Charles Dickens’s trip to America in the early months of 1842 coincided with the depths of a depression. As one scholar has noted, ‘Dickens could hardly have chosen a more unfortunate time to plead for copyright’. He rarely showed any awareness of the economic plight which beset most Americans, and was bitterly contemptuous of the cheap newspaper and periodical trade which characterized these years. He assumed that rampant price-cutting was typical of the depraved state of American literature. Nevertheless his visit has understandably captured the interest of many Dickens scholars. Since it would serve no purpose to trace in detail that which so many others have carefully delineated, especially the recently published Pilgrim Edition of Dickens’s letters for the years 1842–3, I shall confine myself to describing Dickens’s efforts in behalf of international copyright in the fuller perspective of the 1830s and 1840s. What emerges most strongly is his naïveté about influencing American literary and political life.

After Dickens returned to Britain in June 1842 many Americans claimed that he had undertaken the visit in order to supplement his own literary earnings by promoting international copyright. He stoutly denied this, and there is little reason to question the sincerity of his motives. However, his tactics were indeed ineffective. This is not to say, as many have, that he intentionally undermined the cause he sought to plead, but rather that he grossly underestimated the sources of opposition.

It seems fairly clear that no one could have persuaded Congress to approve an Anglo-American copyright agreement in 1842. Legislators were not about to jeopardize home industry and threaten the jobs of
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thousands of men and women for the sake of a few authors and publishers. Perhaps when prosperity returned and certain American states were not embarrassed by the default of their bonds, and when cooler heads could analyse the economic structure of book production and distribution, then copyright might have greater appeal.

Dickens’s unwillingness to acknowledge the depression was coupled with his exaggerated confidence in the power of public opinion. Like the signers of the British authors’ petition of 1837, he believed that literary popularity conveyed political power. He was confident that public speeches reinforced by declarations from distinguished American authors would command recognition. He was thus delighted when Frederick Saunders provided him with just such a petition signed by twenty-five leading New York literary lights with Washington Irving at their head. For good measure he wrote to John Forster in London asking that he prepare a seemingly spontaneous memorial from some of the same British authors who had joined with Harriet Martineau in 1837. The Saunders petition was presented to Congress in March 1842 and a Select Committee was appointed in the House of Representatives. John Pendleton Kennedy, an author himself, was designated Chairman. Dickens appreciated the distinct advantage of having a friend of literature in this key position. Meanwhile in the Senate Clay’s Copyright Bill was still under consideration by the Judiciary Committee.

Neither the House nor the Senate Committee ever reported its findings. What went wrong? Could Dickens have been expected to do more? For his part, he blamed American authors for not supporting him more vigorously. He felt that his fight was theirs, and that if they believed in the cause of international copyright they should work for it. That they did not is patently true. Dickens was completely justified in this criticism. Nothing better characterized the years 1837–42 than the lacklustre efforts of American authors. An inverse ratio seemed to function in the literary community: the more illustrious one was, such as Irving, Cooper, and Prescott, the less he was involved. On the other hand, Dickens, like many others, had an exaggerated confidence in the political finesse and prestige of Henry Clay. His own distaste for political manoeuvring led him to rely on others, as is revealed in a letter to John P. Kennedy, to whom he offered assistance in drawing up the Select Committee report. He confessed, ‘on consideration and on sitting down to the task I found I could not write anything which was at all likely to prove of service to you in the matter of your report’. Each time he tried to argue the practical merits
of a copyright agreement he found that his keen sense of justice cried out for redress regardless of the specific issues involved. His unwillingness to come to grips with the tedious details of legislative procedure and pressure rendered his efforts futile. He later acknowledged the ineffectiveness of his gestures but shifted the entire responsibility on to the American character with its insatiable desire to get the better of foreigners, and its inability to produce a native American literature.

Clay must certainly bear a good deal of the onus for Dickens’s misinformation about the state of Congressional opinion. Shortly before Clay retired, he had a conversation with the Chairman of the Senate Judiciary Committee, John M. Berrien of Georgia, who was prepared to report negatively on Clay’s Copyright Bill. Clay prevailed on Berrien to postpone this pronouncement, and then proceeded himself to present the Irving petition which Dickens had brought to Washington. On that occasion he casually mentioned that his resignation from the Senate the next day would unfortunately prevent him from witnessing the passage of an international copyright law. Berrien then waited two more months until, in response to a question, he acknowledged that the Judiciary Committee was not prepared to recommend Clay’s Copyright Bill.

Everything now depended on Kennedy’s Committee in the House of Representatives. Dickens’s brief presence in Washington was sufficient to encourage its formation, but that was all. No additional petitions were forthcoming and no campaign of co-ordinated letter-writing sprang into being. No public meetings were held. If anything, the opposition was more vocal than the supporters. The only thing Kennedy’s Committee succeeded in doing was to elicit from the President the previous correspondence with Britain on the subject which was wholly inconclusive. The second session of the Twenty-Seventh Congress was still sitting when Dickens departed for England. Kennedy did not issue a report, but he did request a renewal of the Select Committee in the following December, and there the issue rested.

