

CHARLES DICKENS AND THE INTERNATIONAL COPYRIGHT LAW

by THOMAS HOEREN*

A new era of International Copyright Law started when the United States of America joined the Revised Berne Convention (RBC) in 1988,¹ which established that the protection of creative achievements should no longer depend on legal formalities. Instead, every author in the U.S. was able to enjoy a minimum protection of his, her, or its rights, regardless of the author's nationality or compliance with copyright formalities. At that time, nobody could foresee that Charles Dickens, a preeminent English author, was finally granted his rights posthumously.

I. COPYRIGHT LAW DURING DICKENS'S LIFETIME

During Dickens's life (1812–1870), the copyright law in England was the best in the world. Since medieval times, the country provided statutes for the protection of authors.² In 1709, England adopted the first statute on copyright law that protected authors, regardless of their nationalities.³ A caveat, however, was that the protection of foreign authors depended on England being the first country of publication. In any other cases, the reciprocity of the other country and England had to be guaranteed.

In contrast, the U.S. provided no regulations regarding international copyright law in the beginning of the nineteenth century. A copyright law protecting only U.S. authors of published works existed,⁴ but did not apply

* Head of the Institute for Information Law (University of Münster/Germany). My special thanks go to the direction of the National Archives in Washington for their support during my research.

¹ See Baumgarten/Meyer, GRUR INT'L 1989, 620 et seq.; Dietz, GRUR INT'L 1989, 627ff. with further references.

² See COPINGER & SKONE JAMES ON COPYRIGHT 21 (15th ed. 2007) (regarding the roots and origin of English copyright law).

³ SIMON NOWELL-SMITH, INTERNATIONAL COPYRIGHT LAW AND THE PUBLISHER IN THE REIGN OF QUEEN VICTORIA (1968); Ian Parson, *Copyright and Society*, in *ESSAYS IN THE HISTORY OF PUBLISHING IN CELEBRATION OF THE 250TH ANNIVERSARY OF THE HOUSE OF LONGMAN* 29-60 (Asa Briggs ed., 1974); see also *Bentley v. Foster*, 59 Eng. Rep. 641 (Ch. 1839); *Boosey v. Jefferys*, 6 Exch. Rep. 580 (Exch. 1851) (regarding the extension of the protection of foreign authors); JAMES J. JARNES, *AUTHORS, PUBLISHERS AND POLITICIANS. THE QUEST FOR AN ANGLO-AMERICAN COPYRIGHT AGREEMENT 1815–1854*, at 153 et seq. (1974).

⁴ Regarding the Common Law Rights and the state regulations on "unpublished works," see references in L. RAY PATTERSON, *COPYRIGHT IN HISTORICAL PERSPECTIVE*, 1968 AND RINGER, *TWO HUNDRED YEARS OF AMERICAN COPYRIGHT*

to or provide any protection for foreign authors.⁵ This lack of legal protection for foreign authors was intended to prevent any costs arising from the reprint of foreign works: "Complete with the piracy provision it can be viewed as the action of a developing country to protect its bargaining culture while exploiting the cultural products of more developed nations."⁶

U.S. publishers exploited and capitalized on this legal situation by publishing works of foreign authors (especially British) without consent from, or any compensation to, the authors. This so-called "yellow press" arose in the mid-1800s, during the time of the economic depression, and aggressively published free, illegal copies of creative works.⁷ The mentality of that time was captured in the magazine *Athenaeum*:

Where there is no copyright charge, no binders' charge, where one sheet of paper does the work of four, where there are no losses by credit, where there is no store-hire chargeable, where there are no old shopkeepers on hand, the edition being at once disposed of for ready moneybooks may well be cheap, and cheap they are.⁸

Authors abroad often only gained knowledge about the existence of illegal copies of their works in the United States by coincidence. The American government, as well as its citizens, were pleased with the situation and did not believe there was any injustice, especially as so many gained access to literature easily and inexpensively. The situation and practice was accelerated with the ease of the press.

