5427. Then really, upon consideration, would it not be more difficult to carry out your plan, and give rise to greater complications, than to have a simple registration to which everybody could refer?—I think not; but I propose to make some further remarks on the question of registration.

5428. (*Mr. Trollope.*) Could you draw any line, if registration were compulsory, between the *chef d'œuvre* of an artist exhibited at the Royal Academy, and an ornamental initial letter for a little book?—No.

5429. (*Sir H. D. Wolff.*) I asked you just now with reference to the catalogue being registered and giving a provisional protection to all the works mentioned in it, and when I asked you that question you said it would not be sufficient, because the artist might have sold the right; but supposing that in each catalogue which was registered you made it necessary for the name of the owner of the copyright also to be placed in the catalogue in some such way as this: "The copyright is the property of Mr. So-and-So, the publisher;" if that were in the catalogue and that catalogue were registered, surely that would be a sufficient protection both to the artist and to the owner of the copyright?—I think it is needlessly imposing a great deal of trouble upon the Academy, or any other body exhibiting pictures.

5430. Do you think that the Academy are the only people to be consulted, and the public not?—No; I think this, that when the public see a work, they ought to presume that the right is vested in someone. You might compel an artist to put his name on every work that he paints, or his monogram.

5431. Take the case of Miss Thompson; she was an unknown artist, and put a picture into the Academy. The Prince of Wales or somebody took an interest in the picture, and it became fashionable, and naturally the whole country wanted to see what it was like. Supposing the "Illustrated News" wanted to reproduce that picture, it would not damage the picture very much or the artist; but while the whole thing is before the public, would you prevent the "Illustrated News" reproducing it, because they could not find out who the copyright belonged to?—I cannot see that they would have any difficulty in finding out to whom it belonged if they had a mind to.

5432. The artist might be in America?—Then they could write to him.

5433. Then the whole public interest would be over by the time they had found it out?—I do not see why you should legislate for the "Illustrated London News."

5434. We encourage artists, because we consider it is for the benefit of the public to do so?—That is by giving a right to the artist a public benefit is eventually conferred.

5435. By encouraging the artist you encourage the taste for art in the country?—Just so, a correct taste.

5436. Therefore the more that that artist is brought within the grasp of the public the greater the interest of the public, and the more reason the public have to encourage the artist?—I scarcely endorse that view; but I wish to add a few words with regard to registration. Copyright being vested in the artist with optional registration may be considered as a benefit rather than as an injury, both to the purchaser and to the public. To the public because it would tend to prevent spurious copies being made and offered for sale whereby they, the public, might be deceived or defrauded; and to the purchaser, because the value of his original painting would, to a certain extent, be liable to be depreciated by the existence of such spurious unauthorised copies; therefore registration should even in the public interest not be too rigidly insisted on, or too exactly enforced. That no manifest practical utility is subserved by registration was maintained all but unanimously by the Royal Academy at a meeting specially convened to consider the question, and is perhaps sufficiently shown by the fact that in order to be in a position even to commence a search in the registry the person requiring any information supposed to be derivable therefrom must first be acquainted either with the name of the artist or with the title of his work. This being so, it would surely be easier, simpler, and less costly for him to make application to the artist himself, if alive, or to his executors or representatives, if dead, than to waste valuable time in searching books, wherein the greater the number of entries the greater the difficulty of search, for an entry which, after all, may be duly inscribed on the register under another name or designation from that known to the searcher. There can be no doubt as to the course which any honourable seeker for honest information would elect to adopt. Registration, again, is of no real use to the "pirate," for even with its assistance he cannot always make sure as to what is safe prey for him to feed upon; to the honest man it is of but little value. As to the publisher of engravings, it would be a matter of professional courtesy, if not of positive necessity, for him to communicate with the author, the artist, as the engraver employed would in most instances require some assistance from the artist as to the manner in which his engraving ought to be carried out so as faithfully to render in black and white the intention and idea of the painter. Registration, to be of any use to the copyist for sale (who, as a rule, must know full well that he is pirating somebody's work), ought, so to speak, to ear-mark the particular copyright entered; but an exact short description which under any circumstances would be sufficient is by no means easy to draw up, and requires a practised hand and considerable forethought. As regards the status in law of registration, registration has not been, neither is now required for engravings first published in this country. According to the Book Act, proceedings can be taken for offences committed prior to entry in the registry if registration is effected before any action is commenced, but under the 25th and 26th Vict. c. 68, in the case of paintings, &c. no proceedings can be taken for anything done previous to registration. This last enactment would seem to be unjust. It is certainly very unfair to the comparatively innocent seller, for after notice given to him by or on behalf of the proprietor of the copyright he cannot sell or offer for sale, without rendering himself liable in penalties, that for which he may have given valuable consideration, whereas the chief offender may and would get off scot free. It would be more reasonable that the man who copies that in which he must of necessity know he has acquired no right should be punishable, whether formal registration in the first instance has taken place or no, rather than after subsequent registration the seller who may possibly be ignorant of any right being claimed.

5437. (*Chairman.*) Will you pass now to your next point, if you please, avoiding as far as possible anything which you have already stated to us. The next point I have before me which you suggest is as regards the copyright in paintings, and you suggest that it would be better and more just to the artist himself that he should retain the copyright than that it should vest in the purchaser. This is a point I think that you have dwelt upon at some length before; do you wish to add anything to that?—May I add three reasons to the two I gave before.

5438. As shortly as you can, if you please?—I said, first, because it would give the artist the right to prevent inferior and worthless copies of his works from being made; and secondly, because such an arrangement would make it easier to ascertain and trace the ownership in the copyright; and I wish now to add, thirdly, because it would relieve the artist from the disagreeable necessity of raising the question of copyright when treating for the sale of his work; fourthly, because it would assimilate our law to the practice adopted in most continental states, which practice would seem to work well; and fifthly, because in the event of untoward circumstances, the family of a deceased artist might possibly derive some pecuniary advantage.

5439. Then there is another point upon which we

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have also had a good deal of evidence, namely, the reasons in favour of substituting natural life and a certain term of years after death instead of a fixed period of years from the commencement; that is a point on which we have had a good deal of evidence; do you wish to add anything to that?—I wish to say that I would give as the first reason, that the difficulty of fixing the actual date of first sale, of publication, or of disposition, is obviated; and secondly, that all the copyrights of any given artist would have one common determination. Further that there would be a greater reciprocity in the term of copyright to that existing in the majority of continental states having international conventions with this country.

5440. Then there are certain questions that you wish to refer to, in your former evidence; can you tell us what those are?—At 3168 I was asked as to artists feeling aggrieved at having to take a memorandum from the purchaser in order to retain their copyright in their work. I wish to say that many artists are not in a position to, cannot, dare not so much as suggest the subject of copyright, lest it should bring about hesitation in the mind of the would-be purchaser, and thereby involve the loss of sale of their painting. Even the Royal Academy themselves (as a body) are unwilling to try the experiment of compelling the purchaser of a painting to sign a memorandum of reservation of copyright, and I believe it to be difficult, if not all but impossible, for a single individual, more especially one who has not yet made his mark, to insist upon a formal reservation of copyright, in however simple a form.

5441. (*Sir H. D. Wolff*). Would it not to a man who had not made his mark be rather an advantage for his works to be pirated?—I should hardly think so.

5442. There is no hardship to him if he does not like to be called upon to make an agreement about it?—Later in life there might be.

5443. In the case of a man's first work it would be an advantage to him if he were pirated; therefore the hardship would only fall upon this young man who is beginning life?—It might be a disadvantage of which, in after life, he might feel the result.

5444. But a great artist would be compensated for that by the great fame that his picture attained; for instance, if some of Sir Edwin Landseer's pictures were published early in life without his consent, it would have tended to make him so popular that his later pictures would have obtained probably a larger price on that account; do you not think so?—The reverse might be the case if without the artist's consent his works were badly copied, but in any case I hold that no person is justified in copying the work of an artist without his permission.

5445. You say it is a hardship upon artists to have to ask the purchaser to make an agreement; would that hardship be great on a man like Sir Edwin Landseer; a man like Landseer would not be afraid of making that stipulation, would he?—No.

5446. But a small man would be afraid of it, a beginner?—Or a man not so great as Landseer.

5447. If he had the alternative of not selling his picture at all, or forfeiting the right to copyright, would he refuse to sell his picture?—I think in some instances he would.

5448. Then there is no grievance to him if he is obliged to ask for the agreement, because it merely prevents him selling his picture?—I do not quite agree with you in that respect.

5449. You say he would rather not sell his picture? —Sometimes he would rather not.

5450. Therefore when he does not fear that, he would hold out for the agreement?—Possibly he would hold out, but nevertheless it would be a hardship upon him.

5451. (*Sir J. Benedict*). Do you not think it would be advisable to make a provision for the heirs of an artist who, by neglect or wilfully, has not registered his right? Would it not be some consideration to say that if during five years after the death of the artist the heirs registered that work they should enjoy the benefit of such registration and not be deprived of it altogether?—I do not see why they should not be deprived of it if the artist has neglected to register during his life.

5452. If he does it wilfully, and the family suffer by that, there ought, I presume, to be a provision to protect them. An artist might lose his wife, marry some one else, and deprive his family of a right which they could otherwise acquire?—It would clearly be his own fault.

5453. It might be his fault, or not his fault, but do not you think that the heirs, who might be in very depressed circumstances, should not be punished for the carelessness of the artist and have a right to claim a kind of indemnity after his death?—I think that his lifetime would suffice for him to make up his mind whether he chooses to register or not.

5454. (*Chairman.*) What other point do you wish to refer to?—I was asked, at question 3180, whether any one could copy Frith's "Derby Day," in our gallery. Mr. Frith has written to me, stating that the copyright in this painting was sold to Mr. Gambart; but that the painting itself was purchased by the late Mr. Jacob Bell, and was lent by him to Mr. Gambart in order that the engraving might be made. I would beg leave to point out that copying a painting for private study or improvement is not an offence under the Act. The offence is doing it for "sale, hire, exhibition, or distribution" (section 6). The adoption of such a course is, however, far from desirable. It cramps the imagination of the copyist, and also tends to fraud.

5455. Then the next point is what?—At question 3184 I was asked whether anyone can copy a painting that the artist has not disposed of. In reply I would say that if a painting can be got at, anyone may copy it for mere practice, but if the artist has registered his right he can stop the sale of such copy.

5456. What is your next point?—I was asked, at questions 3195–7, as to the term of copyright given by the Act of 1862 being unfair, and I would wish to add that the term of seven years after death only is also unfair, because it would give to an artist in years and of experience a copyright of less average duration than that conferred upon a younger man, a mere novice in art. It is mostly when a man is of mature age that his copyrights become valuable, and surely in such a case it is but fair that if, may be, he should have a family more or less dependent upon his exertions, that family should be entitled after his death to reap the benefit of his labours.

5457. What is the next question?—I was asked, at question 3201, as to whether copyright at the end of the time during which registration is open to the artist, he having neglected to register, should cease altogether, or be vested in the purchaser. Although I beg to submit that it would be better the copyright should lapse, still I cannot see any objection to the first purchaser (provided he is still the owner of the painting at the end of such time) having the right of registration, if effected within three months of the expiration of such time.

5458. What is the next point?—At questions 3265–6 I was asked as to the application to register made by a first party. I would suggest that it might be provided that in such an application the signature of the applicant should be witnessed or verified.

5459. Have you any other point to bring before us?—I was asked, at questions 3269, 70, 71, as to grievance from want of care on the part of Stationers' Hall. I wish to show rather how a grievance might arise from want of sufficient care with reference to the right being vested in the person registering. In the case of Walker *v.* Graves the right to question the accuracy of the registry was not permitted to the applicant, because he was held not to be a party aggrieved within the sense intended.

5460. (*Sir H. Holland.*) Have you any suggestion for improvement of the law in this respect?—I was going to show how easily an error might accidentally occur in the registry. It came within my knowledge very recently that a photographic publisher [in

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Copenhagen had (legally as he himself believed) conveyed, in writing, to the firm I represent, all his interest in and copyright (so far as relates to Great Britain) of two photographs published by him of Her Royal Highness the Princess of Wales. We might in good faith (also honestly believing that we had thereby acquired all legal right therein) have registered our supposed title. Any person seeking to have such entry removed might not prove to be an aggrieved person within the meaning of the Act; and such entry, not being a false entry wilfully made, would not be indictable as a misdemeanor. I beg to be permitted to bring forward these instances to show the necessity for some more reasonable restrictions being placed upon the right to register

5461. Not so much reasonable restrictions on the right to register, as that you wish to see greater facilities for setting aside a mis-statement. How can you give the registrar the power of restricting the right?—If he were a legal gentleman appointed for the purpose by the Government, he would be able to say, "You cannot make that entry; there is no convention between Denmark and England," and thus he could prevent a mistake getting on the register.

5462. (*Chairman.*) That points to the necessity of greater care?—That he should be able to see if there is a *primâ facie* right.

5463. (*Sir H. Holland.*) If the person who registers is to test the legality of the entry, he must be well acquainted with the law of domestic and international copyright; and therefore a man of legal education?—Yes. Then I was going to refer to the difficulty of seeing the original entry; even in the case of proprietors, if you wish to see what you have registered, they will not let you see the register; they will give you a copy of it, but they will not let you see your actual signature. You may have retained no copy of it; and then you have no means of knowing whether the copy they give you is really a copy of what you sent in.

5464. You have no means of testing the copy of the original?—That is what I say; and then I know that entries sent in have been subsequently altered.

5465. (*Dr. Smith.*) By whom?—I do not know by whom, but altered in the office.

5466. (*Chairman.*) How did you ascertain that?—By knowing what I sent in. I kept a copy of what I sent in. And when I got another copy I found it did not exactly agree.

5467. (*Sir H. Holland.*) Has a case of that kind come under your personal experience?—Yes.

5468. Recently?—No, a long time since. I do not mean to say it was materially altered, that it would have falsified the entry, or anything of that sort.

5469. Has the practice of not showing you the original entries been kept up till recently?—I have not recently applied to see them. Then another thing is that to a person who does not know how to fill up their forms, Stationers' Hall do not give any information. Supposing the person asks for assistance as to how to how he is to fill up the form. They will not give it him; they say, "Fill it up yourself."

5470. Supposing he fills it up inaccurately according to their view, they will suggest to him, I presume, the right way of filling it up before they make the entry?—No, as far as I am aware they will not.

5471. (*Chairman.*) Is there any other point which you wish to remark upon?—With regard to the penal clauses I should like to make some remarks. I was asked whether I was prepared to abide by sections 13, 14, 15, and 16, of the Bill of 1869, and as to whether any person might demand of any other person an explanation of where he got the copy he was carrying about, and so on. I would wish to say that the more I think over these clauses, the more I am driven to the conclusion that they are, in some form or another, not only desirable, but most essential. They are of the very essence of the Bill so far as regards the putting a stop to those practices of copying, reproducing, and multiplying, which it is the professed object of the Bill to suppress. I venture almost to think that Sir Henry Holland would also agree with me as to this, had he but for once had personal experience of the difficulty of getting at, or rather behind, these hawkers or petty dealers. It is not so much that it is sought to punish these men (who, by the way, as a class, are by no means so innocent of the unlawfulness of their calling as many would fain suppose) as, through fear of the consequences, to induce or force them to give up the names of their employers or backers, the more really guilty parties, who put forward these men of straw, having no place of business, or even so much as a permanent residence, being here to-day and there to-morrow, who, moreover, set the owners of copyright at complete defiance, telling them to their face (this has been told me) that all they can do is to summons them, when they will be off; that they cannot get a warrant to apprehend them, nor so much as temporarily detain their copies. These jackals of their trade are put forward by the producers or importers of illegal copies precisely for the very reason that they are not get-at-able (if I may be permitted to use such an expression) by the owners of property. I would submit for your consideration the suggestion that the more stringent, the more effective, the more speedy the remedies provided, the less probability will there be of the necessity of their ever being enforced. The evil would cure itself.

5472. (*Sir H. Holland.*) Then beyond the seizure of piratical copies, you want to get at the person who originally made the copies of the works, and then sold them to the hawkers?—Yes. You asked me whether it would not be inquisitorial to ask the man himself where he got the copies, because he might not know they were unlawful, and as to seizure without warrant of piratical copies in the possession of hawkers. I was thinking that the person offending could, during the 48 hours, ascertain whether or no the demand was made by, or on behalf of, the registered proprietor. If the notice or demand had once been served personally, the offender would have to appear on the hearing of the summons, or abide the consequence of a warrant in default. If one had to go before the magistrate first to give *primâ facie* evidence that the copies were unlawful, the magistrate would probably desire to have the copies brought before him, in order that he might decide on personal inspection of the copies and originals; but this Bill would enable you to detain the copies, the offender being permitted to go free.

5473. (*Chairman.*) You think in short that those powers are essential?—I do. If the copies in question were obtained by the person offending, without his knowing them to be unlawful, he would only be too glad, even of his own accord quite apart from any compulsion, to give, or explain the reasons why he could not give, the information required. Again an innocent person would hardly be likely to be carrying about large numbers of these copies for sale. They should not be seizable by the proprietor, but by an officer of police on his behalf. A saving of right of action might be provided if seizure malicious or made without reasonable cause.

5474. (*Sir H. Holland.*) You vary then from your former evidence, and now, after having considered the question, think these clauses are not too strong?—I always thought them necessary though possibly subject to modification. They are not I think so dreadfully severe as they may at first sight appear. I would suggest leaving out the words "carrying about."

5475. (*Chairman.*) You stated before that you would not be prepared to retain the 13th clause in its integrity. Now, on consideration, you think it important that it should be retained?—With one or two verbal alterations.

5476. What is the next point?—May I say a word or two about engravings? I would submit whether registration in engravings might not be insisted upon within three months of publication in the completed and best state, and then where an engraving is

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made for a good or valuable consideration, that the copyright might vest in the person for or on whose behalf the same is made or executed. That is the present law. This is the more necessary, because an engraver will employ other engravers and pupils to assist him in engraving a plate, which also constitutes a difficulty as to the life of the author being the term adopted, because an engraver might die, and when he dies, his plate might be completed by another engraver, so that it would be difficult to say what the life of the author was in such a case. If the copyright is vested in the person for whom the work is done there is no question about it. I mean this, that in regard to copyright in engravings, it is important to remember that most engravings are produced on behalf of someone else, rarely by engravers themselves for their own benefit; and that if the copyright were vested in the same way as paintings in the author, it might in some cases raise a very considerable difficulty; and the question is, whether the enactment of the old Engraving Act might not be retained, whereby the copyright is vested in the person causing the engraving to be made.

5477. (*Mr. Herschell.*) As I understand, you are suggesting a distinction between painting and engravings as regards the copyright, in the one case remaining in the artist, in the other in the person giving the commission?—Yes. I mean that the present law should be retained. Then I should like to make another suggestion. There has been a considerable difference of opinion as to the meaning of the words "print or prints" used in the Engravings Acts. We always speak of a "copy" of an engraving. A print is held to be a distinct thing from a proof, though both prints and proofs are copies. In consequence of this technical use of the term "prints" many plates have been published in the first state without the date of publication upon them, in error. I was thinking whether it might be enacted that where a date has been engraved on a plate, and printed on every print or cheapest impression, although the proof impressions may not have borne a date, the copyright should be considered as valid to the end of the term on registration by the lawful proprietor within three months of the passing of any new Act. I mean this, that where that error of not putting a publication line has occurred, not through wilful omission, but simply through an error of interpretation as to the intention of the Act, upon registration within three months such engravings should have their full term of copyright. There has been no decision on the point what is the meaning of prints. There is another question, namely, where a license to copy has been granted by a proprietor to another for a particular use by him there might not be some clause enacting that a copy made by any other person of such copy so legally produced be deemed a copy of the original work and punished accordingly. You give a person a license to copy a work; somebody copies the copy; you cannot show the second copy to be a copy of your original work; and it might prevent you giving a person the right to make a copy which would be beneficial to the public, because you would fear that someone might copy that and you might not be able to get redress.