During much of 1843 nothing significant happened on the copyright front. Articles kept pouring from the periodical press but had no visible impact. Then in August a group of New Yorkers sent out invitations announcing that on the twenty-third a meeting would take place at the Athenaeum Hotel. In the course of that evening the American Copyright Club was formed. In the following few weeks additional invitations were forwarded to literati not only in New York but throughout the nation urging them to join. Branches were established in a number of
cities, contributions were solicited, and a permanent executive committee was chosen. Five executive officers co-ordinated the Committee and the Club. William Cullen Bryant, the poet, was President; Guilian Verplanck, the former New York Congressman and staunch copyright advocate, was Vice-President; Evert Duyckinck, the editor, was Recording Secretary; Cornelius Mathews, the author and magazine editor, was Corresponding Secretary; and A. W. Bradford, the author-lawyer, was Treasurer.³

Two months after its inception the Club published an imposing document entitled ‘An Address to the People of the United States on Behalf of the American Copyright Club’ in which it not only set forth its aims and aspirations, but also printed a comprehensive list of its many members scattered throughout the country. Each member then knew who his fellow Club members were in his locality. Typical of the cordial response received by the Club was that sent by the historian, Jared Sparks.⁴

I have received your circular letter, informing me that I have been elected an associate member of the ‘American Copyright Club’. I am glad that an association for so important an object has been formed, and shall be happy to aid in carrying out its designs as far as my opportunities and means will admit.

I fear little can be done, however, till the publishers shall be convinced that their interests are identical with those of authors. If their cooperation could be secured, I believe Congress might be brought to reasonable measures, but not otherwise. The argument of cheap books will outweigh in the public mind every appeal to equity and right.

By December 1843 Club members were being urged to take more active and concrete steps. To William Gilmore Simms, editor of the Southern Literary Messenger, Mathews wrote:⁵

On the other page of this sheet you will find the form of a memorial adopted by the American Copyright Club. It is believed to be as free from points of objection or debate as any that could be devised, and to state properly the leading interest of the question. With the hope that it will meet your concurrence it is requested that you date it as of your city, procure as great a number of signers as practicable, placing their calling or profession against the name, and forward it to Washington at as early a date as possible to your member of Congress, accompanied with a letter or letters from proper persons enforcing the same upon his attention. A counterpart of this letter and memorial has been addressed to each of the appropriate members in your city, a list of whom you will find at the back of the pamphlet address heretofore directed to you. This is mentioned so
that the friends of copyright in your city may cooperate on a mutual understanding of the business.

The Club secured a particularly valuable ally in George Palmer Putnam, the publisher. During the autumn of 1843 he travelled throughout the eastern part of the country soliciting the signatures of ninety-seven booksellers, publishers, printers, and other members of the trade to a petition which he eventually presented to both Houses of Congress. In the Senate it was initially referred to the Judiciary Committee but afterwards was transferred to the Committee on Printing. This was a fortunate change since Berrien was still Chairman of the Judiciary Committee and was just as likely to oppose international copyright as he had done the year before. The House of Representatives appointed yet another Select Committee. Two of its members are worth noting. The Chairman was Robert C. Winthrop of Massachusetts, a powerful figure in the lower Chamber who had served on John P. Kennedy’s Copyright Committee in 1842. Also appointed was former President, John Quincy Adams. No more prestigious member could be imagined. Here were two men who could scarcely be identified with the usual opposition to copyright from small town lawyers or frontier rustics.

The following January the Club got another strong boost from Nahum Capen, a partner in the Boston publishing firm of Marsh, Capen & Lyon. It may be recalled that Capen, along with N. P. Willis, had urged Saunders & Otley of London to establish a branch office in New York in 1836. Now Capen resumed his active promotion of the copyright cause, a testimony to the willingness of members within the book trade to take positive action. No longer was international copyright the darling of a few struggling authors; most of the leading publishers now came out in favour of some sort of Anglo-American copyright agreement.6

Finally, in the spring of 1844 the American Copyright Club took the unprecedented step of paying an agent in Washington, D.C., to press the measure. As determined advocates of copyright they were beginning to fight fire with fire. They chose Rufus W. Griswold, someone well versed in the workings of the book and periodical trade, as their agent. At one time or another he had been an editor of Greeley’s New Yorker, Wilson’s Brother Jonathan, Winchester’s New World, Roberts’s Notion, and the highly successful Graham’s Magazine. He was also a freelance literary agent and the best known anthologist of American literature of his time. If anyone knew the book trade, Griswold did.7
The year 1844 was one of prosperity, and the Congressional session was a long one stretching well into the summer. The American Copyright Club organized its resources well and had secured valuable allies in Putnam and Capen. Minimal opposition was encountered, and even the redoubtable champions of literary piracy, the Harpers, joined the Club in the person of Wesley Harper. With so much going for the international copyright movement, why was nothing ever heard from Winthrop's Select Committee or the Senate’s Committee on Printing? Why, having taken all the right steps, were the results no more successful? To answer these questions one must look beneath the surface of the events. In reality the whole effort of 1843-4 was deceptively strong.

