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right to prevent the repetition of a particular man's designs; that is what I am contending for.

4326. We are now dealing with designs of houses, which are intended to be cheap and for the use of the poor. Would not a grievance be felt if a poor man were unable to build for himself a house of a design which had become recognised in the neighbourhood as fit and proper for poor men's houses?—I think those cases would be so extremely rare that I cannot imagine such a difficulty as that to arise.

4327. Do you not think that they would become more common as the architecture of cottages is improved by the science and skill and imagination of such men as yourself?—If they did, I think we ought to have the reward of our labour.

4328. (*Chairman.*) You have said that no one objects to pay the ordinary five per cent commission on an architect's design, and I think I understand you to base upon that, that the same sort of acknowledgment should be paid on every agricultural labourer's cottage which should be erected from the design of an architect?—I did not wish to say that; what I meant was, that, as Lord Devon has suggested, having paid the five per cent. upon the original production of the design, then something in the nature of a royalty or acknowledgment should be paid for each repetition; and that acknowledgment should be of much more moderate character, I think, than the five per cent. It might be a half, or a third, or a fourth. Possibly, after a little experience, if this became law, we should get into as regular a custom of what it should be as the custom of five per cent. itself has become.

4329. In making that suggestion, do you bear in mind that, as a rule, all cottages for labourers built in anything like the style which you suggest invariably do not pay the gentleman who erects them?—I am quite sure that, whether they do or not, the royalty paid to the architect would not materially affect that question.

4330. (*Sir H. Holland.*) And you would apply this, not only to the design of the whole cottage and the arrangement of the rooms, but to every part of the cottage, would you?—No, only the general design and arrangement.

4331. Take the case of part of a house; for instance, supposing that in a house you planned a staircase going up with a particular bend, would you say that ought to be protected?—It ought to be protected against such mutilation as I described just now. How that is to be done is perhaps a difficult matter to say, but I do consider that it ought to be protected in some way. But what I really meant was the real repetition, either on the original scale or a different scale, of the original design, whether external, or any special and original arrangement of the plan.

4332. Take the case that you design in a house a particular arrangement of staircase going up from the hall, and suppose I go into that house, and I am myself thinking of building a house, and I admire that very much, would you prevent me from building my staircase in the same way?—I must say that I do not think that ought to be done.

4333. Then I do not see exactly where you would propose to draw the line of copyright. If you have copyright in it you can absolutely prevent anyone else doing it without getting your consent; and I want to see how far you propose to extend that copyright?—Of course that is a matter that is hedged with difficulties, and it really would be different in each particular case; and the machinery which I will, with permission, suggest to you presently, is this—I think that the right to reproduce a building should be reserved to the architect for, say, a definite term of years, and this whether it be reproduced on the same scale or a different one, and whether in whole or part. Whether this right has been infringed should be determined by a professional expert to be appointed for the purpose by the court or the commission, when the case arises, be the authority whatever it may be.

4334. (*Chairman.*) Do you mean that when a gentleman has built a house it would be liable to

inspection by the professional expert?—Yes, in such a case. It is assumed that there must be some originality in every design, either as new invention, or new combinations of recognised architectural features of past times, and this originality should be protected to the producer or parted with to a client for some acknowledged and separate consideration, in like manner as a painter sells his picture with or without copyright reserved. Take the analogous case. A painter, for instance, composes some historical picture with a certain number of human forms; the human form is old enough and universal enough. Then he also uses certain colours; those colours are colours that may be used by all. But the particular arrangement of those colours and the particular grouping of those human forms creates his picture, and distinguishes it from all other pictures, and it is that for which a copyright is secured to him. Now, in like manner with architects; it is impossible, of course, not to continually introduce, in certain combinations, features which have been used before in olden times, and in our own times; but the way in which they are combined, the proportions in which they are combined, the situations in which they are combined, constitute the originality of the design. That is the analogy that I wish to draw. The subject, no doubt, has its difficulties, but it seems clear that there is an admitted value in a design; thus, A., a parson, builds a parsonage from the designs of an architect. B., another parson, likes the effect, and sends a builder to copy it for him as well as he can, without acknowledgment to the architect, and the architect feels aggrieved. On the other hand, if the architect of A. repeated identically the same design for another client, say within a short distance of A.'s house, A. feels aggrieved. There is here, therefore, need for some regulation, for at present neither has any remedy. From the above instances it seems to result, *first*, that an ownership of some value (or, in other words, copyright) exists in an architect's designs; *secondly*, that the erection of a single building from an architect's design ought not to be considered an unconditional publication of it, but to be a completed transaction, when such building has been erected, and to refer to it alone; *thirdly*, that the question as to who possesses this copyright ought to be legally defined, and protection given to the originator of the design. The wisdom of the Commission must be left to deal with this; but I venture to make the following suggestions. *First*, (this is what I have already said,) that the right to reproduce a building should be reserved to the architect for a definite term of years, and this whether reproduced on the same scale or a different one, or whether in whole or part. Whether this has been done should be determined in each case by a professional expert to be appointed by the authority, whatever that authority might be. Then, *secondly*, by affording facilities to architects to register such of their drawings of a building as exhibit the original features of design. If unlawfully copied, the same procedure to be adopted. There would be an expert's opinion, doubtless, wanted in almost all such cases, but I think if the principle was recognised, the cases in which it would occur would become very rare. Then the reservation of the copyright in designs may be for a limited time defined by the Act, and dating from the erection of a building, or from the sale of a design, whichever may first happen. Those are the suggestions which I have to offer.

4335. (*Mr. Trollope.*) Do you think that copyright in the design of a building would be sufficient to give the architect the protection he needed?—Yes.

4336. But the copyright in the designs of such cottages as you were speaking of just now would not give him the full protection of which you were just now speaking?—Yes, I think it would.

4337. Surely such cottages might be repeated, might they not, without any reference to the drawing of the architect?—You, mean as I understand you, that two persons might think of exactly the same thing; that is not very likely.

4338. Not exactly; but this rather. If a cottage which had been built from your design should be seen

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by an architect who sufficiently understood his business to see what you had done, it might afford him the power of repeating it without seeing your designs?—It is impossible to protect an architect against that.

4339. You do not ask, therefore, to be protected from the copying of your designs if the copies be made without reference to your own drawings?—That cannot be expected.

4340. My question is this: would you wish to be protected from such a copy of a building of yours as might be made by any other architect or builder without any reference to your drawings?—Certainly, if possible; the drawing and the work would be a part of the same transaction. I thought you meant by your question just now, to put such a case as this: a well-arranged cottage is built by an architect; you wish to protect his ownership or his copyright in that; and I thought you meant to put this case, which might occur: a proprietor of neighbouring estate has another architect in his employ; he says, "I have seen some very good cottages in such and such a place, I should like you to come over and look at them, and I should like to have something of a similar arrangement." If that architect goes over and does not measure the cottages, and does not use the drawings, or have access to them, but out of his own mind can appreciate the advantages and embody them in a design of his own, that design becomes his original. It is sure not to be the same; however hints from the exterior or interior may be taken, it is sure not to be the same.

4341. (*Earl of Devon.*) The exterior may be the same, may it not?—I should doubt if it is possible, but the idea may be taken.

4342. (*Mr. Trollope.*) Do not you think that the likeness might be so perfect as to induce the original architect to think that his copyright had been invaded?—If it were, and he chose to go through the trouble of establishing and investigating it, and failed, he would have nobody but himself to thank.

4343. Would not that open the way to a great deal of litigation and doubt?—Architects, generally speaking, are not wealthy enough to indulge in litigation, and I do not think that that case would ever occur. Unless an architect was practically sure that he was on the right ground, he would not move in the matter.

4344. I should like to go back to the question, whether, such being the case, it would not be sufficient for the law to give the architect a copyright in his drawings, that is in his designs put upon paper, instead of giving him a copyright in his own buildings, which it seems to me is a thing that can hardly be carried out?—There is a great difficulty, I admit, in the latter part, and the registration of drawings, and, therefore, their protection, would be esteemed as a great benefit by us. In one of the draft bills proposed by the Society of Arts, that was felt, because they made this remark: "As to architectural plans, models, &c., only the use of the originals to be secured, but not to prevent new drawings, &c. being taken from executed buildings or works." That meets the point which has been raised by you. I do not doubt that the second matter is a difficult one, but I trust in the wisdom of the Commission to deal with it; at all events, "half a loaf is better than no bread."

4345. Can an architect at present, after having designed a house and built it for his customer, build the same house for another customer?—Certainly, he can do that.

4346. (*Chairman.*) But I understood you to suggest that you would, in any re-arrangement of the law, prevent that?—Yes. But then it would necessarily follow that, if that be so, the originality so parted with should be acknowledged in the same way as the copyright of an artist's picture is. For instance, if a gentleman came to me to build him a house, and he paid me five per cent., that is for building that particular house, that should be one completed transaction, but at present neither he nor I have any means of protection against that being copied; he would have no protection against my repeating it

(although that is not very likely), and I should have no protection against its being repeated, not only by him, but by others who have nothing to do with the original transaction.

4347. Then what you propose now, is to give a joint copyright to the architect and to the owner of the house?—Not a joint copyright, but the owner of the house should pay some consideration for acquiring the copyright, just as a man does to the artist of a picture.

4348. (*Sir H. Holland.*) With regard to what Mr. Trollope has been asking you, you desire first to have a copyright in your architectural drawings?—Yes.

4349. That copyright would prevent anybody else copying those drawings?—Yes.

4350. But that would not prevent of itself anybody copying a house which you had made, and building a house like it, if he could do it without making any copies of your drawings?—In itself it would not.

4351. Do we understand you to desire to go further, and to wish to secure a copyright in the house as distinguished from the architectural drawings?—I should like to do so if possible, for the reason of the grievances which I have set forth.

4352. There would be no difficulty of course in registering the architectural drawings, but do you not conceive that there would be very considerable difficulty in registering your copyright in a house?—I think there would, but that difficulty would be met by my last suggestion, that each case should be considered on its own merits, that the person raising it should raise it at his own risk; and architects would not be likely to raise it unless they were perfectly certain that their copyright was infringed.

4353. Suppose I go into a house which has been built some time, and I see a clever arrangement of chimneys or of a staircase, and I am building a house and I adopt that arrangement, do you wish that I should be put to the trouble of learning who was the architect of that house of which I am now supposed to copy a part?—I think so. I do not think that that would be a great grievance.

4354. There may be great difficulties indeed, may there not; that house may have been built 30 years, it may have changed hands ten or eleven times; and probably no one now connected with the house would have any notion who was the architect; and there is no registration; how am I, in a position like that, to know who is the architect?—I think that my suggestion here that any protection, if it can be given, should be for a certain definite term of years would meet that difficulty in most cases.

4355. First let me ask what term you would propose?—Take it as 20 years.

4356. Would you propose a definite term of 20 years?—A definite term I think it should be.

4357. Would you propose that term for the architectural drawings as well, or should you put them on the same term as pictures?—I think that 20 years would be quite sufficient for all.

4358. But in 20 years a house may change occupation several times; how am I to find out who is the architect unless you register it?—If you try, I suppose you have done all you can be expected to do.

4359. But an architect, according to that view, may come down upon me for an infringement of his copyright in such a case as that?—Take the case that after you have made all reasonable inquiry you are unable to discover the architect, and you use the features, and after you have done that the architect does become known to you, surely you could make the same arrangement with him at that time as you would have made if you had known.

4360. If he is unreasonable he has me in his power, has he not?—There comes into play my machinery of the case being referred to an expert.

4361. The difficulty is to see whether or not I have infringed your copyright?—You might in that case give the expert such powers, as would enable him to decide the question.

4362. (*Dr. Smith.*) If I understand you aright, you

wish, in the first place, that no second party should have the power to erect a building from the original drawings?—Yes.

4363. That those drawings should be copyright in that sense, that no one else should have the power of erecting a building from them?—Yes, as being part of the single and completed transaction.

4364. Therefore it is not simply protection for the drawing, as a drawing, which you desire, but it is protection from using that drawing for the purpose of erecting a building?—Yes.

4365. Then supposing that an architect has erected a building, could not another architect take an exact copy of that building in the façade from the outside in a public thoroughfare; could he not copy that so exactly as to then make a drawing of it and erect another building exactly like it?—No doubt; the first point I urge would be that the protection might be given to a set of drawings made for a particular house, as you have just described; and secondly, that that set of drawings should not be used as a tool to reproduce a second house. That would be a protection in as far as it went. The further protection we should like to have if we could, would be to prevent its being in the power of somebody else to go and measure an original work and reproduce it.

4366. I understood you to say that you would have no objection to an architect seeing a building, looking at it with an architect's eye, and then going home and embodying in a plan of his own as many features of that building as he could introduce; because, if I understand you aright, you maintain that no architect could in that way reproduce the same building?—I believe he could not.

4367. But what you would object to would be that an architect should take a drawing and measurements and be able to erect a second building from that drawing and those measurements?—Yes.

4368. And if I understand you aright, you object to it on this ground, that it would be almost equivalent to his having obtained possession of the original drawings?—Yes.

4369. (*Earl of Devon.*) Would you extend your view to the interior of the house?—Yes, so far as the interior of the house exhibits originality of design, which it often would.

4370. You would not carry it so far as to extend it to the arrangement of a single room?—No.

4371. Would it not be difficult to draw the line?—There, again, I would, as already said, refer this case to an expert, as being the best authority who could say where the line was to be drawn.

4372. (*Sir H. Holland.*) At present if there is an alleged infringement, say of a dictionary, the case comes before the court, and then there is a careful comparison between the original dictionary and the one alleged to have infringed it, and the court arrives at the best conclusion it can; you would say, in the same manner let the architect go to the court, and let them be assisted by experts?—Yes, just as they refer a case now to arbitration which they think cannot be properly settled in open court.

4373. (*Mr. Trollope.*) What period do you propose for copyright?—I have suggested 20 years.

4374. From what date?—I have suggested either from the erection of a building or from the sale of a design, whichever may first happen. By putting that in, I meant this, a case might very well occur where an architect made a design for a house, and then it was not erected for some time after; but having made the design for the house, and having received his payment for it, the ownership of that, and the power to employ it, would, of course, properly rest with the client.

4375. Would it not be difficult to define those terms?—Not if the drawing were registered and dated.

4376. Is it not sometimes difficult to define the date at which the erection of a house is completed?—The difficulty might be met; but evidence would be wanted on the subject, no doubt.

4377. You do not think that the term of the archi-

tect's life, or the term of his life and some few years after that, would be more simple?—Of course it would.

4378. Would that term be too long?—We should not think it too long; but I wanted to be as moderate as I could in what I suggested.

4379. Do you think that my proposition would militate too much against simplicity in carrying out the law?—No; on the contrary, I think it would make it more simple.

4380. If you can imagine that the architect lived 50 years after a house was built, probably then the term might be too long?—It might be deemed so.

4381. You will perceive, I think, that there may be always some difficulty in settling the term where there is in point of fact no real date from which to start; for instance, a house may be built and altered, and re-altered, and that may extend over a period of 10 years?—Yes; there are great difficulties, no doubt.

4382. Looking at all that, what would you believe to be the most simple arrangement as to the term?—The life certainly.

4383. (*Earl of Devon.*) In dealing with parts of the exterior of a building, what course should you wish to take in such a case as this; suppose I see, for instance, a very beautiful bay window in one of your buildings, and I want to copy it in a house of mine, what course ought I to take?—If you mean that you wish absolutely to copy it, I think you would almost feel that it would not be desirable or quite fair to do that without some kind of acknowledgment to me.

4384. (*Sir H. Holland.*) I think you said that Mr. Ouvry was the solicitor to the Architects' Institute?—Yes, to the Royal Institute of British Architects.

4385. Would it be possible to get him to frame some clauses which would embody your views, because I think if we saw the clauses before us we should have a better notion whether it was or was not practicable to carry them out; at present I see very great difficulty in the way of framing anything that would convey your second copyright, that is copyright in a building; and if you could before this Commission breaks up ask Mr. Ouvry to prepare some clause that would convey what you wish, that would be a great assistance to us?—I will try to do so.

4386. (*Chairman.*) If I have followed your evidence, it appears to have been confined exclusively to buildings of a civil character?—No, I do not limit it in that way.

4387. The instances that you took were all of that kind?—The instances were so.

4388. I want now to ask whether you would apply the principles, and the method of applying them, to ecclesiastical as well as to civil architecture?—Certainly.

4389. You have mentioned the case of parsonages, which may be said to occupy perhaps a middle term, and you have suggested that a parson might feel aggrieved if the parsonage house which had been built for him were reproduced in an adjoining parish. Now would you apply that proposition to the case of churches; would you say that an ecclesiastical architect should not be at liberty to erect two churches of a similar character in adjacent parishes?—Not without agreement, I think; not if they were precisely similar. It is, however, supposing an almost impossible case.

4390. But with respect to ecclesiastical architecture, is it not the fact that many of our most eminent architects have acquired a particular style, and that, allowing for the variety of local circumstances, you can tell in many instances pretty accurately what architect has built such and such a church?—Just in the same way as you can tell a man's handwriting when once you are familiar with it, or a man's paintings when once you have studied his pictures; but each example would be different, a separate original.

4391. You see no difficulty in applying the principle which you have laid down before us to-day to ecclesiastical architecture?—I see none; I think that those very eminent architects whom you speak of would be the last to absolutely repeat themselves. It

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would act fairly both ways I think. Supposing the parson you have referred to wished to protect himself from the possible repetition, he might buy the copyright of the design as well as the executed house that he lives in; just as if you wished to buy an original picture and keep it entirely to yourself you pay so much to the artist for the original picture, and so much more for the absolute inalienable copyright. That is the analogy which I wish to draw.

4392. In the case of the parson we may grant for argument's sake that he would have a grievance, though it seems to me that it would be a very shadowy one; but in the case of the people who erect a church, what would be their grievance if another church were erected of the same appearance within a certain number of miles of them?—That it would be a "shadowy" grievance I admit. Of course the law provides remedies for grievances of every kind, but it is very frequently not at all worth while putting the law into force to cure them. It is much

better in many cases to bear the grievance, and I have no doubt in many of these cases it would be so; but there would be really some cases which this protection if it could be given would properly deal with, cases where there could be no doubt about the grievance being of a substantial character.

4393. (*Sir H. Holland.*) There are in fact frequent cases of imitation which you wish to see put an end to?—Yes.

4394. (*Chairman.*) Do those cases extend beyond what I may call civil architecture?—I think so.

4395. You think that churches have been erected in a way which constitutes a serious grievance to the architectural profession?—Yes, I think so. I cannot however give you any particular instance of that; but I should not be surprised if Mr. Street or Sir Gilbert Scott might be able to furnish you with instances.

4396. (*Sir H. Holland.*) It has not been much to their detriment I should think?—It has not done them much harm, very likely.

The witness withdrew.

Adjourned to Friday next at half-past 12 o'clock.

Friday, 23rd February 1877.

PRESENT:

THE RIGHT HONOURABLE LORD JOHN MANNERS, M.P., IN THE CHAIR.

SIR HENRY T. HOLLAND, Bart., C.M.G., M.P.
SIR JOHN ROSE, Bart., K.C.M.G.
SIR H. DRUMMOND WOLFF, K.C.M.G., M.P.
SIR LOUIS MALLET, C.B.

DR. WILLIAM SMITH.
ANTHONY TROLLOPE, Esq.
F. R. DALDY, Esq.

J. LEYBOURN GODDARD, Esq., Secretary.

GEORGE ROUTLEDGE, Esq., examined.

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Esq.
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4397. (*Mr. Dalby.*) I think you have been in business as a publisher for some years, and have paid some attention to the copyright question?—I have been in business as a publisher for 40 years.

4398. Then I will direct your attention, if you please, not to the general question, but to certain points, and ask your opinion upon them; and first I will ask what would be the effect of allowing various publishers to undertake the publication of the works of any given author on paying to the said author a royalty or some given sum for the privilege of doing that?—It would be an unfortunate thing for the author.

4399. Why?—Inasmuch as no publisher, at least very few publishers, would undertake a work under the circumstances, because if it was a work with illustrations, or one which ought to be got up properly, the rival publishers would bring out a cheap edition, and in consequence of those cheap editions coming out from any one, there would be no pains taken to circulate that book; no one would take the trouble of advertising it, and it might be a book of a character that a retail bookseller would not keep in his stock at all; and in that case it is necessary that the book should be advertised and made known through the press. Therefore I think it would be a very unfortunate thing for authors; and the value of their copyright would be very much deteriorated.

4400. You mean to say that a publisher would not advertise the work lest his rival should reap the benefit of it in the sale of his edition?—Undoubtedly; that happens now in many cases; where several publishers publish the same book, they do not advertise it at all.

4401. And do you think on the whole that the sale of that book *quoad* the public, the number sold would be as great, or do you consider that the distribution, the number of copies sold, is larger under the present system?—I should say that if the book was published at the same price by more publishers than one, it would not have the sale, or the pains taken to circulate it that one publisher would bestow on it.

4402. Do you attribute that to the interest in the book being divided?—Yes, it is no person's interest; it is like a limited company, it is not properly attended to; and the publisher of course would pay much more attention to it if he had the whole sale of that book. In fact, with the sum of money that he had to pay for it he would be found to make the thing answer to the author as well as himself.