5478. I thought copies of copies had been held to be piracies?—It has been held that photographs taken from engravings, of which the original paintings were registered, were copies of the original paintings; but I do not think there has been any decision on this question, whether if you give a license to a person to copy a work, and that copy you have allowed to be made is copied, you can prevent such recopying. If you cannot it is hard, because it may tend to prevent your giving permission to anyone to copy. Then with regard to pirating engravings by photography, if the Commissioners object very particularly to these severe clauses I think it might be materially checked by the adoption of the Russian law. There is a Russian law which makes it compulsory to a proprietor of photographs to place his name on every photograph that he publishes. A similar law is now applicable here to engravings; an engraving must have the publisher's name upon it. I cannot see any reason why photographs should not have the publisher's name upon them in the same way. What publishers complain of is, not that they are compelled to put their name on the engraving, but that if by accident it should get wiped off in printing they should lose their copyright. If it were compulsory under a penalty to put the name of the publisher of a photograph on every unregistered photograph then you would see by whom it was issued; or persons might be compelled if the photographs were not registered to place a registered monogram or trade mark upon them. You would at once know by the monogram by whom they were published. Then if you found an unregistered photograph published without monogram or name upon it you should be empowered to seize it. This would militate against the sale of indecent photographs as well as check piracy.

The witness withdrew.

CHARLES ROBERT RIVINGTON, Esquire, examined.

5479. (*Chairman.*) I think you are clerk, are you not, to the Stationers' Company?—I am.

5480. Have you, as such clerk, anything to do with the registration of copyrights?—No, nothing whatever.

5481. That, I think, is conducted by a gentleman who has been here before, Mr. Greenhill?—Yes.

5482. Is he an officer appointed by the Stationers' Company?—He was appointed registering officer in 1845.

5483. The office is in the gift of the Stationers' Company, is it not?—By the Act the Stationers' Company are to appoint a registering officer.

5484. Is this appointment for life?—I apprehend it is for life. There is no provision in the Act for removing the officer.

5485. (*Mr. Trollope.*) I suppose the Stationers' Company would have the power of dismissing him in the event of malpractices?—The Stationers' Company, I apprehend, would have the power of dismissing him for reasonable cause, but not of their own motion, not without reasonable cause.

5486. (*Chairman.*) In point of fact, do you know whether it is an appointment that is annually renewed, or not?—As a fact it is not. Mr. Greenhill was appointed registering officer for the purposes of the Copyright Act, and the appointment is not renewed annually.

5487. There are certain fees paid for registering under the Copyright Act; do those fees go into a general fund for the benefit of the Stationers' Company?—The Company have no control over the fees whatever. The Act directs the fees to be paid to the registering officer. He receives them; he does not account to the company for them; he is required once a year to deliver returns to the court of the amount of his emoluments.

5488. A general statement. But does that classify the sources of his income?—Yes; it states what he receives for copyright entries, and also the amount that he receives for certain work done for the Company.

5489. Has the income been a progressively increasing one which is derived from the registration of copyrights?—Certainly.

5490. (*Dr. Smith.*) Does the registrar pay himself for all the assistance which he requires for the due discharge of his duties, or do the Stationers' Company now allow him anything for that purpose?—He is not allowed any money payment, but he has the advantage of the services of two persons who are

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partly employed in the company's business, but when they are not employed in the company's business they are at liberty to assist him in the business of the Copyright Office. One is the beadle of the company, who was in a publishing house, a man of very considerable intelligence, the other is a mere porter. But I apprehend that but for their assistance he would require some other assistance than what he pays for himself.

5491. Do you know how many clerks he pays for himself. Is it one or two?—I know there are at least two. I think only two.

5492. Two in addition to these persons of whom he has partly the use?—Yes.

5493. (*Chairman.*) Are you yourself, as clerk, acquainted with the system of registration?—Yes.

5494. And the amount of the fees that are paid for registration?—Those are fixed by the Act.

5495. In the case of an author who comes to register his work, what does he pay?—To make an original entry he pays 5*s.* If you require to enter a publication at Stationers' Hall, what you would have to do at present is to fill up a form which you obtain at the Hall from the registry officer for the sum of 1*d.*, and that filled up and properly signed, is lodged, with the sum of 5*s.*, and then it is the duty of the registrar to make the entry.

5496. Have you with you any of those forms?—No; I understood that they had been brought before you already.

5497. Following up that point, has the person who makes the entry any opportunity subsequently of seeing that entry in the original register?—No, not without payment of the fee of 1*s.* for search.

5498. Supposing he wishes to do so, has he a right of seeing the original?—There is no provision in the Act for producing the original entry. He is entitled upon payment of 1*s.* to see the book in which the form he has left has been entered, that is the register book.

5499. But he has no opportunity of testing the correctness of that with the original entry?—The Act does not provide that; the registrar is personally responsible for the entries he makes being in accordance with the original form.

5500. But the author has no right subsequently to come and see the original entry, though he has the right to get a copy of it; is not that so?—That is exactly so.

5501. Can you tell us at all whether any considerable proportion of the books that are published are now registered in Stationers' Hall?—What I can say upon that is not evidence, it is only hearsay; but my own opinion is that a very small proportion are.

5502. Do you wish to add anything to that statement?—I think it is only natural that it should be so at present, for the copyright registry at present is mainly used (with regard to what I may call *bonâ fide* entries, that is entries of books). The main use which the registry is at present is as a means of transferring copyrights from author to publisher, or publisher to publisher, without payment of any stamp duty, and without any necessity of any legal document whatever except the simple form of assignment. Then the other use of the registry is, that if a work is pirated the owner of the copyright must go to Stationers' Hall and leave the form and pay 5*s.* before he can ground his proceedings for suppressing the piracy. Now the Stationers' Company think that the registry, if it is to be of as great use as it ought to be to the public, should be a registry of all books in which copyright is existing at the time. I apprehend that it would not be suggested to make compulsory registration, that is to say, to subject owners of copyright to a fine if they did not register, but the registry, to be of practical use to the public, should be a registry of the copyright existing at the time; persons not registering within a certain period after publication should lose their copyright. Then if that is done the fee should be reduced. The fee of 5*s.* at the time when this Copyright Act was passed did not produce, and was not expected to produce, enough to pay the expenses of the registry office. Of course, if any such suggestion as I have made be carried out, the fees might be and ought to be reduced very considerably. Then further than that, the present system of registration is very imperfect, because if you go to register a work at Stationers' Hall you pay your 5*s.*, and you come away without any acknowledgment or record that you have made any registration at all; and if you want any evidence that you have registered you must pay 1*s.* for a certificate of the registry. Now, whatever fee is paid for the registration should include either a certified receipt or a certificate that the work has been registered at Stationers' Hall on such a day, and should also bear a reference to either the particular page or the number of the entry.

5503. Then do I understand that at present it costs 6*s.* to register and to place yourself in a position to obtain the benefit of your registration; namely, 5*s.* and 1*s*?—I think the certificate of assignment under the Act is more than 1*s.*; I think a certificate of registration is 5*s.*

5504. (*Dr. Smith*). Then I understand you to say that the Stationer's Company think that the fee might be reduced with advantage?—Certainly, if the registration is made compulsory within a given period.

5505. But with the present number of books registered are you of opinion that the fee might be reduced?—It is rather difficult for me to make a suggestion about that, because the Stationers' Company do not appear to have very much control over the present registrar, and I suppose that if the fee is reduced it would seriously affect him; but supposing we put the registrar out of the question altogether, and suppose the office was vacant. I think the company consider at any rate that the present fee should include a certificate of the registration, that nobody should be required to pay 10*s.*, and that in fact the fee might be reduced considerably, might be reduced I think at least to 3*s.*; and there would still be enough to pay the salary of a registrar, and to pay for the assistance there is now in the office.

5506. (*Mr. Trollope.*) In that case would it be necessary do you suppose to give compensation to the present receiver of the fees?—Yes, I think it would.

5507. Who would give that compensation?—I apprehend that the alteration would be carried out by Act of Parliament, and the registrar would have an opportunity of appearing himself. The company never had, and do not desire to have, any pecuniary benefit whatever from the registry.

5508. But in suggesting that this reduction should be made in the fee, you contemplate the idea that compensation should be made from the revenue to the servant of the company who now receives the fee?—I do not suggest that any alteration should be made in the fee unless there is an alteration in the mode of registry. I think if any alteration is made at all, the more important thing is to make the registry really useful. At present there is a very general idea I believe amongst the public, that if they go and search the registry at Stationers' Hall they will be able to ascertain there whether works have been published.

5509. I am only meaning at the present moment to confine myself to the pecuniary condition of the registrar. You have said that the fees might be conveniently reduced, and I want to know whether you consider that in the event of such reduction taking place compensation should be made to the registrar for his loss of income, and if so whether that compensation should be made out of the public revenue?—If you take away from the registrar something he is entitled to, I apprehend that you must compensate him. That is the real difficulty in making any alteration in the Stationers' Company.

5510. And from what source do you think that compensation should come?—The company do not want any pecuniary benefit from the registry. My difficulty is that I do not see why the country should be taxed in order to pay the officer; but on the other

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hand it would be contrary to all usual rule to reduce a person's emoluments without giving him compensation.

5511. But supposing that by Act of Parliament it should be arranged, not that the fees should be reduced, but that so far as the Stationers' Company was concerned they should altogether be discontinued and that the registration should be carried on in a different office, say at the British Museum or elsewhere, by a person employed by the Government, do you think that in that case any compensation would be due to the servant of the Stationers' Company?—As registering officer he is not the servant of the company, that is the question.

5512. Is he the servant of the company?—The company simply have under the Act the duty of appointing an officer to carry out the provisions of certain Acts.

5513. Is then the registrar the servant of the Crown; clearly not, I apprehend?—No, certainly not.

5514. Therefore is it not clear that he must be the servant of the company?—No, I think not; the company have no control over him.

5515. The company appoint him?—They cannot interfere with the registration.

5516. The company appoint him?—They are required by the Act to appoint him.

5517. And in the improbable event of his misbehaving himself it would become the duty of the company to dismiss him you have told us?—Yes, and to appoint another.

5518. And looking at those two facts are you not prepared to admit that he must be the servant of the company?—No.

5519. (*Chairman.*) You appear here, I think, as representing the Stationers' Company?—Yes.

5520. Have you any view or suggestions to make on their part in reference to the subject of this inquiry?—Yes, on behalf of the Stationers' Company, first of all I wish to say that the company are very desirous that the mode of registration should be very much improved. At present the registry at Stationers' Hall does not carry out the purposes it was intended to at all. I believe I am right in saying that when Serjeant Talfourd obtained his Act he was under the impression that the clause he put in providing that no person should be able to take proceedings to maintain copyright, to prevent infringement, without registering at Stationers' Hall, would result in all people coming to Stationers' Hall who had a copyright in order to register; but as there is no necessity to register at all until they want to take proceedings people do not come. The registry is not, as it ought to be and as I apprehend it was intended to be, a record of all the works in which copyright exists. The company think that the registration should be made compulsory so far that persons not registering within a certain period should lose their copyright. If that was done the fees should be considerably reduced, and might I think very fairly be reduced immediately to half-a-crown, and there should be a provision in the Act that they should be reduced still lower when the amount received reached a certain sum. Then any person registering should have an opportunity, if he requires it, not only of having a certificate of entry but of having a copy of the work that he registers stamped itself with a stamp denoting the date when it has been registered, and bearing a reference to the entry. Then further than that, no person should be enabled, as people are now, to require a work to be registered at Stationers' Hall without producing a copy of it; because at present any person may bring a form filled up with some title on it and put in the date of publication, and the registering officer has no power at all of ascertaining whether such a work ever has been published or not. A copy of the work should be brought to the hall. I believe as a matter of fact it will be found that certain works are entered there in fact before they are published, a fictitious date of publication being put on. Then further than that, it would seem that great good might result if, as I think would be quite practicable, a list of the original entries were published periodically in the same way as they are I think in Germany; so that the publishers and the public should have at hand a more convenient reference to the works that have been registered than to look through registry books which of course are written and become very voluminous.

5521. (*Sir H. Holland.*) Then, as I understand, the company take no part at all in the work of registration?—They have no power of doing so. The Act requires certain things to be done by the registrar, and he is to receive the fees.

5522. They do not at all interfere now in the work of registration?—They cannot.

5523. Would they be prepared to interest themselves in the work of registration if power is given to them, and to make these improvements which you have suggested, or some of them?—I most certainly think they would.

5524. Do they wish to have power vested in them of looking after and regulating the registration?—I think they would wish to have sufficient control over the registering officer, that they may direct the mode of business, and from time to time suggest alterations in the mode of business which circumstances may show to be desirable; for instance, if such an alteration as is suggested were made, the fees should be considerably reduced, they might be reduced below the sum named.

5525. At present the company do not attempt in any way to regulate it, but I understand you that they would be prepared, if Parliament thought proper, to accept the power of control with respect to registration?—I think so.

5526. And probably some of these improvements which you have suggested have been talked over by the company, and are brought forward as improvements that they would suggest, or are they your own?—No, they are not my own. I have been directed to offer these suggestions; they have been considered very carefully by a committee of gentlemen from the court who have considered these questions.

5527. And therefore they may be taken as improvements which the company consider desirable?—They consider them desirable, and see no practical difficulty in carrying them out.

5528. I think you have had it brought before your notice that the original entries are not allowed to be seen. It has been so stated to us by a witness: do you see any objection yourself against an alteration in that respect, so that the original entries should be allowed to be seen?—I think more than that; that a list should be published.

5529. That may be also very desirable, but what objection is there to the actual entry being seen? We have heard that sometimes an entry has been altered without the knowledge of the owner of the copyright?—The registrar has no power to alter it without a judge's order. An entry once made cannot be altered strictly.

5530. The objection has been that the original entries are not allowed to be seen; and it has been found, in one case at all events, that the entry had been altered (whether properly or improperly I do not stop to discuss) after it had been made. Now what objection have you to having the original entry seen by the person who desired that it should be made? Why should not he be allowed to see that the entry was correctly made? If he gives you the date of the entry you can at once turn to the book at the office?—Then how often is he to see it?

5531. I suppose he cannot want to see it more than once. There may be some limit to that, but at present he is not allowed to see it at all. I ask you whether you think it right that he should not be allowed to see it at all?—It is the registrar's duty to make the entry correctly, and if the registrar makes the entry incorrectly, the owner has the right of obtaining a judge's order under the present Act, and of having it corrected at the registrar's expense.

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5532. He can only test it by obtaining a copy of the entry as it stands, and comparing it with a copy of the paper, if he has one, which he handed in when the original entry was made. He has no means of testing it otherwise?—I do not know whether it is done in other offices, but of course, if it is, there is no reason why it should not be done here. As I said at the commencement, I have no personal acquaintance with the actual business of the registry; it is no part of my duty. I think that the registrar might raise the objection that in that case people would be always coming in, and it would be impossible to know whether a person had seen the book once or not.

5533. Can you tell me this, whether the original papers that are filled up and handed in are allowed to be seen?—No, they are not.

5534. They are filed, I suppose, in the office?—Yes.

5535. Do you see any objection to their being seen?—No, I do not see any at all.

5536. (*Chairman.*) Should you see any objection to the entry in the book being made in the presence of the person bringing the form?—I think it would not be practicable to make the entry in the book at the time. During certain months in the year a very large number of entries are brought, but to obviate that, I would suggest that when an entry is brought, bringing the entry and paying the fee and leaving the book should be a registration, and the person upon his paying the fee should have a receipt or acknowledgment in some such form as this: Such a book has been registered at Stationers' Hall, with the date, and there would be a reference to the register; there might be a number put on the book, and on this receipt; and if the registrar enters incorrectly, he is responsible to the owner for the imperfect performance of his duty.

5537. (*Dr. Smith.*) I may conclude, may I not, from what you have said in answer to Sir Henry Holland, that the company would wish to retain the registration of books at Stationers' Hall?—Most certainly; the company naturally feel very strongly upon that point, because registration of copyright at all was first instituted, I may say, at Stationers' Hall.

5538. (*Chairman.*) Is there any other reason than that you have now stated why the Stationers' Company would desire to retain the registration at their office?—The Stationer's Company have no reason to doubt that the registry at their office is convenient to the larger body of publishers, certainly for publishers in the metropolis.

5539. (*Dr. Smith.*) Is it your opinion that the publishers in London would desire a change to be made or not?—I am not aware of any such desire.

5540. And the company attribute considerable importance to the retaining of this right?—Very considerable importance.

5541. And if the Legislature still continued it to them, and no change took place, I understand you, do I not, that they are prepared to exercise supervision over the system, which they are now prevented from doing by the Act of Parliament?—Most certainly. At present they are not able to do it; because you will understand that a body like the Stationers' Company would not lay down regulations which they have not the power of carrying out.

5542. (*Chairman.*) May I understand from the answer you gave to the last question but one that the local situation of the Stationers' Company is considered by them an advantage with a view to registration?—Yes.

5543. As compared with the British Museum or any other place in London?—Certainly; it is in the centre of a very large number of the publishing trade, and especially most of the agency houses are adjoining the hall, and therefore the clerks and servants of the publishers not immediately adjacent come there, and it is a very convenient locality for that.

5544. That is one main reason why you would wish to retain it there?—Yes.

5545. (*Dr. Smith.*) If the registration was continued and any compulsory system was adopted, in consequence of which a much larger number of works were registered, do you think that the present accommodation which the Stationers' Company have provided would be sufficient?—No, certainly not. It must be borne in mind with regard to that that the present registry office was built just after the fire of London, and I may mention that all the property around the company's hall will have to come down in three or four years time; and the idea of the company is, unless any alteration is made in the registry, in setting out their property to provide a proper modern office for the registry. We quite admit that the present office is old fashioned, and the company would be quite prepared to give proper rooms, a better room for searching, and a larger office altogether.

5546. Then I understand that the company would be prepared at their own expense to make due and proper accommodation for the efficient discharge of the duties of such an office?—Most certainly.

5547. (*Chairman.*) You spoke of the importance of requiring that anybody who came to register a work should bring a copy of that work with him. I should like to ask whether it is not through the hands of the Stationers' Company that those copies which are sent to the University libraries and to the British Museum, and to one or two other public institutions, in the first instance pass?—They may be sent to the Stationers' Hall, and if sent, the registering officer is to forward them: but it is open to the publisher to send them direct.

5548. I thought it was compulsory to send them through the Stationers' Hall?—No, it is not compulsory.

5549. Is there any other suggestion or observation which as representing the company you would wish to make to us?—I think we wish particularly to state that the company are really anxious that the registry should be modernised and should be made as useful as possible to not only publishers but the general public.

5550. And that with a view to that they would be prepared to provide the necessary accomodation, and that they would be parties to the reduction of the fees?—Yes, certainly. If the registration was made compulsory within a limited period the fees should be certainly reduced, because there would be a much larger number of entries, and the fees would be more than sufficient to pay the expenses of the office; and the company do not wish to derive the slightest benefit from them.

5551. (*Dr. Smith.*) But if I understand you aright, waiving the question of the present registrar losing the fees to which he is entitled, the company is prepared to accept a reduction of fees?—The company are of opinion that the duties carried out by the officer could be properly performed by a properly qualified person no doubt at a less remuneration than the present registrar receives. There is one point I should like to mention which should be altered, and that is the stamp duty that is now charged upon copies of the register. Under the present Stamp Act, the Stamp Act of 1870, a stamp of 1*s.* is required to be impressed upon a certified copy of the entry upon the register, because it is an entry on a public register, and I think that that duty should be taken off. There is no tax upon assignments of copyright, and until this Consolidation Act was passed there was no stamp duty charged upon copies of the entries at all.

The witness withdrew.

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

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Friday, 13th April 1877.

PRESENT:

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

SIR HENRY T. HOLLAND, Bart., K.C.M.G., M.P.
SIR JOHN ROSE, Bart., K.C.M.G.
SIR H. DRUMMOND WOLFF, K.C.M.G., M.P.
EDWARD JENKINS, Esq., M.P.
DR. WILLIAM SMITH.
JAMES ANTHONY FROUDE, Esq.
ANTHONY TROLLOPE, Esq.

J. LEYBOURN GODDARD, Esq., Secretary.

Professor THOMAS HENRY HUXLEY, LL.D., F.R.S., examined.

Prof. T. H. Huxley, LL.D., F.R.S.

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5552. (*Chairman.*) Your attention has, no doubt, been called to the copyright question in a practical shape?—Yes.