The key to much of the disappointment lay in the origins of the Copyright Club itself. One of its founders, C. F. Briggs, described the first meeting of 23 August 1843 in a private letter to R. W. Griswold.

The history of this business is often funny. I had invitations sent to a few individuals requesting them to meet at the Athenaeum Hotel to form a club for the purpose of promoting an international Copyright, etc.; when we met there was only Hoffman, Mathews, Duyckinck, and myself present. I proposed Hoffman for Chairman, Duyckinck for recording secretary, and Mathews for corresponding secretary; a treasurer was wanting and I proposed Bradford for that office, and so the Club was formed.

William Cullen Bryant was unable to attend that first meeting but had already consented to be President of the new association. Bradford was presumably told later of his election as Treasurer, and there is little indication that he ever found his duties very time-consuming. From these humble origins the Club managed to construct an impressive façade. When seeking members a few days later, Corresponding Secretary Mathews was careful to note that ‘you were unanimously elected an associate member of the club, with the hope that you would find it in your power to cooperate with its objects’. Little did the recipients suspect that four New York authors comprised this unanimity! There were also some major literary figures like James Fenimore Cooper who were insensible to the honour.

I beg you to communicate to the club that I would cheerfully join them did I join anything. But an issue has been raised that induces me to stand aloof. I ask nothing from the American public and I owe them nothing. I wish to keep the account square.
No pressure group like the Copyright Club could have significant political power if very many leading authors similarly declined membership.

From such modest beginnings, how did the Club manage to collect its imposing list of supporters? A close perusal of Mathews's invitation to prospective members provides the answer. They were automatically and 'unanimously' elected associate members unless they specifically declined in writing. This way of defining membership may help to account for certain anomalies in the ranks of the Club, chief among these being the name of J. Wesley Harper, one of the four Harper Brothers of New York whose firm was notoriously opposed to the aims of the Club. A former Harper author, William Gilmore Simms, found no contradiction in Wesley's inclusion, describing him as an 'amiable and sensible fellow'. whose signature implied that the Harpers now approved of the Club's aims, 'but were unwilling to show themselves active because of their former hostility' Simms's view is not inconsistent with a later explanation: that the depression years 1837-43 had forced the Harpers to reconsider their opposition to international copyright. The supplements of the *New World* and *Brother Jonathan* had in effect frightened the Harpers into affiliating themselves, if only temporarily, with the Copyright Club.

Despite Simms's testimony and the presence of Wesley Harper's name among the associate members, it is extremely difficult to accept the evidence at face value. It was totally inconsistent with Harper policy both before and after the Club's brief existence. Not till the late 1870s were the Harpers to side with the advocates of international copyright. Several other alternative explanations suggest themselves. First of all, the Regrets Only invitation may have presented Wesley Harper with a chance to befuddle others, since it involved no positive commitment. It was also good publicity as far as their American authors were concerned. Furthermore, by late 1843 the country was recovering from its economic depression, and the Harpers must have realized that they were getting the better of the *New World* and *Brother Jonathan*. If they had really been serious about supporting international copyright they would have joined the ninety-seven others in the book trade who signed G. P. Putnam's petition to Congress, but they were one of the conspicuous holdouts; and at just about the same time that Mathews was recruiting members for the Copyright Club. This is even more significant when one examines the wording of Putnam's memorial. Not only did it call for the printing and binding of foreign reprints in America; it also required that foreign
authors sell their copyrights to American publishers, which guarded against a British firm like Saunders & Otley establishing a branch in New York. It was precisely because Putnam so substantially represented the interests of the American book trade that many printers and publishers signed. The Harpers did not. One can only assume that their affiliation with the Copyright Club was a convenient and rather cynical public relations stunt. In either case it did not materially enhance the prestige of the Club.⁸

As to the Club’s pressure on Congress, there is no indication that it made any effort to co-operate with memorialists like Putnam and Capen. If anything it tended to perpetuate the division between authors and the members of the book trade rather than seeking to heal the breach. Neither is there evidence that Griswold’s services as a paid agent in Washington had any results. During most of the winter and spring of 1844 he was preoccupied with his own editorial and publishing interests and rarely appeared in the Capitol.

Finally there was a clash of personalities among the leaders of the Club which did more than anything else to discredit its image in the literary community. In later years, C. F. Briggs had nothing good to say of Cornelius Mathews.

