Preliminary description of a new species of Aplodontia (A. major sp. nov., 'California show'tl,' 'mountain beaver').

I have received from one of my collectors eight specimens of a new species of Aplodontia captured in the Sierra Nevada Mountains, in Placer county, Cal. It may be distinguished from the only previously known species of the family by the following diagnosis: —

Length, about 400 mm.; hind-foot with claws, about 60 mm.; height of ear, about 8 mm.— Pelage, comparatively coarse and harsh; hairs of flanks, elongated beyond those of the surrounding parts, forming on each side a more or less pronounced oval patch, from 60 to 80 mm. in length and from 40 to 60 mm. in breadth, which terminates abruptly about opposite the hip joint, and which is most marked in specimens not fully adult. *Color:* Whiskers, black; back, grizzled grayish-brown, the tint of the brown being that of a dilute bistre; hairs at base and under fur, very dark plumbeous: rump and belly, grizzled mouse-gray, sometimes faintly and superficially washed with very dilute brown; a distinct patch of white in the anal region; tip of nose, sooty-brown, which color sometimes extends backwards in a narrow stripe almost to a point midway between the eyes. *Cranial characters:* The skull is much larger and heavier than that of A. rufa, and the occipital crest is more highly developed; the zygomatic arches are more bowed outward; the nasal bones are broadest at or near their anterior ends instead of some distance posteriorly; and the ratio of the upper molar series of teeth to the basilar length is decidedly less than in A. rufa.

There are several other cranial differences which will be discussed at length, together with the animal's affinities with 'var. Californicus' of Peters, in a paper soon to be published.

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International copyright.

While always an enthusiastic advocate of an international copyright as a matter of abstract justice to British authors, I have never been able to satisfy myself of the constitutional right of congress to enact a separate bill for the purpose of effecting one.

The constitution of the United States is a grant of power. Among other powers granted by it to congress is (art. I., sec. 8) that of promoting "the progress of science and useful arts by securing for limited times to authors and inventors the right to their respective writings and discoveries." This congress has already done. The question now presented is, therefore,

1. Has congress exhausted such powers under the constitution, and, if not, has it still power to legislate as to the degree of protection accorded authors and inventors, by enacting a statute to protect British authors, which statute (let it be admitted) will indirectly increase the profits of the American 'author and inventor'?

This question being disposed of, nothing further need be said as to the power; but a word might be added as to the merits of the question.

2. It is one of the legal necessities of our imperfect state that every individual, in selecting his vocation, assumes and subjects himself to the risks and dangers of that vocation; as, for example, an employee of a railroad company, other things being equal, cannot recover of the company for injuries received in the course of his legitimate employment by it. Now, the author, in selecting authorship as a vocation, accepts a risk which may, perhaps, be stated categorically; viz., while it is doubtless true that, 1°, an idea is property, it is equally true that, 2°, the form of words in which an idea is expressed is also property; but it is absolutely impossible to protect the idea when unclothed in words. The utmost the law can do is to protect the expression of the idea.

Now, the disability — the risk and danger of authorship which the author accepts — arises from the fact that it is possible to clothe an idea in any number of different forms of words. Let us suppose that A expresses an idea, absolutely original with himself, as follows: 'The sun gives warmth to the earth.' Let us suppose that B sees this in print, and steals it deliberately, putting it thus: 'The orb of day diffuses its heat over our planet.' It is evident enough that no statute or court can refuse protection to either or both A and B: for no court could try the question of priority of the abstract conception, and, even if it could, it could not protect that abstract conception separated from a statement of it in words; and B's statement is in words as well as A's. To obtain a patent, an oath and a contract are necessary. The applicant must first make oath to the originality of his invention, and, secondly, make a contract with the government; viz., that, on his part, he will fully and frankly state in his specifications the methods and processes by which he produces useful results, so plainly that anyone understanding the language could do the same, and that in exchange for these specifications, the government, on its part, will accord him a limited protection in the use of them for the inventor's sole profit. But the author of a poem, novel, or treatise, makes no oath of originality, and enters into no contract. He merely states the name and makes profert of his production; and the government takes notice, and shifts the burden of proof in his favor; that is to say, provides, that, if the author thereafter sue for an infringement, he need only plead his copyright, while it is for the defendant to attack.

It was this course of reasoning which led me, ten years ago (in a treatise on the laws of copyright), to say, that, unless there could be devised a law against paraphrase and plagiarism, copyright statutes were of very little practical importance, since a paraphrase of a work was fully as much entitled to copyright as the work itself. Is international legislation expedient to protect property so practically *publici juris?*

There is another phase of the question which I certainly do not care to press, but on which a consensus of opinion might be unfavorable to a statute of international copyright with England (though not, of course, with France, Germany, or other non-English speaking nations).

3. Is there any citizen of the United States, not at present a writer of poems, novels, or other literary matter, who would become one if there were an international copyright with England? Of course, if we can demonstrate that the divine call to write poems or novels is at present largely suppressed in our people by fears that they will be obliged to publish at their own expense, or that publishers will only pay them ten per cent; if it can be proved that this nation is suffering, and *in extremis*, for lack of