5553. Will you kindly give the Commission a general outline of the way in which it presents itself to you?—It appears to me, in the first place, that if there be any foundation for property at all, it is as clear in the case of a book as of anything else, a book being the investment of a man's capacity and knowledge, and requiring the sacrifice of a vast amount of his time. Under those circumstances it appears to me that *primâ facie* it has the same right to be protected as any other kind of property. But then, of course, a practical difficulty arises from the fact that a book can be readily copied, and that under those circumstances what evidently amounts to stealing the property of the author cannot very well be brought under the ordinary conditions of theft. I should, however, be glad in the first place to express my belief that so far as a matter of right is concerned, if there be any foundation for rights of property, the right of an author in a book is as complete, and extends as far as the right of any person to any property whatever. I think that my view upon the subject will be clear if I take the concrete case of a man who has written a book and who has a certain number of printed copies of it in his printer's or publisher's hands. I presume that there is no doubt whatever that those copies are his property in the strictest sense of the word, and that the law will protect him against any person who proposes to rob him of that property. I have recently met with the argument, (and, singularly enough, professing to proceed from the straitest school of free-traders,) that the State, or the Legislature acting for it, should, as I understand the argument, regard books as a kind of property to be disposed of mainly for the benefit of the persons who read them, and that the State should take upon itself somewhat the same function as it used formerly to do when it passed sumptuary laws, and should regulate the amount of profit to be derived by the author according to what it considers fair and reasonable. That strikes me as being a reversal of all rules of commercial policy at present recognised. But supposing it to be admitted that that is a right and just thing to do, I do not see why you should not go a step further. If, for example, I had had the good fortune to write such a work as "Hamlet" or the "Principia," it would appear, according to that line of argument, that the State would be justified in seizing all the copies of it, and in disposing of them in such a manner as might be conducive to their distribution, and that mainly on the ground of the great service to the public which those books might render. I do not know whether anyone has carried the argument so far as that, but it appears to me to be the legitimate outcome of it. However, an author who has an edition in his publisher's hands has a right, at present, to regard it as his absolute property, to deal with as he pleases, and he has a further right as vendor to make any contract which he pleases with any person who proposes to be a purchaser of one of the copies of that book; that is to say, if he chooses to make it a condition of sale that the purchaser shall not copy or multiply by printing the work which the vendor sells under certain penalties, I apprehend that the existing law will enable him to recover those penalties from any person who violates that contract. The property being his own, he has a right to make any conditions he pleases with regard to the disposal of it; the person who buys buys on those conditions, and is subject to them. That appears to me to be the natural mode of looking at the trade in books as a branch of commerce which is subject to the ordinary rules of free trade, namely, that a man shall make any contract which he pleases with regard to the disposal of his property. And I look upon the copyright law simply as a means of overcoming the inconvenience which would arise out of that state of things; it would be a very cumbrous process; it would largely interfere with the sale of books, and it would doubtless be very hard to recover the penalties in the case of a breach of contract. So far from copyright law being any favour which the State confers upon the author, any privilege which is granted to him by the State, it seems to me that it is simply a mode of preventing such inconvenience as I have just referred to; so that in my apprehension the application of the word "monopoly" to persons who possess rights under the copyright law is an entire mistake; it is merely a contrivance arising out of the peculiar nature of book property, to put that property upon the same footing as other kinds of property. I think that that is all I have to say upon the general part of the question.

5554. Are we to understand it to be your contention that under the old common law of the country there would have been a right in the author to sell or not to sell his book in any way he pleased, and that for the convenience of the public the statute law has intervened, and by what is commonly called the law of copyright, has attached certain conditions, and even restrictions, to that common law right, for the benefit of the author on the one hand and of the public on the other: is that generally your view?—I would not suggest for a moment that that is the actual historical origin of copyright law, but I think that that is the way in which it ought to be regarded as a matter of equity.

5555. (*Mr. Trollope.*) Those who have given evidence before us rather in opposition to than in support of the present law of copyright, have sometimes done so on the plea that the law at present is favourable rather to booksellers than to authors, and they have based that plea on an idea that authors, as a rule, dispose of their copyrights to publishers, so that the property becomes not the property of the man who has worked with his brain, but merely of a speculator. As far as you are aware, do you think that authors do dispose of their copyrights entirely?—I cannot say. I certainly do not do so myself, and I do not think that I know among the men of science anybody who does; but it appears to me that supposing such to be the case, it applies to all sorts of property, and to the relations of needy men to middlemen of all kinds.

5556. The second part of your answer is perhaps a sufficient an answer to the next question which I was going to ask you. As far as you are aware it is not so; but even if it were so, you do not think that that would be any argument against the present law of copyright?—No; I take it that that must

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inevitably happen wherever men want money, and there are persons who are willing to buy their property.

5557. It has been suggested to us, though I can hardly say that it has been absolutely recommended, that in lieu of the present modes of disposing of literary property, an author should have a right to a continued royalty, that is to say that any publisher should be enabled to bring out an author's work, paying him some proportion of the price, which should be fixed not at all by the author, but by the law. Do you imagine that such a scheme as that could work?—No. Who is to be the judge as to what is the value of the author's work but himself? Who is there in the Government who is competent to form the slightest conception about it? What suggests itself to me is that the matter should be left to the ordinary operations of supply and demand. Why am I to be debarred from making any bargain I please with regard to a piece of literary property, otherwise than with regard to any other property?

5558. Does not it occur to you that no fixed percentage, let it range as it might, from five up to fifty per cent., could be fairly applicable to all classes of books?—Am I to understand that the proposition is to make one fixed per-centage for all classes of books?

5559. As far as we have understood the proposition that is the proposition which has been made?—I can hardly conceive that that has been made as a serious proposition by anybody who knows anything about the writing of books; it is simply astonishing.

5560. You are aware of the present term of copyright?—Yes.

5561. You are aware that the copyright for your works will probably not come to an end all at the same period, unless it should happen that you should live for a very long time after the completion of the last; for instance, that if you were to die say within the next 15, 20, or 30 years, the copyright of your works would come to a close at various periods, the law being that each should have whichever was longest, 42 years or seven years after life; and you may probably be aware, to take the instance of one author, that the earliest of Mr. Dickens's copyrights are running out I believe in this year, and that the latter of them will run on to I think the year 1912. Does it not occur to you that it would be desirable that property of this kind should come to its conclusion all at one and the same time?—Your question rather involves an opinion upon the propriety of terminating copyright at all, and I am by no means satisfied that there is any ground for terminating a man's right to his property in books rather than in anything else.

5562. You are probably aware that the French term is 50 years after death, and the German 30 years after death?—Yes.

5563. And that therefore in Germany or in France the copyrights of an author will come to their conclusion at the same time?—Yes.

5564. I will ask you whether you do not think that that mode is a better mode than the one which we have adopted. Putting aside the question whether an author's copyright should be perpetual, and assuming that the law will enact as it has enacted, that there shall be a term, would it not appear to you that a term similar to the French or the German term would be better than ours?—I think so, if you are to have a limit.

5565. You will no doubt perceive, with regard to your own works, that under the present system a time will come when your executors, or those who come after you, will be debarred from protection in the publication of all your works, although they will be protected in the publication of a part?—Certainly.

5566. Does not that appear to you to be inconvenient?—I think so, very.

5567. (*Mr. Jenkins.*) You say that you think that a book, being the investment of a man's capacity and knowledge and time, is as much his property as any other property, and that the right of an author extends as far as the right of any person to any property whatever. I only want to ask you to point out what of course must have occurred to you, that there is a distinction between a book which conveys ideas and a machine which embodies them in a form which cannot be carried away or altered; and I would ask, considering the fact that supposing you write a book another man without stealing your book can steal all your ideas, and adapt and use them, whether there is not therefore a distinction between the property in a book, and the property in any other thing?—No; I do not think that the property in a man's book consists in the ideas. I should limit his property entirely to the particular form in which he chooses to clothe those ideas. If you come to look into the matter carefully, it would be very hard to say how far the ideas contained in a man's book are his own, he owes them very largely to his ancestors and his surroundings, and to other people, and I do not think that it is at all clear that you would be justified in laying an embargo upon a particular set of ideas because they happened to be contained in a particular book. My contention for the protection of property in books is entirely with regard to the particular form in which the author chooses to put his ideas.

5568. Supposing that instead of writing a book a man gives a series of lectures, for instance, as you do—fortunately for England—and that those lectures are reported, or that persons carry away in their memory the words and the essence of them, you admit that then, a man having chosen to disperse them to the world, neither on principle nor upon the grounds of expediency ought it to be held that those lectures are to be reserved for the man himself?—Certainly not the ideas or the facts; but I take it that a man has no right to publish a report of what he shall call my lecture; that is quite another thing; then he asserts that the form is mine as well as the substance. If he chooses to appropriate my ideas and himself publish them in any other form, and say, "This is what I think," I do not think that he should be prevented from doing so, and in my opinion he has a right to do it, but it is quite another matter if he calls anything which he chooses to publish my lecture.

5569. Take the case of Fichte; when he was 12 years of age if he heard a sermon or an address he could go away and repeat it verbally; you cannot prevent that?—Certainly not.

5570. He carries away the ideas, and carries away the whole thing, is he to be prevented from transferring it to anybody else?—He is to be prevented from putting it in the shape of a book, and selling it to the disadvantage of the person who has given the lecture or the sermon.

5571. Are you laying down a question of abstract principle, or is it merely one of expediency?—With regard to that particular case of lectures, it is a point on which I hold a very strong opinion indeed. I have seen the opinion advanced that a man who has given a lecture has given it to the world, in the same way that a man who has written or published a book has given it to the world, and that on the ground of his having given it to the world he cannot call it back again. I must confess that that strikes me as the strangest confusion between publication and donation. If I announce myself as ready to give a lecture to-morrow, to which persons may be admitted at a certain fee, I make a contract with the persons who come that, in consideration of their paying so much they shall hear me speak for an hour, and that is all; I do not sell my right to print it and sell the lecture, and especially not my right to call it mine; the contract is a perfectly clear one. Take the case that I open a gallery of photographs, and that I say that people shall be admitted on paying a shilling each; I do not give to every person who comes there the right to copy my photographs and sell those copies himself; we see at once that that would be a preposterous supposition; and in the same way a person who is admitted to my lecture on the understanding that he

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Prof. T. H. Huxley, LL.D., F.R.S.

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is to get his money's worth (if it be his money's worth, I do not say that it will be) in hearing me speak for an hour, does not thereby obtain the privilege of making a profit by printing it and calling it my lecture.

5572. But you admit that even if you give a lecture to a limited audience, your ideas are thereby distributed?—I do not ask for any protection to ideas; it is the form of the thing which is mine.

5573. It is simply the matter of the form in which you embody your ideas, and it is for that that you claim protection?—Certainly.

5574. Is there not a very great distinction between the form literary and the form artistic or mechanical?—I really do not see where the distinction lies.

5575. Supposing that I have invented a machine, if I write an account of it to the "Contemporary Review" or the "Fortnightly," or to any mechanical magazine, and it is published, after that I cannot get a patent for it?—No.

5576. Why, therefore, should you who have given a lecture, or have even written a lecture, if you choose to make it known in any way to other persons have a right still to get a copyright for it?—The assumption in that argument, I think, is that the patent law is just; to that I venture to demur, in which case I need not follow out the parallel.

5577. I am advisedly not putting a question about the justice of it?—It is obvious that if I do not admit the justice of a regulation in virtue of which a man who has published a design for a machine cannot obtain a patent for it, the rest of the argument does not affect me.

5578. Then you would put them all on the same footing?—Certainly.

5579. So that, really, to support the whole of your argument you would be obliged to fall back upon this: that a man has a copyright in his ideas?—No, in the form into which he puts them. For example, in the case which you were suggesting to me just now, a man who makes a machine not only has an idea about his machine, but he embodies it in a particular form, with a certain application; and I think that is one of the great defects of the present patent law that it has given protection to the idea in applications of which the original inventor never dreamt. I should restrict all protection of that kind to the precise result of a man's intellectual activity, that which is specially his own.

5580. Before we had a copyright law it was held, as you are probably aware, that if a man had embodied his ideas in the shape of a manuscript, that manuscript before he had handed it to a printer was his property, not merely the paper and the writing, but also all that was in it, that is to say the form in which it was embodied, and that he could sell it to a publisher; but now there is an alteration in that; before a man hands his manuscript to a publisher he has a right to the ideas and to the form, but after he has handed it to a publisher, and it is published, then in virtue of of the statute law he becomes entitled to a property in what you very properly call the form of the book. The result, after all, is that it has simply been adopted as a matter of expediency and of public policy that there should be conferred upon men who write books a certain right of obtaining a profit from them during a certain time. If your contention were correct with regard to the theory of a property in books and ideas, ought not the property to be a lasting one without any definite period?—Certainly; I have not a doubt of it.

5581. Then you would urge upon this Commission that when a man had put his ideas into the form of a book, the copyright in that book ought to exist for ever?—I think that as a matter of strict right it should be so, but as a matter of expediency I do not think it is worth while asking for it; I think that a couple of generations would probably be as much as in practice if really needed; but if you ask me what I think is his abstract right, I should certainly say that the man should have the property in perpetuity, and be able to hand it down to his children like any other property.

5582. Then on what theory is our present copyright law framed, if that is your opinion?—I would rather decline to have to justify the existing copyright law at all; I am not concerned in doing so; I think that it is not easily justifiable.

5583. That brings us to a practical question; how would you practically embody in legislation your idea of the principles of a just copyright law?—That would really be a matter requiring very grave consideration.

5584. Let us take it in stages. First of all, at all events, you would insist upon the absolute right of the author to a property in his book?—Yes.

5585. In perpetuity?—I do not insist upon perpetuity.

5586. I mean simply for the moment, abstractedly?—For the present.

5587. Then you would recognise that there might be reasons of public policy why it should not be granted in perpetuity?—I would rather say that it is not worth while practically to attempt to get a thing which it is hardly likely you will be able to get under the present state of the public feeling. If we had to begin *de novo*, I should certainly insist upon the perpetuity of the property, but at present I think that it would be impracticable and hardly worth while.

5588. Still, going upon your principle that abstractedly the author ought to have it in perpetuity, of course it would only be a reservation on the ground of public policy, or something of that sort, which would justify a limitation?—I think that there is another justification, namely that it is not worth while in real life to attempt to get things which it is impossible to get.

5589. We are really looking at the matter for the moment from different standing points; I am not asking you to consider it from the point of view of an author who is willing to take what he can get, I am asking you, if you will do so for the moment, to look at it simply from the point of view of a statesman who is considering what ought to be the principles of the law. First of all you lay down a very wide and general principle, namely that an author is entitled to the ideas which he embodies in a book as much as any other person who owns property, whether it is a table or an acre of land, is entitled to it?—Pardon me, I have been very careful to say that I think that an author has a right to the form in which he embodies his ideas.

5590. That is what I said; I supposed him to embody his ideas in a book. Then you will admit that if there is a copyright law which limits that right, the only justification for that limitation would be public policy, or public convenience, or something of that sort. Let us take it from that point of view; how can you reconcile that view of the principle of a copyright law with the existing law?—I do not reconcile it: I ventured to say just now that I think that the present law is bad in principle.

5591. Then you admit that the present law is not based on your principle?—Certainly not.

5592. (*Sir H. D. Wolff.*) Have you thought upon the subject whether it would not be for the advantage of authors that the copyright should be extended for a period longer than exists at present, that it should even be made the perpetual property of the family of the author?—My impression is, that it would be for the advantage of the author if copyright were made perpetual.

5593. You said just now that the legislation had not given any privilege to the author by giving him copyright; surely it gives him a protection to his property which would not otherwise exist; do you not think so?—Quite so. But I ventured to say that that was not a boon but simply a piece of justice, and that he ought to have the protection.

5594. But do you not think that the Legislature would not give the protection unless it was for the benefit of the public that authors should be encouraged?—Assuming that it is advantageous that they should

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be encouraged, a certain benefit is given to the public.

5595. The copyright is given to the author that he should be free to publish his works?—I look upon a book in the same way as I look upon any other kind of property. There are people who discuss the expediency of the protection of any property at all; but it appears to me that upon every ground upon which it is expedient to protect any sort of property it is expedient to protect book property.

5596. I am not at all disputing that, but I wish to arrive at this view, that you give this protection to the auther to enable him to have property in what is a peculiar property; there must be a peculiar protection given to a property of a peculiar nature, and having once given him that protection, do you not think that the book itself, or the chattel which he produces, should then go into the ordinary rules of supply and demand, that is to say, that when you have done that, and have reserved to him his property in his book, the public ought to be able to obtain that book, so long as his rights are guarded, at the cheapest possible rate?—I do not see why the public has a right to demand it in the case of book more than in the case of beef or mutton, or potatoes.

5597. Except that in the supply of beef and mutton and potatoes there is a regular competition?—Certainly.

5598. Whereas there is no competition in books. If you cannot get beef you will get mutton. Whereas, if you cannot get "Macaulay's History" you will get nothing else which represents "Macaulay's History." You want that particular book?—But you might say that you want six-year old mutton, and that you cannot be content with anything else.

5599. We do not negotiate with Foreign countries to obtain a copyright for six-year old mutton. The object of this Commission is not only to improve the laws of copyright in England, but to see whether we cannot extend the rights of English authors to other countries?—That is a totally distinct question.

5600. We are the public practically who negociate for you. If we do that, do you not think that we are entitled to some compensation for the trouble which we have in obtaining all these privileges for you?—I am not at all clear about that. I think that, in these matters, the State should have regard to public justice and public morality, without looking for any particular reward from the persons who are served.

5601. But by the present system of copyright, according to the ideas of some people, it does not merely secure the property for the author, who is clearly entitled to every advantage which the law can give him, but it enables the sale of books to be conducted on principles which are not acknowledged in any other branch of trade. For instance, it enables a bookseller or publisher to keep up books at an unnatural price for his own advantage, and, as is thought by some people, very often to the disadvantage of the author?—That I cannot comprehend, because in all my own dealings with publishers I have made my own terms, and if the terms of a publisher do not suit me, I do not publish with that particular publisher.

5602. That I can understand; you make your own terms no doubt, but some people think that if instead of the present system of publishing books at a dear rate, and putting them through the circulating libraries at a high rate, any means were devised by which authors could go direct to the public, a larger sale of a cheaper edition of their books would give them greater popularity, as well as more money than the present restricted system through the circulating libraries?—I think that it is a very dangerous thing to suppose that you can regulate matters of that kind by legislation.

5603. But supposing that we obtain for you copyright in America, where the sale of your books is stated to be enormous, it gives you protection, and a greater remuneration for your books in America; would it not be unfair in that case that we, having done this for you, should as the British public be exposed to having a dear edition of your books here, and a cheap edition in America?—I would much rather that you did not interfere with us at all. I am now speaking of you as legislators. I would rather that you should not afford especial protection, but should consider books as property like any other property, and not meddle with us in future.

5604. We cannot take that course, because foreigners do interfere with you?—And in my opinion they will continue to interfere. I know something about the United States, and their mode of doing business in books in that country, and my own belief is that the expectation that the Americans will ever listen to any proposal of English copyright is chimerical; their system of doing business is quite opposed to it. I do not think that this prospective boon which you offer us is likely to have any great value.

5605. As a matter of author's *amour propre*, would it not be far more satisfactory to you if your books were possessed by a very great many households in this country rather than being hired from a circulating library?—I do not care much about it; if I have half a dozen careful readers I would rather have them than all the rest of the world put together.

5606. If you got more pay than you do now from having your books sold at a cheaper rate you would be satisfied with that?—I should like to get the more pay in my own fashion, and to deal with it like any other business. I do not want anybody else to help me to get more pay; if you let me deal with my own property in my own fashion, I am quite happy, and I do not thank anybody who interferes.

5607. (*Sir H. Holland*). From your knowledge of American dealing do you think it at all probable that the Americans would be inclined to make a convention upon the understanding that the book for which copyright is granted is to be published and printed in America?—I have never heard that question discussed.

5608. (*Chairman.*) Several questions have been asked upon the general aspect of copyright. Coming more to the details of the question might I ask you what in your opinion would be the effect of the abrogation of or a considerable diminution in the terms of copyright upon works, the production of which requires time and research and perhaps costly illustrations?—My impression is that it would be altogether fatal to the production of works of that kind. I think it will be obvious that such must be the case; and I can speak the more strongly here because works of that kind are those with which I am familiar. I will take the case of any one who has been preparing a work, let us say upon comparative anatomy, which has probably occupied him for a great many years. He has himself had to make a great number of laborious dissections and to have them drawn, and he or his publisher has had to invest a great deal of money in illustrations. He brings out his book. That book, if it is well done will preserve its value for a a century. At the present moment Cuvier's "Ossemens Fossiles," which I think has been published for about half a century is in many respects as valuable a book as ever it was, and is as often consulted as ever it was. If when such a book as that is published, or within a short time after it is published, anybody has a right to republish it, the practical effect is that the text will be copied, at probably a thousandth part of the expenditure and time required for its original production, then the illustrations will be copied; and the natural result will be that the reproduction of the book will be sold at a price far less than that at which the original book was sold, the consequence of which is that the author and the publisher of the latter alike have their interests ruined; and the practical result would be that no publisher would take such a book; in fact he could not do it, he would be liable at any moment to be undersold. That is true of the whole class of botanical works, zoological works, anatomical works, and the great mass of illustrated works having relation to physical science.

