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COLONIAL COPYRIGHT.

COPIES or EXTRACTS of CORRESPONDENCE between the Colonial Office, the Board of Trade, and the Government of *Canada*, which preceded the passing of the Act 10 & 11 Vict. c. 95; and, of any recent CORRESPONDENCE on the Subject of that Act and of Proposals for amending or extending the same, including the LETTER of the 27th day of July 1869, No. 687-69.

(*Sir Charles Adderley.*)

Ordered, by The House of Commons, to be Printed,
29 July 1872.

[*Price 10d.*]

339.

Under 8 oz.

COLONIAL COPYRIGHT.

2/6 25

RETURN to an Address of the Honourable The House of Commons,
dated 12 April 1872;—for,

“COPIES or EXTRACTS of CORRESPONDENCE between the Colonial Office,
the Board of Trade, and the Government of *Canada*, which preceded the
passing of the ACT 10 and 11 Vict. c. 95:”

“And, of any recent CORRESPONDENCE on the Subject of that Act and of
Proposals for amending or extending the same, including the LETTER of
the 27th day of July 1869, No. 687-69.”

Colonial Office, }
July 1872. }

E. H. KNATCHBULL-HUGESSEN.

(*Sir Charles Adderley.*)

Ordered, by The House of Commons, to be Printed,
29 July 1872.

SCHEDULE.

No. in Series.	From Whom.	Date and Number.	Colony.	SUBJECT.	Page.
1	The Viscount Falkland to the Lord Stanley.	30 April 1845 (No. 309.)	Nova Scotia -	Encloses Address to the Queen from House of Assembly, with a Report of the Select Committee of that House on the subject of Copyright.	1
2	Colonial Office to Board of Trade.	10 June 1845	Nova Scotia -	Encloses copy of above Despatch - -	6
3	Board of Trade to Colonial Office.	5 Nov. 1845	Canada - -	States that they are glad of the efforts made for reducing the price of works intended for sale in the Colonies, but cannot hold out any hope of advising the Legislature to alter the determination taken of protecting the authors of this country; but that they are directing their attention to the Copyright Law, in order to discover whether there are in it any details which may be amended, so as to afford relief to the Colonies.	6
4	The Lord Stanley to the Viscount Falkland.	27 Nov. 1845 (No. 256.)	Nova Scotia -	Acknowledges Despatch, No. 309. Cannot hold out any hope of advising the Legislature to alter determination taken of protecting the authors of this country; but states that the attention of the Government is being directed to the state of the Copyright Law.	7
5	Colonial Office to Board of Trade.	29 Nov. 1845	Canada - -	Agrees with proposal in Letter of the 5th inst., to obtain from publishers in this country representations as to the mode in which the Post Office might afford facilities in the conveyance of publications to the Colonies.	8
6	Sir W. Colebrooke to Mr. Secretary Gladstone. (Extract.)	27 April 1846 (No. 33.)	New Brunswick	Expresses opinion that the Copyright Act ought to be amended, and that English Copyright ought not to extend to the North American Provinces, except in virtue of Provincial Acts, by which the high charges on English publications would be abated.	8
7	The Viscount Falkland to Mr. Secretary Gladstone.	1 May 1846 (No. 32.)	Nova Scotia -	Encloses Report of a Committee of the House of Assembly on the subject of the present Law of Copyright, being a remonstrance on the decision come to by Lord Stanley on a previous Address on the same subject.	8
8	Mr. Secretary Gladstone to Sir W. Colebrooke. (Extract.)	23 June 1846 (No. 39.)	New Brunswick	With reference to above Despatch, states that communication is being made with another Department on the subject, but is unable to say if it will lead to an alteration of the Statute. States that the present stringent provisions of the law did not originally proceed from any proposal from Her Majesty's Government.	10
9	Colonial Office to Board of Trade.	27 June 1846	Canada - -	Encloses Copy of Nova Scotia Despatch, No. 32, and Extract of New Brunswick Despatch, No. 33, referred to above, and suggests that all the complaints which have been transmitted to the Board of Trade should be brought to the knowledge of publishers and the trade.	10

No. in Series.	From Whom.	Date and Number.	Colony.	SUBJECT.	Page.
10	Sir W. Colebrooke to Mr. Secretary Gladstone. (Extract.)	28 July 1846 (No. 73.)	New Brunswick	Points out that the copyright question merits the early attention of Her Majesty's Government, and expresses his belief that the Copyright Laws are at present extensively evaded along the whole inland frontier.	10
11	Colonial Office to Board of Trade.	26 Aug. 1846	New Brunswick	Encloses copy of above Extract, and calls attention to Colonial Office letter of the 27th June last.	11
12	Mr. MacKellan to Earl Grey -	15 Oct. 1846	Canada - -	Calls attention to the evil influences which the British Copyright Act is exercising in Canada, and details the working of the supply of magazines, &c., before and after the passing of the Act.	11
13	Board of Trade to Colonial Office.	19 Oct. 1846	Canada - -	Acknowledges letters of 26th August and 27th June, and states how difficult it is to deal with the question satisfactorily without being in possession of much local knowledge, and suggests that the Colonies should legislate for themselves in the matter, and that for this purpose an Act should be passed authorising the Queen in Council to confirm any colonial law, notwithstanding any repugnancy to the law of this country.	12
14	Colonial Office to Board of Trade.	30 Oct. 1846	Canada - -	States that the Secretary of State concurs in the views expressed in their letter of the 19th instant, and requests that a Bill may be prepared accordingly.	13
15	Earl Grey to Governor of the North American Colonies.	5 Nov. 1846 (Circular.)	General - -	States that Her Majesty's Government have decided on proposing measures to Parliament, enabling the Colonies to pass local laws for securing the rights of authors and the interests of the public; such laws to be of no effect until confirmed by the Queen in Council.	13
16	Earl Grey to the Earl of Elgin	30 Dec. 1846	Canada - -	Informs him of receipt of Mr. MacKellan's letter, and states that measures had already been resolved upon for remedying the inconvenience pointed out.	14
17	Lord Monck to the Duke of Buckingham.	27 May 1868 (No. 91.)	Canada - -	Transmits Minute of the Privy Council on the subject of the Act to impose a Duty on Foreign Reprints of British Copyright Works.	14
18	Colonial Office to Board of Trade.	16 June 1868	Canada - -	Encloses copy of above Despatch, and a Draft Order in Council for suspending certain provisions in Imperial Acts during continuation of Canadian Act.	16
19	Board of Trade to Colonial Office.	18 June 1868	Canada - -	Cannot give an opinion upon Draft Order for suspending certain provisions of Imperial Acts, referred to that Department in Letter of 16th June, without further information.	17
20	John Rose, Esq., to the Colonial Office.	1 July 1868	Canada - -	Encloses Memorandum stating the objects sought by the Canadian Government.	17
21	Colonial Office to John Rose, Esq.	2 July 1868	Canada - -	Encloses Draft Order, and asks for information on the subject for Board of Trade.	19
22	Colonial Office to Board of Trade.	3 July 1868	Canada - -	Transmits the reply of Mr. Rose - -	19
23	Order in Council - - -	- - -	Canada - -	Order in Council "For suspending certain provisions in Imperial Acts relating to the reprints of copyright works during the continuance of an Act, passed by the Senate and House of Commons of Canada."	19
24	Order in Council - - -	- - -	Canada - -	Order in Council approving of an Act passed by the Parliament of Canada, intituled, "An Act to impose a Duty on Foreign Reprints of British Copyright Works."	20

No. in Series.	From Whom.	Date and Number.	Colony.	SUBJECT.	Page.
25	Colonial Office to Board of Trade.	21 July 1868	Canada - -	States that both the above Orders in Council have been approved by Her Majesty, and that it remains to be considered what course should be taken with regard to the recommendation of the Senate of Canada, that Colonial reprints of Copyright Works should be placed on the same footing as foreign reprints in the Dominion.	20
26	The Duke of Buckingham to Viscount Monck.	21 July 1868 (No. 150.)	Canada - -	States that Colonial Office is in communication with the Board of Trade with respect to the recommendation of the Senate, and encloses the two Orders in Council passed in accordance with that recommendation.	21
27	Board of Trade to Colonial Office.	22 July 1868	Canada - -	Report on Mr. Rose's letter, and on the subject of Copyright generally. States, with reference to Mr. Rose's Memorandum, that the subject is too important to dispose of by legislation in present Session of Parliament, and suggests that the question should be dealt with as a whole, and should be placed on a more satisfactory footing. Refers to the fact, that communications with the Government of the United States have recently taken place with a view to the resumption of negotiations for the conclusion of a Copyright Treaty.	21
28	The Duke of Buckingham and Chandos to Viscount Monck.	31 July 1868 (No. 168.)	Canada - -	Encloses copy of above Letter from Board of Trade; and also a copy of Mr. Rose's Letter. Points out that immediate legislation was impossible, but that the anomalous position of the question is not denied.	23
29	Viscount Monck to the Duke of Buckingham.	28 Sept. 1868 (No. 177.)	Canada - -	Replies to Despatch, No. 150, of 21st July, enclosing Orders in Council, and encloses Gazette proclaiming Act, and bringing it into operation from 28th September.	23
30	Colonial Office to Board of Trade.	20 Oct. 1868	Canada - -	Encloses copy of above Despatch - -	25
31	Sir John Young to the Earl Granville, K.G.	15 April 1869 (No. 40.)	Canada - -	Encloses Minute of Privy Council of Canada in reference to Board of Trade Letter of 22nd July 1868.	25
32	Colonial Office to Board of Trade.	22 May 1869	Canada - -	Transmits, for the consideration of the Board of Trade, copy of above Despatch.	26
33	Board of Trade to Colonial Office.	27 July 1869	Canada - -	Acknowledges Colonial Office Letter of 22nd May. Encloses Report, and, at considerable length, submits views of Board of Trade, both as regards the operation of the Copyright Laws in Canada, but also with regard to their effect in relation to the United Kingdom and the Colonies.	26
34	Colonial Office to Board of Trade.	9 Oct. 1869	Canada - -	Acknowledges above Letter, and submits draft of a proposed Despatch to Canada, and requests that a Bill may be prepared to carry out the amendment of the law as regards the particular point on which its amendment is promised, but thinks it should extend to all the Colonies.	30

No. in Series.	From Whom.	Date and Number.	Colony.	SUBJECT.	Page.
35	The Earl Granville, K.G., to Sir John Young, Bart.	20 Oct. 1869 (No. 193.)	Canada - -	Acknowledges Despatch, No. 40, of 15 April, enclosing Minute of Council, &c. and states that the matter is of some difficulty, and that further information will be required before finally deciding on the proposals of the Canadian Government; but points out one particular defect in the law, which it is proposed to remedy during next Session of Parliament.	30
36	Board of Trade to Colonial Office.	16 Oct. 1869	Canada - -	Acknowledges Letter of 9th October, and approves of proposed Despatch to Governor General, and states that they have asked the Treasury to instruct the Government draftsman to prepare a Bill as suggested.	31
37	Foreign Office to Colonial Office	23 Nov. 1869	Canada - -	States that Lord Clarendon has received privately from Her Majesty's Minister at Washington, the draft of a Convention which has been confidentially communicated to the Board of Trade. Encloses reply of Board of Trade on the subject.	31
38	Sir John Young, Bart., to the Earl Granville, K.G.	20 Dec. 1869 (No. 159.)	Canada - -	Transmits additional copies of the correspondence respecting the Copyright Law in Canada with reference to his Despatch, No. 40, of 15th April 1869.	32
39	Colonial Office to Foreign Office	19 Jan. 1870	Canada - -	Acknowledges Letter of 23rd November, and states that Lord Granville proposes to send a copy of Foreign Office letter of 23rd November to Governor General of Canada, and of this reply to it.	37
40	Foreign Office to Colonial Office	5 Feb. 1870	Canada - -	Acknowledges letter of 19th January, and states that Her Majesty's Minister at Washington will be furnished with authority to sign a Convention with the United States in the terms of the Draft which he sent privately to Lord Clarendon. Sees no objection to copy of Foreign Office letter of 23rd November last being sent to Government of Canada.	37
41	The Earl Granville, K.G., to Sir John Young, Bart.	17 Feb. 1870 (No. 43.)	Canada - -	Encloses copy of Foreign Office letter, and of Colonial Office reply, for information of the Canadian Government.	38
42	The Earl Granville, K.G., to Sir John Young, Bart.	17 Feb. 1870 (No. 44.)	Canada - -	Encloses copy of above letter of 5th February 1870.	38
43	Colonial Office to Foreign Office	19 Feb. 1870	Canada - -	Asks for copy of Convention referred to in Foreign Office letter of the 5th of February.	38
44	The Earl Granville, K.G., to Sir John Young, Bart.	5 Mar. 1870 (Confidential.)	Canada - -	With reference to above Despatches, encloses copy of Draft Convention with the United States.	39
45	Board of Trade to Colonial Office.	7 March 1870	General - -	Encloses, for approval, a Draft Bill enabling a person publishing in a Colony to obtain Imperial Copyright.	41
46	Colonial Office to Board of Trade.	31 Mar. 1870	General - -	States, in reply to above, that several alterations appeared necessary, and encloses Draft of a Bill prepared by Mr. Jenkins, with a Memorandum by him explaining nature of proposed Bill.	42
47	Board of Trade to Colonial Office.	25 April 1870	General - -	Transmits Messrs. Longman's letter of 20 March, addressed to Mr. Gladstone, submitting Resolutions passed at a meeting by a number of authors and gentlemen, and suggests that before proceeding with the proposed Bill, whether it would not be desirable to ascertain the views of the Canadian Dominion on the subject.	44

No. in Series.	From Whom.	Date and Number.	Colony.	SUBJECT.	Page.
48	Foreign Office to Colonial Office	30 April 1870	Canada - -	Encloses copy of Despatch from Her Majesty's Minister at Washington relative to the proposed Convention in reply to instruction; copy of which is enclosed.	47
49	The Earl Granville, K.G., to Sir John Young, Bart.	11 May 1870 (Confidential.)	Canada - -	Transmits copy of above letter from Foreign Office of the 30th of April.	49
50	The Earl Granville, K.G., to the Governors of certain Colonies.	1 June 1870 (Circular.)	General - -	Encloses Draft Bill, and requests suggestions or observations either upon the Bill or upon the general question of Copyright.	49
51	The Earl Granville, K.G., to the Governors of certain Colonies.	2 June 1870 (Circular.)	General - -	Transmits copy of letter from Board of Trade, enclosing letter from Messrs. Longman, and requests Report whether, in view of the benefits intended to be conferred upon British authors and publishers by the proposed Bill, any objection will be offered to the proposed repeal of the Act of 1847.	50
52	Colonial Office to Board of Trade.	9 June 1870	General - -	States that a copy of their letter of 25 April has been sent with a copy of Draft Bill to Governors of the Colonies, for their report, and suggests that it will be better to postpone the introduction of the Bill into Parliament, until the replies have been received.	50
53	Sir John Young, Bart., to the Earl Granville, K.G.	6 July 1870 (No. 151.)	Canada - -	Acknowledges Circular Despatch of 1 June 1870, and encloses Minute of Privy Council, recommending Her Majesty's Government not to legislate on the subject this Session.	50
54	Sir John Young, Bart., to the Earl Granville, K.G.	6 July 1870 (No. 152.)	Canada - -	Acknowledges Circular Despatch of 1 June 1870, and encloses Minute of Privy Council, deprecating Imperial legislation during the present Session of Parliament.	51
55	The Earl of Kimberley to Sir John Young, Bart.	29 July 1870 (No. 200.)	Canada - -	Acknowledges Despatches, 151 and 152, and requests a full statement of the views of the Canadian Government on the subject.	52
56	Colonial Office to Board of Trade.	30 July 1870	Canada - -	Transmits copy of Despatches, No. 151 and No. 152, of 6 July.	52
57	Colonial Office to Board of Trade.	20 Oct. 1870	General - -	Transmits Abstract of replies to Circulars received from the following Colonies: Mauritius, Ceylon, British Guiana, Barbados, St. Vincent, Bermuda, Gibraltar, Malta, St. Helena, West Africa Settlements, South Australia and Western Australia, and copy of two Reports of Attorney General of Bermuda on the subject.	52
58	Lieutenant Governor Mundy to Governor Rawson, C.B.	25 Oct. 1870 (No. 82.)	Grenada - -	In reply to Circulars, states that no objection will be offered to the proposed amendment of the Law.	55
59	Colonial Office to Board of Trade.	22 Nov. 1870	General - -	Encloses Abstract of further replies to Circulars from the following Colonies: New South Wales, Newfoundland, Labuan, British Honduras, St. Lucia, Turks Islands, with copy of a letter from the Acting Queen's Advocate of the Turks Islands.	56
60	The Lord Lisgar to the Earl of Kimberley.	6 Dec. 1870 (No. 282.)	Canada - -	In reply to Despatch 200, of 29 July 1870, transmits Minute of Privy Council, and Memorandum of Minister of Finance and Agriculture, containing the views of the Canadian Government on the subject of Copyright.	57
61	Sir G. F. Bowen to the Earl of Kimberley.	23 Sept. 1870 (No. 120.)	New Zealand -	The Governor of New Zealand reports that his Ministers see no objection to the Bill, and have no suggestions or observations to make on the question.	59

No. in Series.	From Whom.	Date and Number.	Colony.	SUBJECT.	Page.
62	Colonial Office to Board of Trade.	16 Dec. 1870	New Zealand -	States that the Governor of New Zealand has reported that his Ministers see no objection to the proposed Bill: and that the Lieutenant Governor of Grenada has also reported that no objection will be offered to the proposed amendment of the law.	59
63	Colonial Office to Board of Trade.	7 Jan. 1871	Canada - -	Transmits copy of Despatch from Lord Lisgar (No. 282, 6th Dec. 1870), enclosing a Minute of his Privy Council containing the views of the Canadian Government.	59
64	Colonial Office to Board of Trade.	10 Jan. 1871	General - -	States the nature of the replies received from Queensland, Cape, and British Columbia, and encloses copy of the Report of the Attorney General of the latter Colony.	60
65	Lieutenant Governor Keate to the Earl of Kimberley.	21 Feb. 1871 (No. 22.)	Natal - -	States that there is no valid objection to the repeal of the Imperial Statute of 1847, so far as that Colony is concerned, and encloses Report of the Attorney General.	62
66	Sir James Walker, C.B., to the Earl of Kimberley.	24 Feb. 1871 (No. 535.)	Bahamas - -	States, in reply to Circulars, that the Colony has little interest in the question, and will offer no objection to the repeal of the Act of 1847.	63
67	Lieutenant Governor Keate to the Earl of Kimberley.	21 May 1871 (No. 54.)	Natal - -	In reply to Circular of 2nd June, encloses Report of Attorney General on proposed Bill, and states that that officer has no observations to make upon the Draft Bill.	63
68	Sir J. P. Grant, K.C.B., to the Earl of Kimberley.	7 July 1871 (No. 88.)	Jamaica - -	Replies to Circulars of 1st and 2nd of June 1871, and transmits opinion of the Attorney General. Is of opinion that the Act which it is proposed to substitute for that of 1847 would be injurious to the Colony.	64
69	Lieutenant Governor Robinson to the Earl of Kimberley.	7 Aug. 1871 (No. 61.)	Prince Edward Island.	Transmits Report of Attorney General on proposed Copyright Bill. Amendment intended appears to be judicious	65
70	Messrs. Longman and Murray to the Earl of Kimberley.	26 Mar. 1872	General - -	Request to be informed what has been done in the matter, and point out, as an instance of the failure of the Act of 1847, the work by Mr. Disraeli, entitled "Lothair," and encloses a letter from Mr. Disraeli, showing that he had not received anything on account of the American reprint of that work.	65
71	The Colonial Office to Messrs. Longman and Murray.	4 April 1872	General - -	In answer to their letter, states that Circulars dated 1st and 2nd of June 1870 were sent to Governors, the replies to which have been sent to Board of Trade, with whom the matter rests.	78
72	Colonial Office to Board of Trade.	4 April 1872	General - -	Transmits copy of letter, of 26th March, from Messrs. Longman and Murray, and specifies the Colonies which have not answered the Circulars of 1st and 2nd of June 1870, and states the nature of the reply which has been returned to Messrs. Longman.	78
73	The Lord Lisgar to the Earl of Kimberley.	21 May 1872 (No. 136.)	Canada - -	Forwards Minute of Privy Council of the Dominion, setting forth their views on the question of Copyright, and expressing the hope that "Her Majesty's Government will legislate on the subject without further delay."	78
74	Colonial Office to Board of Trade.	18 June 1872	Canada - -	Transmits the above Despatch, and requests the opinion of the Board of Trade.	79

COPIES or EXTRACTS of CORRESPONDENCE between the Colonial Office, the Board of Trade, and the Government of *Canada*, which preceded the passing of the ACT 10 & 11 Vict. c. 95 :—And, of any recent CORRESPONDENCE on the subject of that Act and of Proposals for Amending or Extending the same, including the Letter of the 27th day of July 1869, No. 687-69.

— No. 1. —

(No. 309.)

The Viscount *Falkland* to the Lord *Stanley*.

My Lord,

Government House, Halifax, 30 April 1845.

At the request of the House of Assembly of Nova Scotia, I herewith forward an Address to the Queen relating to the existing Law of Copyright, together with a copy of the Report of a Select Committee of that House on the subject, in which the Committee have set forth their reasons for the necessity of a change in the existing law, by which change the importation into Nova Scotia from the United States of reprinted British works, now prohibited by the law of copyright, would be permitted. The Committee have stated, at considerable length, the reasons why the alteration which they contemplate is desirable; and I conclude it will be the province of Her Majesty's Government to weigh their reasons against the claims to protection urged by the British author.

I have, &c.
(signed) *Falkland*.

No. 1.
Viscount Falkland
to Lord Stanley.
30 April 1845.

Enclosure 1, in No. 1.

To the Queen's Most Excellent Majesty.

The humble Address of the House of Assembly of the Province of *Nova Scotia*.

Encl. 1, in No. 1.

May it please your Majesty,

WE, your Majesty's faithful and loyal subjects, the representatives of the people of Nova Scotia, approach the Throne with feelings of sincere attachment to your Majesty's person, and to the Constitution which, under your Majesty's auspices, secures to us so many inestimable privileges.

This House, looking to the past history and present position of their fellow subjects at home, are satisfied that much of their distinction, property, and greatness is attributable to the encouragement given to the national literature and to the wide circulation of the popular publications of the age. This House having lately caused a full inquiry to be made into the law of copyright, as now in force in the United Kingdom, and extended to these Colonies, are satisfied from the review given to these statutes, and the evidence collected, that while their operation has a most injurious effect in curtailing in British North America the circulation and influence of modern English literature, in affecting the tone of sound feeling, and impeding the advancement and refinement of the provincial mind, they confer no adequate or corresponding protection on the British author or publisher. This House, therefore, most respectfully solicit your Majesty's gracious consideration to the facts and opinions contained in the accompanying report of a Committee of this House, and pray that your Majesty may be graciously pleased to direct your Majesty's advisers to refer this question to the consideration of the Imperial Parliament, in order that the existing law of copyright may be so modified as to relieve your Majesty's faithful and loyal subjects in British North America from the serious evils inflicted by said statutes, and the provincial mind improved and elevated by the more extensive circulation of the best publications of the British press.

(signed) *W. Young*, Speaker.

House of Assembly,
14 April 1845.

Enclosure 2, in No. 1.

Encl. 2, in No. 1.

THE Committee appointed to inquire into the question of the copyright referred to in the Petition of *Arthur W. Godfrey* and others, beg to report as follows:

That your Committee conceive it to be the duty of the Legislature to exercise the same vigilance and care in protecting and encouraging the literature of the Province as in founding and improving a general system of education. That in some of the best systems of education introduced into the older countries of Europe, and the States of the neighbouring Republic, provision has been made for the establishment of school and parish libraries; and your Committee are satisfied, from the peculiar circumstances of this Province, from the want and defects of the educational establishments in former years, that much benefit would result to our adult population from a wide dissemination of the cheap and popular literature of the age.

That your Committee have made inquiry into the law of copyright, as it exists now in Great Britain and in these Colonies, and are satisfied, from the evidence put before them, that the statute passed by the Imperial Parliament in 1842 has a tendency to affect our revenue, and to encourage an illicit trade, while it yields no protection to the British author or publisher. That under the regulations of the present law all books prohibited to be imported into the United Kingdom are prohibited here. These restrictions extend to all books in which the rights of the author, as secured by the law of copyright, now exist. If any reprint of these works, although contained in the trunk of a traveller, and imported from a foreign country even for his own use, were seized by an officer of the Customs, the instructions are to destroy it. All foreign editions of English works where the term of copyright has expired, or which have not been duly enrolled as required by the statute passed in 1842, and all American and foreign books which are not the reprints of English books prohibited by law, are admitted in this Province on a payment of seven per cent. duty *ad valorem*.

That your Committee find that the cheap people's editions of standard works, in regard to which the copyright has expired by efflux of time, published in Great Britain by Chambers, Moxon, Smith, and others, are more extensively sold and preferred here to the American editions of the same; and although both are admitted free of duty, that the British publishers not only hold equal ground, but maintain an ascendancy.

That many causes operate here to prevent the sale and circulation of the late English works. In the first place, the style of publication, the printing, types, and binding are suited to a more aristocratic taste and a richer people than exist here. That their prices, including of course a suitable compensation to the author, come far beyond the means of our population, and hence if our sources of literature were confined to them, the mass of the people would in fact be entirely deprived of the productions of the English press. That in addition to the first cost, there is to be added the expense, the difficulty, and delay of importation; in a seaport such as Halifax, Picton, Liverpool, or Yarmouth, for example, a new book cannot be procured from England until three and often six months after publication (for no facilities exist in transmitting even English periodicals by the mail steamers from Liverpool); but as regards the inland towns of our Province, Annapolis, Amherst, and others; and in the neighbouring Colonies of New Brunswick and Prince Edward Island the expense and delay are so great, especially in the winter months, that the sale of the new works of English literature are entirely prevented.

That your Committee are aware that the high price of English books and the monopoly of the London publishers are felt as a serious grievance even in the United Kingdom. That these evils are there practically alleviated by the periodical sales held by Murray and others, and by the wide establishment of circulating libraries, clubs, and reading societies, by which a command of the fresh literature is obtained on cheap and easy terms; but these facilities do not exist here, and hence the importation of the English editions of new books is confined to a few copies for the use of libraries and of wealthy individuals, who, although the American reprints were admitted free of duty, would still prefer the clearer type and more elegant binding of an English copy.

That from the proximity of these Colonies to the United States, and from the extensive and frequent intercourse maintained between the seaports of the Republic and the harbours of our Atlantic coast, the Bay of Fundy, Basin of Minas, Pictou, and Sydney, Cape Breton, American reprints are introduced here in large quantities, and come so rapidly after their appearance from the American press, that your Committee are satisfied a new English work is often read here nearly as soon as it has reached the most distant parts of the United Kingdom. That complete copies of them appear in American, as well as in provincial newspapers, causes which operate to render the law of copyright nugatory and void; but in addition, the Committee have to remark that the public feeling is against it, that it is regarded as oppressive and impracticable in its provisions, and they are satisfied that under present circumstances, no statute, however binding, and no regulations, however stringent, could enforce it, and even if possible to enforce it, that it would prevent the sale of American reprints, but would not extend the sale of English copies beyond the present demand.

That your Committee annex in the Schedule marked (A.), a statement of the comparative prices of books in London, Halifax, and New York markets. It has been stated to them that although the novels of Bulwer, James, and the works of Dickens and Sam Slick are sold

sold here by hundreds, and the standard works of Allison, Hallam, and Macaulay are extensively circulated, that few English copies of them are sold in the Province. One publisher has said that he does not believe a dozen is sold in all of any single book.

Your Committee are glad to find that some of the English publishers—Murray, by the publication of the "Home and Colonial Library," and Knight, by his "weekly volume"—are trying to suit the Colonial demand by less costly editions; but the first of these are too high in price, and the latter does not give a class of books fitted for general circulation. Your Committee have been also informed that the publishers of "Blackwood's Magazine" and the "Dublin Magazine" have lately published an edition for the Colonies, and that the price of the "North British Review" has been reduced in Halifax from 30 s. to 16 s.; and that in consequence of these arrangements, a large increase has taken place in the circulation of these periodicals.

Your Committee beg to recommend to the adoption of the House the following suggestions:

That an Address be sent to the Crown, praying that the Imperial Act may be so modified as to permit the importation here of American reprints of all English works on the payment of a protecting duty, say to the extent of 25 to 30 per cent. if in pamphlet shape, and 15 to 20 per cent. if in volumes bound. In the event of an international law of copyright being established so as to secure to the English author compensation from the reading public of this continent, your Committee would recommend that the edition published in the United States for his benefit should be admitted here free of duty, or under the present duty of 7 per cent., to protect the English publishers; for the Committee in seeking a modification of the law, justified as they think it is by the facts above stated, fully recognise the rights of an author to intellectual property, and would rejoice to see an international law of copyright carried in Congress, so that we would be enabled to contribute to those rewards to which the labours of genius and research are clearly entitled. Upon this subject there are some views entitled to the grave consideration of this Legislature and the Imperial Government. The influence of popular literature upon the cultivation of the mind, the tone of moral feeling and political opinion is too obvious and direct to require illustration. Now the practical operation of the present law has a tendency to encourage in these Provinces the wide circulation of the literary periodicals, newspapers, and other light literature issuing from the American press, and thus places in the hands of our population works often spurious in their morality and propagating political opinions not favourable to British Institutions; against the circulation of these, the laws raise no check, while British works of the same class, whose morals are unobjectionable, and whose political references are intended to inculcate sound loyalty and reverence to the Crown and the Constitution, are excluded from general circulation as issued from the English press, by prices and other causes, and in the form of reprints they can only be had by a violation of the law. There is no comparison between the facilities which exist in the United States and these Colonies for obtaining a command of English and other European literature, and if in the Northern States their population are superior to those of the Colonies in extent of knowledge, sagacity, and enterprise, their superiority may be attributed as much to the literary advantages they enjoy, as to their educational institutions. By obtaining a modification of the law, your Committee are satisfied that the circulation of the American reprints of English books would be incalculably increased; and while, therefore, the present restrictions, although founded in a just and generous policy, afford no protection, in fact, either to the British author or publisher, they have a most injurious influence by encouraging a taste for inferior literary productions, by sapping those principles which are the real strength of a Government, and by checking a more general cultivation and refinement of mind. And your Committee earnestly press the change proposed, because, in addition to the view above stated, it will curtail, if not destroy, an illicit trade, increase the Provincial revenue, and hold out an inducement to the United States to do an act of justice by introducing a law of international copyright.

Your Committee beg to state, although it cannot be made the subject of legislation, that they are satisfied the British publisher could remedy the existing evils, and derive a large profit from sales in the Colonies, if cheap editions of the new publications were got up expressly for the colonial trade, and that if the publishers of the leading British periodicals, the Edinburgh, Quarterly, Westminster, and others, would furnish the supply through local agencies, at the price of 15 s. to 16 s. currency per year, the price at which the North British Review is now sold in Halifax, that some hundreds of subscribers would be obtained in this Province alone, and would entirely exclude the competition of the American reprints. Your Committee have had access to a very valuable correspondence addressed by Mr. Reade, the Provincial secretary of New Brunswick, to Lord Ashburton, while at Washington in 1842, and have selected some extracts in the Appendix annexed, marked (B), to which they invite the attention of the House. All which is respectfully submitted.

(signed) *Geo. R. Young*, Chairman.
H. Huntington.
J. C. Hall.
James B. Uniacke.

Halifax, 11 March 1845.

APPENDIX A.

	Retail Prices in London.	Retail Prices in Halifax.	Retail Prices in New York.
	£. s. d.	£. s. d.	£. s. d.
Colburn's New Monthly Magazine - -	1 10 -	2 2 -	-
Blackwood's Magazine - - - -	- - -	1 4 -	- 12 6
Bentley's Miscellany - - - -	1 10 -	2 2 -	1 5 -
Metropolitan Magazine - - - -	2 2 -	3 - -	1 - -
The four Reviews* Blackwood's Magazine, Metropolitan Magazine, and Bentley's Mis- cellany (* Edinburgh, London Quarterly, and Dublin)	- - -	7 10 -	5 - -
Jack Hinton, or the Guardsman - - -	- 15 -	- 15 6	- 1 9
Harry Lorrequer - - - -	- 13 -	- 14 6	- 2 6
Charles O'Malley - - - -	1 4 -	1 9 -	- 2 6
Dickens' American Notes - - - -	- 10 6	- 15 -	- - 7½
Attaché, Sam Slick - - - -	- 10 6	- 15 -	- - 7½
Liebig's Chemistry applied to Agriculture -	- 10 6	- 15 -	- 1 3
Zanoni, by Bulwer - - - -	1 11 6	- 15 -	- 1 3
Bianca Cassello, Lady Bulwer - - - -	1 11 6	- 15 -	- 1 3
Nabob at Home - - - -	1 11 6	- 15 -	- 1 3
Percival Keene, Marryat - - - -	1 11 6	1 1 -	- 1 3
Byron's Poems, complete - - - -	1 - -	1 6 -	- 7 6

Sir,

Halifax, 7 March 1845.

You have above a few books with the prices in London, New York, and Halifax; from these you may draw a comparison of the whole.

I am, &c.

(signed) Arthur W. Godfrey.

G. R. Young, Esq., M.P.P. &c.

APPENDIX B.

EXTRACT from A. F. Reade, Esq.'s Letter to Lord Ashburton, dated at Washington, August 1842.

A few observations may be sufficient to illustrate the disadvantages under which the Colonies labour by the extension to them of the copyright law, under the same limitations as in England.

In the first place, let us briefly advert to the situation of the reading public in England. There, by means of book societies, clubs, and circulating libraries, all new works can be read at a cost of little more than from 1 *d.* to 3 *d.* per volume, so that, with very few exceptions, the perusal of new works, of whatever character, is within the reach of all for a quarter of a dollar, and many may be perused for half that sum. Again, in England purchasers of books always obtain a deduction in the price of new works of from 12 to 20 per cent. discount for ready money. Again, from the number of copies of works taken by the circulating libraries, clubs, and other reading societies, which demand a constant succession of new literature, and which are ascertained to sell off the surplus copies after a few months*; there are few works which may not be purchased at from one-half to two-thirds the price, after six or nine months from their first publication. Thus the very high price at which books are published in England is comparatively but little felt; the perusal of works, the purchase of which would be beyond the means of any but the rich, being obtained at a very cheap rate.