As a result, most English authors were concerned, especially Scott, Edgeworth, Byron, Trollope and Thackeray.⁹ The aggrieved authors joined together and fought for legal protection of their works in the U.S.

LAW, BICENTARY SYMPOSIUM OF THE AMERICAN BAR ASSOCIATION 124 et seq. (1976).

⁵ See STEPHEN STEWART, INTERNATIONAL COPYRIGHT AND NEIGHBOURING RIGHTS § 2.18, (1983); notes of Giles Arlington, *cited in* 37 DICKENSIAN 41 (1940/41). According to Arlington, the protection of Copyright Law did not apply to American authors: "There was no American copyright law, so that their books were stolen as soon as the first copy appeared; and no international copyright law, so that abroad their works were pirated as shamelessly . . . as Dickens' in America."

⁶ Clark Hamilton, *cited in* Stewart, *supra* note 4, § 2.18 n.6); *see also* notes in JARNES, *supra* note 3, at 49 et seq. nn. (regarding a few American citizens who fought for the application of the protection of Copyright Law on foreign works). For an article complementing Jarnes' studies, see Arno L. Bader, *Frederick Saunders and the Early History of the International Copyright Movement in America*, 8 LIBR. Q. 25 (1938).

⁷ *See also* JARNES, *supra* note 3, at 1-29.

⁸ *Foreign Correspondence*, ATHENAEUM: JOURNAL OF ENGLISH AND FOREIGN LITERATURE, SCIENCE, AND THE FINE ARTS (May 27, 1843), at 510.

⁹ *See* Malcolm Morley, *Early Dickens Drama in America*, 43 DICKENSIAN 153 (1946/47).

Under the leadership of Harriet Martineau, a number of British authors filed a petition to the U.S. Congress and demanded a bilateral convention between the United Kingdom and the U.S. regarding copyright law.¹⁰ Those petitions were presented to the Senate and the House of Representatives. However, nothing resulted other than an ineffectual draft of a Senate bill.¹¹

In March of 1839, the New York magazine *The Albion* published unauthorized works by Dickens.¹² During 1837, a version of *The Pickwick Club* was staged in New York, and W.T. Moncrieff was listed as its author.¹³ Illegal copies of *Sketches by Boz*, *Oliver Twist* and *Nicholas Nickleby* existed as well.¹⁴ Furthermore, in 1840, the first part of the novel *Marmaduke Myddleton* was published under the false designation of Charles Dickens (or his nickname: "Boz") as its author, although he never wrote that novel.¹⁵

The example of the famous publisher Carey & Co. illustrates the behavior of American publishers towards Dickens.¹⁶ In June of 1837, the publisher informed Dickens that it published his novel *Pickwick Papers* in the U.S., and intended to instruct an agent from Liverpool to deliver a transfer of £25. "[W]e beg you will accept [the payment] not as compensation, but as a memento of the fact that unsolicited a bookseller has sent an author, if not money, at least a fair representative of it."¹⁷ The publisher justified the amount with the fact that: "it is but seldom that they [the American publishers] will admit of any payment to authors. Occasionally when a first edition will admit of a large impression this can be done, but exceptions to that quantity are few."¹⁸

¹⁰ For the text of the petitions, see SEN. DOC. 24-134 (1837). For further records, see JARNES, *supra* note 4, at 23, 273. Although Dickens was also displeased by the unauthorized uses of his works, it is not clear whether he was a signatory to the petitions. In a letter dated April 30, 1842, Dickens claimed that he did sign them. 3 LETTERS OF DICKENS 221 et. seq. (Walter Dexter ed., 1938). However, his signature cannot be found on the list of signatures, which is deposited at the National Archives in Washington. See also JARNES, *supra* note 3, 20, 272.

¹¹ See JARNES, *supra* note 3, at 62 et seq. (with further references); regarding the draft of Sen. Henry Clay of Kentucky, see also *id.* at 63, 71.

¹² See William J. Carlton, *Dickens' Debut in America*, 55 DICKENSIAN 55 (1971).

