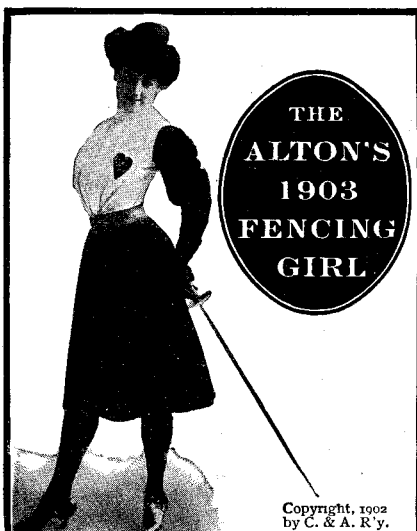


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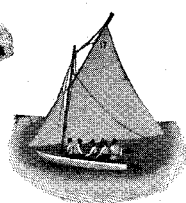
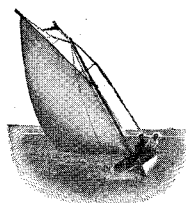
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