

Library of Congress

Washington, April 9/1870

Hon. T.A. Jenckes;

Chairman Committee of Patents and Copyrights:

Dear Sir:

Permit me to bring to your attention some leading reasons why the transfer of the entire copyright business and books to the care of the Library of Congress would promote the public interest.

1. Under the present system, although this National Library is entitled by law to a copy of every work for which a copyright is taken out, it does not receive, in point of fact, more than four-fifths of such publications. It is made the duty of the Librarian to make demand from delinquent proprietors of Copyrights of a copy for this Library. To do this, I must have authentic evidence of every copyright that is issued in the United States. Now there are forty-four judicial Districts, the Clerk of each of which issues Certificates of Copyright. It is made the duty of all of them to transmit to the Patent Office a transcript of their Copyright records, at stated intervals. Yet less than one third of the District Clerks make any return at all, either of the Record, of the publications deposited. Those who do transmit them, do it at such long intervals, and at a time so remote from the issue of the publication, as to render their records, even if full, of comparatively little value to me in making requisition for the books. The most extensive Copyright District in the Union is the Southern District of New York. The transcript of Copyright Certificates sent to Washington from this office is always many months in arrears, and moreover the titles of the works and their authors and publishers are so abbreviated in it as to render it practically useless as a basis for an official demand of delinquent books. I am compelled to spend several days every year in transcribing the needful memoranda from the original books in the Clerk's office, where the entries, moreover, are of late from three to six months in arrears of the Copyright certificates issued. I mention this not to reflect upon the efficiency of the Clerk, whose office is continually crowded with business of all sorts, - admiralty business, Internal Revenue business, Custom House business, criminal business, etc., and who undoubtedly does all he can with the very limited clerical force allowed him. But is not this state of facts a reason why the District Clerks of the United States should be relieved of this increasing copyright business?

There are many other offices of the District Courts in which considerable entries of copyrights are made, which have made no returns whatsoever to the Patent Office for years. From some of them I have succeeded in obtaining by correspondence, transcripts of the records, at a considerable expense to the Library Fund. And I have found it indispensable to visit personally the offices of the District Clerks in Boston, N.Y., Philadelphia and Baltimore, once or twice annually, to secure authentic evidence of copyrights whose proprietors fail to transmit their publications to the Library of Congress. This is an expense and loss of time which would be wholly saved were the Copyrights issued in Washington.

2. The transfer of the Copyright business proposed would concentrate and simplify the business, and this is a cardinal point. At present, there are forty-four separate and distinct authorities for issuing copyrights. The American people are annually put to great trouble and expense to find out where to apply, in this complicated system of District Courts, several of them frequently in a single State, to enter titles for publication. Moreover, they are required to go to the expense and trouble of transmitting a copy after publication to the District Clerk -- and another to the Library of Congress! If both copies were mailed to Washington, this double duty would be diminished by half. Next, the books would be received at Washington while fresh from the press, instead of as at present, several months after issue, or not at all. Then the Copyright Records could be constantly on hand where the publications to which they relate are stored. This would simplify and facilitate reference to the greatest possible degree. In the present complicated and heterogeneous system, a person seeking to establish the validity of or to invalidate a Copyright, must go to three or more widely separated localities to verify the various points of evidence, and will probably fail at last, from the very imperfect manner in which the law regarding Copyright entries and deposits is executed. Let the whole business, from the initial point to the final deposit of the publication be placed in the charge of one single responsible officer, and an infinitude of expense, trouble and insecurity would be saved to the proprietors of Copyrights and to the legal profession.
3. The advantage of securing to our only National Library, a complete collection of all American Copyright publications can scarcely be overestimated. If such a law as that proposed had been enforced since the beginning of the Government, we should now have in the Library of Congress a complete representation of the product of the American mind, in every department of science and literature, as represented in books. Many publications which are printed in small editions,

or which became “out of print” from the many accidents which continually destroy books, would owe to such a Library their sole chance of preservation to posterity. Even a collection of schoolbooks, denominated “trash” by many persons, is found in the progress of time to possess an unforeseen value as an exponent of educational progress. We should have one comprehensive Library in the country, and that belonging to the nation, whose aim it should be to preserve the books which other libraries have not the room nor the means to procure. And it is well worth considering, in discussing the details of the scheme proposed, whether we may not have reached a point where the Library of Congress should receive a more truly national designation. In the first general Catalogue of that Library, issued 1815, immediately after the purchase by Congress of the library of Mr. Jefferson, the collection was thus termed: “Catalogue of the Library of the United States.” Might it not be exercising a wise discretion to return to this comprehensive designation, in view of the fact that what is now called in the statutes “The Library of Congress” is built up and maintained by the taxation of the whole people, and is largely recruited from the copy-tax re-enacted in the bill under consideration?

4. This consideration assumes additional weight when it is considered that the Library of Congress is freely open to the public throughout the year, and is rapidly becoming the great reference library of the country, resorted to not only by Congress and the residents of Washington, but by students and writers from all parts of the country, in search of references and authorities not elsewhere to be found. The proposed consolidation within its walls of all the accumulated Copyright publications now stored at the Patent Office, thus utilizing both to their proprietors and to the public many thousands of volumes so long completely buried from view, would render it still more emphatically the Library of the United States. Its complete Catalogue System alone lends an additional value to its stores, such as they would nowhere else possess. The advantage of having all American publications thoroughly catalogued in print in an annual volume, carefully edited and authoritatively issued from the press of the Government, is one which it may require some reflection fully to appreciate, but which would be an invaluable aid to thousands.
5. The proposed reform of the present unsatisfactory methods of recording and perfecting copyrights would take away all the objections now so freely brought against the law. It is complained of by authors and publishers, (and with much reason) that they are put to much trouble and some expense to secure a privilege of uncertain value. There are so many points required to be complied with to perfect a copyright title, and these points are so subject to the mistakes and omissions

of many officials concerned, as well as to those of the proprietor, that it may be said of most Copyrights taken out, that they rest under a cloud which an ingenious or unscrupulous person may take advantage of to invalidate them. And what motive have the publishers to use more zeal in complying with the law and transmitting copies of their publications through the District Clerks to the Patent Office, when they see that the books are thenceforth lost and buried so that not even their authors or the owners of the Copyrights can get sight of them again? What is the deposit at the Patent Office but a sheer waste of valuable material, taking up expense, room and time, with no resulting benefit to anybody? Even were the books properly shelved and cared for, it would only be duplicating, so to speak, the same collection at the seat of Government now required by law to be preserved in the Library of Congress.

6. The last consideration I will note is that the proposed change would be a great economy for the Government. It would save the Patent Office the trouble, expense and room of providing for a great library of material which it cannot use, and does not want. It would leave its officers and its space free to be concentrated upon the great and rapidly growing inventive act by the country. A Copyright is not an invention or a patent – it is a contribution to literature. It is not material but intellectual, and has no natural relation to a department which is charged with the care of the mechanic arts. It belongs rather to a Government library system than to any other department of the civil service. The responsibility of caring for it would be incident to the similar labors already devolved upon the Librarian of Congress, and the receipts from Copyright certificates would much more than pay its expense, thus leaving the Treasury the gainer by the charge.

With high respect,

A.R. Spofford

Librarian.

p.s. An important fact omitted in this hasty outline is that readers under the present scattered system of copyright business, no one knows, or can know, what amount of copyright publications are issued in the U.S. By requiring the Librarian to make annual reports to Congress, a highly important and interesting class of facts would be added to our national statistics.