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fore I think that there ought to be a fee on each occasion.

476. (*Mr. Jenkins.*) With reference to the advisability of retaining the Stationers' Company as the registering officers, have you considered whether foreign Governments would like to accept registration by a private company, and would not rather prefer that we should register at a Government office?—I think that if it was stated in an Act of Parliament that Stationers' Hall was the authorised place it would satisfy foreign Governments, and I think that it is always undesirable to upset existing arrangements if you can avoid doing so. Then again Stationers' Hall is perhaps as convenient a place as you could have for making your entries.

477. Your evidence has slightly varied to-day; you have corrected your evidence in one point, namely, with regard to the efficiency of the registration at Stationers' Hall; you have admitted that it is not efficient now, in this sense, that you cannot rapidly find out whether a book is registered or not?—Quite so.

478. Supposing that a foreign Government were entering into arrangements with our Government with reference to registration, they might point to that fact, and they might say, "Unless you give us a public official to undertake the registration, and make yourselves responsible for him, what guarantee have we of the correctness of the registration?" What would be our reply?—With regard to the difficulty of ascertaining what book is registered, or whether a book is registered, a very important part of my scheme is that there should be a very perfect index always kept. Then, again, as to the desirability or otherwise of retaining Stationers' Hall as the best place, it does not in any way interfere with my scheme whether you appoint the public place for registration there or elsewhere.

479. (*Sir H. Holland.*) You are perhaps aware that Stationers' Hall, and registration there, are already recognised in our existing conventions with France, Germany, and other powers?—Yes.

480. Therefore to a certain extent Stationers' Hall has already a recognised position with foreign nations?—Yes.

481. With reference to compulsory registration, if registration is to be compulsory you would have it made necessary at some fixed time after publication?—Certainly.

482. Differing, therefore, of course from the present system, under which a person need not register unless he wishes to bring an action?—Undoubtedly.

483. (*Chairman.*) With respect to that point, if registration is to be compulsory, and if the fee is to be greatly reduced, but at the same time if, in return for it, Stationers' Hall is to send a copy to the British Museum and, if necessary, to the other public bodies, such as universities, which may still, under your scheme, retain the privilege which they now have, I conclude that you would fix the fee at such a point as not to leave any pecuniary loss upon the Stationers' Company?—Certainly, unless it were found (which I think may be the case) that at present the amount received by the clerk of the Stationers' Company is unnecessarily large.

484. (*Mr. Jenkins.*) With reference to the incubus of the tax, as you have regarded it, occasioned by the presentation of five copies, do you think that it is an unfair thing, as you are granting a right of property of considerable value in a large number of cases, to take these five books?—I do think that it is an onerous and burdensome tax.

485. But supposing that as publisher you were going to publish a book of considerable size, would you not take into the estimate of your expenses the fact that you would have to provide these books to the various libraries?—It would hardly be possible to do so, because, in proportion to the cost of the edition, the additional five copies do not add much to the cost, although they certainly take away a certain amount of the receipts; but the giving up of the delivery of four of those five copies could not have any influence on the price at which a book is sold.

486. Then what would be the effect of it?—It would relieve literary men and literary proprietors of an unfair tax.

487. But if the tax is of so slight a character that you would not take it into consideration in your estimate of expenditure, can you really call it unfair?—It is a slight tax if you attempt to spread the cost of these five copies over an edition of 1,000 or 1,500 copies, but in its total amount it is by no means a small tax; and I know that in many cases where small numbers of a book are published, it is felt as an extremely serious tax.

488. Then we come to this point; in those cases would you not estimate the expense of giving these copies in your charges for publishing?—I think that it would be very difficult to make any difference in the price according to whether the books were continued to be delivered or not. For instance, I have in my mind at the present moment a book by an author, a friend of mine, whose name I will mention, which was lately published at his own expense; Mr. Menzies, the deputy surveyor of Windsor Forest, lately published a work on forest trees, of which he could expect to sell only about 150 copies. I think that the book was published at five guineas. Whether he had to give away five copies or not, he could not have made any difference in the price, but it was a very severe tax upon him to be obliged to give away five copies of that book when he could only expect to sell 150; and I know many instances of a similar sort.