¹³ Morley, *supra* note 9, at 153.

¹⁴ See 37 DICKENSIAN (1940/41).

¹⁵ See Clairene R. Broadernet, *Dickens, You Say?*, 58 DICKENSIAN 54 (1962) (with further references).

¹⁶ See also JARNES, *supra* note 3, at 53 (regarding the behavior of Carey & Co. towards Walter Scott).

¹⁷ Letter from Carey & Co. to Charles Dickens (June 14, 1837), cited in 9 DICKENSIAN 258 (1913).

¹⁸ *Id.*

Over the course of time, Dickens occasionally received exiguous compensation from other publishers. However, such irregular compensation was never allocated on a contractual basis and limited to bestsellers. In many cases, Dickens was not able to preserve even a single deposit copy of the American editions of his works.¹⁹

II. DICKENS AS A NOTORIOUS TOASTMASTER (1842)

It is no surprise that as a concerned author, Dickens was highly engaged in the discussion regarding international copyright law. However, there are no statements on record from him about this issue before he travelled to the U.S. Therefore, it is not clear if Dickens intended to concern himself with questions regarding copyright law during his trip. Dickens strongly denied that after a magazine assumed such intention:²⁰

He asserts, that if he be rightly informed, I went to America as a kind of missionary in the cause of international copyright. I deny it wholly. He is wrongly informed; and reports, without inquiry, a piece of information which I could only characterize by using one of the shortest and strongest words in language. Upon my honour the assertion is destitute of any article, aspect, or colouring the truth.

It occurred to me to speak (as other English travelers connected with literature have done before me) of the existing laws — of rather want of laws — on the subject of international copyright, when I found myself in America, simply because I had never hesitated to denounce their injustice while at home; because I thought it a duty to English writers, that their case should be fairly represented; and because, inexperienced at that time in the American people, I believed that they would listen to the truth, even from one presumed to have an interest in stating it, and would no longer refuse to recognize a principle of common honesty, even though it happened to clash with a miserably short-sighted view of their own profit and advantage.²¹

In 1838, England offered the U.S. a bilateral convention regarding copyright law. Unlike other countries, which gave their prompt approvals to a similar convention, Congress refused.²²

¹⁹ See also several informal petitions of Dickens published in W. Glyde Wilkins, *Dickens and His First American Publishers*, reprinted in 9 *DICKENSIAN* 257 et seq. (1913).

²⁰ 76 *EDINBURGH REV.* 500 et seq.

²¹ Letter in the *Times* of January 15, 1843, reprinted in 3 *LETTERS OF DICKENS*, supra note 11, at 423 et seq. See also further letters of Dickens, in 3 *id.* at 429-32.

²² See Conventions with Prussia (1844), France (1852), Belgium (1855), Spain (1857) and Sardinia (1861). See also the statute on Copyright Law of Prussia (1837), reprinted in *ELMAR WADLE, FRIEDRICH CARL VON SAVIGNY'S BEITRAG ZUM URHEBERRECHT* 10 (1992).

Dickens arrived in Boston on January 22, 1842.²³ Due to the large number of illegal copies of his works, he was famous and, at first, celebrated.²⁴ On February 1, 1842, Dickens gave a toast at a dinner in Boston:

I hope the time is not fair distant when (your writers), in America, will receive of right some substantial profit and return in England from their labours; and when we, in England, shall receive some substantial profit and return from ours. Pray do not misunderstand me. Securing for myself from day to day the means of an honourable subsistence, I would rather have the affectionate regard of my fellow men, that I would have heaps and mines of gold. But the two things do not seem to me incompatible. They cannot be, for nothing good is incompatible with justice. There must be an international agreement in this respect²⁵

One week later, on February 7th, Dickens uttered even harsher words in another toast at a dinner:²⁶

