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Staking a Claim: Samuel L. Clemens' Pragmatic Views on Copyright Law

On the front cover of the first edition of *Roughing It,* there is a drawing of a prospector driving a makeshift wagon (fig. 1). The wagon is loaded with two large sacks of ore, one of them bearing the initials "M.T." The illustration, like the book itself, serves as a fitting introduction to Samuel L. Clemens' views regarding his literary property. While the work represents the kind of autobiographical prospecting Clemens would practice throughout his career, mining not only his personal experiences but his own previous writings for material, the drawing also accurately represents his greatest find: the name and persona of Mark Twain. Critics have noted the connection between Clemens' experiences as a miner and his authorial practice. Alan Gribben writes, "His biographical experiences were viewed the same way he had seen men in Nevada and California approach those inert, lucrative mountains: he intended to work them like a paying ore mine; his life was a lode, vein, grubstake, payload, tracer, unpanned claim, bonanza."[1] If Clemens' life was his gold mine, then the persona that emerged from that mine was far more valuable than even the books his experience yielded.

But Clemens' experiences in Nevada offer more than an apt metaphor for his autobiographically informed artistic practices. They help us more fully understand his approach to the business of authorship, as well. Like the prospector forever carrying his loot—"M.T."—Clemens would find protecting his rights to his name and the works on which it was built to be an unceasing pursuit. This effort was necessary not only because of repeated attempts to pirate his work, but also because of his personal views on property rights; for much of his career, he saw property rights as matters of in-

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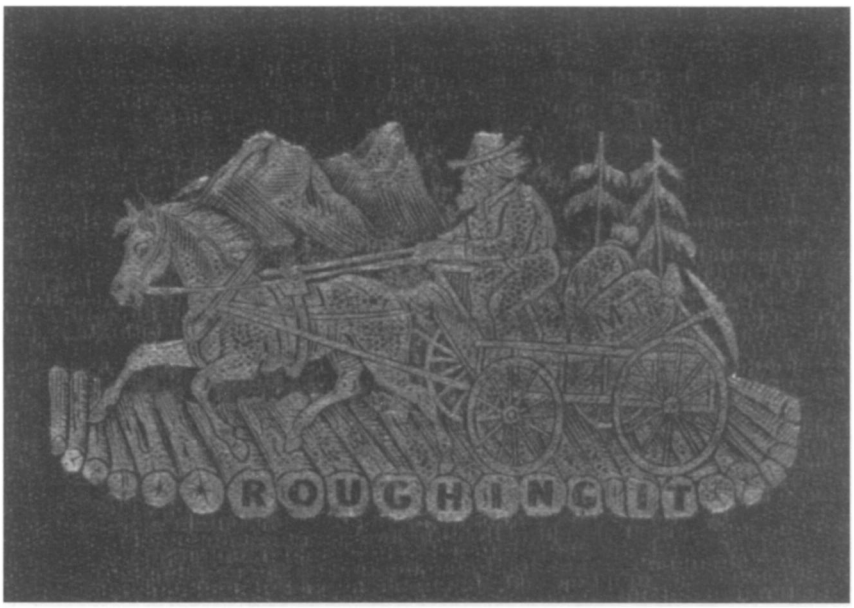

Figure 1.

dividual responsibility, rather than as divine or natural rights. He felt that one had to defend these rights actively to keep them. As his public and private statements make clear, his views were shaped by his days both as a prospector and as an emerging popular author. Property that was not carefully managed and maintained—be it a promising silver "ledge" or a short story—was fair game, like abandoned diggings in Nevada. Clemens had to keep a close watch over his persona and his works or accept their dispersal into the marketplace. He saw copyright as uniquely within his purview, and so he could alternate between favoring either close protectionism or free dispersal when the mood and occasion suited him.

For many of the author's most productive years, he seems to have been torn between two competing necessities: the need to secure his rights to his literary property in order to profit from it, and the need to make sure that the public was exposed to his work in order to heighten his popularity and increase subscription sales. His attempts to negotiate these sometimes conflicting necessities made his feelings regarding copyright law much more mutable than those of many of his peers. While Clemens is often thought of as the tireless advocate of authors' rights, doing battle with Canadian pirates and, late in life, pushing for a perpetual copyright, in truth he was much more conflicted and ultimately pragmatic about copyright and the problem of unauthorized reprinting.

It is perhaps because of the emphasis Clemens placed on the personal responsibility of authors to protect their work that critics have been attracted to the image of Mark Twain as champion of copyright. There is no denying that he often took very public steps to defend his copyrights, not only launching a variety of lawsuits to stop pirates but also making frequent public appearances and lobbying congressmen to increase protection of author's rights. However, by focusing on these performances without analyzing Clemens' logic in pursuing them, and, by failing to pay equal attention to those statements that appear to contradict this more public and familiar stance, critics have missed unique aspects of his views regarding property. In his otherwise excellent analysis of Clemens' views on copyright and their relation to *Adventures of Huckleberry Finn,* Victor Doyno downplays contradictions in the author's views. While he does point out that "at one early point" Clemens believed the lack of an international copyright could benefit the U.S., he argues that "Twain's attitude toward the issue of international copyright changed radically between 1880 and 1886" and suggests that, by 1886, Clemens became a dedicated champion of literary property rights.[2] Doyno bases most of his commentary on this "later" stance, not on the author's "early point" of 1880. As a result, he misses the consistency that marks Clemens' position throughout this period of his career.

Similarly, in his book decrying recent copyright decisions and the radically extended rights granted authors and intellectual property holders, Siva Vaidhyanathan lays the responsibility for the much broader rights granted twentieth-century literary property holders at Clemens' feet:

> By the end of the nineteenth century, publishers and authors had taken great strides in fighting the republican principles that had informed early American copyright law and cases. And as the United States stepped forward to assert itself as an imperial power in the world, Mark Twain prepared to assume the position once held by Noah Webster, the champion of private publishing interests cloaked in the rhetoric of noble public service.[3]

It is true that Clemens could be a very vocal advocate for strong copyright laws, particularly in the 1890s; however, as Vaidhyanathan himself acknowledges, for much of his career Clemens was much more ambivalent regarding issues of literary property. As frustrating as it may be for critics wishing to see Clemens as the hero (or, in Vaidhyanathan's case, as the villain) in the battle for the extension of copyright, his attitudes toward his own copyrights in fact shifted according to occasion. The protection of his literary property routinely became dependent upon expediency rather than principle.

Clemens' early success as an author was closely linked to his success as a public speaker, and vice versa. His published letters from Hawaii (the Sand-

wich Islands) were immensely popular, and they helped build an audience for his early lecture appearances. At the same time, those lectures increased his fame and prompted his move to the East Coast. Yet there was more at work than the synergy between Clemens' writings and performances as Mark Twain. The third element contributing to the initial success of the Western platform performer and journalist was the unregulated reproduction of his early writing. His short story, "The Celebrated Jumping Frog of Calaveras County," was reproduced by numerous newspapers, which helped lead to the publication of his first book in 1867, a small volume entitled *The Celebrated Jumping Frog of Calaveras County and Other Sketches*. Like the title story itself, this book, too, was subject to a great deal of piracy, particularly abroad.

