



# IRVING BROWNE, HIS LIBRARY, AND HIS LITERARY AND COLLECTING PASSIONS

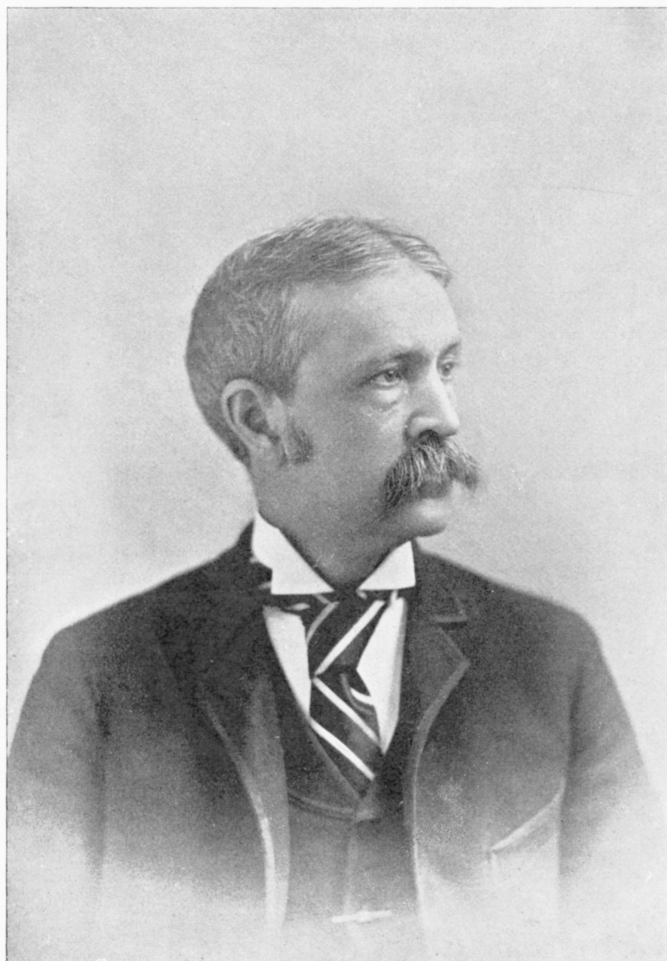
*M.H. Hoeflich*

IRVING BROWNE WAS BORN in Oneida County, NY in September 1835 and died in Buffalo in February 1899. In his 64 years he lived a remarkable life.<sup>1</sup> He was educated in his hometown and decided to become a printer and telegrapher, but he abandoned this promising path to train as a lawyer. After a short stint as a law office apprentice in Hudson, NY, he enrolled in the Albany Law School and graduated in 1857. Upon admission to the New York Bar, Browne moved to Troy and joined a law firm, where he remained until 1878. For a brief time he was a solo practitioner, but was appointed to serve as the editor of the *Albany Law Journal* in 1879.

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<sup>1</sup> Biographical details are taken from *Irving Browne*, 1 THE GREEN BAG 509, 509-510 (1889), Browne's obituary published in the *Buffalo Morning Express and Buffalo Illustrated Express*, on February 7, 1899, at 7, and 59 ALBANY L.J. 212, 212-14 (1899). For more on Irving Browne and his library, see, above all, Joseph Rosenblum, *Irving Browne and the Extra-Illustrated Book*, ANTIQUARIAN BOOKMAN 2097-2108 (Nov. 25, 1991). This excellent article focuses on Browne's collection of illustrated books.



*Yours truly,  
Irving Brown*

*Irving Brown, in 1 Green Bag (Dec. 1889).*

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In addition, he served as the editor of the *American Reports*, taught at the Albany Law School, and was the author of a number of well-regarded legal texts on subjects as varied as domestic relations, bailments, sales, and legal vocabulary.