Gentlemen, as I have no secrets from you, in the spirit of confidence you have engendered between us . . . , I would beg leave to whisper in your ears two words, International Copyrights. I use them in no sordid sense, believe me, and those who know me best, best know that. For myself, I would rather that my children coming after me, trudged in the mud, and knew by the general feeling of society that their father was beloved, and had been of some use, than I would have them ride in their carriages, and know by their banker's books that he was rich. But I do not see, I confess, why one should be obliged to make the choice, or why fame, besides playing that delightful reveille for which she is so justly celebrated, should not blow out of her trumpet a few notes of a different kind from those with which she has hitherto contented herself.²⁷

In the course of his speech, Dickens also referred to the fate of the popular Walter Scott, who died in poverty due to the lack of international contracts and conventions on copyright law:

²³ Regarding Dickens' first impressions, see EDWARD F. PAYNE, *DICKENS' DAYS IN BOSTON* (1927).

²⁴ See extracts of the "Arcturus," *quoted in* 31 *DICKENSIAN* 142 (1935) ("Go where he will, the quick eye, the right heart, the generous hand of the British writer cannot avoid humanity he loves to delineate, and is proud, by the persuasive influence of his kindly page, to soothe."); see also letter of Charles Dickens to Macready (Jan. 31, 1842), *cited in* *THE SPEECHES OF CHARLES DICKENS: A COMPLETE EDITION* 17 (Kenneth J. Fielding ed., 1960) [hereinafter *SPEECHES*] ("It is impossible to tell you what a reception I have had here. They cheer me in the Theatre; in the streets; within doors; and without.").

²⁵ Reprinted in *SPEECHES*, *supra* note 24, at 21.

²⁶ Dickens himself describes his own mood during this toast in a letter to Forster dated the February 24, 1842: "My blood so boiled as I thought of the monstrous injustice that I felt as if I were twelve feet high when I trust it down their throats." *Cited in* 1 *JOHN FORSTER, THE LIFE OF CHARLES DICKENS* 194 (London, Chapman & Hall 1872) (1969).

²⁷ Reprinted in *Speeches*, *supra* note 24, at 24.

It was well observed the other night by a beautiful speaker, whose words went to the heart of every man who heard him, that if there had existed any law in this respect, Scott might not have sunk beneath the mighty pressure on his brain, but might have lived to add new creatures of his fancy to the crowd which swarm about you in your summer walks and gather round your winter evening hearts.²⁸

During a toast at a banquet in New York on February 18, 1842, Dickens addressed the question regarding the international copyright law for the third and last time: "I assert . . . for the last time, my right in reason, in truth and in justice, to appeal to you, as I have done on two former occasions, on a question of universal literary interest in both countries."²⁹

The three aforementioned speeches may seem moderate from our present vantage point, but were highly acclaimed by Dickens' British audience. Many other toastmasters and speakers agreed with his point of view and request for an international copyright law. Cornelius Mathews, the co-editor of the magazine *Arcturus*, for example, underlined that the question of "International Copyright is the only honest turnpike between the readers of two great nations."³⁰ Yet within the majority of the press, Dickens was exposed to a negative groundswell. American newspapers descended on him. Instead of quoting all of the numerous dispraises, it shall be enough giving a summary that Dickens himself gave to his friend Forster:

Anonymous letters; verbal dissuasions; newspaper attacks making Colt (a murderer who is attracting great attention here) an angel by comparison with me; assertions that I was no gentleman, but a mere mercenary scoundrel; coupled with the most monstrous misrepresentations relative to my design and purpose in visiting the United States; came pouring in upon me every day.³¹

Even some former supporters did not understand Dickens' concern. Therefore, in Richmond, Virginia, he had to listen to a dinner speech, which content was as it follows:

It is impossible for us not to feel respect for such a man and not to welcome him in the bosom of our society. Let us not forget, too, how much we are deeply indebted to that miraculous organ, the Press, for the communication of these pleasures. No sooner is a thought conceived and transferred to Mr. Dickens' paper from his brain, in his solitary chamber in distant England, than it is transmitted by the Press, across the broad Atlantic, with the rapidity of electricity!³²

²⁸ Reprinted in *id.* at 25.