Now, from all these advantages the British Provinces are, by the action of the copyright, wholly excluded. Their scattered population renders the formation of book societies in any but the large towns impracticable, and even in these the high price of the publications in England, added to the charge of conveyance, insurance, &c., place them wholly beyond the means of the inhabitants. So completely has this been found to be the case, that several book societies have been compelled to discontinue taking in the periodical reviews and magazines,† the cost of the conveyance of which alone has at times amounted to 4 *s.* sterling for

* Persons in the country in England may, for a subscription varying from 2*l.* 6*s.* per annum, obtain supplies of books every month or fortnight free of all expense. Parties may also club together and, by a subscription of 15*s.* or 14*s.* each, obtain the same advantages. This is, of course, chiefly owing to the facilities and cheapness of transport.

† In the Report of the Post Office Commissioners at Quebec it is stated that the difficulties and expense of procuring the English periodicals in the British Provinces amounts to a total prohibition of them.

for a single copy. For five months in the year the British Provinces may be said to be almost excluded from ship communication with England, so that for that period the only mode of obtaining access to the new works is through the United States. Now, while we are subject to all these disadvantages for the nominal protection of the English author or bookseller, it may be worth while to inquire what the advantages in reality are which are thus obtained in his favour at the sacrifice of the interest of the people; and the answer to this is just nil. The whole amount of books imported from England in a year would not value in the Province of New Brunswick 500*l.*, and the value of new works would probably be found under 100*l.* Nor can this be a matter of surprise to anyone who compares the means of the mass of people with the price charged for books in England, and add thereto the risk and expense of conveyance, the trouble of writing to England, and the delays which must ensue before the execution of a small order, averaging from three to five months, the expense of procuring them by the steamer, added to that of forwarding them from Halifax, a distance of 300 miles, being an entire barrier to any such attempt.

But suppose that the publisher and author did in reality derive great benefit from the restriction, the Colonists would be at least entitled to some consideration in the matter, and may fairly demand that the benefits should in some respects be mutual. But what is the fact? why, just this, viz., that while the British publisher refuses to let us have the works at a cheap rate, *i.e.*, to take an instance, he demands from us for the reviews, 5*s.* to 6*s.* each number, to which must be added from 2*s.* 6*d.* to 4*s.* more for the expense of the conveyance, the same publisher is supplying the United States market with these same reviews at 3*s.* to 3*s.* 6*d.* per number, including all the expenses of transit, &c. Is this fair? Is this just? Is this honourable? If the British publisher can afford to send these works to the States at this rate, surely he can afford, and should be compelled (if the copyright law is to be in force here) to supply the Colonists as advantageously. Are the interests of these countries, as Colonies of the British Empire, to be sacrificed to the supposed pecuniary interests of publishers and authors? Are we prepared to act on a principle which, in truth, strikes at the nationality of our country? Are we to say to our Colonists, you are perfectly free to read American books of whatever kind and description you please, at the cheap rate you may procure such works in the States, but the works of British authors, inculcating those constitutional principles and those feelings (which it should be our desire to cherish amongst the people of our widely extended Empire, as it is our pride to entertain ourselves), you shall not read? We know you can't afford to buy these books at the price asked in the London market, and it is not worth our while to supply you more cheaply.

Is an inhabitant of these Provinces, because a British subject, to be denied access to British, and to be offered a premium on the perusal of American, literature? Shall he continue in the position of finding his American neighbours profiting so largely from the results of the genius of his own country, and himself debarred from it.

It has been justly remarked that literature in this reading age has more to do with the government of the people than the laws. Is there not here a warning to us? Shall we in this view encourage the circulation of a foreign or of our own literature? God forbid that the foreign should be prohibited, for it is better to get foreign works than to get none at all, as it would be better to live under a foreign code of laws than under no laws at all. Will anyone, looking at the condition of the United States and our own Colonies, and weighing the immense advantages the latter possess in their exemption from the taxes to which our neighbours are subject, and yet seeing how much in advance of us they are, doubt that this is partially, nay, in a great measure, attributable to the literary as well as commercial intercourse subsisting between the two countries; and surely it ought to be our pride to think that the whole of that vast country is inundated, as it were, and pervaded by works inculcating British feelings and British interests, even though purchased at the loss of some few hundreds of pounds to some dozen or two of authors and publishers. Shall literature be degraded in these days to a mere trade. Political trading is bad enough and rife enough. Heaven defend us against a trade in literature.

One great advantage of the newspaper form of publication consists not merely in the cheapness of the works published, but in the great facility offered through the post for their distribution; the importance of which in a thinly peopled country, where regular communication between distant places is unfrequent, the expense of sending parcels very great, and their conveyance very uncertain, and often not practicable except at long intervals, can hardly be over-estimated. A volume, however cheaply it might be imported from England, could not, in the winter, reach its destination in the distant parts of the Province under an expense of from 2*s.* to 5*s.* and often even more, thus making the conveyance alone more than equal to the expense of the work coming in a different form through the Post Office. These, it will be admitted, are serious detriments to the encouragement of a taste for reading, and I would ask whether or not it be desirable to foster such tastes in a young country, or at least whether it is wise to put such check upon it; and considering the question in a mere commercial point of view, I would ask, how can the admission of reprints affect the interests of the English publisher? Let us inquire of any bookseller making his arrangements for the publication of a new work in England, and estimating the number of copies which must be sold to remunerate him, how many he sets down for these Provinces, and what profit he reckons he may derive from the increased sale of his work in them. This is the fair way to look at the matter, and then let an estimate be made of what he might make if he chose to enter into arrangements with any of the New York or Boston publishers for the supply of the British Provinces at a cheap rate. There are many publishers in the

States who would be quite willing and glad to make such arrangements as would secure to an author or publisher at home a fair remuneration for the privilege, and bring a not inconsiderable revenue to the Post Office for the transmission of the papers, or let an agent be appointed in the Province who shall be authorised to sell these reprints, with a commission on the sale.

In the foregoing observations I have endeavoured to show the extreme hardship to the colonists of enforcing the copyright law, which cuts them off from all access to British periodical and other literature, its extreme impolicy in a national point of view, as offering a premium on the introduction of the works of American authors: that it in reality affords no protection to the British author or publisher, because the prices charged for the English edition, added to the difficulty and cost and uncertainty of getting them out, altogether prevent their introduction, and it is, therefore, not a question of purchasing the expensive copy from the London bookseller or the cheap American reprint, but the cheap reprint or none at all; that if the British publisher has the benefit of the operation of the Act, he should be bound to furnish a supply of works at a price within the means of the Colonists, the more particularly as he at this moment supplies the United States market with the periodicals of all kinds at little more than half their London prices; that the admission of these works in the newspaper form, under proper regulations, would prove a source of considerable revenue to the Post-office, there being scarcely any limit to the demand for literature in the British Provinces, when procured so cheaply and with so little difficulty. And I would here add two remarks; first, that their admission would be a source of general satisfaction throughout the Provinces, and would be regarded as a proof of the real desire of the British Government to foster and encourage attachment to the parent country, and to place them in a position in which, as Lord Durham said, they shall have nothing in which to envy their neighbours; secondly, that if it be not conceded, these papers will be introduced surreptitiously, and perhaps to as large an extent as if under no prohibition, for there is scarcely an individual who thinks it either wrong to possess them himself, or to be the means of enabling their possession by others. They are felt to be a want almost equal to the necessaries of life; and being ready and cheerful to pay any reasonable demand for them, they can see only injustice in being called on to suffer a privation which is a source of benefit to none."

— No. 2. —

Colonial Office to Board of Trade.

No. 2.
Colonial Office to
Board of Trade.
10 June 1845.

Sir,

Downing-street, 10 June 1845.

I AM directed by Lord Stanley to transmit to you, for the early consideration of the Lords of the Committee of Privy Council for Trade, the copy of a Despatch from the Lieutenant Governor of Nova Scotia, enclosing an Address to the Queen from the House of Assembly of the Province, together with the Report of a Committee of that House, praying for a modification of the law of copyright, in order that cheap reprints of English works may be allowed to circulate in British North America.

I have, &c.
(signed) *James Stephen.*

— No. 3. —

(1192.)

Board of Trade to Colonial Office.

Office of Committee of Privy Council for Trade,
Whitehall, 5 November 1845.

Sir,

I AM directed by the Lords of the Committee of Privy Council for Trade to acknowledge the receipt of your letter of the 10th June last.*

My Lords are fully sensible of the disadvantage at which the memorialists and other distant colonists are placed by the circumstances of their position, which necessarily enhances the naturally high price of books published in this country, by the amount of the cost of conveyance, and they are also aware that the absence of circulating libraries, which in a thinly peopled country must be comparatively rare, causes that high price to be more severely felt than it is in England. They rejoice, therefore, to perceive the exertions which some of the leading publishers in this country are making to reduce the price of works intended for sale in the Colonies to the lowest possible scale, and they will ever be ready to listen to, and, if possible, to adopt, any suggestions pointing out means by which they may

No. 3.
Board of Trade to
Colonial Office.
5 Nov. 1845.

* *Supra.*

may assist in the endeavour to supply the colonists with a cheap English literature.

My Lords cannot, however, hold out any expectation that they will recommend the Legislature to alter the determination which it has deliberately taken, of protecting the authors of this country in their right of property in their own productions. They feel that even could it be established that English authors have not been benefited by the enforcement of the Copyright Laws, it would be impossible for them to sanction a departure from the principle which has been laid down, conceiving, as they do, that it is a principle not of expediency but of justice; and they must add that from inquiries which they have made, they are led to believe that those of our authors who devote themselves principally to the lighter literature of the day have already experienced very considerable benefit from the exclusion of pirated editions of their works from the colonial markets.

Although my Lords fear that their adherence to this principle will disappoint the expectations which the memorialists may have formed, they indulge the hope that the position of our colonists will gradually improve. They believe that the colonial booksellers might advantageously put themselves in communication with the leading publishers and with the popular authors of this country, who would, as my Lords are convinced, be ready to co-operate with them in any practicable arrangements.

My Lords are directing their attention to the state of the copyright law, in order to discover whether there are any particulars in which its details may be so amended as to afford any relief to the Colonies; and, finally, they desire me to request that you will submit to Lord Stanley that they have received representations from the publishers of this country that considerable assistance might be rendered to them by the Post Office, and they think that if Lord Stanley approves, it might be desirable to obtain those representations in a convenient form, and to bring them under the consideration of the Postmaster General, with the joint recommendation of this Board and of the Colonial Office.

I am, &c.
(signed) J. MacGregor.

— No. 4. —

(No. 256.)

The Lord Stanley to the Viscount Falkland.

No. 4.
Lord Stanley to
Viscount Falkland.
27 Nov. 1845.

My Lord,

Downing-street, 27 November 1845.

I HAVE to acknowledge the receipt of your Lordship's Despatch, No. 309* of the 30th April last, forwarding an Address to the Queen from the House of Assembly of Nova Scotia relating to the existing law of copyright, accompanied by a copy of the Report of the Select Committee of that House on the subject.

I have laid the Address before the Queen, and Her Majesty was pleased to receive it very graciously.

Her Majesty's Government are fully sensible of the disadvantage at which the inhabitants of distant Colonies are placed by the circumstances of their position, which necessarily enhances the naturally high price of books published in this country by the amount of the cost of conveyance, and they are also aware that the absence of circulating libraries, which, in a thinly-peopled country, must be comparatively rare, causes that high price to be more severely felt in the Colonies than it is in England. It is therefore a subject of satisfaction to perceive the exertions which some of the leading publishers in this country are making to reduce the price of works intended for sale in Her Majesty's Foreign Possessions to the lowest possible scale; and Her Majesty's Government will ever be ready to listen to, and, if possible, to adopt, any suggestions pointing out means by which they may assist in the endeavour to supply the colonists with a cheap English literature. Her Majesty's Ministers cannot, however, hold out any expectation that they will recommend Parliament to alter the determination which it has deliberately taken of protecting the authors of this country in their right

of property in their own productions. Even could it be established that English authors have not been benefited by the enforcement of the Copyright Laws, it is felt that it would be impossible to sanction a departure from the principle which has been laid down, as it is conceived to be a principle not of expediency but of justice. It must be added that the inquiries which have been made induce the belief that those of our authors who devote themselves principally to the lighter literature of the day have already experienced very considerable benefit from the exclusion of printed editions of their works from the colonial markets.

Although Her Majesty's Government fear that their adherence to this principle will disappoint the expectations which may have been formed by the House of Assembly, they indulge the hope that the position of the colonists will gradually improve. They believe that the colonial booksellers might advantageously put themselves in communication with the leading publishers and with the popular authors of this country, who would doubtless be ready to co-operate with them in any practicable arrangements. In the meantime the attention of Her Majesty's Government is being directed to the state of the copyright law, in order to discover whether there are any particulars in which its details may be so amended as to afford any relief to the Colonies.

I have, &c.
(signed) *Stanley.*

— No. 5. —

Colonial Office to Board of Trade.

No. 5.
Colonial Office to
Board of Trade.
29 Nov. 1845.
* Page 6.

Sir,

Downing-street, 29 November 1845.

I HAVE laid before Lord Stanley your letter of the 5th instant,* relative to the effect in the Colonies of the Law of Copyright, and I am to acquaint you, in answer, for the information of the Lords of the Privy Council for Trade, that his Lordship concurs in the proposal to obtain, in a convenient form, representations from the publishers of this country as to the mode in which the Post Office might afford facilities in the conveyance of publications to the Colonies, and that when so obtained, the representation should be brought under the consideration of the Postmaster General with the joint recommendation of their Lordships and of this department.

I have, &c.
(signed) *James Stephen.*

— No. 6. —

No. 6.
Sir W. Colebrooke
to Mr. Secretary
Gladstone.
27 April 1846.

EXTRACT of a DESPATCH from Sir *W. Colebrooke* to Mr. Secretary *Gladstone*, dated Fredericton, New Brunswick, 27th April 1846, No. 33.

"I AM further of opinion that the Copyright as well as the Post Office Acts, ought to be amended, and that English copyright ought not to extend to these Provinces except in virtue of Provincial Acts by which the high charges on English publications would be abated, which are so much beyond the means of the people, and so disproportioned to those in the United States, even where copyrights are taken out for English works."

— No. 7. —

(No. 32.)

The Viscount *Falkland* to Mr. Secretary *Gladstone*.

Government House, Halifax,
1 May 1846.

No. 7.
Viscount *Falkland*
to Mr. Secretary
Gladstone.
1 May 1846.

Sir,

I HAVE the honour to transmit a Report from a Committee of the House of Assembly of Nova Scotia on the subject of the present law of copyright; the
Report

Report being in effect a remonstrance on the decision come to by Lord Stanley on a previous Address on the same subject, forwarded by me last year with my Despatch, No. 309,* dated 30th April, which decision was communicated in his Lordship's Despatch, No. 256,† dated 27th November, sent down to the House of Assembly during the late Session of the local Legislature.

* Page 1.
† Page 7.

I have, &c.
(signed) *Falkland.*

Enclosure in No. 7.

In the House of Assembly, 13 March 1846,

THE Committee to whom the questions relating to the law of copyright were referred beg leave to report as follows:—

Enclosure in No. 7.

That your Committee having given due attention to the reasons contained in the Despatch of the Right Honourable Lord Stanley, bearing date the 27th day of November last, on the present bearings of the law of copyright, and are satisfied that whatever effects the existing statutes may have had in advancing the interests of the authors "who have devoted themselves to the lighter literature of the day," they afford no protection and yield no profit in this and the other Colonies of British North America. Their practical effect is to curtail the sale of reprints; to deprive the people of the blessings of literature whose means render them unable to purchase the costly books issued from the English press; to diminish the revenue, and to encourage smuggling; and while they entail these lamentable evils, their enforcement produce no corresponding benefit to the author.

They have reviewed the facts and arguments set out in the Report of the Committee made last year, and to be found at page 131 in the Appendix to the Journals, and believe them to be sound and unanswerable.

Your Committee have had under their consideration the Report of a Committee appointed by the United Assembly of Canada in 1843, to inquire into the effects of excluding American reprints, &c. They give below the resolutions passed by that body:—

1. That the importation of English literature direct from Great Britain has not at all increased under the operation of the English Copyright Act.

2. That the free admission into this Province of American reprints of English works of art and literature would not lessen the profits of English authors and publishers, because although the reading population of the Province is great in number, yet the circumstances of the population generally are so limited in their means that they are unable to enjoy English literature at English prices; that owing to that inability to pay for such works of art and literature, there has never been a demand for those works, and consequently no supply.

3. That the exclusion of American reprints of English literature, if possible, would have a most pernicious tendency on minds of the rising generation in morals, politics, and religion; that American reprints of English works are openly sold, and are on the tables, or in the houses of persons of all classes in the Province; that a law so repugnant to public opinion cannot and will not be enforced; that were that exclusion possible, the Colonists would be confined to American literary, religious, and political works, the effect of which could not be expected to strengthen their attachment to British institutions.

In these resolutions, so far as above cited, your Committee entirely concur; and as it appears by the Despatch that this subject is under the consideration of Her Majesty's Government, and that "attention is now being directed to the state of the copyright law in order to discover whether there are any particulars in which its details may be so amended as to afford any relief to the Colonists," they recommend that Her Majesty's Government be earnestly solicited to reconsider the views contained in the report of last year, and to give due weight to those stated in this, in order that a law so barren in advantages to the author, and so disastrous to Her Majesty's subjects in these Colonies, by curtailing the demand for English literature by obstructing the introduction of libraries in our villages and districts, by encouraging the sale of American books, by affecting the provincial revenue, and fostering a system of smuggling necessarily injurious to the public morals, may speedily be amended.

All which is respectfully submitted.

(signed) *George R. Young.*
H. Huntington.
J. C. Hall.
Edmund M. Dodd.
James B. Uniacke

Halifax, 11 March 1846.

— No. 8. —

No. 8.
Mr. Secretary
Gladstone to Sir
W. Colebrooke.
23 June 1846.

EXTRACT of a DESPATCH from Mr. Secretary *Gladstone* to Sir *W. Colebrooke*, dated Downing-street, 23rd June 1846, No. 39.

“ WITH regard to your remarks on the operation of the law of copyright, I have to acquaint you that I am at present in communication with another Department of Her Majesty’s Government on this subject, and that I shall be careful to apprise you of the result. I cannot, however, lead you to anticipate that this correspondence will enable Her Majesty’s Government to announce to you their intention to propose an alteration in the Statute; and I must take this opportunity of explaining to you that the present stringent provisions of the law did not proceed originally from any proposal from Her Majesty’s Government, but were adopted by Parliament on the suggestion of an individual Member of the House of Commons in deference to a strong public sentiment, and to the arguments by which it was sustained.”

— No. 9. —

No. 9.
Colonial Office to
Board of Trade.
27 June 1846.

* Page 6.
† Page 8.

No. 32, 1 May
1846, page 8.

No. 33, 27 April
1846, page 8.

Colonial Office to Board of Trade.

Sir,

Downing-street, 27 June 1846.

WITH reference to your letter of the 5th of November,* and to my answer of the 29th November 1845,† on the subject of the effect in the North American Colonies of the Imperial Copyright Act, I am directed by Mr. Secretary Gladstone to transmit to you the accompanying copy of a Despatch and its enclosure from the Lieutenant Governor of Nova Scotia, and also an extract of a Despatch from the Lieutenant Governor of New Brunswick, dated respectively the 1st May and 27th April 1846, containing remonstrances against the extension of this law to British North America.

Mr. Gladstone requests that these papers may be submitted for the consideration of the Lords of the Committee of Privy Council for Trade, and that you will inform their Lordships that, in his judgment, it would be very desirable that the whole of the complaints which have been transmitted from this office to the Board of Trade at different times on this subject should be communicated to some of the principal publishers in London, through whom they might be made known to the trade. Mr. Gladstone thinks that the trade should be informed that it is the opinion of Her Majesty’s Government that unless vigorous and decided efforts be made by the publishers to meet the views expressed in the annexed passage from the Report of the Committee of the House of Assembly at Halifax, the result will be an increase of dissatisfaction on this subject in the North American Provinces, and a diminution of whatever limited benefit the English authors and publishers now derive from the exclusion of the American reprints of English works. Mr. Gladstone desires me to state that, in his opinion, a representation to the trade, couched in pointed and not in qualified terms, would be highly conducive to Colonial interests, and to the interests of the publishers themselves, should it have the effect of inducing them to modify any exclusive views which may still prevail in reference to this important subject.

I am, &c.
(signed) *James Stephen.*

— No. 10. —

No. 10.
Sir W. Colebrooke
to Mr. Secretary
Gladstone.
28 July 1846.

EXTRACT of a DESPATCH from Sir *W. Colebrooke* to Mr. Secretary *Gladstone*, dated Fredericton, New Brunswick, 28 July 1846, No. 73.

“ IN regard to the Copyright Acts, their application to the Provinces is also a subject which would merit the early and considerate attention of Her Majesty’s Government, and although, as you have observed, the present stringent provisions of the law did not proceed originally from any proposal from Her Majesty’s Government, yet, where Acts of Parliament conflict with the interests
of

of Her Majesty's subjects in the Provinces, who are led by their operation in any manner to contrast unfavourably their situation with that of their fellow subjects who emigrate to the United States, where their access to the literature of their country is not so restricted, they not unnaturally appeal to Her Majesty's Government to obtain for them a relief from the operation of such statutes; and I have no reason to suppose that if left to legislate themselves on such matters, that they would fail to consider what would be just and reasonable to English publishers; and as Provincial Acts are subject to confirmation in England, they would be open to revision if found to be defective. I have reason to believe that these laws are at present extensively evaded along the whole inland frontier."

— No. 11. —

Colonial Office to Board of Trade.

Sir,

Downing-street, 26 August 1846.

I AM directed by Earl Grey to transmit to you an extract of a Despatch from the Lieutenant Governor of New Brunswick, dated the 28th ultimo, upon the subject of the operation in that Province in the English Copyright Laws; and I am to request that you would direct the attention of the Lords of the Committee of Privy Council for Trade to the letter addressed to Mr. MacGregor from this office on the 27th of last June,* and acquaint me, for the information of Lord Grey, whether their Lordships have availed themselves of the suggestion contained in that letter, to open a communication with the publishers in London, with the view of ascertaining whether some of the inconveniences alleged to be experienced in consequence of the present state of this law might not be remedied.

I am, &c.
(signed) B. Hawes.

No. 11.
Colonial Office to
Board of Trade.
26 Aug. 1846.

No. 73, 28 July
1846, page 10.

* Page 10.

— No. 12. —

Mr. Mackellan to Earl Grey.

My Lord,

Hamilton, Canada West, 15 October 1846.

ALTHOUGH an obscure individual, and therefore by name having no weight with your Lordship, I venture to address you on the evil influence which the British Copyright Act is exercising over the intellectual advancement of the people of Canada.

The booksellers of the United States reprint the British magazines and other works at a very moderate price, and previously to the passage of the Copyright Law, they were purchased largely by the people of Canada. The magazines, in particular, were the means of keeping up and improving the general knowledge of the inhabitants. After the Copyright Act came into operation, the British periodicals were forwarded by the Royal Mail steamers to Halifax, and thence to Quebec; during the summer, by the Unicorn, and in winter, across New Brunswick with the mails; but from the time the mails were landed at Boston the supply has been cut off, as the United States levied their duties on them as foreign books, and on their entrance into Canada they were again charged as foreign books, because they had passed through a foreign country. The Americans, it is true, returned all their duty except 2½ per cent., but the combined Imperial and Provincial duties on them were so high as to amount to a prohibition, and their importation ceased.

A great many American reprints are brought into the Province surreptitiously and illegally, but those persons who are too conscientious to adopt this mode of obtaining them are deprived of their perusal. The British publisher thus ceases to derive any benefit from the law as far as Canada is concerned, while the colonist is deprived of that intellectual food so necessary to prevent him from retrograding in civilisation and refinement.

No. 12.
Mr. Mackellan to
Earl Grey.
15 Oct. 1846.

There are two modes of remedying the evil complained of; either to allow the British periodicals to be imported through the post office at the newspaper rate of postage, or to modify the Copyright Act so far as to permit the reprints of such works (of all works would be still better), to be admitted into the Province at the Provincial duty.

My apology for the liberty I have taken in addressing your Lordship must be that the complaint of the inhabitants of the Colony, through their newspapers, not having been attended with any beneficial results, I ventured to hope, that bringing the subject more immediately before a nobleman so well known for his desire to promote the mental cultivation of the people might be of some avail.

I have, &c.
(signed) *John Mackellan.*

— No. 13. —

No. 13.
Board of Trade to
Colonial Office.
19 Oct. 1846.

Board of Trade to Colonial Office.

Office of Committee of Privy Council for Trade,
Whitehall, 19 October 1846.

Sir,

I AM directed by the Lords of the Committee of Privy Council for Trade to acknowledge your letter of the 26th August,* referring to Mr. Stephen's letter of the 27th June preceding,† relative to copyright in the British North American Colonies.

* Page 11.

† Page 10.

The subject to which these communications relate has for a considerable time occupied the attention of their Lordships, and they have felt it to be one both of importance and of difficulty.

My Lords are fully alive to the force of the considerations which have more than once been pressed upon the Home Government by the Legislature of Nova Scotia, as tending to show the injurious effect produced upon our more distant colonists by the operation of the Imperial law of copyright; and they are extremely desirous to adopt any measures consistent with justice which may place the literature of this country within the reach of its dependencies on easier terms than at present. With this view my Lords have attentively considered the possibility of modifying the Imperial law in such a manner as to meet the just demands of the colonists without sacrificing the rights of the author; but they have found it extremely difficult to decide upon any arrangement which might reasonably be expected to accomplish both these objects. For devising such an arrangement a knowledge of local circumstances and local feeling is required, which they are conscious that they do not possess in a sufficient degree; and they entertain great apprehensions that were they to attempt to legislate with a view to it, they might create alarm or dissatisfaction here, without accomplishing their purpose of benefiting the Colonies.

Under these circumstances, my Lords see no course so likely to be successful as that of inviting the Colonial Legislatures themselves to undertake the task of framing such regulations as they may deem proper for securing at once the rights of authors and the interests of the public. My Lords feel confident that they may rely upon the Colonies being animated by a sense of justice, which will lead them to co-operate with this country in endeavouring to protect the author from the fraudulent appropriation of the fruits of labours upon which he is often entirely dependent; while they entertain a sanguine hope that methods may thus be discovered of accomplishing this important object with the least possible inconvenience to the community.

I am accordingly directed to request that you will suggest, for Lord Grey's consideration, whether it might not be desirable to obtain from Parliament an Act authorising the Queen in Council to confirm, and finally enact, any Colonial law or ordinance respecting copyright, notwithstanding any repugnancy of any such law or ordinance to the copyright law of this country, it being provided by the proposed Act of Parliament that no such Colonial law or ordinance should

should be of any force or effect until so confirmed and finally enacted by the Queen in Council, but that, from the confirmation and final enactment thereof, the copyright law of this country should cease to be of any force or effect within the Colony in which any such Colonial law or ordinance had been made, in so far as it might be repugnant to, or inconsistent with, the operation of any such Colonial law or ordinance.

I am, &c.
(signed) *Stafford H. Northcote.*

— No. 14. —

Colonial Office to Board of Trade.

Sir,

Downing-street, 30 October 1846.

I HAVE laid before Earl Grey your letter of the 19th instant,* respecting the operation of the Imperial law of copyright in the British North American Colonies.

His Lordship directs me to acquaint you, for the information of the Lords of the Committee of Privy Council for Trade, that he concurs in the views expressed in your letter on this subject, and that it is, in his opinion, preferable, after the repeated remonstrances which have been received from the North American Colonies on the subject of the circulation there of the literary works of this kingdom, to leave to the Colonial legislatures the duty and responsibility of enacting the laws which they shall deem proper for securing the rights of authors and the interests of the public.

Lord Grey therefore directs me to request that you would move the Lords of the Committee of Privy Council for Trade to take such measures as may be expedient for submitting to the consideration of Parliament in the ensuing Session a Bill authorising the Queen in Council to confirm and finally enact any Colonial law or ordinance which may be passed respecting copyright, notwithstanding the repugnancy of any such law or ordinance to the copyright law of of this country, and containing also the provisions mentioned in your letter in respect to the period at which such Colonial law should come into operation.

I am &c.
(signed) *B. Hawes.*

— No. 15. —

Earl Grey to the Governors of the North American Colonies.

CIRCULAR.

Sir,

Downing-street, 5 November 1846.

HER Majesty's Government having had under their consideration the representations which have been received from the Governors of some of the British North American Provinces, complaining of the effect in those Colonies of the Imperial Copyright Law, have decided on proposing measures to Parliament in the ensuing Session, which, if sanctioned by the Legislature, will, they hope, tend to remove the dissatisfaction which has been expressed on this subject, and place the literature of this country within the reach of the Colonies on easier terms than it is at present. With this view, relying upon the disposition of the Colonies to protect the authors of this country from the fraudulent appropriation of the fruits of labours upon which they are often entirely dependent, Her Majesty's Govern-

No. 14.
Colonial Office to
Board of Trade.
30 Oct. 1846.
• Page 12.

No. 15.
Earl Grey to the
Governors of the
North American
Colonies.
5 Nov. 1846.

ment propose to leave to the local Legislatures the duty and responsibility of passing such enactments as they may deem proper for securing both the rights of authors and the interests of the public. Her Majesty's Government will, accordingly, submit to Parliament a Bill authorising the Queen in Council to confirm and finally enact any Colonial law or ordinance respecting copyright, notwithstanding any repugnancy of any such law or ordinance to the Copyright Law of this country; it being provided by the proposed Act of Parliament that no such law or ordinance shall be of any force or effect until so confirmed and finally enacted by the Queen in Council, but that from the confirmation and final enactment thereof, the Copyright Law of this country shall cease to be of any force or effect within the Colony in which any such Colonial law or ordinance has been made, in so far as it may be repugnant to, or inconsistent with, the operation of any such Colonial law or ordinance.

I have, &c.
(signed) *Grey.*

— No. 16. —

(No. 8.)

Earl *Grey* to the Earl of *Elgin*.

No 16.
Earl Grey to the
Earl of Elgin.
30 Dec. 1846.

My Lord,

Downing-street, 30 December 1846.

I HAVE received from Mr. Mackellan, of Hamilton, Canada West, a letter on the subject of the injurious effects produced in the Province by the Imperial Copyright Act. I have to request your Lordship will acquaint Mr. Mackellan that several weeks before the receipt of his letter Her Majesty's Government had resolved on, and as far as possible had taken, such measures as I trust will provide an effectual remedy for the inconvenience of which he complains.

I have, &c.
(signed) *Grey.*

— No. 17. —

(No. 91.)

Lord *Monck* to the Duke of *Buckingham and Chandos*.

No. 17.
Lord Monck to the
Duke of Bucking-
ham.
27 May 1868.

My Lord Duke,

Government House, Ottawa, Canada,
27 May 1868.

I HAVE the honour to transmit, for your Grace's information, a copy of an approved Minute of the Privy Council of Canada on the subject of the Act passed in the late Session of Parliament, intituled "An Act to impose a Duty on Foreign Reprints of British Copyright Works."

I have also the honour to transmit three copies of the Act referred to, and a copy of an Address from the Senate of Canada on the same subject.

I shall feel much obliged if your Grace will cause to be procured from the Board of Trade, and transmitted to me, such information as may be necessary to enable the Government of Canada to carry into effect the intentions expressed in this Minute, and to obtain the consent of the Board of Trade for the regulations proposed to be established.

I have, &c.
(signed) *Monck.*

Enclosure 1, in No. 17.

COPY of a REPORT of a Committee of the Honourable the Privy Council, approved by His Excellency the Governor General in Council, on the 27th May 1868. Encl. 1, in No. 17.

ON the recommendation of the Honourable the Minister of Customs, the Committee advise that on the transmission to his Grace the Secretary of State for the Colonies of the Act passed during the recent Session of the Parliament of this Dominion, intituled "An Act to impose a Duty on Foreign Reprints of British Copyright Works," in order that the same may be submitted to Her Majesty, his Grace be informed that it is the intention of your Excellency in Council, when Her Majesty shall have expressed Her Royal approval of such Act, to impose upon books imported into Canada, and being copies printed or reprinted in any other country than the United Kingdom, of which the copyright shall be still subsisting, and with regard to which the notice to the Commissioners of Customs required by any Act of the Parliament of the United Kingdom in that behalf shall have been given, an uniform *ad valorem* duty throughout this Dominion of 12½ per cent., being the rate fixed and collected in the Province of Canada previous to the confederation of the Provinces, and to establish such regulations and conditions as may be consistent with any Act of the Parliament of the United Kingdom then in force as may be deemed requisite and equitable with regard to the admission of such books, and to the distribution of the proceeds of such duty to or among the party or parties beneficially interested in the copyright.

Certified.

(signed) *W. H. Lee*, Clerk, P. C.

 Enclosure 2, in No. 17.

AN ACT to impose a Duty on FOREIGN REPRINTS of BRITISH COPYRIGHT WORKS.

WHEREAS by an Act of the Parliament of the United Kingdom, passed in the Session held in the tenth and eleventh years of Her Majesty's reign, intituled, "An Act to amend the law relating to the protection in the Colonies of works entitled to copyright in the United Kingdom," it is provided that in case the Legislature of any British Possession shall be disposed to make due provision for securing or protecting the rights of British authors in such Possession, and shall pass an Act for that purpose, and transmit the same in the proper manner to the Secretary of State, in order that it may be submitted to Her Majesty, and in case Her Majesty should be of opinion that such Act is sufficient for the purpose of securing to British authors reasonable protection within such Possession, it shall be lawful for Her Majesty to express Her Royal approval of such Act, and thereupon, by Order in Council, to suspend, so long as the provisions of such Act shall continue in force in such Colony, the provision contained in the Imperial Acts in the said above recited Act mentioned, or in any other Acts, against the importing, selling, letting out to hire, exposing for sale or hire, or possessing foreign reprints of books first composed, written, printed, or published in the United Kingdom, and entitled to copyright therein, and it is expedient to pass such Act as aforesaid, to the end that foreign reprints of such works may, under the provisions of the said Imperial Act, be lawfully imported into Canada on conditions common to the whole Dominion, and to remove doubts as to the intent of the Act passed in the present Session of the Parliament of Canada, intituled, "An Act imposing Duties of Customs with the Tariff of Duties payable under it:" therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1. It shall be lawful for the Governor in Council to impose upon books imported into Canada, and being copies printed or reprinted in any other country than the United Kingdom of books first composed or written, or printed or published in the United Kingdom, of which the copyright shall be still subsisting, and with regard to which the notice to the Commissioners of Customs required by any Act of the Parliament of the United Kingdom in that behalf shall have been given, an *ad valorem* duty not exceeding 20 per cent., and from time to time to alter the said duty (not exceeding in any case the rate aforesaid), and from time to time to establish such regulations and conditions as may be consistent with any Act of the Parliament of the United Kingdom then in force as he may deem requisite and equitable with regard to the admission of such books, and to the distribution of the proceeds of such duty to or among the party or parties beneficially interested in the copyright, and such duty shall be collected in like manner as duties of Customs, and under the provisions of the Acts relating to such duties.
2. The word "book" in this Act shall include every volume, part or division of a volume, pamphlet, sheet of letterpress, sheet of music, map, chart, or plan separately published.
3. The foregoing provisions of this Act (except in so far as it may be otherwise directed in any such Order as aforesaid of Her Majesty in Council) shall come into operation upon, from and after the day to be appointed for that purpose in any Proclamation of the Governor,

signifying Her Majesty's Royal approval of this Act, and the issuing of such Order of Her Majesty in Council, and not before.