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Prof. T. H. Huxley, LL.D., F.R.S.

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5609. Carrying on the thought which you have expressed, what, in your opinion, would be the practical result upon all this important class of works which you have described of either abrogating or materially diminishing the term of copyright so far as the public is concerned?—I think that it would simply stop their production, and that exactly in proportion to their value and usefulness. The more such works were sought after, and the better they were, and the more largely they were in demand, and suited themselves to the wants of the time, the more certainly would they be pirated, and I do not see how anybody could afford to produce them.

5610. Might it not be that some publisher in a very large way of business might find that he could impose his own terms both on the author and the public?—I quite think that that is the inevitable tendency of the abolition or a great diminution of the term of copyright; and I would justify that belief by what happens at the present time in the United States; I myself am paid upon books which are published there; my American publisher remits me a certain per-centage upon the selling price of the books there, and that without any copyright which can protect him; but then I am informed that the practice of all the great houses in America (there are some three or four large publishing houses with very great capital), if anybody publishes one of their books, is to publish a largely cheaper edition at any cost, and they would make any pecuniary sacrifice rather than not cut out a rival. The great houses understand that, and the consequence is that they do not play that game with one another; but, practically, English authors at the present time stand in the same relation to the American publishers that they would to the English publishers if copyright were abolished; and whether I get any money or not from America for my works is entirely dependent upon the strength of my American publisher. If he were not a man who would not stand being trifled with, and if it were not known that he was so, he could not afford to pay me anything.

5611. Therefore in your opinion the effect of the contemplated change would be not in the interest of the author, but in the interest of the publisher?—I think that neither the author nor the publisher would be served, and I think that the publisher's business would be made very precarious. He might doubtless sometimes reap large profits, but he would always be at the mercy of unscrupulous competition.

5612. (*Mr. Trollope.*) Are you assured that this rule to which you allude among American publishing houses always prevails?—I cannot say; I have been assured that it does largely prevail there.

5613. Then you would be surprised to hear if I told you that a large American publisher, who has been for many years in the habit of publishing my own books, and with whom I once remonstrated for doing so without consulting me, told me that he intended to continue to do so, but that he would not republish a certain work if it were published by any other American house before him?—Yes; that is a very curious fact. I know of no parallel cases.

5614. But if the case to which I have now alluded is a type of the way in which business is done in the United States, it would be subversive, so far, of the evidence which you have given, would it not?—Quite so; but my opinion is the exact contrary. I have been informed (I do not profess to have absolute proofs of it) on exceedingly good authority that a publisher who has published one or two of your books in the United States would think himself very hardly used if you allowed any other publisher to publish for you.

5615. I think that you will understand the point which was put in my question, which intended to convey the story of a transaction which had absolutely taken place?—Quite so; I quite understand that.

5616. I do not know that I need hesitate to say that the publisher was Mr. Harper, and you are aware that he is probably one of the largest publishers?—Yes.

5617. You also said, I think, just now incidentally, in answer to a question from Sir D. Wolff, that you were very strongly of opinion that American legislation would not give us the international copyright which we are seeking?—I think it exceedingly improbable. So far as I can gather, the state of public opinion in America, their reply to all remonstances is, "We want to have cheap books for our people, and "we will not listen to anything which will interfere "with our having cheap books for our people."

5618. You may probably be aware that a very large body of American publishers, not, I think, including the largest houses, but still including many large houses, have advocated international copyright?—Yes, I am aware of it.

5619. And you perhaps are aware that, although the list of those who have done so does not contain all the larger houses, it contains by far the greatest number of those with whom we are acquainted?—I have understood so. I was never myself quite clear how far the movement was in earnest.

5620. I think that the house with whom you are yourself concerned, that of Messrs. Appleton, agree to it, do they not?—I believe so.

5621. I will not mention other names, but can I have reason for supposing that they are not in earnest, considering that they have spent considerable sums of money in advocating their cause?—I will not venture to say that particular gentlemen who have advocated this cause are not in earnest; very possibly they are; but it does not appear to me to be compatible with the universal cry which one hears, or which is always raised, when this question is discussed, "We want "cheap books for our people, and we will have them at "all costs."

5622. Are you aware that the Senate in the United States at one time assented to a proposition for an international copyright?—I have heard so. It is a very curious thing that whenever negociations of that kind arise they are carried on very successfully for a time, and very admirable speeches are made upon all sides, but they always come to nothing.

5623. In our own legislation at home has it not generally been the case that great changes have been ventilated for a considerable time and have failed, and failed, and failed, until at last they have been passed?—Yes; that I think has generally been where there has been a great popular cry in their favour. When I visited the United States the popular cry appeared to me to be just the other way; it was for getting cheap books at all costs. I should not like to give very decided opinions upon these matters, but that is what has struck me.

5624. (*Dr. Smith.*) If I understood you aright in reference to illustrated works you said that the cost of the original drawing, and the drawing in wood, and the engraving, must be very large, and that there are processes, by means of photography and other means, by which they could be reproduced very cheaply?—Yes.

5625. And consequently that if the term of copyright was materially abridged, or if another publisher was allowed to reprint them by paying 10 per cent. royalty, he could reprint those works at such a very much cheaper price than that of the original edition as to render it almost impossible for a person to obtain any profit from the original edition?—Not only by the mere process of copying, but it stands to reason that if anybody has provided woodcuts in an extensively illustrated work, even if those woodcuts are re-executed in wood by the best artists, it can be done at a far less cost for a copyist than for the original publisher, because the woodcut in the original book represents not merely the labour of the woodcutter, but the labour of an artist who has been employed before the wood cutter to make the drawing from which the wood cutter makes his wood-cut, and in all probability many hours labour of the person who made the dissection, or whatever it was, which is there depicted.

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Prof. T. H. Huxley, LL.D., F.R.S.

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5626. (*Chairman.*) Some questions, I believe, were asked you with respect to copyright in lectures?—Yes.

5627. Are you aware of what the practical protection afforded to lectures by the present law is?—I have understood that it is a very curious protection, and that you have, I think, to give notice to a justice of the peace.

5628. To two justices of the peace?—I should like to speak very strongly upon that point, because I myself have had occasion to feel the ill-effects of the present practice. I think that it is a most iniquitous thing that a man is who is admitted to a lecture should be able to print it with your name to it, and circulate it through the country with all the faults and and imperfections arising out of the mode of reporting, without asking your leave or without your being able to restrain him.

5629. Having expressed the grievance which you feel, are you prepared to give the Commission any suggestion as to the mode of removing that grievance?—I think that the simple and obvious course is to give a man absolute property in his lecture.

5630. But unless the public were informed in some way that that absolute property was given, might there not be injustice on the other side?—I do not think so; I think that the light of nature ought to tell a man that he has no business to report a lecture and sell it without the permission of the person who gave the lecture. It does not require a very keen moral sense to see that that cannot be considered quite a right proceeding.

5631. But there are reporters and reporters. If a public lecture was given on a very interesting subject, I presume that the reporters of the daily press would attend; would you draw a distinction in that case between them and a reporter of another sort?—No; I should always make it the right of the speaker to admit reporters or not. Allow me to tell you what happened to myself. I am not complaining of it for a moment, because I knew exactly what was to be expected, and I did not care whether it happened or not; but permit me to state what happened to me in the United States the other day. I gave three lectures in New York, which had cost me a very considerable amount of trouble, and they were illustrated by diagrams and so forth. I found that it was the intention of the proprietor of one of the leading papers there to send shorthand writers who would take down what I said verbatim; to send artists who would copy all the diagrams, and to print my lecture the next day in the paper in full and not only so, but when the three lectures were completed to make them up into a sort of pamphlet and sell it; without consulting me in any way whatever. As I say, in this particular case I did not care in the least about this proceeding; and I have the less reason for complaint, as the proprietor of the paper subsequently offered me a certain share in the profits of the sale of the pamphlet; but, in principle, it appears to me to be sheer piracy.

5632. That, of course, would be under the law of the United States, are you able to tell us what the United States' law with respect to lectures is?—I cannot say, but the same thing might take place here if I had not given notice to two justices of the peace, or complied with whatever is the requisite formality, which is a thing I never did in my life. I fancy that in practice the same thing might be done here.

5633. If you gave a proper notice you would have the law on your side?—Very few persons know of the existence of that law.

5634. Admitting the grievance to exist, as I think the Commission would probably be prepared to do, in removing it might it not be well to substitute some more easy process than that of giving notice to two magistrates within five miles?—Certainly, one would think that there must be a great number of easier processes than that.

5635. It has been suggested by some witness that a notice put over the door, so that everybody should see it when he entered the room in which the lecture was given, that the lecture was copyright would be sufficient, would that meet your view?—Yes, or the same practice might be adopted as in the case of reserving the right of translation of a book, you might put on the ticket "All rights reserved."

5636. (*Dr. Smith.*) Supposing that the lecturer himself gave notice, at the beginning of the lecture, that he reserved to himself the right of printing it, might not that be sufficient?—There might be a difficulty in proving that; but if the ticket, in additional to the other matter which was on it, had printed upon it "All rights reserved," or something of that sort, it would be a sufficient notice.

The witness withdrew.

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

Tuesday, 17th April 1877.

PRESENT:

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

SIR H. DRUMMOND WOLFF, K.C.M.G., M.P.
SIR JULIUS BENEDICT.
SIR JAMES STEPHEN, Q.C., K.C.S.I.
DR. WILLIAM SMITH.

J. LEYBOURN GODDARD, Esq., Secretary.

Mr. THOMAS BOSWORTH examined.

Mr. T. Bosworth.

17 April 1877

5637. (*Sir H. D. Wolff.*) You are a publisher and bookseller?—Yes.

5638. Both in the wholesale and retail trade?—Yes.

5639. You of course understand the whole system of publishing books at the present moment?—I understand it practically.

5640. And you are in favour, I believe, of copyright for authors. You think that authors should have copyright?—I think that authors should have remuneration.

5641. But could you give them remuneration without copyright?—By copyright strictly, of course, I understand the right of copying.

5642. I do not want to go into any subtlety in the matter, but I mean what is called copyright, that no one can publish their books without their consent, or that if they do they should be entitled to some remuneration from the person publishing?—Certainly they should be entitled to remuneration.

5643. Do you think that the system adopted in England generally of publishing a dear edition of books in the first instance is advantageous or prejudicial to the sale of books generally?—I think it is prejudicial.

5644. Do you think it is advantageous or prejudicial to the author?—Under the present law it is unavoidable. I mean to say that a publisher in seeking his own interest will naturally adopt that course under present arrangements, under the present law.

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Mr. T. Bosworth.

17 April 1877.

5645. Then you conceive that the present system of publishing a dear edition in the first instance is advantageous to the publisher rather than to the author?—It is advantageous to the publisher of the edition with which he deals, because he gets larger returns from it.

5646. Would he not get as large returns if he published the book cheaper, so as to go direct to the public?—I draw a distinction between the publisher and the holder of the copyright; the publisher, as such, has no guarantee that he will have anything to do with future editions.

5647. If a publisher publishes a book at, say 12*s*., and obtains a certain remuneration from that by the present system of sale, do you think that the publication of that book cheaper, and the sale of a larger number of copies in consequence, would bring him an equal remuneration?—I think that the publisher is a better judge than any of us on that point.

5648. As to his own remuneration, as to his own advantage you mean?—Yes.

5649. But these large and expensive editions that are published in the first instance are generally circulated, the bulk of them through circulating libraries, are they not?—Yes, and through book clubs.

5650. Therefore practically there is very little sale of the dear editions to the public at large?—Just so.

5651. Do not some book clubs subscribe to circulating libraries?—They do, largely.

5652. Therefore it is really the circulating library that forms the machinery through which these books are distributed?—Yes.

5653. Do you think that this system of publishing books through the circulating libraries practically is a desirable system?—I do not see that any other plan can be adopted. Englishmen must read books, and if the present law does not encourage their publication at such a price that they can buy them, they will go to the circulating libraries.

5654. Then you think that the high price of books is kept up by the present law?—Entirely.

5655. Therefore the present law keeps up the high price of books, and keeps up the machinery of the circulating libraries?—Indirectly it has that effect.

5656. Do you think that that is advantageous to the public, to the purchaser of books?—I think that the circulating library system under the present law is an advantage to them, because it enables them to read that which would otherwise be beyond their reach. I think that the law is a bad one.

5657. Therefore you think that by some change in the law books could be made more accessible to the public with an equal remuneration to the author?—I do. I think that under the present law Englishmen have ceased to buy books, speaking generally, copyright books I mean.

5658. That is to say, they do not buy the dear edition books?—They will not buy anything the price of which bears no reasonable relation to the cost of production.

5659. And do they buy books afterwards when they come to a cheaper edition?—They buy the non-copyright books, which always are published at a reasonable price.

5660. Supposing that books are published at, we will say, 31*s*., if those books in the first instance were published at 5*s*., while all the novelty was on them, do you think there would be a very much larger sale to the public buying than there is now?—I do not think that the experiment in any limited number of instances would succeed; it has been tried, but I think that if books generally were published at once at what I should consider a fair price, a price having some relation to the cost of production, then Englishmen would resume their habit of buying books. I do not think anyone would willingly give a guinea and a half for that which he has reason to believe only cost, say 6*s*.

5661. That 6*s*. is plus what is given to the author, is it not?—I do not know; it is impossible to say, because the present law encouraging circulating libraries, encourages the circulation among these libraries of a large amount of rubbish which pays nothing to the author; the author is glad to see it in print.

5662. Do you think that good literature at all suffers on account of that?—Very much.

5663. Why?—The legislation is in favour of literature which can be made to pay its expenses at a very small circulation through the circulating library; books which would not have a large circulation can now be published and pay their expenses, which could not pay their expenses at a much lower price.

5664. So as to cover the publisher from loss?—Yes.

5665. And that is owing to the circulating libraries taking a sufficient number of copies to cover the real cost of the work?—Yes.

5666. Do you know any case where the circulation of a good book has been stopped in any way by the refusal of circulating libraries to take it. I mean a book that might have had a good circulation; that that circulation has at all been stopped by some unreasonable objection on the part of the libraries?—I think I am not in a position to give evidence on the subject.

5667. You would rather not?—They are matters with which I have not been personally concerned, and I think I should probably not be justified in talking about them at second hand.

5668. In case we manage to get copyright to English authors introduced into America, where the system is to publish books cheap, do you think that at the same time we should allow the American reprints, which are published with the author's sanction, to come into this country. My object in that question is this: that if we obtain for the author the very great advantage that he would have by getting the American circulation, to my mind it would be wrong to obtain for him that additional advantage in such a way that he might continue to sell his books dear here and cheap in America?—I know what you mean exactly; but I was wondering how he could think of obtaining a copyright in America except under some such plan as remunerating the author by per-centage.

5669. The thing is this, that at the present moment it turns out that native American books are published at a cheaper rate than books of the same kind are in this country?—I do not gather that to be a fact from my experience.

5670. We have got here a return ("Correspondence respecting Colonial Copyright, July 1874," pp. 13-16), from which it appears that Dixon's "Free Russia" (these are books that have been contrasted), which is published without copyright in America, is published at two dollars; "Bush-reindeer Dogs," &c., is published at 3 dollars 50*c*.; and Kinglake's "Crimea," published at 2 dollars in America, as against Motley's "History," which is 3 dollars 50*c*.; 3 dollars 50*c*. is about 17*s*., I think, or 17*s*. 6*d*.; is not that a cheaper rate than what a book of that kind would be published at in this country, putting it on a par with Kinglake's "Crimea"?—It is very difficult to generalise in that way. I cannot answer the question; but you must bear this in mind that we export paper to the United States, and that it pays duty up to 35 per cent. Therefore, the American publisher is weighted to something like that extent as against the English publisher.

5671. But he is weighted to that extent both for English reprints in America and for American copyright books?—Yes, both as regards American copyright books and English reprints, the American publisher is weighted to that extent; therefore I should be prepared to find the American copyright books bearing rather a higher price; and from experience, speaking generally, I should say that it is so.

5672. Would you look at that column, or those two columns, one being of American copyright books (*handing a paper to the witness*). Those prices are a lower scale of prices than books of the same kind now published at in England, are they not?—One of

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the first books I come across in these American copyrights is an English copyright book, Kirke's "Charles the Bold."

5673. (*Dr. Smith.*) You are aware, are you not, that an American author can obtain copyright in this country as well as copyright in the United States?—Quite so, and that is probably the case with Kirke's book.

5674. (*Sir H. D. Wolff.*) Hallam is put as against Kirke's "Charles the Bold." One shows what the English reprint costs, and the other what a book of the same kind costs with the copyright in America. Hallam is published at 2 dollars in America. Assuming it were published at 3 dollars, is it not a lower price than what Hallam was published at in England?—Yes.

5675. Therefore you see that books in America with copyright are sold at a cheaper rate, notwithstanding the expense of paper and every thing else, than they are in England?—I do not understand the point. You say that books with a copyright are sold cheaper in the States than they are in England?

5676. There are two sets of books published in America, English reprints and American original copyrights, and they are contrasted in that list; therefore the difference between the price of an English book and the price of an American book we may assume to be the price of the copyright?—I do not quite follow the question.

5677. Do you see Dixon's "Free Russia" there?—Yes.

5678. That is two dollars?—Yes.

5679. Then they put against that "Bush-reindeer Dogs," 3 dollars 50, which is a copyright book?—Yes.

5680. It has generally been laid down that these books are taken as being like each other to a great extent; therefore if "Bush-reindeer Dogs" is 3 dollars 50, and Dixon's "Free Russia" is at two dollars, we might assume that if Dixon's "Free Russia" were copyrighted in America it would sell at 3 dollars 50?—I cannot help you on the point.

5681. May we not assume that; is not that the intention of this paper to show what similar books are published at in America when they have copyright and when they have not?—That may be the intention of the paper. You see, in order to answer that question, I must know the character of the book, the quantity, and the circumstances under which it is published.

5682. Accept my statement that Macaulay's "History" would sell in America for three dollars, at the same price that Bancroft sells at; assuming that that were sold in America for three dollars, would not that be a cheaper publishing price than what they publish Macaulay originally at in England?—Yes; but do I understand that Bancroft was published for three dollars?

5683. Yes.—Then I think I must dispute the fact. You see "Bancroft" in this list, and on the other side "Macaulay's History;" that tells you nothing; you cannot set the two things one against the other. I do not think you can derive any information from those tables on the point in question.

5684. Now here there are two books, Layard's "Nineveh," and Stephens' "Egypt;" those are said to be two somewhat similar books. Now Stephens' "Egypt" is sold at three dollars, and Layard's "Nineveh" would consequently be sold at three dollars if there were a copyright in America. Is that cheaper or not than what it would be sold at here?—Layard's "Nineveh" cost, I think, £1 16*s.* here.

5685. We find that books are sold in America in very large numbers owing to the cheap rates; and therefore, if an English author by our negotiations with America had that enormous sale he would derive considerable pecuniary advantage from it, would he not?—Of course.

5686. Therefore do you think it would be fair that authors should be allowed to publish a dear edition in England with copyright, and to publish a cheap edition in America with copyright, and that the American cheap edition should not be allowed to come back to England?—It would not be fair, I think. It comes to this; you ask me this, would it be reasonable that an article should be produced under the direct sanction of British law which yet might not be imported into Britain.

5687. At the present moment you know that the Tauchnitz editions, which are published in Germany with the authors' sanction, cannot be re-imported into England; are you aware of that?—Yes.

5688. Do you think that that is right, or not?—It is unreasonable.

5689. You think they ought to be allowed to be re-imported?—If they are recognised by English law.

5690. And if there was any per-centage on those books payable to the author by a system of per-centage recognised by English law, do you think that that system of per-centage would pay the author as well from the very large sale he would derive, as the present limited system of publishing books?—I think it would, ultimately much better, because the English speaking market out of the British isles is gradually becoming of more and more importance to the British author.

5691. Therefore you think it would be worth the while of the British author to renounce the advantages he now has from the circulating library edition, in consideration of getting legal remuneration for books published all over the English speaking world?—I think it would.

5692. If it was the habit of publishers in England, instead of publishing their books through the circulating libraries in dear editions, to at once go to the public with a cheap edition, an edition, say like the Tauchnitz edition, do you think that a large sale throughout the country of those cheap editions would remunerate the author equally with what he gets at the present moment from the dear edition?—I think the publisher knows best.

