

lishers, and the allied trades concerned in copyright have suffered for over half a century in Canada, will be righted.

The MINISTER OF AGRICULTURE (Mr. Fisher). I feel that the House and the Government perhaps, owe a debt of gratitude to the hon. member (Mr. Ross Robertson) for having brought this very important question up at as early a stage as was consistent with his opportunities. The Bill of Lord Herschell, to which he has referred, is one which certainly will very considerably modify the present Imperial Copyright Law, and will to a certain extent at all events affect the Canadian position in regard to this matter. I confess, Sir, that it was only when I received notice that the hon. gentleman (Mr. Ross Robertson) was going to bring this matter up, that I took occasion to look into that Bill. It is an unfortunate fact that some years ago the papers and all documents connected with copyright while copyright administration is still in the Department of Agriculture, were transferred to the Department of Justice.

The copy of the Bill which was sent to our Government was sent to the Department of Justice, and did not come under my immediate notice until I discovered it there. The hon. gentleman has spoken of our right to enact copyright in Canada. I do not think any Canadian is prepared to forego that right, or to allow it to be lessened in any way. At the same time, we cannot shut our eyes to the facts of the case, and we find that the Imperial authorities are not prepared to allow of any amendment to our present Copyright Act. We have contended, and I fully concur in the hon. gentleman's opinion, that they are not justified in taking that position; but I believe that the present condition of affairs is such that were we to enact a copyright law, the courts of the land, and certainly the Privy Council, if the question were carried there, would decide against us. The result would be that contentions of all sorts would arise in the courts upon the copyright question. The hon. gentleman, a few moments ago, alluded to the present Deputy Minister of Justice as one who is thoroughly conversant with the copyright question. I have under my hand a memorandum written by that gentleman, in which he says:

The validity of that contention, however, although upheld on our part, has been denied by the law officers of the Crown and also by some of the Canadian courts, and I do not doubt that the Judicial Committee would decide it against us should occasion arise. If, therefore, the Bill which I drafted some time ago were enacted and allowed to go into operation, as I am convinced it would be by the Colonial Office, the question would soon arise in the courts as to its validity; and while from tactical and other reasons we should not in the first instance ask for Imperial confirmatory legislation, yet we should be driven to do so should our Act be pronounced ultra vires by the Judicial Committee.

Mr. ROSS ROBERTSON.

Now, Sir, if we require not only the consent of the Imperial Government of the day to our legislation, but confirmatory Imperial legislation, it is very doubtful indeed if we could obtain that, even if the Government of the day were favourably disposed towards us; because we know that at present the public opinion of England is very jealous indeed in regard to copyright legislation in a colony which might interfere with the Imperial copyright law. Under these circumstances, it seems to me that we shall have to go easy, and try to attain our ends by careful negotiations and conciliatory methods. The hon. gentleman has characterized Canada's adhesion to the Berne Convention in no measured terms, which I do not wish at all to add to. It is, I believe, unfortunate that Canada is within the Berne Convention. Apparently, it is impossible for us, without the concurrence of the Imperial authorities, to escape from that position which a former Government here placed us in, without the endorsement or consent of the Parliament or the people of Canada. The hon. gentleman alluded to section 38 of this Bill, which provides:

Her Majesty the Queen may, by Order in Council, direct that this Act shall apply to literary and artistic works, or any class of literary or artistic works, first published in the foreign country or countries named in the Order, in like manner as if the works had been first published in the United Kingdom, and thereupon subject to the provisions of this Act and of the Order, this Act shall apply accordingly.

The hon. gentleman appears to fear that under that section the United States might be given privileges in the British Empire which they have not now. I hardly think that is likely, because there is no doubt that the intention of the section is that the privilege thus accorded shall be reciprocal; and judging from the position which the American authorities have always maintained with reference to copyright, there is no probability, at all events for some time to come, that they will give reciprocal privileges to the British Empire. Reciprocal privileges would mean that subjects of the British Empire would be able to obtain copyright in the United States, without manufacturing or producing the copyrighted work in that country; and up to the present time there is no indication that the United States would listen to any such proposal. The hon. gentleman seems to fear this Imperial Bill very much; and I confess that, on reading it very hastily, as I have only been able to do this afternoon, it appears to me to be one which we shall have to take into our serious consideration, with the view of taking such steps as we may find necessary to protect Canadian interests before the Bill becomes law. But I would again refer to the memorandum of the Deputy Minister of Justice, which will perhaps to a certain extent relieve the