4403. Then on the whole you think that the present system is more advantageous both to author and publisher?—Certainly.

4404. And do you think it equally advantageous to the public?—Certainly. It would cause the greatest confusion in the world if every publisher had permission to publish an author's book, and it would cause a great deal of ill feeling.

4405. Have you anything more to say on that head?—No. I may make an observation with regard to this, that the public have a very erroneous idea with regard to the sale of a book, generally speaking. For instance, I will not mention any person's name, but within this last two or three months an author came to us and told us that a retail bookseller was selling 400 copies of a book of his every day.

4406. A book of your publishing you mean?—Yes. When the stock came to be taken he had only sold 250 in three months. An author is apt to get a wrong impression of the sale of his work, and he probably complains of the publisher.

4407. (*Mr. Trollope.*) You have said that this system of publishing by a payment of royalty would be injurious to the author, and you explained why you thought so; but you also say that it would be injurious to the public. Will you tell us a little more plainly why you think that it would be injurious to the public?—I think it would be injurious to the public because you could have only inferior editions improperly brought out; they might be abridged or altered, or persons might do anything to the book to get it published at the lowest possible price; it would not be properly brought before the public.

4408. Would such an arrangement confer upon

publishers any power of abridging or altering?—No, I should think not.

4409. Publishers under such a law would be bound to words of the author as much as the publisher at present is so bound?—It depends entirely upon what the law would be in that case. I should very much doubt it. There might be a remedy against abridging a work, but works would be brought out in a very careless manner.

4410. Whatever power the author at present has of compelling his publisher to publish his works as they are written would rest with him in regard to the body of publishers generally?—The author might see one publisher's books through the press, and he would not take the trouble of revising those of others, and, therefore, they might be very carelessly printed.

4411. That would be by the laches of the author?—Yes.

4412. I think you said that the public would suffer, because the book would not be advertised?—There would not be the same interest taken about it.

4413. Do you think that the circulation of our best literature depends much upon advertisement?—It depends entirely upon the nature of the book. If a book is published which would not be purchased on speculation by retail booksellers, then a sale is only to be got by advertising.

4414. Do you think that the literary tastes of the public are formed by advertisement?—I cannot say that, but if they see a book advertised their attention is drawn to it.

4415. Has it ever occurred to you that the literary tastes of the public may be rather deformed by advertisements?—Yes, possibly they might be by an advertisement which was not truthful.

4416. Has it ever occurred to you that advertisements are rather an assistance to the inferior author than to the superior author?—I should think that they are more beneficial to the inferior author.

4417. The superior author, whether with or without advertisement, might make his way?—Yes; but it is necessary, even in the case of a superior author, that it should be known to the public that a book is going to be published and by whom; there is no necessity that there should be any flourish about it, but that the public should know that the book is coming out.

4418. Is it necessary that it should be known that such and such a book is going to be published by such and such a publisher, or only that such and such a book is going to appear in the world?—I think that is immaterial as far as the author is concerned, but I think it is necessary for the booksellers throughout the country to know who is going to publish it that they may know of whom to order it.

4419. You no doubt know that a novel was published lately called "Daniel Deronda"?—Yes.

4420. Published by Mr. Blackwood?—Yes.

4421. Do you think that the circulation of that book has been increased by the fact that it was known that Mr. Blackwood published it?—I do not know that, but Blackwood's, of Edinburgh, are a very respectable house, and they have published the whole of George Eliot's works, except "Romola."

4422. It did not in that case signify as far as the public were concerned who published or what advertisements were put out?—No.

4423. Of course you are aware that in looking at this question of copyright there are two things to be considered, the welfare of the public and the welfare of the author?—Yes, certainly.

4424. And that in this question which is now being raised, the point that we are chiefly considering is the cheapness of the books and the welfare of the public. Do you think that the system of a royalty such as that which has been now suggested would make books cheaper?—I think it might make them cheaper but at the expense of the author.

4425. But you think that books would be much cheaper?—Well they might be; it would be such a revolution in the trade to allow every publisher

to publish the same book that you can scarcely tell the effect, but I think it would cause very great confusion, and I am sure it would never work well.

4426. I believe popular works at present are generally brought out in a dear form at first and assume a cheap form shortly afterwards?—Yes.

4427. You yourself probably have often brought out books first at a dear price and afterwards at a lower price?—Yes.

4428. How long generally is the interval between the two publications?—It depends upon the nature of the books, sometimes it is only twelve months. With regard to novels I should think not more than 12 months.

4429. Do you not know cases of popular novels in which the interval has been less than twelve months?—Yes, it was less with "Pausanias" by Lord Lytton. In the case of novels published for the circulating libraries you must give the trade a certain time, or else they will not take them.

4430. You must give the circulating libraries time to make their profit out of the dear editions?—Yes.

4431. And that with regard to novels you imagine to be done in about 12 months?—Yes, in about 12 months.

4432. Then at the end of the 12 months these books re-appear in a cheap form?—Yes, if they are worth reprinting.

4433. Are those books brought out in as cheap a form as are at present the American editions?—Much cheaper.

4434. Are they brought out in as cheap a form as the original French editions of novels?—Cheaper.

4435. Considerably cheaper?—Considerably cheaper.

4436. That is within 12 months?—Within 12 months.

4437. With regard to literature of a more serious, more lasting, and a more important kind, do you find that books of that nature generally appear in a cheap form?—Not so soon.

4438. But do they generally appear in a cheap form?—In a variety of cases when the new editions are published, they are very often reduced in price, and brought out in a cheaper form.

4439. Has not that been the case with most of the works of note that you have known?—Yes.

4440. Have there not been cheap forms of Macaulay's works?—Yes.

4441. Have there not been cheap forms of Carlyle's works?—Yes.

4442. Have there not been cheap forms of Tennyson's works?—Yes, a variety of prices in the works of all these authors.

4443. (*Dr. Smith.*) With respect to this proposition of publishing by royalty, do you clearly understand what is proposed?—I understand it in this way, that an author's works would be open to any publisher that wishes to pay a royalty upon the retail price.

4444. But it is understood, is it not, that the work must be originally published by some one publisher?—I did not understand that in the questions which I have been answering.

4445. Have you heard that one proposition which has been brought before this Commission is this, that when a work is published by a particular publisher for an author, then after a certain given time any other publisher should have the right of re-publishing that work by paying a royalty upon the retail price?—No, I have not heard of that at all.

4446. But supposing that that plan was proposed how do you think it would work. Do you think that a publisher would be induced to undertake the publication of a work for an author when any other publisher, within a given time, say one year or two years, or immediately, would have the right of re-publication?—I do not think it would work at all.

4447. In the case of an unknown author do you think a publisher with the chance of another publisher having the right of re-publication, could be induced to publish the book?—I think not.

4448. Are there any other observations which you

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wish to make upon that supposition which I have put to you?—No, but I was going to say what is the custom in re-publishing a cheap book. For instance, some of the houses object to publishing cheap editions; they do not care for them and they have not the machinery to work them. An author will sell, say to Mr. Longman or to Mr. Murray, or publishers of that class, the right of publishing one edition of the book, and probably the agreement between the author and the publisher is for that edition only. When the author wishes to have a cheap edition of it which the original publishers do not care about doing, he will make an arrangement with another publisher.

4449. (*Mr. Daldy.*) After the original edition is sold off, you mean?—Yes, after the original edition is sold off.

4450. (*Dr. Smith.*) Are you aware that the cost of printing a book from manuscript is very much larger than the cost of reprinting the book from type?—Certainly.

4451. Have you had in your experience very large charges made for corrections sometimes?—Yes, frequently; sometimes more than for the composition of the work itself.

4452. Then the original publisher, who had been at the expense of setting up the work from manuscript, and paying for all those corrections, would find it difficult, would he not, to sell that book at the same price as a person who could reprint it from the type?—But he would have included this cost in his calculations when producing the first edition of the book. A publisher buys an edition of a book at a high price; he takes all these things into consideration, and he sometimes makes an arrangement with the author that the corrections are not to exceed so much money.

4453. But supposing that when a book has been originally published, another person could republish the book immediately upon paying a royalty of 12½ per cent., do you think that that royalty of 12½ per cent. would be a sufficient compensation to the original publisher for the extra cost of the corrections?—I hardly understand the question.

4454. It has been proposed that when a work is reprinted in Canada, it should be allowable to import such a work into this country, how do you think it would affect the original edition in this country?—I think it would affect the original edition in this country and authors very much. I could give you a case in point. For instance, we pay 1,000*l.* for "Pausanias," and we sell the right to Canada for 25*l.* It is natural to suppose that if the Canadian edition were introduced into England it would injure the edition for which I pay 1,000*l.*

4455. If the Canadians had the right of importing into this country that book which you have mentioned, or any other book similarly circumstanced, would you have sold the right to Canada for that sum?—Certainly not. It would be very unfair to authors.

4456. (*Sir D. Wolff.*) If you had sold it you would have sold it at a higher price in Canada, if they had the right to sell it in England?—I would not have sold it at all because it would lessen the value of the copyright of the British author.

4457. But he might make it up in Canada, might he not?—I think not.

4458. Supposing there was a copyright treaty with the United States which would ensure a very large sale of books, would not the English author get a very large sum of money for that large sale of books in America?—You are now talking of the United States' copyright.

4459. I am speaking generally of international copyright?—I should give the same answer to that question.

4460. If you got a copyright in America it would certainly increase the value to the author, but it would decrease the value of the copyright to the British author here in England?—You could not pay him so much if the Americans had that copyright as well.

4461. But he might make it up by what he got from America?—That is a question with the author, not the publisher.

4462. But going on the general question of copyright, if an author was to publish a book, and have a very large sale for that book in different parts of the world, by the increased sale of the book at a lower price, the author's remuneration might be the same as he gets for a very limited circulation in England?—You are now talking with regard to the author only; the publisher has nothing to do with that question, inasmuch as the publisher here would have no rights whatever in the United States.

4463. You represent here the rights of the publishers?—I am a publisher, and that is an author's question entirely.

4464. And you refuse to entertain it?—I do not refuse to entertain it, but I do not see what the publishers have to do with it.

4465. Then you do not entertain it?—I do entertain the question of the author's interest as well.

4466. Then will you go back to this question, whether, in the case of a very large sale of a book in English-speaking countries at a lower price, the author would not obtain the same amount that he does from a limited sale as he does at a high price in England?—I think he would not.

4467. Why not?—Because he would not get so much money out of it.

4468. Why would he not get so much money out of it?—A great number of these books go through circulating libraries.

4469. Do they go through circulating libraries in America?—No.

4470. Therefore he would get the amount of the books that were sold to the public?—That is, assuming that we had international copyright with America.

4471. I am assuming that.—I will tell you my view about international copyright further on. I do not think it applies here.

4472. (*Sir H. Holland.*) In your objections against the system of a royalty you confined yourself at first to a special class of books, illustrated books; but I understood that as you went on your objections applied to all classes of books, whether illustrated or not?—Yes; if they are proposed to be opened to every publisher.

4473. And, I suppose, that if there was a general right to publish upon payment of a royalty to the author, there would be very considerable difficulty in any publisher settling either the price or the form of edition in which he would publish a book?—I am presuming that the publisher would have a right to publish that book at any price he liked so long as he paid the author a royalty.

4474. But the publishers would find considerable difficulty, would they not, in judging what price they should place upon a book, and in what form an edition should be published, and therefore they would have considerable difficulty in making any special arrangements with the author?—Certainly, unless the author had complete protection for his book, and the right of fixing the way that the book would be published, the thing would never work at all.

4475. Do you consider that it might in some cases be necessary for the author to make special arrangements with a view of securing a well-printed and careful edition of his book?—Certainly.

4476. I want to know whether you do not think that it would be almost necessary for the author to make such a special arrangement, because he would have no command over these other books that were published on payment of a royalty?—Yes, it would.

4477. If books were to be published by a royalty it would not be necessary for the publishers to submit the book before publication to the author?—No, not under this supposition.

4478. They would have simply to pay him a royalty?—Yes.

4479. Would it not, in your opinion, therefore be very often necessary for an author to make special

arrangements with a publisher, so as to secure a complete and satisfactory edition of his book?—I think so.

4480. And in such a case, would there not be considerable difficulty with the publisher in making an arrangement with the author owing to this system of royalty?—Yes, owing to being open to other publishers: I think they would not entertain it.

4481. Then, I presume, your objection to the royalty system would be very greatly increased, if, in addition to publication on a royalty of books published here, books published abroad on payment of a royalty could be re-introduced here?—I object to foreign editions of English books being brought into this country from abroad, as they do not pay so much for copyright.

4482. Then your objections would be greatly increased if there was a power of importing foreign and colonial reprints into this country?—Certainly.

4483. It would add to the difficulty of publishers and authors in making any special arrangements?—Undoubtedly.

4484. And it would also tend, would it not, to make publishers, for fear of a loss, publish a very cheap and very often an imperfect edition here, for fear of its coming into competition with foreign reprints?—Yes, I think it would.

4485. (*Chairman.*) With respect to the answer you gave to a question of Dr. Smith's, did I understand you to say that if the system of royalty was accompanied by what fishermen would call a close time to the original publisher, you thought it might work well; but that if it was not accompanied by a close time to the original publisher, you thought it could not work?—I think in the latter case it could not work; and I think in the other case it could not work well either even after the close time, inasmuch as the author at the present time can make any arrangement he likes: he can sell an edition to a bookseller to be published at a guinea, and after that edition is sold he can publish a cheaper one by another publisher if he likes, and by another publisher one cheaper still after that is gone. He has the power in his own hands to do what he likes with his book.

4486. That is to say if he has retained the copyright?—Yes.

4487. But not so if he has sold the copyright to the original publisher?—If he has sold the copyright the purchaser stands in his shoes and can do what he likes with it.

4488. (*Mr. Daldy.*) If an author offered copyright to a publisher under such conditions, that other publishers might publish competing editions, do you think the publisher would accept the offer?—I think publishers would generally decline it.

4489. You published for Lord Lytton; are you aware of his opinion as to confining the publication to one publisher, and allowing the author to choose his own publisher?—Lord Lytton decidedly would insist upon choosing his own publisher.

4490. (*Sir H. Holland.*) And Tennyson has done the same thing, has he not?—Yes, Tennyson has done the same thing.

4491. (*Mr. Trollope.*) You are aware that it has been quite common for authors to do the same thing?—Yes.

4492. (*Sir D. Wolff.*) Would you tell me how can it be otherwise; an author must choose his own publisher?—Undoubtedly.

4493. Have you any evidence to show that Lord Lytton had ever brought before him the question of a royalty system?—No.

4494. Therefore his opinion is inapplicable to the present subject, is it not?—I know he would have very great objections to that right being taken out of his hands, and I know he has expressed himself so.

4495. (*Mr. Daldy.*) Have you seen Lord Lytton's letter on the subject?—Yes, I think I have seen a letter with reference to the Canadian copyright.

4496. (*Sir D. Wolff.*) Can you put that in?—Yes. (*The letter will be found in the Appendix.*)

4497. (*Sir J. Rose.*) Does your objection to publishing on a royalty extend to Canada as much as to England?—I object to books being published upon a royalty. According to the plan referred to in that letter of Lord Lytton's, they would have the right to publish and pay the author 12½ per cent.; that would be making a law, and if it did not answer they might alter the law at any time, and the British authors' rights would be gone.

4498. But as a matter of fact, now the British author gets nothing for the copy circulated in Canada, because we cannot collect in Canada the duties nominally imposed for reprints from the United States?—But there is a law now that the British author can get everything from Canada, inasmuch as he can get a copyright in Canada, and get his copyright here.

4499. But do you not know as a matter of fact that American publishers will not give the British author as much money for the advanced sheets of his work unless he will forego the right to take out copyright in Canada?—I think very few people will give that right to the United States' publisher to sell their editions in Canada; they prefer selling their own.

4500. But the author here will not get as much from the American publisher unless he will forego the right to take out copyright in Canada entirely?—An American publisher cannot take out a copyright in Canada.

4501. If he buys the copyright he may?—I was not aware of that. I should not have imagined that a foreigner can buy a copyright in this country.

4502. I daresay you are represented in New York by a British subject?—Yes, I am.

4503. And it is not a fact that the English publishers generally are. I am speaking now of the desire to devise some means by which the British author should get a fair compensation for the number of copies circulated in Canada, and I should be glad to know your opinion whether there is any better way in which that can be brought about, than that of a royalty?—English books cannot go to the United States and come through them to Canada, except at a disadvantage of 25 per cent. duty.

4504. You are aware that they can go through in bond?—Yes, but it would not be worth the trouble.

4505. What trouble would there be?—We have a great connexion with both Canada and the United States, and we never think of sending books to Canada through the States.

4506. Is there any other way of sending them in the winter?—Instead of sending them from our house in New York, we send them to Portland, and then they go right through in the winter.

4507. Then you do send them through in bond?—Not generally. The Canadian publishers generally come over here in the summer and order a large number of books to supply their winter sale; but we send a few in the winter which are shipped before the St. Lawrence is closed.

4508. And you send them of course the quickest way?—Yes.

4509. And there is no other way in the winter except through the United States?—But the British author gets the benefit of English books going to Canada. I hold that the British author or publisher has the right of circulating his property with a protection in every colony belonging to this country.

4510. But I think there is a nominal duty of 5 per cent. on the importation of books from England into Canada, but in the case of the American republication there is 12½ per cent. in favour of the author?—If it is, the 12½ per cent. duty is seldom collected.

4511. (*Sir D. Wolff.*) Did you say that Canadian publishers come to England every year to order books?—Yes, booksellers.

4512. Are those sent out from England at the same prices as they are sold at in England?—No.

4513. They are sent cheaper to Canada?—Yes.

4514. Therefore the book here sold to the English consumer is dearer than the same book sold to the Canadian consumer?—To the bookseller. Taking the

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difference between a bookseller in this country and a bookseller in Canada, there is a discount of 10 per cent. in favour of the Canadian bookseller on account of the long distance that these books have to go.

4515. But there has never been a sufficient importation of books from Canada into England to keep out the American reprints; British authors have suffered greatly from American reprints being introduced into Canada?—Yes, undoubtedly, but it is the duty of the person holding an English copyright to keep out the American editions.

4516. Under the late Act if a British author publishes in Canada he is enabled by getting Canadian copyright to keep out foreign editions?—Yes.

4517. But I am speaking of times before that Act; British authors suffered greatly from the introduction of American reprints?—Yes.

4518. (*Mr. Trollope.*) Do you think that the literary consumption of Canada is sufficient to inflict material injury on British authors?—No, the sale of English books in Canada is very much less than it is in the United States.

4519. (*Sir J. Rose.*) Are you aware of the number of reprints imported into Canada from the United States?—There is an immense number, no doubt.

4520. Then your answer is limited merely to the English published books?—Yes.

4521. (*Sir D. Wolff.*) You say that these books are sent to Canada at 10 per cent. less than what they are sold for in England?—Yes, to the bookseller.

4522. Therefore you could sell them 10 per cent. cheaper to the English bookseller without losing very much; you would still have a remunerative price?—Yes, but in agreeing for the copyright all these things are taken into account.

4523. But you could sell them for 10 per cent. less than you do in England, and yet not make a loss?—You could, but publishers and authors do not go in for losses.

4524. (*Dr. Smith.*) I wish to return to the question of Canadian reprints of copyrighted English works being imported into this country. Mr. Farrer in his evidence said that he objected to the fourth section of the Act passed in the Imperial Parliament last year, "which forbids the importation into the United Kingdom of any author's Canadian edition of a book of which there is copyright in the United Kingdom without the consent of the owner of the copyright;" and in support of that objection he stated that the Act says virtually to the English copyright owner, "You shall have the sole right of supplying the Canadian market at a price which to suit that market must be moderate, but which, *ex hypothesi*, will give you a fair profit; and you shall at the same time have the power of limiting the supply and charging a far higher price in the English market." Now the question I wish to ask you is this. Is the copyright sold by the English copyright owner to the Canadian publisher at a price which, *ex hypothesi*, would give a fair profit; or is it not the fact that the publisher and the author rely upon the English market for the profit of the work, and merely sell the right of reprint to Canada because they think it better to get a half loaf than nothing, and they are willing to take a very small sum?—Certainly. That has two objects; the one is to get a half loaf, as you say, as an extra sale, and it does not prevent the English edition going into Canada; and it prevents the Americans getting the benefit of an English author's works in that country.

4525. And I would therefore wish to repeat the question which I asked you a little while ago, that if Canadian publishers had the right of introducing the works here, the copyright owner here would be obliged for protection either to charge the Canadian publisher a very much larger sum for copyright, or else would refuse to sell the right of reprint altogether?—Undoubtedly.

4526. Which do you think would be the more probable?—If he sold it at all he would make the Canadian holder pay a larger sum than he would have

done if the works had not the right to come into this country.

4527. Would he not be compelled to make the Canadian publisher pay as much for the book as the English publisher paid?—I think not quite as much.

4528. But if the Canadian publisher could introduce them into this country, I mean?—If he could introduce them into this country; but he would have the disadvantage of having no establishment here; there would be the inconvenience of getting a book from Canada here, so that the bookseller would send to the English publisher for it.

