

2. You will have learnt by my telegram of the 11th instant that I have felt myself unable to advise Her Majesty to assent to this Bill, and I now proceed to state shortly to you the ground upon which I have reluctantly, though without any doubt, been compelled, after taking the advice of the Law Officers of the Crown, to tender this advice to Her Majesty.

3. The Imperial Copyright Act 5 and 6 Viet., Cap. 45, is as you are aware, still in force in its integrity throughout the British Dominions in so far as it prohibits the *printing* in any part of such Dominions of a book in which there is subsisting Copyright under that Act without the assent of the owner of the Copyright, although the provision in that Act which prohibits the *importation* of foreign reprints of British Copyright works has been modified by the subsequent Act 10 and 11 Victoria, c. 95.

4. There is a recital in the Canadian Bill which by the "British North America Act 1867," express power is given to the Parliament of Canada to legislate upon the subject of Copyright, but it is to be observed that the section (the 91st,) containing this provision is one of several having reference (under the 6th general head of the Act) to "the distribution of legislative power," and provides that "copyrights" amongst other subjects are to be dealt with by the Parliament of Canada, while, other subjects (under section 92), are to be exclusively dealt with by the Provincial Legislature.

5. The effect of the Imperial Act is to enable the Parliament of Canada to deal with Colonial Copyrights within the Dominion, but it is clear that it was not contemplated to interfere with the rights secured to Authors by the Imperial Act of 5 and 6 Viet. c. 45, or to override the provisions of that Act.

6. Upon this point I am supported not only by the opinion of the present Law Officers of the Crown, but by the opinion of those eminent Lawyers, the present Lord Selborne and Mr. Herschell, Q. C., whose reports will be found in the A. C. 339, July, Copyright paper presented to Parliament in 1872, a copy of which 1872, page 74. I annex for your information.

7. I may further observe, if confirmation of this view were needed, that the report of the Committee of your Privy Council of the 6th June 1872, enclosed in your Despatch No. 159 of the 7th June, admits that the provisions of the Canadian Bill are in conflict with Imperial Legislation.

8. In these circumstances I have had no alternative but to advise Her Majesty that Her assent could not properly be given to the Canadian Bill, and I may add that the validity of this Bill would not have been established even if Her Majesty had been pleased to assent to it, inasmuch as by the 2nd Section of the "Colonial Laws Validity Act" (28 and 29 Viet. c. 63.) any part of a Colonial Law which is repugnant to an Imperial Act extending to the Colony in which such Law is passed, is *pro tanto* absolutely void and inoperative.

9. I am aware that the subject of Colonial Copyright has long been under consideration, and that attempts were made by Her Majesty's late Government in communication with yourself and your Ministers to arrive at a settlement of this difficult but most important question. I will only now express my readiness to co-operate and my confident hope that we may without difficulty be able to agree in the provisions of a measure which, while preserving the rights of the owners of Copyright Works in this country under the Imperial Act, will give effect to the views of the Canadian Government and Parliament.

I have, &c.,

(Signed,)

CARNARVON.

Governor General the Right Honorable
The Earl of Dufferin, K. P., K. C. B.,
&c., &c., &c.