4. And it is hereby declared that it was not the intent of the Act of the Parliament of Canada, cited in the preamble to this Act, that any duty imposed on foreign reprints of such British copyright books as are mentioned in the foregoing sections of this Act by any Act of the late Province of Canada, or by any Order of the Governor of that Province in Council, made or to be made under such Act, or by any Act of the Legislature of the Province of Nova Scotia or of New Brunswick, for the purpose of being distributed to or among the party or parties beneficially interested in the copyright, should be repealed, and any such duty shall continue to be collected for the purposes aforesaid, until a duty shall be imposed for like purposes under this Act, after which it shall cease.

As keeper of the laws of the Dominion of Canada, I do hereby certify the foregoing to be a true copy of the original enactment now in my possession, which received the Royal Assent on Friday the twenty-second day of May, in the year of our Lord One thousand eight hundred and sixty-eight.

Office of the Senate of Canada, Ottawa,
26 May 1868.

(signed) *John F. Taylor.*
Clerk, Senate.

Enclosure 3, in No. 17.

Encl. 3, in No. 17.

The Senate, Friday, 15 May 1868.

RESOLVED.—That an humble Address be presented to his Excellency the Governor General, praying that his Excellency would be pleased—

10th and 11th.

1st. To call the attention of Her Majesty's Government to the provisions of the Imperial Act 10 & 11 Vict. c. 95, by which power is given to Her Majesty to approve of any Act passed by the Legislature of any British Possession, admitting into such possession foreign reprints of British copyright works, provided that reasonable protection to the authors is, in Her Majesty's opinion, thereby secured to them.

2nd. To impress upon Her Majesty's Government the justice and expediency of extending the privileges granted by the above cited Act, so that whenever reasonable provision and protection shall, in Her Majesty's opinion, be secured to the authors, Colonial reprints of British copyright works shall be placed on the same footing as foreign reprints in Canada, by which means British authors will be more effectually protected in their rights, and a material benefit will be conferred on the printing industry of this Dominion.

Ordered, That such Members of the Privy Council as are Members of this House do wait on his Excellency the Governor General with the said Address.

Attest.

(signed) *F. Taylor,* Clerk, Senate.

— No. 18. —

No. 18.
Colonial Office to
Board of Trade.
16 June 1868.

Colonial Office to Board of Trade.

Sir,

Downing-street, 16 June 1868.

I AM directed by the Duke of Buckingham and Chandos to transmit to you, for the consideration of the Lords of the Committee of Privy Council for Trade, a copy of a Despatch from the Governor General of the Dominion of Canada, with its enclosures, respecting the recent Act of the Canadian Parliament, "To impose a Duty on Foreign Reprints of British Copyright Works."

I am at the same time to transmit a Draft Order,* prepared in this Department, for suspending (under the provisions of the Imperial Act, 10 & 11 Vict.) prohibitions against selling works in the Colonies entitled to copyrights in the United Kingdom, and I am to state that his Grace would be glad if it should be in their Lordships' power to favour him, in time for the Council of Friday next, with any observations that may occur to them on the subject.

I am, &c.

(signed) *T. Frederick Elliot.*

No. 91,
27 May 1868,
page 14.

— No. 19. —

Board of Trade to Colonial Office.

No. 19.
Board of Trade to
Colonial Office.
18 June 1868.Office of Committee of Privy Council for Trade,
Whitehall, 18 June 1868.

Sir,

I AM directed by the Lords of the Committee of Privy Council for Trade to acknowledge the receipt of your letter of the 16th instant,* transmitting, by direction of the Duke of Buckingham, for the consideration of this Board, a copy of a Despatch from the Governor General of Canada, with its Enclosures, respecting the recent Act of the Canadian Parliament "to impose a Duty on Foreign Reprints of British Copyright Works."

* Page 16.

I am also to acknowledge the receipt of a Draft Order in Council prepared by your Department for suspending prohibition against selling works in the Colony entitled to copyrights in the United Kingdom.

In reply to the request that his Grace should be favoured with any observations which may occur to my Lords on the subject of the proposed suspension, I am to request that you will state that, without fuller information of the circumstances under which the former Colonial Act or Acts was or were passed, and concerning their practical effect in preventing piracy, the Board of Trade are unable to form any trustworthy opinion as to the efficacy or expediency of the measures now proposed.

I am, &c.
(signed) *Robert G. W. Herbert.*

— No. 20. —

John Rose, Esq., to the Colonial Office.No. 20.
J. Rose, Esq., to
Colonial Office.
1 July 1868.

Sir,

London, 1 July 1868.

WITH reference to the address of the Parliament of Canada, respecting the Imperial Copyright Act, and to your request, that I would furnish you with any information on the subject, I have now the honour to enclose a memorandum, which will, I trust, place you in possession of the object sought to be obtained by that address, and I would venture very earnestly to express the hope that legislation, in the sense indicated, may be obtained during the present Session.

I have, &c.
(signed) *John Rose.*

Enclosure 1, in No. 20.

CANADIAN COPYRIGHT.

THE object sought to be obtained by the address to the Parliament of Canada on the subject of the Imperial copyright law, is simply this: under the existing law, English copyrights, which are reprinted in the United States of America, may be imported into Canada, subject to the same rate of duty as other imported articles, but these copyrights may not be reprinted at all in Canada.

Encl. 1, in No. 20.

The consequence is, that the Canadian public is entirely dependent for its supply of reprints on the United States, and that the English author is seriously injured, inasmuch as not one-tenth part of the reprints which find their way into Canada are entered at the Custom House, or pay duty.

If it were permitted to reprint these English copyrights in Canada, the whole of the Canadian public would not only be supplied by Canadian publishers, but a large portion of the issue would find its way to the United States, owing to the superior facilities and cheapness of publishing in Canada.

It is proposed, in order perfectly to secure the English author, that every Canadian publisher who reprints English copyrights should take out a license, and that effectual practical checks should be interposed, so that the duty on the number of copies actually issued from the press should be paid into the Canadian Government by such publishers for the benefit of the author. It is believed that the English author would profit enormously by the proposed change. At present the amount received by Canada for duty on English copyrights,

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and paid over to the Imperial Government for the benefit of the English authors, is a mere trifle, but if the change in the law now asked for were once carried into effect, English authors would get the duty, not only on all copies of works used in Canada, but on the considerable quantity which would undoubtedly find their way from Canada into the United States.

Appended to this is a letter from one of the largest and most respectable publishers in Canada, and I would earnestly urge on the Imperial Government the extreme desirability of making the requisite change in the law this Session. It is believed that a short Bill of one clause would be all that is necessary to remove the anomaly which now exists, and the operation of which is so injurious alike to English authors and Canadian publishers.

41, Clarges-street, 30 June 1868.

(signed) *John Rose.*

Enclosure 2, in No. 20.

Sir,

Montreal, 11 June 1868.

Encl. 2, in No. 20.

HAVING just heard that you leave for England to-morrow, and knowing the great interest you take in everything that tends to advance the material prosperity of the Dominion, I do not hesitate to solicit the exercise of your great influence in the way of securing to the printers of this country the privilege of reproducing English copyright books *on the same conditions as are accorded to the printers of the United States.*

The able and satisfactory manner in which the Honourable Thomas Ryan has recently brought the matter, here referred to, before the Parliament of this country, and the pleasing result of his energy and perseverance, ending in the adoption of an Address to Her Majesty, will, it is hoped, be the means of forcibly bringing the matter before Her Majesty's Government.

I look upon your present visit to England as a most fortunate occurrence, because I know you will take advantage of what has been already done, and press the matter before the authorities at home.

In 1849, I believe, the Government of Canada, with the sanction of Her Majesty the Queen, gave United States publishers the right to bring reprints of English copyright works into this country on payment of a customs duty of 15 per cent., which has since been reduced to 12½ per cent., the proceeds of the duties to be forwarded to the English authors as a compensation for the privileges secured to the American publishers.

The people of the Dominion, and especially the printing and publishing interests, feel that they ought to possess at least equal privileges to those conceded to the foreigner. There are several establishments in the Dominion that would esteem it a great boon to be allowed to reprint English copyrights on the same terms as are now secured to United States publishers, and would gladly pay the 12½ per cent. to the English authors on the *total number* of copies printed; sure to be very considerable. At present only a few hundred copies pay duty, but many thousands pass into the country without registration and pay nothing at all; thus having the effect of seriously injuring the publishers of Great Britain, to the consequent advantage of those of the United States. I may add that, on looking over the Custom House entries to-day, I found that not a single American reprint of an English copyright (except the reviews and one or two magazines) has been entered since the 3rd of April last; though it is notorious that an edition of 1,000 of a popular work coming under that description has been received and sold within the last few days by one bookseller in this city.

It is undeniable that Canadian printers would be enabled to comply with the requisite conditions and produce books, thanks to local advantages, at a much cheaper rate than they can be produced in the States, and so bring about a large export business. This would have the happy effect of bringing back a large number of our skilled workmen who have been forced to leave the Dominion to find a remunerative field of labour. Indeed it is not too much to say, that as things are at present, our very best compositors are constantly leaving with a view to improving their condition on the other side of the line. This is a most serious evil, which can only be remedied by a removal of the disabilities under which the Dominion publishing interest languishes.

I feel assured, sir, that this matter need only be explained to British authors and publishers, to ensure their cordial co-operation in the revision of the Copyright Treaty between England and the States in so far as affects this country. The number of English editions imported into the Dominion is exceedingly small, entirely through the encouragement so universally extended to the foreigner, and I am persuaded that under the new system of Confederation, offering, as we do, a market of nearly three millions of English-speaking people, it will be a matter of serious consideration whether it is not now desirable for the English publishers to produce copyrights in this country independent of the editions emanating from home presses.

As it is, the publishers of the United States are seriously injuring those of Britain and Canada, while our best workmen are being induced to seek another field for their industry.

I have, &c.

(signed) *John Lovell.*

To the Honourable John Rose,
Minister of Finance,
&c. &c. &c.

— No. 21. —

Colonial Office to *John Rose, Esq.*

Sir,

Downing-street, 2 July 1868.

WITH reference to the Act recently passed by the Parliament of Canada upon copyright, I am directed by the Duke of Buckingham and Chandos to transmit to you the enclosed Draft Order in Council, and also the copy of a letter from the Board of Trade. I am directed to inquire whether it is in your power to favour his Grace with the information which the Board of Trade is desirous to obtain, in order to arrive at a satisfactory opinion on the subject.

I am, &c.
(signed) *T. Frederick Elliot.*

No. 21.
Colonial Office to
John Rose, Esq.
2 July 1868.

Order in Council.
See No. 23.
Board of Trade,
18 June, page 17.

— No. 22. —

Colonial Office to Board of Trade.

Sir,

Downing-street, 3 July 1868.

WITH reference to your letter of the 18th ultimo,* stating that some further particulars would be required before the Board of Trade could express a final opinion on the address of the Parliament of Canada, respecting the Imperial Copyright Act, I am directed by the Duke of Buckingham and Chandos to acquaint you that as Mr. Rose, the Canadian Minister of Finance is in England, advantage has been taken of his presence to apply to him for information on the subject.

I am desired to enclose a copy of the letter received from him, and I am to request that you will submit to the Board of Trade Mr. Rose's observations, which will doubtless be taken into due consideration.

I am, &c.
(signed) *T. Frederick Elliot.*

No. 22.
Colonial Office to
Board of Trade.
3 July 1868.

* Page 17.

1 July 1868,
page 17.

— No. 23. —

ORDER in COUNCIL for suspending certain Provisions in Imperial Acts relating to the Reprints of Copyright Works during the continuance of an Act passed by the Senate and House of Commons of Canada.

WHEREAS by an Act passed in the Session of Parliament, holden in the 10th and 11th years of Her present Majesty, intituled, "An Act to amend the Law relating to the Protection in the Colonies of Works entitled to Copyright in the United Kingdom," it is, amongst other things, enacted, that in case the Legislature or proper legislative authorities in any British Possession shall be disposed to make due provision for securing or protecting the rights of British authors in such Possession, and shall pass an Act or make an Ordinance for that purpose, and shall transmit the same in the proper manner to the Secretary of State, in order that it may be submitted to Her Majesty; and in case Her Majesty shall be of opinion that such Act or Ordinance is sufficient for the purpose of securing to British authors reasonable protection within such Possession, it shall be lawful for Her Majesty, if she think fit so to do, to express Her Royal approval of such Act or Ordinance, and thereupon to issue an Order in Council declaring that so long as the provisions of such Act or Ordinance continue in force within such Colony, the prohibitions contained in certain Acts thereinbefore recited, and any prohibitions contained in the said Acts or in any other Acts against the importing, selling, letting out to hire, exposing for sale or hire, or possessing foreign reprints of books first composed, written, printed, or published, in the United Kingdom, and entitled to copyright therein, shall be suspended so far as regards such Colony, and thereupon such Act or Ordinance shall come into operation, except so far as may be otherwise provided therein, or as may be otherwise directed by such Order in Council. And whereas by an Act passed by Her Majesty's Government, with the advice and consent of the Senate and House of Commons of Canada, intituled, "An Act to impose a Duty on Foreign Reprints of British Copyright Works," due provision has been made for securing and protecting the rights of British authors in Canada, and Her Majesty has been pleased to express Her Royal approval of such Act:

No. 23.

Now, therefore, Her Majesty in Council, by and with the advice of Her said Council, doth order and direct that so long as the provisions of the said last-mentioned Act continue in force within Canada aforesaid, the prohibitions contained in certain Acts recited in the hereinbefore-mentioned Act of the Imperial Parliament, and any prohibition contained in the said recited Acts, or in any other Acts, against the importing, selling, letting out to hire, exposing for sale or hire, or possessing foreign reprints of books first composed, written, printed, or published in the United Kingdom, and entitled to copyright therein, shall be suspended so far as regards Canada.

And the Most Noble the Duke of Buckingham and Chandos, one of our Principal Secretaries of State, is to give the necessary directions herein accordingly.

— No. 24. —

No. 24.

ORDER in COUNCIL, approving of an Act passed by the Parliament of Canada, intituled, "An Act to Impose a Duty on Foreign Reprints of British Copyright Works."

WHEREAS by an Act passed in the Session of Parliament holden in the 10th and 11th years of Her present Majesty, intituled, "An Act to Amend the Law relating to the Protection in the Colonies of Works entitled to Copyright in the United Kingdom," it is amongst other things enacted, that in case the Legislature or proper legislative authorities in any British Possession, shall be disposed to make due provision for securing or protecting the rights of British authors in such Possession, and shall pass an Act or make an Ordinance for that purpose, and shall transmit the same in the proper manner to the Secretary of State, in order that it may be submitted to Her Majesty; and in case Her Majesty shall be of opinion that such Act or Ordinance is sufficient for the purpose of securing to British authors reasonable protection within such Possession, it shall be lawful for Her Majesty, if she think fit so to do, to express Her Royal approval of such Act or Ordinance, and thereupon to issue an Order in Council declaring that so long as the provisions of such Act or Ordinance continue in force within such Colony, the prohibitions contained in certain Acts thereinbefore recited, and any prohibitions contained in the said recited Acts, or in any other Acts against the importing, selling, letting out to hire, exposing for sale or hire, or possessing foreign reprints of books first composed, written, printed, or published in the United Kingdom, and entitled to copyright therein, shall be suspended, so far as regards such Colony; and thereupon such Act or Ordinance shall come into operation, except so far as may be otherwise provided therein, or as may be otherwise directed by such Order in Council. And whereas, by an Act passed by Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, intituled, "An Act to impose a Duty on Foreign Reprints of British Copyright Works," due provision has been made for securing and protecting the rights of British authors in Canada. And whereas the said Act as aforesaid has been laid before Her Majesty in Council, and it is expedient that the said Act should be approved of by Her Majesty as aforesaid: Now, therefore, Her Majesty, in pursuance of the said Act, and in exercise of the powers thereby given to Her Majesty as aforesaid, doth by this present Order, by and with the advice of Her Majesty's Privy Council, declare Her approval of the said Act of the Dominion of Canada.

And the Most Noble the Duke of Buckingham and Chandos, one of Her Majesty's Principal Secretaries of State, is to give the necessary directions herein accordingly.

— No. 25. —

Colonial Office to Board of Trade.

No. 25.

Colonial Office to
Board of Trade.
21 July 1868.

Sir,

Downing-street, 21 July 1868.

WITH reference to the correspondence noted in the margin, I am directed by the Duke of Buckingham and Chandos to acquaint you, for the information of the Board of Trade, that Her Majesty has, on his Grace's recommendation, signified Her approval, by Order in Council, of the Act recently passed by the Legislature of Canada, "to impose a Duty on Foreign Reprints of British Copyright Works."

Colonial Office to Board of Trade,
16 June 1868, page 16.

Board of Trade to Colonial Office,
18 June 1868, page 17.

Colonial Office to Board of Trade,
3 July 1868, page 19.

Her

Her Majesty has also passed a further Order for suspending, under the provisions of the Imperial Act, 10 & 11 Vict., so far as regards Canada, prohibitions against the importing, selling, &c., of foreign reprints of British copyright works

It remains to be considered what course should be taken with regard to the recommendation of the Senate of Canada that Colonial reprints of copyright works should be placed on the same footing as foreign reprints in the Dominion.

His Grace would be glad to be informed whether the Memorandum furnished by Mr. Rose, at the request of his Grace, is sufficient to enable their Lordships to form an opinion upon this question, or whether further information is desired by their Lordships.

I am, &c.
(signed) *T. Frederick Elliot.*

— No. 26. —

(No. 150.)

The Duke of *Buckingham and Chandos* to Viscount *Monck*.

No. 26.
Duke of *Buckingham* to Viscount *Monck*.
21 July 1868.

* Page 14.

My Lord,

Downing-street, 21 July 1868.

I HAVE the honour to acknowledge the receipt of your Despatch, No. 91,* of the 27th of May last, enclosing a transcript of an Act recently passed by the Canadian Legislature "to impose a Duty on Foreign Reprints of British Copyright Works," together with a Minute of the Privy Council on the subject, and an address from the Senate recommending that Colonial reprints of British copyright works should be placed on the same footing in the Dominion as foreign reprints.

I am in communication with the Board of Trade with respect to the recommendation of the Senate, and I shall apprise you of the result so soon as I am placed in possession of their Lordships' views.

In the meantime I have recommended Her Majesty to approve the Act which you have now transmitted, and I have the honour to transmit to you an Order of Her Majesty in Council passed in accordance with that recommendation.

I also enclose a further Order of Her Majesty in Council suspending, so far as regards Canada, certain provisions in Imperial Acts relating to the reprints of copyright works during the continuance of the Canadian Act.

I have, &c.
(signed) *Buckingham and Chandos.*

Order in Council,
page 20.

Order in Council,
page 19.

— No. 27. —

Board of Trade to Colonial Office.

No. 27.
Board of Trade to Colonial Office.
22 July 1868.

Office of Committee of Privy Council
for Trade, 22 July 1868.

Sir,

I HAVE laid before the Lords of the Committee of Privy Council for Trade your letter of the 3rd instant,* transmitting, for their observations, with reference to previous correspondence, by direction of the Duke of Buckingham and Chandos, a communication from Mr. Rose, the Canadian Minister of Finance, on the subject of an Address of the Canadian Parliament respecting the Imperial Copyright Act.

* Page 19.

In reply, I am to request that you will state to his Grace, with reference to Mr. Rose's expressed hope, that legislation in the sense indicated in the memorandum, may be obtained during the present Session of the Imperial Parliament, that the question raised is far too important, and involves too many considerations of Imperial policy to render this possible.

My Lords, however, fully admit that the anomalous position of Canadian publishers with respect to their rivals in the United States of America, is a

matter which calls for careful inquiry; but they feel that such an inquiry cannot be satisfactorily undertaken without at the same time taking into consideration various other questions connected with the Imperial laws of copyright, and the policy of International Copyright Treaties, and they are therefore of opinion that the subject should be treated as a whole, and that an endeavour should be made to place the general law of copyright, especially that part of it which concerns the whole continent of North America, on a more satisfactory footing.

The grievance of which the Canadian publishers complain, has arisen out of the arrangement sanctioned by Her Majesty's Government in 1849, under which United States reprints of English works entitled to copyright in the United Kingdom, were admitted into Canada on payment of an import duty, instead of being, as in the United Kingdom, absolutely prohibited as illegal.

My Lords would observe, with respect to this arrangement, that it was, in its nature, essentially of an exceptional and provisional character, and one which could not, without seriously compromising the principles of copyright, both municipal and international, be made the foundation of future Colonial legislation.

My Lords will briefly advert to one or two considerations which, in their view, would render it very undesirable to accede to the Canadian proposal at the present moment.

In the first place, the statement made in the enclosure to Mr. Rose's letter, to the effect that United States reprints are largely smuggled into Canada, leads the Board of Trade to doubt whether, in the face of that smuggling, the Canadian publishers, if burdened with 12½ per cent. duty, could maintain a successful competition with their United States rivals.

In the second place, as the Duke of Buckingham is aware, communications have recently taken place between Her Majesty's Government and the Government of the United States, with a view to the resumption of negotiations for the conclusion of a Copyright Treaty.

If such a Treaty should be concluded, its main stipulation would doubtless be the reciprocal extension to the authors of both countries of the prohibition afforded by their respective laws, in which case British authors would enjoy, in the United States, the absolute monopoly given to American authors during the existence of their copyright.

If under such circumstances Canadian publishers were enabled to reprint the works of British authors on payment of 12½ per cent., it is probable that a contraband trade would spring up across the United States frontier, and that they would be enabled to undersell the works of such authors legally circulating in those States; a consideration which can hardly fail to operate in deterring the United States Government from concluding a Treaty with this country.

It is obvious that, looking to the geographical position of the United States, and the North American Confederation, any arrangements with respect to copyright which does not apply to both, must be always imperfect and unsatisfactory; and it is therefore extremely desirable, if possible, that the Canadian question should be considered in connection with any negotiations conducted with the United States Government.

Another serious objection to the sanction by Her Majesty's Government of such a proposal appears to my Lords to be, that while the public policy of the mother country enforces an absolute monopoly in works of literature for a term of years, it is very undesirable to admit in British Colonial Possessions an arrangement, which whatever advantages it may possess (and my Lords fully admit that much may be said in its favour) rests upon a wholly different principle.

It would be difficult, if such a principle were admitted in the British Colonies to refuse to recognise it in the case of foreign countries, and thus it might come to pass that the British public might be called upon to pay a high price for their books, in order to afford what is held to be the necessary encouragement to British authors, while the subjects of other countries, and the Colonial subjects of Her Majesty, would enjoy the advantages of cheap British literature provided for them at the expense of the inhabitants of the United Kingdom.

I have, &c.
(signed) *Louis Mallet.*

— No. 28. —

(No. 168.)

The Duke of *Buckingham and Chandos* to Viscount *Monck*.

My Lord,

Downing-street, 31 July 1868.

IN my Despatch, No. 150,* of the 21st inst., I mentioned that I was in communication with the Board of Trade upon the recommendation of the Senate of Canada, that Colonial reprints of British copyright works should be placed on the same footing in the Dominion of Canada as foreign reprints.

I received from the Honourable John Rose the accompanying letter affording some useful explanations, which letter I caused to be communicated to the Board of Trade.

I now have the honour to transmit to you the enclosed copy of the reply received from the Board of Trade, which is the Department of Government more immediately charged with business relating to copyright. Your Lordship will perceive that any immediate legislation on the matter was impossible, but that the anomalous position of the question in North America is not denied, and that it is admitted that the law of copyright generally may be a very fit subject for future consideration.

I have, &c.
(signed) *Buckingham and Chandos*.

No. 28.

Duke of Buckingham and Chandos to Viscount Monck.

31 July 1868.

* Page 21.

1 July, page 17.21 July, page 21.

— No. 29. —

(No. 177.)

Viscount *Monck* to the Duke of *Buckingham*.

My Lord Duke,

Quebec, 28 September 1868.

WITH reference to your Grace's Despatch, No. 150,* of July 21st, enclosing an Order of Her Majesty in Council approving of the Act of the Dominion of Canada (31st Vict. c. 56) "to impose a duty on foreign reprints of British copyright works," and also a further Order of Her Majesty in Council suspending, so far as regards Canada, certain provisions in Imperial Acts relating to the reprints of copyright works during the continuance of the Canadian Act, I have the honour to transmit a copy of "The Canada Gazette," which contains a proclamation issued by me on the 24th instant, in accordance with the 3rd section of the Act, declaring that its provisions shall come into operation on the 28th day of September instant.

I have, &c.
(signed) *Monck*.

No. 29.

Viscount Monck to the Duke of Buckingham,

28 Sept. 1868.

* Page 21.

"Canada Gazette,"
26 Sept. 1868.

Enclosure in No. 29.

EXTRACT from "The Canada Gazette," 26 September 1868.

PROCLAMATION.

Encl. in No. 29.

(L.S.) Monck.

CANADA.

VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, &c. &c. &c.

To all to whom these presents shall come, or whom the same may in any wise concern, Greeting:

John A. Macdonald, } WHEREAS, by a certain Act of Our Parliament of the United King-
Attorney General. } dom of Great Britain and Ireland, made and passed in the Session thereof, holden in the tenth and eleventh years of Our Reign, and intituled, "An Act to amend the Law relating to the Protection in the Colonies, of Works entitled to copyright in the United Kingdom," it is, amongst other things, in effect, enacted, that in case the Legislature or proper legislative authorities, in any British Possession, shall be disposed to make due provision for securing or protecting the rights of British authors in such Possession, and shall pass an Act, or make an Ordinance for that purpose, and shall transmit the same, in the proper manner, to the Secretary of State in order that it may be submitted to Us; and, in case We shall be of opinion that such Act or Ordinance is sufficient for the purpose of

securing to British authors, reasonable protection within such Possession, it shall be lawful for Us, if we shall think fit so to do, to express Our Royal approval of such Act or Ordinance, and thereupon to issue an Order in Council declaring that, so long as the provisions of such Act or Ordinance continue in force within such Colony, the prohibitions contained in the said Act, or in any other Act, against the importing, selling, letting out to hire, exposing for sale or hire, or possessing foreign reprints of books first composed, written, printed, or published, in the United Kingdom and entitled to copyright therein, shall be suspended so far as regards such Colony; and thereupon such Act or Ordinance shall come into operation, except so far as may be otherwise provided therein or as may be otherwise directed by such Order in Council: And whereas, by an Act of the Parliament of Canada, passed in the Session thereof, held in the 31st year of Our Reign, and intituled, "An Act to Impose a Duty on Foreign Reprints of British Copyright Works," after reciting certain parts of the hereinbefore recited Imperial Act of the tenth and eleventh years of Her Majesty's Reign, it is by the said Act of the Parliament of Canada, amongst other things, in effect enacted, that it shall be lawful for the Governor in Council to impose upon books imported into Canada, and being copies printed or reprinted in any other country than the United Kingdom, of books first composed or written, or printed or published in the United Kingdom, of which the copyright shall be still subsisting, and with regard to which the notice to the Commissioners of Customs required by any Act of the Parliament of the United Kingdom in that behalf shall have been given, an *ad valorem* duty, not exceeding 20 per cent., and from time to time to alter the said duty (not exceeding in any case the rate aforesaid), and from time to time to establish such regulations and conditions as may be consistent with any Act of the Parliament of the United Kingdom then in force, as he may deem requisite and equitable with regard to the admission of such books and to the distribution of the proceeds of such duty to or among the party or parties beneficially interested in the copyright, and such duty shall be collected in like manner as duties of Customs, and under the provisions of the Acts relating to such duties: And it is further, by the said Act of the Parliament of Canada, amongst other things, in effect enacted, that the word "book" in the Act now in part recited shall include every volume, part or division of a volume, pamphlet, sheet of letter-press, sheet of music, map, chart, or plan separately published: And it is further, by the said Act of Parliament of Canada, amongst other things, in effect enacted, that the foregoing provisions of the Act now in part recited (except in so far as it may be otherwise directed in any such Order as aforesaid, of Her Majesty in Council) shall come into operation upon, from and after the day to be appointed for that purpose in any Proclamation of the Governor; signifying Our Royal approval of the said Act, and the issuing of such Our Order in Council, and not before. And whereas by a certain Order of Our Privy Council for Canada, bearing date the second day of June now last past, it was ordered that on the transmission to his Grace Our Secretary of State for the Colonies of the Act passed by the Parliament of Canada, and hereinbefore in part recited, in order that the same might be submitted to Us, his Grace should be informed that it was the intention of Our Governor in Council, when we should have expressed Our Royal approval of such Act, to impose upon books imported into Canada, and being copies printed or reprinted in any other country than the United Kingdom of which the copyright should be still subsisting, and with regard to which the notice of the Commissioner of Customs required by any Act of the Parliament of the United Kingdom, in that behalf, should have been given, a uniform *ad valorem* duty throughout Our said Dominion, of twelve and one-half per cent., being the rate fixed and collected in the Province of Canada previous to the Confederation of the Provinces (meaning thereby the Provinces whereof Our Dominion of Canada is composed) and to establish such regulations and conditions as may be consistent with any Act of the Parliament of the United Kingdom then in force as might be deemed requisite and equitable with regard to the admission of such books, and to the distributing of the proceeds of such duty to or among the party or parties beneficially interested in the copyright: And whereas the said Act of the Parliament of Canada, hereinbefore in part recited, together with Our Order of Our Privy Council for Canada of the second day of June, also hereinbefore recited, was transmitted through Our Governor General of Canada, to the Most Noble the Duke of Buckingham and Chandos, one of Our Principal Secretaries of State, and the same were respectively submitted to Us in Our Privy Council at Our Court at Windsor, on the seventh day of July last. And We, thereupon, in pursuance of the said Act of the Parliament of Our United Kingdom of Great Britain and Ireland, and in exercise of the powers thereby given to Us as aforesaid, did, by an Order, bearing date on the day and year last aforesaid, made and passed by and with the advice of Our Privy Council at Our Court at Windsor, and reciting that due provision had been made for securing and protecting the rights of British authors in Canada, and that it was expedient that the said Act should be approved of by Us, declare our approval of the said Act of the Parliament of the Dominion of Canada. And whereas, on the seventh day of July now last past, by and with the advice of Our said Council at our Court at Windsor, We did order and direct that so long as the provisions of the said last-mentioned Act should continue in force within Canada aforesaid, the prohibitions contained in certain Acts recited in the hereinbefore-mentioned Act of Our Imperial Parliament, and any prohibitions contained in the said recited Acts, or in any other Acts, against the importing, selling, letting out to hire, exposing for sale or hire, or possessing foreign reprints of books first composed, written, printed, or published in Our United Kingdom, and entitled to copyright therein, shall be suspended so far as regards Canada; now, therefore, know ye, and We do, by and with the advice of Our Privy Council for Canada, and in pursuance of the last-recited Act of the Parliament of Canada, proclaim

and declare that such of the provisions of the said Act of the Parliament of Canada made and passed in the 31st year of Our reign, intituled, "An Act to impose a Duty on Foreign Reprints of British Copyright Works," as are hereinbefore recited, and as are preceding and foregoing the third section of the said Act, shall come into operation upon, from, and after the twenty-eighth day of September instant. And We do hereby proclaim, declare, and signify Our Royal approval of the last-mentioned Act of the Parliament of Canada, and the issuing of Our Orders in Council at the Court of Windsor, on the seventh day of July last, hereinbefore recited. Of all which Our loving subjects will take notice and govern themselves accordingly.

In testimony whereof, We have caused these Our Letters to be made Patent, and the Great Seal of Canada to be hereunto affixed: Witness, Our Right Trusty and Well Beloved Cousin the Right Honourable Charles Stanley Viscount Monck, Baron Monck of Ballytrammon, in the County of Wexford, in the Peerage of Ireland, and Baron Monck of Ballytrammon, in the County of Wexford, in the Peerage of the United Kingdom of Great Britain and Ireland, Governor General of Canada, &c. &c. &c. At Our Government House, in Our city of Ottawa, in Our Dominion, the Twenty-fourth day of September, in the year of Our Lord One thousand eight hundred and sixty-eight, and in the Thirty-second year of Our Reign.

By Cominand,

Hector L. Langevin,
Secretary of State.

— No. 30. —

Colonial Office to Board of Trade.

No. 30.
Colonial Office to
Board of Trade,
20 October 1868.

Sir,

Downing-street, 20 October 1868.

WITH reference to the letter from this Department of the 21st July,* I am directed by the Duke of Buckingham and Chandos to transmit to you, for the information of the Lords of the Committee of Privy Council for Trade, a copy of a Despatch from the Governor General of Canada, forwarding a copy of "The Canada Gazette," which contains a Proclamation declaring that the Act of the Dominion "to impose a duty on foreign reprints of British copyright works" should come into operation on the 28th ultimo.

I am, &c.
(signed) *Frederic Rogers.*

* Page 20.

No. 177, 28 Sept.
1868, page 23.

— No. 31. —

The Right Hon. Sir *John Young*, Bart., G.C.B., to the Earl *Granville*, K.G.

(No. 40.)

Government House, Ottawa, Canada,
15 April 1869.

My Lord,

I HAVE the honour to transmit, for your Lordship's information, a copy of an approved Minute of the Privy Council of Canada, in reference to the communication from the Board of Trade of 22nd July last,* and other documents on the subject of the present state of the law in reference to copyright, and to request the consideration of Her Majesty's Government to the subject, which is one about which much interest is felt throughout the Dominion.

I have, &c.
(signed) *John Young.*

No. 31.
The Right Hon.
Sir J. Young,
Bart., G.C.B., to
the Earl Granville,
K.G.
15 April 1869.

9 April 1869.

* Page 21.