4529. If the book were brought into this country at a greatly reduced price, would not the English public find that out?—I dare say they would, because there would be a regular depôt for the Canadian edition of their books here.

4530. Then there would not be the difficulty which you just now stated?—There would not in that case; because I see very clearly how the thing would work, that if English works were to come from Canada into this country there would be a Canadian establishment here that would circulate those books over this country.

4531. But if the author could get from the Canadian publisher as much as he got from the English publisher, he would be benefited, would he not?—I think not. I think the English publisher would not take up copyright except under certain stipulations. If a man buys a copyright he requires a certain amount of protection for it.

4532. (*Mr. Trollope.*) On this question of inter-colonial copyright, presuming that the right was given to Canada of republishing whatever books the publishers chose there, on payment of a certain royalty, do you imagine that a considerable number would be printed in Canada?—I do not think so; for the sale of books in Canada is very small; it is a poor country for bookselling.

4533. In the event of such facility being given, has it ever occurred to you that the sale of the Canadian printed books would not be limited to Canada, or to Canada and England, but that it might be carried on elsewhere?—They go wherever English books are sold.

4534. Do you not think that a large trade would be created in Canada simply for the sake of sending those books over into the States?—Yes.

4535. And would that be popular with the American booksellers and publishers?—I should think not.

4536. Do you not imagine that in such a case the American booksellers and publishers would look upon that as retaliation?—Certainly.

4537. And would such retaliation as that assist us in the great object which we have in view, namely, the getting of an international copyright.—Yes.

4538. Do you think that the opposition, such as it is, in the United States at the present moment to an international copyright would be overcome by a feeling of fear on their part as to any injury that we could inflict upon them?—Well, the case stands thus at present: an American can have two copyrights; a copyright in his own country and a copyright in this country; but an English author has only one copyright, and, therefore, so long as the Americans have that privilege they will never grant you an international copyright. But with regard to the question which you put just now about the Canadian business, I think it would assist us very much in trying to get an arrangement for international copyright.

4539. You think, then, that the opinion prevailing among American publishers and among men of influence in this matter, that we were trying to injure them in the way of retribution, would induce them to withdraw their opposition to our wishes?—I think it would have that tendency.

4540. Is that the way in which human nature is generally affected in such matters?—That is my experience; I think it would have that effect.

4541. (*Mr. Dalry.*) Before we leave this subject, I should like to draw your attention to the two systems under which English books might be re-

published in Canada under a royalty; the one being an open royalty under which any publisher by payment of a certain commission might republish the book; and the other a specific arrangement with the author such as can be made under the present Canadian Act, or paying a royalty, and having the whole market confined to this one edition?—If I understand your question, it is this; whether it would be advantageous to a British author to have his books sold at a commission of 12½ per cent. in Canada; or to confine that edition to one publisher. I think it would simplify matters if it were confined to one publisher, because he would then have the right of keeping the American editions out of that country.

4542. But I wish to ask you before that whether that book would be as generally distributed in Canada, taking one book with another; and I point your attention to this possibility, that under a general competition and republication of several editions, the interest in each might be rendered nugatory, and no one would undertake them?—The fact is, that if you were to allow any publisher to publish a book by paying 12½ per cent. royalty it could not be done, because the sale of books is limited in Canada, and you would not get more than one or two editions at the outside, and they would kill each other.

4543. (*Sir J. Rose.*) I wish to ask you one question, whether as a matter of fact the American publisher who makes an arrangement with the English author will give as much to that English author for the right to republish in the United States, if he does not forego the right to take out a copyright in Canada; will he not give him more for the right to republish in the United States, if the author will undertake not to take out a copyright in Canada?—Yes, he would, I think; but I think very few English authors will do that on principle.

4544. But I suppose the English author is accessible to considerations of interest; if he were offered 1,000*l.* or 2,000*l.* more, he would say, “I wish to get the best price for my book; I am not going to be a champion for an abstract principle in Canada to my own loss”?—Yes, the publisher might give more.

4545. (*Dr. Smith.*) Is it not a fact at present that an American publisher will give an author a great deal more for a copyright work than a Canadian publisher would give, though the Canadian publisher has copyright?—Yes, he would.

4546. (*Mr. Dalry.*) I will ask you whether your opinion respecting the importation of colonial editions into England applies equally to German or other foreign editions?—Certainly.

4547. I am going to ask you now whether you have studied the question of international copyright, and have any suggestions to make on it?—Yes. I am in favour of having international copyright with the United States; and I am only going to repeat now what would assist us in getting that international copyright, that is to prevent the American author having a copyright here as well as in his own country. I think it would do away with a great deal of ill-feeling at present existing, if such a result was brought about; but until that privilege is done away with, I do not see how it can be removed.

4548. But have you considered any fair basis which you think would be practically agreeable to both countries?—I should say that in the case of a book stereotyped here by an English author, that is supposing we had an international copyright, those stereotyped plates might be sold over there, and casts and electros of illustrations might be sold to the American publisher, and then he may print the book over there; and I wish the same to be done in this country.

4549. And do you think that if an arrangement were made under which the printing of the American edition were executed over there, but the original production of stereotyped plates, and fixed plant made here, such an arrangement would be generally

satisfactory to American publishers?—I think it would. I know there has been some objection to that on the part of the United States publishers about having the thing entirely manufactured there, but I think they would give way upon that. I think it is unreasonable, and this would be a more satisfactory arrangement.

4550. How do you think it would affect authors if such an arrangement as you suggest were adopted?—I think it would increase the value of the property of authors, because they would have protection in two countries, and the United States is a very large country indeed, and more books will be sold there than in this country.

4551. And would the double market have any practical influence in reducing the price of books in both countries?—Yes; I think it would.

4552. (*Mr. Trollope.*) You are very well acquainted, I think, with the American book market as an English publisher?—Yes.

4553. And, therefore, no doubt you have heard this question of international copyright with the United States much discussed?—I have heard it often discussed.

4554. Have you not heard that a strong objection has been made to the introduction of manufactured articles by persons interested in the subject in the States, such persons being altogether in favour of international copyright?—Yes. I should say that authors who have the deepest interest in the question do not care whether the books are manufactured there or here, but would object to their being manufactured twice.

4555. Do you mean American authors?—I mean both English and American authors; so long as they can get an international copyright they are not particular whether the book is sent over in stereotyped plates or manuscript, provided they are as well paid for their copyright.

4556. I quite agree with you; but you are probably aware that this question is manipulated in the United States very much more by American publishers than it is by American authors, and that the question of the introduction of British literature into the United States is not a question that affects American authors in a very direct manner?—Certainly not.

4557. But it does affect American publishers in a very direct manner?—I do not know that it should do so; it is simply a lever, I think, for the American publisher to prevent international copyright.

4558. But I ask you whether the question of international copyright between Great Britain and the United States is not a matter that affects American publishers very seriously?—It does affect them; they must have a benefit from it, for they get protection.

4559. Is it not the fact that the chief opposition to international copyright has come from a certain class of American publishers?—Yes.

4560. And that opposition would not have been made unless the question affected them?—No.

4561. Then I come back to my former question. Is it not the fact that they who have objected to the introduction of international copyright generally between the two countries have objected to it chiefly in reference to the introduction of manufactured goods?—Yes, that is their plea.

4562. And is it not the case that many Americans who are opposed to the introduction of manufactured articles are still willing that there shall be an international copyright treaty between us, giving copyright to books, though they are not favourable to the introduction of these manufactured articles?—Yes.

4563. (*Dr. Smith.*) I understood you to say that you think that if the law in this country was altered which gives an American copyright here as well as in America, it would have an influence towards producing a treaty of international copyright?—Yes, that is my opinion.

4564. The law which gives Americans copyright here was decided in a case in the House of Lords, *Low v. Routledge*, was it not?—Yes.

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4565. How long ago was that?—It must have been about eleven years ago.

4566. And the law now is, that an American, if he publishes simultaneously in this country and in America obtains copyright here in virtue of simultaneous publication here, and obtains copyright in America, in virtue of his being an American citizen?—Certainly.

4567. Will you allow me to correct my question; must he not publish here first?—No; if he publishes simultaneously that is enough.

4568. Is that the law?—That is the law; that is what was stated in that decision in which I was concerned, by Lord Cairns and Lord Westbury, that simultaneous publication was sufficient. I carried that matter to the House of Lords entirely to get some settlement and know what we were doing. The law of copyright was so very precarious and uncertain that I thought it necessary that we should understand what we were doing with those countries.

4569. (*Chairman.*) Would the proposal which you have made with respect to international copyright with the United States put American authors and publishers on a less favourable footing in this country than they now stand on?—No; on a better footing.

4570. But taking the existing position of American authors and publishers under the existing law in this country, would the change you suggest make their position less favourable than it is now?—Yes.

4571. (*Mr. Daldy.*) If you conceded to the United States their demand for an entire remanufacture of the American edition, what influence would that have on the English author; would he obtain as much for his copyright if he were bound to have the work entirely remanufactured in America; and in answering that I will ask you to direct your attention to expensive books as well as those not expensive?—In many cases it would prevent an English edition at all, inasmuch as the expense of making new plates, and wood illustrations is very great, and an English publisher would think twice before he incurred it.

4572. Would it prevent the American publisher undertaking the publication of that expensive book if he had to entirely remanufacture it over there?—I think it would in a very great many cases.

4573. And to the extent of the cost of remanufacture would the author be injured?—Yes, he would be injured.

4574. (*Mr. Trollope.*) Is not the American publisher in that condition now?—No; the American publisher can buy stereotyped plates and casts of plates, and simply print the work over there.

4575. But only on payment of a certain duty?—Duty on the plates going in.

4576. Whatever duty the Government puts on it?—Yes.

4577. But the proposition, as I understand it, is that we in endeavouring to obtain an international copyright should also have the privilege of sending in such plates as we are talking of, duty free?—No.

4578. But presuming the question to be whether we can achieve an international copyright treaty with them, giving up the matter of the stereotyped plates, should we not in that way put ourselves in a much better position than we are now having no treaty at all?—Certainly; only I think there must be reciprocity in international copyright; one country must not have advantage over another.

4579. (*Mr. Daldy.*) I will now ask you a question on a different branch of the subject. Do authors in England generally hold their own copyrights, or are they sold generally to publishers?—They are sold generally to publishers. I think the exception would be rather where an author keeps his own copyright, at least that is our experience; but there are exceptions to that of course. Men like Lord Lytton and Dickens, and others, did keep their own copyrights; but they did not keep them at first; they sold them and then repurchased them.

4580. (*Mr. Trollope.*) In speaking of sale of a

copyright, I take it that Mr. Daldy alluded to the sale of the entire copyright?—Yes.

4581. Do you think that that is the practice of authors?—I think it is generally, eight times out of ten.

4582. You probably are acquainted with what has been done by many authors?—Yes.

4583. Did Lord Lytton sell his copyright out and out?—He did at first, and had to repurchase them. That might only apply to two or three of his novels.

4584. Not generally?—No; he retained them, except the three or four first novels, and then he bought them back again, and retained them all his life.

4585. Did Mr. Dickens sell his copyrights?—He sold his early books, "Sketches by Boz," "Pickwick," and "Oliver Twist."

4586. That was a small book, and his career had not then been made, had it?—No.

4587. But taking the work of his life generally, did he sell his copyrights?—No, he retained them.

4588. Did Mr. Thackeray sell his copyrights?—I am not sure, I think he did a great many of them at first; they were published by various people.

4589. You are perhaps not aware that a large share in Mr. Thackeray's copyrights was sold by his executors after his death?—Yes, I am aware of that.

4590. Has Mr. Tennyson sold his copyright?—No.

4591. Did Mr. Macaulay sell his copyrights?—I am not sure.

4592. We are speaking now of the works of authors after they have become known, and when their copyright was assumed to be of value?—I should say that he retained his later copyrights.

4593. Did Mr. Hallam sell his copyrights?—I cannot say. That is going a long way back.

4594. Did Mr. Grote sell his copyrights?—I do not know.

4595. (*Chairman.*) If I understood you rightly, your position was that a young author before his fame is established is apt to sell his copyright?—Certainly.

4596. But that when his fame is established he retains it?—Yes.

4597. That is what you wish to convey?—Yes; but when I convey that, Mr. Trollope selects a dozen authors who retain theirs; but supposing we have 20,000 authors who do not do so.

4598. (*Mr. Trollope.*) Of course, in speaking of copyright and of the proportion of copyrights that may be sold, and the proportion of copyrights that may be retained, we are alluding to copyrights of value, and therefore to copyrights which have been achieved by authors of note. I will now go back to the question that was put to you some time back, and ask you whether you think that authors of established note generally sell their copyrights?—I should think that you may take authors of repute and say that many do not do so, but that is a small number.

4599. (*Sir. H. Holland.*) We have had some evidence upon figures which, for the purposes of this question, we will assume to be correct, and with which I need not trouble you, that an author might get really as much money from say 12,000 copies of a cheap edition published at a lower price as he would get from 500 copies of a dear edition, the market being so much larger in the former case than in the latter, and the expense of publication less. Assuming that to be the case, do you not conceive that the author's position in those two cases would still be in fact very different, because although he has received the same money in both cases, in the former case he has 12,000 copies of his book in England as against only 500 in the latter case; and therefore, where only the smaller number of copies has been sold he can look to a cheaper edition, or even the issue of another dear edition, whereas in the other case the market is to a certain extent flooded, and there would be no further demand; and therefore, though he has got the same sum, is he on the day when the two editions have been sold in the same position?—I think it would answer his purpose better to sell 500 and afterwards to

issue the cheap edition; but the larger number would advertise the book, and he might go on to sell a great many more.

4600. But you are assuming that because he has sold a small edition there would be no call for a further edition; but I will assume that the book is a good book and has gone off well; then is it not the case that there would not be the same demand on the part of the public, because they have got 12,000 copies instead of 500, and therefore he would not be able to publish another edition at the same price?—It depends on the nature of the work what the circulation of it is likely to be. I think 500 is a very small edition; you might put it at 1,000.

4601. Take any number that an ordinary edition carries; take 1,000 if you like, as against 24,000. The question I want to have answered is whether if there has been a sufficiently large publication of a cheap edition to give the author the same profit that he would have had by the small edition, he is in the same position when the first edition has been sold?—Leaving the two prices out of the question, I say it is very important to authors that they should have a dear edition first of certain books, or else they would never get the amount out of a cheaper book, that is to say, a book of 2s. 6d. or 3s. 6d.; and I hold that a book published cheap would sell just as much after a dear edition as if it had been an original work.

4602. (*Mr. Trollope.*) You mean as many copies of it would be sold?—Yes.

4603. (*Sir H. Holland.*) But the argument is that the public have not gained the same benefit by that cheap edition, as early as they would have done in the other case?—They would not benefit so early, but it might follow very soon after.

4604. However, a cheap edition of a standard book like Macaulay's Life might not follow in a year?—That book might sell very well for two years to come at the high price, and a cheap edition come after that.

4605. You have not, however, yet answered my question, which was whether it makes any difference to the author, he having got the same sum, whether there have been 24,000 copies sold or whether there have only been 1,000, in reference to his publishing

another edition?—Do you mean which edition you get most money out of?

4606. No. A man publishes an edition of say 500 copies, and he gets from that we will say 200*l.* What has been stated to us is that an edition of 12,000 copies might be published and give the author the same amount of money. He would secure the 200*l.* but would he at the end of the sale of those editions be in effect in the same position?—It would be to his disadvantage, for he would be relying on one market instead of profiting by both a cheap and highly priced edition.

4607. And is it not for this reason that in the case of the cheap edition, the market is supplied; there is no more room if he has published a very large quantity of books sufficient to return him the same amount that he would have got by a smaller edition at a higher price; the market is full?—Yes; moreover the dear edition of the Life of Lord Macaulay suits the class of readers it has better than a cheap edition would.

4608. (*Dr. Smith.*) Would you allow me to return to Sir Henry Holland's question. Is it not the fact that in the case of learned works, historical works, and works of science, there is a certain market for the books; that, in other words, the number of copies that can be sold cannot be increased indefinitely?—That is so.

4609. Then if there is a certain fixed market, say of 5,000 or 10,000 purchasers, if upon the sale of 5,000 or 10,000 copies the author obtains only the same price that he would for the sale of 1,000 copies, is it not the fact that he is in a worse position by publishing first 5,000 or 10,000 than he would be if he published originally 1,000?—I think he would be in a worse position.

4610. Is it not the fact that, if he obtains the same money for publishing 1,000 in the market as in the other case for 10,000, he has still the 9,000 purchasers *in posse* whom he might supply?—Yes, certainly; a large number of a cheap edition would exhaust the market, and there would not be the same value in the copyright afterwards.

The witness withdrew.

Adjourned to Tuesday next at half-past 2 o'clock.

Tuesday, 27th February, 1877.

PRESENT :

THE RIGHT HONOURABLE LORD JOHN MANNERS, M.P., IN THE CHAIR.

SIR H. DRUMMOND WOLFF, K.C.M.G., M.P.
SIR LOUIS MALLET, C.B.
SIR JULIUS BENEDICT.

DR. WILLIAM SMITH.
ANTHONY TROLLOPE, Esq.
F. R. DALDY, Esq.

J. LEYBOURN GODDARD, Esq., Secretary.

JOSEPH GREENHILL, Esq., further examined.

4611. (*Chairman.*) In the course of the examination before this Commission sundry comments have been made on the mode of conducting the registration at Stationers' Hall, and we have thought it right to supply you from time to time with the evidence of different witnesses on that subject, and I fancy you would now like perhaps to make some reply to some, at any rate, of the comments to which your attention has been drawn?—I am very much obliged to you personally for the consideration that the Commission have shown me, and I can give them some additional information consequent on what I have seen in some of the papers, and, likewise, I can contradict very much of what has been said about the mode of conducting business at Stationers' Hall. With respect to my own evidence, I see nothing to add to that or to withdraw from it, except as to one observation at the end, when Mr. Dalby asked me, "Can you tell me whether the ap-

pointment of registrar is an annual appointment, "or whether it is made once for all?" My answer was, "It is, I should consider, an annual appointment, "renewed as a matter of course." All these papers came to me written on "private and confidential." I have, therefore, not shown them to any person whatever, except my own evidence, which I have shown to the clerk of the Company, who is my superior officer, and the officer of the court. He says I was appointed as registrar in 1849 as permanent officer. There is a committee annually appointed to which I am the treasurer, and I am myself annually appointed also. I have gone through these papers containing the examination of several gentlemen, and have made little remarks of my own on them. Upon Mr. Turner's evidence, at question 607, I have something to remark. He says: "The entry in that form may be made 30 or even 40 years after the first publication

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“ of a book, provided that no entry has previously been made at Stationers’ Hall.” We take no account of whether there has been a previous entry or not; a person may enter for proprietorship three or four times over. Sometimes they enter in an additional name as proprietor.

4612. (*Mr. Daldy.*) Would you, having one person’s name in an original entry, take another person’s name in a second original entry?—We should not know ourselves whether the book had been entered before or not.

4613. Not from your own notes?—No; because we do not search the books at all.

4614. You take anything presented, in fact, to you, without any reference whatever?—Yes, without any reference whatever, provided the form is apparently properly filled up. Then at 620, Mr. Turner says, speaking of Stationers’ Hall, “ It does not seem to me that the place itself is fitted for it, or that the facilities there are great enough for carrying out the details with proper effect.” As far as regards that I answered in my examination that the Company has great space, and room for any alteration or addition consequent on the greater influx of business; in fact, I should say that we have more space at command than the British Museum has.

4615. (*Sir D. Wolff.*) How many are employed at Stationers’ Hall on the register?—Five persons employed wholly or in part all the year round.

4616. (*Chairman.*) I think in answer to Mr. Turner’s observation you stated that you had more room at Stationers’ Hall than there was even in the British Museum?—Yes; they are very much confined for space, and we have very large premises at Stationers’ Hall, and likewise there are houses and property adjoining, and we might take three or four houses if necessary.

4617. If I understand the suggestions for the removal of the registration to the British Museum, the deposit of the copy of the book there which was to remain permanently in the Museum would be a sufficient deposit for registration; therefore, it would not appear at first sight that any additional space beyond a small office for registration would be required?—No; but Mr. Turner seems to say that we have not space for that. “ It does not seem to me that the place itself is fitted for it, or that the facilities there are great enough for carrying out the detail with proper effect;” those are his words.

4618. (*Mr. Daldy.*) Does not Mr. Turner point to its being an inappropriate place, not to its being unfitted for it *quoad* space?—No. I should not gather that from what he has said. Then in number 659 he goes to the subject of date of publication. A person has to give the date of publication and other information, and if he does not give that correctly, he is liable to be punished as a misdemeanant, and that insures the person giving the correct date as the time of publication. Then at 661 something is said about registering a book not published. That used to be the case, but only in a very few cases, indeed, not I suppose 20 or 30 during the year. We did not like to refuse people who insisted upon it that they might do so, till there was a decision given by one of the judges that nothing could be registered till after publication.

4619. (*Chairman.*) Then are the Commission to understand from your answer that that custom which used to obtain to a certain extent at Stationers’ Hall is now abandoned?—It has been abandoned for many years. We did not like to deprive parties of the chance of making an efficient registration, and that was why we continued it till the time I have stated.