Later in life, Clemens recognized the important role that literary piracy had played in his early success. Writing in his notebook in 1888, he mused, "It may be a good thing sometimes for an author to have *one* book pirated & a scramble made—I think it is true. Look at my first book."[4] Clemens made this note at a time when his views regarding copyright and literary piracy were a great deal different from those of many other authors. He had recently not only given testimony in Congress against the international copyright bill supported by James Russell Lowell and the American Copyright League, an association of which he was an active member, but he was also involved in a public dispute with his friend Brander Matthews regarding copyright and the necessity for changing the laws governing publication rights in the United States and Great Britain.

Clemens' surprising position on these matters is not an aberration but, as his descriptions of his early days in Nevada make clear, is instead the result of an expedient view of property rights. In *Roughing It* (1872), one of his most memorable sketches touches on the issue of property rights. Twain describes an elaborate prank played upon a government officer sent to Nevada to serve as U. S. Attorney. The local residents, determined to put the newcomer in his place, draw the attorney, General Buncombe, into a false property dispute. Hyde, the General's supposed client, seeks his aid after claiming that a landslide has moved his neighbor's ranch down the hillside and completely on top of his own ranch. The rancher "on top" now claims the property as his own, inasmuch as he never left his cabin while the client failed to stay on his own property during the landslide and "hold possession." The General tries the case and is astonished when the judge rules against his client, proclaiming, "If Heaven, dissatisfied with the position of the Morgan ranch upon the mountain side, has chosen to remove it to a position more eligible and more advantageous for its owner, it ill becomes us, insects as we are, to question the legality of the act or to in-

quire into the reasons that prompted it."[5] The General, stunned by this decision and by the judge's later offer of a compromise (the judge admits that it would be possible for the aggrieved rancher to dig under the Morgan ranch to regain possession of his property), leaves Nevada and only realizes two months later that he has been the victim of a prank.

Vaidhyanathan employs this tale to describe Clemens' eventual attitudes regarding copyright. He argues that, although the author appears to mock the appeal to divinity in defense of Morgan's property rights, he would later come to support such absolute notions of property rights. Entitling his discussion "Mining and Writing," Vaidhyanathan employs the sketch as a means of introducing important questions about copyright and Clemens' feelings about the law:

> Is ownership a matter of location or substance? . . . Does an author forever "own" the string of words he or she produces, or does it enter the public domain as "commons"—to use political science terminology—once it reaches the eyes, minds, and bookshelves of the reading public? . . . While Twain employed an appeal to divinity as a target of ridicule in the landslide case, he actually grew to hold by the end of his life opinions about copyright law that were remarkably similar to the judge's "natural law" ruling about real property. (59)

By failing to examine this sketch in terms of the lengthy description of *mining* that surrounds it, Vaidhyanathan misreads its significance as an indication of Clemens' views on property rights. He in fact places the emphasis on the wrong argument. If writing is in some way connected to mining—and we have already seen that, for Clemens, this seems to have been the case—then we must ask how the "laws" of the mining camps and Clemens' experiences inform his writing. For while there is no denying the ridiculous nature of the "divine edict" argument given by the judge to support his decision, there is another argument offered in the case, and that one, while equally ridiculous in light of the "facts" of this prank, does not seem subject to the same scorn that comes into play elsewhere in *Roughing It.* It is this second argument, the argument of the second rancher who rides his ranch down the hill, which gives us the better insight into Clemens' feelings.

When the supposedly aggrieved Hyde rushes to the General in search of aid, he recounts the exchange he had with his neighbor and the argument Morgan used to justify his continued occupancy of the ranch:

> And when I reminded him . . . that it [the second man's cabin and ranch] was on top of my ranch and that he was trespassing, he had the infernal meanness to ask me why didn't I *stay* on my ranch and hold possession when I see him a coming! Why didn't I *stay* on it, the blathering lunatic—by George, when I heard that racket and looked up the hill it was just like the whole world was a ripping and a tearing down that mountain side— . . . and in the midst of all

> that wrack and destruction sot that cussed Morgan on his gate-post, a wondering why I didn't *stay and hold possession!* (emphasis in original 222–23)

As the repetition and the italics make clear, Morgan offers but one defense of his claim; he never left his ranch during the landslide, thereby "holding possession," while Hyde's unfortunate penchant for self-preservation had led him to abandon his property and yield possession in the face of the landslide. Understandably, General Buncombe is dismissive of Morgan's logic and refuses to believe that anyone would take such a claim seriously. Hyde replies, "Everybody in town sustained Morgan; Hal Brayton, a very smart lawyer, had taken his case" (223).

Buncombe's position as an outsider to the community is now doubly manifest. Everyone in the town is "in" on the joke, and, in order to goad the newcomer to take the case, they all must be seen as supportive of Morgan's claim. At the same time, however, this supposedly unanimous support must be based on some kind of logic to be at all believable, and it is Morgan's argument that provides this support. The rancher is simply employing the same rule that governs the miners around him; property can only be held if one visibly exercises his ownership of it. Property abandoned is property up for grabs. Buncombe dismisses the people of the Territory as "fools" (223), but his own foolishness is a direct result of his own inability to understand the ways of the community, including the property laws and their logical limits. Even after he is able to win from the judge the concession that the "divine decree" notion is insufficient, he is still unable to reverse the declaration that Morgan must be responsible for maintaining his property: he must "dig it out from under there" if he wishes to continue owning it.

This sketch is not, then, as Vaidhyanathan assumes, a meditation on the question of whether or not "ownership [is] a matter of location or substance" (59). This question is never presented as subject to debate. Rather, the sketch turns on the issue of "holding possession." What must one do to maintain control of property? The prank exposes the limits of what can be required of an owner: clearly one cannot be expected to weather a landslide in order to maintain ownership of his or her land. Buncombe, eager to showcase his Eastern legal practice, approaches the question in the manner Vaidhyanathan appears to, considering it as a question of the essential definition of property. Vaidhyanathan asks, "Does Dick Hyde own the land because he owned the area within those lines on a map, or does Morgan own it because he owns the actual dirt and house that make up the property?" (59). But this is the wrong question: if he wanted to avoid falling victim to the hoax, Buncombe must recognize that the fictional case presented him is a distortion of the property law that all of the people in his new home live by and practice everyday.