Enclosure in No. 31.

COPY of a REPORT of a Committee of the Honourable the Privy Council, approved by his Excellency the Governor General on the 9th of April 1869.

Encl. in No. 31.

THE Committee have had under consideration the Despatch, No. 168, dated 31st July 1868, from the Right Honourable the Secretary of State for the Colonies, transmitting a communication from the Board of Trade, and other documents, on the subject of the present state of the law in reference to copyright in Canada, and the reasons advanced by

the Board against any immediate alteration of the Imperial Copyright Law, as urged in the address of the Senate adopted during the last Session of the Parliament of Canada.

They have also had before them the accompanying report of the Honourable the Minister of Finance to whom the above Despatch and enclosures were referred; and they respectfully submit their concurrence in the views expressed in that report, and recommend that a copy thereof be transmitted by your Excellency to the Secretary of State for the consideration of Her Majesty's Government.

Certified,
Wm. H. Lee, Clerk,
 Privy Council.

— No. 32. —

Colonial Office to Board of Trade.

No. 32.

Colonial Office to
 Board of Trade,
 22 May 1869.

* Page 21.

No. 40, 15 April
 1869, page 25.

Sir,

Downing-street, 22 May 1869.

WITH reference to your letter of the 22nd of July last,* respecting the operation in Canada of the laws affecting the reprint of British copyright works, I am directed by Earl Granville to transmit to you, for the consideration of the Board of Trade, the enclosed copy of a Despatch from the Governor General of Canada, with its Enclosures, having reference to that communication.

I am desired to state that Lord Granville would be glad to be favoured with the views of the Board of Trade on the Memorandum now forwarded of the Canadian Minister of Finance.

I am, &c.
 (signed) *F. R. Sandford*.

— No. 33. —

Board of Trade to Colonial Office.

No. 33.

Board of Trade
 to Colonial Office,
 27 July 1869.

(687.)

Sir,

Office of Committee of Privy Council
 for Trade, 27 July 1869.

* *Supra*.

I AM directed by the Lords of the Committee of Privy Council for Trade, to acknowledge the receipt of your letter of the 22nd May last,* transmitting, by direction of the Secretary of State for the Colonies, a copy of a Despatch from the Governor General of Canada, respecting the operation in the Dominion of the laws affecting the reprint of British copyright works.

In reply, and with reference to your statement that Earl Granville would be glad to be favoured with the views of the Board of Trade on the Memorandum drawn up by the Canadian Minister of Finance, my Lords desire me to request that you will draw his Lordship's attention to the following observations which they wish to offer on the subject.

It is impossible, the Lords of Trade are of opinion, to do justice to this case, without considering the general state of the law of copyright as it affects the United Kingdom and the Colonies.

The present law of copyright in books depends principally on the Statute 5 & 6 Vict. c. 45, and the effect of this Statute, as explained by the recent case of *Routledge v. Low*, 1868, 3 Law Reports, House of Lords, p. 100, is as follows:—

Any British subject can, on publishing a book in the United Kingdom, obtain copyright throughout the British Empire.

Any foreigner, if resident at the moment of publication, within the British Dominions, though only for a day, can, on publishing a book in the United Kingdom, obtain copyright throughout the British Empire; and according to Lords Cairns and Westbury, though not according to Lords Cranworth and Chelmsford, the foreigner can obtain such copyright by publishing in the United Kingdom, even though resident at the time in a foreign country.

No one can, however, on publishing in a Colony, obtain copyright, except according to the law of the Colony, and within the limits of the Colony.

The provisions of the above-mentioned Copyright Act (5 & 6 Vict. c. 45), forbidding the importation of pirated works into a British Colony, have been subsequently

subsequently strengthened by 8 & 9 Vict. c. 93 (a Customs Act), re-enacted in 16 & 17 Vict. c. 107, s. 44.

Whether the full effect of the Copyright Act, as explained in the case of *Routledge v. Low*, was understood at the time of its passing, appears to my Lords to be doubtful, but it was obvious that the Act prohibited the importation of reprints of British copyright books into the Colonies. This was the professed intention of the Act, and was a special object with the British authors and publishers, at whose instance it was passed.

As soon as it came into force, loud remonstrances were at once received from the North American Colonies. The complaints were not complaints by the Colonial publisher, but by the Colonial reader. It was represented that booksellers in the United Kingdom published at a price beyond the power of the Colonial purse; that the North American Colonies were supplied at a cheap rate with United States reprints; that to stop the importation of these reprints, whilst works by United States authors were admitted, would be to deprive the Colonists of the healthy reading supplied by British authors, and to reduce them to read United States works, against which there was no prohibition, and which, in point of morals, politics, and religion, were unfavourable to British institutions.

In short, the Colonists said that the prohibition on importing the reprints of English books neither could nor would be carried into effect in the Colonies. The Home Government at first stood firm, but at last gave way. (*See Correspondence between Colonial Office and Board of Trade, 1845 and 1846.*)

The Board of Trade, which had introduced the Act 5 & 6 Vict. c. 45, after many representations from the Colonies, suggested that each Colony should take its own steps to protect the British author, and that on its so doing, Her Majesty's Government should be enabled to suspend the operation of the Imperial Act in that Colony.

Finally, an Act was passed (10 & 11 Vict. c. 95), by which provision was made, suspending the prohibition of the importation of foreign reprints of English books into a Colony in cases where the Colony might make due provision for protecting the rights of the author, such provision to be approved by Her Majesty in Council.

In carrying this Act into effect, a suggestion made, my Lords believe in the first instance by the Board of Trade, was acted on; a duty was imposed by the several Colonies on foreign reprints imported into the North American and some other Colonies; and this duty was to be remitted to this country for the benefit of the owner of the copyright. Canada at first proposed a different plan, viz., to protect in the Colony, by the duty in question, such books only as might be published in the Colony, but on this being objected to, she imposed the duty generally on all foreign reprints of British copyright books. After some discussion, the duty was fixed at 12½ per cent. It appears from a Return to the House of Commons, printed 25th August 1857, No. 303 (Sess. 2), that Orders in Council under 10 & 11 Vict. c. 95, have been issued in the case of 19 Colonies, including Canada; but the duties inserted in that Return were, in some cases at any rate, higher than the present actual duty, which certainly in Canada, and probably in the other Colonies, does not exceed 12½ per cent.

The Acts in question have proved a complete failure, under them the Colonists collect next to nothing for the British author, and are supplied with United States reprints, which are smuggled across the border, without paying duty.

It appears from the last return (which is for 1866), that in that year 145*l.* 0*s.* 9*d.* was received from the whole of the 19 Colonies which have taken advantage of the Act, of which 117*l.* 1*s.* 6*d.* was remitted by the Colonists now forming the Canadian Dominion.

The complaint from Canada now assumes another form, and is from a different quarter, viz., the Canadian publisher: Canada now wishes the Imperial Parliament to enable Canadian publishers to reprint books, having British copyright, on the condition of their paying 12½ per cent. to the British author. In support of this, Mr. Rose says that the present state of the law is bad for every one; for British authors, since Canada is supplied with United States reprints, which pay them nothing, and for Canadian publishers, since they cannot, under any circumstances, reprint British books; nor can they, if first publishers, obtain a copyright beyond the limits of the Colony.

Mr. Rose goes on to say that Canadian publishers, even with the 12½ per cent. charge,

charge, would undersell the United States publishers in their own market, as well as in Canada.

This last statement seems to the Lords of Trade to be very doubtful, though in the complaints Canada makes concerning the disabilities of her publishers, there is some justice. It is obvious that if, by Imperial law, copyright is to be enforced in the Colonies, and if, at the same time, the publication by which such copyright is obtained is confined to the United Kingdom, the Colonies are not treated on fair and equal terms. To give the London publisher copyright in Canada, and to refuse the Canadian publisher copyright in England, is an inequality, of which the Canadian publisher, and possibly also the Canadian author and reader, may justly complain.

However, as above pointed out, the plan adopted to satisfy Canada in 1847 was not addressed to this injustice, but to the hardship on Colonial readers, arising from the special circumstance, that Canada was then supplied with cheap books from the United States; and what Canada now asks, is not for a reconsideration of the Imperial law concerning publication, but for an extension of the principle of the Act 10 & 11 Vict. c. 95, by permitting Canada to republish, as well as import British copyrights, on payment of the 12½ per cent.

In favour of this it is said :—

1. That the present system has failed to protect the British author.
2. That the proposed plan, if it succeeds, will benefit the Canadian publisher.
3. That it will also benefit the British author.

Against it there are the following considerations :—

1. That it is at least doubtful whether it will succeed, and whether smuggled United States reprints will not undersell Canadian reprints, especially when the latter are burdened with the 12½ per cent. duty. This of course would, if it stood alone, be no reason for refusing to try the experiment.

2. That as the Canadian Government have failed to collect the 12½ per cent. customs duty on United States reprints, it is at least doubtful whether they will effectually collect the new 12½ per cent. duty, which will be in the nature of an excise duty on their own publishers.

3. That the substitution of a duty to be collected by Government on behalf of authors, for the power which, under the general copyright law, authors possess of protecting themselves, is a serious innovation on the principle of the law of copyright, and requires careful consideration, before giving it the large extension now proposed.

4. That the proposed plan may have the ultimate effect of making British copyright books cheaper to the inhabitants of the Colonies than to those of the United Kingdom, and in fact may make the latter pay the author a monopoly price, whilst the former may pay him comparatively little.

5. That the proposed plan might, and probably would, if, as alleged, it is for the benefit of the British author, have been tried already without legislation.

For if an author suffers from the present system, and would gain by allowing a Canadian publisher to print and sell at a charge of 12½ per cent., there is nothing in the present law to prevent him and the Canadian publisher from entering into such an arrangement. The first publication must be in the United Kingdom, but a Canadian firm might easily make arrangements for an original publication in London, though also publishing, printing, and selling in Canada.

6. That the proposed plan will stand in the way of any copyright arrangement with the United States. The United States will never allow a British author the right of prohibiting the publication of his works in New York or Boston, whilst every publisher in Montreal can reprint them on payment of a moderate per-centage without the author's leave, and can smuggle them into the United States; Mr. Rose says, that the arrangement may be brought to an end when Her Majesty's Government makes a Copyright Treaty with the United States. But in the present relations between the mother country and the Colonies, it is scarcely possible to secure the power of putting an end to such an arrangement, if the Colonies find it to their interest to continue it.

7. In considering this question, moreover, the international copyright obligations of this country form a serious element.

If the provisions of 10 & 11 Vict. c. 95, were extended to Colonial reprints of British copyright, it is not improbable that the foreign nations (France, Belgium, Prussia, &c.) with whom England has copyright conventions, would put an end to such conventions by notice.

Provided that no distinction is made between British authors and the authors of those nations with whom we have made conventions, this extension of the Imperial Act would not be at law a breach of the conventions, though it may be questioned whether Her Majesty's Government might not fairly lay themselves open to blame for taking such a step without communication with those Foreign Nations. But it is quite possible that those nations would terminate the Conventions, and this, of itself, would be a great misfortune.

Under these circumstances the balance of argument is, in the opinion of the Lords of Trade, against any immediate adoption of the Canadian proposal. The truth is that it is impossible to make any complete or satisfactory arrangement with Canada unless the United States are also parties to it. Whatever protection is to be given to authors on one side the St. Lawrence must, in order to be effectual, be extended to the other; and it is consequently impossible to consider this question, without also considering the prospects of an arrangement between Great Britain and the United States. There are symptoms of the possibility of such an arrangement. In 1853-54, an international copyright convention was signed between the two Governments, but was allowed to drop. In the last Session of the United States Congress, a Bill was introduced providing for international copyright in the United States. It required republication and reprinting in the United States as a condition of copyright there, and was in this respect objectionable. But the correspondence showed that there was a considerable interest in the question, and it was evident that the Americans were feeling the want of an international arrangement on the subject.

Some American authors are now much read in England, and American authors are of course, and have long been, in favour of International Copyright, but have not been strong enough to carry their point.

"But," says Mr. Rose, "after the decision in *Routledge and Low*, American authors have no interest in international copyright, so far as England is concerned. They have only to cross the St. Lawrence for a day, and publish in London, and they will have copyright throughout the British Empire."

There is some truth, my Lords are willing to grant, in this argument, but it overlooks two important considerations.

The one is, that whilst American publishers can publish British books without paying anything for copyright to the British author, they are not likely to pay any considerable sums for copyright to American authors.

The other, and not less important consideration, arises out of the interest of the American publisher. The effect of the decision in *Routledge v. Low*, is to encourage publication in the United Kingdom, and consequently to attract the business from foreign publishers. This was expressly stated by Lords Cairns and Westbury to be the intention and policy of the English Statute, and though my Lords do not believe this to be the case, but are of opinion that the true intention was, and is, to encourage authors and thus benefit readers, there can be no doubt that the effect of the Statute, as expounded by the House of Lords, is to encourage publication by foreign authors in London.

The American law differs from our own by giving no copyright to the foreigner, unless he is a citizen, or actually resident in the United States; and even if their courts were to put as lax an interpretation on "residence" as the House of Lords have done here, it would, under the physical circumstances of the two countries, be of little benefit to an author living in England.

Under these circumstances, my Lords cannot but think that it will be to the interest of the American publishers to press for an international arrangement.

The project of such an arrangement is, therefore, far from hopeless, and I am desired to request that under these circumstances you will bring the above considerations to the notice of Earl Granville as a strong reason why Mr. Rose's proposal should not be acceded to, and suggest, at the same time, that the papers should be sent to Her Majesty's Secretary of State for Foreign Affairs, with a proposal that Lord Clarendon should consider whether negotiations may not be re-opened with the United States.

The grievance already pointed out, viz., that whilst publication in the United Kingdom gives copyright throughout the British Empire, publication in a Colony cannot give copyright beyond the limits of the Colony, should, in the opinion of the Lords of Trade, be remedied as soon as possible, even if no further steps are taken by Her Majesty's Government in this matter.

This, as above stated, appears to my Lords to be a simple act of justice to the Colony.

I am, &c.
(signed) *G. Shaw Lefevre.*

— No. 34. —

No. 34.
Colonial Office to
Board of Trade.
9 October 1869.

Colonial Office to Board of Trade.

* Page 26.

Sir,

Downing-street, 9 October 1869.

WITH reference to your letter of the 27th of July last,* respecting the state of the Imperial law affecting copyright works, especially as regards its bearings on Canadian interests, I am directed by Earl Granville to transmit to you, to be laid before the Board of Trade, a copy of a Despatch which, with the concurrence of the Board, he proposes to address to the Governor General of the Dominion.

His Lordship desires me to request that the Board of Trade will be so good as to cause the necessary draft Bill to be prepared, in order to carry out the amendment of the law as regards the particular point on which its amendment is promised; and he presumes that this amendment should not be made merely in favour of Canada, but should be extended to all the Colonies.

I have, &c.
(signed) *Frederic Rogers.*

— No. 35. —

(No. 193.)

No. 35.
Earl Granville,
K.G., to the Right
Hon. Sir J. Young,
Bart., G.C.B.
20 October 1869.

The Earl *Granville*, K.G., to the Right Hon. Sir *John Young*, Bart., G.C.B.

Sir,

Downing-street, 20 October 1869.

I HAVE the honour to acknowledge the receipt of your Despatch, No. 40,† of the 15th of April last, enclosing a Minute of your Privy Council, and a Report from the Minister of Finance, urging the amendment of the Imperial law, with a view to Canadian publishers being placed on an equal footing with publishers in the United States as regards British copyright works.

The anomalous position of this question is adverted to in the Despatch of my predecessor, of the 31st of July 1868;‡ but the matter is one of some difficulty, and Her Majesty's Government find it necessary to collect further information on it before deciding finally on the proposals of the Canadian Government.

In the meantime, there is one point in the operation of the Imperial law as it now stands which is not affected by the difficulties which surround the general question, viz., that whilst by the present law publication in the United Kingdom gives copyright throughout the British Empire, publication in a colony cannot give copyright beyond the limits of the colony.

This disability, no doubt, operates unfairly on Colonial interests, and Her Majesty's Government are prepared to take steps during the next Session of Parliament with a view to the amendment of the law in this particular.

I have, &c.
(signed) *Granville.*

No. 193.
20 October 1869,
page 30.

† Page 25.

‡ Page 23.

— No. 36. —

(No. 1266.)

Board of Trade to Colonial Office.

No. 36.
Board of Trade to
Colonial Office.
16 October 1869.Office of Committee of Privy Council for Trade,
16 October 1869.

Sir,

I AM directed by the Lords of the Committee of Privy Council for Trade to acknowledge the receipt of your letter of the 9th instant,* transmitting, by direction of Earl Granville, with reference to previous correspondence on the state of the Imperial law affecting copyright, especially as regards its bearings on Canadian interests, a copy of a Despatch, which his Lordship proposes to address to the Governor General of the Dominion of Canada on the subject.

* Page 30.

In reply, I am to request that you will state to Lord Granville that my Lords quite concur in the terms of the proposed Despatch, and that they have requested authority from the Lords Commissioners of Her Majesty's Treasury to instruct the Government draftsman to prepare a Bill, in order to carry out the amendment of the law indicated in Lord Granville's Despatch to the Governor General.

I am, &c.
(signed) *Louis Mallet.*

— No. 37. —

Foreign Office to Colonial Office.

No. 37.
Foreign Office to
Colonial Office.
23 Nov. 1869.

Sir,

Foreign Office, 23 November 1869.

I AM directed by the Earl of Clarendon to acquaint you, for the information of Earl Granville, that he has received from Her Majesty's Minister in the United States, the draft of a Convention for the reciprocal protection of copyright, which he thinks the American Government might be willing to conclude with this country. Lord Clarendon has communicated the draft to the Board of Trade, and the Board agree with him in opinion that the terms of the draft would secure all the substantial objects at which Her Majesty's Government have aimed in endeavouring to conclude a treaty of copyright with the United States.

Lord Clarendon would therefore have been disposed to instruct Her Majesty's Minister at Washington, after asking for explanations with regard to one or two points of no practical importance, at once to sign the convention if he found the Government of the United States ready to do so. There is, however, a question connected with this subject to which the Board of Trade have called Lord Clarendon's attention, namely, the proposal submitted by the Canadian Government in the course of the present year with respect to the state of the copyright law in the Dominion. This proposal led to a correspondence between the Colonial Office and the Board of Trade, and to a suggestion by the latter that the copyright law of this country should be so amended as to give to works published in Canada the protection now given only to works published in the United Kingdom; that is, the privilege of copyright throughout the British Empire.

Lord Clarendon desires me to transmit, for Earl Granville's perusal, a copy of the letter which has been received at this office from the Board of Trade on the subject, and to state that he proposes to instruct Her Majesty's Minister at Washington to make a communication to the Government of the United States in the sense suggested in the letter of the Board of Trade. Should his Lordship concur in this course, it will be for him to consider the further suggestion of the Board of Trade, that the Canadian Government should be made acquainted with the course which Her Majesty's Government propose to take in this matter.

18 Nov. 1869.

I am, &c.
(signed) *Arthur Otway.*

Enclosure in No. 37.

Sir,

Board of Trade, 18 November 1869.

Encl. in. No. 37.

In reply to your letter of the 9th instant, I am directed by the Lords of the Committee of Privy Council for Trade to state, for the information of the Earl of Clarendon, that after a complete examination of the provisions of the Draft Copyright Convention with the United States of America, transmitted in your letter, they concur with his Lordship in the opinion that all the substantial objects at which Her Majesty's Government has aimed in endeavouring to conclude a copyright treaty with the United States of America would be secured by the terms of the draft in question, and that it might therefore be accepted as it stands.

The two points to which my Lords referred in the concluding paragraph of their letter of the 6th inst. do not appear to them to be of any practical importance, and it will be sufficient, in their opinion, that Mr. Thornton should be instructed to inform Her Majesty's Government as to the reasons on account of which the provisions to which they relate have been omitted.

With respect to the provision in Article III. in the matter of imitations or adaptations of dramatic works which it has been proposed to modify in our existing treaties of copyright, I am to observe that my Lords have never attached much importance to the proposed modification, and as the French Government appear to have dropped the subject, it seems scarcely necessary to revive it.

There is another question, however, connected with this subject to which my Lords desire to call Lord Clarendon's attention.

A correspondence took place this year between Her Majesty's Secretary of State for the Colonies and this Board, upon a proposal submitted by the Canadian Government with respect to the state of copyright law in the Dominion, which led to a suggestion by my Lords, that the copyright law of this country should be so amended as to give to works published in Canada the protection now only given to works published in the United Kingdom, viz., the privilege of copyright throughout the British Empire.

This suggestion was made by my Lords on grounds of equity towards Canada, and irrespective of all international arrangements between this country and the United States of America with respect to copyright, but in the event of such arrangements being made the reasons in favour of the proposed amendment of the Imperial law will become more than ever urgent.

The Bill which, as Lord Clarendon will perceive from the enclosed correspondence, is now in course of preparation, is directed to an amendment of Imperial law in this respect, and my Lords are of opinion that this point should be clearly explained to the Government of the United States in any negotiation on this subject, and that Mr. Thornton should be authorised, if desired by the Government of the United States or by the Government of Canada, either to insert an Article in the convention binding Her Majesty's Government to propose to Parliament the extension of Imperial copyright to publications in all British Possessions, or providing that the ratification of the convention itself should be made subject to the adoption by Parliament of the measure in question.

My Lords are inclined to fear that, unless this course be taken, the convention would fail to satisfy the United States, and at the same time create much dissatisfaction in Canada, and lead to the discussion of questions of constitutional right which it is on every ground important to avert.

For the same reason my Lords would submit that the Canadian Government should be made acquainted with the course which Her Majesty's Government proposes to take in this matter.

I have, &c.
(signed) *G. Shaw Lefevre.*

The Under Secretary of State, Foreign Office.

— No. 38. —

(No. 159.)

No. 38.
The Right Hon.
Sir J. Young, Bart.,
K.C.B., to Earl
Granville, K.G.
20 Dec. 1869.
† Page 25.

The Right Honourable Sir *John Young*, Bart., G.C.B., to the Earl *Granville*, K.G.

Government House, Ottawa, Canada,
20 December 1869.

My Lord,
WITH reference to my Despatch, No. 40,† of the 15th April last, I have the honour to transmit herewith additional copies of the correspondence respecting the copyright law in Canada.

I have, &c.
(signed) *John Young.*

15 May 1868.

Enclosures in No. 38.

CORRESPONDENCE respecting the Copyright Law in *Canada*, laid before Canadian Parliament by command of His Excellency the Governor General.

Encls. in No. 38.

The Senate, Friday 15 May 1868.

RESOLVED, That an humble Address be presented to his Excellency the Governor General, praying that his Excellency would be pleased,

1st. To call the attention of Her Majesty's Government to the provisions of the Imperial Act, 9 & 10 Vict. c. 95, by which power is given to Her Majesty to approve of any Act passed by the Legislature of any British Possession, admitting into such Possession foreign reprints of British copyright works, provided that reasonable protection to the authors is, in Her Majesty's opinion, thereby secured to them.

2nd. To impress upon Her Majesty's Government the justice and expediency of extending the privileges granted by the above cited Act, so that whenever reasonable provision and protection shall, in Her Majesty's opinion, be secured to the authors, colonial reprints of British Copyright works shall be placed on the same footing as foreign reprints in Canada, by which means British authors will be more effectually protected in their rights, and a material benefit will be conferred on the printing industry of this Dominion.

Ordered,—That such Members of the Privy Council as are Members of this House do wait on his Excellency the Governor General with the said Address.

Attest.

(signed) *J. F. Taylor*,
Clerk, Senate.

Sir,

London, 3 July 1868.

IN reply to your letter of the 2nd instant, respecting the Act recently passed by the Parliament of Canada on copyright and the enclosure which you have been good enough to forward to me, I have the honour to state that I have already submitted to Mr. Elliot a memorandum on the subject of the operation of the existing law respecting copyright as it affects the English author. The object of the Act to which you refer was to extend to the whole Dominion of Canada the provisions of a similar statute which had for many years been in force in the late Provinces of Canada.

The Customs authorities of Canada have hitherto made, and will continue to make, every effort to prevent the importation of pirated copies without the payment of duty, but as I had the honour of informing Mr. Elliot, it is next to impossible practically to enforce the law.

I take the liberty of referring you to my former letter to Mr. Elliot and to the memoranda accompanying it.

Sir Frederic Rogers.

I have, &c.
(signed) *John Rose*.

Mr. Lovell to Mr. Rose.

[This letter forms Enclosure 2 in Mr. Rose's letter of 1st July 1868, page 17.]

Governor General's Office, Ottawa,
25 February 1869.

Sir,

I HAVE the honour to enclose copies of a Despatch and Enclosures from the Secretary of State for the Colonies, in reply to the Address of the Senate of the 15th May last, respecting the Imperial copyright laws, and copy of an address from the Montreal Typographical Union, and Sir John Young's reply. His Excellency wishes these papers to be laid before the Privy Council, and to be informed whether they desire any action to be taken on them, as, if so, it will be better to move at once—in the early part of the Session of the Imperial Parliament.

The Duke of Buckingham to Lord Monck, No. 168, 31st July 1868, page 23.

W. H. Lee, Esq.,
Clerk of the Privy Council.

I have, &c.
(signed) *H. Cotton*,
For the Governor's Secretary.

ADDRESS of the Montreal Typographical Union.

To His Excellency the Right Honourable Sir *John Young*, Bart., G.C.B., G.C.M.G., &c. &c., Governor General of the Dominion of Canada, and Governor General and Commander in Chief of the Island of Prince Edward, &c.

May it please your Excellency,

WE, the members of the Montreal Typographical Union, desire to tender to your Excellency a hearty welcome to the commercial metropolis of Canada. When we heard that our beloved Queen had been pleased to appoint your Excellency to be Her representative

tative in this country, the intelligence brought to us nothing but feelings of unmixed satisfaction. The profession to which we belong affords us frequent opportunities of becoming acquainted with the public career of Great Britain's foremost men, and all that we had heard and read of your Excellency's services as Her Majesty's representative in Australia and in the Ionian Islands convinced us that you were in all respects well qualified to occupy the vice-regal chair of our New Dominion.

In common with all classes of Her Majesty's subjects, we have reason to be grateful for the unequalled civil and religious liberty which we enjoy, as well as for the progress in material prosperity which has been achieved by Canada during the past few years. Among the free institutions which we possess, none is more precious than a free press, which not only serves to protect the interests of all classes, but has been the means of finding employment for a large number of printers throughout the country. In this connection, however, we would wish to direct your Excellency's attention to the existing condition of the copyright law. Under the present regulations Canadian publishers are forbidden to print the works of English authors, and the consequence is that the American publisher, on payment of our Customs duties, introduces his books into the Canadian market. Thus the English author derives no benefit, the Canadian public are compelled to pay nearly twice as much for their books as they would have to do were Canadians permitted to publish them, and a large number of Canadian printers, who otherwise would be able to find employment in this country, are driven to the United States in search of occupation.

Once more we desire to offer you a hearty welcome to this city and to this Dominion, and while doing so we desire also to express our warmest wishes for the health and welfare of yourself and Lady Young. We sincerely trust that your first visit to our city may prove an agreeable one, and that you may for many years be spared to serve Her Majesty with the same loyalty and devotion which have characterised your past career.

On behalf of the Montreal Typographical Union, No. 97.

(signed) *Pierre Griffard*, President.
Rollo Campbell.
William Wilson.
Stephen C. Kyte.
John Watkins.
P. A. Crosby.

REPLY.

The President and Members of the Montreal Typographical Union, No. 97.

Gentlemen,

I ACKNOWLEDGE, with many thanks, the heartiness of your welcome, and the only too flattering terms in which you are pleased to speak of my past services.

Your appreciation of the liberty you enjoy, and your estimation of the progress which Canada has achieved in material prosperity, are satisfactory in themselves, and as evidence of the feelings entertained throughout the community.

I will not fail to draw the attention of the Privy Council to the important point you mention in reference to the copyright law, and I assure you that Lady Young and I are very grateful for the good wishes you so warmly proffer for our health and welfare.

(signed) *John Young.*

COPYRIGHT LAW IN CANADA.

THE undersigned has had under consideration the Despatch of the late Secretary of State for the Colonies, covering a communication from the Board of Trade, and other documents on the subject of the present state of the law in reference to copyright in Canada; all of which were referred to him for report on the 1st instant.

The communication of the Board of Trade (the immediate subject of the present reference) is, in effect, the answer of the Imperial Government to the Address adopted by the Senate during the last Session of the Parliament of Canada, urging the necessity of an early modification of the Imperial Copyright Act, 10 & 11 Vict. cap. 95, with a view to placing Canadian publishers on the same footing with publishers in the United States, *quoad* English copyright works.

Before proceeding to consider the arguments advanced by the Board of Trade against any immediate alteration of the Imperial copyright law, in the sense indicated by the Address of the Senate, it seems desirable, with a view to a better understanding of the question, to explain briefly the injurious operation of the copyright law as it now stands, especially as regards the printing and publishing interests of the Dominion of Canada.

Under the provisions of the above cited Act, and the Canadian Statute giving effect thereto, publishers in the United States can send into Canada reprints of English copyright works,

works, on the payment of 12½ per cent. Customs duty. Canadian publishers, on the other hand, would appear to be prohibited, under heavy penalties, from publishing such works.

The consequence of this anomalous state of the law is that Canada receives large supplies of American reprints of English copyright books, which are sold at a much higher rate than if printed in Canada, while at the same time, so generally is the payment of the 12½ per cent. Customs duty evaded, and so trifling is the whole amount realised from that source (the total received last year for the whole Dominion of Canada being only 799 dols. 43 c. or 164 l. 5 s. 3 d. sterling, the average of the preceding four years being only 115 l. 1 s. 3 d. sterling), that so far as regards the pecuniary or other interests of English authors, for whose protection the duty was imposed, and in whose behalf it is collected, the effect is practically the same as if the reprints were avowedly admitted duty free.

But while the present copyright law thus operates in effect as a tax upon the reading public in Canada, without securing any countervailing advantage to the British author, it is felt, by those directly interested, to bear with especial severity on the printing and publishing interests here—interests not only large and in themselves important, but equally so perhaps in their connection with the development and growth of literary talent and pursuits in the Dominion.

Such being the very unsatisfactory results of the present copyright law, so far as British authors, the Canadian public, and Canadian publishers and printers especially are concerned, the subject was brought during the last Session under the notice of the Senate, and resulted in the adoption by that body of their Address, already referred to, praying that the Imperial copyright law be so amended as to place Canadian publishers on the same footing as publishers in the United States, *quoad* English copyright books—or, in other words, that Canadian publishers should be permitted to print and publish British copyright works upon payment, under proper restrictions, of an excise duty of 12½ per cent. for the benefit of the British authors.

It is believed that if this privilege were extended to Canadian publishers they would avail themselves of it to a very large extent, and as the excise duty of 12½ per cent. could, under proper regulations, be very easily levied, a substantial revenue would accrue therefrom for the benefit of English authors; and further, that a great impetus would be given to the interests of printers, publishers, paper manufacturers, type founders, and other important kindred branches of material industry, and indirectly to the interests of literature and literary men.

In remonstrating against the operation of the present copyright law, and seeking its amendment, Canada does not sue for any favour, or ask for any protection, but only that she may be relieved from the grave disabilities under which she now labours, and placed upon the same, but no better, footing, as the citizens of a foreign country; and this it is contended may be done without the violation of any sound principle of political economy or injury to any interest.

In considering the application of the Senate, the Board of Trade “fully admit that the anomalous position of Canadian publishers with respect to their rivals in the United States, is a matter which calls for careful inquiry,” but they allege that there are considerations of an Imperial character, “which would render it very undesirable to accede to the Canadian proposal at the present moment.”

These considerations, stated briefly, are:

1st. That it is doubted whether, in the face of the extensive smuggling of American reprints of English copyright works into Canada, Canadian publishers, if burdened with 12½ per cent. excise duty, could maintain a successful competition with their United States rivals.

2nd. The proposed modification of the existing copyright law could hardly fail to operate in deterring the United States Government from concluding an International Copyright Treaty with England.

3rd. That the proposed arrangement rests upon a principle essentially different from that which the public policy of the Mother Country enforces in reference to copyright, inasmuch as it trenches upon the absolute monopoly which the English law secures for a term of years to authors; and further, that if the right to publish in the British Colonies were admitted, it would be difficult to refuse to recognise it in the case of foreign countries.

In reference to the first of the preceding objections, the undersigned must premise that he is unable to see how the presumed inability of Canadian publishers to compete successfully with their foreign rivals in the United States can fairly be advanced as a reason for refusing to relieve them from their present disabilities, and for a denial of the same privileges which their foreign rivals are impliedly permitted to enjoy.

But, irrespective of its bearing on the argument, the undersigned believes it to be the unanimous opinion of the publishing houses in Canada, that Canadian publishers, if placed by the law on an equal footing with their American rivals, could not only compete with them successfully, but would probably be able to undersell them in their own markets. The cheapness of labour and material, and the lightness of taxation in Canada, as compared with the United States, make this hardly a matter of doubt.

In reference to the second objection urged against the desired change in the law, the undersigned is ready to admit that Canada ought not to ask for and should not expect to receive any privilege which could reasonably be held to prejudice, or postpone the satis-

factory adjustment of the great question of international copyright between England and the United States. But he is unable to see how the change in the law asked for could have any such effect, especially if it were provided that the privilege accorded to Canadian publishers should be provisional and temporary, to determine on the conclusion of any International Treaty of copyright between the two countries.

Under such limitations, would not the granting of the privilege asked for on behalf of Canadian publishers operate rather to bring about the conclusion of an International Copyright Treaty, than to postpone or prevent it? If Canadian publishers were placed on the same footing as their American rivals, the latter would be, to a very great extent, deprived of the pecuniary benefits resulting to them, in the absence of any Intercolonial Copyright Treaty from their piracy of the works of English authors.

The undersigned would, however, humbly submit that in the present state of the English law respecting copyright, and considering the policy on which it is founded (as it has been recently authoritatively interpreted), there would seem to be little foundation for the hope that any sufficient inducement remains to any foreign country to enter into an International Copyright Treaty with England.

An American or any other foreign author by publishing his work first in the United Kingdom, may obtain for himself all the benefits of the English copyright law. One of those benefits, as the law now stands, is to prohibit its reprint in any portion of Her Majesty's dominions out of the United Kingdom. He can equally procure his copyright in the United States, and the consequence is that the price of literature is enhanced to British subjects in all Her Majesty's Colonial possessions, since to them and to them only can the prohibition to republish apply or be made effectual.