4620. (*Dr. Smith.*) And you never register now till after publication?—Not in any case.

4621. (*Mr. Daldy.*) Do you take any steps to obtain proof of publication?—No.

4622. You rely on the general notoriety of the book being published?—Yes, and we tell persons that if they do not give a correct date of publication they must take the consequences.

4623. (*Mr. Trollope.*) Is it not the case that a

person coming to Stationers’ Hall may register a book whether it has been published or not?—No; he is obliged to give us the date of publication, and to name some day. If it has not been published he is guilty of a misdemeanour. We have no means, however, of proving he is wrong.

4624. A false statement would necessarily have the same effect as a true statement as far as you are concerned?—Yes; we should not be able to judge whether it was true or not.

4625. Therefore I am correct in supposing that any man coming to Stationers’ Hall, and saying he was going to publish such and such a book, would be enabled to register that book, although no such book had been published, and although there was no intention to publish it?—No; we should say, “ You cannot enter that here until it has been published; publish it one day and register it the next.”

4626. But the purport of my question is this: a false statement with you as to the publication of a book would go as far as a true statement?—Yes.

4627. You do not go behind the statement?—No.

4628. (*Dr. Smith.*) You never require a sight of the book?—We do occasionally, if we think there is any doubt about its being a true title or a made-up book. We have sometimes what are termed dummies brought to us; things made up, not a real publication, and then we ask to see the work.

4629. (*Sir D. Wolff.*) If a second book is brought to you to register with the same title as one registered before, do you refuse to register that?—No; we have no means of knowing which is correct.

4630. If a person brought you in 1876, say, a book with the same title as one brought to you in 1874, would you not refuse to register it?—No, we should not know that it was the same.

4631. Supposing you did know it?—We should still do it, and leave the parties to settle between themselves.

4632. Are there many occasions on which you have to produce evidence before a court of justice on any subject?—No, not personally, because the Act of Parliament says that a certificate of registration is a sufficient evidence in all courts of justice.

4633. You do not give a certificate *ad hoc*, but simply at the time of the entry?—Not at the time of the entry; a certificate being a copy of the entry on the register.

4634. And you have very little trouble in that respect?—Very little.

4635. (*Mr. Trollope.*) You said that occasionally dummies were brought to you?—Yes, made-up things.

4636. By that you give the Commission to understand that something in the shape of a book is brought to you?—Not invariably. I was asked whether we saw the copies, and I said in some cases we think it necessary to ask for these copies if we had any doubt of the genuineness of the title.

4637. Then you mean that this which you call a dummy is brought to you, not because the person who comes to you wishes to produce any, but in compliance with your request?—Yes, in compliance with our request.

4638. Have you any power legally to make a demand in one case which you do not make in another?—I am not aware whether we are obliged to do that.

4639. Supposing I attempt to register a book, and you asked me to produce the book, and I refused, should you then register the book?—Yes.

4640. Therefore your request for a sight of the book is one upon which you do not insist. If the request is not complied with you still register?—Yes.

4641. (*Sir D. Wolff.*) What kind of circumstance would lead you to ask for that. You say if you think there is anything doubtful you ask for the book to be produced; what kind of circumstance would induce you so to ask?—Sometimes people come to register matters which we think do not come within the title of a book; a blotting case or a blotting book, or a book made up of advertisements.

4642. The title suggests the doubt to you?—Yes.

4643. (*Mr. Trollope.*) But it seems to me that you have no power to limit your registry in accordance with your own doubt. If I come to you and say, "This is a book called a blotting-book, and I intend to register it," and you ask me to produce it and I refuse, still you will register it?—I can hardly answer such a case as that; we should be guided by circumstances.

4644. Have you by law any power to be guided by circumstances?—That I am not able to say. I consider we have to carry out the intention of the Act as far as possible, and even in the interests of the parties themselves. If they registered such a book as you suggest, and they found they could have no copyright, we should be taking that 5s. from them for what would be of no advantage to them.

4645. But in carrying out the law I presume you must know what it is that the law requires you to do?—Many lawyers do not know themselves.

4646. (*Chairman.*) In a case of that sort would you consult the clerk whom we understand to be a legal gentleman?—I do not know that I have ever met with an occasion where a person has insisted upon registration after we have told him we did not consider that it came within the Act of Parliament.

4647. (*Mr. Trollope.*) Therefore I may take it to be the practice of the office to register any book of which the title is brought and as to which registration is demanded?—Yes, if we consider it comes under the term book.

4648. Do you take the responsibility of judging whether the book which is named to you for registration, be a book, or do you leave that responsibility to the person who applies to you for the registration?—No, I take that responsibility upon myself of saying what is a book.

4649. And the law requires you to take that responsibility?—I do not think that the Act of Parliament exactly requires me.

4650. Then presuming that you object to register this book of which the name is brought to you, and the person who brings it insists on his demand, how do you act in such case?—For instance, we have persons coming and wanting us to register merely their trade cards with their name, address, and business. We tell them that does not come under the term book, and we decline to do it.

4651. But if I bring you the name of a book, you do not ask any questions as to whether the book exists?—No, if you give the information required by the Act, the title, the name of the publisher, the proprietor, and the date of the publication.

4652. Therefore, if I stated that a book has been published, you require no proof of that, but register the book without proof?—Yes.

4653. (*Sir D. Wolff.*) But it would be a misdemeanour, you say, on the part of the person who gave you false information?—Yes.

4654. (*Mr. Trollope.*) Is that so stated in the Act of Parliament?—Yes.

4655. And penalties are fixed for the offence?—Yes.

4656. What is the clause of the Act?—The 12th of the 5th and 6th Vict. cap. 45, "And be it enacted, that if any person shall wilfully make or cause to be made any false entry in the Registry Book of the Stationers' Company, or shall wilfully produce or cause to be tendered in evidence, any paper falsely purporting to be a copy of any entry in the said book, he shall be guilty of an indictable misdemeanour and shall be punished accordingly."

4657. Do not you think that registration would be more valuable if the book were seen?—Of course, there would be then a greater certainty that it was a correct title.

4658. (*Chairman.*) Will you now pass on to your next point?—Something was said about publication and registration and that the date of publication might be entered and not be the actual date of publication. I imagine the time of publication cannot vary.

4659. To what question and answer are you now alluding?—To No. 666. There must be an actual time of publication, it cannot be imaginary.

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4660. Do we understand you to say that that is now the present state of the system at Stationers' Hall?—Yes; they may register at any time. There seems to be some idea that the time of publication should be considered to be when it was brought for registration. That can hardly be carried out I think.

4661. (*Sir D. Wolff.*) Is it the habit to come and register successive editions of a book?—No; that is very seldom done and then only when the alterations are very great.

4662. But not merely small alterations?—No.

4663. Then really and truly if they do not register subsequent editions any subsequent matter which is not registered has no copyright, is not covered by the registration at any rate?—Then in order to proceed for any infringement of the copyright of those editions the work must be registered again.

4664. (*Chairman.*) What is your next point?—Mr. Daldy in his evidence at question 1007 says with reference to the assignment of the copyright of a dramatic piece that he finds no form given in the Act. There was no form given in the Act but we consider that we are at liberty to adapt the form to meet the exigencies of the case. I think in one Act of Parliament we are expressly told that the forms may be varied.

4665. (*Mr. Daldy.*) And you do I suppose as a matter of course adapt the form?—Yes. The forms of registration under the Fine Arts Act are not given in the Act; we made them up ourselves; and also as to dramatic representations we made up the forms. We consider we are at liberty to do so. The Act tells us what information is to be given and we give it as nearly as possible in the forms given in the Copyright Act. Now Mr. Daldy at 1008 does not complain of any act upon our part, but he is rather in error respecting the practice of the law of assignment. Mr. Daldy says, "I think that copyright should be assignable as a whole, or in parts, or shares." Now what we can do is, we can assign a whole copyright or we assign part of a copyright, in every possible way.

4666. Does the Act give you the power to do it?—It says so expressly in section 13, "It shall be lawful for every such registered proprietor to assign his interest, or any portion of his interest therein, by making entry in the said book of registry of such assignment." That was in fact the great object and feature of Sergeant Talfourd's Act, that a person who registered his copyright should have the power of assigning it in any proportion whatever to other parties; and we do that.

4667. Have you also power to take and do you as a matter of practice take an entry from the owner of any portion of the copyright when that copyright has not been previously entered as a whole?—Yes.

4668. You would take an entry then, I suppose, of the 144th share of the Annual Register even if the Annual Register had not been previously entered?—No, you cannot assign unless it has been previously entered; but a man may register his 144th share and assign it to any person, or a portion of it.

4669. I ask you whether you will take an entry of the 144th share of a book of which the copyright has not been previously entered in any form whatever?—Yes.

4670. Does the Act authorise your doing that, taking the original entry of a portion of a copyright?—I should think it did. It says, "It shall be lawful for the proprietor of copyright in any book," it does not say the whole or a portion.

4671. Does it say "the proprietor of any book" or "in any book"?—"In any book"; we do that at all events.

4672. (*Chairman.*) And have you been in the habit of registering that divided kind of copyright for many years?—Yes, we have from the passing of the Act.

4673. And you have never had that power contested in any court of law?—No.

4674. (*Mr. Daldy.*) Have you special forms for registering a portion of the copyright?—No, only

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the ordinary form in which the person would state the portion of the copyright.

4675. (*Chairman.*) Will you pass on to your next point?—I should like to state that we have the copyright assigned for a certain period even which Mr. Daldy is not aware of. A person may assign his copyright for a certain number of years, or for a certain number of copies, or for a certain number of editions; we have all that done. Mr. Daldy says it would be desirable; but we do it; and we have copyright assigned as security for money lent.

4676. (*Mr. Daldy.*) In fact you accept every kind of assignment which is tendered to you?—Yes.

4677. But do the forms of the Act refer to anything except registration of a complete copyright; does not the form say "I am the proprietor of the copyright"?—Yes; then of course he would say the proportion of the copyright, whether it was a third, or a moiety, or a tenth portion.

4678. In other words it is provided for in the Act but not in the schedules attached?—Not in the schedules attached to the Act.

4679. (*Chairman.*) Will you now pass on to the next point?—At question 1010 Mr. Daldy says, "If you attempt to register at Stationers' Hall you will find that you cannot do so." That has been answered; and the other remarks I should have made were merely consequent on that. Then I come to Mr. Boosey. At question 1958 he says, "The registrar himself seems to be ignorant of what forms to use for the registration of foreign works." The registrar is not ignorant; he gives the form of registration. "Ten years ago we were in the habit of registering the right of publication and the right of performance in one form, but the registrar suddenly took it into his head to insist upon having two forms, and to have an additional witness on one of those forms who had never appeared before." Mr. Boosey does not seem to have been aware that there are two forms of copyright or two rights, the right of representation or performance of a dramatic piece, and the copyright of the same when it is published; and shortly after the international copyright was passed we allowed people to mix the two rights together on one form of entry; but we were told by Mr. Robertson Blaine that the two rights ought to be registered separately, the right of dramatic representation subject to one Act of Parliament and the ordinary copyright under another.

4680. Then, if I understand it right, Mr. Boosey's statement is correct so far that at one period of time you did allow only one registration to take place?—Only one registration.

4681. But on being informed by Mr. Robertson Blaine that that was not a full compliance with the Act of Parliament you insisted then upon the two rights being separated?—Yes.

4682. (*Mr. Trollope.*) Up to that time you had been in error as to the mode of doing it?—Yes, in so far as we permitted it under protest.

4683. Mr. Robertson Blaine pointed out to you what had hitherto been a casual omission?—Yes; we were conversing on copyright, when he agreed with my views as to the necessity of a double entry.

4684. (*Chairman.*) And does that answer of yours apply to the introduction of a fresh witness as well?—That was to a form of assignment. Something occurred which induced us to think that it would be of advantage if we had a witness to the assignor's signature.

4685. (*Mr. Trollope.*) Mr. Robertson Blaine had no authority in the matter; his caution came to you as from a friend?—No authority; only as a friend that he pointed that out. Then Mr. Boosey complains of the additional trouble, and considers it a hardship that we should ask for a witness, but really there is very little trouble in that. "The hardship," he says, "was that if we received forms from our foreign composers under the old system the registrar refused to take them, and very likely there would not be sufficient time to get them altered to suit his new views." Nothing of that kind ever occurred, for whenever there was

any doubt as to getting them perfected within the three months we admitted them rather than peril the person's copyright. Then he is asked, in question 1959, "Was a separate fee charged?" and he says, "Yes; it was with the view to get double fees." That was not at all the case; it was in order that the entry should be correct; the extra 1s. was no object whatever.

4686. (*Mr. Trollope.*) To whom did the extra 1s. go?—To the registrar.

4687. By saying that the extra 1s. would be no object, you mean that the money was not the object for which the registrar made the second entry?—Certainly not; it was that the registration should be perfect, and the party's copyright secure.

4688. Mr. Boosey was correct in saying that the second entry produced the second profit to the person who made it?—He says it was with a view to the double fee, and I deny that it was.

4689. (*Chairman.*) As I understand it, the change was made on the advice of Mr. Robertson Blaine?—Yes, but it was on my own judgment, corroborated by Mr. Robertson Blaine. Any person who studied the Act of Parliament would see that it was the case that the two are separate, each requiring different information to be furnished to the registrar.

4690. What is the next point to which you wish to refer?—Mr. Chappell says, at No. 2091, "I should like to mention a few things, which, however, may have been already suggested. One of the grievances of course is Stationers' Hall, but I dare say that that matter has been before you. The fee for entry is, I think, too large. The 5s. fee is prohibitory to a great extent. We do not enter more than about one work in 20 in consequence of it, music being very trifling in matter. There is no doubt that the entries, as far as our trade is concerned, would be very much larger if the fee were 1s. instead of 5s." and then he goes on to say, "Then, as I may perhaps venture to say, I think that the register at Stationers' Hall is very badly kept; it is imperfect, it is irregular, and it is bad in many respects." Now that is a very sweeping assertion. The booksellers seem to be satisfied with the way in which it is kept. Then he goes on to say, "I can give the strongest possible instance of that in the case of an opera of our own, which happens to be the most valuable one that we possess; it is the opera of 'Faust.' When we were told by a fellow publisher that we had no copyright in it, because it had never been entered at Stationers' Hall, I was thunderstruck, for I believed that I had by chance entered the opera myself, happening to be at Stationers' Hall. Consequently, having done it myself, I had never put down in our books the little fee which I had paid, having paid it out of my own pocket, and I could find no trace of the payment of it, whereas if our man had done it he would have charged the fee. I spoke to my brother about it. I said, 'I am sure that it was entered.' He went down and with some difficulty persuaded Mr. Greenhill to allow him to look over the day book of about the time when I knew it would be. The entry was found at last, but it had never been posted. Consequently, if we had not by an accident discovered it, we should have lost a property worth 5,000L., simply from the negligence of some clerk at Stationers' Hall." With respect to that it is very improbable, especially that we threw any difficulty in the way of Mr. Chappell looking at our books, for just before that time we had placed all our registers at his service to make extracts from as he pleased; he was publishing a work, and we threw our registers open to him for many years without fee or anything of the kind. However, I turned to the index myself, looking back to the year 1859, and found the original entry of Mons. Gounod's copyright of "Faust," and also in the register of assignments Mons. Gounod's transfer of the same to Emily Chappell and Thomas Patey Chappell, on the 22nd of June. There was no appearance of irregularity on either register, or index, or day book.

4691. What do you imagine Mr. Chappell meant

when he said that "it had never been posted"?—He means, I suppose, not indexed; but we find it in two or three indexes. I had thought of bringing up the indexes to show you.

4692. (*Dr. Smith.*) Do you only find it now. Mr. Chappell's complaint was that at the time he searched he found the entry of the payment of the money in the day book for registration, but that it had never been put into the register; that I understand is Mr. Chappell's complaint?—No, there it was in the register.

4693. (*Mr. Dalry.*) Do you keep any other books besides your register and your index?—Yes, a little day book in which everything is entered as it comes in.

4694. Entries of the particulars of every registration?—Entries of every registration. When the first entry is made the short title is entered in this day book, and then it is entered fully in the register from the form.

4695. Posted from that?—Yes.

4696. And an index is also kept of short titles, so that you can at anytime refer to the register?—Yes.

4697. And that is sufficient?—Yes.

4698. (*Dr. Smith.*) Will you allow me to refer to this question. Mr. Chappell says, "He went down, and, with some difficulty, persuaded Mr. Greenhill to allow him to look over the day book of about the time when I knew it would be. The entry was found at last, but it had never been posted." Now the question which I wish to ask you is this; does that phrase "the entry was found at last," apply to merely the entry in the day book or does it apply to the register?—It could not apply to the day book because he says he found it in the day book; whether he means that he could not find it in the index I do not know.

4699. I understand you to say that the entry was found at last in the register and not simply in the day book, and that the phrase "it had never been posted," merely means that it had never been properly indexed?—I cannot say what it means, I do not know what Mr. Chappell means.

4700. (*Mr. Trollope.*) Was the search made by Mr. Chappell or by one of your clerks?—By Mr. Chappell.

4701. Would you allow any person to come and search your books?—Yes.

4702. (*Chairman.*) Then following up the answer which you gave a short time ago, I understand that the entry is made in the first instance in the day book and then it is posted into the register?—Entered into the register, not from the day book but from the forms.

4703. What I want to know is what time, if any, elapses between the two proceedings?—It depends entirely upon the number of works brought in. They are entered in this day book in order.

4704. But does any considerable time ever elapse between the two transactions?—Perhaps a day.

4705. But not more than that?—Very seldom; I should say not.

4706. What you wish us to understand is, that if Mr. Chappell discovered the entry in the day book, it would be next to a physical impossibility that he should not discover it in the register 24 hours after the entry had been made in the day book?—Yes, 24 hours after by means of the index.

4707. Have you referred to this particular entry again, and do you find it regularly entered in due course?—Yes, regularly entered, without any interlineation or anything of the kind; all in rotation with the others.

4708. (*Mr. Trollope.*) What do you suppose was the cause of Mr. Chappell's mistake?—I cannot imagine.

4709. Is it equally clear that it has been entered in due order in the index without any interlineation?—Yes, I have brought certificates of the two entries referred to.

4710. (*Chairman.*) I think you have already said that you are willing to submit your books in case the

Commissioners wish to see them?—Yes, we find the register properly indexed (*producing the certificates*).

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4711. Will you take up the next point?—At question 2092, Mr. Chappell says, "Some of the publishers have been obliged to threaten legal proceedings to make them insert the entry in the way that the publishers desired; their answer was that it was too much writing for the money, and that they would not put it all in." Now that I deny entirely. I do not put anything in beyond what is in the title. We confine the parties strictly to the title as given on the piece of music, and do not allow them to vary it in any way. So far from our objecting, on the contrary we insist upon their putting the title in as fully as possible; we add to what they wish in very many cases.

4712. (*Sir J. Benedict.*) Could you give us any reason why there is this general objection to the Stationers' Hall principle in musical matters, and say whether the statement made by Mr. Chappell and Mr. Boosey is based on fact, and what the reasons are for such an impression and general complaint, about the difficulties thrown in the way of publishers registering?—We throw no impediments in the way; we are anxious that they should register. Then Mr. Palgrave Simpson at question 2418 is asked "Is it the practice of dramatic authors to register their pieces at Stationers' Hall," and he says "No; some people do it but they find it perfectly futile, Stationers' Hall being in the most chaotic and ignorant state of any institution in England. You may go there and inquire 'can I register this title or not; will my registration be valid if I register?' the clerk will tell you 'yes;' two hours afterwards to the same question the next clerk will say 'no.' They do not know their own business in any way whatever; you get contradictory answers time after time, you never know where you are, and what you can register and what you cannot register, or how far the registration will be valid." Now as to this asking "Can I register this title or not," of course we can register the title; but when he asks "Will my registration be valid if I register?" we cannot tell him that. He says, "One clerk will tell you 'yes,' two hours afterwards to the same question the next clerk will say 'no.'" We cannot answer such a question. These gentlemen do not come down themselves; they send their clerks, and whatever we say gets to them by third hand. How far the registration will be valid is of course a legal matter which we have no means of judging. People ask us legal questions, and we tell them we cannot inform them; and judges themselves differ in the interpretation of this matter as of other matters.

4713. (*Mr. Trollope.*) You mean to say that to the best of your belief, your clerks give with due civility, and due rapidity, the amount of information which they are bound from their position to afford?—Neither I nor they answer any legal questions whatever; we are incapable of doing that; various questions have been decided in different ways by different courts.

4714. That it is not part of your duty to do so?—No, we have not the knowledge necessary.

4715. It is not a part of your duty to do so?—No, it is not.

4716. (*Chairman.*) It is not a question, "Have I now properly completed the act of registration." I presume your clerks would be competent to answer that question?—Certainly.

4717. You do not think that that was what Mr. Palgrave Simpson had in his mind when he gave that answer?—I cannot tell what Mr. Palgrave Simpson had in his mind.