²⁹ Reprinted in *id.* at 28.

³⁰ Cornelius Mathews, A Speech on International Copyright Delivered at the Dinner to Charles Dickens (Feb. 19, 1842), cited in FIELDING, *supra* note 24, at 32.

³¹ Letter from Charles Dickens to John Forster (Feb. 24, 1842), quoted in 1 FORSTER, *supra* note 26 at 194.

³² Reprinted in 38 DICKENSIAN 10 (1942).

Mathews also pointed out the different positions across the U.S.:

There is at this moment waging in our midst a great war between a Foreign and a Native Literature. The one claims pay, food, lodging and raiment: the other battles free of all charges . . . has neither a mouth to cry for sustenance . . . or battles a head to be sheltered.³³

III. DICKENS'S REACTION

Dickens was disappointed by the massive criticism. During his trip he wrote bitter letters to his friend Forster. He accused the Americans of being unable to accept constructive criticism regarding their society.³⁴ He criticized their vanity and their exaggerated business sense as being the main obstruction for any copyright law.³⁵ Finally, he pointed out the correlation between having no copyright law and the lack of literature in America:

As to telling them they will have no literature of their own, the universal answer (out of Boston) is, 'We don't want one. Why should we pay for one when we can get it for nothing? Our people don't think of poetry, sir. Dollar, banks, and cotton are our books, sir.'³⁶

Just before leaving New York, Dickens wrote to an American friend named Jonathan Chapman:

I have never in my life been so shocked and disgusted, or made so sick and sore at heart, as I have been by the treatment I have received here (in America I mean), in reference to the International Copyright question. I, the greatest cock by the existing Law, alive, - say in perfect good humour and disinterestedness (for God knows that I have little hope of its ever being changed in my time) that I hope the day will come when Writers will be justly treated: and straightway there fall upon me scores of your newspapers; imputing motives to me, the very suggestion of which turns my blood to gall; and attacking me in such terms of vagabond scurrility as they would denounce no murderer with.³⁷

However, in the same letter, Dickens emphasizes his willingness to stand firm in this case: "But it has had the one good effect of making me iron

³³ Reprinted in *SPEECHES*, *supra* note 24, at 32.

³⁴ Letter to from Charles Dickens to John (Feb. 24, 1842), *quoted in* 1 FORSTER, *supra* note 26, at 194) ("The wonder is that a breathing man can be found with temerity enough to suggest to the Americans the possibility of their having done wrong.").

³⁵ Letter from Charles Dickens to John Forster (May 3, 1842), *cited in* 1 Forster, *supra* note 26, at 250.

³⁶ *Id.* at 251.

³⁷ Letter from Charles Dickens to Jonathan Chapman (Feb. 22, 1842), *reprinted in* 3 LETTERS OF DICKENS, *supra* note 10, at 76-77; 6 DICKENSIAN 212 (1910); 38 DICKENSIAN 9 (1942).

upon this theme, and iron I will be here and at home, by word of mouth and in writing as long as I can articulate a syllable or hold a pen, etc."³⁸

Two days later, on February 24, 1842, Dickens wrote to Bartlett:

I do not expect that any alteration will take place in the Law of International Copyright, until I am past the sense of Justice or Injustice, and my children are fighting their own way in the World. Until the Law is altered nothing can be done through the General Honesty and Good Feeling. The absence of all Generosity, Honor, or Truth which distinguishes the gross assaults that have been made upon me, here, for alluding to the subject, sufficiently assures me of that.³⁹

Dickens then tried to act politically and make use of his visits with leading American politicians. Initially, he addressed himself to his friend (and future biographer) John Forster in England: "I should like to have a short letter addressed to me, by the principal English authors who signed the international copyright petition, expressive of their sense that I have done my duty to the cause."⁴⁰