5693. I am not talking of the publisher but of the author; put aside the publisher?—I do not think any individual publisher can alter the habits of the people as to buying.

5694. I do not mean one publisher, but I say supposing that in England it was the habit to publish books cheap, do you think that it would be equally advantageous to the author?—More so.

5695. Do you think for instance that if Macaulay's "History of England" had been published at a fifth or a sixth of the price; I think it was published at 36*s.* the first two volumes; supposing instead of that it had been produced in very good type and on very good paper, and altogether very nicely got up, it might have been produced at a much cheaper rate than what the larger edition was produced for?—Yes.

5696. Supposing they had sold Macaulay's "History" in the first instance at 5*s.* or even less a volume, instead of at 18*s.* a volume, do you think that the large sale there would have been throughout the country would have produced to Lord Macaulay as much as the dear edition?—I think in that matter Longmans acted wisely as his publisher.

5697. I am not talking about Longmans acting wisely or not, but I say supposing the system were such that books were sold in the way I have pointed out cheap, do you think he would have derived the same benefit that he did from the dear edition?—Well that is possibly an exceptional case. You see he is popular among classes who could afford to pay a large price for books. Now that is not the case with all authors. I would rather say that I believe that authors generally would reap at least as large a remuneration, and ultimately much larger.

5698. And in Macaulay's case a good many of his Histories were bought by private individuals?—Yes.

5699. But for books that are chiefly circulating library books, you think a cheap price would produce a large sale and produce an equal benefit to the author?—Yes.

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5700. Do you know the system of publishing in France?—I believe it is the same as in England.

5701. But French books are generally cheaper?—There is no clothing in the case of French books.

5702. You get a new French novel for three francs and a half a volume?—They have not the circulating library system as we have.

5703. Do you know anything at all of the profits derived by French authors?—Not at all.

5704. You were saying just now that you thought that by another system of copyright law, books might generally be made cheaper, and brought more within the range of book buyers. What are the changes in the law that you would recommend?—I should allow after a very short period, at the most 12 months, any publisher to reprint any book upon paying a royalty to the author.

5705. A royalty to be fixed?—Yes.

5706. Why should you do it within 12 months?—Make it three; I have no objection.

5707. Why should you do it at all?—Because you must give some sort of encouragement to the publisher who brings out the first edition.

5708. Why should you do that, because if he has the preference he at once brings out the book at the cheapest rate and obtains the largest circulation; therefore before his first authorised edition was sold, if he made it large enough according to the popularity he expected from the author's name or reputation, he would go to the lowest price possible, and would prevent competition?—Still I think it would be more practicable to pass such a law for a longer period than if you made it merely a month. I agree with you it would come to the same thing.

5709. If you gave this priority of three or six months, or a year, would not that still continue the use of dear editions in the first instance?—For the 12 months, or whatever the period was, possibly it would.

5710. And would not that take the cream off the popularity of the book when it came to a cheap edition?—Yes.

5711. You were saying that the present system stopped the book trade, that it stopped the buying of books in England; would you explain how it stopped the buying of books?—Only by giving occasion for the affixing to books firstly of absurdly high prices, and secondly of prices which from first to last are fictitious.

5712. Take the case where a book is reprinted, as it very often is, at 6*s.*; of a book that is originally printed dear there is an edition very often printed at 6*s.*; are those editions well sold?—It depends upon the character of the book.

5713. Mrs. Wood's novels for instance?—They have sold very well.

5714. At 6*s.*?—Yes.

5715. And the 6*s.* edition would have sold well in that case at first?—I cannot say what would have happened had Mrs. Wood's novels been published at 6*s.* first. Some years ago Routledge tried the effect of publishing a series of novels at cheap rates at first, and it was a failure altogether; there was no moving the trade or the public.

5716. Were they good novels?—I think fairly good.

5717. Was it, do you think, because it was merely Routledge who did it alone. He was the only man who did it at the time I suppose?—Yes. If by any process you could have altered the custom of the whole trade, I believe the plan was a very wise one; but there was a something that could not be overcome, obstacles and habits that could not be overcome.

5718. And the feeling of the trade against it, I suppose?—And the feeling of the trade against it, perhaps. I do not know that they had any reason to have any feeling against it, but people were not accustomed to it.

5719. (*Chairman.*) When you use the phrase "trade" you mean the bookselling trade?—Yes.

5720. You would rather think that the feeling of the bookselling trade would be in favour of the innovation than against it?—It would be their interest.

5721. But still it failed?—Yes.

5722. I think I understood you to say in answer to a question, that in your opinion the high price of books in England is kept up by the present law, and by that alone?—It is by the present law in this respect, that it protects the publisher from competition, and enables him to put upon the works he publishes what price he pleases, by arrangement of course with the author.

5723. Then Sir Henry Drummond Wolff has called your attention to the fact that the French books are cheaper as a rule than English books. I would upon that ask you if you are aware of the nature of the French copyright law?—I do not know the period that is given under the French law, but the system is the same.

5724. We have it before us that the French law gives a more extended period of copyright than the English, for the life of the author and 50 years afterwards. Therefore the question I would put to you is, if the more modified copyright law of England in your opinion is the sole cause of the high price of books; how comes it that a more stringent copyright law in France is coincident at any rate with a cheaper price of books there?—One thing has to be considered; the French sell their books without binding, and I did not quite admit the accuracy of what Sir Henry said. I am aware that what I may call the more popular class of French books are cheaper, but my impression is, that French scientific books are not cheaper than English. The better printed French histories, for instance, allowance being made for binding, I think that they are very slightly cheaper, if anything.

5725. (*Sir H. D. Wolff.*) We are not talking of an *édition de luxe*, books with large margins and engravings, and that kind of thing; I am talking more of popular literature?—I will take such volumes as M. Guizot's histories. I think the prices are about the same.

5726. I do not think you would find them dearer than 10 francs a volume?—Then if that is so, that, of course, would be rather cheaper.

5727. (*Chairman.*) That is so, although the French copyright law is of a more stringent character than the English?—Yes. There would be another reason still I think. I suppose that French books are sold more largely throughout the continent than English books, and I think that that is a fact in favour of cheapness; they can afford to pay the author the same remuneration, and yet the publisher can get an equal profit although the price is lower. The French language is read more largely on the continent than the English.

5728. (*Sir H. D. Wolff.*) Would not that rather support my argument that if we got copyright in America for the books of English authors it ought to have a tendency to cheapen them?—Of course it would be so.

5729. (*Chairman.*) Now I will go to another point. Did I rightly understand you to say that in your opinion the circulating libraries in England were really created by the copyright law?—I think so.

5730. Then we have it admitted that the French copyright law is as I say of a more stringent character than the English; but I also understood you to say that there are no circulating libraries in France?—I do not think the circulating library system is worked to the same extent as in England. I really am not able to speak positively; I do not know the facts from experience.

5731. I think other witnesses besides yourself have testified generally to the fact that books in France are not circulated through the agency of circulating libraries at all to the extent that they are in England. We have that fact therefore coincident with the other fact that the French copyright law is of a more stringent character than the English?—Yes.

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Mr. *T. Bosworth.*

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5732. (*Sir H. D. Wolff.*) Would you be in favour of extending any right you gave to authors for a longer period than what they now enjoy?—I think so.

5733. How long would you extend it?—I think I should be inclined to extend it as long as the author had a grandson living, and perhaps for 50 years certain.

5734. From the date of the publication?—Yes.

5735. Would it not be rather a better plan to give it during his lifetime, and so many years afterwards, extending the time so as to make the expiration of all his copyrights simultaneous?—So long for certain, and I meant of course during his own lifetime or his son's.

5736. And so many years afterwards?—Yes, perhaps so.

5737. In fact you would give to the author, to as great an extent as possible, the rights of remuneration from his books?—Certainly.

5738. (*Sir J. Benedict.*) Do you not think that the system in America which gives the author only 28 years in the first instance and 14 years afterwards, thus enabling him in his lifetime to make a second arrangement with the publisher, preserving, of course, copyright after his death for a certain period, would be better than selling the copyright at once and for ever?—I can hardly tell what the effect would be; but it seems to me that it would be an undue interference with the author to prevent his disposing at once of whatever rights he might have.

5739. Do not you think that very often books that are of a scientific character, or other books of a high class, are not at first remunerative to the author, but that after a course of time they become popular, and the author is deprived by having disposed of the copyright for 42 years of any advantage which might arise to him after a given time, when his work is more generally known, and when the publisher would be inclined to make an agreement with the author of a more advantageous character to him. Has it not struck you that very often books have been published that had not a circulation for years and became afterwards popular. I think some of our poets have been mentioned as examples, Wordsworth and Coleridge. Now would it not be an injustice that the author who had produced those books, having disposed of them once, should have no redress, and that all the advantage should be to the publisher instead of the author?—I should not like to see the law altered. I think the author should have the power of disposing of all his rights. What you say is true, but on the other hand a publisher sometimes purchases a copyright which does not prove so remunerative as he expected.

5740. Are you aware that in former times the term of the copyright was only 28 years?—Yes, since I have been in the business, and till 1842, I think, it was so.

5741. Do not you think that if it was optional to the author and the publisher, the publisher might say, "I will only accept your book if you dispose of it for 42 years"?—But there is no reason why he should not do that; he may do that under the present law. Nothing is more common than for an author to part with the use of the copyright for so many years. Lord Lytton made that arrangement with Routledge for ten years in the case of his novels.

5742. Is not this an exceptional case, and do not authors generally complain of the length of the term, by which they are prevented from deriving any future advantage from their own work. In America you see it works very well, and it is very advantageous to the author, and that is the reason why it seems to me the author should be allowed to do it here?—I suppose that originally the term in America was 28 years, as with us, and that the alteration has been made in order to make it square with our law.

5743. You do not think that accommodating the English law to the American would facilitate an arrangement?—No.

5744. Would you admit of a term of 50 years, or while a grandson is living, as the basis of a new copyright, increasing the time after the death of the author to a certain limited period?—I would grant the right of receiving the per-centage that might be given to the author by the law for the term of 50 years for certain, or during the life of the author, or his children or grandchildren.

5745. It has been argued several times that lowering the price of publications would of course be an advantage to the author as well as to the publisher ultimately; but is not it your opinion that works of great research and labour would suffer by lowering the price after a given time, I mean after six months or a year; works which have taken the author years of labour, and publications which are of a most costly character, which would after a certain time become public property; do you not believe that it would tell against the writing of such scientific works if they could be published a short time afterwards at a much lower rate, by anyone who might venture to embark his capital in the business. Do not you think that works of that description ought to be exempted and protected?—I do not think that any work ought to be exempted; but I must admit that there would probably be particular cases in which the authors of such works as you have named would suffer. To take such a case (and it might seem an extreme one), as such a work as the "Encyclopædia Britannica," I believe that the remuneration to the proprietors of the copyright would be as great under the proposed law as now.

5746. (*Sir H. D. Wolff.*) Even if there were competing cheap editions?—I think the publisher would take care that there should be none.

5747. You mean that he would go to the cheapest price at once?—Yes.

5748. (*Dr. Smith.*) You stated that the published price of books is from first to last fictitious. Would you explain to the Commission what you mean by that?—I mean that the price announced in the newspapers by the publishers is not the price at which these books will be sold, or are intended to be sold, and I call that fictitious; and I think it is a disgrace to all that are concerned.

5749. What is the usual difference between the price at which the books are sold, and the price at which they are published?—Up to 25 per cent.

5750. (*Sir H. D. Wolff.*) What do you mean by 25 per cent.?—The difference is to the extent of 25 per cent.

5751. (*Dr. Smith.*) Between the professed published price and the selling price, you mean?—And the actual selling price.

5752. (*Chairman.*) You said "up to 25 per cent.;" you mean that 25 per cent. is the maximum difference, but that there are instances in which it does not come up to 25 per cent.?—Yes.

5753. (*Dr. Smith.*) Then, if that is the case, the price at which books are published is in reality not so large as it would at first sight appear?—The price at which books are to be purchased is not so large.

5754. Consequently when we see these statements of the comparison of prices between books in America and books in England, it would be only fair to deduct from the English price 25 per cent.?—I am not sure that the American copyright books are not to be had at almost the same reduction.

5755. We have been told by Mr. Farrer that that is not the case; and assuming for a moment that it is not the case, the question I ask you would apply, would it not?—Quite so. There is another respect in which the published price of books is fictitious, and that is, that it is not meant to endure. The book is published and read in the circulating libraries, and in three months it comes down from 31*s.* 6*d.* to 3*s.* 6*d.*, perhaps. That is another sense in which I use the word fictitious.

5756. But I suppose that is limited chiefly to novels, is it not?—No. If you see Mudie's list, and look at books of all kinds, the lighter books generally, but still histories frequently, you will find that you

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can buy them at something like a quarter of what they were published at.

5757. But the publisher does not reduce the price to that extent, does he?—No, he sells them to those who do.

5758. But when the publisher has once parted with his book, he has no power to say what shall be done with it?—No; but unless he were willing it should be done, he would not sell to a library at a lower rate than to other people.

5759. (*Sir H. D. Wolff.*) He does sell at a lower rate to the libraries, does he?—Yes, it is a common practice among the publishers to do that.

5760. (*Dr. Smith.*) Is it the common practice among the publishers to sell historical and scientific works to circulating libraries at a lower price than to other booksellers?—I cannot say that it is within my knowledge that it is. I know that it is a system on the part of the libraries to buy all books as cheaply as they can, and that it is a system to sell them; but I cannot tell what distinction may be drawn by the publisher in the books he sells to the circulating libraries.

5761. The reason I ask the question is this, is it not the fact that that chiefly applies to novels?—No.

5762. Do you imagine that by Mr. Murray or Mr. Longman such works as Grote's "History of Greece," on the one hand, and Darwin's works, or Professor Tyndall's works, are sold to the circulating libraries at reduced prices?—No, I do not think they are, because I have been in the room when the libraries have been buying along with other booksellers; but I suppose that in a particular case in which Longmans might want to sell, they would sell them cheaper to the libraries.

5763. (*Sir H. D. Wolff.*) They sometimes sell them to the libraries at a larger diminution than 25 per cent., do they not; do they not sell them so low as 50 per cent. reduction?—It depends upon the character of the book, and what the intrinsic value of the book is. They do sell as low as that.

5764. As low as 50 per cent. below the published price?—Yes.

5765. Sir Julius Benedict asked you about books of a high class; now books of a high class which required engravings, or expensive printing owing to marginal references or foot notes, or anything of that kind, would naturally be dearer than other books?—Yes.

5766. And also with the plates they would be more protected against competitive publication than other books, would they not?—They would, on account of the expense of producing the plates.

5767. (*Dr. Smith.*) I understood you to say that what are called dear and expensive editions are sold entirely to circulating libraries, and circulated entirely by circulating libraries; am I right in that?—I do not think I said that.

5768. You did not make that remark as a general proposition?—No.

5769. (*Sir H. D. Wolff.*) I thought I understood you to say that these dear books which are published are generally, the bulk of them, bought by circulating libraries, and circulated through those libraries; that there are very few private persons that take the dear editions?—Of certain classes of books. But there is a certain demand for the better class of books, of course, at whatever price they are published.

5770. Then there are purchasers of historical and popular scientific works at the first sale?—Yes. Popular scientific books are not books which go to any great extent into the circulating libraries at all.

5771. They are bought by private individuals?—Yes.

5772. Do you think that more private individuals would buy them if they were cheaper?—When you speak of popular scientific books, I think you are referring to a class of literature the sale of which would not be very materially altered by any alteration of the law whatever, because they are bought for practical purposes by those who want them immediately.

5773. Suppose, for instance, that interesting scientific lectures were published; if they were published, after being delivered, at 5*s.* a copy, they would sell much more I suppose than if they were published at 30*s.* a copy?—I think the publisher fairly meets the market in the case of a lecture of that kind.

The witness withdrew.

Prof. T. Tyndall, LL.D., F.R.S.

Professor JOHN TYNDALL, LL.D., F.R.S., examined.

5774. (*Chairman.*) I believe you have published not only in England, but in the United States?—I have published about a dozen volumes in England, and most, if not the whole of them, have been reproduced in the United States.

5775. With your sanction?—With my sanction. I make an arrangement with my publishers, the Messrs. Appleton, in New York, and they every year send me an account of their sales, and allow me a certain percentage on the retail price of my books.

5776. Now you have heard, I think, since you have been in this room, the scheme which has been submitted to the consideration of this Commission by which the existing law of copyright would be repealed and the system of royalty established in its place, under which a publisher of the first edition of a new work would have what we may call a close time of a year, and after that it would be open to any other publisher, paying a fixed royalty to the author, to bring out new editions of that work. Have you turned your attention to the probable operation of a scheme of that sort, on the works for instance that you yourself have published?—I have given it some attention since the subject was first mentioned to me by a member of this Commission, and I have listened to the evidence given in this room since I came into it. In that evidence I have heard over and over again beliefs expressed of what would occur if the royalty scheme were to become law. These beliefs are to be pitted against what we now know as certainties; and taking everything into account, I prefer the certainty now known to me to the beliefs expressed by the witness who preceded me. It would be in my opinion a gross injustice, and might open a channel to interference of a still more serious and sweeping character, if the rights of an author over his hard-earned intellectual property were interfered with in the manner I have heard indicated here.

5777. Now under the present law has it been your custom to part with your copyright in the first instance, or only for a limited period?—The first work that I ever published was given to an eminent publisher; and I was averse to making any arrangement whatever with him. In those days I thought it in a measure ungentlemanly to bargain or haggle with a publisher; and I left it to him to do what he pleased with the volume. Subsequently the Messrs. Longman, and particularly Mr. William Longman, pressed me more than once to publish a volume of lectures, and about 1862 I agreed to do so. There was at that time a subject of great and growing importance, regarding which the English public were entirely uninformed, though the public intelligence was raised, I thought, to a sufficient level to profit by a clear exposition. With very hard labour I accomplished a volume on this subject. I felt myself free (and this is the liberty that I should very much object to see limited in any way) to say to Mr. Longman that I should regard him as a business man; that publishers were to my knowledge very competent to take care of themselves, and that I was determined, if he published a volume of mine, also to take care of myself and meet

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him on business terms. It was his wish that I should do so, and we then and there entered into an agreement for a single edition of the work. That has been my practice with Messrs. Longman up to the present hour. I sell my books to them edition by edition, always retaining the right to dispose as I please of the subsequent editions of each work. The expenses of each edition—of printing, paper, and advertisements, are added up, the book is priced by mutual agreement; the profits are ascertained, and on the day of publication I receive a certain proportion of those profits. I do this for the purpose of detaching myself as much as possible from business questions when the work is done.

5778. Under the present law you make your own arrangements for the sale of each edition?—I do.

5779. And under the proposed change of the law, as you apprehend it, instead of your having the freedom to do that and make an arrangement on your own terms with your publisher, the law would step in after the first edition and insist upon a certain rate of remuneration being afforded you by any publisher who chose to take your work and publish a new edition of it?—That is the impression that I have received of the proposed scheme, and I conceive that nothing can be more unfair. I think it would be simply flagitious to interfere with the rights of an author to that extent.

5780. (*Sir J. Benedict.*) Could you imagine any change in the law which you would propose to facilitate the acquirement by the public of works of such a character as you write yourself, or would it be possible to make the agreement such that the price of the books, which now is the great bar to their popularity in the first instance, could be lowered without injury to the author and to the publisher?—That is a subject on which at the moment I should not like to offer an opinion. I am here speaking of an author's rights over the produce of his own hard work. I may perhaps refer to a fact that was brought to my mind by the examination of the gentleman who preceded me. I think it perfectly fair for an author, if he thinks fit, to write a work that appeals to the wealthier classes of the community.* I wrote a little book some years ago called "Faraday as a Discoverer," in which I gave a sketch of Faraday's life and work. The book was published at 6*s.* or 7*s.*; it is a small book; I gave myself great trouble to write it, and the edition was very soon sold. Many of my friends urged upon me that it was almost a duty for me, and that for the public it would be a boon if a cheap edition of that book were published. It was accordingly published at the price of 3*s.* 6*d.*, but the sale of that book was by no means so rapid or so remunerative as the sale of the dearer one had been.

5781. (*Sir H. D. Wolff.*) In regard to that book, will you forgive my asking you, do not you think that the reason why the sale of the cheap edition at 3*s.* 6*d.* was slower than of the edition at 6*s.*, was owing to the two prices being rather near each other; there is not that enormous gap between the prices that there is, for instance, between 25*s.* and 6*s.*?—That is true; but I should not be inclined to ascribe the slower sale of the cheaper book to the smallness of the gap. I think the first book appealed to a highly intelligent class, that associated with their intelligence the means of purchasing the book, and they did purchase it. Had that book been published in the first instance at 3*s.* 6*d.*, no doubt that same class of buyers would have purchased the book, but it would certainly have been at my personal loss.