4718. I see Mr. Palgrave Simpson says, speaking of the case of the clerks of the office, "They do not know their own business in any way whatever; you get contradictory answers time after time, you never know where you are, and what you can register and what you cannot register, or how far the registration will be valid." Now with respect to the question

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what a person can register and what he cannot register, do you believe that your clerks answer questions of that sort sufficiently?—Yes, they are perfectly capable of answering those questions.

4719. And not only are they capable of answering them, but they do as a rule answer them?—Certainly. They cannot tell whether it will be valid or not. Then at question 2422 he is asked, “As far as you are aware, has an author a right to maintain the title of his work against anybody else?” and he says, “It is very doubtful. That is one of the questions to which, if you inquired at Stationers’ Hall, you would get three different answers in one morning.” He could only get one answer, and that would be this, “We are not competent to say.” Then the next question is, “You have probably often seen among advertisements, ‘Title registered,’ ‘Effects registered,’” and he says, “Yes. It probably has been registered; but whether that registration is valid the parties at Stationers’ Hall cannot tell you.” We cannot. “It has occurred to me to have my title taken within three weeks after the piece has come out, and I was told that there was no law to prevent it. There may have been some change in the law since. I do not know that registering a title would give you a copyright in the title, nor are these people at Stationers’ Hall able to tell you, for they tell you one thing one moment and another thing another.” I can only say it is highly improbable that we should say one thing at one moment and another thing at another.

4720. I understand you to state that it is not your province, nor is it within your competency to give an answer to questions of that sort?—No; and therefore we should not give different answers to the questions at different times.

4721. Have you anything further to state?—In the evidence of Mr. Littleton, of the firm of Novello, he says, at 2298, “I have always had a strong feeling that Stationers’ Hall ought to be entirely swept away, and that the business should be brought to the British Museum, I think that it should be under Government; and that we should have somebody who would do the business properly, and not the

present authorities at Stationers’ Hall. We are asked by various foreign publishers to enter their works for them. They fill up their own forms and send them to us. We send them to Stationers’ Hall, and the officers there say, ‘We cannot read this.’ We refer them to a printed copy of the music, but they say, ‘The printed copy will go away, and how can we read it then?’ I think that the officials in an international copyright office ought to understand at least French and German.” Now, with respect to reading the forms, when the writing is bad, it is impossible for anyone to read them. The persons who bring them cannot read them, and therefore we are obliged to send them back to the parties to have them made plain. It is not because they are in the German language; we can read the German language very well if the letters are properly formed.

4722. (*Dr. Smith.*) Then do I understand you to say that you had clerks who have learnt French and German?—I was going to say that. Mr. Littleton says, “I think that the officials in an international copyright office ought to understand at least French and German.” Well, they do understand French and German. It is not a question of understanding the language, it is a question of reading writing. It is the same with English forms which come to us; we are obliged to send some back, because we cannot read the English. We can read some of the words by the context, but the names of individuals if not legibly written we cannot read, so as to put them upon the register.

4723. (*Mr. Trollope.*) But you have a clerk sufficiently conversant with French and German to understand the titles brought to him in those languages?—If they are legibly written.

4724. You have men so educated as to understand the titles if brought to them printed in those languages?—If they are printed, certainly; but these are the manuscript forms.

4725. You have clerks who do understand French and German sufficiently to know the meaning of the titles?—Certainly, they know the languages; only, I say, it is not a question of language, but of writing.

The witness withdrew.

Adjourned to Tuesday next, at half-past 2 o’clock.

Tuesday, 6th March 1877.

PRESENT :

RIGHT HONOURABLE LORD JOHN MANNERS, M.P., IN THE CHAIR.

SIR HENRY T. HOLLAND, Bart., C.M.G., M.P.
SIR LOUIS MALLET, C.B.
SIR JULIUS BENEDICT.
FARRER HERSHELL, Esq., Q.C., M.P.

DR. WILLIAM SMITH.
J. A. FROUDE, Esq.
ANTHONY TROLLOPE, Esq.
F. R. DALDY, Esq.

J. LEYBOURN GODDARD, Esq., Secretary.

THOMAS LONGMAN, Esq., examined.

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4726. (*Mr. Dalby.*) I wish to draw your attention to a suggestion which has been made to us on the subject of copyright, which is, that an author should not be at liberty to choose his own publisher; but that, on paying a royalty to that author, any publisher, indeed, more than one—several publishers, might at the same time publish his book. I wish to ask you what would be the effect of such an arrangement?—If I understand rightly, the proposition is that an author should choose his own publisher in the first instance, and, secondly, that having obtained that publisher’s aid, his work might afterwards be published by any other publisher who chose to do it, on paying a royalty. That being the proposition, my opinion is that his first difficulty would be in obtaining a publisher.

4727. Would any other difficulties arise, assuming that he obtained a publisher. Would his book be distributed as well as under the present system?—It

appears to me that in my office as a publisher I should be very unwilling to undertake the publication of a rival edition under the circumstances which you mention. I should think the author would have a difficulty in procuring a second publisher, having obtained a first.

4728. I do not say that the suggestion is for him to obtain a second publisher, but that any other publisher, without referring to him, might reprint and republish the book?—Just so; I think he would find that few publishers would volunteer in undertaking a rival publication in that way.

4729. But would that power of retaining the publication in his own hands, being taken from him, be detrimental to his interests in any way?—I should think it would be very detrimental to his interests.

4730. For what reason?—Because, as I mentioned, I think his first difficulty, if he wished to obtain a

publisher, would be to obtain a publisher in the first instance.

4731. That few publishers would undertake it in the first instance when they knew that they were subject to a rival edition?—Yes.

4732. I presume, from what you say, you consider that it would injure the value of his copyright, his property in his book?—I should think so.

4733. (*Chairman.*) That is to say, I conclude, you mean that the publisher would give a smaller amount for the copyright to the author under those changed conditions of the law?—Decidedly.

4734. But then, has your attention been called to the possible receipts which the author would have from the re-publication by the other publishers to whom after the expiration of the shortened period of copyright, one year or two years, the publishing would be thrown open?—I think the whole system would be very injurious to the interests of authors.

4735. But have you calculated at all in your own mind what the probabilities would be of the author receiving considerable sums from the republication by an unlimited number of publishers paying a royalty to the author?—I consider that the amount would be very small indeed; in fact it seems to me that there would be a great unwillingness to enter into speculations of that kind, and that the author's property would be injured in that way.

4736. Do you mean that other publishers would feel a delicacy or a scruple, after the expiration of the shortened period of copyright of publisher No. 1, in coming into the field; is that your idea?—I do not know that the question of delicacy would come in. I suppose the spirit of trade would come in. The publisher might feel some delicacy. I do not know how that would be. But it would be on the ground of extreme competition in trade. I think that they would find an unwillingness to enter into a speculation of that kind.

4737. But, assuming the law to be altered in the way that Mr. Daldy has pointed out, do you think that the publishers would as a rule after a time feel no scruple in adapting themselves to the new system, and publishing books which they presumed would give them a fair profit after the stated remuneration to the author?—The question with them would be, as it appears to me, whether it would give them any profit at all; and my conclusion from what I have been able to hear is, that it would not be an encouraging speculation.

4738. Are you able to give the Commissioners any data on which that conclusion of yours is based?—I think that the rivalry of two or three editions in the market would be so formidable that they would not wish to undertake those publications.

4739. (*Sir H. Holland.*) That consideration would rather apply then to subsequent publishers; it would not prevent one person publishing, but it would deter subsequent publishers?—But I think, if I understand the conditions rightly, the first publisher would be very much deterred from entering into such speculations. It would tend largely to reduce the terms the first publisher could pay to the author.

4740. But you do not go so far, do you, as to say that if a system of royalty were introduced it would entirely prevent the publication of books?—It is impossible to say that, but I think it would materially interfere with all permanent literature especially, and specially with the production of useful educational books.

4741. Laying aside the question of whether the author would be benefited by it, I presume that, although the author might not gain, there would generally be found some publisher who would publish the book?—That matter seems very uncertain to me. I do not quite understand for what period it is proposed that the original publisher should have the copyright of the book. I had understood that it was immediately on publication that the royalty system would come into play.

4742. I think there are two views upon that. Mr. Macfie proposed that there should be one year or two

years, but without fixing any term, leaving it to the Legislature to decide?—Assuming that the time was to be one or two years, I think that it would very much prevent the publishers from going into many very useful speculations. I would only mention to you the "Encyclopædia Britannica," which is now going on, a new edition, which I understand the publishers are willing to spend 100,000*l.* on. I think if they could have only so limited a copyright as is proposed, it would entirely stop their engaging in such a work.

4743. One can understand that it might very much affect the first contract with the author; because the publisher, of course, having only a limited time before these royalty editions could come in, would not be inclined to give any very large sum for the publication; but you seem to think that when once a book has been published there would not be any great rush of royalty editions?—Decidedly, I think so.

4744. Then if that is so the publisher who first publishes would be inclined, would he not, to give a large sum to the author according to the present system?—It would depend how his experience on this matter turned out. My opinion is merely a speculative opinion.

4745. I want to see how far you think this royalty system would affect publications subsequent to the first publication, whether you think it would deter publication of cheap editions, or whether you do not think it would rather tend to the publication of cheap editions?—If the copyright was limited to two years, and anyone might publish afterwards, of course it throws a new field open.

4746. And do you think that there would be cheap editions published of a popular book after two years?—It is very difficult to say; I find it very difficult to form an opinion, considering the element of an extreme competition.

4747. Might not the effect of it be this; that the person with whom the author makes the first contract, the first publisher, would during those two years publish editions in such a form as if possible to keep out of the market any future royalty editions?—It might be so.

4748. It probably would be so, would it not, in his own interest?—Yes.

4749. I should like to put it to you in this way; supposing that a book like the "Life of Lord Macaulay" was offered to you, and you only had this copyright for two years, and then anyone might publish an edition upon paying a royalty to the author, I should like to know, if you do not mind telling us, what plan you would adopt with a view of keeping out the future royalty editions?—You mean supposing the demand to be for a book that had a large sale.

4750. The book I named to you has had a large sale; suppose you in your judgment think such a book will be a success, I should like to know what plan you would adopt, what arrangement you would make, so as to keep out the future royalty editions?—There would only be the plan open to the holder of the copyright, to have cheaper editions.

4751. Then instead of limiting the edition to the same kind of edition as now, your inclination would be to publish a cheap edition?—If the law prevented my going on with the dear edition.

4752. The law would not prevent your going on with the dearer edition; but I am assuming that you have only copyright for two years, and that then anyone may publish a royalty edition; and I desire to know what plan you would propose so as to keep out royalty editions after the end of the two years?—I suppose the plan would be to print cheap editions.

4753. (*Mr. Herschell.*) Then you would not need to do that until nearly the expiration of your long term of copyright, whatever it was?—No. But I frequently print cheap editions now long before the present term of copyright has nearly expired.

4754. (*Sir H. Holland.*) If books may be published on payment of a royalty, of course they need not be submitted to the author; he receives his royalty and has

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no command over the book?—That would be a very severe condition on the author.

4755. But that, I should imagine, would be one of the necessary consequences of a royalty system, because the author has to be content with his royalty?—If I understand you, the author would have only a copyright for a limited term, one year or two. Supposing he had published opinions which he had changed, or that he obtained knowledge which he had not before, his second edition would be much more valuable than the first, and he would be able, I suppose, to fix on it a price which he considered a sufficient remuneration for his labours.

4755a. That is not exactly the point that I am aiming at now: what I mean is this, if anyone may publish after a certain time a royalty edition, he need not submit that edition to the author; the author cannot prevent the publication of an edition of his book upon payment of a royalty; and would not that make it almost necessary for the author to secure for himself some correct and good edition of his book?—Supposing the publisher reprinted verbatim, and the market was supplied by the cheap erroneous royalty edition or editions, it would be difficult without a loss.

4756. It is important for an author, is it not, who has any regard to his reputation, to have a correct, well printed, and proper edition of his book?—No doubt.

4757. If royalty editions are allowed to be printed, over those copies he has no command; he cannot secure that they are well printed, or on good paper, or correct?—If the law is so framed that would be so.

4758. Assuming the royalty system, then he would have no command over those editions?—If the law was so; but, pardon me, perhaps I do not fully take in your question; but what came to my mind was this, that very often it is the case that an author wishes in his second edition to make some alterations either with regard to his own opinions or his statement of facts, the truth of which has come to his knowledge to be not as he supposed; then if any publisher may print the edition with all its errors under this royalty system, those editions would not be of much value; and it would be a very hard case on the author to be subjected to that position: and, indeed, if I may be allowed to say so, in the statements he had made without sufficient thought, there might be passages that were very exciting to the public mind, and yet that very edition which he would wish to correct or suppress is, perhaps, the very one which the public wished to have, to their injury; and he would not be able to suppress these cheap editions which might have a large currency very much to his displeasure and disadvantage in point of honour and credit.

4759. Then assuming the royalty system to be in force, would it not be very desirable for the author to have one good and proper edition of his book?—Undoubtedly.

4760. He would have then to make a special arrangement with some publisher to secure that edition?—Yes.

4761. And the difficulty would be very great, would it not, in making that special arrangement, owing to this very system of royalty, because it would be difficult for a publisher to foretell what will happen?—Yes; but it seems to me that a second edition certainly, having very considerable alterations and perhaps additions, is a new book.

4762. I am rather speaking of a first edition: a man naturally wishes to have a good edition of his book, and for that he must make a special arrangement with some publisher?—Yes, or publish on his own account.

4763. But would it not be very difficult to make that arrangement with a publisher if a system of royalty was introduced which enabled any edition to be published after the lapse of two or three years, upon payment of a royalty without the author having command over those editions?—It would be a great injury to the author, I think.

4764. And would it not very much increase the difficulty of his making any special arrangement with

any publisher whereby to secure a good and correct edition of his book?—I think it would.

4765. Then would it not very much increase that difficulty if, as was suggested by Mr. Farrer, colonial and foreign reprints of that book could also be introduced upon payment of a royalty?—I think it would increase the difficulty very greatly indeed.

4766. (Mr. Trollope.) In regard to this question of royalty, I suppose you understand, as we do, that the royalty would be some percentage on the retail price, which percentage would be fixed by an Act of Parliament?—If that is what is proposed, I understand your explanation of it; I did not know exactly what was proposed.

4767. Can you imagine any other system of royalty to be fixed by an Act of Parliament than one which shall prescribe a certain percentage of profit to the author?—I suppose it would not be possible to imagine that Parliament could prescribe any system that would take anything less than the cost price as that on which the percentage would be placed.

4768. The law could not decide that one sort of book should receive a percentage of 15 per cent. on the cost price, that another sort of book should receive a percentage of 6 per cent., and another of 12½ per cent.?—It seems to me that it would be a very difficult thing to arrange, but I suppose Parliament is all powerful to do whatever it may please to do, however absurd we might think it.

4769. The system, I think, that was proposed with regard to Canada was that the Canadian publishers should publish any book that they liked at a certain percentage, 12½ I think?—Yes, but it was never said on what: we never knew whether it was on the retail price, the cost price, or on what that percentage was to be levied.

4770. Did you not understand that it was to be levied on the price of the book for sale?—We understood on the retail price.

4771. On the retail cost price; the price that the book would cost to the public?—The retail price, the published price, so we understood it; but it never, as far as I have heard, was defined on what that percentage was to be levied.

4772. But there was to be a certain percentage?—Yes.

4773. I think it was 12½?—Yes, I think so.

4774. Therefore if a similar percentage was levied by law in this country it must be some fixed amount?—It seems to me so wretched a system, that I cannot quite understand how such a thing could ever be attempted to be carried out. I entirely agree with you that it would be extremely difficult to carry such a thing out.

4775. You have published a good many different books?—Yes.

4776. And a great many books on which authors have been paid?—Yes.

4777. Has it not been the fact that in some cases the payment to a popular author has been a very much higher percentage than to another?—No doubt.

4778. And that a book which will have a great value but a small sale will give a very much larger percentage to the author than a book which will have a large sale and perhaps be of less value?—That is a very complicated question; it seems to involve a great deal. There are some very high-priced books that pay a very small percentage to author or publisher, and some that pay none at all, and others that unexpectedly give very large profits; but how to suggest that any percentage of equality could be arranged by Government I really cannot at all understand.

4779. The percentage upon an expensive book to an author will generally be greater than that on a cheap book, will it not?—If I understand the question rightly, you mean that a book that bears a high price, and is a book with, perhaps, a great deal of illustration and engraving, costing a great deal, would give the author more than a book of another kind. I know two instances at the present day of books which I published, very costly, and I do not know whether the

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author will be well paid by them; I rather expect not. I think probably he might have been better paid if the price had been higher than it is. These two books are each three guineas, and I think it is very possible that if they had been five the author would have had more than at the lower price, because, for many books, the demand is very limited, and probably for that class of books those who desire to have them would not object to give five guineas. But with the hope of a larger field in those cases the price was fixed at three guineas, and the author might have got more, perhaps, if the price had been fixed at five guineas; but that is only a speculative opinion.

4780. Your answer seems to me to be a reply in the affirmative to my question, that the higher the price of a book the greater is the percentage which the author will get from it?—I cannot quite agree to that, because what the author gets depends on the public demand.

4781. If you publish a volume at 1*l.* it would not be out of the way, would it, to suppose that the author should get 5*s.* a copy for those that were sold?—It would depend entirely on either the public demand or the opinion of the publisher who speculated.

4782. But it would not be a sum unknown to you or unusual?—No, it would not be unknown to me.

4783. If a book was published at 1*s.*, would it not be a very unusual thing for an author to get 3*d.* out of that book. Would it be probable that on a book published at a shilling, the author would get so much as 3*d.*?—It is very possible he might.

4784. Is it usual?—I do not think anything can be said to be usual, so far as my experience goes, in the publication of books. The demand is extremely various. Of a book at 1*s.*, there might be 10,000 sold or only 500. Of course if 10,000 were sold the prospects of the author would be very much improved; he might get 3*d.* or more.

4785. Would the sale of 10,000 copies of a book, do you think, give an author 3*d.* a copy?—That is a question impossible for me to answer, because the book might cost more than would afford such a price.

4786. My impression is that none of the cheap books which have been published at 1*s.* have ever given, or been intended to give, as much as 3*d.* apiece to the author: is my impression right that books published at 1*s.* apiece are not supposed to give as much as 3*d.* apiece to the author, even if the sale be very large?—Will you put the question in this way: Supposing a book is published at 1*s.*, is it on the cards, with a large sale, that the author will have as much as 3*d.* profit? I think it is on the cards.

4787. You do not publish books so cheap yourself, do you?—Yes, at all prices.

4788. My object is to ascertain, if I can, whether it would be possible so to arrange a royalty that justice should be done, both to authors and publishers, by any fixed sum, say 10 per cent. or 12½ per cent.?—I cannot conceive any way to do it.

4789. (*Mr. Daldy.*) Before we leave this branch of the subject, I should like to ask your opinion on the effect of such a royalty system as has been described on scientific works. Do you think it would deter the authors from improving those works, keeping them up to the day?—You see that question involves a great deal. As I ventured to mention to Sir Henry Holland, an author wishes to make considerable alterations probably in his book, and he prints what he thinks will be consumed in the term of copyright, because after that it is all abroad. Then I think you ask me whether the system of percentage would interfere with the improvement of these editions or the interest of the author?

4790. The altering and improving of the various editions, keeping pace with the scientific research of the day?—I do not know whether an improved edition would be considered under this proposed Act as a new book.

4791. I must ask you to assume that it would not be considered as a new book?—Then I think that a

system of percentage would tend materially to prevent the improvement of scientific books.

4792. Do you think that it would prevent the author from bringing out new editions improved up to the day if royalty editions, which were reprints of the old editions, were still current in the market?—I think it would.

4793. (*Chairman.*) Has your attention been called to suggestions for the amendment of the system of copyright for books by Mr. Macfie?—No.

4794. Would you kindly take that (*handing a book to the witness*) in your hand, and look especially at No. 5 and No. 7. With respect in the first instance to works of a scientific character, will you look at Mr. Macfie's seventh suggestion, which is as follows: "By special arrangements a longer period of exclusive privilege shall be allowed for encyclopædia works, *de luxe*, &c." Do you think that Mr. Macfie's suggestion with respect to encyclopædias and illustrated scientific works would be possible?—I think the arrangement under the present Act is very much more satisfactory.

4795. But with respect to the alteration suggested by Mr. Macfie, do you think that with respect to that particular class of works the new system of royalty suggested by him might be feasible?—No, I do not.

4796. Now will you turn to suggestion 5, with respect to some questions which Mr. Daldy put to you; that suggestion is: "No reprint to differ from the original edition, without the author's consent, either in the way of abbreviation, enlargement, or alteration of the text." Mr. Macfie there suggests that in any edition which is to be published on the royalty system, after the first, no alteration or abridgment or additions should be made without the sanction of the author?—I quite agree with that view.

4797. And do you think that the converse of the proposition might be established under the proposed amendment of the law, namely, that no subsequent edition should be published without permitting the author to make any abridgments, alterations, or additions which he might wish?—I quite agree with that view.