Forster, being absolutely loyal to Dickens, obtained this petition containing the signature of various famous British authors. In addition to that, twenty-five writers from New York led by Washington Irving signed another petition.⁴¹ The petitions were submitted to Congress in March of 1842; the House of Representatives then set up a Select Committee — as it did in 1837. However, nothing moved forward, and no final report of the Committee was ever published. By that time, Dickens was so frustrated that he gave up his struggle for copyright law. His judgment on America was that it was a nation of churlish and primitive criminals — above all the publishers, that:

can gain a very comfortable living out of the brains of other men, while they would find it very difficult to earn bread by the exercise of their own. . . . They are, for the most part, men of very low attainment and of more than indifferent reputation; and I have frequently seen them, in the same sheet in which they boast of the rapid sale of many thousand copies of an English reprint, coarsely and insolently attacking the author of that very book, and heaping scurrility and slander upon his head.⁴²

Dickens sent a sharply-worded letter to the publishers Carey & Co in December of 1842:

³⁸ Cited in 6 *DICKENSIAN* 213 (1910).

³⁹ Letter from Charles Dickens to Dr. Bartlett (Feb. 24, 1842), reprinted in 3 *LETTERS OF DICKENS*, *supra* note 10, at 79.

⁴⁰ 1 *FORSTER*, *supra* note 27, at 197.

⁴¹ Lawrence H. Houtchens, *Charles Dickens and International Copyright*, 13 *AM. LITERATURE* 18-28 (1941); see also the text of the petition is reprinted there at 20 et seq. In 1843, this group founded the "American Copyright Club." See *JARNES*, *supra* note 3, at 77 et seq., 275 et. seq.

⁴² Circular letter from Charles Dickens to English newspapers (July 7, 1842), reprinted in *ATHENAEUM*, July 16, 1842.

Disgusted with the infamous state of the Law in respect of copyright, and confirmed in the opinion I have always held that there is no reasonable ray of hope of its being changed for many years to come, I determined that, so far as I was concerned, the American people should have the full pride, honour, glory and profit of it, that I would be no party to its invasion, and that I would have nothing blown to me by a side wind, which the dishonest breath of the popular legislature withheld. I hope that the more you see of this plunder and the dirty hands into which it goes, the more you will feel and advocate the necessity of a change.⁴³

In 1842, Dickens took his revenge: First, he wrote one of the most acrimonious anti-American attacks by a major literary figure that has ever been published.⁴⁴ In *American Notes for General Circulation*,⁴⁵ Dickens described the impressions of his journey in a way that was unilateral and malicious in many cases, stating that Americans were superficial and uncivilized, they had no table manners, and American women were ugly (ouch!).⁴⁶ Moreover, Dickens took offense at slavery and at what he claimed was the inhuman situation in American prisons. During 1843 and 1844, Dickens assimilated his criticism in the novel *Martin Chuzzlewit*, reflecting on and parodying American bad habits.⁴⁷ Astonishingly, the issue of copyright law was neither addressed in *American Notes* nor in *Martin Chuzzlewit*.⁴⁸ One may presume that he was jaded after the recent press attacks, and therefore he abstained from any further comment on this topic.⁴⁹

⁴³ Letter from Charles Dickens to Carey & Co. (Dec. 28, 1842), reprinted in 9 DICKENSIAN 261 (1913).

⁴⁴ Criticism of the American scene during the nineteenth century is now forgotten and rarely scientifically investigated. For the most important works of this genre, see FRANCIS TROLLOPE, DOMESTIC MANNERS OF THE AMERICANS (Whittaker, Treacher & Co., London 1832); CAPTAIN MARRYAT, A DIARY IN AMERICA WITH REMARKS ON ITS INSTITUTIONS (1839) (Longman, Orne, Brown, Green & Longmans, London 1839), ALEXIS DE TOCQUEVILLE DEMOCRACY IN AMERICA (Sanders & Otley, London 1835 (Henry Reeve trans.); and above Harriet Martineau, Society in America (Saunders & Otley, London 1837). For interpretation of this literature, see JANE MESICK, THE ENGLISH TRAVELLER IN AMERICA 1785-1835 (1923); ALLAN NEVINS, AMERICAN SOCIAL HISTORY AS RECORDED BY BRITISH TRAVELLERS (1934).