England does not confine the protection which she thus extends, to her own authors. The foreign author is protected against all her Colonial subjects, provided he publishes first within the confines of Great Britain and Ireland. She will not recognise a publication in a Colonial Possession as a compliance with the Copyright Act, but limits the place of publication to the United Kingdom.

Such the undersigned understands to have been the solemn interpretation of the law by the House of Lords in the recent case of Routledge and Low (New Law Report, Appeal Cases, vol. 2, pp. 100—121), and he would very strongly call attention to the unfair position in which the policy of that law places the Canadian publisher and the Canadian public.

The mere circumstance of the publishing in the United Kingdom, gives the author a monopoly throughout the entire area of the British Dominions—that author, in the opinion of the then Lord Chancellor Cairns, need not be a native born subject of the Crown; he need not be an alien friend sojourning in the United Kingdom; he need not be sojourning in a British Colony, but he may be a foreigner residing abroad. This protection is afforded, in the language of Lord Cairns, to induce the author to publish his work in the United Kingdom.

If the policy of England, in relation to copyright, is to stimulate, by means of the protection secured to literary labour, the composition of works of learning and utility, that policy is not incompatible with such a modification of law as will place the colonial publisher on a footing of equality not only with the publisher in the United States, but even with the publisher in the United Kingdom.

Might not therefore the existing anomaly be removed without violating the principle of regarding literary productions as the absolute property of the author?

At present the Canadian public are mainly dependent on the supply, even of foreign literature, for which a copyright may be obtained in England, on the reprints from the United States.

It may be argued in answer to these objections, that the Canadian publisher may make arrangements with the author for permission to publish; but as the law now stands there is no motive or inducement either for the author to concede, or the publisher to obtain, this sanction; the author has already made, or can make his arrangements with the foreign publisher, who knows that circumstances will give him a large circulation in the Canadian markets, and that even the slight proportion of duty collected will be paid by the Canadian reader, because re-publication is there forbidden.

At present the foreign publisher, having a larger market of his own, and knowing the advantages of access to the Canadian market, can hold out greater inducements to the author than the Colonial publisher, and can afford to indemnify the author for agreeing to forego taking out any copyright and to abstain from printing in Canada.

In reference to the third objection to the proposed modification of the Imperial Act, the undersigned is ready to admit that the principle involved therein is, theoretically, at variance with the general policy of the Mother Country, in so far as the object of that policy is to secure to authors an absolute monopoly in works of literature for a term of years; but it must be remembered, that the necessity for this exceptional legislation arises out of a previous partial departure from this theoretical policy, which in its practical operation is shown to afford a premium to the industrial interests of a foreign country, and to discriminate against those of an important part of the British Dominions.

The exceptional legislation, it is to be observed, is only meant to be temporary and provisional, in other words, to be in force so long, and only so long, as the exceptional legislation which gives rise to it.

If it could be shown, that the concessions asked for would result in any way to the practical disadvantage of the author, or lessen the protection which it is intended to secure to literary labour, there might be some reason for withholding them.

If the rate of duty whether import or excise, were inadequate, it would be an equally reasonable argument against the extension of the law; and in that case the rate could be augmented. But the undersigned fails to see any reason why, so long as the importation from abroad is permitted, the publication in Canada at an equal rate of duty should be withheld.

If the interest of the author is to weigh, it seems manifest that the practical result of the extension to the Canadian publishers of the exceptional privilege now enjoyed by their American rivals would be to remedy to some extent the evils of the present law so far as these interests are at stake, by securing to them increased pecuniary benefit, from the publication of their works on this continent and affording them for the first time a real, instead of an illusory, protection.

Having considered the arguments advanced against the modification of the copyright law asked for in the Address of the Senate, the undersigned would recommend that the attention of the Imperial authorities be once more invited to the subject, and that they be earnestly requested to accede to the application of the Senate, upon the understanding, if thought proper, that the change in the law, if made, should be temporary, to be determined upon the conclusion of any International Copyright Treaty between England and the United States.

In conclusion, the undersigned may be permitted to note the fact, that during the last few months the present subject has been very largely discussed in the leading journals of Canada as well as at public meetings. The public sentiment throughout the country is, that the privilege asked for is fair and reasonable in itself, and that the granting of it would not only promote the interests of English authors but give an impetus to the publishing and printing trade, and other cognate branches of Canadian industry, and would be calculated to increase the circulation in Canada of the best British works, and to foster the literary tastes, and develop the literary talents, of the Canadian people.

Ottawa, 30 March 1869.

(signed) *John Rose,*
Minister of Finance.

— No. 39. —

Colonial Office to Foreign Office.

Sir,

Downing-street, 19 January 1870.

I HAVE laid before Earl Granville your letter of the 23rd November,* on the subject of a Convention which it is believed that the American Government might be willing to conclude with this country for the reciprocal protection of copyright.

Lord Granville is glad to learn that there is a prospect of this matter being brought to an early and satisfactory conclusion; but he directs me to state that he thinks that it is certainly desirable that the Canadian Government should be informed, that the anticipated ratification of this convention will not affect the duty of Her Majesty's Government to propose a Bill to give the Colonies equal rights with England, and that the United States Government should be informed that the Convention will not preclude the British Government from proposing that Bill. Lord Granville, however, does not see why an arrangement between the United States and England should be encumbered with a provision affecting only the relations between England and the Colonies. He proposes, with Lord Clarendon's concurrence, to forward to the Canadian Government, a copy of your letter of the 23rd November, and of this reply to it.

I am, &c.

(signed) *F. R. Sandford.*

— No. 40. —

Foreign Office to Colonial Office.

Sir,

Foreign Office, 5 February 1870.

I HAVE laid before the Earl of Clarendon your letter of the 19th ultimo,* relative to the course to be pursued with the United States and with Canada on the subject of copyright.

Having again communicated with the Board of Trade on this matter, Lord Clarendon desires me to state to you that he will furnish Her Majesty's Minister at Washington with authority to sign a Convention with the United States in the

No. 39.

Colonial Office to
Foreign Office.
19 January 1870.

* Page 31.

No. 40.

Foreign Office to
Colonial Office.
5 February 1870.

* *Supra.*

terms of the draft which he sent to Lord Clarendon. He will instruct Mr. Thornton to state officially to the American Government that the conclusion and ratification of such Convention will in no way preclude Her Majesty's Government from proposing to Parliament a Bill for giving the Colonies copyright to extend throughout the British Dominions; but he concurs with Lord Granville in thinking that it is unnecessary to encumber the Convention with any stipulation on this subject.

Lord Clarendon observes that Lord Granville intends to make a communication to the Canadian Government in the same sense; and he sees no objection to his Lordship forwarding to that Government a copy of the letter from this Department of the 23rd of November last,* and of its enclosures, as well as of your reply thereto.

* Page 32.

* * * * *

I am, &c.
(signed) *Arthur Otway.*

— No. 41. —

(No. 43.)

No. 41.
Earl Granville,
K.G., to the Right
Hon. Sir J. Young,
Bart., G.C.B.
17 February 1870.

The Earl *Granville*, K.G., to the Right Honourable Sir *John Young*, Bart., G.C.B.

Sir,

Downing-street, 17 February 1870.

WITH reference to my Despatch, No. 193,† of 20th October last, and to previous correspondence respecting the operation in the Dominion of Canada, of the laws affecting the reprint of British copyright works, I transmit to you, for your information, a copy of a letter from the Foreign Office, with a copy of the answer which has been returned to it, on the subject of a proposed Convention with the United States for the reciprocal protection of copyright.

† Page 30.

Foreign Office,
23 Nov. 1869,
page 31.

Colonial Office,
19 January 1870,
page 37.

I have, &c.
(signed) *Granville.*

— No. 42. —

(No. 44.)

No. 42.
Earl Granville,
K.G., to the Right
Hon. Sir J. Young,
Bart., G.C.B.
17 February 1870.

The Earl *Granville*, K.G., to the Right Honourable Sir *John Young*, Bart., G.C.B.

Sir,

Downing-street, 17 February 1870.

WITH reference to my Despatch, No. 43,‡ of this day's date, enclosing copies of a correspondence between this Department and the Foreign Office, on the subject of a proposed Convention with the United States for the reciprocal protection of copyright, I have the honour to enclose, for your information, an extract from the reply † which has been received from the Foreign Office to the letter from this office of the 19th ultimo.

† *Supra.*

‡ Page 37.

I have, &c.
(signed) *Granville.*

— No. 43. —

Colonial Office to Foreign Office.

No. 43.
Colonial Office to
Foreign Office.
19 February 1870.

Sir,

Downing-street, 19 February 1870.

I AM directed by Earl Granville to request that Lord Clarendon will cause him to be furnished with a copy of the proposed Draft Convention with the United States on the subject of copyright, to which allusion is made in your letter of the 5th instant.§

§ Page 39.

I am, &c.
(signed) *Frederic Rogers.*

No. 44.

(Confidential.)

The Earl *Granville*, K.C., to the Right Honourable Sir *John Young*, Bart., G.C.B.

Sir,

Downing-street, 5 March 1870.

WITH reference to my Despatches, Nos. 43* and 44,† of the 17th ultimo, respecting a proposed Convention with the United States for the reciprocal protection of copyright, I have the honour to transmit to you the enclosed copy of the Draft Convention which has been obtained from the Foreign Office.

No. 44.
Earl Granville,
K.C., to the Right
Hon. Sir J. Young,
Bart., G.C.B.
5 March 1870.
* Page 38.
† Page 38.

I have, &c.
(signed) *Granville*.

Enclosure in No. 44.

DRAFT of CONVENTION between Her Britannic Majesty and the United States of America for the Establishment of INTERNATIONAL COPYRIGHT.

Encl. in No. 44.

HER Majesty, the Queen of the United Kingdom of Great Britain and Ireland, and the President of the United States of America, being equally desirous of extending in each country the enjoyment of copyright to works of literature and the fine arts which may be first published in the other, Her Britannic Majesty and the President of the United States have deemed it expedient to conclude a special Convention for that purpose, and have therefore named as their plenipotentiaries; that is to say:—

Her Majesty, the Queen of the United Kingdom of Great Britain and Ireland, &c. &c. &c., and the President of the United States, &c. &c. &c.,

who, after having communicated to each other their respective full powers found in good and due form, have agreed upon and concluded the following Articles:—

Article I.—From and after the date on which, according to the provision of Article 11, the present Convention shall come into operation, the authors of works of literature or of art, to whom the laws of either of the two countries do now or may hereafter give the right of property or copyright, shall be entitled to exercise that right in the territories of the other of such countries for the same term, and to the same extent, as the authors of works of the same nature, if published in such other country, would therein be entitled to exercise such right; so that the republication or piracy in either country of any work of literature or of art published in the other shall be dealt with in the same manner as the republication or piracy of a work of the same nature first published in such other country; and so that such authors in the one country shall have the same remedies before the courts of justice in the other country, and shall enjoy the same protection against piracy and unauthorised republication, as the law now does or may hereafter grant to authors in that country.

The terms "works of literature or art" employed at the beginning of this Article shall be understood to comprise publications of books, of dramatic works, of musical composition, of drawing, of painting, of sculpture, of engraving, of lithography, and of any other works whatsoever of literature and of the fine arts.

The lawful representatives or assigns of authors, composers, painters, sculptors, or engravers, shall in all respects enjoy the same rights which by the present Convention are granted to the authors, composers, painters, sculptors, or engravers themselves.

Article II.—The stipulations of the preceding Article shall also be applicable to the representation of dramatic works, and to the performance of musical compositions, in so far as the laws of the two countries are or shall be applicable in this respect to dramatic and musical works first publicly represented or performed therein. It is understood that the protection stipulated by the present Article is not intended to prohibit fair imitations or adaptations of dramatic works to the stage in England and the United States respectively, but is only meant to prevent piratical reproductions.

The question, whether a work is an imitation or a piracy shall in all cases be decided by the courts of justice of the respective countries, according to the laws in force in each.

Article III.—The importation into and the sale in either of the two countries of piratical copies of works which are protected from piracy under Article I. of the present Convention are prohibited, whether such piratical copies originate in the country where the work was published or in any other country.

Article IV.—In the event of an infraction of the provisions of the foregoing Articles the pirated works or articles shall be dealt with in each country according to the laws which now exist or may hereafter exist in that country in respect to such works or articles, and the persons who may have committed such infraction shall be liable in each country to the penalties

and actions which are or may be prescribed by the laws of that country for such offences committed in respect of a work or production of home origin.

Article V.—Neither authors nor their lawful representatives or assigns shall be entitled in either country to the protection stipulated by the preceding Articles, nor shall copyright be claimable in either country, unless the work shall have been registered in the manner following, that is to say:—

1st. If the work be one which has first appeared in the United States, it must be registered at the Hall of the Company of Stationers in London.

2nd. If the work be one that has first appeared in the Dominions of Her Britannic Majesty, it must be registered at the Department of State in Washington.

No person shall be entitled to such protection as aforesaid, unless he shall have duly complied with the laws and regulations of the respective countries in regard to the work in respect of which such protection may be claimed. With regard to books, maps, prints, or musical publications, no person shall be entitled to such protection unless he shall have delivered gratuitously at one or the other of the places mentioned above, as the case may be, one copy of the best edition, printed and published in the best state, in order to its being deposited at the place appointed for that purpose in each of the two countries; that is to say, in Great Britain at the British Museum, at London, and in the United States at the Department of State, at Washington.

In every case the formality of deposit and registration must be fulfilled within three months after the first publication of the work in the other country.

With regard to works published in parts, provided that a period exceeding six months shall not intervene between the publication of the parts, the period of three months shall not begin to run until the date of the publication of the last part, but the author or his representatives may, if they choose, register each part as a separate work.

A certified copy of the entry in the Register Book of the Company of Stationers in London shall confer, within the British Dominions, the exclusive right of republication until a better right shall have been established by any other party before a court of justice.

The certificate given under the laws of the United States proving the registration of any work in that country, shall be valid for the same purpose throughout the territories of the United States.

A certificate, or certified copy of the registration, of any work so registered in either country, shall, if required, be delivered at the time of registration; and such certificate shall state the exact date at which the registration was made.

The charge for the registration of a single work, under the stipulations of this Article, shall not exceed one shilling in England, nor twenty-five cents in the United States; and the further charge for a certificate of such registration shall not exceed the sum of five shillings in England, nor one dollar in the United States.

Article VI.—With regard to any article other than books, prints, maps, and musical publications, in respect to which protection may be claimable under Article I. of the present Convention, it is agreed that any other modes of registration than that prescribed in Article V., which is, or may be, applicable by law in one of the two countries to any work or article first published in such country, for the purpose of affording protection to copyright in such work or article, shall be extended on equal terms to similar work or article first published in the other country.

Article VII.—In order to facilitate the execution of the present Convention, the two high contracting parties engage to communicate to each other the laws and regulations which may hereafter be established in their respective territories, with respect to copyright in works or productions protected by the stipulations of the present Convention.

Article VIII.—The stipulations of the present Convention shall in no way affect the right which each of the two high contracting parties expressly reserves to itself, of controlling or of prohibiting, by measures of legislation or of internal police, the sale, circulation, representation, or exhibition, of any work or production in regard to which either country may deem it expedient to exercise that right.

Article IX.—Nothing in this Convention shall be construed to affect the right of either of the two high contracting parties to prohibit the importation into its own Dominions of such books as by its internal law, or under engagements with other States, are or may be declared to be piracies, or infringements of copyright.

Article X.—The present Convention shall come into operation from and after a day to be fixed upon by the two high contracting parties on the exchanges of the ratifications. Due notice shall be given beforehand in each country, by the Government of that country, of the day which may be so fixed upon, and the stipulations of the Convention shall apply only to works or articles published after that day.

The Convention shall continue in force for five years from the day on which it may come into operation, and if neither party shall, 12 months before the expiration of the said period of five years, give notice of its intention to terminate its operation, the Convention shall continue in force for a year longer, and so on, from year to year, until the expiration of a year's notice from either party for its termination. The high contracting parties, however,
reserve

reserve to themselves the power of making, by common consent, in this Convention, any modifications which may not be inconsistent with its spirit and principles, and which experience of its working may show to be desirable.

Article XI.—The present Convention shall be ratified, and the ratifications shall be exchanged at Washington as soon as may be within 12 months from the date of signature.

In witness whereof the respective Plenipotentiaries have signed the same, and have affixed thereto their respective seals.

Done at Washington, the

— No. 45. —

(C. 304.)

Board of Trade to Colonial Office.

Office of Committee of Privy Council for Trade,
7 March 1870.

Sir,

WITH reference to previous correspondence on the subject of Colonial Copyright, I am directed by the Lords of the Committee of Privy Council for Trade to enclose, for the consideration of the Secretary of State, a draft of a Bill enabling a person publishing in a Colony to obtain Imperial Copyright, and I am to request that you will move his Lordship to inform the Board of Trade whether he approves of the draft.

I am, &c.
(signed) *T. H. Farrer.*

No. 45.
Board of Trade to
Colonial Office.
7 March 1870.

Enclosure in No. 45.

COPYRIGHT BILL.

Encl. in No. 45.

MEMORANDUM.

COPYRIGHT.

THE Bill gives an author the same right, whether his book is first published in the United Kingdom or in a Colony, and gives this right retrospectively. The Bill, however, provides that, in the case of a Colony, the copyright law of that Colony, as well as the Imperial Copyright Act, must be complied with.

The fourth clause of the Bill introduces various verbal amendments into the Copyright Act, 1842, with a view partly of making the alteration of the law clearer, and partly of meeting the objections which Lord Cairns pointed out [Law Reports, 3 H. L., p. 109] as objections to the application of the Copyright Act to the Colonies.

The Bill, however, does not alter the regulations of the Copyright Act as to the registry at Stationers' Hall. It seems to me that if publication in a Colony is to confer a copyright in every part of the British Dominions, that copyright should be registered in the central registry at Stationers' Hall; there would otherwise be no means of informing persons in the United Kingdom or elsewhere of the existence of such copyright or of the persons entitled to it.

7 March 1870.

H. Jenkyns.

DRAFT of a BILL to Amend the LAW relating to COPYRIGHT.

A.D. 1870.

WHEREAS the author of a book is entitled, if the book is first published in the United Kingdom, to copyright in the book in every part of Her Majesty's Dominions, but if the book is first published in any Colony, to copyright in that Colony only; and it is expedient that he should be entitled to the same right, whether the book is first published in a Colony or in the United Kingdom:

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. This Act shall be construed as one with the Act of the Session of the fifth and sixth years of the reign of Her present Majesty, chapter forty-five, intituled "An Act to amend the

the Law of Copyright" (in this Act referred to as the principal Act), and with the Act of the Session of the tenth and eleventh years of the reign of Her present Majesty, chapter ninety-five, intituled "An Act to amend the Law relating to the Protection in the Colonies of Works entitled to Copyright in the United Kingdom," and the said Acts, together with this Act, may be cited as the Copyright Acts, 1842 to 1870, and each Act may be cited separately as the Copyright Act of the year in which it was passed.

Definition.

2. In this Act the term British Possession means any part of the British Dominions other than the United Kingdom.

Right of person to copyright where book first published in a British Possession.

3. Where a book has been first published, either before or after the passing of this Act, in a British Possession, every person shall be entitled in respect of such book to the same right of copyright and to the same benefits under the principal Act as he would have been entitled to if such book had been first published in the United Kingdom, provided that he has observed in the case of such book the provisions of the law of such British Possession relating to copyright, and to any remedy and privileges connected therewith.

The provisions of this section with respect to copyright in a book shall extend, *mutatis mutandis*, to the liberty of representing or performing any dramatic piece or musical composition, the first public representation or performance of such piece or composition being equivalent to the first publication of a book.

Amendments of 5 & 6 Vict., c. 45.

4. For the purpose of better carrying into effect this Act, the following amendments shall be made in the principal Act; namely,—

(1.) In Section 3 the words "in any part of the British Dominions" shall be inserted after the word "published," wherever it occurs in that section:

(2.) Copies of books or editions required to be delivered for certain libraries under Section 8 shall, if published in a British Possession, be delivered within six months after demand made thereof in writing, as mentioned in that section:

(3.) The value and sum mentioned in Section 10 may be recovered in any British Possession, either in a summary way in the same court or before the same justices or magistrates, and in the same manner as a summary penalty may be recovered in such Possession, or as near thereto as circumstances admit, or as a debt in any competent court in such Possession, or in such other manner as any Act or Ordinance having the force of law in such Possession may from time to time provide:

(4.) In Section 17, after the words "published in any part of the said United Kingdom," there shall be inserted the words "or of any British Possession."

Amendment of 16 & 17 Vict., c. 107, s. 44.

5. The provisions of the Customs Consolidation Act, 1853, with respect to the importation of books, shall extend to books whether first composed, written, or printed in the United Kingdom or in any British Possession.

— No. 46. —

No. 46.
Colonial Office to
Board of Trade.
31 March 1870.

Colonial Office to Board of Trade.

Sir,

Downing-street, 31 March 1870.

WITH reference to your letter of the 7th*, enclosing a draft Bill for enabling a person publishing in a Colony to obtain Imperial copyright, I am directed by Earl Granville to state that, upon consideration, some slight alterations appeared to him desirable in that draft, and I am to transmit to you, for the consideration of the Lords of the Committee of Privy Council for Trade, a further draft which has been prepared by Mr. Jenkyns, after communication with this Department. The accompanying Memorandum by Mr. Jenkyns sufficiently explains the nature of the proposed Bill.

I am, &c.
(signed) *Frederic Rogers.*

* Page 41.

Enclosure in No. 46.

Encl. in No. 46.

COPYRIGHT BILL.

MEMORANDUM.

COPYRIGHT.

THE Bill gives an author the same right, whether his book is first published in the United Kingdom or in a Colony, and gives this right retrospectively. Under the Copyright Act the proprietor cannot sue in respect of infringement of copyright, unless he registers the book at Stationers' Hall, but his right accrues irrespective of this registry. Under the Bill, as now altered, a person publishing a book in a Colony will have no right at all unless he registers. The Bill also provides that, in the case of a Colony, the copyright law of that Colony, as well as the Imperial Copyright Act, must be complied with.

The 4th clause of the Bill introduces various verbal amendments into the Copyright Act, 1842, with a view partly of making the alteration of the law clearer and partly of meeting the objections which Lord Cairns pointed out (Law Reports, 3 H. L., p. 109) as objections to the application of the Copyright Act to the Colonies.

The Bill, however, does not alter the regulations of the Copyright Act as to the registry at Stationers' Hall. It seems to me that if publication in a Colony is to confer a copyright in every part of the British Dominions, that copyright should be registered in the central registry at Stationers' Hall; there would otherwise be no means of informing persons in the United Kingdom or elsewhere of the existence of such copyright or of the persons entitled to it.

The last clause not only leaves the rights of a Colonial publisher unaltered unless he registers, but exempts him, if he does not register, from sending copies to the British Museum, as he is now obliged to do under Section 6 of the Copyright Act.

I do not quite see how the alteration in the form of the Bill alters the question as to self-governing Colonies; because, under the altered as under the original Bill, a Canadian author will acquire rights in Victoria without the consent of the Victorian Legislature.

15 March 1870.

Henry Jenkyns.

DRAFT of a BILL to Amend the LAW relating to COPYRIGHT.

A. D. 1870.

WHEREAS the author of a book is entitled, if the book is first published in the United Kingdom, to copyright in the book in every part of Her Majesty's Dominions, but is not so entitled if the book is first published in any Colony, and it is expedient that he should be enabled to acquire the same right, whether the book is first published in a Colony or in the United Kingdom:

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act shall be construed as one with the Act of the Session of the fifth and sixth years of the reign of Her present Majesty, chapter forty-five, intituled "An Act to amend the Law of Copyright" (in this Act referred to as the principal Act), and with the Act of the Session of the tenth and eleventh years of the reign of Her present Majesty, chapter ninety-five, intituled "An Act to amend the Law relating to the Protection in the Colonies of Works entitled to Copyright in the United Kingdom," and the said Acts, together with this Act, may be cited as the Copyright Acts, 1842 to 1870, and each Act may be cited separately as the Copyright Act of the year in which it was passed.

Construction and short title.

2. In this Act the term British Possession means any part of the British Dominions other than the United Kingdom.

Definition.

3. Where a book has been first published, either before or after the passing of this Act, in a British Possession, and such book is entered in the registry book of the Stationers' Company in manner provided by the principal Act, every person shall (unless it is shown that the law of such British Possession relating to copyright has not been complied with in the case of such book) be entitled in respect of such book to the same right of copyright, and the same benefits as he would have been entitled to under the principal Act, if such book had been first published in the United Kingdom.

Right of person to copyright where book first published in a British Possession.

The provisions of this section with respect to copyright in a book, shall extend, *mutatis mutandis*, to the liberty of representing or performing any dramatic piece or musical composition, the first public representation or performance of such piece or composition being equivalent to the first publication of a book.

4. For the purpose of better carrying into effect this Act, the following amendments shall be made in the principal Act, namely—

Amendments of c. 5 & 6 Vict., 45.

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(1.) In

(1.) In Section 3 the words "in any part of the British Dominions" shall be inserted after the word "published," wherever it occurs in that section:

(2.) Copies of books or editions required to be delivered for certain libraries under Section 8, shall, if published in a British Possession, be delivered within six months after demand made thereof in writing, as mentioned in that section:

(3.) The value and sum mentioned in Section 10, may be recovered in any British possession, either in a summary way in the same court, or before the same justices or magistrates, and in the same manner as a summary penalty may be recovered in such Possession, or as near thereto as circumstances admit, or as a debt in any competent court in such Possession, or in such other manner as any Act or Ordinance having the force of law in such Possession may from time to time provide:

(4.) In Section 17, after the words "published in any part of the said United Kingdom," there shall be inserted the words "or of any British Possession."

5. The provisions of the Customs Consolidation Act, 1853, with respect to the importation of books, shall extend to books whether first composed, written, or printed in the United Kingdom, or in any British Possession.

6. Nothing in the principal Act, or in the Customs Consolidation Act, 1853, or in this Act, shall be construed to apply to any book, dramatic piece, or musical composition first published, represented, or performed in a British Possession, unless such book, dramatic piece, or musical composition has been entered in the registry book of the Stationers' Company in manner provided by the principal Act.

Amendment of
16 & 17 Vict.,
c. 107, s. 44.

Exception of
books not regis-
tered.

— No. 47. —

(C. 399.)

Board of Trade to Colonial Office.

No. 47.
Board of Trade to
Colonial Office.
25 April 1870.

Office of Committee of Privy Council
for Trade, 25 April 1870.

Sir,

I AM directed by the Lords of the Committee of Privy Council for Trade, to transmit to you, to be laid before Earl Granville, the enclosed copy of a letter addressed to Mr. Gladstone by Messrs. Longman and Murray, on the 29th March last, submitting resolutions passed at a meeting held in Albemarle-street, on the 16th of that month, by Earl Stanhope, and a number of authors and gentlemen interested in literary property.

The first of these resolutions represents the injury sustained by British authors and publishers from the operation of the Imperial Copyright Act of 1847, and urges its prompt repeal.

The second resolution refers to the unjust and unexpected position in which British authors and publishers are placed by the decision of the House of Lords, in the case of *Low v. Routledge*, upon the Copyright Amendment Act, 1842, as to works first published in any part of the British Dominions, not included in the United Kingdom.

As Earl Granville is aware, a Bill has been already prepared, with a view of amending the state of the law to which the second resolution calls attention; and it is satisfactory to find that in the introduction of this measure, Her Majesty's Government will receive the support of the authors and publishers represented at the meeting.

It may, however, be assumed that this support will in some degree depend upon the adoption, by Her Majesty's Government, of the recommendation contained in the first resolution, viz., that steps should be taken to obtain the repeal of the Imperial Copyright Act of 1847; a course which, although in every way desirable, so far as Imperial interests and general grounds of policy are concerned, and probably not unacceptable to the British Colonies generally, would perhaps be still opposed by the North American Colonies, at whose instance the Act in question was obtained.

Their Lordships' letter of the 27th July 1869,* No. 687/69, contains a statement of the origin of the Act of 1847, and of the grounds upon which Her Majesty's Government obtained the sanction of Parliament to its provisions, which are completely at variance with the principles of copyright law of the United Kingdom.

Lord Granville will be better able than the Board of Trade to form an opinion as to the disposition of the Canadian Government and Legislature to acquiesce in the repeal of the Act of 1847; but it appears to my Lords that there are considerations at the present time which Her Majesty's Government may, with justice, urge in favour of such a course.

* Page 26.

In the first place, it is proposed by the Bill now under consideration to place the Colonies on the same footing as the United Kingdom with respect to publication, and as Canada will therefore obtain all the advantages of Imperial copyright, it is only right that she should accept its restrictions.

In the second place, it has been stated by the Canadian Government that, even with a duty of 12½ per cent., the Canadian publishers would be able to undersell the piratical works published in the United States: and if this be the case, it may be supposed that under the operation of the amended law arrangements may be made between the British authors and Canadian publishers which will enable the Canadian public to obtain cheap English literature, without resorting to the market of the United States.

And lastly, it is not denied that the North American Provinces have absolutely failed in fulfilling the understanding upon which the Act of 1847 was conceded by the British Parliament, viz., the imposition of 12½ per cent. duty on the importation of all piratical reprints of English copyright works.

It is true that the Canadian Government plead that this has arisen from circumstances beyond their control, and not from an intentional and deliberate violation of the implied understanding with Her Majesty's Government; but it must be admitted that the Act itself materially aggravates the difficulty, which without it would be sufficiently great, of preventing the contraband importation of pirated reprints of British works, for it is impossible to impose an effectual check upon the circulation of such reprints in the Dominion while legalised copies of similar reprints are admitted through the Customs, and cannot be distinguished from the smuggled reprints.

The extent to which the Canadian Government has failed in executing the provisions of the Act of 1847, may be seen from the account obtained from the Lords of the Treasury of the amount paid over by the Colonial Executive for the remuneration of British authors, enclosed in Board of Trade letter above referred to; and in the face of this evidence of its failure, it is difficult to see on what grounds the continuance of the Act can be defended, unless the Canadian Government is prepared to advocate the practical withdrawal of all protection to British copyright in the Dominion.

In submitting these remarks to Earl Granville, I am to request that you will state to his Lordship that, under these circumstances, it appears to deserve consideration whether, before proceeding with the Bill now before the Colonial Office, it may not be desirable to ascertain the views of the Government of the Canadian Dominion with respect to the operation of the Act of 1847, under the contemplated alterations in the conditions of law and trade, and if possible to obtain their concurrence in its repeal.

Two reasons exist in favour of the repeal which Her Majesty's Government were not in a position to urge when the Bill, recently prepared, was originally framed.

1. The improbability, according to the last Despatches from Her Majesty's Minister at Washington, of any satisfactory arrangements with the United States for International Copyright. This fact renders it the more important that the law of the British Empire should be placed on a just and satisfactory footing, so that both British authors and Colonial, as well as English publishers, may receive fair and equal justice throughout the Empire, and may be protected, so far as British law can protect them, from the piratical acts of United States publishers.

2. The importance of securing the co-operation of British authors and publishers in passing the proposed Bill, which it may be assumed will in some degree depend upon the course taken with respect to the first of the two resolutions enclosed in the letter from Messrs. Longman and Murray.

In this letter, the Board of Trade have referred almost exclusively to Canada, since it was at the instance of the British North American Colonies that the Act of 1847 was passed. Lord Granville will judge how far it may be necessary to consult the other Colonies who adopted that Act. But so far as the Board of Trade can judge, they have scarcely sufficient interest in the question to make it necessary to wait for their answers, provided the assent of the North American Colonies can be obtained.

I am, &c.
(signed) *Thomas Gray.*

Encls. in No. 47.

Enclosures in No. 47.

Sir,

50, Albemarle-street, March 1870.

WE have the honour to place before you the Resolutions passed at the meeting held here on the 16th instant, signed by the Earl Stanhope, and a number of authors and gentlemen interested in literary property.

In compliance with these Resolutions we beg to represent that, whereas it is enacted by the Imperial Act of 1847 that in case the Legislature of any British Colony shall pass an Act to make due provisions for protecting and securing the rights of British authors in such Colony, and in case Her Majesty shall be of opinion that such Colonial Act is sufficient for the purpose, Her Majesty may issue an Order in Council that, so long as the provisions of such Act continue in force in such Colony, the prohibitions contained in the Imperial Act of 1842, against the import of foreign reprints of British copyright works, shall be suspended so far as regards such Colony.

The reasons which induced the Government to obtain the Act of 1847, were never made public; and the Bill appears to have escaped all notice in its quiet passage through both Houses. No trace of any debate upon it is to be found. The Act took British authors and publishers equally by surprise, as they knew nothing of the measure until it became law.

No time was lost by the North American Colonies in availing themselves of the powers given them by the Act of 1847. Each of those Colonies duly passed the needful enactment "for protecting the rights of British authors," whereby an *ad valorem* duty of 20 per cent., since reduced to 12½ per cent., was imposed upon foreign reprints of British copyright works imported into the Colony. This being done, Orders in Council founded on such Colonial enactments were made in conformity with the Act of 1847.

The injury inflicted upon British authors and other proprietors of literary copyright works by that Act have been excessive. Not only all the North American Colonies, but the Cape of Good Hope, Jamaica, and others, in all amounting to 19, have availed themselves of the Act of 1847, and obtained Orders in Council for the importation of foreign reprints into all those Colonies. These foreign reprints have been made in the United States, and the British Colonies in question have been flooded with them, to the serious damage of British authors and publishers, and the various trades, such as printers, paper-makers, type-founders, and others employed in the manufacture and sale of copies of books first published in the United Kingdom.

The United States have hitherto declined to enter into an International Copyright Treaty with England, and the practical result of the Act of 1847 has been to throw the trade of reprinting British copyright works, or foreign reprints, into the hands of the United States publishers.

This Act of 1847 has consequently operated as a large premium to the United States not to enter into an international copyright convention with England, and therefore directly conflicts with the policy of Parliament in passing the International Copyright Act of 1844.

The Canadian Government frankly admit that the protection of authors, contemplated by the Imperial Parliament, under the Act of 1847, and by Her Majesty's Order in Council issued under that Act, have been, with rare exceptions, entirely evaded.

In illustration of this fact, an instance may be cited, where 40,000 copies of a popular British work have been recently printed in the United States and imported into Canada, without one shilling of import duty being levied upon them for the author's benefit.

As an illustration of one of the effects of the Act of 1847, it may be mentioned that the permission to import foreign reprints on a duty, gives a ready opportunity for the sale of any amount of foreign reprints which may have been smuggled, and have paid no duty, as they can in no way be distinguished from the copies that have paid duty.