5782. Perhaps that may be the case; but if you had published it originally instead of at 6*s.*, at a higher price, do not you think that probably your sale would not have been as large as it was at 6*s.*?—That I cannot say. I always have a conversation with my publisher on these matters, and I defer very much to his knowledge.

5783. But at once by publishing at 6*s.*, you addressed yourself to a public who could afford 6*s.*, instead of to a public only who could afford a higher price. Many people could pay 6*s.* who could not pay 12*s.* 6*d.*?—I assume authors to possess a certain amount of conscience; and if Mr. Longman had proposed to me to publish that book at 12*s.* 6*d.* I should have objected to the price. Considering the amount of labour I had invested in the book, I should not have allowed him to publish it at 12*s.* 6*d.*

5784. That is because you are an exceptionally conscientious man perhaps?—Speaking for myself I certainly should have prohibited that.

5785. You mentioned that you considered that the plan that we have been discussing with the last witness would be an interference with your rights. May I ask you exactly to define what you think your rights are? I will tell you why I ask you that; it is this, I want to know whether your rights are rights of remuneration, or rights of control over the publication, that is to say, the type in which it is to be, or the particular form in which it is to be published?—I am speaking altogether of rights of remuneration. An illustration occurs at the present moment. I am now engaged on the sixth edition of my book on Heat, and I really intend to go in a few days to the Messrs. Longman and to say, "I think that considering your labour and mine we ought to have another arrangement, and that I ought to receive a higher proportion of the profits than I have hitherto received. You know it is open to me to go to another publisher, and you also know that I shall have no difficulty in obtaining the terms which I now offer to you." I regard it as my undoubted right, considering the labour I have expended on those works, to take them to the best market. If Longman does not give me my terms I should like to have the liberty of going to Macmillan, Chapman and Hall, Mr. Henry King, or Mr. Murray. That is the right I claim.

5786. You stand in a far better position towards Mr. Longman than an unknown man would?—I daresay; but I have had to raise myself into that position by very hard work.

5787. You said just now that these were only "beliefs" that we had. You think that the system now proposed would not act as advantageously as the present system does; that is only putting one belief against the other, is it not?—Irrespective of beliefs I object to my liberty of action being interfered with. Even if I felt sure that I should lose nothing by the proposed change, I should still fight for my liberty of action.

5788–90. Now I am going to ask you a question which you can answer or not as you like. Are your books published in America at a cheaper rate than they are in England?—It will perhaps be best to answer by definite examples. My volume on Sound was published at 9*s.* in England, and at 8*s.* 4*d.* in the United States. A little volume entitled "Forms of Water" was published at 5*s.* in this country, and at 6*s.* 3*d.* in the States. "Heat" was published at 10*s.* 6*d.* in this country, and at 8*s.* 4*d.* in the States. Considering the price of labour in America, I should have inferred that books there were dearer than here, but on the whole my books appear to be somewhat cheaper in the States than in England. It should not, however, be forgotten that I usually send them stereotyped from my printer here to my publishers in New York, and that some of them have been published in a smaller form in America than here.

5791. May I ask if the per-centage that you receive (if it is not a liberty to ask the question) in America on your books is as large as it would be if you had copyright in America, this voluntary per-centage that they give you?—I cannot say, but I should be inclined to think so, because I am in the hands of a most high-minded publisher. I believe that I should

* Mr. Gould, for example, wrote books on Birds so sumptuously illustrated that none but the wealthy could buy them.

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Prof. T. Tyndall, LL.D., F.R.S.

17 April 1877.

gain no advantage by the copyright in America that I do not possess at present. But though I should be unaffected, on public grounds I hold that a copyright ought to exist.

5792. Then there are illustrations, I suppose, in your books, are there not?—Many of them are illustrated.

5793. Do you give them the plates of your illustrations, or do they reproduce them?—I send them over the plates of everything. I say, for instance, to Messrs. Longman, "Messrs. Appleton will require "stereotyped plates, and also plates of the engrav-"ings of this book." The Longmans fix the price of the plates and receive it from the Appletons, and I am saved any further trouble in the matter.

5794. Then you have a greater protection altogether than an ordinary popular writer; inasmuch as in the first place you address yourself to a particular class, which I suppose you do to a certain extent?—Yes, undoubtedly.

5795. And in the second place you have the hold over your plates. To pirate your books, supposing they did that against your will, they would have to go to a great expense?—No doubt to some extent, but the plates are not of that expensive character that would deter a pirate. My chief safeguards are that the Messrs. Appleton are very powerful publishers, and could afford to undersell a rival, and that there is a kind of tacit understanding among the larger publishers in America that the books published by one should not be pirated by another.

5796. If Messrs. Appleton were not high-minded people they would still have a difficulty in pirating your book, because they would find a difficulty in getting the plates, you having the whole of the plates?—Yes; but that would apply equally to other publishers. The plates have to be produced in England and paid for in England, and a book that pays for plates in England would pay for them in America. They could not perhaps produce the books so cheaply as they now do if they had to produce the plates.

5797. Is your circulation larger in America than in England?—I could not say so. I have been assured over and over again that it is very large.

5798. I fancy your books are not books much read in circulating libraries; they are more books which people would study, are they not?—My first book that related to the Alps and glaciers might have got into the circulating libraries; but I do not remember to have seen any of my more strictly scientific works in them.

5799. (*Dr. Smith.*) We are right then in supposing that you object entirely to the legislature interfering by any enactment with your books, and that you prefer to make your own bargain with your own publisher?—I should like to be able to express to you the strength of my objection to any such interference. I hold my right to my own intellectual work to be at least as sacred as is the right of my excellent friend, whose propositions have been discussed here, to Abinger Hall.

The witness withdrew.

Adjourned.

Tuesday, 8th May 1877.

PRESENT:

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

SIR JOHN ROSE, Bart., K.C.M.G.	DR. WILLIAM SMITH.
SIR H. DRUMMOND WOLFF, K.C.M.G., M.P.	ANTHONY TROLLOPE, Esq.
SIR LOUIS MALLET, C.B.	F. R. DALDY, Esq.
SIR JULIUS BENEDICT.	

J. LEYBOURN GODDARD, Esq., Secretary.

THOMAS HENRY FARRER, Esq., further examined.

T. H. Farrer, Esq.

8 May 1877.

5800. (*Chairman.*) I think the last time that you were here Sir Henry Holland was putting a series of questions to you?—He was.

5801. I am sorry that owing to Sir Henry's serious illness he is unable to be here to-day, but he has sent to me a list of questions which he wishes me to put to you in his name; and perhaps it will be convenient that I should put them simply to you as from him without making any alteration in their form. I will, therefore, if you please, proceed to put the first.—When you were last under examination I was directing your attention to the Bill of 1873, about which there was some misapprehension. I would ask was not the object of that Bill generally to secure proper editions and sufficient for the wants of readers in other parts of the British dominions than where the book was published?—I understand that all the questions your Lordship is about to put to me are Sir Henry Holland's and not your Lordship's own, and I will answer them accordingly. To begin with his question which you have put concerning the Bill of 1873, I think the general object of that Bill was to satisfy, so far as it was reasonable, the colonial, and especially the Canadian, demand.

5802. It was assumed, was it not, that authors and publishers would provide for the country of publication as persons acquainted with the trade and habits of readers there?—I should prefer to say that the object of that Bill was to meet the Canadian demand, in other words, to provide for publication in the colony; and reciprocally to make provision in the United Kingdom for the supply of books published in the colonies. The latter object of it was not so much practical as theoretical. I should be sorry to admit any general assumption going beyond the scope of the Bill itself. I think it is better to confine ourselves to what was really the object of the Bill.

5803. Then was the object to provide some security for supply to places which had not the benefit of first publication?—The essential object was to provide for publication in Canada, and by means of such publication also to provide the Canadian reader with books suited to the market, to the local demand, or in other words, suited to the circumstances which had arisen from the Canadian reader being able to get United States editions.

5804. And was that object worked out by sections 6, 7, and 8?—Yes, those are the important sections.

5805. Turning now from the object to the effect of the Bill, section 6 applies solely to cases of first publication of a book out of the United Kingdom, is that so?—Yes; it applies to books first published in a British possession.

5806. And in case of non-publication, or insufficient publication, of such book in the United Kingdom within a certain time, provision is made for printing under license or for importation of foreign reprints?—Yes, I think that is a correct statement.

5807. And this is, is it not, the only section referring to importation of reprints into the United Kingdom, except section 14, which provides how it shall be done by the Queen in Council?—The only section which directly relates to importation in the

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United Kingdom, but it is a question whether other sections do not indirectly affect importation into the United Kingdom.

5808. A British author therefore can keep out of the operation of section 6 by first publishing in the United Kingdom?—Yes.

5809. And if he so publishes there is no provision for importation of colonial or foreign reprints?—No direct provision.

5810. Again, if he publishes first in the United Kingdom, but fails to supply a colony, licensed editions or foreign reprints may be allowed in the colony under sections 7 and 8?—Yes.

5811. But there is no provision for allowing such edition or reprints to be imported into the United Kingdom?—No direct provision.

5812. Such editions or reprints could not be imported under the Act of 1842, inasmuch as section 15 prevents importation of books published in British dominions "without the consent of the proprietor of the copyright," and treats them as "unlawfully printed," and licensed editions would come under that category; while section 17 keeps out foreign reprints?—I think that requires qualification. Section 15 of the 5th and 6th Victoria, chapter 45, is to this effect: "And be it enacted, that if any person "shall, in any part of the British dominions, after the "passing of this Act, print or caused to be printed, "either for sale or exportation, any book in which "there shall be subsisting copyright, without the "consent in writing of the proprietor thereof, or "shall import for sale or hire any such book so having "been unlawfully printed, from parts beyond the sea, "or, knowing such book to have been so unlawfully "printed or imported, shall sell, publish, or expose to "sale or hire, or cause to be sold, published, or exposed "to sale or hire, or shall have in his possession for sale "or hire, any such book so unlawfully printed or "imported, without such consent as aforesaid, such "offender shall be liable to a special action on the "case." That section, therefore, excludes from the United Kingdom a book reprinted abroad without the consent in writing of the proprietor thereof; and there are subsequent words which look as if the exclusion were confined to books unlawfully printed. There may, therefore, be raised a question on that section if you take it alone, whether it would exclude from the United Kingdom, in the first place, books printed in the colony by the author or with his consent; and in the second place, books printed in the colony under the license which this Bill authorises, and which would then be lawfully and not unlawfully printed. Then to make the history of the law complete, we come to the 17th section of the Act, 5th and 6th Victoria, chapter 45, which says that "it shall "not be lawful for any person, not being the pro-"prietor of the copyright, or some person authorised "by him, to import into any part of the United "Kingdom, or into any other part of the British "dominions, for sale or hire, any printed book first "composed, or written, or printed and published in "any part of the said United Kingdom wherein "there shall be copyright and reprinted in any "country or place whatsoever out of the British "dominions." That section therefore would exclude books reprinted out of the British dominions only and not books reprinted in a colony. But curiously enough at the time that 5th and 6th Victoria, chapter 45, was being passed, another law was going on simultaneously in the legislature, 5th and 6th Victoria, chapter 47, a Customs Act; and in that Act was contained a much more sweeping clause, and that clause has been continued in different Customs Acts since, and was repeated again in the Customs Consolidation Act of 1876, 39th & 40th Victoria, chapter 36, section 42. That clause is to this effect, that certain goods are prohibited from importation, and may be destroyed if imported, and the description of books is (and this description is the same as it was in 5th & 6th Victoria, chapter 36,) "Books "wherein the copyright shall be first subsisting, "first composed, or written, or printed, in the United "Kingdom, and printed or reprinted in any other "country," as to which certain notices shall have been given to the Commissioners of Customs. That section is much wider than the corresponding section in 5th and 6th Victoria, chapter 45; it not only does away with the limitation of the restriction to books printed for sale or hire, but it prohibits books printed or reprinted in any other country. Now, if "any other country" in that section means a colony, it would exclude the books which by this Bill, to which Sir Henry Holland refers, were to be reprinted in the colonies. The Copyright Act, 5th and 6th Victoria, especially prohibits books reprinted out of Her Majesty's dominions; the Customs Act specially prohibits books reprinted in any other country. The question therefore would be, whether in the latter Act the words "any other country" mean and include colonies, or not?

5813. (*Mr. Daldy.*) Is there any doubt about it?—I think that there is a doubt; but if there is no doubt about it, and "other countries" clearly mean "colonies," then Sir Henry Holland is right, and Dr. Smith and the publishers and authors were wrong in supposing that the Bill of 1873 would have admitted into the United Kingdom colonial reprints.

5814. (*Mr. Trollope.*) Did we not understand that Sir Henry Holland had put us right on that subject?—I do not think it is quite so clear as he would make it. One thing is quite clear from the correspondence, that the publishers and authors did think that Lord Kimberley's Bill of 1873 would admit colonial reprints into the United Kingdom, whether published by authors themselves in the colony, or whether reprinted under a license to be granted under that Bill. They made a representation to Mr. Chichester Fortescue about it, and I find in the official correspondence in a subsequent letter we had from the Colonial Office the point was treated as one that was not clear. I do not know that it is worth going further into that question to-day. There is a sentence that I can read in a memorandum of Sir Henry Holland himself, in a letter written from the Colonial Office upon this subject, and upon the representations of the authors and publishers, written to the Board of Trade on the 22nd of December 1873. That letter forwarded those representations to the Board of Trade, and upon the fourth of those representations these are Sir Henry Holland's observations: "As to point 4, it is not, perhaps, quite "clear from the wording of the Board of Trade Bill "whether it is intended to prevent the importation "into the United Kingdom of colonial reprints, but "I think it was intended (see section 11) to prevent "such importation. A clause might be inserted to "make this clear." That was the view of Sir Henry Holland at the time. The Board of Trade never replied to that letter, but I am quite sure that if they had replied, they would have said that, whatever might have been the case with regard to books published under the compulsory license in the colonies, books which were published by the author himself in the colonies under that Act ought to be capable of importation into the United Kingdom; but there was no further discussion about it; the whole thing dropped.

5815. (*Chairman.*) The next question put down by Sir Henry Holland is this. Therefore the fourth section of the recent Act, 38th & 39th Victoria, chapter 53, with which you find fault (in answer to Question 3930), is in accord with existing law, and the draft Bill of 1873?—As to its being in accordance with existing law, it created a new law, and therefore it is not in accordance with existing law. There was no power of reprinting in the colonies before, and therefore there was no question of the importation into the United Kingdom of colonial reprints. As to its being in accordance with the Bill of 1873, I think that, from what I have said before, is doubtful.

5816. You have admitted that the Canadians never asked for admission into the United Kingdom of colonial reprints?—I am not aware that they ever have.

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5817. And no claim has been made, so far as you know, by any other colony?—Not that I am aware of.

5818. There is no desire, is there, on the part of British authors or publishers, and no claim has been put forward by British readers?—There has certainly been no demand by British authors or publishers; and I am not aware of any demand that has been made by British readers; they are probably not alive to the question.

5819. Is the suggestion that you have made presented as from yourself, or is it the fixed opinion of the Board of Trade that importation of reprints into this country should be allowed?—There has been but one opinion at the Board of Trade ever since I have known anything of this subject, viz., that reprints by an author in a colony ought to be admitted into the United Kingdom. My evidence is my own and not the evidence of the Board of Trade; but I should not have felt myself at liberty to give that evidence if it had not been supported by the official correspondence of the Board of Trade which has been laid before the Commission already.

5820. From your evidence in answer to Question 3930 I gather that you attach much importance to this; and mainly because you hope by these means to get cheaper editions published early in England (*see Question* 4974)?—That is one object. My object is that the reader in England should get as cheap an edition as the reader in the colony, having regard to the rights of the author in both cases.

5821. Such legislation would be, would it not, without precedent, except the Foreign Reprints Act, which allowed importation of foreign reprints into colonies?—I am not quite sure that I know what is meant by "such legislation." There are two distinct things; there is the importation of books reprinted in the colony by the author himself, and there is the case of books reprinted in the colony by a license from the government of the colony without the leave of the author; those two things may be distinguished; but I should have said that the most novel thing in principle was allowing an author to republish in the colony, and at the same time to exclude that book from the United Kingdom.

5822. Was not that Act passed to meet the peculiar disadvantages in which the colonies were placed; to meet in short a special case?—By that Act Sir Henry Holland no doubt means the Foreign Reprints Act. That Act was passed, I think, with an endeavour to get as much for the author as was possible out of a state of things in which the colonies were determined to have the United States reprints.

5823. Was it not declared by the Board of Trade in 1868 to be "exceptional and provisional, and one " which could not without seriously compromising the " principles of copyright, both municipal and interna- " tional, be made the foundation of future colonial " legislation"?—I daresay it was.

5824. With respect to that question I may refer you to the Colonial Copyright Parliamentary Paper of July 1872, page 22?—I daresay it was, but I should not like to answer that question in an unqualified manner without referring to the correspondence, which I have not had time to do.

5825. Was not the Act protested against in March 1870 by a large body of authors and gentlemen interested in literary property, who called for its repeal? —It has been constantly protested against, but it was not simply the Act which was protested against, but the fact that under the Act they do not receive the benefits which the Act was intended to confer upon them.

5826. Are not these facts worthy of consideration before legislating in a like direction for the indirect purpose of getting cheap editions here?—*All* these facts are worthy of consideration.

5827. Then as to your answer to Question 4962; what authors have pressed the Board of Trade to make terms in Canada, and what terms were pressed for, as British authors have copyright in Canada under the Act of 1842?—British authors have nominal copyright in Canada under the Act of 1842, but it has never been possible to enforce that Act, and it is impossible to enforce it. It would be difficult for me to name at this moment particular authors who have made representations, but I know that there have been constant remonstrances to the government and complaints in the press by both authors and publishers against the existing state of things.

5828. In answer to question 3928, you stated that in the case of North America "colonial and inter- " national copyright questions are inextricably in- " volved." I suppose you are not hopeful of any convention with the United States, and therefore should we not deal with colonial grievances without considering the United States?—If you could do so it would be desirable, but I doubt if you can.

5829. Assuming, however, that we can, would it not be better to deal with the whole subject, as was attempted in 1873, rather than with one special grievance, as in 1870, viz., that first publication out of the United Kingdom did not give copyright throughout the British dominions?—The more comprehensive you can make your amendment of the law, the better. I quite agree with Sir Henry Holland there.

5830. There remains the question of supply to colonial readers. You will admit that it is not only highly desirable to place the literature of this country within easy reach of colonial readers, but only just, so long as the Imperial Act applies to the colonies?— I think it is both desirable and just, so long as the Imperial Act applies either to the colonies or to the United Kingdom, to place literature within the reach of the readers both of the colonies and of the United Kingdom.

5831. The complaints of the colonists as to not getting books within their reach were removed by the Foreign Reprints Act, 1847?—Their complaint was that they could not get United States reprints, and that difficulty was removed by the Act that is referred to; but the condition that was attached by that Act to the importation has, from one cause or another, never been performed.

5832. Do you object to the principle of that Act, if the royalty could really be secured to British authors as was intended?—I am inclined to think that I should not, always remembering that here you are dealing with a case in which you must get what you can for the British author, and that you are dealing with people who are practically independent of you.

5833. In larger colonies where printing could be easily established, might it not be provided that if an author did not choose, within a certain time, to provide an edition suitable for the wants of the colony, a license should be given to publish upon payment of a per-centage to the author?—That was the provision contained in this Bill.

5834. Would it in your opinion be reasonable that the highest court of law in the colony should decide what is, or is not, a suitable edition, subject to an appeal to the Privy Council?—It is a cumbrous mode of proceeding, and a court of law is not a good instrument for deciding a question of that kind; but it was probably the best that could be devised. I have certainly no wish to find fault with the Bill of 1873.

5835. If publication in a British possession is to secure copyright in this country, do you think re-registration here would be necessary?—I do not think that re-registration with all the formalities of deposit at the British Museum would be necessary. It would be very easy to do in that case what has been proposed in the case of foreign books, to have a minute of the registration sent from the colony to the British Museum, or whatever might be the registering office in this country.

5836. Might not the deposit of a copy of a book published in a colony at the British Museum be fairly dispensed with?—I think so.

