

A LOW OPINION OF THE CHACE BILL.

THE August number of *Belford's Magazine* contains an editorial contribution on "International Copyright," which exhibits a gloomy view of the future of that question, and is especially severe upon the Chace bill. "The authors want in an international copyright," according to this article, "what the people are not only ignorant of, but would set their multitudinous countenance against were they enlightened." And the prospects are no brighter as regards Congress. A lugubrious picture is drawn of the abject drudgery imposed upon a member of Congress by his constituency, and the writer exclaims: "Think of such a life, and the man engaged in it being called upon to consider cases of abstract justice—in other words, to hear an earnest advocate of a moral right lying outside of the Solon's immediate business. Such advocate is regarded justly as a crank and a bore. To avoid him the member dives down alleys and hides in the cloak-room, or the barber-shop, or less savory localities, and blasphemes." The first two sections of Mr. Spencer's chapter on "The Right of Property in Ideas," are quoted from his "Social Statics," as containing all that there is to be said on the subject of the moral obligation to respect intellectual property; but as out of the whole number of Senators, Members, and Delegates in Congress (according to our author, who is, presumably, Mr. Don Piatt himself) there are "only thirteen who know who Herbert Spencer is, and only five who have read anything from his pen, one can clearly see not only the little influence the ablest thinker of the century has upon our law-making body, but how wide apart are the literary guild and Congress. . . . We must not be understood as giving the cold shoulder to what these gifted sons of the pen are so earnest in denouncing," Mr. Piatt explains. "We are only striving to show the utter hopelessness of their attempt to get a remedy from Congress." Even if the widest information could be diffused, however, it is thought doubtful if the effect would amount to much, and the explanation of this and the reason for the severe denunciation of the Chace bill are stated as follows:

"For the last quarter of a century the public conscience has been dulled and all business debauched by a policy that makes politics mere trickery and business a system of theft. When the Government entered the field of private enterprise and sought to build a privileged class on taxation, it was guilty of a fraud that has poisoned the people, and we have in a great measure destroyed all honest dealing. The book-publishers, for example, suffer no shame in acknowledging that their business is theft, and their great accumulations mere plunder; for they have given and are giving the people cheap books. This is enough for the Congressmen, and the bill agreed on leaves the stealing intact. That is, it shifts denial of international copyright from the Government to the publishers. If the foreign author will, within a certain time after producing his book in a foreign country, secure an American publisher, and have the same printed on American paper by American printers, he may possess the poor privilege of calling his own property his own. Of course this will be followed

by a pool or Trust among our publishers, and the international copyright will be a statute to benefit the thieving publishers. What heretofore has been mere neglect will thereafter have the sanction of law. All new books by untried authors will be at the mercy of the publishers, and open to plunder by the Typographical Union and the Paper Trust. The advocates of this measure claim that this bill passed to a law will be a recognition of the right. We can see nothing of the sort in the impudent and iniquitous measure. It simply sanctions by law all that has been sanctioned by time, and lifts the thieves into recognition as respectable men. The assurance of a claim from publishers who are already protected by a high tariff on foreign books—a tax on knowledge—fairly stuns one."

In the last paragraph of this article it is insisted that the law of trade-marks affords to literary property all the protection that can be asked for; and this view is said to have received the sanction of the ablest lawyers of the country. But although so high an authority as Jeremiah Sullivan Black is named as having held this opinion, it is difficult to believe that authors would, under trade-mark law, secure adequate protection for their productions. It is undoubtedly true that the title of a book may be protected as a trade-mark, and in isolated cases this protection of the title may practically secure the book from piracy, because the reprinting of the work under any other title would be unprofitable. A good example of such a case is that of the only English book protected by the courts of this country, namely, the celebrated 'Chatterbox.' Its title is registered as a trade-mark, and as the popularity of the book—an annual volume of selections with illustrations—depends upon the reputation acquired by the particular series of selections so named, the publisher is granted a property right in the title, and the use of this designation, or any near imitation of it, for some other book of selections is prohibited, as well as the use of it in connection with a reprint of the work itself. But it is to be noted that this prohibition does not extend to the book aside from the title. As Mr. Justice Wheeler very plainly stated in the opinion rendered in the case of *Estes vs. Williams* (21 *Federal Reporter*, 189): "There being no copyright to prevent, the defendants claim the right to so print and publish the series of books [the various 'Chatterbox' volumes] in this country. There is no question but that the defendants have the right to reprint the compositions and illustrations contained in these books, including the titles of the several pieces and pictures."

But if the law as laid down in this case were applied, for example, to a work by Alfred Tennyson, who might have secured a trade-mark property in its title, it will easily be seen that in the absence of an international copyright the author's trade-mark protection would avail him nothing, because the text of the work could still be reprinted, and the cunning pirate would only need to give the fraudulent edition some such designation as 'The Latest Poem by the Poet-Laureate of England,' to secure its ready identification by the public, and a consequent sale for it, to the author's loss. There

would seem to be a clear difference of principle involved. As Mr. Sebastian, in his work on 'Trade-Marks,' says: "A trade-mark does not protect the substance of the article to which it is attached from being imitated, but it identifies an article and indicates the source to which that article is to be attributed." But what the author first of all requires is protection for the substance of his book. The name he gives it is of secondary importance, and may be next to no title at all, as 'The Writings of John Smith,' for example. And it is worthy of notice that the statutes created to protect his book do not afford any protection to his title, except as the title is an integral part of the book.