*the Centurion (Mathews) has continued to monopolize all the audit of that Copyright Club business, when in fact I did, myself, get up the Club, organized it and kept it going until I saw that the Centurion was bringing disgrace upon it, and then I abandoned it . . . and had it not been for the ridicule brought upon the affair by the monkey shies of little Manhattan (Mathews), I believe that before this an international copyright law would have been passed.*

There seems little doubt that Mathews came to dominate the Club and to alienate many of its supporters. Yet he had as good a claim as any to be identified with the cause. His talents as a publicist were not inconsiderable. Although many of his New York contemporaries found him a bore when he spoke at length on the copyright question in February 1842, Dickens and other Englishmen were gratified by his overt support. As already mentioned, Dickens never forgave the way most American authors held back on that and similar occasions. Well before the Copyright Club came into being, Mathews personally contacted authors and publishers on the subject. It may have been true, as some alleged, that he wished to bask in Dickens’s reflected glory by associating himself with Dickens’s copyright campaign. Nevertheless, he did more than most to
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keep the issue alive prior to the Club’s formation. Typical of the support he received was that of Samuel F. B. Morse in 1842.9

Until such an act is passed, our literature and consequently to a great degree the formation of our national character is in the hands of Great Britain. We are not independent. We have cast off our political chains but in almost everything else we are yet in colonial bondage.

Mathews incorporated Morse’s sentiments in the October 1843 Address of the Copyright Club. Referring to America he said, ‘In all other circumstances and questions save that of a literature you have taken a high ground of freedom and self-reliance.’ Mathews even managed to salvage something from J. F. Cooper’s refusal to join. At that time Cooper had written:

Unless we have a copyright law there will be no such thing as American literature in a year or two. At present very few writers are left. With a copyright law we shall have not only a literature of our own but literature of an improved quality.

These thoughts were converted by Mathews into:

Do you know, have you marked how authorship in any worthy sense is almost utterly silent throughout the land – how day by day and dollar by dollar the revenues of writers known far and wide . . . have shrunk to nothing.

Mathews continued his interest in the copyright question into the late 1840s but his tendency was to publicize the issue rather than work for it through political channels. Writing to R. S. Mackenzie in 1846, he said:10

I send you through the post office a letter, in one of our newspapers, in which I have expounded the present state of the International Copyright Question – which for the sake of its statements and for the satisfaction of English authors I would like to see transferred to your London papers.

By this time the American Copyright Club was dead, and although contemporaries like Briggs and Griswold blamed Mathews for its failure, it was not that simple. Pressure exerted outside of Congress could never succeed without internal Congressional support. Little had ever been anticipated from the Senate Committee on Printing in 1843 but much was hoped for from the Select Committee of the House of Representatives. R. C. Winthrop was a conscientious Chairman but apathetic. He wrote to the American Minister in London, Edward Everett, seeking information and suggestions about international copyright, but did not hesitate to
admit: 'It is a vexed question from which I would gladly have escaped.' Four years later when John Jay spoke to him in Washington Winthrop was still undecided as to the wisdom of securing an international copyright agreement! What is more, he told Jay that John Quincy Adams had been strongly opposed to international copyright and his views had overshadowed those of other members on the Select Committee. The pattern of petitioning Congress, forming committees, and recruiting allies had repeated itself only to find that nominal friends in Congress were lukewarm at best, and as often as not, hostile. Quite naturally, most politicians were unwilling to proclaim their opinions publicly when it meant alienating one or another group of constituents.\textsuperscript{11}

The year 1844 was a Presidential election year, and this may have distracted Winthrop’s Committee from considering copyright. No report was ever submitted and the subject was allowed to drop for several years. It briefly surfaced at the beginning of 1846 when Senator Reverdy Johnson of Maryland made a motion that a Select Committee be appointed to consider the numerous copyright memorials on file with the Senate, but nothing came of this and it was not until John Jay exerted himself several years later that the issue was effectively revived.\textsuperscript{12}

Meanwhile, American publishers revived the practice known as 'courtesy of the trade' after an absence of nearly a decade. Prior to the depression of 1837–43 it had been customary to respect certain informal rules governing the republication of foreign works because of the vastly increased interest in the reprints of Scott, Byron, Edgeworth and Porter. To claim this privilege a publisher had only to secure the first copy of the foreign work to reach American shores. This induced leading publishers like Carey & Lea to arrange the prompt dispatch of new books by an agent in London. Once such books reached America, publishers hastily decided which ones to reprint and announced their intentions in the press, expecting that by so doing their brethren of the trade would acknowledge this priority, and would not reprint copies themselves. It was understood that they would then place orders with those publishers who had been first in the market.