Had Browne done nothing more than what is outlined above, he would have been considered a highly successful lawyer and jurist. But Browne, like many of his predecessors at the Bar, also saw himself as a literary man. He published a great deal of poetry as well as various articles and books on the “lighter” side of the law, a popular literary genre in the post-Civil War era.<sup>2</sup> Among the best-known of these works were his *Law and Lawyers in Literature* and his *Humorous Phases of the Law*.<sup>3</sup> Indeed, one can fairly argue that Browne was the leading legal humorist of his age – a lawyer’s Mark Twain. Many lawyers attempted to write poetry as a pastime.<sup>4</sup> Much of it either did not ever get published or was published in newspapers that were constantly looking for free text with which to fill their columns. Browne was more of a professional poet than most of his legal colleagues, having a large number of his poems included in leading periodicals like the *Green Bag* as well as published in book form.

As a literary man, Browne followed the examples of earlier literary lawyers like Rufus Choate, and acquired a large non-legal library.<sup>5</sup> For reasons that remain something of a mystery, Browne sold this library at auction in 1878.<sup>6</sup> The contents of this library reveal that Browne was a

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<sup>2</sup> I hope to publish a subsequent article on this subject in the near future.

<sup>3</sup> IRVING BROWNE, *LAW AND LAWYERS IN LITERATURE* (1882); IRVING BROWNE, *HUMOROUS PHASES OF THE LAW* (1876).

<sup>4</sup> James R. Elkins, *An Anthology of Poetry by Lawyers*, 28 *LEGAL STUD. FORUM* 1, 3 (2004); M.H. Hoeflich & Lawrence Jenab, *Three Lawyer-Poets of the Nineteenth Century*, 8 *GREEN BAG* 2D 249, 249 (2005).

<sup>5</sup> On the literary interest of 19th-century lawyers, see the classic work ROBERT FERGUSON, *LAW AND LITERATURE IN AMERICAN CULTURE* (1984). Choate’s library was sold at auction in 1859 in Boston; a detailed catalogue from the sale was printed. See LEONARD & CO., AUCTIONEERS, *CATALOGUE OF THE LIBRARY OF THE LATE HON. RUFUS CHOATE* (1859). On this sale, see M.H. HOEFlich, *LEGAL PUBLISHING IN ANTEBELLUM AMERICA* (2010).

<sup>6</sup> In the 1899 *NYT* article on Browne’s library, the writer said simply that the library was sent to auction “for private reasons.” Of course, this was the year in which Browne left the law firm with which he had been associated for two decades to strike out on his own. It seems quite possible that Browne sold his beloved books in order to raise capital for his new endeavor. Certainly, the sale was financially successful. According to the *NYT* article,

zealous bibliophile with a passion not only for poetry and literature, but also for art and collecting. While possession of a large non-legal library was not uncommon amongst the elite of the 19th-century Bar, most lawyers' libraries tended either to be quite general in nature or to specialize in subjects close to law, such as history. John Adams, for instance, had a reasonably sized library of volumes on literature, religion, and other subjects one would expect to find in any cultured American's library at the time.<sup>7</sup> Choate built a substantial library of books on the Latin and Greek classics.<sup>8</sup> Judge John Purviance of Baltimore amassed a library of 7,000 volumes and was known both for his historical collection and his historical writing.<sup>9</sup>

Browne's library of 2,300 volumes was the library of an aesthete and a collector, and the books contained therein had very little relation to his legal activities. He was also one of the foremost American practitioners of a now all but forgotten subgenre of book collecting known as "grangerism." Grangerism was the strange practice of interleaving printed books with additional prints, autographs, letters, and other printed and manuscript material, often obtained by disassembling other books. The products of this process were known as "grangerized" or "extra-illustrated" volumes. Because the production of such volumes often led to the destruction of other books, it was rejected by the bookish community after only a few years of popularity.

Browne described the contents of his library briefly in his preface to the 1878 auction catalogue:

The library here catalogued has furnished occupation in gathering, "weeding," and illustrating, to say nothing of reading, for the collector's leisure hours of twenty years. It contains all the desirable standard works in history, poetry, biography, and romance; an excellent collection of the old dramatists; a sprinkling of exquisite editions of Greek,

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the proceeds of the sale amounted to \$12,000. In 2020 dollars, that would be nearly \$320,000, more than enough to establish a law practice.