CONVICTS AND DEMAGOGUES.

THE Legislature of the State of New York is not a body that commands high respect. The public views the beginning of its sessions with apprehension and their close with relief. It has passed many bad laws, but it has perhaps never passed a law so bad as the recent act concerning the prisons. As a combination of reckless cruelty, of economic folly, and of base subserviency to the lowest element in our politics, this measure is unsurpassed. By its provisions the use of machinery in all the penal institutions of the State is prohibited, and the sale of such products as the inmates thus handicapped might still produce is made illegal. The result is, that the prisoners are now locked in their cells, the machinery of the prisons is idle, and the workshops are deserted. This is the immediate result, but the consequences of depriving men of employment are remote as well as immediate. They will appear in an increase of sickness, insanity, and death among the convicts. They will also appear when convicts are discharged, or rather turned loose upon society, to make such a living as can be made in these days by men untrained in the use of machinery.

One of the features of that ably managed institution, the Elmira Reformatory, is the publication by the inmates of a weekly newspaper called the *Summary*. Every one who has read this paper will testify that it is—from a literary point of view, at least—up to the average of the press of the country, and that it is singularly clean, sensible, and able in its management. It might properly be recommended for general circulation, but such a recommendation would be useless. It is now clearly illegal either to sell or to give a copy of the paper to any person whatsoever, even to an inmate of the Reformatory where it is composed. There are trade schools in this institution where young men have been taught such arts as would enable them to earn their own support when discharged. These schools must be suppressed, for there is no authority for the expenditure of money for the purchase of the materials or the payment of the instructors which they require. It may be added that it is contrary to the spirit of our legislation that such training should be given to convicts. It only serves to make their competition more dangerous to "Labor" when they are freed from restraint.

We have referred to the *Summary*, however, not for the purpose of arousing sympathy over its fate, but to call attention to certain appeals that have appeared recently in its columns. It may be stated by way of explanation that the Superintendent of the Elmira Reformatory provides a letter-box, into which the inmates are allowed to drop communications addressed to him upon such subjects as they choose, and that the appeals which we quote below are specimens taken from a large number of similar tenor:

"Can you find me employment, and oblige one who had rather work than remain idle?"

"I have lain all day looking at the wall. Will you please let me have some work?"

"Please give me something to do—anything."

"I hope you will be able to find some work for me, no matter how low or menial. Before I came here I detested work. Now I am almost crazy for something to do."

"Could you not find me something to do? It is harder to kill time now than it ever was to put up my task in the foundry."

"Be so kind as to give me a job. I am a good hand at painting. Rather work than remain idle."

"Can you find me a place to work somewhere? I am almost dead after being idle so long. I had rather work day and night than to remain idle. Please give me work, hard work. The day seems two days."

"Please give me work at painting or anything else. I cannot sleep at night."

"Do please let me have some work."

We will not insult the intelligence of our readers by arguing that whatever offences these young men may have committed, they are yet human beings and ought not to be treated with wanton cruelty. It is impossible that any one should seriously maintain that convicts ought not to be permitted to work, or that it is not the duty of the State to make them work. What we do urge is, that it is the immediate duty of all conscientious citizens to let their representatives know that they must stop their shameful trifling with the lives and interests of several thousand of the most helpless of their fellow-creatures. These men should be made to understand that there are other votes to be thought of besides those of a few unprincipled manufacturers and labor agitators. They should be required to explain publicly the reasons for their action. They should be compelled to answer without evasion or equivocation the following questions: (1.) Must not the convicts be supported? (2.) If so, must they not be supported either by their own labor or by that of law-abiding citizens? (3.) If they are not to be supported by their own labor, how are other laborers benefited by being made to work for the support of idle convicts?

Let us put the case as plainly as possible, and ask, if there were two communities in all respects similar, in one of which the prisoners supported themselves, while in the other they were supported at the public expense, whether the rate of wages would not be lower in the latter community, and if not, why not? The talk of the competition of the products of convict labor with those of free labor is a capital *reductio ad absurdum* of the theory of protection. The products of the convicts are bartered for

those of other laborers. The other laborers therefore get an equivalent for the goods transferred to and consumed by the convicts. Put a stop to the labor of the convicts, and the free laborers are still compelled by the taxing power of the State to transfer the same quantity of their products to the convicts for their consumption, but they now get as an equivalent—nothing. And it is by such measures as this that our legislators show their sympathy with "Labor"! The situation is described with grim humor in the following extract from an article on the subject by Mr. Eugene Smith, the Secretary of the New York Prison Association:

"In Great Britain the standing grievance of the Labor party has been for many years the large budget required for the support of the royal family. The tax levied for this object has excited a deeper discontent, and has stirred up more disloyal and riotous demonstrations on the part of the laboring classes, than perhaps any other public burden imposed on the English people. It has been a matter of national satisfaction in the United States that we had no regal establishment to be maintained at the public expense. But now come the special advocates of free labor and propose to place on the American people a burden of taxation far heavier than the burden of royalty; to erect into a dependent and unproductive class, which shall be housed, fed, and clothed out of the public Treasury, a body of men more numerous than the royal family with all its dependencies. And all this they demand as a boon to the laboring man! Does the Labor party in Great Britain and Ireland object to supporting a dependent class because it is royal? or does the Labor party in the United States insist on supporting a dependent class because it is criminal? And if the burden takes the form of taxation, what difference does it make whether the class supported is royal or criminal?"