This unofficial system worked tolerably well until the mid-1830s, though there were always new circumstances which presented difficulties. One of these occurred in 1822 when Carey & Lea began receiving advance sheets of Scott’s novel, \textit{The Pirate}, in instalments. On the basis of these they advertised the book as ‘in the press’ well before receiving the completed text. Wells & Lilly challenged this application of trade courtesy
and reprinted the work. The Philadelphia firm retaliated by dismissing Wells & Lilly and appointing Thomas Jordan as their agent in Boston.\textsuperscript{13}

Meanwhile Wells & Lilly were also preparing for battle. No sooner had Jordan's connection with the Philadelphia firm become known than Wells & Lilly, on April 28, 1822, had him arrested for debt. Since the finances of the booktrade were so involved and complex that at almost any given time almost every bookseller could be said to be indebted to almost every other bookseller, Wells & Lilly could do this with little trouble, but the fact also simplified Jordan's next move. The following day he had Lilly arrested for debt. Five days later Wells & Lilly attached Jordan's horse and chaise for debt.

And so continued claim and counterclaim until the case went to court in October. Mysteriously Jordan's lawyer failed to appear at the trial, and Jordan lost the suit. Jordan felt that his lawyer had been bribed, but it may be that his lawyer simply felt that he had no case, because Jordan was apparently vulnerable on several counts. In fact, it was not long before Carey & Lea began to regret having selected Jordan to represent them. Within a year he was released from their services, after which time they found it nearly impossible to obtain an accounting of the transactions he had made for them.

Time did much to heal the breach between Wells & Lilly and the Philadelphians. As early as July, 1822, when Carey & Lea were 'holding their breath' till the final pages of Scott's \textit{Nigel} should arrive, Wells & Lilly offered to allow Carey & Lea to reprint from a complete copy that they had just received. Carey & Lea were impressed, but, since their own copy had arrived the day before, they refused the offer. Both houses were large, and it was a matter of economic convenience that they should transact business with one another. They soon resumed normal business activities with one another, but for some time thereafter each watched the other with a jaundiced eye.

When a breach of trade courtesy occurred, a firm like Harper & Bros took swift and terrible vengeance. About 1830 the Boston publishers Munroe & Francis ignored Harpers' claim to Moore's \textit{Letters and Journals of Lord Byron} and reprinted it. This so enraged the Harpers that they retaliated by reprinting Munroe & Francis' most valuable property: a twenty-volume set of Maria Edgeworth's writings which they compressed into ten volumes priced at $7.50 instead of $19.50. Courtesy of the trade obviously favoured the stronger and larger firms and the smaller ones were generally kept in line.\textsuperscript{14}

Each major publishing house tended to consider certain authors their own, and on the whole, this propriety was observed. For example, it was
tacitly understood that Bulwer and James belonged to the Harpers and that they would have the exclusive right to issue new works from these writers. Similarly, Carey & Lea claimed Capt. Marryat, and in so far as they could, Sir Walter Scott. We have seen how Munroe & Francis thought they had cornered the market on Edgeworth until they ran foul of the Harpers. This sense of trade courtesy even began to include an effort to keep up retail prices, but before 'resale price maintenance' could really take hold the depression of 1837 struck. By then Harpers and Carey & Lea had also clashed over the works of Bulwer and Marryat.

By the mid-1830s the system of trade courtesy was showing distinct signs of strain. The panic of 1837 put an end to what remained of trade courtesy throughout the country, and we have seen how cheap weeklies like the New World and Brother Jonathan rejoiced in literary piracy and the absence of internal trade restraint. However, by the mid-1840s the mania for cheapness had abated and trade courtesy began to be revived. Improved trade conditions brought greater stability. Publishers could plan ahead, make new arrangements to secure advance sheets from England, pay more for these sheets, with the expectation that their fellow Americans would not invade their territory. Of course, there were petty breaches of good faith, and occasionally some upstarts sought to make their fortunes at the expense of the more established. But newcomers were usually taught a lesson and quickly brought into line. As a result, from about 1845 until the depression of 1857 the American book trade experienced a remarkable prosperity and tranquillity which augured well for an Anglo-American copyright agreement.

During 1847 and 1848 the New York lawyer John Jay took a keen interest in the cause. He had been initially drawn to copyright matters in connection with Coxe's scheme to promote an American edition of Blackwood's Magazine. As Blackwood's agent in New York, he clearly enjoyed treating with parties on both sides of the Atlantic, and having once subdued the reprinter Leonard Scott, he now threw himself wholeheartedly into the much larger undertaking of securing an Anglo-American copyright agreement.

His first step was to become informed concerning recent developments on the subject in Congress, and for this purpose he set out for Washington on 12 January 1848. Among those he interviewed in the House of Representatives were T. B. King of Georgia, G. P. Marsh of Vermont, C. J. Ingersoll of Pennsylvania, I. E. Morse of Louisiana, and P. F. Schenck of Ohio. 'All expressed to me', Jay reported to Blackwood,
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Jay also sounded out the Speaker of the House Robert C. Winthrop of Massachusetts who, though somewhat non-committal, expressed his willingness to appoint a Select Committee if the question reached the floor of the House. Jay proposed to send a memorial to Winthrop calling for amendment of the existing laws of copyright. Winthrop would then observe the traditional Congressional practice of giving the petition into the hands of its friends; that is, appointing a committee composed of those known to be favourable to the aims of the petitioners. Jay suggested that the House members with whom he had already discussed the matter would make admirable appointees. At this time Jay had no memorial ready, nor any signatures of impressive authors and publishers supporting such a document, but since this had been the procedure in the past he observed the ritual in order to get a Select Committee. A Select Committee, unlike a Standing Committee, could be expected to take a more lively interest in the subject and issue a report recommending legislation.