489. Are not those instances really confined to cases in which a man does not care about profits. They are not to be judged of in relation to the commercial principle?—In the case to which I allude, the deriving of profit was by no means a matter of no consequence, and there are but few cases in which it is a matter of no consequence. In every case, although you may take the cases of books at a small price, where it appears to be a very small affair, still taking the whole thing together, it does amount to a very large sum, and it seems to me that it is a tax on one class for the benefit of the nation. These libraries are supposed to be established for the benefit of the nation, and not of one class only, and beyond that, I am quite sure that it is a very severe burden to many of those public libraries to be obliged to give house room to every book which is published.

490. But is there not a considerable tax upon the authors of inventions, for instance, for their patents?—I do not know anything about any business except my own.

491. (*Mr. Trollope.*) You were asked just now whether you did not think that a foreign country would object to be referred to Stationers' Hall instead of a Government office?—Yes.

492. Will you read the last paragraph on page 6 of the "Correspondence between the Foreign Office and Her Majesty's representatives abroad and foreign representatives in England on the subject of copyright"?—"In general this obligation of deposit and registration involves vexations and difficulties against which loud complaints are raised by the book trade. The result is, that in most literary conventions compliance with those obnoxious and harassing formalities is omitted, and replaced by the production of a simple certificate delivered in the country of origin." That is exactly what I propose.

493. That comes from the French Commissioner who is employed to negotiate with us upon this subject?—Yes, and it is identically my proposal.

494. And it shows that in the opinion of that French Commissioner this simple certificate is considered to be more beneficial than a Government certificate would be?—There is nothing to show whether it is a Government certificate, or who gives the certificate.

495. The paragraph says, "The result is that in most literary conventions compliance with those obnoxious and harassing formalities is omitted"?—Yes.

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496. Are you not aware that those obnoxious and harassing formalities have been Government observances?—Do you mean in foreign countries?

497. No, in this country. Is not the wish expressed by the French Commissioner that this work of registration should be done simply, as it would be by Stationers' Hall, without Government observances?—Yes.

498. (*Dr. Smith.*) You propose to make registration compulsory?—Yes.

499. What penalty do you propose if the registration is not made?—There is now a penalty for the non-delivery of a book to any of these public libraries, and I should simply propose that it should still remain in force, because that would cover the registration. My proposal is that the delivery of a copy and registration should be one act, and a man would not be able to perform one without performing the other; and therefore the penalty for non-performance of the one would be recoverable for non-performance of the other.

500. (*Chairman.*) In the event of Stationers' Hall by Act of Parliament discharging the functions which you have proposed on behalf of the Government of the country, are you able to point to any other city company which at the present moment discharges for the State very important functions?—Yes. I am aware that the Goldsmith's Company discharges very important functions for the State.

501. Are you aware that the Goldsmiths' Company at the present moment discharges, and for a very long period of time has discharged, most important functions for the State?—I am.

502. (*Sir H. Holland.*) I observe that you say that you publish on an average 350 different books in the year, and that your average number of books registered does not exceed half a dozen?—Yes.

503. Is that year by year, or do you mean that out of the whole number of books which you publish the average number registered does not exceed half a dozen; you may publish a book this year, but it may have to be registered 10 years hence to enable the author to commence an action?—One of my partners gave me that information this morning, and he told me that in three years we had only registered 18 or 20 books, and therefore I took the division of that number as the average.

504. The statement in the paper which you have read is that of all the new books which you publish the average number registered is only about half a dozen. Your statement appears to be an annual one, namely, that you publish about 350 books in a year?—Yes, and we do not register two per cent of them.

505. And that would be the average for many years to come?—Yes, I should think that there is very little doubt of it. In the case of the copyright of an existing book we always avail ourselves of the Stationers' Hall forms.

506. You suggest that the certificate of registration should be made *prima facie* evidence of ownership in foreign courts and in our own?—Yes.

507. That of course would require not only a treaty, but also that local Acts should be passed both in this country and in the foreign countries?—I should suppose so, but that of course I know nothing about.