The general can be forgiven his mistake, however, for the landslide case is not so great a distortion of the necessity of protecting property rights as one might think. Clemens describes the extremes to which this notion of "holding possession" could be taken in the mad pursuit of mining wealth:

> To show what a wild spirit possessed the mining brain of the community, I will remark that "claims" were actually "located" in excavations for cellars, where the pick had exposed what seemed to be quartz veins—and not cellars in the suburbs, either, but in the very heart of the city; and forthwith stock would be issued and thrown on the market. It was small matter who the cellar belonged to—the "ledge" belonged to the finder, and unless the U.S. government interfered (inasmuch as the government holds the primary right to mines of the noble metals in Nevada—or at least did then), it was considered to be his privilege to work it. Imagine a stranger staking out a mining claim among the costly shrubbery in your front yard and calmly proceeding to lay waste the ground with pick and shovel and blasting powder! (289)

One can easily imagine that Buncombe would have been as skeptical regarding a miner's claim of a right to dig in someone else's basement as he was of Morgan's claim to Hyde's property as a result of the man's running from the landslide, but this time the general would have found himself on the losing side of a real case. As Clemens makes clear, the only alternative a property holder had in those heady times was to carefully lay claim to every square inch of his property, advertising his stake in any possible "ledge" on his land. This was a matter of posting a notice at the site and of registering a copy of the notice in the mining recorder's office, as well as making sure that no more than ten days elapsed without proving evidence of "working" the claim. For the homeowner of the territory, this gave an entirely new and disturbingly literal meaning to the words "housework" and "housekeeping"!

Upon his arrival in the territories and his commencement of his stint as a miner, Mark Twain accepts these rules and immediately puts them to use:

> We took up various claims, and *commenced* shafts and tunnels on them, but never finished any of them. We had to do a certain amount of work on each to "hold" it, else other parties could seize our property after the expiration of ten days. We were always hunting up new claims and doing a little work on them and then waiting for a buyer—who never came. . . . We lived in a little cabin and cooked for ourselves; and altogether it was a hard life, though a hopeful one—for we never ceased to expect fortune and a customer to burst upon us some day. (230–31)

In the highly speculative, largely unregulated mining communities of Nevada, ownership is never absolute, and property can only be secured through constant vigilance. The money to be made in mining, Twain learns, comes not from gold or silver, but from the staking of claims and the sub-

sequent sale of those claims. Property is not presented as something one simply owns; it is what one "holds" through labor, and merely for the length of time necessary to secure a purchaser. The value of the property becomes manifest only upon its sale.

Forgetting these principles could be disastrous, as Twain learns firsthand when he and a colleague come upon a "blind lead," a ledge below ground thought to be "worth a million." He and his partner carefully take possession in the fashion that has already been established—"the notice was put up that night, and duly spread upon the recorder's books before ten o'clock" (260)—and promptly begin to plan how they would spend their fortunes. Once again, Clemens reminds his readers of the laws that govern property possession in the territory: "By the laws of the district, the 'locators' or claimants of a ledge were obliged to do a fair and reasonable amount of work on their new property within ten days after the date of the location, or the property was forfeited, and anybody could go and seize it that chose. So we determined to go to work the next day" (263). Unfortunately for Mark Twain, he learns that same day that a friend has grown gravely ill, and, leaving a note for his partner, he leaves town immediately. The outcome is not hard to predict. His partner also leaves him a note, and they both neglect to do the work necessary: "At midnight of this woful [sic] tenth day, the ledge would be 'relocatable,' and by eleven o'clock the hill was black with men prepared to do the relocating" (268). Property could be "relocated"—whether that property was Hyde or Morgan's ranch or Twain's ledge—if an owner failed to demonstrate his ownership. To make certain the moral is not missed, Twain repeats it once again, "We would have been millionaires if we had only worked with pick and spade one little day on our property and so secured our ownership!" (269).

There are several clear parallels between these descriptions of Mark Twain's dealing in claims and Samuel Clemens' dealing in copyrights: the limited duration of the initial claim, the constant industry required to maintain possession, and the value of the possession depending upon its sale. Given these clear similarities, it is not surprising that Clemens harkened back to these principles of his mining days when he was composing arguments to use against Brander Matthews in their dispute over copyright law. He wrote in his notebook in early 1888:

> In the mines, if you neglected for a certain time to work your claim, it was held to be abandoned, & anybody could take it. It did not hurt the character of the taker. He was not a thief. The 'pirate' who takes an American's abandoned book is not a thief. You have no reasonable complaint against him. If you had leveled your complaint ag[ain]st the Am. author & publisher you'd have *had* a complaint. (*Notebooks* III, 366)

This last statement amounts to an exercise in blaming the victim, but it also illustrates the emphasis that Clemens put on the author's and publisher's responsibility for maintaining a copyright.

He makes an even harsher statement in "Mr. Matthews's Second Article," a draft of a reply to Matthews:

> When you speak of the 'misdeeds' of certain British publishers, the word has no meaning. The blame belongs with the American author; it is he that deserves the lash. *The American author is the father, the creator, of the so-called British "pirate."* He begot him, he is his own child; he feeds him, nurses him, coddles him, shelters him, protects him; & if he did his plain simple duty & withdrew this support, the 'pirate' would in that instant cease to exist in *fact* as he has already & long ago ceased to exist in *law.* (emphasis in original *Notebooks* III, 366n)

This is a remarkable extension of Clemens' earlier statements in his notebook: not only is the author responsible for the piracy of his work, but also it is his failure to do "his plain simple duty" that created piracy in the first place. Clemens felt that the laws as they stood were quite adequate to protect American authors; hence his claim that pirates had "ceased to exist in law." The "pirate" emerges only as a result of the sloth and irresponsibility of the writer. The picture Clemens draws of the relationship between authors and pirates and the status of literary property makes the Nevada mines seem tame by comparison. All of the publishing world seems to be infected with literary "claim jumpers": no restraint is to be expected of them, for they are products of an author's own carelessness.

Clemens' belief in the author's tacit role in the piracy of his works is evident in his recollections about the early years of his writing career. An amusing anecdote he wrote in 1898 regarding the publishing history of one of his short stories reveals much regarding his shifting views on the practice of literary piracy and the nature of literary property. The story was "Jim Wolf and the Cats," first published in 1867. Clemens writes,

> A year or two later "Jim Wolf and the Cats" appeared in a Tennessee paper in a new dress—as to spelling; it was masquerading in a Southern dialect. The appropriator of the tale had a wide reputation in the West and was exceedingly popular. Exceedingly so, I think. He wrote some of the breeziest and funniest things I have ever read, and did his work with distinguished ease and fluency. His name has passed out of my memory.
>
> A couple of years went by; then the original story cropped up again and went floating around in the original spelling, and with my name to it. Soon, first one paper and then another fell upon me vigorously for "stealing" "Jim Wolf and the Cats" from the Tennessee man. I got a merciless basting, but I did not mind it. It's all in the game.[6]

This was not the end of the journey of this particular story. Several years later, while Clemens was in England in 1873, he met an aspiring writer in dire straits who hoped to gain the famous author's assistance in publishing one of his short stories in a London magazine. Clemens kindly complied: "The thing he sold to Tom Hood's *Annual* for three guineas was 'Jim Wolf and the Cats.' And he did not put my name to it. So that small tale was sold three times. I am selling it again now. It is one of the best properties I have come across" (143).