<sup>7</sup> See David S. Clark, *Comparative Law in Colonial British America*, 59 AM. J. COMP. L. 637, 673 (2011) (citing Daniel R. Coquillette, *Justinian in Braintree: John Adams, Civilian Learning, and Legal Elitism, 1758-1775*, in *LAW IN COLONIAL MASSACHUSETTS: 1630-1800* at 359 (1984)).

<sup>8</sup> SAMUEL GILMAN BROWN, *THE LIFE OF RUFUS CHOATE* 834 (1898).

<sup>9</sup> See M.H. Hoeflich, *Auctions and the Distribution of Law Books in Antebellum America*, 113 PROCEEDINGS OF THE AM. ANTIQUARIAN SOC'Y 135, 151 (2003).

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Latin, and French authors; an important assemblage on the fine arts; and about one hundred and fifty volumes containing extra illustrations. The editions of the standard authors are, in nearly every instance, the very finest; as, for example, the Pickering Canterbury Tales, Sir Thomas Browne, Greene, Peele, and Marlowe; the Baskerville Congreve and Shaftesbury; the Dyce Beaumont and Fletcher, and the Oxford Boswell. Uncut copies have been preferred, their condition is excellent, and the bindings are durable, appropriate, and not disproportionately expensive.<sup>10</sup>

Indeed, Browne's bibliophilic obsession also led him to publish a book on book collecting two years before his death, *In the Track of the Bookworm*,<sup>11</sup> a miscellany of his thoughts on book collecting interspersed with his poems on the subject.<sup>12</sup>

The majority of the books catalogued for sale in 1878 are either literary works, both prose and poetry, or works about art and collecting. There are a few books relating to the law; these are all what contemporaries would have characterized as lawyers' "light reading." Browne owned copies of *The Bar*, a satirical poem published in London in 1826, *Chancery Lane, or the*

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<sup>10</sup> GEO A. LEAVITT & CO., AUCTIONEERS, MR. IRVING BROWNE'S UNIQUE COLLECTION OF BOOKS 4 (1878) [hereinafter 1878 Catalogue].

<sup>11</sup> IRVING BROWNE, *IN THE TRACK OF THE BOOKWORM* (1897).

<sup>12</sup> Appropriately, this volume was not published by a commercial publisher. Instead it was produced by one of the first artisan presses in the United States – the Roycroft Press, operated by the Roycrofters, an artistic community established near Buffalo in Aurora, NY. See generally Robert Koch, *Elbert Hubbard's Roycrofters as Artist-Craftsmen*, 3 WINTERTHUR PORTFOLIO 67 (1967). It was led by the charismatic Elbert Hubbard, whose works were inspired by the work of the founder of the English Arts and Crafts movement, William Morris. See *id.* After his edition through the Roycrofters in 1897, Browne also created a number of "grangerized" books, which he offered for sale two years before his death. See Rosenblum, *supra* note 1, at 2106. He explained this sale on the grounds that he did not want to leave the books to his "unbookish heirs" or "the lawyers." ELBERT HUBBARD, *THE PHILISTINE: A PERIODICAL OF PROTEST* 96-97 (1897). According to the advertisement, Browne wanted to sell the collection as a whole for \$3,000. A separate catalogue of this collection was published by the Roycrofters. See ROYCROFT SHOP, *A DESCRIPTIVE LIST OF EXTRA-ILLUSTRATED BOOKS IN THE LIBRARY OF MR. IRVING BROWNE: BEING A CONCISE CATALOGUE AND DESCRIPTION OF THE EXTRA-ILLUSTRATED BOOKS OFFERED FOR SALE BY ADVERTISEMENT IN THE PHILISTINE FOR SEPTEMBER, MDCCCXCVII* (1897). Among the books listed was a copy of his own *In the Track of the Bookworm*, see *supra* note 11, and *ICONOCLASM AND WHITEWASH, AND OTHER PAPERS* (1885). The latter volume is now owned by the Huntington Library.