His main task in Washington, therefore, was to gain access to the previous petitions, reports, and statements on copyright in order to compile a new and convincing memorial. Through Senator Calhoun, he was provided with the archival documents he needed. He took as many notes as time permitted and supplemented them with references to printed volumes of the Congressional papers. While in the Capitol he also interviewed the respected Whig leader, Henry Clay, and the up-and-coming Democrat, Stephen A. Douglas.

By the time he left Washington, Jay had allayed many of his own misgivings, and reassured Blackwood that the whole question depended upon going about it the right way with the proper amount of organization and effort. Besides petitioning Congress, Jay knew that substantial newspaper support would be essential. Especially important was James Gordon Bennett's *New York Herald*, one of the first cheap mass circulation dailies. He knew, too, that he would have to pay for the kind of publicity he wanted. This would also be true for the twenty to thirty so-called 'letter writers' or correspondents who represented out-of-town newspapers in Washington. Weekly and monthly periodicals favourable to international copyright would also have to be cultivated assiduously.

In addition to managing the news as much as possible, Jay saw that a concerted effort would have to be made to manage the members of Congress. For this purpose he recommended that the distinguished literary figure Rufus W. Griswold be sent to Washington to influence
opinion and to assist the Select Committee in drawing up its report. In mentioning Griswold Jay showed that he had done his homework well, for, as we have seen, Griswold had served in a similar capacity for the American Copyright Club during the early months of 1844.

Of course there would be opposition, especially from a few leading publishers such as the Harpers of New York and the Careys of Philadelphia. Most printers were equally hostile. Rampant reprinting had meant more type to set and more pages to print. Jay realized that the only way to gain their favour would be to guarantee that they would continue to print the works of foreigners even under an Anglo-American copyright agreement. Only with a ‘manufacturing clause’ could their natural objections be overcome.

These, then, were the proposals which Jay advanced to Blackwood at the end of January 1848. The one thing still needed to carry the plan into execution was money. In a cover letter accompanying his lengthy report Jay indicated his willingness to serve as co-ordinator of all these efforts, but he admitted that he could not do it all as a private citizen. He asked to be retained professionally for the purpose. One thousand pounds ($5,000) discreetly expended would, he was sure, accomplish wonders. Could Blackwood and the other British publishers raise such an amount? Jay hoped so, and on the assumption that they could he continued to prepare plans for a campaign.¹⁷

Jay had his work cut out for him. He began by asking his friend Coxe in Hartford, Connecticut, to sound out the local publishers as to their interest in a copyright agreement. The result was not encouraging. ‘Dickens dished that matter here’, Coxe reported, alluding to the visit of 1842, and when he mentioned the matter to one of the most prominent houses, ‘they gave me so little encouragement, that I was unwilling to press the matter’. There was no looking to places like Hartford, Coxe added, ‘The small cities will not stir in the business.’¹⁸

Undaunted, Jay set to work on his memorial. Illness in early February delayed him somewhat, and when his brother-in-law and law partner Maunsell B. Field decided on the spur of the moment to take a trip abroad, Jay’s increased legal work took most of his time. In addition, he had to carry on without any encouragement from Blackwood since it was winter and steamships sailed less frequently, leaving Jay without a reply to his January proposal.

On 18 March Jay finally was able to send the memorial to Washington directed to the attention of one of the Congressmen whom he had
previously interviewed, Thomas Butler King of Georgia.\textsuperscript{19} The memorial was actually a composite of several documents. First came a lengthy set of arguments on behalf of international copyright; then an appendix reprinting Putnam's petition of December 1843, followed by a detailed second appendix listing about six hundred books which had been written by Americans and reprinted in Britain, finally, a section bearing the signatures of William Cullen Bryant, Charles Fenno Hoffman, Theodore Sedgwick, and a dozen other New Yorkers.\textsuperscript{20} Clearly this was the most elaborate and carefully argued defence of international copyright to reach the halls of Congress before the Civil War. It not only emphasized America's moral obligation to protect foreign authors and promote the rights of American authors abroad, it also reiterated that America was no longer a colony but an independent nation with a literature of its own. As convincing evidence of this, Jay presented a catalogue of American books reprinted in Great Britain. George Palmer Putnam was responsible for compiling the list from issues of the \textit{London Catalogue}, and it included the names of authors and titles as well as the British publishers and the prices of the reprints. Had time permitted, Putnam might have added many others, or indicated those instances when more than one London publisher reprinted a work. Even so, it was the most eloquent testimony to the fact that America had books worth reprinting, and by implication worth protecting through an Anglo-American copyright agreement.