There are three important points to be made regarding this reminiscence. The first is, of course, the amiable nature Clemens shows in telling the story. When one considers how he would frequently lash out at literary pirates, he seems exceedingly generous in his nonchalant reference to the Tennessee pirate. Rather than an unforgivable sin, the crime of piracy and the accusations that inevitably follow are to be expected as "all in the game." If, by "game," we assume Clemens is referring to the profession of authorship, then clearly his views of the profession in 1898 are in stark contrast to statements more frequently cited by scholars regarding his view of the vital role of copyright protection to the success of an author.

The second significant element in this anecdote is Clemens' depiction of his short story not as a product of his own creation, but as a piece of property distinct from his authorship of it: "So that small tale was sold three times. I am selling it again now. It is one of the best properties I have come across." The value of the story is not, he seems to suggest, a result of his identity as author; it is a valuable product regardless of his connection to it, as its repeated sale by multiple authors demonstrates. Clemens might be attempting to express a kind of modesty by disavowing the importance of his authorship of the tale, or, conversely, he might be keeping a close watch on his literary reputation by making the case that his works can sell even without the famous name attached to them. Of course, he also casts himself in a favorable light by implying that he must have done an excellent job of telling the story in the first place to motivate others to claim it as their own; however, at the same time he distances himself from authorship of the story.

Finally, the story of "Jim Wolf and the Cats" is not created so much as it is discovered, a "lucky strike" for the literary prospector, whether that prospector be the Tennessee humorist, the English confidence man, or Clemens himself. It appears that whoever "comes across" the story can take advantage of it, provided a rightful owner does not take steps to intercede. As a result, the ownership of a story is not static, resting solely with the creator; it must continually be re-asserted. If one fails consistently to demonstrate possession, as Clemens did when the story was first pirated, the work can rightfully pass to the hands of another.

Clemens was a canny literary prospector, and he would hold, sell, and "abandon" any of his claims with great care. There is a great deal of correspondence addressing the maintenance of his copyrights coinciding with the publication of his books *The Innocents Abroad* (1869) and *Roughing It.* "Jumping Frog" had served to verify the value of the "Mark Twain ledge," and he dealt with his subsequent works accordingly, guarding his claim while at the same time allowing just enough of the "ore"—whether that be travel letters later revised into books or an occasional short story—to circulate and continue whetting the public's interest in "Mark Twain" products. As he was making arrangements for the publication of *Roughing It,* he gave a great deal more thought to the overseas sale of the book than he had for his previous works. He wrote his publisher, Elisha Bliss, in 1871, "Have you heard anything from Routledge? Considering the large English sale he made of one of my other books (Jumping Frog,) I thought may be we might make something if I could give him a secure copyright—there seems to be no convenient way to beat those Canadian re-publishers anyway—though I *can* go over the line and get out a copyright if you wish it and think it would hold water."[7] This letter gives a good insight into Clemens' attitudes toward copyright and his literary property during this time period. Rather than nursing a grudge against British publisher George Routledge for his success with an unauthorized edition of *Jumping Frog,* Clemens seems to accept the work's popularity as something like a calling card, an opening for further business arrangements.

He also seems fatalistic regarding the Canadian piracy of his novels, expressing an acceptance that may seem surprising to those familiar only with Clemens' much more publicized battles with the Canadians. He was looking to make deals, to sell stock in "Mark Twain," and an important component of this was negotiating with those already convinced of the worth in the claim. Those investors, as Clemens' association with Routledge indicates, were often the same people who had so aggressively moved in on the "Mark Twain" stake in the first place. Their success could interest them in later owning a share of it legally.

Clemens' grasp of the value of gaining name recognition during the early phase of his career is a good example of his publishing acumen. As Richard Lowry has noted, "By the 1870s, not only was a name essential for economic success, a work had virtually no *literary* value unless it was known by its author."[8] This was particularly true in the case of subscription publishing, where book agents traveled the countryside attempting to woo potential buyers with attractive "mock-ups" of books, containing compelling excerpts and the promise of many pictures. The assured track record of a favorite author was also an incentive to buy a book on a subscription basis.

Subscription publishing, as Bliss approached it, somewhat resembled Clemens' experiences in the mining territories of Nevada. In *Roughing It,* Mark Twain learns that the real money in mining rests not in what is dug from the earth but from the buying and selling of claims, and he reflects on the importance of names in pursuing this lucrative form of "mining":

> We prospected and took up new claims, put "notices" on them and gave them grandiloquent names. We traded some of our "feet" for "feet" in other people's claims. In a little while we owned largely in the "Gray Eagle," the "Columbiana," the "Branch Mint," the "Maria Jane," the "Universe," the "Root-Hog-or-Die," the "Samson and Delilah," the "Treasure Trove," the "Golconda," the "Sultana," the "Boomerang," the "Great Republic," the "Grand Mogul," and fifty other "mines" that had never been molested by a shovel or scratched with a pick. (193)

The importance of this practice is emphasized by Clemens' reiteration of it as Mark Twain switches careers, becoming a reporter for a territorial newspaper: "You could go up on the mountain side, scratch around and find a ledge (there was no lack of them), put up a 'notice' with a grandiloquent name in it, start a shaft, get your stock printed, and with nothing whatever to prove your mine was worth a straw, you could put your stock on the market and sell out for hundreds and even thousand of dollars" (286). Such speculation, the author notes, depends upon name recognition, and a newspaper reporter could do valuable service in increasing the credibility of these mines. Clemens writes that a visit to the newspaper office would often immediately follow the taking up of a claim, the claimholders seeking some kind of written notice of the claim to publicize it: "They did not care a fig what you said about the property so you said something" (287).

This same approach to publicity served Clemens well as an author and publisher, and he even counted on the unauthorized printings of his texts as a way of publicizing the emerging gold mine of "Mark Twain." In 1870, he wrote to his American publisher, Elisha Bliss, "I don't copyright the 'Round the World' letters because it don't hurt anything to be well advertised—and these are getting pretty well advertised—but you see out of 50 letters not more than 6 or 10 will be copied into any *one* newspaper—and *that* don't hurt."[9] He was already thinking ahead to the marketing of *Roughing It,* and he anticipated that his latest project would imitate the success of his Sandwich Island letters and lectures, with reprintings and word-of-mouth driving up his sales.

