

WILL THE PEOPLE OF THE UNITED STATES BE BENEFITED BY AN INTERNATIONAL COPYRIGHT LAW, OR WILL SUCH A LAW BE AN ENJURY TO THEM?

Published @ 2017 Trieste Publishing Pty Ltd

ISBN 9780649231119

Will the People of the United States be Benefited by an International copyright law, or will such a law be an enjury to them? by Fred'k Gerhard

Except for use in any review, the reproduction or utilisation of this work in whole or in part in any form by any electronic, mechanical or other means, now known or hereafter invented, including xerography, photocopying and recording, or in any information storage or retrieval system, is forbidden without the permission of the publisher, Trieste Publishing Pty Ltd, PO Box 1576 Collingwood, Victoria 3066 Australia.

All rights reserved.

Edited by Trieste Publishing Pty Ltd.
Cover @ 2017

This book is sold subject to the condition that it shall not, by way of trade or otherwise, be lent, re-sold, hired out, or otherwise circulated without the publisher's prior consent in any form or binding or cover other than that in which it is published and without a similar condition including this condition being imposed on the subsequent purchaser.

www.triestepublishing.com

FRED'K GERHARD

**WILL THE PEOPLE OF THE UNITED
STATES BE BENEFITED BY AN
INTERNATIONAL COPYRIGHT
LAW, OR WILL SUCH A LAW BE
AN ENJURY TO THEM?**

136
3

107

WILL THE PEOPLE OF THE UNITED STATES

BE BENEFITED

BY AN

International Copyright Law,

OR,

WILL SUCH A LAW BE AN INJURY
TO THEM?

Frederick BY
FRED'K GERHARD.

NEW YORK.

1868.