508. At present an assignment under the Copyright Act of 1842 is registered?—Yes.

509. But every author also has the power of assigning by deed *dehors* the Act altogether?—Yes.

510. And such assignee is not bound to register the assignment?—No.

511. In your opinion would it not be desirable that in all cases of assignment the assignment should appear on the register:—Is not registration a kind of notice to all the world that the book as published has such a time to run; and would it not be desirable that the register should contain an account of what has been done with the book, as for example, that it has been assigned to A., B., or C.?—I have doubts about that; it is a point which would require a good deal of consideration, because were your suggestion to be carried out it would be a publication of private transactions. For instance, I publish a book for an author;

after a certain time he sells it, we will say, to somebody else, some friend it may be, and after a time that friend sells it to me; I do not know what the public have to do with any transactions of that kind.

512. There are registries of deeds in Middlesex and Yorkshire and other places of conveyances of land?—That is very true, but land is in a very different position. It is important for public purposes that land should be treated in that way, but I do not think that it applies necessarily to literary property, and I think that that is a matter which should not be decided in the way which you have suggested without very full consideration.

513. On the whole your opinion is rather against it?—It is. One object of registration is to certify that some person has property in a certain book, and another to record the date of publication of that book.

514. As showing how long the copyright has to run?—Quite so.

515. (*Mr. Fitzjames Stephen.*) With reference to the questions which you have just been asked, do you find in practice that there is any great difficulty as to ascertaining the title to copyright?—No.

516. If you are about to buy a piece of land, we all know there is a very elaborate process to be gone through before you can ascertain in whom the title is?—Yes.

517. Does anything analogous to that examination of title happen in buying a copyright?—I cannot recollect any instance in which there has been any difficulty.

518. Then I suppose you do not think that registration would be of any importance in order to simplify titles to literary property?—It would not be of any great importance, but I believe that if you go into court you have to prove your possession of property.

519. You do not think that such a system of registration as is suggested would be convenient as affording evidence of the title to books; you do not think that that is wanted?—It is very little wanted. I think that it must be admitted to be wanted to some extent, because if you wish to bring an action for the infringement of copyright under the present law, you must first make an entry at Stationers' Hall. I suppose that the object of that is to show that the copyright exists and that it belongs to you.

520. Cannot you bring an action without making an entry at Stationers' Hall?—You cannot; Mr. Turner would confirm that.

521. (*Mr. Jenkins.*) I should like to refer you to a very important answer which you made to a question in your previous evidence. At question 334 I asked you, "Taking your large experience would you say candidly that the largest number of authors or of publishers receive the benefit of copyright; does it work more to the benefit of authors generally or of publishers?" Your reply was, "I should think that upon the whole it would work more for the benefit of authors." I want to call your attention to that answer, and to ask you whether on reconsideration you would adhere to that statement?—I should rather modify it by stating that it would be equally for the benefit of the author and the publisher. It would be very difficult to say who benefited most by it.

522. Have you seen an article by Mr. Dicey in the "Fortnightly Review" on the subject of copyright?—No.

523. Taking it to have been directed to this point, that the principle of giving a copyright to authors was not a good and a useful principle, and not beneficial to the public, and looking at it in the light of your answer to the question which I have read to you, I should like to ask you whether you really adhere to the statement that authors sufficiently benefit from copyright to make it worth while for the public to retain it in their interest?—Unquestionably.

524. Will you, for instance, take the case of newspapers. In the case of newspapers, authors write ephemeral articles, do they not?—I really know nothing practically of the management of a newspaper.

525. Do not you know that men write for newspapers, and that they are paid for doing so?—Yes.

526. And that practically there is no copyright in those newspaper articles; I do not say legally but practically?—It may be so.

527. Are you sufficiently acquainted with the newspaper press to say whether, as a fact, those who write for the newspapers are not better paid than those who write for publishers or for the public?—I am not sufficiently acquainted with it to state, though in point of fact I should very much doubt it. I believe that there are a great many exceptions both ways.

528. Supposing that it could be shown that there being no practical copyright in these ephemeral articles, persons do receive a higher remuneration as a rule for writing those articles for newspapers, would your opinion be modified with reference to the advisability of copyright in general?—Not in the least, for I think that the cases of writing and publishing in a newspaper and of publishing a separate book are totally different.