Clemens had learned from earlier experience of the need to communicate his plans to publishers. Before publishing *The Innocents Abroad,* his hopes for piracy-driven advertisement were thwarted by the industry of the San Francisco *Alta California,* the newspaper to which he had sent the travel

letters he intended to use in the text. Upon returning from his trip overseas, he undertook a lecture tour, hoping to capitalize on the letters he had been sending to the California paper and hoping to build an appetite for the book he planned to write. However, unlike the case with his successful Sandwich Islands performances, Clemens was dismayed to find his new work seemed to draw much smaller audiences. He placed the blame for this considerable turn of fortune on the *Alta*'s decision to copyright his letters. Years later, he commented in his autobiography, "I inquired into this curious condition of things and found that the thrifty owners of that prodigiously rich Alta newspaper had *copyrighted* all those poor little twenty-dollar letters and had threatened with prosecution any journal which should venture to copy a paragraph from them" (*Autobiography* 243–44).

Clemens' criticism of the owners of the *Alta* for their "thriftiness" in exercising a right he would later frequently champion is notable, as is his further comment on the negotiations with the *Alta*: "I said that if they had acted fairly and honorably, and had allowed the country press to use the letters or portions of them, my lecture skirmish on the coast would have paid me ten thousand dollars, whereas the *Alta* had lost me that amount" (244). It is not that the pirating of his letters would have been honorable; rather, he is protesting the *Alta*'s failure to inform him that they were copyrighting the letters. Obviously he had been assuming that his letters would be pirated, and he felt more wronged by the *Alta*'s prevention of this useful piracy. Considering Clemens' own later threats to prosecute those publishing any of his material without permission and compensation, his views of this early situation indicate that he was capable of far greater flexibility regarding concepts of literary property than has been assumed by most literary scholars.

In August 1880, Clemens displayed this attitude in a letter he wrote to W. D. Howells regarding copyright and the publication of his work in the *Atlantic Monthly:*

> I have been thinking things over, & have changed my mind to this complexion: I would rather the N.Y. Times & all the other journals *would* copy my stuff—it keeps a body more alive & known to the broad & general public, for the Atlantic goes to only . . . the select high few. Yes, I would rather write for the modester wage of one whose articles increase not the subscription list, & then be copied in the general press; for I should find my vast reward in the augmented sales of my books.[10]

Clemens' attitude may have been in part a response to the pending release of *A Tramp Abroad.* His willingness to accept a degree of piracy is limited to shorter pieces, in the expectation that such republication would increase the public appetite for the complete book. The logic that he employs here—

that widespread publication of his articles would increase sales—suggests that he remembered the failure of his lecture tour in support of *The Innocents Abroad.* Clemens also seems to argue that the protection of his copyrights by the *Atlantic* limited his readership to a cultural elite rather than allowing him to reach the "broad & general public" he sought. His views on republication here seem both populist and pragmatic: Clemens wanted to be a "man of the people," appreciated by the rich and educated but accessible to the farmer and the factory worker; such a broad readership, of course, could only improve his bottom line.

Clemens' allies in the struggle for an international copyright law during the 1880s must have been disappointed by his often relativistic, self-interestedly pragmatic views on the subject. Such disappointment must have been acute following his surprising congressional testimony (at least surprising to the American Copyright League, of which he was a member and at whose invitation he appeared before Congress) in 1886 and his disagreement with good friend and fellow advocate Brander Matthews. His statements at that point disprove any hardening of his stance on copyright at the zenith of his career.

Clemens appeared before the Senate Committee on Patents of the United States on 28 January 1886, along with a number of other authors and publishers, to testify regarding two competing bills touching on international copyright. The spokesman of the league informed the committee, "Mr. Clemens is also here, and, I think, will probably have something to say on the subject, as he is both an author and a publisher and occupies a somewhat peculiar position in that respect." The bill preferred by the American Copyright League was the Hawley Bill, which gave foreign authors the same copyright protections granted American citizens, providing their own nations made a similar guarantee to American authors. The first speaker spelled out very clearly the purpose of the League's testimony: "The American Copyright League has sent the executive committee of its council to appear before you to-day to advocate the bill, No. 191, known as Senator Hawley's bill, and to that alone we shall confine ourselves" (3). The League made this statement specifically to avoid clouding the issue with discussion of a "manufacturing clause" that would mandate foreign works be entirely manufactured in the United States. In other words, it was interested in a statute aimed at protecting authors rather than tradeworkers. As one speaker for the League stated, "If you want to use this as a machine for protecting industry here, why not protect the industry of the pirate as well as the interest of everybody else? He is a great public benefactor. . . . We say that there is an attempt to confuse the two things, and that they have nothing to do with one another."[11] The American Copyright League was convinced that if the bill

were drafted in such a way as to prioritize the protection of manufacture, then it would fail adequately to protect the rights of authors.

Clemens does not seem to have been a party to this strategy. When called upon to speak, he demurred, claiming,

> I seem to come here in the interest of the Copyright League, and the Copyright League's interest, as you have heard, is centered upon the first bill mentioned here, called the Hawley bill, and I do not wish to make any speech at all or any remarks, lest I wander from the just path marked out for me by these gentlemen. . . . I am in the position of one who would violate a hospitality, rather, if I should speak my mind. I did speak my mind yesterday to the most intelligent member of the committee, besides myself [laughter], and it fired him, it grieved him, and I almost promised that I would not divulge what my right feeling was; but I did not promise that I would not take the contrary course.

Clemens' disclaimer here is somewhat remarkable. Although it is plain that he does not support the American Copyright League's position, he concedes that he agreed to appear on their behalf anyway, endeavoring to keep his true feelings silent. Since he was one of the most prominent speakers present, it is difficult to imagine that anyone, including the members of the American Copyright League, believed that the committee would not question him. Indeed, this opening statement fairly begs for elaboration. While he managed to put off "taking the contrary course" for a short time, it was not long before he went his separate way from the clear agenda set forth by the opening speaker on behalf of the copyright bill.

Urged by the secretary of the Copyright League to "speak right out like a little man," Clemens replied, "I consider . . . that absolves me from all obligation to be dishonest, or furtive, or clandestine, or whatsoever term you may choose to apply to the attitude I have held here before—rather an attitude of silence, in order that I should not commit or in any way jeapard [sic] the interest of this bill." But in reality, his remarks before the committee did more than undermine the efforts of the American Copyright League on behalf of the Hawley bill; they reinforced arguments made by copyright opponents throughout the nineteenth century. Clemens first stated,

> I do consider that those persons who are called "pirates," . . . were made pirates by the collusion of the United States Government, which made them pirates and thieves. . . . Congress, if anybody, is to blame for their action. It is not dishonesty. They have that right, they have been working under that right a long time, publishing what is called "pirated books." They have invested their money in that way, and they did it in the confidence that they would be supported and no injustice done them.[12]

In the past, Clemens had made remarks somewhat similar to these, blaming the government rather than the "pirates" for their actions.[13] Still, given

his frustrations with unauthorized publications, this is a surprisingly generous statement on behalf of a class of publishers that had been robbing foreign authors for years. He had certainly never questioned the use of the term "pirate" before, even when he placed the majority of the blame on authors for a lack of responsible stewardship of their property.

