

stated in a conspicuous place the name and place of abode or business in the Province of the printer and publisher.

No difficulty could arise in the practical application of this act, were it not for the fact that five years previously to its passing, the Imperial authorities had passed an act with which it appears to be in conflict. We refer to the English Act 5 & 6 Vic., cap. 45, passed on 1st July, 1842. It enables British authors residing in England there to obtain copyright of their works, and enacts that "if any person shall, in *any part of the British dominions* after the passing of the act, print or cause to be printed either for sale or exportation, any book on which there shall be subsisting copyright, without the consent in writing of the proprietor thereof, \* \* \* such offender shall be liable to a special action on the case at the suit of the proprietor of such copyright, to be brought in that part of the British dominions in which the offence shall be committed;" and by section 23 it further enacts, "that all copies of any book on which there shall be copyright, &c., and which shall have been unlawfully printed, &c., without the consent of the registered proprietor of such copyright, shall be deemed to be the property of the proprietor of such copyright," &c.

This act is not restricted to Great Britain. It is made expressly to extend "to the United Kingdom of Great Britain and Ireland, and to *every part of the British dominions*" (section 29). By section 2 it is expressly declared that the words "British dominions," shall be construed "to mean and include all parts of the United Kingdom of Great Britain and Ireland, the Islands of Jersey and Guernsey, all parts of the East and West Indies, and *all the colonies, settlements, and possessions of the Crown*, which now are or may hereafter be acquired."

The Provincial Act 10 & 11 Vic., cap. 28, entitles no work of a British author resident in Great Britain to any protection in Canada, unless upon compliance with the terms and conditions mentioned in the act already noticed. Thus, so far as the Provincial Act is concerned, copyright in England is clearly not copyright in Canada. The act allows Canadians to print and publish the works of non-resident British subjects when not copyrighted in Canada, quite as much as the works of non-resident foreigners. The English Act makes such printing or publishing an offence for which the offender is liable to be punished by action at the suit of the English author, and forfeits the edition printed or published to the English author.

The Imperial, delegated to the colonial authorities powers of legislation, but these powers are not supreme. Power, as we have seen, was given to the Colonial Legislature to make laws for the peace, welfare, and good govern-

ment of the Province—"such laws not being repugnant to any act of Parliament made or *to be made* (by the Imperial Legislature), which does or shall by express enactment or by necessary intendment extend to the Provinces of Upper and Lower Canada, or to the Province of Canada."

Two questions therefore arise. Does the English Act 5 & 6 Victoria, cap. 45, by express enactment or by necessary intendment extend to the Province of Canada? Is our 10 & 11 Vic., cap. 28, repugnant to the 5 & 6 Vic., cap. 45?

It is abundantly clear that as Canada was at the time of the passing of the 5 & 6 Vic., cap. 45, not merely a part of the British dominions but a British colony, Canada is bound by that act, and inasmuch as that act makes it an offence in the colonies to re-print or re-publish a book copyrighted in Great Britain or Ireland, it would seem the British copyright proprietor is entitled to the protection of that act, although he neglect to comply with the provisions of our 10 & 11 Vic., cap. 28. Some persons may read our 10 & 11 Vic., cap. 28, as being cumulative to the 5 & 6 Vic., cap. 45, instead of being repugnant to it. It is possible that the acts may be so read, but we do not clearly see our way to that conclusion.

#### REPORTS OF THE COURT OF ERROR AND APPEAL.

Several subscribers have urged upon us the necessity of regularly reporting in the columns of this journal the decisions of the highest court in Upper Canada. The expense of so doing would be great, but rather than continue to allow important decisions of that court to remain unpublished we would be inclined to undertake the burthen of publishing them ourselves. With that object in view we have caused inquiries to be made in the proper quarter, and learnt with much satisfaction that Mr. Alex. Grant, the Reporter of the Court of Chancery, is about to commence a complete and regular series of Error and Appeal cases, including all cases already decided and not as yet published. We hope that his enterprise will receive proper support. All are interested in the decisions of that court which sits in appeal on the decisions of the two Superior Courts of Common Law and the Court of Chancery.

#### SELECTIONS.

##### FICTITIOUS LEGAL CASES.

Courts of justice are established for the purpose of solving questions which actually and bonâ fide are brought before them for the purpose of obtaining a decision which will, whatever may be the result, unless reversed by the judgment of a higher tribunal, be binding upon the litigant parties. Courts of