4798. (*Dr. Smith.*) I should like to ask you one or two questions in reference to the price of books. There is a feeling with many persons that books are at present published at too dear a price, and that if they were published cheaper the author would benefit, while it would be clear that the public would benefit by obtaining a cheaper book. Now the question which I wish to ask you is this; looking at it from a practical point of view as a publisher, in fixing the price of a book before publication, do you not take into account the fact that many books do not succeed at the price you might have anticipated, and that you are obliged, therefore, to fix rather a large price to protect yourself against loss?—I do not take it actually into account, but it is an element in the consideration of all commercial affairs.

4799. Could you state, speaking roughly, the proportion of books published which pay their expenses and yield a profit to the author and the publisher, and the books which do not pay their expenses and consequently yield no profit?—I would say there is a very large number that do not, but I am not able to give you minute statistics on that point.

4800. Do you think that half the books that you publish pay their expenses?—It is rather difficult to say; some are my own speculations, some are the author's speculations; and it sometimes happens that the author is very eager to publish on some subject, and though he prefers a large sale and a remunerative one of course, he rushes into print, and of course to his own cost, and there are a number of books published in that way.

4801. Because it has been stated to me by a very eminent publisher (whose name if I mentioned you would admit to be that of one of the most eminent publishers in London) that he does not consider that more than one book out of four pays the expenses of printing and paper. Would your experience corro-

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borate that?—My experience to a large extent does corroborate that.

4802. If you printed an edition of 10,000 copies in order to yield the same profit as an edition of 1,000 at another sum, would it not be the fact that if the book was unsuccessful you would be left with a very large number of copies on your hand and incur a very large loss?—Yes, depending on the extent of the failure of course.

4803. But if you printed 1,000 copies at a high price and 10,000 copies at a low price, the calculation being that the two editions would yield the same profit, and the book proved a failure, would your loss be as great upon the publication of 1,000 copies as it would be upon the publication of 10,000?—Probably not.

4804. Is it not evident that it would not?—It would depend very much on how many were sold in one case or the other. They might be equally failures but not equally in the sense of profit or loss.

4805. Passing away from that, allow me to ask you a question which I asked Mr. Routledge; is it not the fact that many learned works, works of scientific literature and historical works, have only a certain public which you can supply?—Yes.

4806. Consequently if you published 10,000 copies of a particular work of that class which were to yield the same profit to the author as 1,000 copies, the area of sale would be at once filled up?—I do not think that the sale would be increased in that class of work by publishing 10,000 at a low price instead of 1,000 at the price that that class of the public would give.

4807. Then would it not be the fact that when those 10,000 copies were sold the public wants would be supplied, and it might be many years before any considerable number more were sold?—In my opinion they would be more than supplied, because I do not think that of the class of works you have described there would ever be a sale for the 10,000 copies. The policy of the publisher would be to print 1,000 at a higher price rather than 10,000 at a lower price.

4808. But how would it affect the author?—It depends upon the terms he makes with his publisher; he may have made imprudent terms with his publisher; he may have sold a work for ten guineas for which he ought to have had a hundred; or he may have published on his own account. It is impossible to describe all the positions which might occur.

4809. I do not think that you quite understand my question. We will suppose a case in which the author agreed with his publisher on what are very common terms, namely, half profits. If the area of demand for a work is limited, say to 10,000 copies, and you publish at once an edition of 10,000 copies at a low price, the author will not receive so much, will he, as if he published successive editions of 1,000 each at a large price?—I can conceive that it might be so arranged; but the facts supposed are such as do not present themselves to me in a usual position; because where there is an expected demand of 10,000 copies, that is a book in a very high position, particularly if it is a scientific book. If I thought of venturing 10,000 copies of a scientific book, I should conceive that that was a book which would establish itself and might go on for as long a time as the term of copyright if it was a work of a class of which I ventured to print 10,000 copies.

4810. (Sir H. Holland.) Mr. Farrer rather drew our attention to this; he said he wanted to compensate the author, but that the author would be compensated by the publication of a cheap and very much larger edition, in an equal degree as by the publication of a small and dear edition. The point that Dr. Smith I think wanted to get out is, would the author at the end of the sale of those editions be in the same position. In the case where there has been a cheap edition a large number of copies would have been sold, and the market would have been filled, and he would not be able to publish any more; whereas where he has published a dear edition and a smaller number, then the market would not be filled, and he would be able to go on either

with another dear edition or a cheap edition?—Just so.

4811. And, therefore, though he has received from the sale of the first edition the same sum of money, his position is not the same with respect to future profits; is that correct?—It is a very difficult question to answer, because the very demand for this very large number may have given him a very good profit, and it may be the case that it has established a large base of demand for his book. Or on the other hand, it may be very imprudent. I think, if I understand it rightly, your question is, the author having had a good crop, if I may say so, out of a dear edition, whether it would have been better policy for the author to have published a cheap edition in the first place.

4812. I want you to assume that the author receives the same profit, say 100*l.*, from the dear edition as from the cheap edition; but I want to know whether in your opinion, there being, I suppose, a limited market for most books, he is practically in the same position at the end of the sale of the first edition; is he not in a worse position with regard to future profits, when he has got the 100*l.* from the sale of the cheap and large edition?—It seems to me it may be so, or not.

4813. Will you kindly explain why he is not in the same position, or may not be in the same position?—If you suppose he prints a dear edition first and a cheap one afterwards, he gets his full profit on the first dear edition, and then he goes on with the cheaper edition, and he might have made the same money possibly by your idea of publishing only one cheap edition; and you wish, as I understand, to know whether he is in a worse position from having printed a cheap edition and no dear edition. It is rather a difficult question to answer, because it is a very speculative question indeed.

4814. What I want to put is this; he has received, say 100*l.* from the publication of a small edition but dear edition; is he in the same position at the end of that sale of that edition as a man who has received the same sum from the publication of a large but cheap edition. Is not it the case that in the latter case the market has been, to a great extent, supplied, and that there is not the same room for a further publication?—It is a very difficult thing to say, because it may be a work of a nature which goes on selling and is in constant demand, and he may have established a broad basis for his book by the cheap edition; but generally speaking it is the most difficult thing for a publisher to decide whether he shall go on a narrow basis or a broad one, or in what degree. It is one of those questions that are the most difficult for all publishers to answer. It is the rock on which we all split, more or less. It is the test of the experience of a publisher which it will be best to do. I cannot say off-hand; it depends so much on the particular case; and we all sometimes form very wrong opinions. Sometimes we print a great many—too many—and sometimes too few.

4815. (Dr. Smith.) I should like to return to my former question, and to make it clearer I would hand you in the three questions which I asked Mr. Routledge, Nos. 4608, 4609, and 4610, and ask you whether you agree or disagree with Mr. Routledge?—The first of those questions is this: "Is it not the fact that in the case of learned works, historical works, and works of science, there is a certain market for the books; that, in other words, the number of copies that can be sold cannot be increased indefinitely." That is not, to my mind, a satisfactory question. I should say it cannot be increased indefinitely, but then one must define what you mean by "indefinitely." The sale of a book can be increased, no doubt, in many classes of books according to the price; you can sell a larger number of the book at a cheaper price, but not of all books. There is a class of scientific works of which you probably could not increase the sale by making the price 5*s.* instead of five guineas.

4816. (*Chairman.*) Would you read Mr. Routledge's answer to the question you have just read?—"That is so." I am not quite prepared to say that I agree with that. The question, to my mind, is not put in a sufficiently definite form; it seems to me that it would form two or three questions.

4817. But as the question is put, you are not prepared to agree with Mr. Routledge's answer as it stands?—I am not.

4818. (*Dr. Smith.*) I will now go on to another matter. In reference to the printing of books, the element of corrections forms an important item, does it not?—Yes.

4819. Do you find that, in the case of some book, the corrections bear a proportion of half or even more to the printing?—I should be very unwilling to accept a manuscript in a state in which I had any reason to suppose they would amount to anything of that kind.

4820. But as a matter of fact have you not often found that the corrections made by the author amount to as much as that?—Not often.

4821. But sometimes, as much as half of the composition?—Very rarely.

4822. What proportion do you usually find?—I am not prepared to answer that question.

4823. The reason why I ask the question is this; because if the corrections amount to a considerable sum, would it not be a great disadvantage to the original publisher that another publisher could reprint the work who has no expense of corrections?—Undoubtedly.

4824. And is not that one objection to the system of royalty that the person who reprints, paying only a royalty, is able to print the book from type much cheaper than the original publisher could print it from manuscript?—Undoubtedly.

4825. (*Mr. Froude.*) I should like to ask you one question about this royalty business; do you not think that an author would find some difficulty in recovering the sum which he was to be paid on the royalty system if any publisher was to be at liberty to take his book and publish it; what means would the author have of being certain that he was not defrauded of this property; how can he know; supposing anybody might take his book, would he not have some difficulty in protecting himself?—I conclude that your question applies to a royalty fixed on the cost price. If a royalty is fixed on the retail price the author might have a less difficulty in knowing whether he was defrauded.

4826. But do not you think that there would be a very great danger of that where a number of pub-

lishers with a popular author like Mr. Dickens were competing one with another to undersell one another, and sell the book at the lowest price; they would be under a temptation to defraud him of this 10 per cent.?—Yes; but happily I am not able to suppose that there are many such cases, because, according to my experience amongst booksellers, whose accounts I have seen, I am not aware of cases of that kind.

4827. You do not think that the difficulty would exist; you think that the publishers would loyally pay?—It would be impossible for me to say that; but I think they would.

4828. (*Mr. Trollope.*) You will remember that the liberty of republishing by royalty would be opened to any one who chose to call himself a publisher, and under those circumstance do not you think that there would be any such danger as that to which Mr. Froude has referred?—If any person not known, and of doubtful reputation, published books, they might be inclined to play tricks of that kind.

4829. (*Mr. Froude.*) Did you never know an instance of an unprincipled publisher having undertaken to print a thousand copies of a work and having printed 2,000?—I never had an instance of that sort brought before me in any way that I could substantiate; but very often authors have come to me who have gone to other publishers, who complain very much of their accounts, and looking at them with an impartial spirit my feeling has been that the publisher has acted honestly.

4830. (*Chairman.*) With reference to the questions that have been recently asked you, would you state your opinion as to the proposals numbered 2 and 3 in that printed scheme of Mr. Macfie, and say whether you think the dangers pointed out might be obviated by the adoption of those proposals; proposal No. 2 being, "On such new edition the intended publisher shall be liable to pay in advance [five] per cent. on the retail price of the book." And proposal No. 3 being "And there shall be impressed on the first sheet of each copy a distinctive stamp approved by the Stationers' Hall, without which it shall be a penal offence to print or vend any copy"?—No, I do not think that they would.

4831. (*Mr. Trollope.*) It has been suggested here that it is the practice of authors generally in England to part with the entirety of their copyright. Has that been your experience?—It is so varied; sometimes, and sometimes not; I should say largely not.

4832. And not so in regard to the most successful books?—Probably that is so.

The witness withdrew.

HERBERT SPENCER, Esq., examined.

4833. (*Chairman.*) I need hardly ask, you are a writer of philosophical and scientific books?—I am.

4834. Would you give the Commission your experience of the terms on which you published your first book?—I published my first work, "Social Statics," at the end of 1850. Being a philosophical book it was not possible to obtain a publisher who would undertake any responsibility, and I published it at my own cost. A publisher looks askance at philosophy, and especially the philosophy of a new man; hence I published on commission.

4835. Would you like to state what the result was?—The edition was 750; it took 14 years to sell.

4836. Then with respect to your next work?—In 1855 I published the "Principles of Psychology"; I again tried in vain to get a publisher, and published again at my own cost. There were 750 copies, and the sale was very slow. I gave away a considerable number, and the remainder, I suppose about 650, sold in 12½ years.

4837. Have you had any other similar cases?—Yes; I afterwards, in 1857, published a series of Essays, and, warned by past results, I printed only 500. That took 10½ years to sell. After that a second series of Essays, and a little work on Education, which both had

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kindred results, but were not quite so long in selling. I should add that all these sales would have taken still longer but for the effect produced upon them by books published at a later period, which helped the earlier ones to sell.

4838. Have all these subsequent works to which you now refer been published in the same way?—No. Towards 1860 I began to be anxious to publish a "System of Philosophy," which I had been elaborating for a good many years. I found myself in the position of losing by all my books; and after considering various plans, I decided upon the plan of issuing to subscribers in quarterly parts, and to the public in volumes when completed. Before the initial volume, "First Principles," was finished, I found myself still losing. During issue of the second volume, the "Principles of Biology," I was still losing. In the middle of the third volume I was still losing so much, that I found I was frittering away all I possessed. I went back upon my accounts, and found that in the course of 15 years I had lost nearly 1,200*l.*—adding interest, more than 1,200*l.*; and as I was evidently going on ruining myself, I issued to the subscribers a notice of cessation.

4839. Was that loss the difference between the money that you had actually spent in publishing the

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books and the money you had received in return?—Not exactly. The difference was between my total expenditure in publishing the books and living in the most economical way possible, and the total returns. That is to say, cutting down my expenses to the smallest amount, I lost 1,200*l.* by the inadequate returns, and trenched to that extent upon capital.

4840. But you continued afterwards, did you not, to publish?—I continued afterwards, simply, I may say, by accident. On two previous occasions, in the course of those 15 years, I had been enabled to persevere, spite of losses, by bequests. On this third occasion, after the issue of the notice, property which I inherit came to me in time to prevent the cessation.

4841. May I ask how long it took before you began to be repaid for your losses?—My losses did not continue very long after that: the tide turned and my books began to pay. I have calculated what length of time it has taken to repay my losses, and find they were repaid in 1874; that is to say, in 24 years after I began I retrieved my position.

4842. Then the Commission understand that your books are now remunerative?—They are now remunerative, and for this reason:—As I have explained, I had to publish on commission. Commission is a system which, throwing all the cost upon the author, is very disastrous for him if his books do not pay, and, as you see in this case, has been very disastrous to me; but when they do pay it is extremely advantageous, inasmuch as in that case the publisher who does the business takes only 10 per cent., and the whole of the difference between cost and proceeds, minus that 10 per cent., comes to the author. I have calculated what are my actual returns, on two suppositions. I have ascertained the percentage I get upon 1,000 copies, supposing that I set up the type solely for that 1,000 copies—supposing, that is, that the cost of composition comes into the cost. In that case I reap 30 $\frac{3}{4}$ per cent. But I reap much more. I was sanguine enough when I began this series of books, to stereotype. The result is that now I simply have to print additional thousands as they are demanded. If I suppose the cost of composition and stereotyping to have been paid for in the first edition, and only estimate the cost of paper and printing in the successive editions, then I am reaping 41 $\frac{3}{4}$ per cent. The actual percentage, of course, is one which lies between those two; but year by year, with each additional thousand, I approach more nearly to the limit of 41 $\frac{3}{4}$ per cent. I should point out that the result of this is that I receive, as may be supposed, a considerable return upon the moderate numbers sold.

4843. And that being so, can you tell the Commission what in your opinion would have happened had there been in existence a system under which three years, say, after date of publication anyone could have reprinted your books, paying you a royalty of 10 per cent.?—The result would have been that my losses would not have been repaid now. After 26 years work I should still have been out of pocket; and should be out of pocket for many years to come.

4844. (*Mr. Trollope.*) Under such a system do you think that you would ever have recovered that money?—I am taking it on the most favourable supposition, merely supposing that all other things but the percentage had remained the same.

4845. (*Chairman.*) Assuming the system of royalty to be in existence, what would be the result on your present returns, supposing losses to have been repaid?—Between two thirds and three fourths of those returns would be cut off. They would be reduced to little more than a fourth of their present amount.

4846. (*Sir H. Holland.*) How do you arrive at that result?—By comparing the supposed percentage with the percentage I actually receive.

4847. Assuming a royalty of 10 per cent. upon the retail price?—Yes.

4848. (*Chairman.*) Would it not be probable that the reduction in price of your books would so increase the sales that you would reap a larger return than you have supposed in the estimate that you have now

given?—I think not, or very little. First of all for the reason that the amount of reduction would not be anything like so great as at first sight appears. If a publisher issued rival editions of my books without my assent, on paying a royalty, he would only do so to make a profit beyond that which mere commission would bring. My present publisher is content with 10 per cent. commission. A publisher who competed as a speculation would want to make his profit beyond the 10 per cent. commission: as I ascertain, probably, at least a further 10 per cent. Then there would be my own 10 per cent. royalty. So that I find the reduction in price under such a royalty system would only be about 15 per cent. That is to say, the reduction would be from 20*s.* to 17*s.* Now I am of opinion that a reduction of the price of one of my books by that amount would have but a small effect upon the sales, the market being so limited. Let me use an illustration. Take such a commodity as cod-liver oil, which is a very necessary thing for a certain limited class. Suppose it is contended that, out of regard for those to whom it is so necessary, retailers should be compelled to take a smaller profit, and you reduce the price by 15 per cent. The consumption would be very little influenced, because there would be none except those who had it prescribed for them who would be willing to take it, and they must have it. Now take one of my books, say the "Principles of Psychology." Instead of calling it "*caviare* to the general," let us call it cod-liver oil to the general: I think it probable that if you were to ask 99 people out of 100 whether they would daily take a spoonful of cod-liver oil or read a chapter of that book, they would prefer the cod-liver oil. And if so it is quite clear, I think, that no lowering of the price by 3*s.* out of 20*s.* would in any considerable degree increase the number of persons who bought the "Principles of Psychology." The class is so limited and so special that there would be no increase of profit of a considerable kind in consequence of an increased number sold.

4849. (*Mr. Trollope.*) But are there not many people who would have benefited by cod-liver oil who cannot get it at present because of the price?—I think in all those cases in which they would be benefited they get it by hook or by crook when it is prescribed for them.

4850. And in the same way with your books you think?—Yes. For instance, university men have to read them, and they would buy them in any case.

4851. (*Chairman.*) What would have happened to you originally had there been a law giving a copyright only of short duration, under such an arrangement of percentage as that which you have just named?—I think it is tolerably obvious, from what I have already said, that I should not have been wholly deterred. I should have gone on losing for many years; but I think it is also clear that I should have stopped short much sooner than I did. Every author is naturally sanguine about his books: he has hopes which nobody else entertains. The result is that he will persevere, in the hope of at some time or other reaping some return, when to other persons there seems to be no probability of the kind. But supposing it becomes manifest to him that the copyright law is such that when his books succeed, if they ever do succeed, he will not get large profits, then the discouragement will be much greater, and he will stop much sooner. If I, for instance, instead of seeing that under the system of commission I should eventually, if I succeeded, repay myself and get a good return, had seen that eventually, if I succeeded, I should receive but small gains, I should have given it up.

4852. Are there other publications which you have undertaken besides those to which you have already referred?—Yes. About 10 years ago I commenced preparing works now published under the name of "Descriptive Sociology," in large folio parts, and containing tables and classified extracts representing the civilisations of various societies. I employed gentlemen to make these compilations.

4853. Do you wish to state what has been the

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result of that undertaking so far?—Yes. I made up my accounts last Christmas. I had then in the course of those 10 years expended 2,958*l.* odd upon eight parts (five published and three in hand), and my nett return from sales of the five parts published in England and America was 608*l.* 10*s.*

4854. May I ask whether you ever expect to get back the money that you have expended?—I may possibly get back the printing expenses on the earliest part, and most popular part, that dealing with the English civilization, in 1880, at the present rate of sale. The printing expenses of the other parts I do not expect to get back for many years longer. The cost of compilation I expect to get back if I live to be over 100.

4855. (*Mr. Daldy.*) You spoke of the circulation in England and America. May I ask, Do you send stereotype plates to America?—I did at first send stereotype plates to America, but the thing having proved to be so great a loss I now send a portion of the printed edition.

4856. (*Chairman.*) May I ask why do you expect repayment of the cost of compilation to be so slow as you stated in your answer to my last question?—The reason is that I made a promise to the compilers entailing that. The compilers are university men, to whom I could afford to give only such salaries as sufficed for their necessary expenses. To make the thing better for them, and to be some incentive, I told them that when the printing expenses on any one part were repaid, I would commence to divide with the compiler of it the returns on subsequent sales: the result being, that the cost of compilation comes back to me only at half the previous rate. I name this because it shows that in the absence of a long copyright, I could have given no such contingent advantage to the compilers. I wish to point out another way in which a short copyright would have impeded me. As a further incentive to these compilers to do their work well, as also make the prospect better for them, I gave them to understand that the copyrights and the stereotype plates would be theirs after my death. Of course with a short copyright I could not have done that.

4857. Then in your opinion it is only by a long duration of copyright that you can be enabled to recover any considerable part of the money that you have sunk in these publications?—Certainly. If it were possible for anyone to reprint, such small return as goes towards diminishing this immense loss would be in part intercepted.

4858. But if this work, which you call “*Descriptive Sociology*,” is so unremunerative, how do you imagine you would be in danger of having it reprinted under the suggested system of royalty?—It appears at first sight not a rational expectation, but it is perfectly possible. Each number of the work consists of a set of tables and a set of classified extracts. It was suggested by a reviewer of the first part, the English part, that the tables should be separately printed, mounted on boards, and hung up in schools. The suggestion was a good one, and I have even had thoughts of doing it myself. A publisher might take up that suggestion, and might issue those independently of me, and diminish what small sale I now have. Again, the work is very cumbrous and awkward; that can hardly be helped; but a publisher might see that the extracts arranged in ordinary volume form would be valuable by themselves apart from the tables, and might get a good sale independently; and again my small returns would be cut into.

