

Governor-General, dated June 15, 1874, in which His Lordship argued—(1) That the Act of 1872 was *ultra vires*, and admitted to be so by the Privy Council of Canada; and (2) That even if the assent of the Crown were given, the Courts (the Act being *ultra vires*) would set it aside. At the same time Lord Carnarvon expressed a hope that a measure might be framed which, "while preserving the rights of the owners of copyright works in Great Britain under the Imperial Act, will give effect to the views of the Canadian Government and Parliament." The result was the passing and ratification, in 1875, by an Imperial Act, of the present Copyright Act of Canada.

The Act of 1875 (38 Vict., c. 88, Canada) extended the privilege of obtaining copyright in Canada to "any person domiciled in Canada, or in any part of the British dominions, or being a citizen of any country having an international copyright treaty with the United Kingdom." The only further conditions exacted are, that the work shall be registered at Ottawa and printed and published in Canada. By the 10th section of the Act the author is enabled to secure an interim copyright extending over one month, pending the publication of the work in Canada. This is to allow time for the reprinting and publishing in Canada of a work already published in Great Britain. The Act has no force against British editions of the work copyrighted, but excludes absolutely all foreign reprints of British copyright works, when such works are copyrighted in Canada. It thus interferes, so far as the works copyrighted in Canada are concerned, with the Act of 1847, already frequently referred to as allowing foreign reprints to come in on payment of an author's duty. As the Act of 1847 was an Imperial statute, an Imperial Act was necessary to give effect to the Canadian Act of 1875. This being passed, no further changes have taken place in the Canadian copyright law.

Let us see, then, what, as briefly summarized, is the Law of Copyright affecting Canada at the present time.

1. Any person domiciled in any part of the British dominions (including of course Canada), or in any country having international copyright arrangements with the United Kingdom, may obtain copyright in Canada.

Every British author, and everybody entitled to copyright in the United Kingdom, or anybody, even if a citizen of a country not in copyright alliance, if only domiciled in Canada, can have all the protection, in the shape of copyright, Canadian law will afford. Following the example of the mother country, Canada attempts to perpetrate no

injustice on a foreign author by taking what he has to give without giving him protection in return, if he will only accept her fair and liberal conditions, and, in the words of Lord Cairns, solely "aims at increasing the common stock of the literature of the country." There can be no pretence, then, on the score of selfishness or greed, or a spirit of monopoly on our part for refusing to Canada the right to legislate independently and exclusively in matters of copyright.

But we note further—(1) That, by the operation of the Imperial Copyright Act of 1842, every person enjoying copyright under that Act can not only disregard the invitation to secure a local copyright, but can invoke the action of Canadian Courts to restrain or punish the publication of any save the British copyrighted edition of his work by any one in Canada.

(2) That, on the other hand, foreign reprints of the same British copyrighted work may be imported into and sold in Canada without let or hindrance—if the author does not take out a local copyright—on payment of a duty of 12½ per cent. *ad valorem* if he registers at the Customs, or, if he fails to register, then on payment only of the ordinary Customs duty.

As a matter of fact, this law has actually been set in motion against Canadian publishers for attempting to publish a Canadian edition of a British work, and that, too, by British authors who, for a consideration, had agreed to take out no copyright in Canada, in order to allow an American edition to be sold in Canada with impunity.

Nor does the Copyright Law of the United States afford to the authors either of Great Britain or Canada any compensatory advantages for the liberal treatment accorded both by the Dominion and Great Britain to American citizens. The principle of British and Canadian Copyright Law is to pay honestly for the privilege of acquiring the literary works of the authors of all nations; the principle of American policy is to pay for nothing in the shape of foreign literature that can steal. Great Britain and Canada give protection to foreign authors; the United States encourage literary piracy. A six weeks' domicile—or less, for that matter—in any part of the British dominions gives an American citizen the title to copyright over the whole British Empire, and wherever Great Britain has international copyright treaties or conventions. *Actual citizenship* or *permanent residence alone* entitles an author to copyright in the United States. Nor can the assignee of a work composed by a non-resident—even although the assignee be a citizen of the United States—obtain copyright for such a work. Efforts have been