⁴⁵ The work has been published in numerous editions. See, e.g., the latest "Penguin-Classics-Edition" (London 1989).

⁴⁶ For example, the character of Mrs. Hominy in *Martin Chuzzlewit*.

⁴⁷ See ALBERT J. GUERARD, THE TRIUMPH OF THE NOVEL: DICKENS, DOSTOEVSKY, FAULKNER 245-50 (1976).

⁴⁸ See ALEXANDER WELSH, FROM COPYRIGHT TO COPPERFIELD. THE IDENTITY OF DICKENS 31 (1987) ("What is odd are his silences before and after his visit to the United States.").

⁴⁹ This assumption can already be found in the review of the English version of the American Notes. See Review of *American Notes for Circulation*, 76 EDINBURGH REV. 497 (1843).

In the U.S., *American Notes* and *Martin Chuzzlewit* had of course immediately been distributed as illegal copies. Three days after a copy of the English edition was found in the U.S., the first American editions of *American Notes*⁵⁰ were published; within forty-eight hours, 74,000 copies were sold. *Martin Chuzzlewit*, however, was a commercial failure. The American public was shocked by both works.⁵¹ Henceforward, in the U.S. Dickens was persona non grata,⁵² and a "low-bred vulgar man."⁵³

IV. THE SECOND TRIP TO THE U.S.

Shortly before his death, Dickens travelled to America for a second time, solely regarding financial interests. He conducted a successful lecture tour, reading his works in different American cities. At no time did he proffer any comments about international copyright law. However, he did respond to this question in a letter that was published in December 1867 edition of *Harper's New Monthly Magazine*:

For twenty years, I am perfectly certain that I have never made any other allusion to the republication of my books in America than the good-natured remark "If there had been an international copyright between England and the States, I should have been a man of very large fortune instead of a man of moderate savings. Nor have I ever been such a fool as to charge the absence of an international copyright upon individuals. Nor have I been so ingenuous as to disguise or suppress the fact that I have received handsome sums from the Harpers for advance sheets. When I was in the States I said what I had to say, and this was an end."⁵⁴

Only once he declared laconically: "These people have not in the least changed during the last five and twenty years — they are doing exactly what they were doing then."⁵⁵

⁵⁰ See W.M. Glyde Wilkins, *First American Editions of "American Notes"*, 5 DICKENSIAN 210 (1909); see also JEROME MECKIER, *INNOCENT ABROAD: CHARLES DICKENS'S AMERICAN ENGAGEMENTS* 53 (1990).

⁵¹ However, the English press was not enthusiastic about the novel. See K.J. Fielding, "American Notes" and Some English Reviewers, 59 MOD. LANGUAGE REV. 527 (1964).

⁵² Giles Arlington 37 DICKENSIAN 42 (1940/41) ("Americans have never learnt the practice of bearing malice.").

⁵³ NEW WORLD, Aug. 5, 1842, at 146. For other criticism of Dickens, see Lawrence H. Houtchens, *Charles Dickens and International Copyright*, 13 AM. LITERATURE 18, 26 (1941).

⁵⁴ Letter from Charles Dickens, quoted in *Editor's Easy Chair*, HARPER'S NEW MONTHLY MAG., Dec. 1867, at 121, quoted in 5 DICKENSIAN 209 et. seq. (1909).

⁵⁵ GEORGE DOLBY, *CHARLES DICKENS AS I KNEW HIM: THE STORY OF THE READING TOURS IN GREAT BRITAIN IN AMERICA (1866-1870)* (1912).