5837. (*Sir J. Rose.*) In the case of the English author making arrangements with the American publisher for an American reprint, referred to in Question 5112, it would seem that the American pub-

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lisher attached considerable importance to supplying the Canadian market, and that he would give a larger compensation to the author if he would forego copyright in Canada. It would also seem to be to the advantage of both author and American publisher that the foreign reprint should go into Canada as rapidly as possible, and without payment of duty, in order that it might be the first and cheapest in the market?—Yes.

5838. It being the object of both to encourage the dissemination of American reprints, it would therefore seem to be in the interests of their common purpose to take no steps to make the existence of copyright known to the Canadian authorities, and so permit the duty to be collected; would not the small amount of copyright duty collected by Canada in past years seem to be due therefore, on these assumptions, neither to smuggling, nor to the inability or unwillingness of the Canadian authorities to check it, but to an arrangement between the only parties concerned not to enforce the law?—That would certainly be so in the case put by Mr. Froude, and I am inclined to think that it would be so to a considerable extent before, because if the author got as much from the American publisher as he would in the shape of a duty, or if he had it in a more convenient form, then no doubt it would be more to his interest to say to the American publisher, "You shall have the entire freedom of the "Canadian market," than it would be to say, "Every "book that you publish shall be liable to a duty taken "on my behalf by the Canadian Government at the "time that it passes the frontier." The author would have to balance the two advantages, and consider which of the two would bring him in the most money, and in the most convenient shape.

5839. Even in the absence of any arrangement to forego copyright in Canada, as assumed in the previous questions, and supposing the English author to agree with the American publisher only to supply him with advance sheets, so that he might publish simultaneously in America and in England, can the requisite conditions be complied with in time to enable the Canadian customs authorities to collect the duty. Would not the American publisher have many thousand copies at different parts of the Canadian frontier entered and passed the customs within a few hours after the publication in England, and long before the formal notice of English copyright could possibly reach Canada?—I am inclined to think that that would be the case; and perhaps it would not be amiss that I should read the section in the Act which applies to that, and which shows what is to be done before the duty can be collected on the Canadian frontier. It is the 152nd section of the Customs Consolidation Act of last session, which I believe in terms is much the same as the corresponding section in the previous Acts. It first says that books copyrighted in the United Kingdom are "absolutely prohibited to be imported "into the British possessions abroad, provided always, "that no such books shall be prohibited to be imported as aforesaid, unless the proprietor of such "copyright, or his agent, shall have given notice in "writing to the Commissioners of Customs that such "copyright subsists, and in such notice shall have "stated when the copyright will expire; and the "said Commissioners shall cause to be made and "transmitted to the several ports in the British "possessions abroad, from time to time to be publicly exposed there, lists of books respecting which "such notice shall have been duly given." So that the notice must first be given by the publisher or the author here to the Commissioners of Customs here, and that notice must be sent to Canada, and then the notice must be distributed over the frontier.

5840. Can you give any information as to the length of time intervening between the completion of English copyright and the transmission of the proper forms to Canada in past years. Has not the practice rather been to send the particulars at stated intervals only; and therefore would not the mischief be done under such a practice long before the Canadian officials had the means of checking it?—I do not know what the practice has been, but I think if time were of importance, and pressure were put by the interests concerned on the Government, the customs authorities here, and I presume in Canada also, would do the thing as quickly as they could do it; but whether they could do it in time to prevent the importation of books simultaneously published in the United States is quite a different thing.

5841. Such an arrangement as that referred to in Question 5112 would of course preclude any republication in Canada; and is not the British author therefore encouraging the trade of a country that refuses him any legal protection, to the injury of the trade of a country that affords him, if he chose to accept it, every possible protection?—I think that is the result of such an arrangement; but I should add that it is a not unnatural result of the superior capital and machinery for distribution which the United States publisher possesses.

5842. If the American publisher now dreads competition from Canada, even under existing disadvantages, and is willing to give better terms if protected from it, do you not think that if the English author were to co-operate with the Canadian rather than with the American publisher, and look to supplying to a larger extent than is now done the American market from Canada, the undoubted influence of the American publishers might be enlisted in favour of some international arrangement which would recognise the rights of the English author, and remove the existing anomaly as regards Canada. In other words, if the mere fear of Canadian publication now gets better terms, would not the real power of supplying be calculated to give more satisfactory results?—I hope that would be the case. I thought what Mr. Froude stated was one of the most encouraging facts which I have heard; but at the same time I should be afraid that the capital, connection, and power of the United States publisher would for a long while place the Canadian publisher at a disadvantage.

5843. Do you believe that an arrangement of this character, which requires unanimity on the part of rival publishers in the United States, and the abstention of Canadian publishers from devising means to do the work either in Canada or in the United States, can be otherwise than precarious and unsatisfactory. Is it not indeed a fact that already Canadian publishers have established themselves at Detroit, Rouse's Point, and other border towns, for the purpose of doing the work which the mutual courtesy of American publishers induce them temporarily to forego?—I quite agree with what is stated and implied in that question. I do not believe that any voluntary association of publishers to maintain copyright among themselves can ever be lasting if the terms upon which they give their works to the public are such as to tempt rivalry and competition.

5844. (*Sir J. Benedict.*) With regard to musical copyright, a subject in which I take a great interest, I have a question to put to you. I do not know whether you are aware of all the difficulties which of late have arisen as to songs and pieces of music being performed in public, and of which the right of performance has been paid for to persons entirely strangers, and I may say almost unknown to the original authors. By the 5th and 6th Victoria, which was extended to musical compositions, you are aware that in law no copyright song can be publicly sung, nor tune publicly played, without the permission of the composer or his assigns. Do not you think it would be better to modify the law so as to prevent the possibility of any low speculator, or man who has no other interest than his own, prohibiting the publication and performance of musical works, and to obviate the grievance of artists and amateurs; that there are no ready means of discovering in whom the right of performance is vested. Can it be expected that every artist or amateur who sings in public should be searching the register at Stationers' Hall for the names and addresses of those who own perform-

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ing rights; and do you not think that efficient means should be found in the publication itself, by announcing on the title page the name of the publisher, conjointly with that of the owner of the right of performance?—I think that what you have mentioned constitutes a very real grievance. I think it a great evil that my wife or daughter cannot go and sing at a village concert a song bought by them in Bond Street, without the fear of being liable to a penalty of 2*l.* for doing so, and one of the suggestions which I have made for the amendment of the law is this: "Let a copyrighted " song bear upon its face whether the right of singing " it in public is reserved, and to whom; and let the " owner of the song be able to recover no more from " anyone who sings it in public than the amount " of damage he has thereby sustained."

5845. That would not apply to works already published?—I suppose you must not apply it to works already published; it would be *ex post facto* legislation.

5846. (*Sir H. D. Wolff.*) The damage sustained by the author in such a case is rather small; he cannot have sustained any damage by his song being sung, can he?—The sum to be recovered would be so trifling that it would be almost *de minimis non curat lex;* he would be able to get an injunction against the further performance of it; and it is a question whether the author of the song is not more benefited by the publicity given to it than he is damaged by the performance of it without leave.

5847. (*Sir J. Benedict.*) You are, perhaps, aware that at the present moment the most popular songs are tabooed and cannot be sung, because a Mr. Wall, who represents a kind of fictitious society, smites vocalists and instrumental performers at every concert with a fine to the amount of 2*l.* for any song or arrangement belonging to or taken from such song if performed in public. It is possible that such a law could be sanctioned?—Is it a very bad law in my opinion; and with regard to Sir Drummond Wolff's question, I would say at any rate let the magistrate or the court which imposes the penalty have the power of reducing it; do not insist that it should be always 2*l.*

5848. (*Mr. Trollope.*) If you will look at Question 5311, you will see there that you state that the sum paid by the public is thus divided by you; 35 per cent. is supposed to go in cost of production, 23 per cent. to the author, and 42 per cent. in cost of distribution?—That is taking the figures which Dr. Smith gave me. I know nothing about it myself; I took the figures that Dr. Smith gave me in his question.

5849. You say, "I assume that 30 copies are given " away to reviews, and so on. The gross proceeds for " 970 copies at 12*s.* 6*d.* would be 606*l.* 5*s.* 0*d.*"?—Yes, I believe that arithmetic is right.

5850. Then you say that the proportions are divided in the manner in which you there describe? —Yes, that I take from Dr. Smith's figures which he gave me; they are not my figures, but Dr. Smith's figures.

5851. I assume the figures of the cost of production to be your own figures, are they not?—No, they are Dr. Smith's figures, taken from his question to me in a previous examination.

5852. You make that deduction with the view I take it of showing that too great a proportion of the expenditure goes in what you call the cost of distribution?—I do not know whether too high; that is a matter that I am not acquainted with, but a very large proportion goes in cost of distribution.

5853. Taking these figures as I find them here, and going into the cost of 1,000 copies, which I find to be 232*l.* 2*s.* 0*d.* in production, I find that the whole proceeds that the publisher would receive would be 487*l.* 9*s.* 6*d.* Dr. Smith then stated that out of that, 138*l.* would go to the author. The cost being as stated 232*l.* 2*s.* 0*d.*, there would, I think, be left for what you call distribution 117*l.* 7*s.* 6*d.* Those I think are figures which may be verified. That I find would give 49 per cent. as cost, 26½ per cent. to the author, and 24½ per cent. for cost of distribution. If those figures of mine be correct would not that give a very different view of the publisher's position?—I have great difficulty in giving any answer when I find that great authorities differ so much. I took Dr. Smith's figures which he gave me; your figures appear to differ from his.

5854. If you would examine my figures I think you would find that they do not differ much from Dr. Smith's?—I think my arithmetic is right, which is the only thing I am responsible for.

5855. (*Mr. Daldy.*) May I ask you with reference to what you said about the colonies, whether you think that an author would consent to have his books reprinted in a colony if colonial editions were to be admitted into the United Kingdom to compete with his high-priced edition here?—I think it would quite depend in what way his profit lay. If he thought that by reprinting at a lower price in the colony he could get the benefit of a very large colonial and American market, and get a good per-centage upon it, he would very likely think it worth his while to do it, even though the book came back at a low price into the United Kingdom; he would be willing, as Mr. Herbert Spencer said, to publish at the lower price in consequence of the increase of area which he would gain.

5856. Has he not at the present time the power to authorise the importation into the United Kingdom of a colonial edition of his book?—Of course he has the power to authorise it, but he has the power to exclude it, and that is the thing of which I complain.

5857. But if he has the power to admit it now, does not that cover the case in which it might be to his advantage to admit it?—No doubt. But it may be to his advantage to sell the cheaper edition in the colony and the dearer edition in the United Kingdom; and what I want to say to him is, "We will do our best " to give you a larger area, but throughout that area " your books shall have free circulation; if you pub- " lish for your own interest at a lower price in the " colony or the United States, that lower priced edition " shall come into the English market."

5858. But would you not give him the power to withhold the republication in the colonies if he wished to do so; would you compel him to republish, or would you give him the power as at present to withhold republication if he thought it to be for his advantage to do so?—That would be a question that would be raised in Canada rather than here. My proposition does not go to that extent, but it goes only to this extent, that if for his own sake he republishes in the colonies or the United States, then that the edition he so publishes may come back into the United Kingdom.

5859. But still we come back to the original question; as a matter of fact, can you see anything which would enable you to suppose that it would be to his advantage under present circumstances to print a cheap colonial edition, knowing that such an edition would be brought into competition with his edition here?—I am inclined to think so. I am inclined to think that the success of certain books which are now going on points to that being very possible, and even probable.

5860. And you would not leave that to the control of the author, but you would compel him to admit it, if he avails himself of the right to republish in the colonies?—Yes, certainly. I would do away with a law which enables him to impose a perfectly unprecedented restriction on the sale of the article he offers to the public.

5861. Now you suggested that the larger colonies ought to have a license to publish if the author did not republish there within a certain time?—I do not think I said that they ought, but I said that I thought they would very likely demand it, and that it would have to be considered.

5862. Then on that I wanted to ask you whether the license was to be confined to one publisher, or whether any number of publishers might reprint the

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book?—I think you would find it very difficult to confine it to one.

5863. And if you gave it to many would it not practically exhaust itself, and the competition be so severe that no one would do it?—I think not. I think that the first publisher has too great an advantage; I think that he, having determined on a price that would suit the market, would be able probably to keep other publishers out of the market.

5864. Have not complaints been made to the Government of the length of time that is employed in giving the notice to the colonial authorities of the copyright of a work in this country?—I have heard that such complaints have been made. I am not cognizant of them myself.

5865. Are you aware of any steps being taken to remedy that?—No, I am not; but I am quite sure that the Customs would take such steps as were in their power if application was made to them.

5866. (*Sir H. D. Wolff.*) You think, as I gather from your evidence, that copyright is for the authors rather than for the publishers?—I should put the public first, who have to read the books; the author next, who has to write the books; and if you take of these interests the publisher will, I think, take very good care of himself.

5867. And when you have once secured the copyright to the author, do you think that the particular article produced should then enter into the usual conditions of political economy?—As far as may be.

5868. Therefore, if the author is protected, the public should be allowed to buy the article he produces anywhere they like?—Certainly.

5869. Do you think that the opposition to the re-importation into this country of cheap books shows the demand for cheap books in this country?—It certainly looks as if there were a fear that the importation of cheap books would interfere with the dear ones.

5870. We are informed that books can be produced cheaper in England than in America; can you give me any reason why they should not be as cheap in England as they are in America?—None, except copyright. I have, since I was last here, been making some inquiries about the prices of books in different countries, and I am still endeavouring to get the comparative prices of English and American editions of a number of books. But unless such lists are very full and complete, which is only possible in the case of America, they afford very inadequate means of comparison. *For lists subsequently obtained, see Appendix, Paper marked N.).* You must know all the circumstances of two books before you can fairly compare the prices. It seemed to me, therefore, that the best source from which to form a conclusion would be the impressions of persons who are continually concerned in buying books. I consequently went to several retail booksellers, English and German and American, and also to the librarian of the London Library, to the librarian of the Athenæum, and to the gentleman in the Queen's Stationery Office who buys books for the Government; and I think I may state as the general result of their opinions, that French books (always speaking now of copyrighted books) are decidedly cheaper than English books, and so are also German and Italian books; as to German, perhaps the evidence is not quite so clear, because prices rose in Germany with the last rise of wages, but they are now gone down again: as regards the cost of copyrighted American books I am in considerable doubt. They were at one time cheaper than English copyrighted books; now they are considerably dearer. I think that Mr. Trollope rather laughed at me (and I confess I almost laughed at myself) when I quoted a passage from an American book saying that American books cost something like 170 per cent. more to produce than English books do; but I must say that from what I have learned since that is not so extravagant a proposition as I thought it was. We have to consider in the first place that the American publisher has to pay something like 30 or 40 per cent. of duty on his paper, which of course increases *pro tanto* the cost of the book, whether the paper is produced abroad or in the United States; and then, wages are higher and have been higher than they are. From such facts 100 to 150 per cent. does not seem to be such an extravagant excess of the cost to the American publisher over that to the English publisher as it might at first sight appear to be. I find, for instance, in a little pamphlet published by Mr. Strahan (this was published some years ago) that a little book which was worth in England to the publisher 8½*d.*, was valued in New York by a committee of publishers, who sat upon it for the purpose of assessing the duty, at 1*s.* 9*d.*; and in the same little pamphlet he tells us that the cost in England of producing a book which contained one pound of paper would be 21 cents, whereas the cost of producing the same book in the United States would be 60 cents.

5871. (*Mr. Daldy.*) What is the date of that?—1866 I think, and no doubt in the last year or two wages may have gone down in the United States; still there is no doubt that prices in America are very much higher than in England; and when we take those facts, and at the same time the fact that I have already given to the Commissioner, namely, that Macaulay's Life is sold in England at 32*s.* or 30*s.*, and that the same book on equally good paper and with equally good print is sold in New York by Appleton at 18*s.*, the result is very remarkable. On the other hand, I am bound to say that from prices recently furnished me from New York, the cost of production in America approaches much more nearly to the cost in England than the above figures indicate. I will put in the letter containing this information, premising that it is imperfect, because, so far as I can make out, it does not give the cost of setting up the type. (*See Appendix, Paper marked* O.).

5872. Have you tried to ascertain what the author's remuneration is?—If the whole of the difference between the English and American prices of "Macaulay's Life" went to the author; if the difference represented simply an addition of remuneration to the author, there would be less to be said against it; but it is hardly possible to conceive that the author's remuneration is precisely in the proportion of the difference in price.

5873. In making these calculations as to the relative cost of books, have you taken into consideration that the author's remuneration in America is very different from what it is in England?—No; in what I have just said I have been referring to the trade cost of production; what I call the cost of production, paper, print, and binding, without any reference to the author.

5874. (*Mr. Trollope.*) Do you not think that the higher remuneration paid to the author in England may more than compensate for the difference in price?—I should doubt it.

5875. Would you think that 7*s.* 6*d.* a volume to the author would be an extraordinary remuneration for an early edition?—I really do not know.

5876. If it were so would not that more than compensate?—Possibly, provided always that the American publisher, Mr. Appleton, paid no remuneration at all.

5877. Provided that Appleton did pay some remuneration?—Then I must know what that remuneration is, and I must also know, not only what sum is given to the author upon each individual copy, but what sum he gets upon the whole by the increase of sale arising from the lower price.

5878. (*Sir H. D. Wolff.*) Do you believe the high price of books in this country to damage the sale of them?—I think decidedly

5879. And you think that by a lower price in this country, and by securing the American copyright, the large sale which would result in the two countries would bring in an equal remuneration to the author to that which he gets by the present limited sale at the high price in this country?—That is my impression.

5880. That you arrive at by calculations of your

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own?—I arrive at it rather by general principles than by actual calculations.

5881. Then if we were to negotiate with America to obtain copyright for English books in America, which would necessitate legislation in this country, do you think that the legislation in this country ought to prohibit the importation into this country of books published in America for which copyright remuneration is given to the English author?—Certainly not: they ought not to be excluded.

5882. And you are not of opinion that any legislation should be passed which would give books cheaper to the English reader in America than to the English reader in England?—That is my proposition.

5883. (*Mr. Daldy.*) Have you made that answer under the assumption that the author is to be equally well paid?—I make the assumption that we get for the author the power of selling his books in America, and of getting something for them there. Then if we do that, I say he ought not to be allowed to sell his books at a cheaper rate in America than he does in England, or, in other words, I would not give him the power of excluding the books which he sells in America from the English market.

5884. Would you give him the power of refusing to take out his copyright in America, retaining the high price in the English market?—That is a question which it is hardly necessary for me to answer at present, because America is not under our control. So far as we can treat with America I would get him as many privileges as I could there, but with the condition that whatever he did for the American market he should do for the English market.

5885. But by any legislation here you would not compel him, would you, to avail himself of the American market, but leave him the power to publish his high-priced editions here, and neglect the American market?—That at present I am afraid must be the case.

5886. When the arrangement is made I mean?—I think there is no necessity for us to talk about that, because the Americans are sure to insist upon some arrangement by which his books shall get into their market, at a price which suits them.

5887. If an arrangement be made under which copyright is secured to an author in America on condition of his republishing his books, and you make a regulation that if he avails himself of that condition, and does republish his book there, the said book shall come into England, I want to know whether you also leave the author free not to republish in America, and simply confine himself to the English market?—I think I would, but with this reservati , that if he chooses to publish in America, as he now does, without copyright, I would let that edition be brought into England.

5888. (*Sir H. D. Wolff.*) If he did not choose to avail himself of the copyright extended to him in America, you would give him no protection against reprints from there?—No. If he were to publish in America by a voluntary arrangement, I would allow the edition to come back into this country, but if he did not I would not.

5889. If an arrangement is made with America, that arrangement must be a general arrangement?—Yes.

5890. Would you propose to put into the treaty exceptions by which an author should say, "I will "not have my book reprinted in America with my "consent;" he refuses to have his book published in America; he refuses to avail himself of the American copyright; and therefore he abandons himself to the American unauthorised reprints?—I am inclined to think, as far as I can judge at present, that we might leave that alone, and allow him in that case to exclude the American reprints.

5891. Do you think it is possible in any negotiation or treaty to make those provisoes?—No, I doubt whether any such proviso would be either practicable or necessary. You cannot oblige the author to take advantage of the privilege you offer him. But an American treaty is so hypothetical that I have not considered what its details should be.