But Clemens went further than clearing pirates of wrongdoing. In arguing for the inclusion of the "manufacture clause" that the American Copyright League was striving to keep out of the bill, he reduced the authorial stake in the publishing process. His statements may have been intended to be magnanimous, but for proponents of copyright, who had been arguing for years on behalf of the central role of the author as creator/producer of literature, they must have appeared virtually treasonous. Clemens stated,

> I should like to see a copyright bill passed here which shall do no harm to anybody concerned in this matter, and a great many more people are concerned in it than merely the authors. In fact I suppose, if the truth is confessed, the authors are rather less concerned pecuniarily in any copyright measure than many other people—publishers, printers, binders, and so on. The authors have one part in this matter, but theirs is the larger part. . . . I simply consider that there are other rights involved aside from those of the author, and they are vested rights, too, and nobody has a moral right to disturb that relation.[14]

Since the early nineteenth century, authors had consistently argued that their rights in their literary property should be the same as those of any owner, that they should have exclusive and perpetual control over the products of their creative energy. Now Clemens, one of America's most popular writers, states before Congress that authors "are rather less concerned" in copyright statutes than binders? It is possible that his testimony was influenced by the recent success of the publication of Grant's *Memoirs;* perhaps he had begun to view himself more as publisher than author. At the same time, his ever-growing investment in the Paige typesetter may have made him reluctant to appear as advocating a bill damaging to the interests of tradeworkers. Whatever the motivation for his testimony, it was surely not what the American Copyright League had in mind, and it ran counter to arguments made by the vast majority of authors, including some of Clemens' close friends.

Clemens' testimony makes it difficult to sustain the view of him as a tireless advocate of authorial rights during the 1880s. Vaidhyanathan and Doyno, who have both acknowledged some ambivalence on Clemens' part during his career, have nevertheless downplayed his remarks. Doyno acknowledges the fact that Clemens appeared before Congress but includes no direct quotations from his testimony. In the absence of such citation, Doyno gives the impression that Clemens was a much stronger supporter

of the proposed bill than he was. Doyno writes, "In the full transcripts of the hearings one finds repeated images of 'piracy,' of America as 'the Barbary coast of literature,' and of 'stolen fruit' underselling legitimate native products."[15] While this is certainly true, Doyno fails to mention that these were the words of other witnesses and that Clemens spoke out against the use of the word "pirate"; indeed, as we have seen, he went so far as to defend the "pirates'" rights by suggesting that the publishers had greater reason to be concerned about copyright laws than authors did.

Vaidhyanathan, for his part, does mention Clemens' opposition to the Hawley Bill because of the lack of a "manufacture clause," but, like Doyno, he does not include any direct citation of Clemens' remarks. His summary of Clemens' statements is problematic. He writes:

> When Twain testified before a Senate committee later in 1886, he balked at endorsing the particular international copyright bill in question because he thought it harshly treated British publishers, many of whom had treated him well, and unjustly absolved the American system. By this time, he had grown tired of political finger-pointing between the two nations, when both were responsible for the massive price differences. In addition, Twain had grown somewhat pleased with British copyright law because it afforded longer protection for works and allowed Americans to gain protection by traveling to England during the publication. Twain's biggest problem with the 1886 copyright proposal, known as the Hawley Bill, was that it would punish publishers who had been reprinting British works cheaply, and probably close them down, laying off many printers. He urged a protectionist amendment that would require a foreign work to be printed in an American plant to receive American copyright. His objections were complex and technical, but he did not waver in his call for reciprocal protection among England, Canada and the United States. (61)

While it is unclear where Vaidhyanathan sees signs of Clemens' fatigue over the wrangling about copyright, it is true that by this time he no longer had significant problems with English copyright law. His stature and circumstances allowed him to comply with the law relatively easily, coordinating simultaneous publication with his British publishers and traveling to Canada to secure copyright there when necessary. It may also be true that Clemens worried about the effect the Hawley bill would have on printers. What is misleading about Vaidhyanathan's summary is his dismissal of Clemens' objections as "complex and technical." Clemens' objections to the bill were all too plain: the author's stake in any discussion of copyright was smaller than that of others involved in the publishing process, and thus the concerns of these others should take precedence.

Christopher P. Wilson notes of Clemens' testimony, "At the time, Twain's candor seemed to do little more than ruffle the vanity of the crusade; in

retrospect, his skeptical inference carries more weight." Wilson believes that his comments foreshadowed the "*coalition* of interests which included writers, publishers, printers, and protectionists" that eventually helped pass an international copyright bill.[16] While this may be so, Wilson downplays the fact that, in his testimony, Clemens *cedes* authorial primacy to these other interests and undermines the arguments of his colleagues.

Clemens' testimony was damaging to the cause of international copyright not only because it reiterated the arguments of copyright opponents, granting them greater credibility, but also because it relied so heavily on his own experience—the experience of a successful author and publisher, not of an unknown writer first going into print. In this regard, his statements regarding copyright in effect *lacked* technicality. He stated that when an American author copyrights his or her book in England, "He gets just as perfect a copyright as it is possible for a Government to give. No English author is stronger in his copyright than an American author who has a book copyrighted there." Author and publisher George Curtis, who had also attended to testify on behalf of international copyright, attempted to draw Clemens out, apparently to make the point that matters were not so simple. When he asked the author how one went about getting one of these strong English copyrights, Clemens replied, "I have been through so many processes that I hardly know how to explain it. But the matter has always been simple with regard to England. Whatever complication there has been has occurred with Canada. You merely have to go and remain on British soil, under the British flag, while your book is publishing in England." Such a trip might have been easy for Clemens, but it was hardly an option for every new author, particularly with no guarantee of successful sales.

Not content to rest on this vague explanation of the supposed ease with which one could obtain an English copyright, Clemens later interjected,

> I have for years received a larger royalty in England than I was receiving in America. . . . I might also mention that in the case of General Grant's book the royalty paid in England on that book is the largest that was ever paid on a book in any country in any age of the world, and that the royalties paid in Germany and in France are exceedingly large, and of course the German and French copyrights on that book result through conventions with England.[17]

The possible damage caused by Clemens' testimony can be seen if one recalls the course of debate over international copyright. When the question first emerged, it was framed largely in terms of doing right by foreign authors; Henry Clay's first action on the subject in the 1830s was instigated and supported by a petition signed by such authors. Little progress was made on this front as opponents argued that writers like Charles Dickens were

rewarded enough in their own country. As the debate continued, American advocates began framing the question more and more as a matter of justice for native authors as well. The immense success of Harriet Beecher Stowe's works made this argument stronger, as here at last was an American author who was suffering large losses due to the lack of an international copyright law.[18] Clemens' statements appear to undermine this course of argument: here he was, one of the recognizable authors in America, testifying that the only ones who truly suffered from the lack of international copyright were foreign authors. American authors, if they did their duty and guarded their property carefully, could do quite well overseas. This was nothing new from Clemens: he had always maintained that it was an author's responsibility—just as it was the miner's in Nevada—to protect his or her property by whatever means, and however complicated.