*Glass Case*, another English poem of 1862, Franklin Heard's *Curiosities of the Law Reporters*, J.C. Jefferson's *Book About Lawyers*, Luther Marsh's *Poetical Law Case*, J. Paget's *Judicial Puzzles*, Anstey's *Pleader's Guide*, and several others.<sup>13</sup> That he owned a number of these volumes of legal light reading is not surprising since this was a popular genre in 19th-century America, one to which Browne himself contributed frequently. That the majority of these volumes were in verse is also not at all surprising since Browne's own efforts in the genre tended to be in verse as well. His own verse was quite popular, and, as mentioned earlier, was a mainstay of the *Green Bag*.<sup>14</sup> One other aspect of this small collection of "lighter" legal reading is also worthy of note. It was comprised almost entirely of English works, many (but not all) of them well known in the United States. We may well wonder whether these books were at least partially the inspiration for Browne's own attempts at legal verse and light prose.

Browne, as he stated in the preface to his auction catalogue of 1878, owned a decent selection of literary works, both English and American, the sorts of books any educated American of his time would have owned and read. And also, as he said, the literary volumes he owned were not only good editions textually, but were also printed by some of the best printers of the day.<sup>15</sup> They were not what today would be termed "reading copies." These were the books of a man of modest means who valued them both for their contents and for the quality of the printing and production. Again, this is really quite interesting when one compares Browne's frugality in his choice of literary works and the large amounts he spent in grangerizing the texts in his library.<sup>16</sup> Clearly, he had been bitten by the collecting disease.<sup>17</sup> Yet Browne did not fall into the trap of "bibliomania" that afflicted so many collectors of the period.<sup>18</sup> These collectors, exemplified by Gilded

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<sup>13</sup> See 1878 Catalogue, *supra* note 10.

<sup>14</sup> On law-related poetry in the 19th-century U.S., see M.H. HOEFlich, AN ANTHOLOGY OF NINETEENTH CENTURY AMERICAN LEGAL POETRY (2018).

<sup>15</sup> See Rosenblum, *supra* note 1, at 2097.

<sup>16</sup> See *id.* at 2106.

<sup>17</sup> See WERNER MUENSTERBERGER, COLLECTING: AN UNRULY PASSION (1993).

<sup>18</sup> See Philip Connell, *Book Collecting, Cultural Politics, and the Rise of Literary Heritage in Romantic Britain*, 71 REPRESENTATIONS 24, 25 (2000) (describing bibliomania as "a passion for the acquisition and display of books, and in particular old books," and exploring its pervasive

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Age tycoons like J.P. Morgan and Henry Huntington,<sup>19</sup> purchased literary volumes that were expensive not because of the quality of their texts, but because of their rarity or provenance or fine bindings.<sup>20</sup> Many English and American collectors would pay fortunes to obtain rare antiquarian volumes, especially incunabula, or volumes printed before 1500.<sup>21</sup> But frugality alone could not have been the primary cause of Browne's purchasing well-printed, but not rare, copies of literary works since, as will be clear, Browne spent huge sums grangerizing many of his books.

Although Browne did not fit the description of a bibliomaniac, he did own a small number of antiquarian volumes, but these were neither a major nor an extraordinary part of his library, as they would have been in a typical wealthy bibliophile's library at the time.<sup>22</sup> Further, the only commonality among his rare books and manuscripts seems to be that they featured significant illustrations or handsome text. Among the most notable of the antiquarian volumes listed in the 1878 catalogue are:

- A printed edition of the *Heures a l'Usage de Rome* (Paris, 1513), with miniatures and gilded letters;
- A 15th-century manuscript of the *Horae Beatae Mariae Virginis* with 12 miniatures and gold letters;
- A 1522 printed edition of Virgil "with curious cuts";
- A 1512 printed edition of Durer's *Little Passion* with 37 woodcuts by Durer.<sup>23</sup>

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history in Romantic Britain).