The other noteworthy part of the memorial was Jay's point-by-point refutation of the standard arguments against international copyright. The case for the opposition had been rather devastatingly set forth by the Senate Committee on Patents in its report of 25 June 1838. As was so often the case throughout the century, the arguments centred on two major objections: that American printers and publishers would be deprived of work and that prices of books would rise in order to compensate foreign authors. To the first of these Jay repeated what he had said to Blackwood at the end of January: that reprints of foreign works would be manufactured in the United States. To the second point he used contemporary economics to argue that an expanded market such as the United States would provide publishers with larger sales and consequent reductions in the unit price.

Finally, Jay tried to show that pirating foreign works benefited only a minority of the book trade.\textsuperscript{21}

\textit{The business of reprinting the new and popular books that issue from the}
English press is to a great extent monopolized by a few large houses whose wealth and power enabled them to crush competition, and this monopoly if profitable to the few is injurious to the many.

It was the same point which Washington Irving and Henry Clay had made a few years before when they referred to two large firms, one in New York and one in Philadelphia, leading the fight against international copyright. Jay did not have to mention the Harpers nor the Careys by name, for everyone knew they still spearheaded the opposition. All Jay hoped to suggest was that Congress stop serving the special interests of certain large publishers plus a host of smaller printers and begin to take note of the rights of authors and the needs of the nation at large.

Thus, by the middle of March, Jay and Putnam had done all that they could. They had put together more than thirty pages of argument and evidence on behalf of copyright. It was now up to T. B. King and others in the House and to Blackwood in Edinburgh to take the next steps. When Blackwood finally sent a reply to Jay it was only to say that he was too busy to do anything at the moment, but that he would begin making inquiries, as soon as possible. He questioned whether the money could be raised, but agreed to shoulder a large part of the financial burden if others could be persuaded. In the meantime he generously offered to compensate Jay for the expenses incurred in behalf of the copyright cause.  

Jay now realized that it would be a while until he heard again from Blackwood, but he daily hoped to hear that Speaker Winthrop had appointed the Select Committee. March turned into April and still no word, so Jay got in touch with J. G. Palfrey the former editor of the North American Review to make some discreet inquiries in Washington. Unfortunately Palfrey found nothing to report. Jay had stressed the urgency of the matter to King, not only because he wanted to promote the cause of copyright, but also because he and his wife were soon to leave New York on a trip to Great Britain and he wanted to assist the Select Committee with its report. With still no word from King on 10 April Jay went over King’s head and wrote directly to Winthrop, reminding the Speaker of their conversation in January.

About a week later Jay at last heard from King. The Select Committee had just been appointed. King was Chairman and the members were G. P. Marsh of Vermont, C. J. Ingersoll of Pennsylvania, I. E. Morse of
Louisiana, H. W. Hilliard of Alabama, H. Mann of Massachusetts, Alexander D. Sims of South Carolina, William B. Preston of Virginia, and H. C. Murphy of New York. Winthrop had done well by Jay. Five of the nine members including the Chairman were nominees that Jay had suggested. It was a well-balanced committee of Whigs and Democrats, affording some prospect for bi-partisan support, and several of the members were familiar with the issue, having served on the Winthrop-Adams Committee of 1844. Things were ready to go, King told Jay, and a meeting of the committee would soon be called.23

Since Jay’s departure for Britain was postponed till around 11 May, he was able to continue doing even more for the cause. His next undertaking was the preparation of a group of duplicate letters which he sent to influential acquaintances such as Francis Lieber, William Gilmore Simms, and Alfred B. Sheets, urging each of them to petition King’s Select Committee. Jay asked them to express their memorials in their own words, making them seem unsolicited and spontaneous. Each petitioner was instructed to secure as many other signatures as he or she could, following the principle that quality (that is prominence or distinction) not quantity was preferred. Francis Lieber who had taken so active an interest in copyright earlier in the decade promptly acquiesced. Slower to act though equally well identified with the cause was William Gilmore Simms. By the beginning of July, he too was prepared to gather signatures. It was thus clear that the Select Committee would not lack for testimonials which would strengthen the hand of the members favourable to international copyright.24

By the time Jay sailed for Liverpool, he had done much to promote the cause of copyright: prepared an elaborate memorial to Congress, secured a Select Committee, and arranged for petitions. What he had been unable to do was to apply the financial muscle which he deemed necessary to maintain an agent in Washington and to influence the press.