Clemens continued to make trouble for international copyright advocates in the letter he published in response to Brander Matthews' 1887 article "American Authors and British Pirates." In his article, Matthews goes to great lengths to point out the numerous ways American authors had suffered from British piracy because of the lack of international copyright. Although he does acknowledge that "at bottom, the publishers, good or bad, are not to blame; it is the condition of the law which is at fault," he spends the majority of the article detailing the crimes committed by unscrupulous British publishers: "The English publishers have not only taken the liberty of reprinting these books, they have also allowed themselves the license of renaming them at will. . . . [T]here are three volumes credited to 'Mark Twain' under titles which he never gave them, *Eye Openers, Practical Jokes,* and *Screamers.*"[19] In citing authors like Clemens who had suffered piracy overseas, Matthews evidently intended to evoke sympathy and support for these authors in the campaign for international copyright.

Matthews' surprise must have been great when Clemens responded a few months later with "American Authors and British Pirates: A Private Letter and a Public Postscript." Presenting himself as an "apparent sufferer" coming forward to "say a fair word for the other side," Clemens proceeds in his article to defend English publishing, placing any blame for piracy on the authors themselves:

> [Y]our complaint is, that American authors are pirated in England. Well, whose fault is that? It is nobody's but the author's. England furnishes him a perfect remedy; if he does not choose to take advantage of it, let him have self-respect enough to retire to the privacy of his cradle, not sit out on the public curbstone and cry. To-day the American author can go to Canada, spend three days there, and come home with an English and Canadian copyright which is as strong as if it had been built out of railroad iron. If he does not make this trip

> and do this thing, it is a confession that he does not think his foreign market valuable enough to justify the expense of securing it by the above process. Now it may turn out that that book is presently pirated in London. What then? Why, simply this: the pirate has paid that man a compliment; he has thought more of the book than the man thought of it himself.

There is nothing new in Clemens' claim that the responsibility of protecting copyright rests with the author. What is striking in this article is the energy with which Clemens defends English publishers and criticizes his friend and fellow member of the American Copyright League. He goes so far as to infantilize authors who complain of British piracy of their work. Matthews must be included in this list, since he is the one making the complaints public. Perhaps most striking is Clemens' claim that an author who is pirated has not been robbed, but only "complimented."

Despite his own previous problems with English publishers, Clemens now seems to view them in a forgiving light:

> I think we are not in a good position to throw bricks at the English pirate. We haven't any to spare. We need them to throw at the American Congress; and at the American author, who neglects his great privileges and then tries to hunt up some way to throw the blame upon the only nation in the world that is magnanimous enough to say to him: "While you are the guest of our laws and our flag, you shall not be robbed."[20]

Clemens, of course, never suggests saving a brick or two for the readers who purchase the pirated works. He offers a number of supposed refutations to Matthews' article, but they all amount to the same thing: the English are blameless, as are the publishers. It appears he no longer considers how this will affect the cause of international copyright, a cause he still claims to support; his interest lies solely in redirecting Matthews' criticism.

Matthews was, understandably, taken aback by Clemens' reply, which he "read and re-read with growing astonishment." In responding to the author's criticism, he brought forward numerous authors who had suffered from English piracy, including Charles Dudley Warner, to "testify only to that Complimentary Piracy which you seem to think a young author must needs find most gratifying." As stunned as he was by Clemens' suggestion that piracy was a form of compliment, Matthews expressed more amazement at the idea that the author is the one at fault:

> You seem to say that the American author alone is guilty, and that the British pirate is not even *particeps criminis* [a partner-in-crime]. After studying this passage of your Postscript, I can now better appreciate the force you lent to the arguments of Tom Sawyer, when you made him plead with Joe Harper not to be a hermit; after listening to Tom, Joe "conceded that there were some conspicuous advantages about a life of crime, and so consented to be a pirate."

While Clemens had always directed attention away from publishers in his public statements, as he did before Congress, Matthews makes it clear that such a stance was not shared by many of his fellows in the copyright movement who had suffered losses at the hands of unscrupulous publishing houses.

While Matthews offers a number of rebuttals to Clemens, his largest point is that Clemens' experience is unique. Matthews writes, "You have judged others by yourself. Because the law suits you well enough, you think that it is equally satisfactory to all. A trip to Canada is an easy thing for you, who live in Hartford, and who are rich enough to 'Endow a college or a cat.' It is not as easy for a poor author who may chance to live in Florida or in Texas."[21] Matthews was not the only one to notice that Clemens extrapolated from his own circumstances in defending English copyright law. A writer for the *Nation* summarized the exchange of articles in 1888 and put Clemens' statements within the context of his congressional testimony:

> Two years ago Mr. Clemens stated before the Senate Committee on Patents that the American author could get in England "as perfect a copyright as it was possible for a Government to give." . . . But when asked by what process the American author could secure such copyright, his answer was: "I have been through so many processes that I hardly know how to explain it." He has now published a veritable "Mark Twain" explanation of the process, after reading which no one will twit Mr. Clemens—as he does his opponent—with being a lawyer.[22]

Clemens had always viewed the protection of literary property as a personal responsibility. By going so far as to place blame almost solely on the pirated author and absolving the publisher, by championing a law that required authors to travel to another country to secure their rights, Clemens succeeded in placing himself in opposition to the friends and colleagues with whom he had frequently worked on copyright issues.

Perhaps because of the criticism in the *Nation*, Clemens refrained from responding publicly. He wrote three replies to Matthews that were never published: in addition to "Mr. Matthews's Second Article," he also drafted "Concerning the British Pirate," and "PPS: A Recapitulation" (*Notebooks* III, 362n). Clemens reiterated his argument in these texts, still maintaining that when a book was pirated, the author was the one to blame. Although Matthews refrained from the kind of *ad hominem* attacks that Clemens employed—Clemens jokingly suggested that Matthews might be institutionalized—Clemens nursed a grudge regarding this dispute for some time. Matthews writes, "Mark took offense and for a year or two he seemed to avoid me. Like most humorists, he was inclined to take himself seriously and to be more or less deficient in the negative sense-of-humor which often fails to accompany the more positive humor."[23] If Matthews had had the oppor-

tunity to read the replies that Clemens had been drafting, he would have been further convinced of the author's ill humor.

What Clemens' testimony and his rebuttals to Matthews demonstrate is that his views on copyright were substantially different from those held by most in the international copyright movement. They also reveal a remarkable consistency in his beliefs on the subject: he continued to maintain the position that copyright was primarily an author's responsibility. If unrestrained by the law and the careful eye of the author, publishers are naturally disposed to pirate works and readers to buy them. It has been a tendency of critics to laud Clemens as a defender of literary property rights without carefully studying his departures from the thinking of his colleagues. Vaidhyanathan appears to be the first commentator even to take note of Clemens' "Private Letter and Public Postscript." He merely notes that it is "an article about international copyright" and "a response" to Brander Matthews, without pointing out that it amounts to a stinging rebuttal of a good friend and prominent member of the American Copyright League (63, 204).