Thus it will be seen that the express condition "to make due provision for securing and protecting the rights of British authors in such Colony," has not been fulfilled by the Canadian enactment, and that instead of a benefit, a serious injury has been done, and is still being done to the property of British authors.

Upon the other hand, British authors first publishing their works in any of Her Majesty's Colonies, are now placed in a most unexpected and unjust position by a recent decision upon the Copyright Act of 1842. The practical result of that decision is, that if a work be first published in any part of the British Dominions out of the United Kingdom, its author has only such copyright in it, if any, as may be afforded by the Colonial or other local laws of the place where it has been so first published. The case referred to is that decided by the House of Lords in *Low v. Routledge*, upon the Copyright Amendment Act of 1842.

We add a copy of the Resolutions referred to at the commencement of our letter, and beg to express to you our earnest hope that Her Majesty's Government may deem it right to propose the prompt repeal of the Act of 1847, and the Orders in Council issued in consequence.

We have, &c.
(signed) *Thomas Longman.*
John Murray.

The Right Hon. W. E. Gladstone, M.P.
&c. &c. &c.

Resolved,—That a representation be made to the Right Hon. the First Lord of the Treasury, pointing out the great hardship sustained by British authors and publishers from the operation of the Imperial Copyright Act of 1847, and stating the earnest desire they feel that Her Majesty's Government might deem it right to propose its prompt repeal.

They further desire to call the attention of Mr. Gladstone to the unexpected and unjust position in which all British Colonial authors and publishers are placed by the decision of the House of Lords in *Low v. Routledge*, upon the Copyright Amendment Act, 1842, as to works first published in any part of the British Dominions not included in the United Kingdom.

(signed) *Stanhope*,
(In the Chair of the meeting held
16 March 1870.)

William Smith, LL.D.
Arthur Helps.
D. Robertson Blaine.
George Bentley.
Anthony Trollope.
Frederick Chapman.
Frederick Richard Daldy.
Alexander Macmillan.
Charles Dickens.
John Murray.
Henry Reeve.
James Ferguson.
Thomas Longman.

— No. 48. —

Foreign Office to Colonial Office.

No. 48.
Foreign Office to
Colonial Office.
30 April 1870.

Sir,

Foreign Office, 30 April 1870.

WITH reference to my letter of the 5th February last,* on the subject of a negotiation with the United States for the conclusion of a Convention of international copyright, I am directed by the Earl of Clarendon to transmit to you, for the information of Earl Granville, copy a Despatch from Her Majesty's Minister at Washington, in reply to the instruction, of which a copy is likewise annexed.

* Page 37.

Lord Clarendon deferred communicating these papers to Lord Granville until he should have learnt what observations the Board of Trade might have to make upon Mr. Thornton's Despatch. The Board, however, inform him that while they regret the difficulties as to the conclusion of a copyright Convention with the United States, they have, under the circumstances, no further observation to offer on the subject.

Commercial,
5 February 1870.
Commercial,
5 March 1870.

I am, &c.

(signed) *Arthur Otway.*

Enclosures in No. 48.

Encls. in No. 48.

(Commercial.)

Sir,

Foreign Office, 5 February 1870.

HER Majesty's Government have carefully considered the draft of Convention between Great Britain and the United States for the reciprocal protection of copyright, which I received from you privately some time ago; and they are of opinion that it would secure all the substantial objects which the British Government have had in view in their endeavours to conclude a Treaty of Copyright with the United States; I have therefore to acquaint you that you are authorised, in virtue of the full powers with which you are already furnished, to sign a Convention in the terms of that draft.

On comparing the draft Convention with other Conventions of the same nature subsisting between Great Britain and foreign powers, from which the provisions of the draft are mainly taken, two points of difference have been remarked:—

1. The draft omits an Article allowing the republication of newspaper articles, provided the source from whence they are taken be acknowledged.
2. "Dramatic works" are omitted from the list of those of which a copy is to be delivered for the library at the British Museum in London, and at the Department of State at Washington.

These discrepancies are not of any practical importance, and Her Majesty's Government would not on account of them interpose any difficulty as to signing the Convention; but I should be glad to be informed of the reasons, on account of which the provisions in question were omitted.

There is a point, however, on which it is necessary for me to make a few observations.

According to the present copyright law of this country, while a work published in the United Kingdom has the protection of copyright throughout the whole British Dominions, a work published in a British Colony is protected only in the particular Colony in which it is published. Her Majesty's Government feel it to be their duty to remedy this state of things, and it is their intention to introduce a Bill to give to works published in the Colonies the same protection which is now given only to works published in the United Kingdom, namely, the privilege of copyright throughout the British Empire.

You will take care at the proper time to state officially to the Government of the United States that the conclusion and ratification of the proposed Convention will in no way preclude Her Majesty's Government from bringing forward such a measure.

E. Thornton, Esq., c.B.

I am, &c.
(signed) Clarendon.

(Commercial.)

My Lord,

Washington, 5 March 1870.

With reference to your Lordship's Despatch, No. 9, of the 5th ultimo, I have the honour to state that Lord Stanley, in his Commercial Despatch, No. 15, of 3rd July 1868, enclosed for my guidance copy of a letter written by direction of the Lords of Trade, in which I was informed that, for the purpose of re-opening the question of international copyright with the Government of the United States, the Convention of 1853 would afford a sufficient basis. In confidence, therefore, transmitting a draft upon the subject for consideration to Mr. Fish, I took that Convention as a model. Your Lordship will find that in the latter there is, 1st. No article allowing the republication of newspaper articles, provided the source whence they are taken be acknowledged, nor, 2nd, are dramatic works specifically mentioned in the list of those, of which a copy is to be delivered for the library at the British Museum in London, and the Department of State at Washington.

With regard to the former of these two points, Lord Malmesbury, in his Despatch, No. 50, of the 21st of May 1852, informed Mr. Crampton that certain stipulations prohibiting the unauthorised republication of articles from newspapers or periodicals would be unnecessary in a Convention with the United States, although there was a reason for it in the Convention with France, in consequence of the proximity of the two countries.

With regard to the second observation made by your Lordship, I do not find any specific mention of "Dramatic Works" amongst those, of which a copy was to be delivered at the British Museum, made in the convention with France, which, by Lord Malmesbury's instructions, was used as a model by Mr. Crampton for the convention which he subsequently signed.

In the meantime the draft of a Convention, which I submitted confidentially to Mr. Fish some time ago, has been referred to various authors and publishers in the United States; the former have almost unanimously expressed themselves in favour of such an arrangement between the two countries; but have, at the same time, expressed their opinion that it will be impossible to overcome the resistance that would be made by publishers to the proposal now submitted, unless an Article were inserted stipulating that those British authors who obtained a copyright in this country should be obliged to have their works set, printed, and bound in this country.

Messrs. Appleton & Co., publishers, of New York, likewise maintain that, for the protection of such important interests as they represent, no Copyright Convention should be signed without a provision of the nature above mentioned. Messrs. Harper, Brothers go still further, and make the strongest objections to the conclusion with England of any stipulation for international copyright.

They allege that those authors who are worthy of any consideration at all, are sufficiently remunerated by the rights they obtain from the legislation of their own country, and that it is only the very inferior authors who clamour for international copyright. They assert that the price of good books would be very much increased in the United States by such a Convention, and would become as high as it now is in England, because English authors would be able to control the publication of their works in this country, and to fix their own price, which would naturally be not lower than that which they are able to obtain in their own country.

Messrs. Harper acknowledge that nine-tenths of the most readable and saleable books in the English language are by English authors, which are now circulated throughout the United States at very low prices, and greatly contribute to the enlightenment of the masses of the American population. From the use of these works they believe that the general public of the United States would be completely debarred, in case of the conclusion of an
International

International Copyright Convention, and would be driven to seek knowledge from publications of a very inferior class.

However erroneous these views may be, I fear that when enunciated by publishers of such weight as Messrs. Harper, Brothers, they will have great influence in preventing the Senate from giving its sanction to such a convention upon the subject as would be acceptable to Her Majesty's Government.

I believe that the opposition of the publishers was the principal reason that the Convention signed by Mr. Crampton and Mr. Everett in 1853, did not receive the sanction of the Senate, because it did not contain a stipulation for the printing and manufacture in this country of the works of English authors who might obtain a copyright. And yet at that time it was not of so much importance to the publishers, because it was supposed that such work could be done at a cheaper rate in the United States than in England, and that English authors would, therefore, naturally employ American publishers to produce their books. But now it is quite the reverse, and the American publishers believe that they would consequently not be called upon to print any English works, because they would be manufactured at a cheaper rate in England, and would be sold in this country at a high price, to the great advantage of the authors alone.

Since Mr. Fish has received the communications referred to, he has not again spoken to me on the subject, nor do I believe that he has had any conversation upon it with senators; but I anticipate his telling me that it will be useless to sign a Convention, the passage of which in the Senate would be prevented by the opposition of the publishing interests of this country, unless such modifications were made in it as I presume Her Majesty's Government would not feel justified in accepting.

The Earl of Clarendon, K.G.

I have, &c.
(signed) *Edward Thornton.*

— No. 49. —

(Confidential.)

The Earl *Granville*, K.G., to the Right Hon. Sir *John Young*, Bart., G.C.B.

Sir,

Downing-street, 11 May 1870.

WITH reference to my Confidential Despatch of the 5th of March* respecting the proposed Convention with the United States for the reciprocal protection of copyright, I have the honour to transmit to you, for your information, a copy of a letter from the Foreign Office on this subject.

I have, &c.
(signed) *Granville.*

No. 49.
Earl Granville,
K.G., to the Right
Hon. Sir John
Young, Bart., G.C.B.
11 May 1870.

* Page 39.

30 April 1870,
page 47.

— No. 50. —

(Circular.)

The Earl *Granville*, K.G., to the Governors of certain Colonies.

Sir,

Downing-street, 1 June 1870.

THE attention of Her Majesty's Government has recently been directed to the operation of the Imperial Copyright Act of 1842, as it affects persons publishing in the Colonies.

It appears from the decision in *Low v. Routledge* in the House of Lords, that while on the one hand publication in the United Kingdom gives copyright throughout the British Empire, on the other hand publication in a Colony only confers such copyright within the Colony as may be afforded by the local law.

It appears to Her Majesty's Government very proper that this inequality should be removed, and I transmit to you the draft of a Bill which they are prepared to introduce into Parliament to effect that object; but before this step is taken, I should be glad to be favoured with any suggestions or observations, either upon this Bill or upon the general question of copyright, which you (or your Responsible Ministers) may desire to offer.

I have, &c.
(signed) *Granville.*

No. 50.
Earl Granville,
K.G., to Governors
of certain Colonies.
1 June 1870.

Vide Enclosure to
Colonial Office
Letter of
31st March 1870,
page 42.

— No. 51. —

(Circular.)

No. 51.
Earl Granville,
K.G., to Governors
of certain Colonies
2 June 1870.

The Earl *Granville*, K.G., to the Governors of certain Colonies.

Sir,

Downing-street, 2 June 1870.

I TRANSMIT to you, herewith, copy of a letter from the Board of Trade,* submitting resolutions passed at a meeting of authors and others, held in Albemarle-street on the 16th of March last, urging the repeal of the Imperial Copyright Act of 1847, and calling attention to the unjust position of British Colonial authors and publishers, through the decision of the House of Lords in the case of *Low v. Routledge*, upon the Copyright Amendment Act of 1842, as to works first published in any part of the British Dominions not included in the United Kingdom.

* 25 April 1870,
page 44.

* Page 49.

From my Circular Despatch of the 1st instant,* you will have the views of Her Majesty's Government upon this latter question; and I have to request that you will report whether, in view of the benefits intended to be conferred upon British Colonial authors and publishers by the proposed Bill, any objection will be offered in the Colony under your government to the proposed repeal of the Act of 1847, and the Orders in Council made under that Act.

I have, &c.
(signed) *Granville*.

— No. 52. —

The Colonial Office to the Board of Trade.

No. 52.
The Colonial Office
to the Board of
Trade.
9 June 1870.

Sir,

Downing-street, 9 June 1870.

I AM directed by Earl Granville to acknowledge the receipt of your letter of the 25th April* (C. 399), enclosing certain resolutions, passed at a meeting of authors and others, urging the repeal of the Imperial Copyright Act of 1847, and to inform you that his Lordship has sent copies of your letter and of its enclosures to the Governors of the Colonies concerned in the repeal of the British Copyright Act of 1847, for their report. His Lordship further proposes to send out to all the Colonies the Draft Copyright Bill, enclosed in Mr. Farrer's letter of the 7th March†, and to request to be favoured with any suggestions thereon, and he is of opinion that, until answers have been received, it will be better to postpone the introduction of this Bill into Parliament.

* Page 44.

† Page 41.

I am, &c.
(signed) *Frederic Rogers*.

— No. 53. —

(No. 151.)

The Right Hon. Sir *John Young*, Bart., G.C.B., to the Earl *Granville*, K.G.

No. 53.
The Right Hon.
Sir John Young,
Bart. G.C.B., to Earl
Granville, K.G.
6 July 1870.

My Lord,

Niagara, Canada, 6 July 1870.

I HAVE the honour to acknowledge the receipt of your Circular Despatch of June 1st,* transmitting a copy of a letter from the Board of Trade, submitting resolutions urging the repeal of the Imperial Copyright Act of 1847, and requesting to be informed whether the Ministers of the Dominion have any objection to offer to the proposed repeal of that Act.

* Page 49.

2. In reply to your Lordship's inquiry, I beg to enclose a copy of a Minute of the Privy Council, from which your Lordship will perceive that the Minister of Finance, Sir Francis Hincks, is of opinion that "very strong objections will be made by the people of the Dominion of Canada to the repeal of the Act in question," and recommends that the Governor General "be requested to urge upon Her Majesty's Government not to legislate on the copyright question during this Session."

The Council endorse Sir Francis' recommendation.

I have, &c.
(signed) *John Young*.

1 July 1870.

Enclosure in No. 53.

COPY of a REPORT of a Committee of the Honourable the Privy Council, approved by His Excellency the Governor General in Council on the 1st July 1870. Encl. in No. 53.

ON a memorandum, dated 29th June 1870, from the Honourable the Minister of Finance, reporting with reference to the Circular Despatch from the Right Honourable the Secretary of State for the Colonies, of the 1st June instant, transmitting the draft of a Bill which it is proposed should be introduced into Parliament, to remove an irregularity now existing with regard to Canadian publishers,

The Minister of Finance states that there can be no objection to the proposed Bill, but that taken in connection with the suggested repeal of the Imperial Copyright Act of 1847, he is of opinion that it is highly inexpedient that legislation should take place during the present Session of the Imperial Parliament, and without full opportunity being given to the Canadian Government to consider the whole subject.

The Committee concur in opinion with the Honourable the Minister of Finance, and respectfully submit his report for your Excellency's approval.

Certified,
Wm. H. Lee, Clerk,
Privy Council.

— No. 54. —

(No. 152.)

The Right Hon. Sir *John Young*, Bart. G.C.B., to the Earl *Granville*, K.G.

My Lord,

Niagara, Canada, 6 July 1870.

I HAVE the honour to acknowledge the receipt of your Lordship's Circular Despatch of 1st June 1870,* transmitting the draft of a Bill to "amend the law relating to Copyright."

2. From the enclosed Minute of the Privy Council, your Lordship will perceive that the Ministers are of opinion that, "though there can be no objection to the proposed Bill," yet they deprecate Imperial legislation on the subject during the present Session of Parliament.

I have, &c.
(signed) *John Young*.

No. 54.
The Right Hon.
Sir John Young,
Bart. G.C.B., to Earl
Granville, K.G.
6 July 1870.

* Page 49.

1 July 1870.

Enclosure in No. 54.

COPY of a REPORT of a Committee of the Honourable the Privy Council, approved by His Excellency the Governor General in Council on the 1st July 1870. Encl. in No. 54.

ON a memorandum, dated 29th June 1870, from the Honourable the Minister of Finance, reporting with reference to the Circular Despatch of the Right Honourable the Secretary of State for the Colonies of the 2nd June instant, requesting to be informed whether the Canadian Government have any objection to offer to a repeal of the Imperial Copyright Act of 1847,

The Minister of Finance states, that he is of opinion that very strong objections will be made by the people of the Dominion of Canada to the repeal of the Act in question, but that it would be quite impossible to take up the subject, with a view to legislation, during the present Session of the Imperial Parliament.

He therefore recommends that your Excellency be requested to urge upon Her Majesty's Government, not to legislate on the copyright question during this Session.

The Committee submit the above recommendation for your Excellency's approval.

Certified,
Wm. H. Lee, Clerk,
Privy Council, Canada.

— No. 55. —

No. 55.
Earl of Kimberley
to the Right Hon.
Sir John Young,
Bart., G.C.B.
29 July 1870.

(No. 200.)

The Earl of Kimberley to the Right Honourable Sir John Young, Bart., G.C.B.

Sir,

Downing-street, 29 July 1870.

I HAVE the honour to acknowledge the receipt of your Despatches, No. 151* and 152†, of the 6th July, enclosing Minutes of the Privy Council of Canada, from which it appears that that body deprecates Imperial legislation on the subject of the Copyright Act during the present Session.

In reply, I have to request you to forward to me a full statement of the views of the Canadian Government upon this matter, in order that the question may be considered before the next Session of Parliament.

I have, &c.
(signed) Kimberley.

— No. 56. —

No. 56.
Colonial Office to
Board of Trade.
30 July 1870.

Colonial Office to Board of Trade.

Sir,

Downing-street, 30 July 1870.

I AM directed by the Earl of Kimberley to transmit to you, for the information of the Board of Trade, and with reference to your letter of the 25th April last,* copies of two Despatches, and of their enclosures, from the Governor General of Canada, from which it appears that his Privy Council deprecate Imperial legislation on the subject of the Copyright Act during the present Session.

Lord Kimberley has requested Sir J. Young to forward a full statement of the views of the Canadian Government upon the matter in order that it may be considered before the next Session of Parliament.

I am, &c.
(signed) Frederic Rogers.

— No. 57. —

No. 57.
Colonial Office to
Board of Trade.
20 October 1870.

Colonial Office to Board of Trade.

Sir,

Downing-street, 20 October 1870.

WITH reference to your letter of the 25th April*, I am directed by the Earl of Kimberley to state to you, for the information of the Board of Trade, that he has received replies from the Governor of the Colonies named in the margin, to the Circulars addressed to them on the subject of copyright and the proposed repeal of the Imperial Copyright Act of 1847, together with the Orders in Council made under that Act.

I annex an abstract of those replies, and as it appears desirable that the attention of the Board of Trade should be especially directed to the suggestions of the Queen's Advocate of Ceylon, and to the reports of the Attorney General of Bermuda on the subject, I am to transmit copies of their communications.

The Board of Trade will observe that replies have not yet been received from those other Colonies which would be more deeply interested in the proposed legislation; but as the replies already collected raise questions of which the Board of Trade may desire to have early intimation, Lord Kimberley thinks it better to inform them of the progress which has been made up to the present date.

I am, &c.
(signed) Robert G. W. Herbert.

* Page 44.
Mauritius.
Ceylon.
British Guiana.
Barbados.
St. Vincent.
Bermuda.
Gibraltar.
Malta.
St. Helena.
West African Settlements.
Straits Settlements.
South Australia.
and
Western Australia.

* Page 44.
No 151, 6 July,
page 50.
No. 152, 6 July,
page 51.

Enclosures in No. 57.

ABSTRACT.

Encls. in No. 57.

Mauritius.—No objection offered to the proposed repeal of the Act of 1847, and the Orders in Council made under that Act.

The interests of authors holding copyright do not seem to be actively affected by the trade of Mauritius, for though in 1851, a local ordinance was passed to enable the Customs Department to levy a duty for the benefit of British authors holding the copyright of books imported into the Colony, the sum of 5*d.* only has been received on that account.

Ceylon.—No general copyright, either by the common law of the land or by local ordinance, excepting so far as certain sections of the Acts 5 & 6 Vict. c. 45, and 10 & 11 Vict. c. 95, are made to apply to the Colonies. Publications in Ceylon of books worth anything are so rare in occurrence that the necessity for such a law has never suggested itself. The question of copyright has only once arisen, in which case it was assumed that there was no civil law or Dutch law applicable, and the parties by consent referred and fought out the case on the English law.

The Queen's Advocate, in view of the above circumstances, suggests the propriety of adding a clause to the Draft Bill, making the law of copyright, as it prevails in England, the law in the British Colonies, so far as the same is applicable thereto, or of introducing, instead of the Draft Bill submitted, a Consolidated Copyright Act, applicable to the British Dominions generally.

British Guiana.—The Governor does not consider that any objection would be offered in the Colony to the repeal of the Act of 1847, and to the Orders in Council.

He adds that a local ordinance was passed in 1851 for the purpose of legalising the importation of foreign reprints of English copyright books at an *ad valorem* duty of 20 per cent., but that the importation of books under the provisions of that Ordinance has been very rare.

Barbados.—The Governor reports that it is the joint opinion of himself, and his acting Attorney General, that the Legislature is likely to be indifferent to the extension to the Colonies of the protection afforded by the Imperial Copyright Act, as books are rarely, if ever, published there.

The acting Attorney General thinks, however, that the Legislature might be unwilling to surrender the power of obtaining reprints from America; but, on the other hand, the Comptroller of Customs states that in consequence of the cheapness of reprints in England, and the facility with which copies of almost every work, second hand, at a cheap rate, can be procured within a very short time after publication, the demand has been altogether turned towards the English market.

St. Vincent.—The passing of the proposed Bill will involve the repeal of two local ordinances, but not the smallest interest will be evinced in the Colony regarding the proposed measures, and no objection offered to the repeal of the Imperial Act of 1847. No literary productions published there and no regular traffic in American reprints.

Bermuda.—The Attorney General states that Bermuda has not produced, and is not likely to produce, any works which a foreign printer will ever pirate. He adds, in his reports, of which copies are annexed, that the proposal of prohibiting the importation of American and other reprints would be strongly resisted, and that, if adopted, it would result in little short of the exclusion of modern English literature from those islands.

Gibraltar.—The Governor reports that there is no reason why the proposed copyright amendments should not be extended to that Colony, and has no suggestions to make on the general question.

Malta.—The Governor's answer is in the same terms as that received from the Governor of Gibraltar.

St. Helena.—A similar reply has been received from the Governor of St. Helena.

West African Settlements.—The Governor reports that the question does not, and probably for several generations will not, interest, or be applicable to the inhabitants of those Settlements.

Straits Settlements.—The Governor expresses an opinion that the proposed measure would prove advantageous to the Straits Settlements where no copyright protection exists, and adds that he has no suggestions to offer with respect to the Bill on the general question of copyright.

South Australia.—The Governor has referred the matter to his ministers, who, whilst they have no suggestions to make on the subject, cordially agree in the policy of the proposed measure.

A copy of the South Australian Law Reports is enclosed. At page 83 is reported the only case of copyright which has been decided in the Colony, viz., *Coppin v. Solomon*, which appears to present points of interest and importance.

South Australia,
Law Reports, 1860,
vol. i.

West Australia.—The Governor reports that no local law of copyright exists in the Colony, and is of opinion that the proposed measure will meet all the requirements of the case.

MEMORANDUM on the Law of Copyright in its relation to *Bermuda*.

THE Colonial Office Circulars of the 1st and 2nd of June 1870, draw attention to two questions; first, the unprotected state in which the decision of the House of Lords in *Low v. Routledge*, shows the Colonial author to be left; and, secondly, the propriety of prohibiting the importation of American and other reprints of British works in literature and music.

The former of these questions, though important to the Colonial Empire at large, has but little practical interest in Bermuda, which has not produced, and is not likely to produce from its press any works which the foreign printer will ever pirate.

But the second question is one of really very great consequence to this little Colony, though, from our limited trade in literature, of minor consequence to the British author.

It is, however, perhaps not unfortunate that the two questions should attract attention at one and the same time, and that the Colonies should be invited to rectify at once an injustice to the British, and an injustice to the Colonial author.

As Bermuda may be prejudiced by the exclusion of foreign reprints of copyright works, but can derive no benefit from any protection extended to the Colonial author, it is not unlikely that the repeal of the Bermuda Act of 1848, passed in pursuance of the British Statute 10 & 11 Vict., would be strongly resisted in the local Legislature.

Against the argument from justice to the literary property owner, it will be urged in all probability that Bermuda being entirely without a native literature, must depend exclusively on supplies from abroad; that such supplies cannot be drawn from England in consequence of the expense and delay, and must be drawn from New York; that to stop the importation of foreign reprints would be a serious check to the intellectual progress of the Colony, which, from its narrow limits, and remote and isolated position, requires every available stimulus which can be devised, and that the local trade in books is really so limited that the British author cannot be sensibly affected by any protection Bermuda can extend to him, while every volume shut out from circulation represents a positive loss to the intellectual vitality of the Colony. It will in short seem as unnatural to prohibit the importation of books as to prohibit the importation of flour from New York.

It would be a fair answer to all this that it is as unjust to promote useful knowledge by piracy as to feed a community by such methods; but an answer, however fair, must, to be persuasive, be acceptable as well as fair.

The inconvenience, in fact, and privation would come home to us too closely to allow arguments based on the abstract injustice to distant authors and publishers fair play.

The Bermuda Copyright Act imposes an import duty of 15 per cent. on the value of books being reprints of British publications duly registered according to the Statute 5 & 6 Vict. *to amend the law of copyright*. All other books are admitted duty free.

The Act, it must be admitted, is almost inoperative. To one book imported which pays duty, a hundred come in free. The importation of books in quantities for trade purposes is not frequent here. A great many are brought in for personal use, and I suppose by far the greater part of these are such reprints as the British publisher wishes to exclude. The reprints of the reviews and serials are charged with the duty; but in the aggregate it does not amount to as much as would fairly pay the cost of collection. In this Colony reprints which have paid duty can be distinguished from others as they are stamped accordingly on importation.

The Bermuda Act exempts from duty periodicals containing extracts only from copyright works. This admits duty-free serials like the "Eclectic Magazine," composed almost exclusively of articles from the "Quarterly," and other reviews and magazines of the United Kingdom.

Something might be done towards facilitating the importation of books from England. The postage is very high in proportion to the cost of the book. But with the utmost postal facilities it must always remain much easier and cheaper to get books from New York than from London.

The whole of this Memorandum may be summed up in a few words. It is just and right to protect the literary property owner, but that protection in Bermuda can only be granted at a heavy cost to the community.

(signed) *Brownlow Gray*,
Attorney General.

Bermuda, 27 July 1870.

Sir,

Bermuda, 29 July 1870.

My attention was yesterday attracted accidentally by an American reprint of "Lothair," and it occurred to me that it offered a useful illustration of the present law of copyright.

This book may be obtained from London in two or three months at the following cost :

	£.	s.	d.
Publisher's price - - - - -	1	11	6
Less, discount - - - - -	-	5	2
	1	6	4
Postage - - - - -	-	3	-
TOTAL COST - - - £.	1	9	4

It may be obtained from New York in two or three weeks at the following cost :

	£.	s.	d.
Publisher's price - - - - -	-	4	-
Duty 15 per cent. - - - - -	-	-	7
TOTAL COST - - - £.	-	4	7

As a matter of fact, no duty is at present payable on these reprints because the Revenue Department is not officially notified as yet that "Lothair" is copyright.

Of course the above comparison of prices shows not only the advantage gained by the purchaser who resorts to the New York market, but that an enormous benefit is obtained by him theoretically, at least, at the cost of the London author and London publisher. It would practically, as well as theoretically, be obtained at their expense if every copy obtained from New York represented a copy less obtained from London. But this is far from being the case.

There is one private circulating library in Bermuda. If these reprints were excluded, the whole subscription list of that library would, probably, not cover the cost of one season's novels. I do not know that this would be an unmitigated evil. Of course no one would import works of this class from England.

Works, however, of a more valuable and less costly description would not be at such an enormous disadvantage, inasmuch as they are published at an absolutely lower price in London, and relatively higher price in America.

I have added nothing in the above estimate for freight from New York, because any one can get such an article as a book free of charge for carriage from that place.

If the case of "Lothair" be accepted as an example, three conclusions may be fairly deduced from it:—

1st. The existing state of the law affords no protection to the British author and publisher.

2ndly. To protect the British author, or rather publisher, effectually, nothing short of the absolute exclusion of such reprints will avail.

3rdly. Theoretical or legal protection to the British copyright owner in Bermuda implies little short of the exclusion of modern English literature from these islands.

I have, &c.
(signed) *Brownlow Gray,*
Attorney General.

His Honor Colonel W. F. Brett,
Acting Governor and Commander-in-Chief,
Bermuda.

— No. 58. —

(No. 82.)

Lieutenant Governor *Mundy* to Governor *Rawson*, C.B.

Sir,

Grenada, Government House, 25 October 1870.

WITH reference to the Secretary of State's Circular Despatches of the 1st* and 2nd† June last, I have the honour to report to your Excellency that no objection will be offered in this Colony to the proposed amendment of the law relating to copyright.

I have, &c.
(signed) *Robt. M. Mundy.*

No. 58.
Lient. Governor
Mundy to Govern-
nor Rawson, C.B.
25 October 1870.
* Page 49.
† Page 50.

— No. 59. —

No. 59.
Colonial Office to
Board of Trade.
22 November 1870.

Colonial Office to Board of Trade.

* Page 52.
New South Wales.
Newfoundland.
Labuan.
British Honduras.
St. Lucia.
Turks Islands.

Sir,

Downing-street, 22 November 1870.

IN continuation of my letter of the 20th October,* I am directed by the Earl of Kimberley to state to you that since the date of that communication, he has received from the Governors of the Colonies noted in the margin replies to the Circulars addressed to them on the subject of copyright.

I am to annex, for the information of the Board of Trade, an abstract of those replies.

I am, &c.

(signed) *Robert G. W. Herbert.*

 ABSTRACT.

New South Wales.—The Attorney General of New South Wales is of opinion that the proposed measure would confer very important advantages on local authors who may desire to possess the benefit of copyright.

He remarks that at present there is virtually no copyright within New South Wales, except it be such as was formerly recognised in England as a common law right (of which there is much doubt), nor has much attention been yet directed to the subject.

But for the purpose of encouraging original literature within the colony, it appears to the Attorney General that the offer of the Secretary of State to introduce the proposed Bill should, on the part of New South Wales, be thankfully accepted.

In this view the Government of the Colony concurs.

Newfoundland.—With regard to Circular No. 1, the Governor reports that his Ministers have no objection to offer to the proposed repeal of the Act of 1847, and the Orders in Council made under that Act; and with regard to Circular No. 2, he states that his Responsible Ministers do not desire to offer any suggestions or observations either on the proposed Bill, or upon the general question of copyright.

Labuan.—The Governor of Labuan thinks that the proposed Bill adequately provides for the due protection of Her Majesty's Colonies in the matter of copyright.

He observes, however, that it may be a question whether the exclusive privileges given to certain libraries in the United Kingdom, by the 8th section of the 5 & 6 Vict. c. 45, should extend beyond the United Kingdom.

British Honduras.—The Lieutenant Governor reports that the case in which any right or benefit, such as the proposed enactment is calculated to confer, would be claimed by the author of a book as first published, or of some musical or dramatic entertainment as first brought out in any Colony, would be wholly exceptional in its application to Honduras; but that he is in favour of a measure of the kind, as being calculated to preserve an author's copyright in his work wherever first published, performed, or represented, within the limits of the Empire.

St. Lucia.—The Officer Administering the Government of St. Lucia brought before his Legislative Council the Circulars, and the proposed Bill "to amend the law relating to copyright," as well as the question of repealing the Act of 1847, and he reports that the Legislature of that Colony concurs in the views of Her Majesty's Government in regard to those subjects.

Turk's Islands.—The President of the Turks Islands encloses a letter from the Acting Queen's Advocate of that Colony, a copy of which is enclosed, pointing out that, in his opinion, the 3rd section of the Bill, as now drawn, would bear hard upon the holders of reprinted publications in many parts of Her Majesty's Dominions.

Enclosure in No. 59.

John Arthur, Esq., Acting Queen's Advocate, to His Honor the President.

Encl. in No. 59.

Queen's Advocate's Office, Turks Islands,
13 August 1870.

Sir,

YOUR Honor having submitted to me the Circular Despatch of his Lordship the Secretary of State for the Colonies, dated Downing-street, 1st June 1870, and covering the draft of a Bill to amend the law relating to copyright, suggested by the decision of the House of Lords, in *Low v. Routledge*, I have, in compliance with your Honor's desire for a report from me on this Circular, to state:—

1. That the draft Bill in its 3rd section contains nearly the same enactment as to registry of copyright as is embodied in our law for protecting the rights of British authors (Laws of the Turks and Caicos Islands, page 487,) and this law protects the rights of all British authors who have registered their copyright according to the Statute 5 & 6 Vict. c. 45.

2. For the benefit of the Colony, as well as for the protection of the rights of the author, the term "*British*," as used in our law, would have been construed as including all Her Majesty's Dominions who enjoyed the benefits of a local or Imperial copyright law, so long as the proprietorship of such copyright had been duly entered in the registry book of the Stationers' Company.

3. The apparent retrospective effect of the Bill in its 3rd section should be modified; for if passed, and not liberally construed, it may bear hard upon the innocent holders of reprinted publications in many parts of Her Majesty's Dominions, more especially in those parts where cheap reprints of *British* authors can be obtained.

Thus, by the 3rd section of the draft Bill, it appears that if A. is the possessor of a Colonial publication of any work, and such publication is subsequently entered according to 5 & 6 Vict. c. 45, the law of copyright applies to the date of *the first* publication.

I deferentially submit the foregoing to your Honor, and end by saying that our law is identical with that of the Bahamas, 11 Vict. c. 6, entitled "*An Act for Protecting in the Bahamas the Rights of British Authors*," and confirmed by Order in Council, 1st May 1849.

His Honor,
Melfort Campbell, Esq., President,
&c. &c. &c.

I have, &c.
(signed) John Arthur,
Acting Queen's Advocate.

— No. 60. —

(No. 282.)

The Lord *Lisgar* to the Earl of *Kimberley*.Government House, Ottawa,
6 December 1870.

My Lord,

In reply to your Lordship's Despatch, No. 200,* of 29th July 1870, I have the honour to forward, herewith, a copy of a Minute of the Privy Council of the Dominion, covering a memorandum of the Ministers of Finance and Agriculture, which contains the views of the Canadian Government on the subject of copyright.

I have, &c.
(signed) *Lisgar*.

No. 60.
The Lord *Lisgar*
to the Earl of
Kimberley.
6 December 1870.
* Page 52.