<sup>19</sup> See Lawrence C. Wroth, *The Chief End of Book Madness*, 3 QUARTERLY J. OF CURRENT ACQUISITIONS 69, 73 (1945).

<sup>20</sup> See Connell, *supra* note 18, at 25-27:

The bibliomaniac's library . . . seemed to . . . represent merely an outward show of learning and cultivation, rather than productive scholarly labor on the part of the owner, resulting in an eclectic and unsystematic accumulation of texts valued for their material rarity rather than "intrinsic" literary or historical worth.

<sup>21</sup> See *id.* at 25 ("Diligent amateur scholars could no longer hope to discover incunabula . . . lying unrecognized in a market barrow. The material traces of the literary past now had a price tag . . .").

<sup>22</sup> See *id.*

<sup>23</sup> See 1878 Catalogue, *supra* note 10.

One may speculate from the small number of these manuscripts and early printed books in Browne's collection that rather than specifically setting out to buy manuscripts and early printed books for their date and rarity, he acquired them for their illustrations as he did with later volumes.

While Browne probably did not collect manuscripts and early printed books, he did obviously collect books on collecting, particularly on collecting books. He also had a small but select collection of books on collecting art, ceramics and pottery, and antique playing cards. His library contained an unusually large number of "books about books" for a lawyer's private library. Among the volumes he owned on this subject are:

- Six volumes by the Reverend Thomas Frognall Dibdin, the English chronicler of bibliomania;
- Clarke's *Repertorium Bibliographicum*;
- Richard de Bury's *Philobiblon*;
- Hans Friswell's *Varia* (grangerized);
- Martin's *Bibliographical Catalogue of Privately Printed Books* (grangerized);
- A priced catalogue of the Perkins Library Sale of 1873; and
- Two of Joseph Sabin's bibliographical volumes.<sup>24</sup>

Browne's collection of "books about books" was both specialized and not inexpensive. That he owned as many as he did testifies to the seriousness, time, and money he dedicated to acquiring the best editions of the works that he added to his library.

Browne clearly did not limit his collecting interests to books and prints. He also owned several volumes on collecting playing cards, a popular collecting focus during the latter half of the 19th century, a time when many cards were miniature works of art, often with elaborate, even hand-painted decorations.<sup>25</sup> Browne also had several volumes on gems and jewelry, as well as a number of volumes on home decorating and residential architecture.<sup>26</sup>

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<sup>24</sup> See 1878 Catalogue, *supra* note 10.

<sup>25</sup> See Marjorie G. Wynne & A. Hyatt Mayor, *The Art of the Playing Card*, 47 YALE LIB. GAZETTE 137 (1973).

<sup>26</sup> See 1878 Catalogue, *supra* note 10.



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He also possessed a small number of books on the decorative arts, particularly pottery and porcelain.<sup>27</sup>

When one looks at the various areas of Browne's collecting interests it becomes very obvious that he was very much an aesthete, interested in beautifying his environment. His later association with Elbert Hubbard and the Roycrofters is further evidence that Browne was aware of the artistic movements taking place at the time, especially since the focus of Hubbard and the Roycrofters was very much related to the interests of William Morris and his followers in England.<sup>28</sup> Among the books listed in his 1899 auction catalogue, twelve were printed by the Roycrofters and four by the Kelmscott Press, which was operated by William Morris.<sup>29</sup> These interests centered around books, decorative arts, and architecture, and the insistence on the importance both of high quality artisanship and the creation of artistic environments in which to live and work. It is a pity that evidence of Browne's own home and its furnishings are lost in the mists of time.