Clemens held fast to his unique set of principles of ownership over the course of much of his career. He often viewed the circulation of his texts as ultimately more important than strict control, believing that it would help his sales. While he always saw protection of literary property as a responsibility of authors, he never maintained that an author had a divine or natural right to literary property. The published works were, in many respects, mines: once a novel had been mined for all it was worth, the author moved on, just like the prospector on the cover of *Roughing It*. But after Clemens' bankruptcy in 1894, this short-sighted philosophy endangered his livelihood, and he would later thank Standard Oil businessman and friend Henry Rogers for helping him to avoid making a terrible mistake:

> The long, long head that Mr. Rogers carried on his shoulders! When he was so strenuous about my copyrights, and so determined to keep them in the family, I was not able to understand why he should think the matter so important. He insisted that they were a great asset. I said they were not an asset at all; I couldn't even *give* them away. He said, wait—let the panic subside and business revive, and I would see; they would be worth more than they had ever been worth before. . . . The Webster failure threw seven of my books on my hands. I had offered them to three first-class publishers; they didn't want them. If Mr. Rogers had let Mrs. Clemens and me have our way, the copyrights would have been handed over to the publishers.
>
> I am grateful to his memory for many a kindness and many a good service he did me, but gratefulest of all for the saving of my copyrights—a service which saved me and my family from want and assured us permanent comfort and prosperity. (*Autobiography* 261–62)

As Clemens worked his way out of debt and looked toward future security, his feelings regarding copyright altered. It was only through the persuasion of his business adviser that he came to see the benefit of simply holding fast to his copyrights. He went on after that lesson to become a champion of perpetual copyright, arguing that novels should be granted the same protections any form of property is offered.[24] Where copyright had once been the responsibility of the author, in the 1890s it became for Clemens a boon to the author, a legal mechanism that he hoped would eventually make novels the equivalent of real estate, capable of being passed on and held indefinitely.

In the Western mining districts, Clemens had learned that the value of property came from exchange, a process of staking claims, circulating samples to demonstrate their worth, and then selling them. This idea of property informed his opinions for much of his career. If Samuel L. Clemens is to be seen as a champion of authorial rights, he must at least be viewed as a deeply conflicted one who was ultimately forced to abandon his literary prospecting and his insistence on personal responsibility only after personal misfortune made him adopt a more sober hoarding of resources near the end of his career. The prospector who adorns the cover of *Roughing It* seems finally to have returned to civilization, parking his wagon and soundly investing his treasure, content to support his family on the interest earned.

—*Grinnell College*

Notes

1. Gribben, "Autobiography as Property: Mark Twain and His Legend," in *The Mythologizing of Mark Twain,* ed. Sara deSaussure Davis and Philip D. Beidler (University: Univ. of Alabama Press, 1984), p. 46.

2. Doyno, *Writing Huck Finn: Mark Twain's Creative Process* (Philadelphia: Univ. of Pennsylvania Press, 1991), p. 175.

3. Vaidhyanathan, *Copyrights and Copywrongs: The Rise of Intellectual Property and How It Threatens Creativity* (New York: New York Univ. Press, 2001), p. 55. Subsequent references are cited in the text.

4. *Mark Twain's Notebooks and Journals,* ed. Frederick Anderson (Berkeley: Univ. of California Press, 1979), III, 364. Subsequent references are cited in the text

5. *Roughing It,* ed. Harriet Elinor Smith and Edgar Marquess Branch (Berkeley: Univ. of California Press, 1993), II, 225. Subsequent references are cited in the text.

6. *Mark Twain's Autobiography* (New York: Harper & Brothers, 1924), I, 138–39. Subsequent references are cited in the text.

7. *Mark Twain's Letters to His Publishers,* ed. Hamlin Hill (Berkeley: Univ. of California Press, 1967), p. 67. Subsequent references are cited in the text.

8. Lowry, *"Littery Man": Mark Twain and Modern Authorship* (New York: Oxford Univ. Press, 1996), p. 32.

9. *Mark Twain's Letters to His Publishers,* p. 29.

10. *Mark Twain-Howells Letters: The Correspondence of Samuel L. Clemens and William D. Howells, 1872–1910,* ed. Henry Nash Smith and William M. Gibson (Cambridge: Belknap, 1960), I, 319–20

11. Committee on Patents, *International Copyright,* 49th Cong., 1st session. S. no. 161 (Washington: GPO, 1886), pp. 3, 7.

12. Committee on Patents, pp. 8, 15.

13. For a good example, see Clemens' "Petition Concerning Copyright," in which he writes, "The charming absurdity of restricting property-rights in books to forty-two years sticks prominently out in the fact that hardly any man's books ever *live* forty-two years, or even the half of it; and so, for the sake of getting a shabby advantage of the heirs of about one Scott or Burns or Milton in a hundred years, the lawmakers of the 'Great' Republic are content to leave that poor little pilfering edict on the statute-books" (*Sketches New and Old* in *The Complete Works of Mark Twain* (1875; rpt. New York: Harper & Bros., 1917), XIX, 209.

14. Committee on Patents, pp. 15–16.

15. Doyno, p. 193.

16. Christopher P. Wilson, *The Labor of Words: Literary Professionalism in the Progressive Era* (Athens: Univ. of Georgia Press, 1985), p. 65.

17. Committee on Patents, pp. 16–17.

18. For an analysis of Harriet Beecher Stowe and the copyright debates, see Melissa J. Homestead, "Imperfect Title: Nineteenth-Century American Women Authors and Literary Property," diss. Univ. of Pennsylvania 1998, pp.119–65. See also Martin T. Buinicki, "Negotiating Copyright: Authorship and the Discourse of Literary Property Rights in Nineteenth-Century America," diss. Univ. of Iowa 2003, pp. 95–158.

19. Brander Matthews, "American Authors and British Pirates," *New Princeton Review,* 4 (September 1887), 212, 206.

20. Samuel L. Clemens, "American Authors and British Pirates: A Private Letter and a Public Postscript," *New Princeton Review,* 5 (January 1888), 47–48.

21. Brander Matthews, "American Authors and British Pirates: An Open Letter to Close a Correspondence," *New Princeton Review,* 5 (1888), 54, 59, 62.

22. "English Copyright for American Authors," *Nation,* 9 February 1888, p. 110.

23. Brander Matthews, *These Many Years, Recollections of a New Yorker* (New York: Scribner's, 1917), p. 231.

24. Loren Glass discusses how Clemens used his autobiographical writings and the Mark Twain Company in an attempt to protect further his copyrights and the financial security of his daughters. See "Trademark Twain," *American Literary History,* 13 (Winter 2001), 671–93.