As Jay learned once he reached Great Britain, the Blackwoods had gone to a good deal of trouble in his behalf. As early as the beginning of April Blackwood had copies of Jay’s long letter of 28 January printed and circulated to a few publishers and leading authors like Bulwer and Macaulay. Jay had emphasized the need for secrecy so as not to implicate him or give away his plans, and Blackwood in turn enjoined secrecy on those receiving the letter. As a result, no embarrassing publicity was carried in the British press as had happened with Putnam’s petition in 1843.25 Blackwood put Jay in touch with a variety of authors and publishers
including Bulwer, James, and Bohn, the latter a leading reprinter of inexpensive books of high quality.\textsuperscript{26}

It did not take long to learn that there was not much enthusiasm in Britain for raising £1,000 on behalf of international copyright. Englishmen were too preoccupied with the revolutions on the Continent and the consequent disturbances at home. Authors like Dickens felt that American legislators could never be brought to do anything other than serve their own self-interest. Nevertheless Jay still hoped that the work he had done before leaving America might be enough to secure a favourable report from the King Committee. If this were so and things looked more promising the following winter, a renewed campaign might find British publishers and authors more inclined to support the cause, since it was, after all, significantly in their interest to do so.

In the meantime Jay continued to supply T. B. King with suggestions and information. At the beginning of May he had passed on Henry T. Tuckerman's idea of including protection for unpublished manuscripts, plays, designs, works of art, and models of sculpture in some future copyright law. Then from London he sent copies of treaties which Britain had made with Continental states as authorized by the International Copyright Acts of 1838 and 1844. Somewhat optimistically he told King:\textsuperscript{27}

\textit{A good deal of interest is expressed by men of letters in London, in regard to your forthcoming report on the subject of an international copyright – and I am satisfied that the present is a more favourable time for the establishment of such an agreement if it can be effected – than has ever occurred before. Our republic, its institutions and its citizens, are regarded in Great Britain with an increased and increasing cordiality and respect. The upturning of things on the Continent and the lamentable failure thus far of the French attempt to establish a republic or appear different from our own, has induced our being looked upon, no longer as a radical and dangerous democracy but a great conservative power, guided and governed by that eternal principle of law, liberty and order, the disregard of which is now too painfully exhibited on the Continent of Europe. Hitherto we have been called 'the Model Republic' – by way of a sneer – but now in good faith are Englishmen exhorting the newly pledged democrats of France to follow our example – and to copy our Constitution.}

Two weeks later Jay sent King additional arguments. After talking with the eminent geologist, Charles Lyell, he realized how much Americans were penalized when they purchased reprints of English scientific or
professional works. Lyell pointed out that his early publications had been stereotyped by American reprinters and sold in large numbers. However, when major revisions were made, the Americans ignored them, being unwilling to scrap expensive stereotype plates and manufacture new ones. Jay thus observed that under these circumstances American readers were scarcely getting a bargain when they purchased obsolete reprints at a low price. His other argument had to do with the import duty which the British imposed on books printed abroad. This was cut in half for those states having a copyright convention with Great Britain. American publishers might be induced to negotiate a similar convention if their publications could be sent to Britain more cheaply.

And what was Thomas Butler King doing while Jay was labouring mightily in the cause of copyright? Towards the end of June Coxe wrote to say that nothing was going on in Congress with respect to copyright primarily because everyone was preoccupied with the forthcoming Presidential nominating conventions and campaigns. On 12 July M. B. Field, Jay’s partner and brother-in-law, wrote to King to find out how the report was coming. Still no answer. Not until Jay returned to the United States in early November was the awful truth known. Nothing had been done.

On 10 November Jay asked Marsh of Vermont, one of the members of the Select Committee, to find out whether his memorial had ever been printed or the Committee’s report issued. Three days later he received the reply that no action had been taken. The Committee had met shortly after it was appointed, with nearly everyone present. After a brief discussion it instructed the Chairman to procure an order for printing Jay’s memorial, but either King failed to act in time or the order was not executed. Another Committee meeting was scheduled but never took place. All Marsh could say to Jay was that he hoped that King would revive the issue in the next session (beginning in about a month).

Jay knew that the new session of Congress was a short one, lasting only from December until March. At least the all-consuming Presidential election was over. Zachary Taylor had been elected, and now the ‘lame duck’ Congress could settle down and finish off old business. He once more approached King in a letter expressing these thoughts and again offered the Committee whatever help it might need in drawing up a report.

He continued to exert himself on behalf of the cause for a few more weeks. When one of the Committee members, Morse, spent a few days
in New York, Jay wrote for an appointment and when King passed through in December he invited him to the family house in Bedford to discuss copyright, but none of these efforts bore results.

It was a melancholy Jay who, even before the Congressional session was over, signalled defeat to Blackwood. In drawing up his account of debits and credits as their American agent, he decided to subtract the $30 which had been included for expenses relating to the copyright campaign, even though Blackwood had offered to cover these charges. Jay would not accept payment now that there seemed little likelihood that anything could come of his efforts. He finally had to admit failure. Just as Frederick Saunders, Henry Clay, Francis Lieber, Cornelius Mathews, G. P. Putnam and others had already discovered, he realized that a mere handful of devoted advocates were no match for the indifference of Congress and the implied opposition of powerful interest groups.