1 December 1870.

Enclosure in No. 60.

COPY of a REPORT of a Committee of the Honourable the Privy Council, approved by His Excellency the Governor General on the 1st of December 1870. Encl. in No. 60.

THE Committee of Council have had under consideration the annexed memorandum, dated 30th November 1870, from the Honourable the Minister of Finance and the Honourable the Minister of Agriculture, to whom was referred the Despatch from the Right Honourable the Secretary of State for the Colonies of the 29th July last, requesting your Excellency to forward to his Lordship a full statement of the views of the Canadian Government on the subject of copyright; and they respectfully advise that a copy of the said annexed memorandum be transmitted to Lord *Kimberley*, as containing the views of the Canadian Government on the matter in question.

Certified,
Wm. H. Lee, Clerk,
Privy Council, Canada.

(Confidential.)

THE undersigned have the honour to report, that in the month of June last two Circular Despatches addressed to your Excellency by Earl Granville, then Her Majesty's Principal Secretary of State for the Colonies, dated 1st and 2nd June 1870, on the subject of copyright, were referred to the Minister of Finance for report; that on his recommendation two Minutes of the Privy Council, dated 29th June, were adopted, and transmitted by your Excellency to the Secretary of State, in Despatches dated 6th July 1870; that a further Despatch, dated 29th July, was addressed to your Excellency by the Earl of Kimberley, requesting your Excellency to forward to his Lordship a full statement of the views of the Canadian Government upon the matter, in order that the question might be considered before the next Session of the Imperial Parliament. That Despatch having been referred to the undersigned for report, they have given the subject their best consideration, with the view of endeavouring, if possible, to find some mode of meeting the reasonable claims of British authors and Canadian publishers, all of whom are suffering serious loss by the continuance of the present system, which is beneficial to foreign publishers alone.

The important point at issue, and on which the views of the London publishers, and of the people, both of Canada and the United States are irreconcilable, is that the former insist upon the extension of copyright without local publication, and to this the latter will never consent.

It would be unreasonable, therefore, for Canada to claim from the Imperial Parliament such a Bill as was transmitted, in draft, in Earl Granville's Circular Despatch of the 1st of June, as it contains no stipulation for publication in that part of Her Majesty's Dominions in which the copyright is to be enforced.

The case for the Canadian publishers has been stated so clearly by Sir John Rose, in his Minute of 30th March 1869, transmitted in your Excellency's Despatch of the 15th of April of that year, that it is unnecessary for the undersigned to offer any further observation on that branch of the subject, especially as it is admitted by Sir Louis Mallet, in his letter of the 22nd July 1868, that the position of Canadian publishers is anomalous, and that, "looking to the geographical position of the United States and the North American Confederation, any arrangement with respect to copyright which does not apply to both, must be always imperfect and unsatisfactory."

When Sir Louis Mallet wrote his letter of 22nd July 1868, he appears to have entertained hopes that a Treaty might be negotiated on the subject of copyright between Great Britain and the United States. It may be presumed that Her Majesty's Government have become convinced that such hopes ought not longer to prevent an arrangement, which would be beneficial alike to the British authors and to Canadian publishers. There can be no doubt that the Dominion Parliament would readily adopt a measure which would give substantial benefit to British authors, who, it is admitted on all hands, do not obtain any advantage worth having under the existing system.

What the undersigned would venture to suggest is, that the duty on the reprints of books first published either in Great Britain or its Dependencies, when imported from foreign countries, should be materially increased; and that it should be levied in all cases for the benefit of the author or owner of the copyright, should such exist; and that to prevent evasion of the law, a declaration should be required from importers that any work which they may claim to import free of such duty, have never been published either in Great Britain or in British Dependencies; that foreign reprints of works published in Canada should be wholly prohibited; that any author publishing in Canada should be, as at present, protected in his copyright, but that unless British copyright works should be published concurrently in Canada, licensed Canadian publishers should be allowed to publish, paying, for the benefit of the author or owner of the English copyright, an Excise duty, which could be collected by means of stamps as easily as other duties of a similar kind. The undersigned have no doubt that such a scheme as that which they have suggested could be carried into practical effect with great advantage to the English authors, who, as a rule, would sell their copyrights for Canada to Canadian publishers. It is true that British publishers would not gain that Colonial circulation which they have long tried to obtain without success; but it is vain for them to expect that the expensive editions published in England can meet a sale in any part of the American continent.

The undersigned therefore recommend, that your Excellency should acquaint Her Majesty's Principal Secretary of State for the Colonies, that there is no probability of the Dominion Parliament consenting to any measure for enforcing British copyright in Canada, unless it provides for local publication; and that while the Canadian Government will be ready to introduce a measure that will be of great advantage to British authors, they must, in reference to foreign reprints, have regard to the interests of Canadian as well as of British publishers.

(signed) *F. Hincks,*
Minister of Finance.

Christopher Dunkin,
Minister of Agriculture.

Privy Council Chamber,
30 November 1870.

— No. 61. —

(No. 120.)

Sir *G. F. Bowen*, G.C.M.G., to the Earl of *Kimberley*.Government House, Wellington, New Zealand,
23 September 1870.

My Lord,

1. I lost no time in referring to my Responsible Advisers the Circular Despatch of the 1st June ult.,* transmitting the draft of a proposed Bill respecting copyright.

2. I have now the honour to report that the Ministers and the Attorney General of New Zealand see no objection to this Bill, and have no suggestions or observations to make on the question of copyright.

I have, &c.
(signed) *G. F. Bowen*.

No. 61.
Sir *G. F. Bowen*,
G.C.M.G., to the
Earl of *Kimberley*.
23 September 1870.

* Page 49.

— No. 62. —

Colonial Office to Board of Trade.

Sir,

Downing-street, 16 December 1870.

In continuation of my letters of the 20th October* and 22nd November,† I am directed by the Earl of *Kimberley* to state to you, for the information of the Board of Trade, that the Governor of New Zealand has reported that his Ministers and the Attorney General of the Colony see no objection to the proposed Bill respecting copyright, and that they have no suggestions or observations to make on the general question.

The Lieutenant Governor of Grenada has reported that no objection will be offered in that Colony to the proposed amendment of the law relating to copyright.

I am, &c.
(signed) *Robert G. W. Herbert*.

No. 62.
Colonial Office to
Board of Trade.
16 December 1870.

* Page 52.
† Page 56.

— No. 63. —

Colonial Office to Board of Trade.

Sir,

Downing-street, 7 January 1871.

WITH reference to the letter from this Department of the 30th July last,* enclosing a copy of a Despatch from the Governor General of Canada on the subject of copyright, I am directed by the Earl of *Kimberley* to transmit to you, for the information of the Board of Trade, a copy of a further Despatch which has been received from Lord *Lisgar*, enclosing a Minute of his Privy Council, covering a Memorandum of the Ministers of Finance and Agriculture, which contains the views of the Canadian Government on the question of copyright.

The Despatch now transmitted is in reply to Lord *Kimberley*'s request to be furnished with a full statement of the views of the Canadian Government upon the matter, which the Board of Trade was informed had been made to Sir *J. Young*, in the letter above referred to.

I am, &c.
(signed) *Robert G. W. Herbert*.

No. 63.
Colonial Office to
Board of Trade.
7 January 1871.

* Page 52.

No. 282, 6 Decem-
ber 1870, page 57.

No. 64.

No. 64.
Colonial Office to
Board of Trade.
10 January 1871.

* Page 59.

Colonial Office to Board of Trade.

Downing-street, 10 January 1871.

Sir,

In continuation of the letter from this Department, of the 16th ultimo,* on the subject of copyright, I am directed by the Earl of Kimberley to acquaint you, for the information of the Board of Trade, that the Governor of Queensland has reported the desire of his Government that the proposed measure should be adopted as regards that Colony.

The Governor of the Cape of Good Hope, in reply to the Circular, transmits a report by the Attorney General, who states that the Colonial Act, 4, of 1854, which authorises the importation into the Colony of foreign reprints, will be repealed by the passing of such a measure, but that the number or value of books imported into that Colony, under the provisions of that Act, is, as he is informed, utterly insignificant; that it is much easier to enforce an entire prohibition of pirated works, when no power of lawful importation exists, than when such importation may have been lawful; and it lies on the authorities seizing such works to show even *prima facie* that the importation was illegal.

The Governor of British Columbia encloses a report of the Attorney General, of which I transmit a copy, and agrees with him in thinking that the subject is one which may be postponed, so far as that Colony is concerned, as it seems now probable that a very little time will elapse before it becomes a part of the Dominion of Canada.

I am, &c.

(signed) *Frederic Rogers.*

9 November 1870.

Enclosure in No. 64.

Encl. in No. 64.

The Attorney General to Colonial Secretary.

The Attorney General's Office,
9 November 1870.

Sir,

I BEG to acknowledge the receipt of Circular Despatch from the Colonial Office, addressed to his Excellency the Governor, covering draft of a Bill to amend the Law relating to Copyright.

2. As requested by his Excellency, I have the honour to submit the following remarks, and regret that, owing to my late accident, they have been so long delayed.

3. In this Colony there has been, up to this period, no local law relating to copyright, and in its present infant condition I know of no immediate inconvenience likely to result from the absence of such a law. And as confederation with Canada seems to be now imminent, it would, I think, be inadvisable to introduce any law on the subject here, as the Dominion Government, under the British North America Act, 1867, will have exclusive authority to legislate on the subject.

4. Copyright before publication being a common law right, was, however, introduced into the Colony at its settlement.

5. The principal Act referred to in the Draft Bill expressly refers to the Colonies; and besides, the statute law of England relating to copyright down to the 19th November 1858, so far as the same is not, from local circumstances, inapplicable, is in force here under the Ordinance No. 7, 1867, relating generally to the adoption of English law, and intitled, "An Ordinance to assimilate the general application of English Law."

6. With regard to the modifications and amendments proposed by the Draft Bill, I beg to submit the following suggestions for consideration:—

7. I. That instead of amending the principal Act, it might be found more desirable to revise the whole law relating to copyright, so far as it relates to the Colonies, in all its various branches, and to embody it in a separate and independent Act, in which all the provisions with respect thereto would be found at once without reference to other Acts, or further trouble.

8. If

8. If there is no objection to this course being adopted, I think it would be useful to ntending publishers, and might possibly be very serviceable in this Colony hereafter.

9. If there is any objection to the passing of a separate Act, it might be advisable to extend the draft Bill to at least as many subjects as are provided for in the International Copyright Act, 7 Vict. c. 12.

10. The 25 & 26 Vict. c. 68, relating to paintings, drawings, and photographs extends to the colonies, but as it hinges to a considerable extent on the principal Act referred to in the draft Bill, it would seem to require some little amendment in order to enable it to work satisfactorily in the colonies.

11. II. That the preamble to the draft Bill, as framed, should be extended, so as to include assignees, devisees, &c., as well as authors, and other literary productions, such as musical compositions and dramatic pieces, as well as books.

12. III. That the definition of the term "British Possessions" in the 2nd section of the draft Bill should be the same as the definition of the words "British Dominions," in the 2nd section of the principal Act.

13. IV. That as the principle of the draft Bill would seem to be to give to parties publishing in a colony, and duly registering their publications under the Act, equal privileges to those given to parties publishing in the United Kingdom and registering there irrespectively of any local copyright law of the colony, that the words in brackets "unless, &c.," in the 3rd section of the draft Bill should be left out, so as to put parties publishing in a colony, not only on a complete footing of equality with parties residing and publishing in England, but also with others in the colony, who although residing there might make the first publication in England.

14. As I understand that the principal Act is made to extend only to cases where registration is effected in England, it will not interfere with the operation of any local laws where parties do not think it worth while to register their publications in accordance with the provisions of the principal Act.

15. V. That it might be advisable to give to authors of books already first published in a colony the same privileges on registration under the principal Act, as authors will have on a publication in a colony hereafter.

16. VI. That with regard to sections 6 and 7 of the principal Act, it should be sufficient if a colonial proprietor of copyright lodges a copy of the book published with the registrar at the time of making the required entry in the registry, leaving it to the registrar to deposit such copy in the British Museum. This has been the course adopted with respect to foreign publications under the International Copyright Act.

17. VII. That there is no object to be gained by requiring that colonial publications, if only registered in England, should be liable to be sent, at the publisher's expense, to the libraries mentioned in sections 8 and 9 of the principal Act.

18. It does not seem to have been thought necessary that they should be so sent in the case of foreign publications under the International Copyright Act.

19. VIII. That in order to obviate the difficulty of procuring evidence to enforce the penalty imposed under section 10 of the principal Act, it would be desirable to insist on delivery to the registrar of any copies of books required under sections 6, 7, 8, and 9 before registration is allowed to be completed.

20. IX. That with regard to section 12 of the principal Act, in cases where the offender is resident in the colony, and the offence is committed in England, power should be given to the courts of the colony in which he is so resident to try the offence, and provisions should be inserted for obtaining evidence out of the colony upon which the courts could act, and so also where the offender is resident in England and the offence is committed abroad.

21. X. That the entries referred to in section 13 of the principal Act should be permitted to be made by the agent of the proprietor of the copyright, but such agent should be appointed in writing for the express purpose under some instrument properly authenticated.

22. XI. That it might be useful in cases arising under the 14th section of the principal Act, where both parties are resident in the same colony, or where the court in England should think fit, that the complaint should be made in the first instance in a Court of Record in the colony, with an appeal to the Privy Council as in other cases.

23. XII. That some means should be adopted of enabling proof in a colony of the contents of the book registered, as it is quite possible that one book, manifestly copied from another, might have a very different title. And for this purpose the registrar might be empowered to certify that a book intended to be given in evidence in a colony is a true copy of the book registered; or that a book purporting to be published at the same time, by the

same publisher of the same edition, and at the same place, should be deemed to be *prima facie* evidence of its being a true copy of the book registered under the provisions of the principal Act.

24. XIII. That the period provided by section 26 for the limitation of actions should be considerably extended, having regard to the different colonies and their respective distances from England.

The Hon. the Colonial Secretary,
&c. &c. &c.

I have, &c.
(signed) *George Phillippo.*

— No. 65. —

(No. 22.)

No. 65.
Lieut. Governor
Keate to the Earl
of Kimberley.
21 February 1871.

Lieutenant Governor *Keate* to the Earl of *Kimberley*.

Government House, Natal,
21 February 1871.

• Page 50.

My Lord,
WITH reference to Earl Granville's Circular Despatch of the 2nd June 1870,* transmitting copy of a letter from the Board of Trade, submitting resolutions passed at a meeting of authors and others, urging the repeal of the Imperial Copyright Act of 1847, I have the honour now to forward a copy of a statement made to me by the Attorney General, showing in what way the Imperial Act in question has worked in this Colony. I quite concur with the Attorney General that no valid objection can be offered by this Colony to the repeal of the Imperial Statute of 1847, and of the Orders in Council made under that Act.

I have, &c.
(signed) *Robt. W. Keate.*

Enclosure in No. 65.

Encl. in No. 65.

COPY of STATEMENT of Attorney General on Copyright Act.

THE Natal Legislature passed an Ordinance in 1856, under the provisions of the Imperial Act, admitting books printed elsewhere than in England at an *ad valorem* duty of 20 per cent. These books were of course reprints of British copyright works.

	s.	d.
In 1858, the amount of duty received under that law was	11	5
„ 1859, duty	17	11
„ 1860, „		
„ 1861, „	4	

Since 1861, no amount was received under that law.

- The entire value of the books introduced under that law did not exceed 8 l. 5 s.
- The law is still in force, but is not availed of for this reason; I assume that we have no direct trade with America, which is the great centre of these piracies, and perhaps also the law is unknown.
- There can be raised no valid objection to repeal of the Imperial Statute of 1847.

2 February 1871.

(signed) *M. H. Gallwey.*

— No. 66. —

(No. 535.)

Sir *James Walker*, c.B., to the Earl of *Kimberley*.Bahamas, Government House, Nassau,
24 February 1871.

My Lord,

I HAVE to apologise to your Lordship for not having sooner replied to the two Circular Despatches of the 1st* and 2nd† of June last, relative to the repeal of the Imperial Copyright Act of 1847.

2. As has been surmised by the Board of Trade, the Bahama Government has little or no interest in the question, and there never has been, or is likely to be, a republication here of English works. But I think that I am in a position to assure your Lordship that no objection will be offered in this Colony to the repeal of the Act of 1847.

I have, &c.
(signed) *James Walker*.

No. 66.
Sir James Walker,
c.B., to the Earl of
Kimberley.
24 February 1871.

* Page 49.
† Page 50.

— No. 67. —

(No. 54.)

Lieutenant Governor *Keate* to the Earl of *Kimberley*.Government House, Natal,
21 May 1871.

My Lord,

WITH reference to Earl Granville's Circular Despatch of the 1st June* last, which reached me simultaneously with one dated the 2nd June,† being both on the subject of a proposed amendment of the law relating to copyright, I have the honour now to forward a copy of a Report I have received from the Attorney General of the Colony, in which, referring to his former Report communicated to your Lordship in my Despatch, No. 22,‡ of 21st February last, he says that he has no suggestion to make upon the draft Bill transmitted in the Despatch now under reply.

2. This Colony has not yet reached a stage in which the copyright of works of local origin and publication becomes a matter of general or even partial interest, and I have never heard any discussion or conversation on the subject. There is nothing, as far as I can see, in the situation of Natal to affect, in the future, when this stage may be reached, the satisfactory working of a law which would place all the Colonies on the same footing in this respect as the United Kingdom.

I have, &c.
(signed) *Robt. W. Keate*,
Lieutenant Governor.

No. 67.
Lieut. Governor
Keate to the Earl
of Kimberley.
21 May 1871.

* Page 49.
† Page 50.

‡ Page 62.

Enclosure in No. 67.

I HAVE to refer to my Report of 2nd February last upon Despatch of 2nd June 1870. The Natal Law, No. 14, 1856, therein referred to, is the only local law upon the subject of copyright.

I have no suggestion to make upon the draft Bill accompanying the Despatch now under report.

26 April 1871.

(signed) *M. H. Gallwey*,
Attorney General.

Encl. in No. 67.

— No. 68. —

(No. 88.)

No. 68.
Sir J. P. Grant,
K.C.B., to the Earl
of Kimberley.
7 July 1871.

* Page 49.
† Page 50.

Sir J. P. Grant, K.C.B., to the Earl of Kimberley.

My Lord,

Jamaica, King's House, 7 July 1871.

IN reply to Earl Granville's two Circulars of the 1st* and 2nd† June 1870, forwarding a copy of resolutions passed at a meeting of authors and others, urging the repeal of the Imperial Copyright Act of 1847, I have the honour to state that I have consulted the Attorney General on the question, and I forward his opinion enclosed with this Despatch.

2. My own opinion is, that the Act which it is proposed to substitute for that of 1847, would be injurious to this Colony; and I do not think that it would be just. The benefit it holds out would be illusory, because no books are published here. On the other hand, it would be felt as a serious grievance by the reading public here, by stopping the introduction of cheap reprints of British works from America, of which, at present, they enjoy the advantage, without injury to the authors. The facilities for getting works to this Colony are greater from America than from England.

3. As the law now stands, any foreign reprint of an English copyright work is subjected to an *ad valorem* duty of 20 per cent. when imported into this Colony, such duty going to the author of the work, or to his representative. And the author is practically protected here, by the practice of stamping every such copy of a work as it is imported. Formerly this rule was not enforced in the case of books sent by book post. But now all foreign reprints, liable to duty, are charged duty, whether coming by post or otherwise.

4. It seems to me that this law sufficiently protects the reasonable claims of authors; and that no other person has any just claim to any protection. It is only because English printers charge, for the merely mechanical and commercial part they have in the manufacture of a book, an exorbitant price as compared with American printers, that they ask for protection; and I do not see why the vicious and exploded principle of protection should be admitted in their case, any more than it would be admitted in the case of any other class of manufacturers, who should make a corresponding demand.

5. I regret that, owing to an oversight, your Lordship's Predecessor's Circulars have so long remained unanswered.

I have, &c.
(signed) J. P. Grant.

Enclosure in No. 68.

Encl. in No. 68.

The Attorney General's Opinion on Circular (No. 1), of the 1st June 1870.

THE principle of the proposed Bill seems to me to be most reasonable, and I know of no arguments against it. The form of the Bill seems to carry out the proposed object. I would venture to suggest, however, that it might be worth consideration, whether Section 3 of the Bill should extend to books published *before* the passing of the proposed statute. Such a provision might operate unjustly against persons lawfully in possession of such books at the time of the passing of the statute.

(signed) E. A. C. Schaleh.

27 May 1871.

OPINION of the Attorney General on Circular (No. 2), of 2nd June 1870.

I HAVE no information which enables me to express any opinion with regard to the question asked in the Despatch, nor have I any information before me with regard to the working of the Jamaica Statute (22 Vict., c. 21), passed under the Imperial Statute of 1847 (10 & 11 Vict., c. 95), which it is now proposed to repeal.

I know

I know of no legal objection to the proposed repeal. I imagine, however, that Jamaica will not benefit, to any appreciable extent, by the Bill proposed in the Circular Despatch of 1st June 1870, referred to herein, while at present Jamaica derives considerable benefit from the operation of 22 Vict., c. 21. This is, however, merely a conjecture on my part.

(signed) *E. A. C. Schalch.*

27 May 1871.

— No. 69. —

Lieutenant Governor *Robinson* to the Earl of *Kimberley*.

(No. 61.)

Prince Edward Island, Government House,
7 August 1871.

My Lord,

REFERRING to my Despatch, No. 39, of the 12th April, in which I reported that certain Despatches received during my Predecessor's administration of the Government still remained unanswered, I have now the honour to submit a letter received from the Attorney General upon the subject of the draft Bill to amend the law relating to copyright, a copy of which was forwarded with the Secretary of State's Circular of the 1st June 1870.

I have, &c.
(signed) *William Robinson,*
Lieutenant Governor.

No. 69.
Lieut. Governor
Robinson to the
Earl of Kimberley
7 August 1871.

7 August 1871.

Enclosure in No. 69.

Charlottetown, Prince Edward Island, Encl. in No. 69.
7 August 1871.

Sir,

I HAVE perused the Circular Despatches from the Right Honourable Earl Granville, formerly Her Majesty's Principal Secretary for the Colonies, dated respectively the 1st and 2nd June 1870, on the subject of the Copyright Laws, also an accompanying draft of a Bill to amend the law relating to copyright, forwarded to me by your Honor to report whether your Honor's Ministers have any objection to offer to the proposed Bill.

As the proposed amendment has for its object the removal of the inequalities at present existing to the prejudice of colonial authors and publishers, as between them and British authors and publishers, your Honor's Advisers can have no objections to offer to the contemplated change in the law.

The amendment intended appears to be a wise and judicious one.

I have, &c.
(signed) *Frederick Brecken,*
Attorney General.

His Honor the Lieutenant Governor,
&c. &c. &c.

— No. 70. —

Messrs. *Longman* and *Murray* to the Earl of *Kimberley*.

My Lord,

Paternoster-row, London, 26 March 1872.

HAVING reference to the injurious consequences to the owners of copyright property in Great Britain arising from the Imperial Act of 1847 (5 & 6 Vict. c. 47), and the subsequent Order in Council, we addressed a letter, dated 28th December 1871, to Mr. Gladstone, and we received a reply from Mr. Gurdon, his Secretary, dated 1st January 1872, from which the following is an extract:—

"I am directed to suggest that you should apply to the Colonial Office and the Board of Trade for such information as you may wish to obtain, as, although Mr. Gladstone is very happy to answer unofficially the question which you have put to him, it is hardly necessary to state that the subject of Colonial copyright is not one with which it is his duty to deal with in the first instance."

o.94.

I

On

No. 70.
Messrs. Longman
& Murray to the
Earl of Kimberley.
26 March 1872.

On this important matter we therefore beg the favour of being informed whether such steps have been taken as may result in the removal of the grievance complained of, and the better security of the property of the owners of copyright in Great Britain,

As an instance of the total failure of the enactment of 1847, the very foundation and object of which is declared to be the "protecting rights of British authors," we may instance a work by the Right Hon. B. Disraeli, under the title of "Lothair."

In order to prevent any delay or mistake, that work was entered at the London Custom House by a special entry on 26th April 1870, the general publication in London being on the 1st of May.

We were informed, at the time of entry at our Customs, on 26th April 1870, by that Department, that the official notice to the Customs Department at Ottawa was posted on the 27th of the same month.

Having recently made inquiry of Mr. Disraeli whether he may have received any sum of money from Canada through our Treasury, representing the duty of 12½ per cent. to be levied by the Customs in Canada on the American reprints of that celebrated work, we find that he has received nothing, although we are given to understand that the American reprint of that book has had a very large circulation in Canada.

We would beg the favour of information on this matter, as it would appear that so far as the interests of the author are concerned, instead of being protected in Canada, as required by the Act of 1847, they are in a situation by far worse than before the passing of that Act.

We have the honour to enclose some papers connected with our new "Copyright Association."

And remain, &c.
(signed) *Thomas Longman.*
**John Murray.*
(*Per T. L.)

Enclosures in No. 70.

Encls. in No. 70.

COPYRIGHT ASSOCIATION.

At a Preliminary Meeting held at Mr. Murray's, 50, Albemarle-street, on Monday, 5th February 1872, and at subsequent Meetings of a Sub-committee then appointed:

It was resolved—

1. That it is expedient to form an association for the protection of copyright property.
2. That the name of the association be "The Copyright Association."
3. That authors, publishers, and other persons interested in copyright property, be eligible as members of the Association.
4. That the annual subscription of members to the funds of the Association be not less than 1*l.* 1*s.*
5. That a general meeting be called of persons interested in the objects of the Association.
6. That the objects of the Association be—
 - (a.) To watch over the general interests of owners of copyright property.
 - (b.) To obtain early information of all measures affecting copyright property, and, as opportunity offers, to suggest and promote improvements in existing copyright laws.
7. That an annual general meeting of the members of the association be held in the month of February, of which meeting 10 days' notice be given.
8. That any member may bring any subject connected with the objects of the Association before the annual general meeting, by giving 10 days' previous notice (in writing) thereof to the honorary secretary.

9. That

9. That the affairs of the Association be managed by a committee of 12 members (with power to add to their number), elected at the first general meeting, and afterwards annually by the members of the Association at the general meeting; any five of the committee to form a quorum.

10. That at the first general meeting a Treasurer and an Honorary Secretary be selected from the members of the Association, and that they be *ex-officio* members of the committee.

11. That a legal adviser, who shall act as secretary, be appointed by the committee.

12. That the committee meet at such times as may seem necessary to the Treasurer and Honorary Secretary, or, on a requisition in writing to the Honorary Secretary from any two members of the committee.

13. That the committee be empowered to make bye-laws for the management of the Association.

14. That the committee be empowered to call a general meeting of the members of the Association whenever they may deem it necessary so to do.

15. That all future members of the Association be elected by the committee.

COPYRIGHT ASSOCIATION.

London, York-street, Covent Garden,
14 March 1872.

MANY important subjects connected with International, Colonial, and General Copyright are constantly arising, which appear to us to require attention and united action on the part of authors and publishers, and we are of opinion that this can be best accomplished by the formation of a "Copyright Association."

We have therefore drawn up the accompanying rules and regulations for the consideration of a general meeting, to be held for the purpose, at the house of the Society of Arts, John-street, Adelphi, on Tuesday the 19th instant, at three o'clock in the afternoon; and if you think such a society is desirable, we request your attendance and co-operation.

Dr. William Smith has consented to preside.

Your answer, addressed to Mr. Daldy, York-street, Covent Garden, is particularly requested, and if unable to attend, will you favour us with your views on the subject?

We have the honour to be,

William Smith.

Robert Browning.

Arthur Helps.

John Murray.

T. Longman (Longman & Co.)

A. Macmillan (Macmillan & Co.)

F. Chapman (Chapman and Hall).

F. R. Daldy (Bell and Daldy), Hon. Sec. (pro tem.)

RESOLUTIONS to be proposed at the Meeting, at the House of the Society of Arts, on
19th March 1872.

- I. That it is expedient to form an association for the protection of copyright property.
- II. That the rules and regulations drawn up at the preliminary meetings, held at Mr. Murray's, 50, Albemarle-street, be the rules and regulations of the association.
- III. That Thomas Longman, Esq., be appointed treasurer.
- IV. That Frederick Richard Daldy, Esq., be appointed honorary secretary.
- V. That the committee be composed of the undermentioned gentlemen:—

1.	7.
2.	8.
3.	9.
4.	10.
5.	11.
6.	12.

MEMORANDUM.

ANY person present who has duly constituted himself a member of the association is at liberty to propose (in writing) resolutions for the consideration of this meeting, such resolutions being seconded also by another member.

MEMORANDA ON INTERNATIONAL AND COLONIAL COPYRIGHT.

March 1872.

THE subjects which at the present time appear to demand attention are—

1. International Copyright with America, and
2. British Copyright Property in Canada and our Colonies.

I. INTERNATIONAL COPYRIGHT.

With respect to international copyright with America, a Bill has been introduced in Congress by Mr. Cox, dated 6th December 1871, and has been printed here for the use of the members of this association.

This Bill, which relates to books to be hereafter first published out of the United States, would secure copyright in the United States to foreign authors, their personal representatives or legal assigns—

“ Provided (*inter alia*),

“ 1st. That the laws of the country in which the work is first published do at the time of such first publication secure to citizens of the United States, and to persons resident therein, privileges of copyright equal in extent to those for the time being enjoyed in the United States by authors who are citizens of the United States.

“ 2nd. That in order to secure the benefits of copyright to the authors of such works all the editions of such republication shall be wholly manufactured in the United States, and be issued for sale by publishers who are citizens of the United States.”

Another Bill has been prepared by a committee of publishers in New York, of which Mr. Appleton is the chairman, which is as follows:—

“ AN ACT to grant Copyright to Foreign Authors.

“ *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any author of a manuscript intended to be published as a book, who is not a resident and citizen of the United States, may obtain a copyright for such manuscript upon the same terms and conditions as are now required of an American author, whenever such foreign author shall enter into a contract with an American publisher, a citizen of the United States, to manufacture the book in all its parts, so that it shall be wholly the product of the mechanical industry of the United States, and the title-page thereof shall have been recorded in the office of the Librarian of Congress, within one month of the date of its publication in the country of which he is a citizen, and the book published and exposed for sale in the United States within three months of said date of publication.*

“ *Section 2. And be it further enacted, That an American publisher having, in conformity with the provisions of this Act, manufactured and issued the work of a foreign author, he shall possess and hold the same rights to produce and offer such book for sale in the United States which he now acquires relative to an American book, under the Act granting and securing a copyright to American authors: Provided, That if such American publisher shall neglect, for the space of three months, to keep the book so published by him, on sale or obtainable at his publishing house, then it may be imported or reprinted the same as might have been done before the passage of this Act.*

“ *Section 3. And be it further enacted, That articles in foreign newspapers, or contributions to foreign periodicals, shall not be entitled to be copyrighted under this Act; but the foreign author of successive contributions, known as a serial, may obtain for such serial all the benefits of this Act, whenever, upon the issue of the first number of said serial, he shall make an arrangement or contract with an American publisher for the issue of the future numbers of the said serial, each within one month, in the United States, according to the provisions of this Act for the publication of books for foreign authors.*

“ *Section 4. And be it further enacted, That nothing in this Act contained shall prevent the importation and reprinting of the work of any foreign author who has not secured for himself the benefits of this Act, in the same manner as was done in this country before the passage of this Act.*”

In the former of these Bills reciprocal action would be necessary on the part of the British Government; and should it therefore be adopted and passed by the American Government, there will be ample time for its full consideration in this country, and for taking such steps as may be expedient.

With regard to the latter Act, it will be observed that arrangements can only be made with an author, *not with his assigns*, and that the American publishers have not generally accepted it.

In the "Publishers' and Stationers' Weekly Trade Circular," published at New York, dated 8th February 1872, will be found the minutes of a meeting of the New York Booksellers and Publishers, on 23rd January 1872.

Mr. Appleton's arguments then adduced in favour of the Bill, were as follows:

"It is unquestionably just and right that the intellectual labour of an author should be recognised and protected by law.

"The Government grants this protection to an American author, and why should it not extend the same protection to a foreign author, if it desire to see the public derive profit from the result of his study and labour?

"Why should we appropriate without compensation the results of the arduous toil through youth and manhood of the foreign author, from which we derive both enjoyment and profit, and then allege, as an excuse for our injustice, that we are citizens of another country; that our laws do not recognise any right in him to the fruit of his labour when embodied in the form of a book?

"This Bill seeks to secure to the foreign author direct relations with the American publisher, and thereby grants to him all the advantages enjoyed by American authors.*

"It is sometimes asserted as an objection to an international copyright that it will increase the price of books. We do not, however, believe that this will be the result to any greater extent with English than with the works of American authors.

"It is believed that if the provisions of this Act are secured, and it become a law, very many of the works not now reprinted will be published here, and at lower prices than they could be imported. Twenty works in themselves very formidable might be mentioned which many publishers would be glad to produce in this country if they could enjoy the exclusive privilege of publishing them, *the English edition being at the same time excluded*. The consumption of paper in this country would thereby be greatly increased.

"American authors are necessarily placed under a great disadvantage by the existing law; for, as it permits the free republication of foreign works, they are forced to compete with authors whose works can be issued at a nominal expense for printing and paper, and are thus discouraged from making intellectual efforts in whatever field they may desire.

"We regard this Bill as affording protection in the broadest sense to English authors and American publishers.

"This Bill only requires that the works of foreign authors claiming copyright under it shall be printed and published in this country, just as the works of our own authors are published.*"

"The sole object of granting this monopoly to the foreign author is to recognise his service to the public in the same manner as the services of American authors have been recognised."

On that occasion Mr. Edward Seymour, of the well-known firm of Charles Scribner & Co., objected to the Act on the following grounds:

"I. The practical difficulty of framing a law granting rights to English authors without virtually destroying the publishers' interests in the United States, and proving injurious to the American public.

"II. Congress has called upon the publishers for aid in framing an 'International Copyright Law,' but this Act is not an Act for 'International Copyright Law.' It is in spirit and substance an Act to protect American publishers, and should be so entitled.

"III. The Act entirely ignores the idea of reciprocity, a principle which the International law of Great Britain very properly makes prominent.

"IV. To gain for themselves all the advantages under this measure which they would have under an unrestricted Bill, English houses have only to secure American partners to represent them and create the very monopoly which American publishers so greatly dread.

"V. Further, it is perfectly obvious that the exclusion of the English publishers from the American market, even to the extent proposed by legislation, involves the enforcement of measures utterly repugnant to the spirit of our institutions, and such as the public could never be brought to indorse.