4859. (*Sir H. Holland.*) That objection of yours would be partly met by the suggestion of Mr. Macfie, who brought this question of royalty before us, because his suggestion is, that no reprint is to differ from the

original edition without the author's consent, either in the way of abbreviation, enlargement, or alteration of the text. Therefore, under that regulation, if that is carried out, a publisher could not print half of this book without your consent?—That would so far, if it can be practically worked out, meet my objection.

4860. (*Mr. Trollope.*) But you have stated that you thought yourself of using this form of abridgment to which allusion is made?—I have.

4861. And if this form of abridgment when made by you could be republished again by anybody else, then your profit would be interfered with?—No doubt of it.

4862. (*Chairman.*) Supposing the suggested system of short copyright and royalty had been in force, would you have undertaken these works to which you have referred?—Certainly not. The enterprise was an unpromising one, pecuniarily considered, and it would have been almost an insane one, I think, had there not been the possibility of eventually getting back some returns from sales that were necessarily very slow. Moreover, the hopes under which the compilers have worked I could never have given to them.

4863. Then are we to gather from your evidence that the system of short copyright and royalty would be injurious to the books of the graver class which do not appeal to the popular tastes?—I think so; it would be especially injurious to that particular class which of all others needs encouragement.

4864. (*Sir H. Holland.*) As requiring most thought and brain work on the part of the author?—Yes, and being least remunerative.

4865. (*Chairman.*) I understand you to say that in all these cases you have not parted with the copyright yourself?—No, I have not.

4866. Now assuming that the authors of these graver books sold their copyrights, do you think this royalty system would still act prejudicially upon them?—I think very decidedly. I have understood that it is contended that authors who sell their copyrights would not be affected by this arrangement. One of the answers I heard given here to-day sufficed to show that that is not true; inasmuch as a publisher who had to meet these risks would not give as much for copyright as he would otherwise give. His argument would be unanswerable. He would say, “Your book is a success, or not a success; if not a success, I lose what I give you for copyright; if a success, I shall have it reprinted upon me, and again I shall lose what I give you for copyright. I must, therefore, reduce the amount which I give for the copyright.” Moreover, I believe that the reduction in the value of copyrights would be much greater than the facts justified. In the first place, the publisher himself would look to the possibility of reprinting with a fear beyond that which actual experience warranted. Frequently a suggested small danger acts upon the mind in a degree out of all proportion to its amount. Take such a case as the present small-pox epidemic, in which you find that 1 person in 30,000 dies in a week; in which, therefore, the risk of death is extremely small. Look at this actual risk of death and compare it with the alarms that you find prevailing amongst people. It is clear that the fear of an imagined consequence of that kind, is often much in excess of the actual danger. Similarly, I conceive that the publisher himself would unconsciously over-estimate the danger of reprints. But beyond that he would exaggerate his over-estimate as an excuse for beating down copyright. He would say to the author, “You see this danger; I cannot face so great a risk without guarding myself; and you must submit to a large reduction.”

The witness withdrew.

Adjourned till Friday next at half-past two o'clock.

Friday, 9th March 1877.

PRESENT :

THE RIGHT HONOURABLE LORD JOHN MANNERS, M.P., IN THE CHAIR.

SIR HENRY T. HOLLAND, Bart., C.M.G., M.P.
 SIR JOHN ROSE, Bart., K.C.M.G.
 SIR H. DRUMMOND WOLFF, K.C.M.G., M.P.
 SIR LOUIS MALLET, C.B.
 SIR JAMES STEPHEN, Q.C., K.C.S.I.

FARRER HERSHELL, Esq., Q.C., M.P.
 DR. WILLIAM SMITH.
 J. A. FROUDE, Esq.
 ANTHONY TROLLOPE, Esq.

J. LEYBOURN GODDARD, Esq., Secretary.

THOMAS HENRY FARRER, Esq., further examined.

4867. (*Chairman.*) Do you wish to supplement the evidence which you gave on the last occasion?—I should like to put in something that I have received since I was last here. I mentioned then that I had received a list of English books republished in the United States; and since that time I have received copies of those books themselves from America, and I should like the Commission to see what the character of the books is that the Americans republish. I will not trouble them with the prices which I have given already, but here are the books and the American editions of them (*pointing them out to the Commission*). They are not the books I should have selected myself, but they are the books of which a list was given me. What I wish to call the attention of the Commission to is that the character of these books republished in America, though not so handsome as that of the English editions, is excellent. I think they will see that if they look at them. The prices are much lower, as will be seen from the lists I put in. There is only one book to which I will call particular attention, and that is Lord Macaulay's *Life*. That is republished in America in two volumes, octavo. The one which I put in on the last occasion which was published in Germany was in four volumes, a small edition in paper. This American edition (*pointing to it*) is just exactly as handsome an edition as the English edition; perhaps the paper is not quite as good, but in other respects I should say it was quite as handsome an edition; it is in fact more convenient, because the leaves are cut. (Why we do not have the leaves of our English books cut I have never been able to understand.) This American edition too is made smart by having the edges at the top gilt. The price of that book is 18s.; whilst the publishing price of the English edition is 36s., and it is to be bought at the retail booksellers at 32s. or 30s. I wish particularly to call attention to that book. I put in the list of prices of these books taken from the bill as actually paid in America. (*See paper in Appendix marked K.*) I also put in a complete list of the different books I have produced to the Commissioners, with the prices in English money of the English, Canadian, United States, and German editions. (*See paper in Appendix marked L.*)

There is another matter which I wish to explain. I was asked last time about publishing prices, and about actual prices. In America, as far as I can understand, the publishing price is the actual price. The price charged to the Board of Trade for these books in the bill which has been sent us is the same price as that which is given as the publishing price in Mr. Appleton's list. In England it is different; and there it requires a little history to explain what is the publishing price, and what is its relation to the actual price. Originally, I believe, if we were to go back 30 years we should find that the publishing price and the actual price were the same, or nearly the same. At present the publishing price is a price paid by nobody and received by nobody; it is a *point de départ*. And the history of that is this. The publishers used to fix their price, and then they sold to retail booksellers at a certain discount, but they made a rule that the retail booksellers should only sell at the publishing price, or at any rate only at 10 per cent. discount under the publishing price. That rule was resisted by the retail booksellers, first by Mr. Lackington, and

afterwards by the modern retail booksellers, Messrs. Bickers and Bush, Willis and Sotheran, Bumpas, and others. They said to the publishers, "When we have bought books from you at your price it is our affair at what price we will sell them to the public." The publishers said, "No, you shall take our price, and if you will not sell at our price to the public, we will not sell you any of our books." The English publishers in fact entered into a trades union to enforce that rule, and the retail booksellers resisted them. Anyone who wishes to know the history of the matter may look back to the "Westminster Review" of 1852, where he will find the actual rules which were attempted to be imposed by the publishers upon the retail booksellers. Two of those rules were to this effect: one, that no retail bookseller should sell a new book at more than 10 per cent. discount under the publishing price; and another rule (and this is an extremely important one) was that no retail bookseller should ticket his book in his window at anything under the publishing price. It became a regular trade quarrel. The publishers said, "We will not supply you, the retail booksellers, unless you comply with our rules." The retail booksellers said, "We will not buy from you unless you sell us your books free from these rules." The dispute was referred to Lord Campbell, assisted, I think, by Mr. Grote, and they decided in favour of the retail booksellers. Since that time the retail booksellers have, in selling to the public, been free to take off as much discount as they please. I remember the thing very well, for I was just beginning to read *Political Economy*, and I wondered whether there could be anything true in the science of *Political Economy*, when such an absurd practice as that contended for by the publishers could prevail in what ought to be the most intelligent trade in the country. Since the time of Lord Campbell's decision that practice has ceased. Whether books are cheaper or not we cannot tell, because we do not know whether the publishers have published at a lower or a higher price; but at any rate we know this, that the public have had the benefit of competition between the retail booksellers, and as a matter of fact the retail booksellers now sell at a very considerable discount below the publishing price averaging, perhaps, 20 or 25 per cent. In some cases the discount is much larger. It depends of course upon the terms upon which the retail bookseller buys from the wholesale publisher what amount of discount he can take off; but as far as I can see the retail bookseller takes off the largest discount in the case of the cheapest books; so that in that case the public get the benefit of a lower amount of price in that part of the price which arises from the profit of the retail bookseller, as well as in the original cost. Now I find Lord Macaulay's *Life*, published at 36s., is sold at 30s. or 32s., that is to say, 15 per cent. discount is taken off in selling, to the public. Wallace's "Russia," published at 24s. is sold at 18s. to the public; that is 25 per cent. discount taken off. I have seen it in one shop at 17s. And only yesterday I saw a new edition of "Pickwick" and "Sketches by Boz" which I have here (*pointing to the books*) and published at 2s., sold by a retail bookseller in Oxford Street at 1s. 3d., in which case 38 per cent. is taken off. And these are books to which I should like to call attention. Of "Sketches of Boz" I think the copyright must have

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expired. Of "Pickwick Papers" the copyright has nearly expired. Now, the last previous edition of "Pickwick" and of the "Sketches of Boz" was published at 3s. 6d., but sold at 2s. 8d. Here are the two books, (*producing them*), and now in anticipation of the expiration of copyright, this same book is sold at 1s. 3d. (*producing the book*). There is the difference that the one is bound in cloth, and has some prints in it while the other is in cardboard, and has none; but in other respects the two books are as much alike as possible; and I think anyone would almost as soon have this book at 1s. 3d. as that at 2s. 8d.; at any rate there is not the difference between them of that price. Two or three observations occur to me upon that. It has been proposed that copyright should be prolonged till 30 years after the author's death. Dickens died in 1870 and copyright would then exist in that book till 1900. Now, I think we may assume that the price of that book would not have gone down in that way if copyright had been extended as proposed. That may be a very right and just thing for Dickens' family, or it may not; but it is quite obvious that if that lowering of price were postponed till the year 1900 a considerable loss would be inflicted upon the public. Another observation which occurs to me is that, one cannot help comparing the price of this book, now that copyright is about to expire, viz., 1s. 3d., with the price of "Middlemarch" or "Daniel Deronda" when it first comes out, viz., 42s.

4868. (*Sir James Stephen.*) I had not the advantage of hearing your evidence, but I have read the proof which has been sent me with great attention, and there are a variety of questions which I want to ask you about it. You say at the very end of your examination that "The ideal of a copyright system is that it should be co-extensive with the English language, giving the author the benefit of an enormous market and the reader the benefit of a price proportionately reduced"?—Yes, I think so.

4869. You have also told us in the course of the preceding page that you regarded the substitution of royalty for monopoly as being at the present moment in this country scarcely a practical question?—I think it is not.

4870. You say that "It would require new machinery of an elaborate kind, and it would disturb existing arrangements and be opposed by existing interests," and that it is, therefore, not worth while to discuss the subject?—Quite so.

4871. So that you have no practical method to propose which requires discussion by which authors' interests might be consulted as distinguished from those of the publisher and apart from monopoly?—I have no plan at present to propose with a view to the ideal that I have mentioned, beyond the steps that I have suggested as immediately desirable.

4872. But the only thing that actually has suggested itself to your own mind as possible at a future period is the substitution of royalty for monopoly?—Quite so, when we come to that ideal state which I have spoken of.

4873. But in the meantime monopoly is practically the only way by which the author can be remunerated?—Some description of monopoly.

4884. And in point of fact authors are so remunerated not only in England, but in every part of Europe, in fact throughout the civilized world?—No doubt, with this exception that in America where there is no monopoly the English author gets some remuneration.

4875. That is precarious altogether?—Yes; but I do not know enough about it to say what the amount is, or whether it is a fair amount.

4876. Then as far as you know, whatever remuneration English authors get from American publishers, is entirely dependent on the will of the American publisher; they have no legal right to it?—They have no legal right to it.

4877. And no means of obtaining it except by an appeal on whatever grounds to the liberality of the

American publisher?—That is so, with some qualification.

4878. So that practically speaking the remuneration of the author does at present depend as a matter of fact upon his monopoly?—It does so: with the following qualifications, viz. The English author may give the American publisher consideration in the shape of plates or early sheets. Again, I conceive it possible that books published in this country might be sent to America on such terms as to exclude the American publisher from the market; or, again, they may be sent from Canada; and in all these cases the English author would have some hold upon the American publisher.

4879. But even in that case his hold upon him would be dependent upon his having a monopoly in Canada?—Yes, or a monopoly in England. Perhaps it would be more correct to say, on his having first published in England or Canada.

4880. The point that I wish to make quite clear is this; that setting aside a remote possibility which you yourself do not regard as at the present time matter for discussion at all, the whole remuneration of the English author depends upon the preservation of this monopoly?—Yes, I think the preservation of some kind of monopoly desirable, and even necessary.

4881. Of course the amount and terms is a question of more or less?—Yes.

4882. But one may say substantially, neglecting small qualifications, he must either be paid in that way, or not at all?—As long as things remain as they are at present, but saying this as regards the present moment is a very different thing from saying what I think might be the ultimately desirable thing.

4883. I understand you to be speaking of what is done at the present moment?—Yes.

4884. And although you add that it might be different in the future, still you regard the passage from a monopoly system to a system of royalty as a remote possibility encumbered with a great many practical difficulties, such as new machinery of an elaborate kind, the disturbance of existing arrangements and opposition by existing interests, which objections you are not at present prepared to meet?—I have not come prepared to meet them, because the case has not yet arisen; but I have said in my evidence that I think it might arise at any moment if the Americans were to intimate a disposition to enter into a copyright treaty with us.

4885. I am coming to that directly; but it still leaves untouched the general proposition that monopoly is the only existing mode of remunerating authors at all in England, although you think that others might possibly be devised?—It is the existing mode certainly.

4886. It is the mode also which has been adopted in every other country in the world?—Yes, I think it has been adopted everywhere.

4887. It is the only one of which anybody has any experience?—Except in that case of America to which I referred.

4888. There you said there is no legal right; it is only casual?—Yes, subject to the qualifications I have mentioned.

4889. Therefore monopoly is the only mode of which any one has any experience, and the possibility of inventing another is entirely a matter of speculation, resting upon general *a priori* considerations?—Yes, if you call those *a priori* considerations which are gathered from such experience as we have in other analogous cases and subject matters.

4890. At all events the only mode in favour of which we have any experience is payment by a monopoly?—I am quite ready to admit that monopoly is the plan which has been universally adopted to the present time, except in America.

4891. But has it not been adopted in America?—Yes, in the case of their own authors.

4892. Then the exception comes to nothing, does it not, because the English author gets no remuneration whatever for books of his which are republished in America, except such as a few booksellers choose to

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give him?—Yes. But, in addition to other circumstances which I have pointed out, the American bookseller does not give it to him entirely without consideration, because he gets early plates and so gets the first market.

4893. In the same way that in cases where there is no copyright at all if a man writes a newspaper article, the value of which lasts for one day, and for one day only he gets something for it, irrespective of copyright, because one newspaper only can publish it?—Yes.

4894. Therefore we will put that out of consideration. Now let me ask you this question. Are you aware of any considerable number of English authors who have ever complained of that system of being paid by a monopoly, who have complained of the principle of monopoly as regards their own interests?—No, they are not likely to do so.

4895. Then, in the next place would you not infer from that that the existence of the monopoly had in fact been largely profitable to English authors?—I should think so undoubtedly.

4896. Consequently we get first speaking broadly, that monopoly is the only way which has been devised or put in practice for the payment of authors, and next that it has been effective for that purpose and has paid the author?—I think there is no doubt of that. Whether it has paid authors fairly or equally is quite another consideration.

4897. It has paid authors a great deal of money?—It has paid authors a great deal of money; but whether it has paid the good authors best is quite another consideration.

4898. You attribute great importance (because you say so in your evidence) to the remuneration of authors?—I think that authors ought to be properly remunerated like any other workmen.

4899. You think not only that they ought to be properly remunerated, but that they are not remunerated enough?—I think that some authors are remunerated a great deal too much for very rubbishy books; and that others are not remunerated enough for very excellent books.

4900. You speak at the beginning of your evidence in the following terms: "The American case raises the whole question of the principle of copyright." "English speaking people seem destined to cover a large proportion of the world, and the market is, therefore, immense. The result ought to be that the remuneration of the English authors should be largely increased, and that the price of English books should be much diminished." Therefore you think that the remuneration of English authors should be largely increased?—The remuneration of good English authors.

4901. You did not say "good" there. Do you consider it conceivable that under any state of circumstances whatever there should be any definite or assignable relation between the money payment made to an author and the permanent value of his book?—I am afraid that is hopeless. That is, of course, one of the strong objections which many of the philosophical writers who have written on the subject have taken to the whole principle of copyright.

4902. That being so are you not forced to choose between the inconvenience of paying authors of works of little permanent value more than authors of works of great permanent value, and the inconvenience of not paying any authors at all? Or I will put it in another way; must you not then choose between the inconvenience of taking as your standard of payment the willingness of the public to buy, and throwing up the attempt to remunerate authors for their work at all?—That raises a very large question to which different people have given very different answers. For myself I should be disposed on the whole to say that I agree with you. But in saying so I want to guard myself from being supposed to say that it is perfectly clear, or that there are not many thoughtful persons who hold a very different opinion.

4903. Then you upon the whole agree with me in

thinking that either authors must be paid by the price which the public happen to be willing to give for their books be they good or be they bad, or else no definite mode of payment can be provided at all?—I think that the author's remuneration must depend upon the public demand for his book.

4904. And you think it desirable that the author should be remunerated?—I do.

4905. Thinking it desirable that the author should be remunerated, and that he should be remunerated according to the public demand for his books, the objection which you have just made that some authors are remunerated too little, and that others are remunerated too much is rather beside the question, is it not; it proves too much, for it would go against the whole system of remunerating authors at all?—I think what you asked me was whether I thought that authors had been remunerated sufficiently or not, and I answered that I thought some had been remunerated too much, and some not enough; and to that I adhere.

4906. But is not that inconvenience inseparable from any system of remuneration?—I am afraid it is.

4907. Then as it is inseparable from any system of remuneration ought you not to put that aside when you are asked whether you adhere to the statement that you think that the remuneration of English authors should be largely increased?—I am not quite sure that I am bound to take the thing in an absolute lump, and to say it is very desirable that if remuneration of one author ought to be greatly increased the remuneration of all should be greatly increased. On the whole authors are a most valuable set of men no doubt, and a good author one of the most invaluable of men to the community, and there can be no doubt that one would be very glad to see him much more largely remunerated, even though at the same time you might remunerate others more than they deserved.

4908. To that length then we go together, that it is desirable that authors should be remunerated according to the public demand for their books, notwithstanding the inconvenience that has been pointed out?—It is desirable that good authors should be remunerated, and it is inevitable, that bad ones should also be remunerated.

4909. It still comes back to this, that upon the whole, although there may be some drawbacks from the advantage of it, it is desirable that authors as a lump should be remunerated according to the demand for their books?—I think it inevitable, and therefore expedient.

4910. Now you also think it highly desirable that the public should pay a lower price for their books? Certainly.

4911. Do not you consider that that too is subject to the qualification that you have mentioned about the remuneration of authors, that it is desirable that they should pay a lower price for some books, and not desirable that they should pay a lower price for others?—Yes, I am quite willing to admit that.

4912. Do you think it a matter of great congratulation and high importance that 370,000 copies of a particular novel should be sold at an extremely small price throughout America?—It would depend on what the novel was; some novels are the best of books.

4913. Do you think for instance (to speak of works not the works of living authors) that the public is seriously injured and a great loss inflicted upon it because it has to pay 2s. 8d. for the "Sketches by Boz" and "Pickwick" instead of 1s. 3d.?—Yes, I certainly do. I think that both "Sketches of Boz" and "Pickwick" are excellent books in their way, and I should be very glad to see them in every cottage in the country, which they are more likely to be if they are sold at 1s. 3d. than if they are sold at 2s. 8d.

4914. You consider that to cheapen all books indiscriminately as much as you possibly can is in itself a highly desirable object?—Yes, I do; because on the whole we must trust to the public demand purifying

itself; and reading almost any book is a better thing than most of the pleasures of our lower orders.

4915. Now you have looked, it appears to me, throughout the whole of your evidence (you will correct me if I am wrong,) at the object of cheapening of the books and not at the object of paying the authors?—I have endeavoured to keep both objects in view. But I will admit I have thought myself bound to look at the subject from the side of the public interest, because in most of the previous discussions on this subject, as was natural, and also in the evidence before this Commission, the side of the author and of the publisher has been that which has received the greatest amount of illustration and argument; and I therefore, as belonging to a public office, thought that it was my duty to put forward whatever ought to be said on the side of the public, and especially of the English public.

4916. Is it not highly to the interest of the public that good books should be written?—Certainly.

4917. Is it probable that good books will be written unless authors are remunerated?—I believe the very best books are written from other motives; but I quite agree that authors ought to be remunerated.

4918. Those are exceptional cases; of course there would be books that would be written from a love of art, or desire for reputation, or various reasons; but of course practically you cannot depend upon that for the bulk of your literature?—The very best books and the very best works of the human mind are not remunerated or not adequately remunerated by money.