Browne owned an exceptionally large number of volumes of poetry, a fitting subject for a man who wrote and published verse himself. The poetry collection is notable on a number of grounds. As noted above in a related context, perhaps most interesting is the fact that the works of English poets far outnumber those by American poets,<sup>30</sup> though he did own copies of the standard American authors like Longfellow and Hawthorne. During the 19th century poetry was more than a literary genre; it was the sign of an educated, cultured individual. The United States was awash in poetry, much of it by amateurs. Browne was not an amateur. It is fascinating that his library had so few American poets represented in it. In this, the poetry collection was very similar to Browne's collection of art books and of prose volumes, in both of which English works outnumbered American works. To what might we attribute this difference? I would suggest that the dif-

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<sup>27</sup> See *id.*

<sup>28</sup> See Koch, *supra* note 12, at 73 ("It is no wonder that the press occasionally referred to Hubbard as 'the William Morris of America.'").

<sup>29</sup> Rosenblum, *supra* note 1, at 2106.

<sup>30</sup> To some extent, one would expect this is an antebellum library, but, by the end of the Civil War, Americans were writing and publishing poetry at a prodigious rate and, thus, the dominance of English poets in Browne's collection would suggest that he simply had a personal preference for the English.

ference may well be explained by nothing more complex than a case of Anglophilia, an aesthetic preference which runs throughout his library.<sup>31</sup> Indeed, “grangerism” itself was a phenomenon that began in England.<sup>32</sup> Anglophilia was not uncommon among the professional classes in the United States after the Civil War. And, indeed, lawyers had a special reason for being Anglophiles, since they were self-confessedly practitioners not simply of American law, but of the Anglo-American Common Law.<sup>33</sup> It is also quite possible that Browne believed that, on the whole, English poets, men like Chaucer, Milton, Shakespeare, and Byron, were simply superior to the majority of American poets. Further, since Browne clearly preferred to buy books printed by artisanal presses, this alone would have inclined him to buy books originating in England, where most of these presses operated during his lifetime.<sup>34</sup>

In many respects, the heart of Browne’s library were his illustrated books, including those books which he had himself grangerized by adding plates, manuscripts, and other illustrative material. Fortunately, Joseph Rosenblum exhaustively described these volumes in his 1991 article.<sup>35</sup>

Americans, including lawyers, were collectors of art and illustrated books throughout the 19th century.<sup>36</sup> Although these books were expensive, often what we would today refer to as “coffee table” books – to be displayed rather than read closely – they were often the only way in which the majority of people, those without the wealth sufficient to own major works of art, could view and become familiar with great art. Ownership of such books

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<sup>31</sup> Anglophilia refers to the admiration of English society and culture. See generally ELISA TAMARKIN, *ANGLOPHILIA: DEFERENCE, DEVOTION, AND ANTEBELLUM AMERICA* (2008).

<sup>32</sup> See J. Krajewski, *Good Ruined Books and Bad Ruined Books*, THE NEW YORKER, March 12, 2010; *Grangerization Made Beautiful Books Even Better*, in JSTOR DAILY, April 23, 2020 (includes a photograph of a grangerized book from Browne’s library now at the Huntington Library, San Marino, California).

<sup>33</sup> Daniel Mayes, *An Introductory Lecture to the Law Class at Transylvania College*, in THE GLADSOME LIGHT OF JURISPRUDENCE: LEARNING THE LAW IN ENGLAND AND THE UNITED STATES IN THE 18TH AND 19TH CENTURIES (Michael Hoeflich ed., 1989) (referring to the need to train Americans not only to practice in the U.S., but also the “courts of Westminster”).

<sup>34</sup> Rosenblum, *supra* note 1, at 2106.

<sup>35</sup> See *id.*

<sup>36</sup> I deal with this subject in a new work which I am at present completing, entitled *Lawyers & Their Libraries in Nineteenth Century America*.

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not only indicated that the owner was cultivated in the arts, but also had sufficient means to be able to purchase these expensive volumes. But Browne's collection far exceeded in both number and diversity of volumes what would have been necessary simply to put his culture and wealth on display.<sup>37</sup> His art and illustrated book collection once again indicates that Browne was a man of aesthetic sensibilities, a man who truly loved art and literature in all its manifestations.