529. In what way?—A man who writes in a newspaper writes what is of value for a few hours, and there is an end of it; there is no time to pirate it; the public benefit of it is gone instantly; whereas a man who writes a book receives his remuneration by degrees, extending over many years, and his property would be totally destroyed unless he had the exclusive right of publication.

530. I want to see the grounds upon which your answer is based, and how you prove that it is for the interest of the public to maintain copyright?—I have given you my answer, and I may further say that authors probably will not write unless they are remunerated. If a nation does not properly remunerate its authors it will have no authors.

531. (*Mr. Fitzjames Stephen.*) Your answer, in which I agree, as to the difference between books and newspapers, is that there is not time to pirate a newspaper?—Yes.

532. You publish I believe the "Edinburgh Review"?—Yes.

533. There would be time between two numbers of the "Edinburgh Review" to publish another "Edinburgh Review" if there were no copyright?—Undoubtedly.

534. Do you think that your property in the "Edinburgh Review" would be injured if anybody was at liberty to publish in a week another edition without paying the contributors?—I should then cease to publish the "Edinburgh Review;" and the gentlemen who write for it would cease to write for it if they did not get payment.

535. (*Sir H. D. Wolff.*) Do you not think that the great difficulty of obtaining English works in America and elsewhere arises from the very high price at which English works are published in England?—I certainly do not see what bearing that has upon the question.

536. The bearing is in my mind; of course if you decline to answer the question, well and good, but it is a point which I want to establish. My opinion is that books in England are kept up to a very artificial price owing to the system which obtains in England of circulating them through circulating libraries, and I do not think that that system obtains in foreign countries to the same extent. Therefore in France and in other countries books are cheaper than they are in England, and therefore there is not the same difficulty in obtaining a copyright abroad, because people are satisfied abroad to pay the same price as is paid in France for the books. Now I think that if you had books published cheaper in England, you would find that the public would buy them in America direct from the publisher, or from the retail bookseller, and would not require the system of circulating libraries. Therefore the publisher and the author would obtain an equal remuneration by a large sale of the book direct to the public. My object in asking the question is to inquire whether the system of circulating libraries in England does not keep up books at an artificial price,

and does not therefore prevent your publishing books at a remunerative price if sold in America?—I must have misunderstood your question; I thought that you asked me whether it did not prevent our acquiring copyright in America.

537. It indisposes the Americans to give us copyright, because if they did so we should keep up the books at such an artificial price?—But I do not see how our selling books cheaper in America could by any possibility render them more disposed to give us copyright; I should have thought that it would have had the exactly contrary effect.

538. If they infringe your copyright they may publish a cheap edition in America, whereas otherwise they would take the English edition?—I think that the price at which books are sold has nothing whatever to do with giving or withholding copyright to Englishmen in America.

539. (*Mr. Fitzjames Stephen.*) Supposing that the Americans conceded copyright to you, could not you take advantage of it by publishing copies specially for America at any price which would be remunerative?—Undoubtedly.

540. Therefore, if you had copyright in America, the Americans could get the books as cheaply from you as they could get them from themselves?—Yes.

541. Therefore the substance of it is that you publish in England at a price which is remunerative in England, and that if you had copyright in America, you would publish in America at a price which would be remunerative in America?—Undoubtedly; and I may add that it is now the constant practice of publishers to sell editions of English books to publishers in the United States at very low prices.

542. (*Mr. Trollope.*) You export your books at prices which are regulated by the American market?—Yes.

543. (*Sir H. D. Wolff.*) Supposing that you had the copyright in America and the copyright in England, and that you published a dear edition in England and a cheap edition in America, having the copyright in both countries, you could not prevent the American edition from coming to England, and therefore the price in England would be materially brought down by that competition?—But we should never think of selling books at a cheaper rate to America, or cheaper out of England, if it were possible for them to come back again here.

544. (*Mr. Herschell.*) Do you think that the obstacle to obtaining copyright in America results more from the indisposition of people in America to pay a high price for books, when they can get them very much more cheaply without copyright, or from the disposition of publishers to print and publish what are called pirated editions; which do you think is the influencing cause there?—It is difficult to proportion the influencing cause, but I have no doubt that both causes operate. I, however, believe that the main cause why the Americans are unwilling to give us copyright is, that they would give us much more than we could give them. We have so many more authors whose works it is worth while for the Americans to reprint, than they have of American authors whose works it is worth while for Englishmen to reprint. The number of American works worth reprinting is extremely small; the number of English works worth reprinting in America is very large; and it seems to me to be very improbable that the Americans will give us copyright until there is something more nearly approaching a balance.