4919. Although you could not speak too highly of them yet they do not constitute and never can constitute the great bulk of the literature which people do read?—No doubt it is a very proper thing to pay people for putting things into form.

4920. At all events you think it highly desirable that there should be such books as what you describe as standard literature, and that the great mass of that would not be written if it was not paid for?—No; I think it is most desirable that the workman should be paid for his labour.

4921. You are of course aware that if a man has the gift of writing and wishes to make an income by that gift the most convenient and ready way of doing so is by periodical writing?—I suppose that is so, but I am not sufficiently acquainted with the practice of literary men to be able to answer that question.

4922. It is a matter of common knowledge that a man who writes an article for one of the higher class of newspapers, or of the higher class of magazines, would make far more by that kind of writing than he would by writing almost any book, that is to say, by giving the same amount of time to writing books?—As far as one can judge from a very superficial knowledge it seems to me that the people who write good and substantial books generally throw off a number of things by the way which they put in the form of articles into magazines and reviews, and I daresay they get paid for them better than for the books.

4923. But do not you think that if the remuneration which authors get out of their copyright at present were reduced in any considerable degree it would have a very strong tendency to make persons of a literary turn devote themselves almost entirely to that which would pay them independently of copyright, namely periodical literature?—I should doubt it; but I do not know enough of the matter practically to give an opinion.

4924. If that were so should you consider it an evil?—I should consider it an evil if any persons who now devote their lives to the writing of really good standard books were diverted from that and were to devote themselves entirely to writing what is ephemeral and fugitive.

4925. Throughout the whole of your evidence it appears to me that you have looked at the subject exclusively from the point of view of the cheapening of books?—Not so: because I also wish the author to get an extended market.

4926. Do the authors want that extended market

at the price of giving up their monopoly here?—That I cannot say.

4927. Now let me ask you a few questions about the Board of Trade Bill, which was introduced two or three years ago. The main object of that Bill, if I understand the matter right, was to enable the Canadians to publish royalty editions of English copyright books, and to enable those royalty editions to be imported into England without the authors' consent; was not that the purport of the Bill?—There have been so many Bills that I cannot at once call to mind the terms of the Bill to which you refer.

4928. I think it was in 1873?—I remember that there was such a Bill; it was circulated in the colonies.

4929. I want to know whether the object of that Bill was not what I have stated?—It was rather a Colonial Office Bill than a Board of Trade Bill, though the Board of Trade assisted the Colonial Office. No doubt the main object of that Bill was to satisfy the colonies. If there was anything in it about the introduction of colonial editions into the United Kingdom it was a secondary object; that question would never have been stirred if it had not been for the colonial question.

4930. The effect of it was that the Canadian publishers would have had power to publish royalty editions without the leave of the English copyright owner?—Under certain conditions.

4931. And they would have had a right to import those copies into England?—On paying a percentage upon each copy to the author.

4932. Was that Bill approved by the Board of Trade?—Yes.

4933. Now if that Bill had become law, would not the result have been this, that the Canadian publishers would have had the power of publishing copyright books without the consent of the copyright owner, and of introducing those books into England so as to bring down the price of the copyright?—Yes.

4934. In other words would not the effect of that Bill have been seriously to damage and almost destroy the monopoly which the copyright owner at present enjoys?—That would depend entirely, I should think, upon whether the royalty were properly proportioned to the cost of the book or not. If the royalty were properly proportioned to the cost of the book, I should think the author would have got a very sufficient revenue from it.

4935. That is to say what you consider sufficient?—The difference would have been that the absolute monopoly which he has now would have been limited.

4936. It would distinctly in fact have diminished the advantages of his monopoly?—I am not sure whether it would have diminished them or not. It would have limited them.

4937. Do not you know the fate of the attempts to collect a royalty on copies of American reprints imported into the colonies?—Yes; but that was a very different thing indeed.

4938. Does that precedent seem to you to suggest that the authors would have got much by way of royalty of what was imported into England?—I do not think the cases are parallel. In this case the Custom House officers would have stringently enforced the payment of this royalty in England as they now stringently, and as I think, improperly exclude those foreign copies of English books which I have put before you; and in the colonies they did not do so; notoriously the books came into Canada without paying a royalty.

4939. Why was that so?—Because the Canadians either did not care or were not in a position to enforce the royalty.

4940. You think here it would be enforced more strictly?—I do.

4941. You did not consult any authors on the subject of that Bill, did you?—No, the Bill was drawn for the purpose of meeting the Canadian case, and the first thing to be done was to see what the Canadians said to it. The result to which you have referred was a secondary matter.

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4942. But the effect of it was this, that a clause was put into the Bill intended to meet a particular demand which arises in Canada, which would most seriously prejudice English authors without their being in any way consulted?—The Bill was not brought in; they would have had time to object to it. And after all that was only a small part of the Bill.

4943. You proposed to make an attack upon the monopoly of authors; it was a Bill hostile to the monopoly of authors and intended to injure that monopoly?—I think that is putting the Bill in a very false light. The real object of this Bill was to meet the Canadian case. The question then arose when you had met the Canadian case, what were you to do with the reprints in Canada; and I suppose it was thought fair that they should be imported on certain terms into the United Kingdom.

4944. It seems to me that the interests of the author were intentionally invaded to that extent on that occasion?—The effect would have been to limit the existing monopoly of the English author, or rather I prefer to use another word and say, of the English copyright owner.

4945. And that although you are not prepared to suggest any other way which has been tested by experience in which he should be paid?—When a thing is new there can have been no experience of it.

4946. Now would you agree with me that of the two the home demand was more important to authors, generally speaking, than the demand either in the colonies or in the United States?—No, I am inclined to think that I should not agree, considering that the number of English readers is said to be much larger on the continent of America than it is in England.

4947. Yes, but in England you have this monopoly; in America you have nothing at all?—In the United States you have no legal monopoly.

4948. In England a considerable influence could be exercised over the legislature, and you have the English Courts to enforce your demand. You have not suggested any way in which a man could protect himself when his books were republished in America?—No; but you must remember that for the last 20 years authors and publishers have been urging the Government to try to get the Americans to give them a monopoly there.

4949. Of course you will agree with me in believing that the whole of this matter must be regulated only by general expediency, and that you cannot lay down abstract rules about a man's abstract right in the productions of his own mind?—I know of no such thing as "abstract rights."

4950. And you would agree with me that a great many foolish things have been said about the wickedness of the Americans in this matter?—Yes.

4951. And I think you would further agree with me in considering that the question of what is to be got out of the Americans is a question entirely for the Americans?—You must get their consent.

4952. But their consent is the one thing needful is it not?—Quite so.

4953. And although with reference to the colonies their consent is not the one thing needful, still it is a very important element?—No doubt.

4954. Therefore in that state of things surely the most important part of the subject is what is reasonable in regard to the question in England, and the other is accessory only?—The Imperial Legislature can deal with it in England, and they cannot in America.

4955. In settling copyright law you would look to England first, and to America and the colonies afterwards, would you not?—If we could make any arrangement with America and the Colonies by which the price should be reduced, and at the same time the market extended, I think we should adopt that course.

4956. Supposing the authors say, "We prefer to have a monopoly in England, and let America and the colonies take their chance, instead of this scheme of yours;" is not that a reasonable view?—They may take that view, but they have not done so.

In the first place they have got an Imperial Act which extends to the colonies, but which they cannot enforce in the colonies. They have been constantly asking the Government to enforce that Act in the colonies; they have been constantly asking the Government to make an international copyright treaty with America.

4957. Does not that rather go to show that they have been putting forward exaggerated views, than that the view which I put forward is unreasonable?—No, I think there is a good deal to be said for their view, if in getting the market extended to America they will come to some terms which will reduce the price of books in England as well as in America.

4958. They want to extend their market and you want to reduce the price of books?—Yes.

4959. Those being the two views, all that you say is, "So long as I get the price of books reduced, I do not care whether you get the market extended." That is your view?—No.

4960. Your own object is to get the price of books reduced?—That is one object, because I speak for the English reader; but I wish to get the English author a larger market.

4961. You want him to drop the piece of meat which he has in his mouth and go after the royalty?—No; but I say, "If you have the royalty or any other form of remuneration by virtue of our laws in Canada, let us at any rate make some terms for our readers in England."

4962. Why not let America and the Colonies alone?—On the contrary, I think it would be a very good thing to have free trade in books through the English-speaking world; I think that to be a very desirable object. But if that were not so, we have not been let alone; we have been perpetually pressed by authors and publishers in this country to make terms for the English author in Canada and in the United States.

4963. That seems to me a good reason why you should be let alone, but not why the author should be interfered with. We are here to consider what upon the whole is the best condition for the copyright law; we have not to consider what exaggerated or foolish things may have been said by authors as to what ought to be done in America, or as to what ought to be done by the Canadians; but what we have to do, as I understand the matter, is, to advise what Parliament ought to do here with regard to English authors, and would it not seem the wisest thing to make, first of all, as good a copyright law as you can get for the United Kingdom, and then to consider the question of America and the Colonies as a separate and subordinate matter?—I take it that is what has been done; but the view which you are now suggesting would surely lead to this, that you should do away with all International copyright treaties altogether, that each country should have its own copyright law, that books published in it should be circulated in it, and in no other, and that you should have no free trade in books between different countries.

4964. It seems to me that the vital part of the question is to get a good copyright law for this country, and leave the other countries to make what laws they like: what objection do you see to that view. We as a Commission have to advise upon Home, Colonial, and International copyright. Does it not occur to you that one may very rationally think that the home copyright is by far the most important part of the question; that the rest is dependent upon the will of foreign countries, and that they might be left to settle their own affairs in their own way, and that as regards international and colonial copyright what the English public would like to do is to see after the interests of English authors. Why should we concern ourselves with other countries?—I do not know that I can give any further answer than I have given already.

4965. I want to bring out the difference between the two views of the matter. Taking the existing system as it stands, the only objection that you would

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make as to England is that you think it makes books dearer than you like?—I think books are too dear in England; but when you ask me what my objections to the present law are I should like to recur to the two principal suggestions I made. They were as follows. The first was that where an author has a copyright both in this country and in another country, he should not be allowed to exclude from this country the books which he copyrights in another country; and the second point was that an author should be enabled to get copyright for his book in this country although it was published in another country. Those were my two principal practical points.

4966. As to the second point, as to a foreign book being copyrighted in England I have no questions to ask you; but as to the other part of the question the remark which I feel inclined to make on your evidence, and the point on which I should like to hear you, is this: it seems to me as if a variety of English authors and other persons had spoken somewhat indiscreetly and extravagantly about International and Colonial copyright. I do not suppose that you would disagree with me in that?—I do not suppose I should.

4967. Thereupon you take them at their word and say, "Now let us have a grand scheme; by all means let us have all English speaking people as the market, and on the other hand let us have cheap books in England and over all the world." And it strikes me that this is exactly like the fable about dropping the piece of meat into the river. The dog seems to be willing to drop his meat, and you, thinking that the water will be improved if the meat is dropped into it, exhort him to do so?—On the contrary, I want to get him more meat.

4968. To refer to another matter. You have seen the digest of the law of copyright which has been prepared for this Commission?—I have, and a most valuable digest it is.

4969. You think it does express pretty fully what the law on the subject is?—Admirably, as far as I could judge by one reading, but I will read it again more carefully.

4970. (*Sir J. Rose.*) Looking for a moment at the question in the interests solely of the author, I think it is provided in the Canada Bill that there should be a royalty of some 12½ per cent. imposed on the republication?—That is in the Bill prepared in Canada.

4971. And also that there should be an import duty in addition to that royalty on the importation into England?—That was in Lord Kimberley's Bill.

4972. Do you think, looking at the interest of the author only, that weighted with those two things, the royalty and the import duty, it would be a very serious injury to the monopoly which exists in England?—I am inclined to think not.

4973. In addition to that would not the English author have in the first place the actual benefit of the first publication and the supply of the market here?—No doubt.

4974. He would not be weighted with either of those two conditions, the royalty or the import duty?—No; and I fear that the result of such a system would have been scarcely to limit the monopoly at all. But supposing the royalty system to have an effect, I imagine the result would be to lead the original publisher in the first instance to publish an edition which would probably exclude and keep out the cheaper edition published in Canada, so that the effect would be probably to produce cheap editions early in England.

4975. And any importation of a Canada edition would be weighted in the first place with the payment of a royalty, and in the next place with any import duty that might be imposed?—Yes.

4976. Now with reference to the reluctance of Canada to collect the copyright duty in the interest of the author, is it not the fact that American publishers will give more to the English author if he will forego his right to take out copyright in Canada?—I am told that is so.

39265.

4977. As a matter of fact the English author makes an arrangement with the American publisher?—I believe so.

4978. The English author, therefore, having received his remuneration from the American publisher, has he any interest in enforcing the Canada copyright duty. You are aware that the Canada copyright duty cannot be enforced unless proper certificates and copies of the books are sent to all the Custom Houses in Canada?—Yes, I know that is the case.

4979. When the author having by his arrangement with the American publisher already got the remuneration for the Canada market, is it not his interest and the interest of the American publisher that there should be no duty collected at the Canadian frontier?—Yes, I should think it was so. Of course he would prefer to sell his dear English edition in Canada if he could.

4980. But that being entirely unsuitable to the character of the people, he makes an arrangement with an American publisher, and it is the common interest of the American publisher and the English author that there should be no duty collected at the Canadian frontier?—Yes. I should think it would be more to the interest of the English author to take the 10 per cent. we will say from the American publisher than to take the precarious 12½ per cent. on the Canadian frontier.

4981. Do you see any remedy for that condition of things except publishing under a royalty in Canada?—You mean any remedy for the purpose of enabling publication in Canada? No; I am not aware of any other way. If the Canadians insist upon publication in Canada I do not see any other way of meeting their views but the plan of a royalty.

4982. Is it not now therefore in the interest of the English author not to take out a Canadian copyright?—I have always thought that under the Act which was passed in 1875 he would get better terms by dealing with an American publisher than by publishing in Canada.

4983. (*Mr. Trollope.*) I understand that you are opposed to the present system of British copyright because it makes books dearer to the British readers?—That is putting the thing in an extremely broad way. I made objections to certain features in it which I thought might be remedied; and in supporting my view on those particular points I made some general observations, but I made no attack on the principle of English copyright generally.

4984. But the opinion that you have given has been supported by certain calculations, and I have no doubt you are willing to have those tested?—Certainly.

4985. Will you, therefore, refer to the final clause of your answer to question 3928, and will you allow me to examine the figures there given as to the cost and profit of such a book as one volume of Lord Macaulay's Life. You have stated that on an edition of two hundred and fifty copies sold, we will say at 16s. a volume, the cost would be 110l. 5s., and the aggregate profits to be divided between the author and the publisher would be 89l. 15s.?—Yes.

4986. You have there not included the cost of advertising; but if I say that the cost of advertising and printing and publishing the book would be 133l. 12s. (which I do state) my figures would be so near yours as probably not to meet with contradiction from you?—I have not the least notion what the cost of advertising is. I did not give those figures as an accurate account of the cost of advertising or the author's profits; they were merely put in for the purpose of illustrating what I believe to be the general truth, that in the case of a monopoly a person may get as much profit by selling a few things at a high price as by selling many things at a low price. I have never stated here that that is the sum which the author and publisher would get; it is merely as a proportion to show that when selling two hundred and fifty copies at 16s. the remuneration to the author and the publisher would be very much the same as selling a thousand copies at 6s.

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4987. But if I show you that in both cases there would be a very considerable loss and no profit at all?—That is very likely, but does not affect the use I made of the figures.

4988. And that the comparison which you make between two hundred and fifty copies sold at 16s. and 1,000 copies sold at 6s. is altogether erroneous?—If you can show that the proportion is wrong, of course I shall at once admit it; but as regards the actual sum paid to the author and publisher I have not pretended to say anything at all, because I know nothing about that. But there is one mistake which I have made here, and I may as well admit it at once; I did not separate the profits of the retailer from those of the author and publisher. The retailer will require a rather larger per-centage upon the larger number of copies than he will upon the smaller number of copies, which will somewhat reduce the proportion that will be paid to the author and publisher. I will not trouble the Commission with figures now, but I will put in in the Appendix some figures in which this item is taken into account. (*See paper in Appendix marked M.*) I will put those in. I did not pretend to give these figures in my evidence as actual sums which would go to the author and publisher. I did not give these figures as actual facts, but simply as showing the proportion of actual receipts which would go to author and publisher on the two hypotheses of selling few copies at a high price, and selling many at a low price.

4989. Do you not afterwards state that 1,000 copies, published in the same shape and the same form as the 250 before alluded to, if sold at 6s. only would give about the same profit as the 250 sold at 16s.?—Yes, I did.

4990. Then if I were to say that those 1,000 copies, printed and published in the same form as the 250, if sold at 6s. would produce a loss of 52*l.* 17*s.* 7*d.* upon the whole speculation, instead of producing any profit at all, you probably then would allow that the information which has been given to you is misleading?—Before making any admission of the kind I should like to see your figures and have time to look into them.

4991. The accounts which I have had prepared ere have been prepared with a great deal of care, and it were necessary I should get the Commission to call the publisher who prepared them for me to test them; but in the meantime they are perfectly at your service?—My data are these; that the cost of the production of 250 copies of a volume like Macaulay's *Life* would be about 8*s.* 10*d.* a piece; that the cost of producing 1,000 copies in the same form would be 4*s.* 2*d.* a-piece. If those are wrong I quite submit to be corrected. I can only say that I got those figures from a most trustworthy source.

4992. But if I admit that in your cost of production you are accurate, or very nearly accurate, but show that you are quite inaccurate in your results as to the sum realized by the sale, would not that invalidate your evidence as much as if I invalidated your statement as to the cost of production?—I should require to see your figures before I admit that. I include in what is given to the author and publisher the expense in advertisements, the profit to the author and the profit to the publisher. Then there is one other item, what is given to the retailer. I have endeavoured in the figures that I have just put in to separate the profit of the retailer.

4993. You have, I think, presumed, in taking the sale of 1,000 copies to be sold at 6s. a copy, that 6s. a copy will be received by the publisher and author conjointly?—Yes, I have.

4994. Then if I tell you that out of that 1,000, only 969 could be sold, because 31 would have to be given away, and that out of that 969 only 930 would be counted as sold, because 39 would be given in the sales made; and if I were to tell you that these sold at 6s. would realise to the publisher 4*s.* 2*d.* a piece; and if I were to tell you that after that 7½*d.* per cent. would

be deducted as allowance to the trade so as to bring down the sum from 6s. to little more than half; and if I were to prove to you that the figures from which I am now quoting were correct, would you not then acknowledge that the inference drawn from the information which you have received is incorrect?—Certainly not, because I have entirely avoided the whole of those complications. I have taken the price paid by the public, namely, 16s. in one case for 250 copies, and 6s. in another for the 1,000; and if the public pay 16s. in one case and 6s. in another that is money which is paid and it must go somewhere. I have kept entirely out of all those complications of publishing price, and all the rest of it. I have merely taken the sums given by the public for the book in each case, and have attempted to show how that would be distributed.

4995. Is it not your object in the answer of yours from which I am quoting to show that a thousand copies sold at 6s. would give the author and the publisher the same profit as 250 copies sold at 16s. would give?—Yes; that it would give the same aggregate sum to be divided between author and publisher.

4996. And do not the figures which I have now put before you show that that would not be the result?—No I do not think they show that at all. You have assumed in your figures that the whole number of copies would not be sold, but my very assumption is that the whole number of the copies are sold, and that the public get them and pay the 6s. for them.

4997. I have intended to assume that all the copies would be sold which were saleable. In the deduction I made from the thousand of 31, I have taken only those which have to be given to the press, and to authors, and to the public libraries; and in that way I arrived at the 969 which were sold?—You will have to deduct them in both cases.

4998. Going now to another point, if you will look at the end of your answer to question 3930, you say, speaking of the introduction of the very eligible Tauchnitz edition, which we all like so much, that it is kept out of England like the rinderpest even though produced with the sanction of the English author. Has the sanction of English authors been given for the introduction of those books in England?—No, that is my point. I say that this is an author's edition. If it is not, it is the English author's fault, because as there is a copyright treaty with Germany he can prevent the publication there. Baron Tauchnitz is not at liberty to publish without the consent of the English author.

4999. But the English author does not give his consent with a view to the book being brought into England, but expressly on the understanding that the book is not to be brought into England?—That is just what I complain of.

5000. Then it is hardly fair to say that the book is kept out like the rinderpest "even though produced with the sanction of the author," seeing that the sanction of the British author has never been given?—I did not say that the book was like the rinderpest, but that it was put into the same clause of the Customs Act as the rinderpest.

5001. I wanted to show that you could hardly be correct when you say that the book is kept out of England "even though produced with the sanction of the author" for the English market?—It is produced with the sanction of the author.

5002. But not for the benefit of the English market?—No, that is what I complain of. I complain that the English author should have one monopoly in England and another in Germany, and that he should be allowed to keep books out of England that he publishes in Germany.

5003. Then in your answer to question 3933 speaking of Mr. Morgan's book on the Law of Literature, you say that he has said that literary British production has 175 per cent. in its favour over American production?—That is so stated by him, and very much astonished I was to see it.