

**THOUGHTS ON THE NATURE  
OF INTELLECTUAL  
PROPERTY AND ITS  
IMPORTANCE TO THE STATE**

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Thoughts on the Nature of Intellectual Property and Its Importance to the State by N. S. Shaler

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AND  
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By N. S. SHALER.

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ES R. OSGOOD AND COMPANY,  
77 TICKNOR & FIELDS, AND FIELDS, OSGOOD, & Co.  
1878.



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#### PRELIMINARY NOTE.

THE five brief essays that appear in the following pages were first printed for private distribution, under the conviction that it was worth while to do something, however little, to oppose the singular fallacies concerning intellectual property which have found a place among our people. The readiness with which a public opinion, often formed hastily and without anything like a fair discussion of the matter it concerns, finds its way into enactments, makes it the duty of all citizens, however far removed from political life, to speak boldly whenever they believe that momentous errors are taking possession of the public mind.

It has seemed to me, furthermore, that in these unhappy days when laborers appear necessarily to divide themselves into two hostile armies, according as their labor is purely physical or is intellectualized by training, well worth while to give time and care to the discussion of these problems which the wide extension of intellectual work have brought before us. There are few indeed so hopeful as to expect that this great struggle between brute force and educated force will speedily be brought



to an end. It is the necessary consequence of the difference of education which has given strength and prosperity to its possessors, while it each day widens the gap between them and those who have it not; and it cannot be stilled until that far-off day when, men being brought by education nearer together in character, will be more equally sharers of the world's goods, or at least of its contentments. In the long mean time the battle must rage, and those who fight in the minority, as the trained seem likely, for a time at least, to do, must look to all the ties that naturally bind them together.

It is my hope that these essays may in some way serve to bring men of training, however diverse, into closer sympathy with each other. That they may help to show that the man of organized business of any kind, quite as much as the man of science, invention, and letters, has an interest in this matter of intellectual property. If they in the least degree aid in this work, the author will feel that his reward is greater than his deserts.

CAMBRIDGE, MASS., July 24, 1877.

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CONSIDERATIONS  
ON THE  
NATURE OF INTELLECTUAL PROPERTY.

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Now that the national currency seems in a fair, because natural, way of speedy settlement, there is a prospect that the cheap thinkers, and those possessed of a fancy for short ways with complicated matters, will next turn their attention to the questions of property in the results of intellectual labor. The unorganized and unconfessed communism that has led to raids on the currency, on the claims of the government bondholders, and other forms of property not having the tangible nature of acres or herds, will find an abundant scope for loose thought and action in this field. In the last days of the late distracted session of Congress a stealthy effort was made to push through the legislative ways a bill that would have practically abolished the limited monopoly of inventions granted by our present patent laws. This measure passed unquestioned through the House, and was only arrested in the Senate by the vigorous resistance of a few men

from without its walls. As this scheme has the backing of several strong corporations as well as of the proletariat spirit of a large part of the agricultural communities of the West, it is sure to be revived in the next session of the national legislature. Once again it will be said in varied ways that there is no natural property in inventions; that they are evolved, like the German's camel, from the depths of the inventor's consciousness; and the cheap and miraculous product should therefore be at the disposition of all who might desire it for their own use. It will be suggested that inventors and book-makers are, as a class, something like prophets,—mere vehicles of a divine efflatus, which is naturally meant to fill all sails alike; the prophet himself being properly satisfied by the large share of honor which has, as is well known, always belonged to his ilk in his own land and time, making up for any deficiencies that might arise in this mode of payment by the inward satisfaction which does so fill those who have deserved well of their race. There will be various schemes for double-acting interconvertible patents and copyrights which are to give the inventor his full due, and still leave the world at large to do as it pleases with his inventions. Cheap patents, patents for the people, bloated patent-holders, will take the places of the old war-cries whenever the representatives of toil with fixed and limited rewards find themselves together.

Although the matter of property in the results of intel-