545. (*Sir H. D. Wolff.*) In the question which Mr. Stephen put to you just now, he put to you the case whether if you had a copyright in England and in America, you would not publish at a remunerative price in England and at a remunerative price in America, and you said that you would not publish in America at a lower price than you would in England. Therefore the object of your getting copyright in America is to force the Americans to buy books at a high price, instead of at the cheap rate at which they get them now?—We should certainly not sell books at a low rate in America, or at a less rate than in this

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country, if we were liable to have those books sent back to England.

546. Therefore if there were copyright in America, the Americans could only buy English books in America at the English high price?—That does not follow at all; the price would be regulated by supply and demand in that case as it is in everything else.

547. Naturally; but if you published a book in England at 31s. 6d., and in America at two dollars, it would be cheaper for us to send to America for the two dollar edition?—If the law allowed you to do so.

548. You cannot have a copyright in America and prevent the book from coming back to England?—We have a law of that kind now with reference to Canada.

549. (*Mr. Trollope.*) And with Germany?—Yes, in fact with the whole world you may say.

550. (*Sir H. D. Wolff.*) You have those laws by conventions; I do not know how far your law really is good, and I do not know whether you can prevent the introduction of foreign editions into the country by law?—There is no doubt about it.

551. (*Dr. Smith.*) Are you aware that by the Canadian Act of Parliament, which was ratified by an Imperial Act last session, that is done, namely, that in the case of a work which is copyright in England and copyright in Canada, the Canadian editions cannot be imported into England?—I am aware of that, but my impression is that that is provided for either by our general copyright law, or by the customs law.

552. (*Mr. Herschell.*) The importation of foreign books is prohibited under the customs law, they are liable to forfeiture?—Yes, I believe that it is under the customs law.

553. (*Sir L. Mallet.*) You said that the natural result which would eventually ensue from having two different editions, one at a high price in England, and the other at a low price in America, namely, the importation into England of the cheaper edition, would be met by the prohibition of the importation of the cheaper edition into England?—Yes.

554. I rather understood you to imply, that such a prohibition would be one which it would be right and necessary to maintain in order to do justice to the trade?—Certainly.

555. It is a point of very great importance, and lies at the root of a great many questions which we have to discuss, and I should like to know what is your idea of the principle on which such a prohibition can be justified. Does not it seem to you difficult to reconcile it to one's idea of right and justice to the British consumer, namely, the reader of books in England, that a system should be established, and should have the sanction of an international treaty, supported and supplemented by an Act of Parliament, under which the reading public in America obtain an edition of a work written by an English author, at two dollars, while the English reader has to pay 30s. for it. That illustrates the argument as well as any other way of putting it. Putting it broadly, what is your idea of the principle on which that sort of transaction could be justified, and on which the British Government could go to the House of Commons and ask them to propose or maintain an enactment prohibiting the importation of those American editions?—In the first place, it is quite certain that neither authors nor publishers, and especially authors, could be properly remunerated were books published in this country at the prices at which it is worth our while to sell them in foreign countries; and in the next place, it is a business question which must be looked at from a practical point of view; you have a market open to you under certain conditions; if you comply with those conditions you obtain that market, if you do not you have no market.

556. (*Sir H. D. Wolff.*) Supposing that you published books in England at the same price as the Tauchnitz editions are published at, could not you get a market for them?—I daresay that we should get a market, but I am quite sure that we should be unable to remunerate authors so highly as we now do, if new

books were published in this country at the prices at which Tauchnitz publishes them in Germany.

557. Do you not know that in France, where the system of circulating libraries does not exist, books are bought very largely by the public, and that very large fortunes are made by authors. I fancy that Alexander Dumas, and those men, have made very large fortunes, and their books are bought by the public, and are not read through circulating libraries. If you made them sufficiently cheap in England, would not the public buy books direct instead of having them through circulating libraries?—I do not know any reason why you should suppose that what takes place in France should take place equally here.