V. FURTHER DEVELOPMENTS

After Dickens, other English authors sought their fortune. For instance, Anthony Trollope whose works were also pirated, travelled to the U.S. in spring 1868.⁵⁶ Among other things, he made an advance in the matter of copyright law on behalf of the Ministry of Foreign Affairs. Trollope was — in contrast to Dickens — convinced that not “the Americans,” but only a few American publishing companies, were responsible for the scandalous state in the U.S.:

A bold assertion is made that they like to appropriate the goods of other people; and that, as in this case, they can do so with impunity, they will continue to do so. But the argument, as far as I have been able to judge, comes not from the people, but from the book-selling leviathans, and from those politicians whom the leviathans are able to attach to their interests.⁵⁷

Trollope also talked to Dickens about that question and disliked his unambiguous position, because the latter “strongly declared his conviction that nothing would induce an American to give up the power he possesses of pirating British literature. But he was a man who, seeing clearly what was before him, would not realize the possibility of shifting views.”⁵⁸ Unfortunately, Trollope’s more optimistic view on the topic was unfounded. His journey was a failure; the issue of international copyright law was not addressed in the U.S.⁵⁹

In 1891, the Chase Copyright Act⁶⁰ was enacted, and some foreign authors were protected. However, the Chase Copyright Act had a deciding drawback: Only works that had been manufactured in the U.S. were protected.⁶¹ Thus, Dickens, as well as other British writers, would have been forced to manufacture their works in the U.S. This discriminating rule was abolished in 1976, with the enactment of the new Copyright Act, although not all restraints had been eliminated. Even after the U.S. joined

⁵⁶ For a detailed account of the trip, see ANTHONY TROLLOPE, AN AUTOBIOGRAPHY 255-60 (1912). For more of Trollope’s work, see Anthony Trollope, *On the Best Means of Extending and Securing an International Law of Copyright*, in TRANSACTIONS OF THE NATIONAL ASSOCIATION FOR THE PROMOTION OF SOCIAL SCIENCE 1866, at 119-25 (London George W. Hastings ed., Longman, Green, Reeder & Dyer, London 1867).

⁵⁷ TROLLOPE, *supra* note 56, at 269.

⁵⁸ *Id.* at 258.

⁵⁹ *Cf.* TROLLOPE, *supra* note 56, at 258 (“Nothing was done in 1868, — and nothing has been done since (up to 1876).”).

⁶⁰ An Act to Amend Title 60, Chapter Three, of the Revised Statutes of the United States Relating to Copyrights, ch. 565, 26 Stat. 1106 (1891).

⁶¹ *Id.* sec. 3 (codified at R.S. § 4956). Previously, a draft that the (copyright law-friendly) Senator Henry Clay had introduced without success in 1837 contained this rule. For a discussion of Clay’s bill, see Andrew J. Eaton, *The American Movement for International Copyright, 1837-60*, 15 LIBR. Q. 95, 109 (1945).

the Universal Copyright Convention, the inconvenient formalities and the lack of international minimum rights remained. The U.S. finally caught up with the international copyright law when it joined the RBC.

Many U.S. critics continued to resent Dickens, his critical opinions, and his struggle for an international copyright law. Some claimed that his criticism was based on a personality disorder.⁶² Others accused him of greed; he had only engaged in copyright law because of monetary interests.⁶³ International copyright is no longer as controversial a subject. May Dickens rest in peace — requiescas in pace.

⁶² David Parker, *Dickens and America: The Unflattering Glass*, 15 *DICKENS STUDIES ANN.* 55 et seq. (1986); Jerome Meckier, *Dickens Discovers America. Dickens Discovers Dickens: The First Visit Reconsidered*, 79 *MOD. LANGUAGE REV.* 266 (1984); MICHAEL SLATER, *DICKENS ON AMERICA AND AMERICANS* 67 (1979); for a similar (English view), see NORMAN MACKENZIE & JEANNE MACKENZIE, *DICKENS: A LIFE* 135 (1979).

⁶³ See also Andrew J. Kappel & Robert L. Patten, *Dickens' Second American Tour and his "Utterly Worthless and Profitless" American "Rights"*, in 7 *DICKENS STUDIES ANN.* 1, 4 et seq. (1978).