The most interesting of the illustrated volumes listed in the 1878 catalogue were the "grangerized" or extra-illustrated volumes. This practice, which became popular for a short period in the late 19th century, was one in which owners would purchase an edition of a book, often a biography, history, or travel volume, and add numerous additional materials to it, most often interleaved between the printed pages and sometimes even pasted onto them. The notion was to turn a mass-produced artifact into a unique, handmade piece. It very much fit within the aesthetic movements championed by John Ruskin and William Morris in England and Elbert Hubbard and the Roycrofters in the United States.<sup>38</sup> It was both a destructive practice and an expensive one. Generally, the added illustrations were prints and engravings that the grangerizer excised from other volumes, although the added material might also be individually printed art or even manuscript letters or autographs. Because a single grangerized volume might involve the destruction of dozens of other books or pasting manuscripts into the grangerized volume (pasting, itself, generally damages a manuscript), the grangerization process was condemned by most reputable collectors. Why Browne, who obviously loved books, would indulge in such a reprehensible activity is difficult to understand. But engage he did. Almost ten percent of the volumes listed in the 1878 auction catalogue were grangerized and nearly all of the volumes in the post-mortem 1899 sale list were also treated in this manner.<sup>39</sup> All one can really say is that the collecting passion often leads individuals down strange paths!

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<sup>37</sup> According to Rosenblum, Browne had 660 to 700 illustrated volumes out of a total of approximately 2300. See Rosenblum, *supra* note 1, at 2097.

<sup>38</sup> See generally Koch, *supra* note 12.

<sup>39</sup> See Rosenblum, *supra* note 1, at 2106.

Browne survived more than two decades after the 1878 sale. During those years he continued to collect books and to grangerize volumes in his possession. The 1899 list clearly indicates that Browne predominantly purchased newly printed books in the period from 1878 until his death in 1899, although he did buy some volumes to replace those he had sold in 1878. His continued collecting suggests that he had not sold his first library willingly and, as his financial situation improved, he indulged his passion for books once again.<sup>40</sup>

Before ending this brief survey of Browne's library and his collecting passions, it is worthwhile to discuss his association with the Roycrofters.<sup>41</sup> Browne edited the *Albany Law Journal*, taught at the Albany Law School, and contributed to the *Green Bag*. None of these activities alone would have provided him with enough income to live comfortably. So when the *ALJ* shut down and he lost his income from that source he moved, at the age of 58, to Buffalo, NY, where he took up a position at the Buffalo Law School while continuing his other writing and editorial activities. Buffalo was only a little more than 20 miles from East Aurora, where the Roycroft community – and the Roycroft Press – would be founded in 1895.<sup>42</sup> When Browne was looking for a publisher for his *Ballads of a Bookworm*, he must have thought that the nearby Roycroft Press would be perfect. They had been in existence for a few years and had rapidly acquired a reputation for producing beautiful artisanal hand illustrated volumes. And Browne's book would undoubtedly have seemed a perfect candidate for publication to Hubbard since Browne was an established author with an established audience.

The book that the Browne-Roycroft collaboration produced is an absolutely splendid volume as an example of the Arts and Crafts movement in the United States.<sup>43</sup> It was issued in a numbered and hand-illuminated edition of 850 copies, signed by Elbert Hubbard.<sup>44</sup> The title page illumination is splendid, with letters and vine decoration in predominantly green and

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<sup>40</sup> *Id.*

<sup>41</sup> See *supra* footnotes 28-29 and accompanying text.

<sup>42</sup> See Koch, *supra* note 12, at 67-69.

<sup>43</sup> ROBERT JUDSON CLARK, *THE ARTS AND CRAFTS MOVEMENT IN AMERICA 1876-1916* (1972).

<sup>44</sup> I am fortunate to be the owner of No. 37 of that edition.

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red and an image of an open book at the top. It is printed on thick paper with a deckled edge. It is quite hard to imagine that Browne did not have a hand in the design of the book, since he so loved beautiful books, and as such, it is a fitting final tribute to Irving Browne – lawyer, poet, editor, professor, and, above all, collector of beautiful things.