POETS AND COÖPERATIVES.

ON THE BAY OF SPEZIA, August, 1888.

I COME from Casa Magni, and am writing in the shadow of the ilex and walnut trees under whose dark, massive, intermingled foliage Shelley wrote most of his poems after he left Pisa in 1822 till he suffered the sea change. There was no spot in the whole world that I had so longed to visit, had been so near and yet (through mere chance) left unvisited, and a more chance has brought me here to-day, namely, an invitation from the workmen of Spezia, Lerici, and San Terenzio to launch the third steamer that they have built with their own capital, and, we may truly say, with the sweat of their brow. A second invitation, from a Russian lady, Dr. Paper, lodged me in the house overlooking Casa Magni and the very room in which Shelley slept.

Can you wonder that my first thought was to ascertain who now was the owner of that house, and whether it still could be visited, as, hearing that the new owner was an Englishman, I feared me much to receive a "no"? But all such fear was put to flight by a courteous permission to visit the house and wander in the rooms at will from Mrs. Pearse, whose husband has purchased the whole property—that is to say, the ilex and olive woods, and the large house on the summit behind, which "Mary" tells us was, in her time, falling into ruin, as the proprietor was insane and his malady prevented its being finished. That

house upon the hill is now complete, and a delicious summer residence it must be, as it is now let. The new proprietors actually inhabit the house that Shelley dwelt in, which is not included in the purchase, and which unfortunately the owner is allowing to go utterly to ruin. There it is exactly as the Shelleys left it, and indeed as they found it when Shelley arrived at Lerici on the 28th of April, 1822—a white house with arches, which had once been a Jesuit convent, sheltered by the steep, wooded hill behind, on the edge of the cove in the depth of which nestles the fishing village of San Terenzio. A small house it is for one family, as the unpaved ground floor which Shelley used for storing boat-gear and fishing-tackle, and which is now filled with huge olive jars, is uninhabitable; yet as no other house could be found for the Williamses, Shelley gave them half of his, and here on the 1st of May, 1822, the whole party took possession of their new abode.

It would be difficult to imagine a more perfect poet's home, with the sea which (though tideless), owing to an almost constant ground swell, dashes and foams against its walls—a sea now gray and hoary, now violet or green or blue, oftenest golden, as the sturdy rowers cleave the waves with their oars, and the sun shines down into the clefts.

The view from the veranda which surrounds the house is, even for Italy, we will not say unrivalled, but certainly it cannot be outrivalled. The horizon is bounded by the meeting line "twixt sea and sky." To the left the picturesque castle of Lerici overlooks the little town of the same name, where the water laps the basement of the white, flat-roofed houses and is generally calm and quiet in its port, so that when boats and steamers cannot near San Terenzio, in Lerici they can always enter and land their passengers and freight. And now we look eastward with our eyes fixed, as Shelley's were for days and days, on that opening between Monte Tino and Porto Venere. There it was that, on the 12th of May, Shelley descried from the terrace "a strange sail coming round the point," a sail strange even to Maglian, the kindly harbor-master. It was the long-expected, alas! fatal, boat, built by Captain Roberts, who had also built the *Bolivar* for Lord Byron at Genoa. Too heavy a swell was swinging upon the shore at San Terenzio; so, though the weather was cloudy and threatening, Shelley and Williams walked to Lerici, "made a stretch off the land to try her, found that she fetched whatever she looked at, that in short they had a perfect plaything for the summer." Only there was one vexation: Trelawny had named the boat *Don Juan*, whereas Mary and Shelley had named her the *Ariel*, and Lord Byron, offended at the change, had written to Roberts to have the name painted on the mainsail. "For days and nights, full twenty-one," writes Mary, "did Shelley and Edward ponder on her anabaptism and the washing out of her primeval stain; turpentine, spirits of wine, *bucato*, all were tried, and it became dappled, and no more. At length a piece has been taken out and reefs put, so that the sail does not look the worse." Eight and forty days afterwards Shelley left his "divine bay" on board the *Ariel*, and at nine o'clock on the first day of July she cast anchor alongside the *Bolivar*, Byron's yacht, in the port of Leghorn. Eight days later, dawn was ushered in with a thunder-storm, but it rolled away, and all again was fair; but before the sun had set on the sea that he loved better even than the sun, our singing god had looked his last on sea and sky and sweetest earth, telling us for the last time