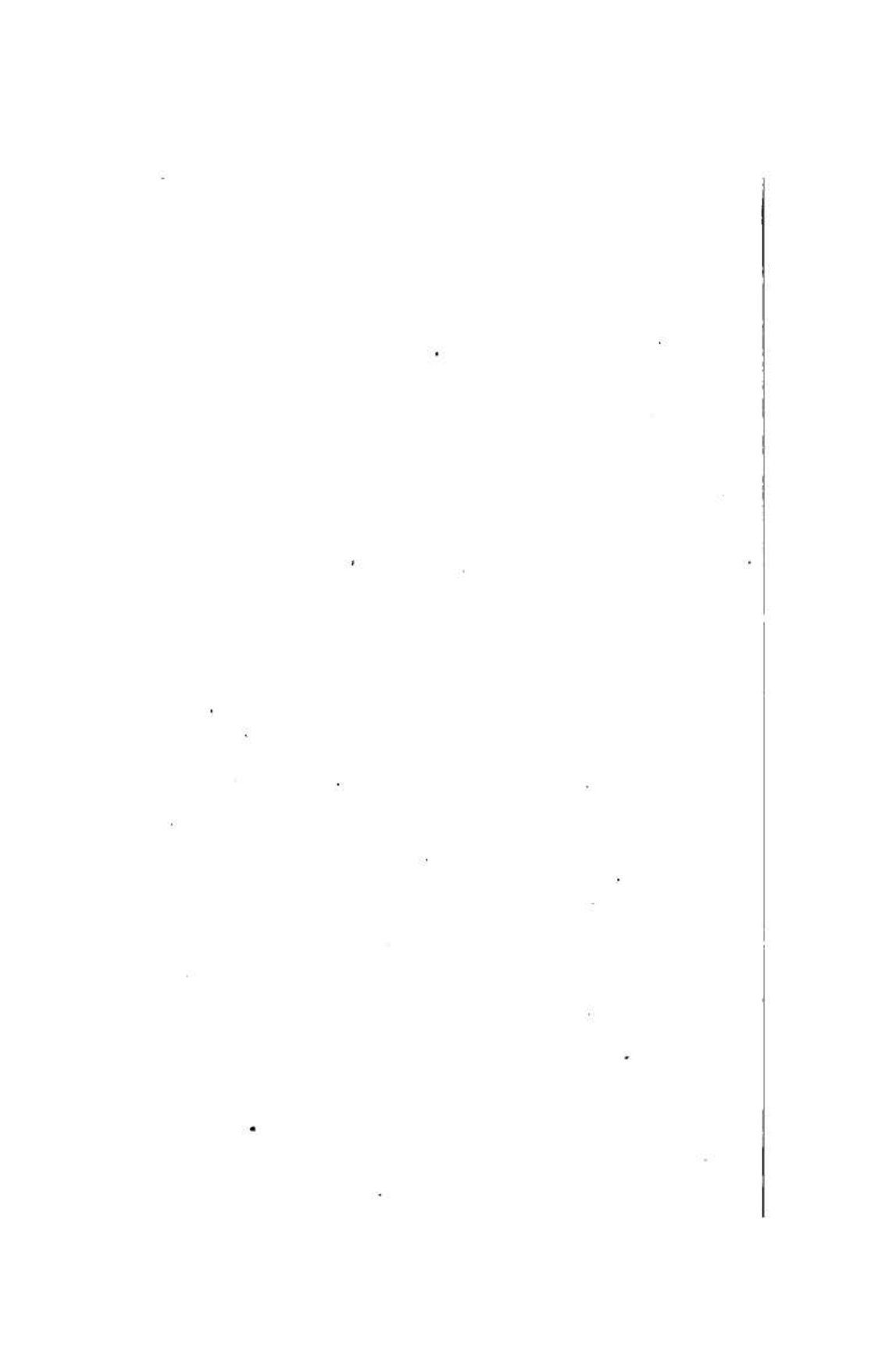
JAN 10 1930

TO THE HONORABLE
MEMBERS OF CONGRESS,

Most Respectfully Dedicated,

BY

THE AUTHOR.



THE question of International Copyright has a manifold bearing, for it not only affects the pecuniary interests of a large number of our citizens, but also the intellectual life and progress of the whole nation; and for that reason it should be examined carefully and calmly, and considered in all its various relations to the rights and the welfare of the people at large. Such an examination of the subject makes it necessary, firstly: To analyze the terms "intellectual property" and "literary property;" secondly: To fully understand the purport of an international copyright law; and thirdly: To consider the effects such a law would of necessity produce. It is my purpose to discuss these leading ideas in as short and clear a manner as possible, and I believe that such a discussion will convince the most inveterate antagonist of my views on this question that an International Copyright Law would be injurious to the best interests of the people of the United States.

The prohibition of the reprint of literary works which is incorporated into the laws of all civilized nations, presupposes a "right," which it is the purpose of this prohibition to protect, and this right is now generally known by the terms *intellectual property* or *literary property*. To judge of the right or

wrong of national and international reprint, it is necessary to weigh and answer the following questions: 1. "What is intellectual property, and in what does it consist?" and 2. "What is literary property, and how is it distinguished from intellectual property?" Neither the Roman nor the Common law, the foundation of the modern jurisprudence of all civilized nations, know such terms as "intellectual property" or "literary property;" neither are they found in the positive laws of modern times; they are not well-defined legal terms, but are merely accepted by common consent as terms expressive of certain ideas, and have become established to a certain extent by usage. Although much has been said and written upon this subject, the abstract ideas conveyed by the terms "intellectual" and "literary" property, are only vaguely defined, and its bearings and limits are by no means fixed. Consequently, the right so denominated, has no established position in the legal code, which would so limit and define it as to put it on an equality with other acknowledged rights, vested by law in individuals. The term "property" itself is, in fact, only applicable to material substances, over which the owner has a perfect and exclusive control, of which he can at his pleasure dispose, and which he can alter or destroy at will. Now these qualities do not appertain to what is termed literary or intellectual property. A person's ideas or thoughts are his intellectual property only so long as

they remain unuttered and unknown to others; but the moment he communicates them to the public, by speech, designs, writing, or any other mode, they cease to be his exclusive property and belong thenceforth to the community at large; for from that moment he has lost control of them, he can no longer alter or destroy them at will. The oration pronounced from the rostrum, the sermon preached from the pulpit, cease to be the intellectual property of the orator or preacher, as soon as publicly delivered, just as a new contrivance introduced in mechanics, or a new pattern designed by the manufacturer, becomes common property, as soon as brought into market. We may therefore define the term "intellectual property" as a man's thoughts and ideas, as long as they are not made public. The versification of the poet, the results of the philosopher's experiments, the ideas of the inventor, the patterns of the manufacturer, the fashions of the *modiste*; all are intellectual property, until made the common property of everybody by verbal or written description, design, model, or any other mode. Once published and the poet cannot efface his poem from the memory of his readers, the philosopher hinder the utilization of his discovery, the inventor limit the benefits of his invention, the manufacturer withdraw his new pattern, or the *modiste* prevent the general adoption of the fashion introduced by her; all these thoughts and ideas cease