I have read the evidence of Mr. Herbert Spencer, and Professor Huxley and Tyndall, which is in a great measure a r eply to evidence which I have given. That evidence does not change my opinion: and if time and opportunity permitted I think I could show that the assertion of an absolute right in an author to control for ever the re-production of his work is a dangerous mistake; that it is Mr. Herbert Spencer's evidence and not mine which is contrary to the doctrines of free trade; and that the very interesting facts given by Mr. Spencer not only support the modest suggestions for amendment of the laws which I have put forward; but are consistent with that principle of a royalty which I have not myself suggested, but which is the special subject of Mr. Spencer's attack.

5892. Have you any observations which you wish to make with reference to the evidence that has been given before this Committee on the subject of the fine arts?—That is the only subject which I did not treat in the first evidence that I gave. If you will allow me I will state what I have to say on that subject.

Several anomalies, or rather peculiarities, have been pointed out in the law relating to paintings, drawings, and photographs, 25th and 26th Victoria, chapter 68, namely:—

(1.) That the author must be either a British subject, or resident within the dominions of the Crown.

(2.) That there is no date for the commencement of copyright.

(3.) That it is for the life of the author and seven years afterwards, and not for 42 years; and

(4.) That upon a sale, unless there is a memorandum in writing, expressing to whom the copyright is to belong, it apparently ceases altogether.

It is also to be observed, that there is no remedy for infringement before registration; and further, that very stringent provisions are made for seizing false copies and punishing the sellers.

Several proposals have been made for altering the law on the part of artists, engravers, printsellers, photographers, &c.; the most important of them seem to be,—

(1.) That in the absence of special stipulations to the contrary, the copyright, that is, the right to prevent copies, prints, or photographs of a work of art, should upon sale remain with the artist or vendor, notwithstanding any number of subsequent sales.

(2.) That there should be no registration of this right, or at any rate no such registration as would give any notice of the right to the public, or to subsequent purchasers.

(3.) That an exception might possibly be made in favour of a purchaser by commission.

(4.) That if copies or imitations are sold or exposed for sale, the owner of the copyright shall have the power to seize them without warrant, and to treat the person in whose possession they are found as a criminal, unless he explains from whom he got them.

It seems to me that the first two of these proposals are unjust, inexpedient, and contrary to the public interest, and that the fourth is in the highest degree tyrannical and inquisitorial.

The following are the suggestions which have occurred to me as possible and expedient by way of amendment of the several anomalies above referred to:—

As regards the first of these points, namely, the condition of British citizenship or residence, I see no reason why there should be any difference between copyright in paintings and other forms of copyright; but I have already suggested, in the case of books, that copyright should be confined to British citizens or residents, and I think the same rule should apply to works of art.

Secondly. As regards the duration of copyright, I see no reason why copyright in paintings should not be of the same length as copyright in books. As regards its commencement, there is some difficulty, because in the case of a painting there is not neces-

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sarily anything corresponding to publication; but I see no reason why copyright should not date from the first sale or the first public exhibition of a picture, with the provision that such sale or exhibition shall, if copyright is intended, be accompanied by registration.

The question to whom, in case of sale, copyright is to belong, is one of rather more difficulty. According to the present law, copyright is made to include the reproduction by the painter of a replica of the same picture, as well as copies, engravings, and photographs taken from it; and in both cases it appears to be the law that unless a memorandum in writing is executed at the time of the sale, stating to whom the copyright is to belong, it shall cease altogether.

It seems to me that there is a distinction to be drawn between a replica of the picture made by the artist himself, and copies, engravings, or photographs of it made by others. In the case of the replica, I can see no reason either in the interests of the painter or of the public why he should, in the absence of special stipulation to the contrary, be deprived of the right of repeating his original picture. The only effect of such a restriction would be to make the first picture unique, and possibly increase its value; but there is no public object in this, and the purchaser, if he wishes it, may very well make this a special stipulation and pay an additional sum for it. In the absence, therefore, of a special stipulation to the contrary, I would leave the painter free to repeat his own work. I would also leave him free to sell his sketches for the original picture. With regard to copies, engravings, and photographs from a picture the case is different. These cannot in any case, with whomsoever the copyright remains, be made without the co-operation of the possessor of the picture for the time being; and any person who buys a picture without notice, whether from the artist or from any intermediate possessor, would I think naturally conclude that he was entitled to do with his chattel what he pleases, and consequently to have it copied. I think, therefore, that the right of copying, engraving, or photographing a picture ought, in the absence of stipulation to the contrary, to pass with the possession of the picture itself, such right not to affect copies, engravings, or photographs previously taken. Nor would this be any hardship on the artist. He would when selling the picture be able by special stipulation to reserve the right to copy; and whatever may be said to the contrary, it is for him to make such a stipulation, rather than for the purchaser to stipulate the contrary. Some such a stipulation he must have if his right is to be of any positive value to him, since without special stipulation he could not get access to the picture. Further, it will be absolutely necessary, if pictures are to be saleable articles, that there shall be some notice in cases where the right of copying, &c., is reserved, and is separated from the picture itself, and for this purpose I think that no reservation of any such right should be valid unless it is registered, and any assignment of it should be registered also.

A distinction has been drawn between pictures painted on commission and other pictures, but the evidence shows that it would be very difficult to make any such distinction, and if the plan I have suggested is adopted it would be unnecessary. Where a picture —*e.g.*, a portrait—is painted on commission, it would be easy for the purchaser, if he ever wishes it, to stipulate with the painter that there shall be no replica of it; whilst in the case of copies, engravings, or photographs to be made of it, the right would, in the absence of stipulation to the contrary, pass to the purchaser. As to the sketches for the original picture, I think that, in the absence of special stipulation to the contrary, the right to sell them should remain with the painter. But unless he reserved the copyright of the picture he would retain no copyright in the sketch, supposing the sketch to be so near the picture as to involve breach of copyright.

Some suggestions have been made for more stringent remedies against piracy; such, for instance, as those to which I have already referred, and such as the extension of local jurisdiction, increase of penalties, and a power to seize summarily and prevent the exportation of pirated copies.

Penalties ought no doubt to be adequate, and prosecutions ought not to fail for want of local jurisdiction, but in other respects the penal provisions in the case of paintings and engravings seem to me to be more stringent than in other cases of copyright, and I think it would require a strong case to make them more so.

Some confusion has, perhaps, been introduced into this as well into other parts of the subject, by mixing up two objects which are really distinct; namely, first, the provision of adequate remuneration to authors and artists; and secondly, the enabling them to prevent damage to their reputation by the issue of inferior and spurious articles under their names.

The first of these objects is alone the proper subject of copyright, and it would not, I think, be wise to extend that law for the mere purpose of preventing injury. The second of the two objects is a matter for the ordinary law respecting civil injuries, supplemented if need be by special provisions for summary penalties, such as are contained in the Act 25th and 26th Victoria, chapter 68, section 7, and in the Trade Marks Act.

I would therefore suggest—

That copyright in paintings should date from first exhibition or sale.

That it should be registered.

That it should last as long as other copyrights.

That in the absence of special stipulation, which should always be registered, the right of repeating the picture should remain with the artist; and that the right of copying, engraving, and photographing it, should pass with the possession of the picture, subject of course to previous copies.

5893. (*Chairman.*) Are you able to put into one consecutive form the various practical suggestions that you have made in the course of your evidence?—I have done so, and the suggestions are as follows:—

SUMMARY OF MY EVIDENCE.

(A.) *Suggestions concerning the principles which should govern action in the case of colonial and international copyright.* (*See* question 3928 and subsequent cross-examination.)

(1.) Publication in the United Kingdom to be no longer a condition necessary in order to obtain English copyright.

(2.) Provide in the interest of the British public that no author who is not domiciled in the British dominions, or a citizen of a country having a copyright treaty with the United Kingdom, shall be entitled to English copyright.

(3.) Provide distinctly that when any book copyrighted in England is republished in any foreign country, or in any colony, with the consent of the copyright owner, the editions so republished shall be admitted into the United Kingdom, and that the English copyright owner shall have no power to exclude them.

(4.) Do away with the prohibition to import contained in the Customs Acts by which the Customs officers are enabled to search passenger's luggage for prohibited books, and leave the copyright owner to the same protection against foreign piracies which he has against English piracies. Require him, in any proceedings against pirates, to state that the edition against which he is proceeding has not been published by him or with his consent.

(5.) Abandon all expectation of getting either the United States or Canada, or any important colony, to submit to a permanent unqualified monopoly on the part of English copyright owners, and be prepared to deal with them on some other footing. Whether such arrangements should be made on the principle of a right of republication with a royalty it is now perhaps premature to inquire. But there is no reason hitherto

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T. H. Farrer, Esq.

8 May 1877.

shown for supposing that an arrangement on that footing would be impracticable or unjust.

(B.) *Suggestions for amendments in detail of the existing law.*

N.B.—In making these suggestions, I assume that copyright, or the right to prevent other persons from making copies, is conferred upon authors for the purpose of securing remuneration to them, and thus encouraging them to write for the public. I assume that it is not the object of copyright to enable authors to correct, modify, or withdraw from the public, what they have once given to it, an object, it may be added, which the law should not encourage. Nor does it seem to me to be the object of copyright to prevent caricature or misrepresentation, an object which, so far as it is cognizable by law at all, should be attained by a totally different branch of the law.

(1.) Consolidate the law. (*See* questions 3159 to 3164.)

(2.) Abolish perpetual copyrights, at any rate as regards future copyrights. (*See* questions 3135 to 3518.)

(3.) Make the duration of copyright to be for 28 years from publication, with power to the author or his family to renew for 14 years absolutely; or, if it should be thought undesirable to shorten the existing period, for 14 years, or life and seven years, whichever is the longest.

N.B.—This suggestion is made on the hypothesis that many authors part with their copyrights. If and so far as they do not do so, it ceases to have value. (*See* questions 2863 to 2922 and 3056.)

(4.) Let there be the same duration of copyright (or stage right) for books, music, dramas, lectures, paintings, sculpture, engravings, and photographs. (*See* ditto; also questions 3068 to 3070 and question 5892.

(5.) Let registration be simultaneous with publication or first representation, and let copyright date from registration except in case of lectures. (*See* questions 2923 to 2961.)

(6.) Abolish Stationers' Hall registration, and substitute registration at the British Museum. (*See* ditto.)

(7.) Let all books, printed music, dramas, and lectures, all engravings, and all photographs for which copyright is required, be deposited at the British Museum, and registered at the time of deposit, and let the fact of registration be noted on the title page. (*See* ditto.)

(8.) Let dramatic and musical pieces which are represented but not printed, and sculpture and paintings, be registered without deposit. (*See* ditto.)

(9.) Let the author of a printed and published drama or musical composition be entitled to stage right.

(10.) Let there be no remedy for piracy committed previously to registration, but let the author or publisher be enabled to protect himself against such piracy by a provisional registration if he thinks fit; such provisional registration to be valid for a short time only, say three months. (*See* ditto.)

(11.) The register may, if the dealings in copyright are such as to require it, be so framed and kept as to be a complete record of title, like that of ships or stock, the expense being paid by fees on the several transactions. (*See* ditto.)

(12.) Abolish all deposits elsewhere than at the British Museum. (*See* questions 2962 to 2975.)

(13.) Let a right of abridgment be reserved to the author for (say) three years; let the copyright in the author's abridgment, if published within that time, last for the time for which the copyright in the original lasts, and let it protect him during that period from unauthorised abridgments. This suggestion is made on the hypothesis that there may be such a thing as an abridgment or digest which is neither an original work nor yet a pure piracy. (*See* questions 2991 to 3013.)

(14.) Let the right of dramatising a novel, be reserved to the author for (say) three years; let the copyright in the author's drama, if published or represented by him within that time, last as long as the copyright of the original novel; and let him be protected during such copyright from unauthorised dramatisation. (*See* questions 3023 to 3055 and 3058.)

(15.) Let a right of printing and publishing lectures and sermons delivered in public be reserved to the author for (say) three years; and let the copyright in the lecture or sermon, if published within that time, last for the ordinary period of copyright, dating from the delivery of the lecture or sermon, and let the author be protected during that time from unauthorised publication. In case of lectures notice to be given at the time and place of delivery. (*See* questions 3100 to 3134.)

(16.) Let a copyrighted song bear upon its face whether the right of singing it in public is reserved, and to whom; and let the owner of the song be able to recover no more from anyone who sings it in public than the amount of damage he has thereby sustained. (*See* questions 3075 to 3087.)

(17.) Let copyright in pictures and sculpture date from registration. In the absence of special agreement to the contrary, let the right of repeating the original work remain with the artist; and let the right of copying, engraving, or photographing it pass to the purchaser, and follow the possession of the work. (*See* question 5892.)

(18.) Abolish deposit in case of works having colonial or foreign copyright. (*See* questions 2962, 2972.)

(19.) Let publication in a colony with colonial registration and subsequent registration at the British Museum, give imperial copyright. (*See* questions 2923, 2962, 2972.)

(20.) In case of works published in the colonies, let a copy of the colonial entry, officially attested, be entered at the British Museum, copyright to date from date of colonial entry. (*See* ditto.)

(21.) Do away with copyright treaties and have a general Act, framed on the principle of the Extradition Act, applicable to foreign copyrights, and enable Her Majesty, by Order in Council, to apply the Act in cases where national treatment is given to British authors. (*See* question 3158.)

(22.) In case of books published abroad which have the benefit of any such Order in Council, let a copy of the foreign registry, attested by a British consul, be entered at the British Museum. (*See* questions 2923, 2941 to 2952.)

(23.) Let a right of translation be reserved to the foreign author for three years after original publication, and let the author's translation, if published within that time, be deposited, registered, and have the benefit of copyright during the time for which copyright in the original lasts; and let the author during that period be protected against unauthorised translations. (*See* questions 2976 to 2990 and 3057, 3058.)

(24.) Reserve to the foreign dramatist in countries which have the benefit of such Order in Council, a right to translate or adapt to the English stage within (say) three years. If he translates or adapts within that time let the translation or imitation be registered; let copyright in it last for the same time as in the original, and let it protect him during that period from unauthorised translations or adaptations. It should not be necessary, as at present, to register a translation in order to protect an imitation. (*See* ditto, and questions 3095 to 3099.)

(25.) Do away with the present rule which makes first representation of a drama in the United Kingdom a condition of obtaining copyright (stage right). (*See* Questions 3087 to 309[illegible].)

(26.) Alter the law under which a judge can refuse protection against piracy to publications, on the ground that they are immoral, seditious, or blasphemous. Make it imperative, where this is the ground of defence, to issue an injunction, to be dissolved only if on a criminal information the charge is proved, and

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APPENDIX.

APPENDIX No. I.

PAPERS put in by Sir C. E. TREVELYAN, 8th May 1876.

A. (*See* Question 2.)

The COMPROMISE offered by CANADA in reference to the REPRINTING of ENGLISH COPYRIGHT WORKS.—Three letters to Thomas Longman, Esq., dated in February 1872.

8, Grosvenor Crescent, February 8, 1872.

DEAR MR. LONGMAN,

I RETURN with thanks—

1. The "Lays of Ancient Rome" reprinted at "Rouse's Point," by the "International Printing and Publishing Company";
2. The "Montreal Daily News," containing various articles explanatory of the plan and motives of this Company; and
3. Sir Roundell Palmer's two Opinions.

What has now taken place strikingly illustrates the mistake which was made two years ago, against which I strongly remonstrated. We had absolutely no power to prevent United States publishers from reprinting our copyright works, and flooding with them the Canadian, Australian, Indian, and other British markets abroad, those imported into Canada being almost entirely smuggled, owing to the impossibility of maintaining an effective Custom House system in every part of that long line of frontier. In this state of things, the Canadian publishers offered through their Government, to pay to the owners of English copyright an excise duty of 12½ per cent., equal to the Customs duty chargeable, *but not really levied*, on the frontier, provided they were allowed the same privilege of reprinting English copyright works for sale out of the United Kingdom which was exercised in the United States.

The advantage of this arrangement to authors and owners of English copyright works was obvious, because they would thus have got a real 12½ per cent. on the sale of their books; while it would have been only just to the Canadians, because it was impossible for them to deal in English copyright books printed in England in the face of the unlimited printing and smuggling of the United States, from which we were unable to protect them. They also assured us that wages and prices in the States had been so much raised by the war, and the taxation consequent upon it, that if Canadian printers were allowed fair play by being put on an equal footing with the United States printers, they could undersell them, and give English authors the benefit of the market of the United States as well as of Canada. This just and liberal offer was refused; why, I could not at the time conceive; but it has since become apparent that there is a publishing and printing interest distinct from that of the owners of copyright,* and that, while the latter would be greatly benefited by the arrangement, the former would neither gain nor lose by it, because under no circumstances can there be much demand in Canada and the United States for books printed in England.

I again strongly urge that the plan advocated by the Government of Canada should be adopted. It is a compromise in which each party has to concede a portion of its rights; but the concession on our side is nominal, because our right is at present entirely barren, We actually get nothing for our copyrights either from Canada or the United States, while, if this arrangement was made, we should be substantial gainers from the excise of 12½ per cent. on the sales of the Canadian reprints, whether in Canada or the United States. If this is not done, every disinterested person will wish success to the International Company, which neutralizes an unjust and unworkable law by the simple expedient of sending the stereotyped plates to a place just within the United States frontier, and reprinting the books there for sale both in the States and Canada.

Having the impression, derived from the experience of the last two years, that, on this subject, the interests of the owners of copyright, *taken by themselves*, are not properly protected, I shall keep a copy of this letter; and if the matter continues to take the same adverse course, I shall hold myself free to make an independent representation to Her Majesty's Secretary of State. There is no family more largely interested in the question than mine, the very book selected by the International Company, on account of its general popularity, to test the question, being Lord Macaulay's "Lays of Ancient Rome."

Yours sincerely,
C. E. TREVELYAN.

* *As owners of copyright* (and they are the largest owners of all) publishers have precisely the same interest as authors and their assignees; but, *as publishers*, their interest is based upon local trade operations, and may, therefore, be different from that of authors. Owing to the great extent to which publishing firms have purchased copyrights, the two interests are ordinarily combined in this country; but when the scene is changed to Canada or the United States, where English publishing firms do not at present carry on business, the existence of two separate interests becomes apparent. The owner of copyright is concerned only with the disposal of his copyright works, no matter by whom the sale is conducted. The publisher, on the other hand, is a broker, who derives his profits from the sale, no matter to whom the copyright belongs.

MY DEAR MR. LONGMAN, February 10, 1872.

I SHOULD be very sorry if my letter to you was supposed to have any personal application. My point is entirely *public*, and is briefly this. Within the United Kingdom full power exists for securing the rights of copyright holders. In Canada and the United States we have no such power, and it has long been evident that there is not the slightest chance of our monopoly of English copyright books, printed and published in England, being accepted in those countries. In this state of things, the Government of Canada offers, as a compromise, that the Canadians should be permitted to reprint our copyright works upon their paying the owners 12½ per cent. of the amounts realised by their sale—that is. that, *instead of getting nothing at all*, the copyright owners should get what I suspect approaches nearer to a fair average of the gains of authors in this country than is generally supposed; and *that*, not merely on the sales of books for use in Canada, but also to some, and probably a large, extent, upon their sale for use in the United States; for free trade in Canada, contrasted with heavy war and protective taxation in the States, has turned the scale, and there is solid reason for believing that, if the required permission were given, the Canadian printers and publishers would undersell the American, and we should, to a considerable extent, get the command of the book market of the United States, leading, possibly, hereafter to the adoption of a similar arrangement there. Of course the same arrangement which gave to the Canadians the power of reprinting English copyright works, must secure the exclusion of the reprints from England.

This arrangement, I contend, is so obviously advantageous to the owners of English copyright works, taken by themselves, that the intrusion of some other interest must be assumed in order to account for its rejection. I feared that it might be the publishing and printing interest which had thus been imported into the question, and shall be very glad to be assured by you that it is not so.

Surely you are mistaken in supposing that the Canadian arrangement was only intended to apply to *future* copyrights. The question was argued here two years ago on the contrary supposition, and the Canadian papers you lately sent me also treated all English copyrights alike. Indeed, from the nature of the case, it must be so, for existing English copyright holders actually have the exclusive power of reprinting their works in Canada, and in order to induce them to surrender this right, they must be included in the compromise. The book, by the reprinting of which the International Printing and Publishing Company undertook to test the question, is an existing English copyright work, Macaulay's "Lays."

Sincerely yours,
C. E. TREVELYAN.

8, Grosvenor Crescent, S.W.,

MY DEAR MR. LONGMAN, February 12, 1872.

MANY thanks for yours of the 11th, since receiving which I have read what has appeared in the "Times" of Thursday the 8th and Monday the 12th (to-day) on the subject.

First, I will address myself to your remaining objections to the "Canada compromise."

I cannot understand your difficulty about owners of

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