"VI. If it is conceded that English publishers can in any way, direct or indirect, extend their copyrights to this country, it is matter of comparatively small importance to American publishers, who are not themselves manufacturers, whether the books are made here or in England,

* This is not the case; any American author may *print* his book in any country without losing his copyright, but it must be *published* in the United States.

England, since in that case the protection of the English publisher, which is in the copyright, is absolute, and shields him from all competition."

Mr. Seymour thus recapitulates his objections to the proposed measure :

"1. It is in no sense an International Copyright Law, but simply an Act to protect American publishers, regardless of the rights of American authors. It has so narrow a basis, therefore, that it can never receive the endorsement of the public.

"2. Even if it were possible for American publishers to secure the 'protection' proposed, in compelling the manufacture of foreign copyrighted books in the United States, such 'protection' would be wholly delusive, since the copyright which the English publisher could hold indirectly through an American partner, would secure him the absolute control of this market, whether the book was made here or in England.

"3. For the reasons above stated the Act is objectionable in prohibiting the importation of stereos and electros, in failing to provide for the copyrighting of cyclopædias, &c., and in giving the American publisher power to exclude revised editions of works of which he may own the copyright."

On Friday, 2nd February 1872, the executive Committee of the Copyright Association (chiefly of authors, and of which Mr. Charles Astor Bristed has for a long time been secretary and active representative) adopted the draft of a third International Copyright Bill, which was presented, on behalf of the association, to the joint committee of Congress. It is entitled "An Act to secure Authors the Right of Property in their Works," and after the enacting clause, consists of these two sections :

"1. All rights of property secured to citizens of the United States of America by existing copyright laws of the United States are hereby secured to the citizens and subjects of every country, the Government of which secures reciprocal rights to citizens of the United States.

"2. This Act shall take effect two years from the date of its passage."

This, it will be observed, is entirely in the interest of copyright owners, and ignores the discrimination practically made in the other Bills in favour of American publishers.

As the result of a conference and compromise between these interests, on the 20th of February last the following Bill (a fourth) was presented to the joint library committee of the Senate and House of Congress :

"AN ACT to secure a Copyright to Foreign Authors and Artists.

"Be it enacted by the Senate and House of Representatives, of the United States of America, in Congress assembled :

"Sect. 1. That any author and artist who is not a citizen of the United States may secure a copyright for his or her work, in accordance with the regulations of the United States Copyright Act, provided such author and artist shall manufacture and publish said works in the United States.

"Sect. 2. That any author who is not a citizen of the United States may secure the right of translation of his or her work, whether the original work be published in a foreign country or in the United States, provided that upon the first publication of such original work the author shall have announced on its title-page his intention of translating it, and the original work shall have been registered in the office of the librarian of the Congress of the United States, and a copy of it shall have been deposited in the library of Congress within one month after its first publication in a foreign country, for copyright, in accordance with the regulations of the United States Copyright Act, and provided also that the author shall manufacture and publish the translation of his or her work in the United States.

"Sect. 3. This Act shall take effect from the date of its passage."

In this Act the author only, neither his personal representatives nor his legal assigns, can acquire a copyright, and he can only acquire it when his book is "manufactured" in the United States.

In consequence of the silence of our own Government since the letters addressed to them by Messrs. Longman and Murray, Mr. Longman thought it expedient, in December last, to write to Earl Granville the following letter, making inquiry as to the position of the negotiation for International Copyright with America :

"39, Paternoster-row, London, E.C.,
"11 December 1871.

"My Lord,
"Permit me to make an inquiry with regard to the position of the negotiations of the British Government with the Government of the United States, on the subject of a treaty for international copyright.

"I beg to mention that, in June 1870, shortly before the lamented death of Lord Clarendon, I attended at the Foreign Office, at his Lordship's request, to confer with him on the subject of copyright with the United States.

"At that time I was informed by Lord Clarendon that communications were going on with the Government of the United States on this highly important matter, and his Lordship requested I would write a letter to him upon the subject. Accordingly, I had the honour to address a letter to Lord Clarendon, dated 17th June 1870.

"As this subject has recently, and is still so much discussed, and being one of so great moment to both authors and publishers in this country, I would beg the favour of being informed, under any conditions of confidence, or otherwise, as your Lordship may think fit, what steps have been taken since that time to carry out an International Treaty on Copyright with the Government of the United States.

"The Right Hon. Lord Granville,
"Foreign Office."

"I have, &c.
(signed) "Thos. Longman."

This letter was acknowledged by Lord Enfield in the following letter:

"Sir,

"Foreign Office, 2 February 1872.

"I am directed by Earl Granville to acknowledge the receipt of your letter of the 11th of December, referring to an interview which you had with the Earl of Clarendon, shortly before his death, on the subject of copyright with the United States, and asking whether any progress has been made in the question by negotiation since that time.

"Lord Granville desires me to inform you, in reply, that Her Majesty's Minister at Washington has had the subject constantly before him, and has had interviews with some of the chief publishers in the United States. They have shown a disinclination to an arrangement for international copyright on any terms, and a determination to oppose it, unless on condition that the publication and the entire manufacture of the book should be reserved to American citizens. A Bill, of which I enclose a copy, has been lately introduced into the House of Representatives to authorise the grant of American copyright on those terms,* but Lord Granville apprehends that if the Bill should pass it would hardly be desirable to accept it as the basis for a Treaty of International Copyright with the United States.

"T. Longman, Esq."

I am, &c.
(signed) "Enfield."

And no further steps have yet been taken.

2.—COLONIAL COPYRIGHT.

As regards the protection of copyright property in books in Canada, and our other Colonies, the present position is unsatisfactory.

The pernicious Act of 1847, admitting American reprints of our English copyright books into Canada, has indirectly done much to retard the establishing of international copyright with America, by giving a larger field of operation to American reprinters, and thus giving additional reason for withholding what is equitably due to English authors. That Act also has entirely prevented those commercial arrangements between British and Colonial publishers which might otherwise have taken place.

Nor has it been attended with the benefits to British authors, professed to be its object.

This unsatisfactory state of the question induced Mr. Daldy during his stay in Canada, in 1869, to confer with Sir John Rose, then Finance Minister at Ottawa, and, after eliciting his opinions on this subject, Mr. Daldy addressed the following letter to him:

"Sir,

"Ottawa, Canada, 23 June 1869.

"HAVING been requested by some English authors and publishers to direct my attention to the effort now being made to amend the laws under which books originally published in the United Kingdom are introduced into the Dominion of Canada, and having been referred to you by his Excellency the Governor General for information respecting the same, I beg to thank you for your courtesy in giving it to me, and for the attention you have devoted to the subject.

"In compliance with your request, I beg to inform you that in my estimation the following arrangement would be satisfactory to British copyright-owners, and beneficial to Canadian printers and publishers, and to the Canadian public generally.

"That Act of Canadian Legislature, 31 Vict. c. 56, be repealed,† and that an Act be passed authorising the reprint of English Copyright books in Canada, on the following conditions, viz. :—

"That they be reprinted only by printers licensed for that purpose.

"That the printer on the completion of the printing of any book, and before any copy so printed be sent or taken off his premises, pay to the Canadian Government 10 per centum of the retail price on all copies printed under this Act.

"That

* This is Mr. Cox's Bill, before referred to, and printed for the use of the "Copyright Association."

† This is the Act under which American reprints are introduced into Canada.

"That 'Colonial Edition' be printed at the head of the title-page of every copy printed.

"That a Government stamp be impressed on the title-page of every copy of any book printed under this Act, so that the English copyright-owner may have security as to the number of copies printed.

"That the printer's name and address be printed at the back of the title-page of every copy printed.

"That the Canadian Government receive the aforesaid duties, and transmit the same to England half-yearly, and cause notice to be given, and the amount to be paid on application to the British publishers of the books, on account of which they have been received.

"That nothing in this Act be held to modify the duration of copyright which a British author possesses in the Colonies, under Imperial Act or Acts.

"That this Act cease on conclusion of a Copyright Treaty between the United Kingdom and the United States of America.

"That adequate penalties be imposed to prevent infringement of this Act.

"I would further add, that it is desirable that the Canadian Government should agree to receive notice direct from any British publisher of the existence of copyright in any book issued by such publisher, and that a sworn declaration by such publisher, or a copy of the entry of such book in the register of the Stationers' Company, kept for that purpose, be accepted as *prima facie* evidence of the existence of such copyright. And further, that the proof of non-British copyright in any book whatever imported into Canada shall rest on the importer. These regulations must be embodied in a Colonial Act, to give them legal force.

"Also that a condition precedent to above arrangement would be the passing of an Act by the Imperial Legislature prohibiting the importation of 'Colonial Editions,' by post or otherwise, into the United Kingdom.

"The effects of the changes indicated above would, I think, be increased stimulus to Canadian manufactures and commerce, and the raising up of a class of book producers within the Dominion which would considerably promote literature and learning, and thereby elevate and improve the people.

"I have, &c.

"The Hon. John Rose, Minister of Finance."

(signed) "F. R. Daldy."

The propositions embodied in this letter were discussed at considerable length at a meeting, on 16th March 1870, at the house of Mr. Murray, and gentlemen who were present expressed an opinion strongly in favour of the above "Canadian Proposals;" but a resolution, based on an opposite opinion, was maintained by others, and was carried by a large majority.

The decision of that meeting, without doubt, was influenced by the able address and advice of the late Mr. Robertson Blaine, who recommended the author and owner of copyright on no condition to surrender control over the republication of their works. He suggested that the object in view could be effected by other means than the total surrender of that control.*

The following were the resolutions then passed:—

That a representation be made to the Right Hon. the First Lord of the Treasury, pointing out the great hardship sustained by British authors and publishers from the operation of the Imperial Copyright Act of 1847, and stating the earnest desire they feel that Her Majesty's Government might deem it right to propose its prompt repeal.

They further desire to call the attention of Mr. Gladstone to the unexpected and unjust position in which all British Colonial authors and publishers are placed by the decision of the House of Lords in "*Low v. Routledge*," upon the "Copyright Amendment Act, 1842," as to works first published in any part of the British Dominions not included in the United Kingdom.

(in the Chair of the Meeting held 16th March 1870.)	<i>Stanhope.</i>
<i>Wm. Smith, LL.D.</i>	<i>Alexander Macmillan.</i>
<i>Arthur Helps.</i>	<i>Charles Dickens.</i>
<i>D. Robertson Blaine.</i>	<i>John Murray.</i>
<i>George Bentley.</i>	<i>Henry Reeve.</i>
<i>Anthony Trollope.</i>	<i>Jas. Fergusson.</i>
<i>Fred. Chapman.</i>	<i>Thomas Longman.</i>
<i>Frederic Richard Daldy.</i>	

And, further, it was requested that Mr. Murray and Mr. Longman should write to Mr. Gladstone on the subject, and send him a copy of the resolution.

In

* It could be effected by the Canadian Parliament availing themselves of their powers under the "Dominion Act of 1867," to grant to owners of copyright under the Imperial Act of 1842 the benefits of the Canadian Copyright Act of 1868, on condition that the said owners republish their works in Canada within a certain time after the passing of the Act here suggested, or of their first appearance in England.

In consequence Mr. Murray and Mr. Longman addressed to Mr. Gladstone the following letter:—

“50, Albemarle-street, March 1870.”

[This letter will be found printed as an Enclosure to No. 47, at page 46.]

This letter was acknowledged by Mr. Gladstone, through his secretary, Mr. Gurdon, on 24th March 1870, in the following letter:

“10, Downing-street, Whitehall,

“24 March 1870.

“Gentlemen,
“MR. GLADSTONE desires me to acknowledge the receipt of your letter on the subject of Colonial copyright, and to inform you that he will take an early opportunity of inquiring into the matter.

“Thomas Longman, Esq.
“John Murray, Esq.”

“I have, &c.
(signed) “W. B. Gurdon.”

Nothing having been heard of the proceedings indicated in Mr. Gurdon's letter, Mr. Longman, on 11th December 1871, wrote the following letter to Mr. Gladstone:—

“39, Paternoster-row, London, E.C.,

“11 December 1871.

“Sir,
“WITH reference to the subject of Colonial copyright, we beg to call your attention to our letter to you of March 1870, which was acknowledged by Mr. W. B. Gurdon in a letter dated 24th March 1870, in which Mr. Gurdon states that he is desirous by you to inform us that you ‘will take an early opportunity of inquiring into the matter.’

“We request the favour of being informed whether we may be made acquainted with the result of that inquiry, and whether steps have been taken, or are in progress, for the redress of the grievance we had the honour to bring before you.

“We are, &c.
(signed) “John Murray.
“Thomas Longman.”

“The Right Hon. W. E. Gladstone, M.P., &c.”

And received the following reply:—

“10, Downing-street, Whitehall,

“1 January 1872.

“Gentlemen,
“MR. GLADSTONE desires me to acknowledge the receipt of your letter of the 11th December, and to inform you that the subject to which your memorial of March 1870 related is in the hands of the Colonial Office and the Board of Trade.

“He finds on inquiry that, as it has been necessary to communicate with every Colony on the matter, the correspondence has not yet been completed.

“I am directed to suggest that you should apply to the Board of Trade for such information as you may wish to obtain, as, although Mr. Gladstone is very happy to answer unofficially the question which you have put to him, it is hardly necessary to state that the subject of Colonial copyright is not one with which it is his duty to deal in the first instance.

“T. Longman, Esq.
“J. Murray, Esq.”

“I have, &c.
(signed) “W. B. Gurdon.”

Mr. Longman and Mr. Murray accordingly wrote in February to the Board of Trade, but have not yet received an answer.

Canadian Reprints.

IN consequence of some publishers in Toronto having issued an unauthorised reprint of “Ginx's Baby,” and of the newspapers in Canada claiming for their publishers the right of reprinting English copyright works, under the Dominion Act of 1867, and the Canadian Copyright Act of 1868, a case was submitted to Sir Roundell Palmer, Q.C., and Mr. Farrer Herschell, Q.C., and their opinion asked on the following points:—

“1. Whether the Imperial Copyright Act of 1842 (5 & 6 Vict. c. 45) is still in force in its integrity and still runs in Canada, notwithstanding the Dominion Act of 1867 (30 Vict. c. 3), and the Canadian Copyright Act of 1868 (31 Vict. c. 54), especially having regard to the Imperial Act of 28 & 29 Vict. c. 63, as to Colonial legislation?”

"2. In the event of the above-mentioned Act of 1842 being in force, what course should be adopted to rectify the existing apparent anomalies consequent on the Canadian Act of 1868 (31 Vict. c. 54), and to protect the interests of British authors and publishers?"

"3. How is the exclusive legislative authority given by section 91 of the Dominion Act (30 Vict. c. 3) to be construed generally in reference to Imperial Acts?"

"4. If the above Canadian Act be valid and override the Imperial Act, what protection have British authors in respect of reprinting and importation into the United Kingdom of works printed and published in Canada under its provisions, either with or without their consent?"

"5. Whether books first published in the United Kingdom are entitled to the benefits of the Canadian Copyright Act, 1868 (31 Vict. c. 54), if duly entered, reprinted, and republished in Canada?"

Sir Roundell Palmer, q.c., and Mr. Herschell, q.c., gave the following reply:

"We are of opinion that the Imperial Copyright Act, 5 & 6 Vict. c. 45, is still in force in its integrity throughout the British Dominions, in so far as it prohibits the printing in any part of such Dominions a book in which there is subsisting copyright under that Act, without the consent of the proprietor. It is abundantly clear that the provision in the Act of the Imperial Legislature (30 Vict. c. 3) by which the Dominion of Canada was constituted, declaring that the exclusive legislative authority of the Dominion Parliament extends (amongst other things) to copyrights, has reference only to the exclusive jurisdiction in Canada of the Dominion Legislature as distinguished from the Legislatures of the Provinces of which it is composed. And the recent Copyright Act of the Canadian Legislature (30 Vict. c. 34) was in substance no more than a re-enactment for the whole Dominion of provisions which had previously been in force in one, at least, of the Provinces by the enactments of its legislature. It gave a copyright throughout Canada to works published in any part of that Dominion; but in our opinion it was not competent to, and did not, affect the protection against piracy afforded by the Imperial Act throughout the whole British Dominions in respect of works published in the United Kingdom.

"The provision in the 5 & 6 Vict., which prohibits the importation into any part of the British Dominions of pirated copies of British copyright works, is not now in force in its integrity. The Imperial Act of the 10 & 11 Vict. enables Her Majesty to suspend this prohibition in the case of any colony which should pass an Act providing reasonable protection to the authors of such works. The Canadian Legislature, under this provision, passed an Act (30 Vict. c. 56) imposing a duty for the benefit of the authors of such imported works, and the prohibition against importation has accordingly been suspended, and does not now apply to Canada; but with this exception the Copyright Act, 5 & 6 Vict., is still in force throughout that Colony.

(signed) "Roundell Palmer.
"Farrer Herschell."

"Lincoln's Inn, 7 November 1871."

As that opinion did not appear to cover the fifth question completely, counsel's attention was again drawn to it, and in reply they asked what would be the effect of their opinion on authors' rights and interests. This was answered by the following letter from Mr. Daldy:

"*Re* CANADIAN COPYRIGHT LAW.

"York-street, Covent Garden, London,
"23 November 1871.

"Dear Sir,

"IN reply to your request for a statement 'showing clearly the advantages or disadvantages, as the case may be, from the fifth question of the case on this subject submitted to Sir Roundell Palmer and Mr. Herschell being answered in the affirmative or negative,' I beg to submit that if it be affirmed that an author can acquire a copyright in Canada, under the Canadian copyright law for a book previously published in England, and protected by the Imperial copyright law in 1842 (5 & 6 Vict. c. 45), by republishing the said book in Canada, and complying with the formalities of entry, &c., required by the Canadian Act, English authors would, by availing themselves of such a course, be able to prevent United States reprints from coming into Canada (such an introduction being then in contravention of the Canadian Copyright Act), and actually turn the scale by sending such reprints into the United States market to compete with American reprints.

"I am aware that the author would run the risk of such books being imported into England to compete with the English editions, because the Canadian edition is produced within the British Dominions and with the proprietor's consent, but this is a risk which in many cases he would be prepared to run.

"If the fifth question be answered in the negative, English authors can only venture in a few instances to bring out a Colonial edition of a book.

"I may add, that to my personal knowledge there is a great desire on the part of the Canadians to produce Colonial editions of English books, and the tendency of their legislation and policy is to protect and stimulate colonial labour.

"Sharon Turner, Esq."

"I am, &c.
(signed) "F. R. Daldy."
And

And counsel then gave the following further opinion :

“ Further Opinion on Fifth Point of Case. ”

“ WE are of opinion that the author of a work already published in the United Kingdom, and possessing the rights conferred by the Imperial Copyright Act of 5 & 6 Vict., cannot, by republication in Canada, and by complying with the provisions of the Canadian Copyright Act (31 Vict. c. 54) obtain for his work the protection against importation into Canada afforded by that Act. We think that, upon a true construction of the Act, it cannot apply to the case of a work already possessing, by virtue of the Imperial Act, copyright throughout Canada. Any other construction would lead to this startling consequence, that the author of a work who had enjoyed copyright in Canada, by virtue of the Imperial Act, during the whole time for which it existed under that Act, could, by then republishing and recording his work in Canada, obtain copyright in that colony for the further period of 28, or, in some cases, 42 years. We think, further, that the provisions of the Imperial Act, 10 & 11 Vict. c. 95 (which is now in force as regards Canada), afford additional ground for the view we take that the protection alluded to cannot be obtained by a republication in Canada.

(signed) “ Roundell Palmer.
“ Farrer Herschell.”

“ Lincoln’s Inn, 2 December 1871.”

REPRINTING AT ROUSE’S POINT.

It appears that in January 1872 a Mr. Lovell, of Montreal, set up the type and stereotyped two books, in which there is existing British copyright, at his printing office in Montreal, and had the stereotype plates conveyed to Rouse’s Point, a place just within the United States; there he printed off an edition of each book, and reimported the printed books into Canada to be bound and sold. He further declared his intention thus to reprint other English copyright books, and to sell them in Canada.

As this course was likely seriously to affect English authors, a case embodying the facts was submitted to Sir Roundell Palmer, Q.C., and Mr. Farrer Herschell, Q.C., and elicited the following opinion :—

“ We are of opinion that Mr. Lovell is not infringing or contravening the provisions of sect. 15 of the Copyright Act, 5 & 6 Vict. c. 45. We think that, upon the true construction of that section, the word ‘print’ must be limited to its ordinary meaning of imprinting on paper, or some other material, a copy of the protected work, and that unless a person thus prints or causes another to print within the British Dominions, he does not commit the offence provided against. Prior to the 10 & 11 Vict. c. 95, and the colonial legislation which followed upon it, Mr. Lovell, by acting as he has done, would clearly have rendered himself liable to the provisions of sect. 17 of the 5 & 6 Vict. But the prohibition contained in that section no longer applies to Canada, having been suspended by Order in Council, when the Legislature of that Colony had (as was assumed by the Order) afforded by the import duty imposed sufficient protection to authors. The real grievance appears to be that the assumption upon which the order proceeded was ill founded.

(signed) “ Roundell Palmer.
“ Farrer Herschell.

“ Lincoln’s Inn, 21 February 1872.”

COPYRIGHT.

SOME OBJECTIONS TO THE CANADIAN PROPOSAL OF JUNE 1869.

CANADIAN PROPOSAL, JUNE 1869.

“ THAT Act of Canadian Legislature, 31 Vict. c. 56, be repealed, and that an Act be passed authorising the reprint of English copyright books in Canada, on the following conditions, viz. :—

“ That they be reprinted only by printers licensed for that purpose.

“ That the printer, on the completion of the printing of any book, and before any copy so printed be sent or taken off his premises, pay to the Canadian Government 10 per centum of the retail price on all copies printed under this Act.

“ That ‘ Colonial Edition’ be printed at the head of the title-page of every copy printed.

“ That a Government stamp be impressed on the title-page of every copy of any book printed under this Act, so that the English copyright owner may have security as to the number of copies printed.

“ That the printer’s name and address be printed at the back of the title-page of every copy printed.

“ That the Canadian Government receive the aforesaid duties, and transmit the same to England half-yearly, and cause notice to be given, and the amount to be paid, on application, to the British publishers of the books on account of which they have been received.

“That nothing in this Act be held to modify the duration of copyright which a British author possesses in the Colonies under Imperial Act or Acts.

“That this Act cease on conclusion of a Copyright Treaty between the United Kingdom and the United States of America.

“That adequate penalties be imposed to prevent infringement of this Act.”

Note.—This is the Act passed in consequence of our Act of 1847, 10 & 11 Vict. c. 95, under which American reprints are introduced into Canada.

COPYRIGHT.

The objections to the “Canadian Proposal” are chiefly these:—

I. That it involves the surrender of the entire control of copyright property into hands other than the legal owner.

II. That the condition of one uniform rate for the surrender is not adequate. In some cases it might be so much too favourable to the English owner as to prevent publication in Canada, and in others so unfavourable as to be quite unfair to the English proprietor.

III. That it is unjust to deprive the English author of the power of making his own terms for the use or disposal of his own property.

IV. That if the control of an author over his work were taken from him, he might have no means of correcting or improving his future editions.

V. That Parliament has never sanctioned such forced appropriation of property on “hard and fast” terms prescribed by an Act, and entirely without the consent of the legal owner of the property.

VI. That other means can be devised and adopted for securing the rights of English copyright in Canada, and the supply of cheap editions.

VII. That the repeal of the Act of 1847 would be the chief means of forwarding the object, and that communications with the Government, with that object, have been made, and are still going on, and that if the statement of the Canadian publishers be true, that labour is so much cheaper in Canada than in the United States, that they can undersell the American “pirate,” both in Canada and in the United States, no other alteration of the law is required for the negotiation of appropriate terms between the English owner of copyright and the Canadian publisher, excepting to prevent the importation of any Canadian edition into England. The parties have only to agree on terms, unfettered by Acts of Parliament.

VIII. That, even were it supposed that Parliament were unwilling to redress the great wrong done to English copyright property by the Act of 1847, it has been suggested that if the Copyright Act of the Canadian Dominion were so reframed as to include the recognition and protection of English copyright property in that Dominion, under their own local Act, such an Act might have the Imperial sanction, and by that means neutralise or put an end to the operations of the Act of 1847, as it would follow that under that form of legislation English copyright property would have not only its rights in Canada, from our Copyright Act of 1842, but also having the protection and advantages of the Dominion Act, the representatives of the English copyright holders could make use of these additional rights to exclude the American reprint.

IX. That the “Canadian proposal” is not coupled with the condition that the consent of the owner of the English copyright should be obtained, and so registered; and that this objection might possibly be in a great measure removed by the adoption of that condition, without serious injury to the object in view.

X. That the simplicity of the mode of payment to the owners of English copyrights by an excise collected by the Government officials before the publication or delivery from the printing office, having its advantages, that mode of payment should not be confined to terms previously prescribed by Act of Parliament, which may be reasonable and fitting on one time and not at another.

XI. That the “Canadian Proposal” is not available for one edition of so many copies only, but requires the surrender of the entire rights of the owner of the Copyright over the control of his work.

XII. That although the “Canadian Proposal,” under a permissive Bill requiring the consent of the owner, might be acceptable in some cases, until some better arrangement can be adopted, it would be highly imprudent to agree to a measure that would completely take from the author or owner of Copyright the control of every book, on terms to which his consent is neither asked nor required. Such a forced surrender would be a private wrong and a public injury.

XIII. That

XIII. That such legislation, once adopted, would be difficult to recall, and might thus be a permanent injury to English authors, publishers, and other trades.

XIV. That, as the law now stands, Colonial editions could not be stopped at the Custom House and kept out of England, as they would have been printed not out of the British Dominions, and with the consent of the owner of the Copyright.

XV. That the "Canadian Proposal" is clearly a proposal for the benefit of Canadian printers and publishers, and not a measure to promote public instruction and the diffusion of knowledge at the cheapest rate. The "Canadian Proposal" requires the re-setting up of the type in Canada, which, being one of the chief costs of production, would enforce a larger cost than would otherwise be incurred, and would be a waste of capital and of labour.

XVI. That in the interest of the public, and in the interest of the author, it is not expedient to encourage by legislation the printing of editions of English Copyright books in the Colonies, as it would tend to make books dearer instead of cheaper, by cutting off the large and growing demand in the Colonies and the United States, which might otherwise be supplied from the type already set up.

EXTRACT from the "Times," 21 March 1872.

COPYRIGHT ASSOCIATION.

To the Editor of the "Times."

Sir,

AS my remark at the meeting of the Copyright Association, reported in your columns of yesterday, "*that even Her Majesty had not thought fit to avail herself of her own laws,*" does not appear to be understood, I request space for a few words of explanation.

An Imperial Act was passed in 1847 which enacts that in case the Legislature of any British colony shall pass an Act "to make due provision for securing and protecting the rights of British authors in such colony," and in case Her Majesty shall be of opinion that such Colonial Act is sufficient for the purpose, she may issue an Order in Council declaring that *so long as the provisions of such Act continue in force in such colony* the prohibitions contained in the Imperial Act of 1842 against the importing, &c., foreign reprints of British copyright works "*shall be suspended so far as regards such colony.*"

It is an admitted fact that the working of this Act is a complete failure. Consequently no "*due provision for securing and protecting the rights of British authors*" has been made, and thus it would seem that the Act had repealed itself.

However, the Act still exists as an empty form, and some publishers go through the useless ceremony of registering their books under the forms of the Act for protection in the Colonies, like Hogarth's gardener watering a dead plant.

This was done by the publishers of *Lothair* as a last experiment, and, as might be expected, the ink was wasted. The result is *nil*. So well, indeed, is the futility of attempting to obtain any advantages under this Act known, that even so important a work as Her Majesty's *Our Life in the Highlands* has never been registered at the Customs for protection under the forms required by the Act of 1847, and at least 40,000 copies of the American "pirated" edition of the Royal work have been sold in Canada. It was known to be a useless ceremony and a mere farce.

But though the Act of 1847 may be an empty form, so far as the protection and benefit of royal and other authors are concerned, its fatal influence is doubly felt, since while it remains unrepealed the importation and sale of the American reprints are legalized and will be continued, divested, however, of any advantage to the owner of the copyright, which was the declared object of the Act.

I am informed that the Canadian authorities say that with their extensive boundary it has been found utterly impossible to prevent the smuggling of the American "pirated" editions. That probably is strictly true. We must suppose that the Government of that Dominion has, since the passing of the Act, become acquainted with the peculiarities of their geographical position, and did not know a fact so fatal to a measure which appears to have had its origin with themselves.

It cannot be supposed that having completely failed in working out the purpose of their own Act, so far as protection to British authors is concerned, they will continue to avail themselves of its provisions for their own advantage, and throw obstacles in the way of its repeal.

This Act appears to have passed through Parliament without observation and without debate. There is no record of a remark in "Hansard," and no writer or publisher heard of it until it had become law.

I am able to say that from a recent communication from the Prime Minister, we learn that this grievance, which was brought under his notice, is now in the hands of the Colonial Office and the Board of Trade. It cannot, therefore, be doubted that the Act will no longer be allowed to remain as it now is, an Act for the special injury of authors and publishers, and a disgrace to legislation on literary property.

I remain, &c.

Thomas Longman.

Paternoster-row, March 20.

— No. 71. —

No. 71.
The Colonial
Office to Messrs.
Longman and
Murray.
4 April 1872.

The Colonial Office to Messrs. *Longman and Murray.*

Gentlemen,

Downing-street, 4 April 1872.

I AM directed by the Earl of Kimberley to acknowledge the receipt of your letter of the 26th ultimo,* respecting the Law of Copyright in the Colonies; and I am to state to you, for your information, that his Lordship's Predecessor addressed the various Colonial Governors on this subject in Circular Despatches of the 1st † and 2nd of June 1870, ‡ copies of which are herewith enclosed, and that the answers, which, however, are not quite complete, have been transmitted to the Board of Trade, with whom, at present, the consideration of the question rests.

I am directed to add, that a copy of your communication will be sent to that Department.

I am, &c.

(signed) *Robert G. W. Herbert.*

* Page 70.

† Page 49.
‡ Page 50.

— No. 72 —

No. 72.
Colonial Office to
Board of Trade.
4 April 1872.

Colonial Office to Board of Trade.

Sir,

Downing-street, 4 April 1872.

WITH reference to previous correspondence relative to the Law of Copyright in the Colonies, I am directed by the Earl of Kimberley to transmit to you a copy of a further communication from Messrs. Longman and Murray* on the subject, and requesting to be informed what steps have been taken in the matter.

In reply to their letter, Messrs. Longman and Murray have been informed that the answers to Lord Granville's Circular Despatches of the 1st and 2nd of June 1870, are not quite complete, and that the consideration of the matter at present rests with the Board of Trade.

I am directed to add that of the Colonies to which the Circular Despatch of the 1st June was sent, the Falkland Islands, Trinidad, Tobago, the Leeward Islands, Heligoland, Hong Kong, Victoria, and Tasmania have not answered; and that no answers have been received to the Circular of the 2nd of June from those Colonies in the Leeward Islands to which it was sent, viz., Antigua, St. Christopher and Nevis.

I am, &c.

(signed) *Robert G. W. Herbert.*

* 26 March 1872,
page 65.

— No. 73. —

No. 73.
The Lord Lisgar
to the Earl of
Kimberley.
21 May 1872.

(No. 136.)

The Lord *Lisgar* to the Earl of *Kimberley.*

Canada, Government House, Ottawa,
21 May 1872.

(Received 6 June 1872.)

My Lord,

AT the request of the Privy Council of the Dominion, I have the honour to forward, herewith, a copy of a Minute setting forth their views on the question of copyright, and expressing the hope that "Her Majesty's Government will legislate on this subject without further delay."

I have, &c.

(signed) *Lisgar.*

14 May 1872.

Enclosure in No. 73.

COPY of a REPORT of a Committee of the Honourable the Privy Council, approved by His Excellency the Governor General, on the 14th day of May 1872. Encl. in No. 73.

ON a Memorandum, dated 10th May 1872, from the Honourable the Ministers of Finance and Agriculture, reporting that much anxiety has been manifested by Houses of the Canadian Parliament on the unsatisfactory state of the Imperial Copyright Act; that, as no reply has yet been received to the approved Report of the Committee of the Privy Council, dated 1st December 1870, they think it desirable that the attention of Her Majesty's Government should again be called to the subject.

That they have reason to believe that a good deal of discussion has taken place in England among the parties interested in copyright, and that the result of that discussion has been a considerable accession to the ranks of those who are in favour of the proposition submitted by them in the Report already referred to.

That it is apparent that the class which alone has a just claim to protection, viz., authors, have at length been convinced that their interests are not promoted by the maintenance of the present system.

That it is, no doubt, true that the principal owners of copyright are the London publishers, but it is, they state, equally true that those publishers have never paid to the authors one single pound more for their copyrights in view of circulation in Canada.

That it cannot be denied that the Canadian demand for concurrent publication in Canada should alone entitle the author to the benefit of copyright. That under the present system, which is wholly indefensible, and which is objected to, as well by the English publishers as by the Canadian publishers, the latter are treated with the greatest injustice.

That it has long been the custom for the owners of English copyright to sell to American publishers advance sheets of their works, and when Canadian publishers have offered to acquire copyright in Canada by purchase, they have been told that the arrangements made between English and American publishers were such as to prevent any negotiations with Canadians.

That Canada has passed a law by which British authors can secure copyright in Canada, and has further expressed a readiness, where authors do not choose to take out copyright, to secure adequate compensation to them by means of an excise tax on all English copyright works for the benefit of the authors.

They, the Ministers, recommend that a further appeal be made to Her Majesty's Government to legislate upon this subject without further delay.

The Committee concur in the foregoing Report, and submit the same for your Excellency's approval.

Certified,

W. H. Lee,
Clerk, Privy Council, Canada.

— No. 74. —

The Colonial Office to the Board of Trade.

Sir,

Downing-street, 18 June 1872.

WITH reference to the letter from this Department of the 7th January 1871,* I am directed by the Earl of Kimberley to transmit to you a copy of a further Despatch received from the Governor General of Canada, enclosing a Minute of the Privy Council of the Dominion, setting forth their views on the question of copyright, and expressing a hope that Her Majesty's Government will legislate on the subject without further delay, and I am to state that his Lordship will be glad to be favoured with the opinion of the Board of Trade upon this question.

I am, &c.
(signed) *R. H. Meade.*

No. 74.
The Colonial
Office to the Board
of Trade.
18 June 1872.
* Page 59.

No. 136. 21 May
1872, page 78.