

the Session of 1872, and reserved for the signification of Her Majesty's pleasure thereon.

4. That Her Majesty's assent was not given to the said Bill, and by the correspondence on the subject which was laid before the House, the reason for the refusal was alleged to be that the provisions of the Canadian Bill were in conflict with Imperial legislation.

5. That an humble Address be presented to Her Majesty, praying that Her Majesty may be graciously pleased to invite Her Imperial Parliament to except Canada from the operation of the statute of the United Kingdom, respecting copyright, so far as is necessary to give the Parliament of Canada a clear authority to legislate upon all matters respecting copyright in Canada.

He said: In connection with this notice I think there are two questions that will arise, one of a constitutional and the other of a commercial character. If there were no other ground than the broad question of the right of Canada to make laws for itself upon this subject, I do not think that I should have felt at all called upon to bring the matter before the House, but there are practical grievances connected with the present position of the copyright law. There are important trade interests suffering every day. The reading public of this country do not possess the same facilities for a cheap and plentiful supply of literature which I think they ought to have, and the position of Canadian authors is a very unsatisfactory one. Now, I do not at all seek to cast blame upon the Government in this matter. I am perfectly well aware that the hands of the Government are tied behind their backs, just as the legislative powers of this Parliament are fettered by the present condition of the law; and it is in order to relieve the Government and this Parliament from that condition of affairs that I have brought forward this motion. In 1872, when the present leader of the House occupied the same position, it will be recollected that a Bill was passed to remove some of the same grievances which we have to consider to-night. That law was passed under the leadership of the right. hon. gentleman, and was reserved for the signification of Her Majesty's assent. Afterwards, in 1874, when the hon. member for East York (Mr. Mackenzie) was leading this House, the assent of Her Majesty had not been given, and an Address was unanimously passed by both branches of this Parliament, urging Her Majesty to do so. So that both sides of the House and everybody concerned in Canada seem to be only too anxious to arrive at a solution of this difficult question. I know that no audience has yet been discovered who ever could conscientiously say that copyright was a cheerful subject for a speech. In fact, it is a rather abstruse and difficult question. A story is told of a distinguished British statesman, who was waited upon by a deputation who wished to present their views upon the subject of copyright to him. After listening attentively to them for an hour, and hearing all they had to say, he is reported to have said: "Gentlemen, when you began I did think I knew a little about copyright, but now I am perfectly sure I do not know anything about it, and what is more, I never shall." Now, I dare say I should produce the same result on this House if I went into the whole question of copyright; but I do not intend to do so, and it is not at all necessary that I should. All we require to do is to consider a few points in connection with the application of the law to Canada. They are rather interesting, and not at all abstruse, and I will try to make the discussion as brief as possible. Since this notice has been put upon the paper, several hon. members have asked me: Why is it necessary? Surely this Parliament has the right to make laws upon the subject of copyright? Well, at first sight it would certainly seem that this Parliament had the right to do so, because, by the 91st section of the British North America Act, among other subjects which are placed under the exclusive jurisdiction of this Parliament, there is the subject of copyright; and it was at first undoubtedly supposed that copyright was entirely within the legislative jurisdiction of this Parliament. But it was discovered afterwards that since 1814 the English law upon

the subject related not only to British dominions in Europe, as it did before that date, but also extended to all the dominions of the Crown, the colonies and dependencies, wherever they existed. That law was reenacted substantially in 1812. Now, it was claimed that the British North America Act, being more recent, did in effect, repeal that law; it was claimed that the 91st clause of that Act had the effect of overriding previous legislation in England. But that point has been positively decided in the negative. The law officers of the Crown, when they advised Lord Carnarvon as to the question of giving the Royal assent—because the proposed Canadian legislation would interfere with the Imperial Act—to the Act of 1872, which was sent over for that purpose, and was not assented to, advised him to refuse assent, and the same question came up in the Court of Appeal for Ontario, where it was positively and clearly settled that the English copyright law is in force in Canada. What is the result of that? The result is, that the English Act, being a very broad and liberal one, allows foreigners, allows anyone, to take the benefit of it, and it gives anyone the right to copyright in Canada, without reference to any copyright laws which we may choose to put on the Statute Book. It gives them the absolute right to copyright in Canada. We have a Copyright Act, that of 1875, but it is subject to the Imperial Acts, and applies only to those persons who choose to take out a copyright in Canada. Under our Act, any person domiciled in any British possession or in any country that has an international copyright law with England, can take out a copyright in Canada, but on the important condition that the author shall publish his work in Canada. But the English author will not take out a Canadian copyright and will not publish in Canada so long as he has the right to copyright in Canada, without doing so, under the Imperial Act. It is certainly a great hardship to our publishers, that an author should have the right to copyright in this country without being compelled to publish in it. No other country in the world would tolerate such a condition of affairs. There is another provision, with reference to English copyright in Canada, relating to the importing of foreign reprints into Canada. Under the Imperial Act, passed in 1817, and the Order in Council which was passed under it, foreign reprints could be introduced into any colonies which made provision for compensating British authors, whose works were copyrighted in Great Britain; and under that, Canada, in 1850, passed an Act for compensating British authors. They did so by fixing 12½ per cent. *ad valorem* as an authors' tax, to be paid at the frontier, in addition to the Customs duty on books, and to be collected by the Government for the benefit of the English authors. That was a very good thing for the Canadian public, as far as it went; and it was under it that we have been able to get cheap American reprints of British copyrighted works; but it was very hard on the Canadian publisher, that he could, under no circumstances, reprint the British copyrighted book, while the American publisher could do so, and sell it in Canada under the nose of the Canadian publisher whose hands were tied. It would surely be a good thing for the Canadian publisher if he could also reprint a British copyrighted book on paying the British author the 12½ per cent. authors' tax. That would be good all round. It would be still better if the Canadian publisher could reprint the book that is copyrighted in London and not pay any tax at all, because the publisher in London can reprint a Canadian copyrighted book and pay no authors' tax to the Canadian. In order to try and put the Canadian publisher on something like a level with the American publisher as to these reprints, the Act of 1872 was passed. It certainly seemed very reasonable that while the English copyrighted books could be reprinted in the States and brought into Canada on payment of 12½ per cent. authors' tax, it should be lawful for the Canadian