558. It stands to reason that a man would rather buy a book at the price at which it is sold by Tauchnitz than give 31s. 6d. for a novel?—I do not know what authors get in France.

559. (*Mr. Fitzjames Stephen.*) With reference to the question which Sir Louis Mallet asked you, if I understood Sir Louis Mallet, his view is that you have (which you are to suppose) copyright both in England and in America. Then he says, "If you had a cheap edition in America it ought to come back to England?"—Yes.

560. If you had copyright both in England and in America, if you found that you could sell your dear edition in England, should you publish any cheap edition at all for America, supposing that it could come back?—If it could come back we should never think of doing it.

561. Therefore the difficulty which is put to you goes only to show that copyright in America would be a less valuable thing than is supposed, because if the books were to be re-imported the result would be, not that there would be cheap books both in America and in England, but dear books in England and none in America?—Yes.

562. (*Mr. Jenkins.*) Do you not know that it would be impossible to make a copyright convention with America except upon the basis of publication in America?—Very likely.

563. In that case would English publishers publish in America?—In some cases they might, and in others they might not, it would be all a matter of negotiation and expense; it would be impossible to say beforehand how the thing would work. It is very likely that we might very often publish in America.

564. But would not the Americans manage by the imposition of a customs protective duty upon paper, and that kind of thing, to prevent your publishing at the same price as the native American publishers?—I cannot tell what they would do.

565. You said that you thought that the author and publisher could not be properly remunerated, supposing that the cheap editions were published which Sir Drummond Wolff referred to. It is fair to ask with reference to that answer what is the rate now at which books are sold. Is not there first of all a price fixed which is very largely above the price at which the book is sold to the trade?—Undoubtedly.

566. What is the difference?—It varies, but very continually it is published at one third more.

567. Looking at it as a matter of public policy, do you think that it is a good thing to publish a book at a certain stated price and to sell it very much below that price?—That is a matter of trade practice, it is a matter which the trade settles for itself; and although it may not be evident and may not be known to the public or to everybody, it is a practice which obtains in every single trade. It so happens that some years ago I gave a great deal of attention to this matter, and I found that among other things tenpenny nails were sold at a trade price which was infinitely below the retail price of 10d., which is supposed to be the value of a tenpenny nail.

568. (*Mr. Herschell.*) Many of the Birmingham ironmongers sold at from 60 to 70 per cent. below the retail price?—Yes.

569. (*Mr. Jenkins.*) There is no special protection afforded to tenpenny nails, and there is no public principle concerned in the matter. I wish to look at

it simply from the point of view of the interest of the public. Do you conceive it to be in the interest of the public that books should be constantly issued by publishers at 33½ per cent. more to the public than they receive from the trade?—I do, and if you please I will tell you my reason, it is because the public are thereby accommodated with retail shops all over the kingdom at which they can buy the article they wish.

570. Do you think that a less profit would not enable the retail trade to make a reasonable living?—I should be delighted if I could convince myself that a less profit would be sufficient.

571. As a matter of fact, is it not the case that in almost all retail shops now you can buy books at from 5 to 10 or 20 per cent. below the price stated on the cover?—Yes, in London.

572. And also in Manchester?—In some of the large towns.

573. Is not that practice extending?—Very likely; wherever there is a large trade I daresay it is extending.

574. Of course you are not obliged to answer these questions if they are inconvenient, but I will try to put questions which are not unfair. As a matter of fact is not the discount greater than 33½ per cent. in the majority of cases?—No, I do not think that it is. I know that there are some publishers who sell books at a much greater discount; they think it, I suppose, necessary; but I can only speak of the practice of myself and of the other principal publishers.

575. Do you not give five per cent. discount additional for cash?—It is very likely, but that is a mere financial question. You either give credit or take payment in cash.

576. Supposing that a man subscribes for several thousand copies, or a large number of copies, do not you generally give him 10 per cent. discount besides the 33½?—Our house never does anything of the sort.

577. But you know that other houses do?—I know that there is a considerable variety of practice.

578. (*Sir H. D. Wolff.*) Are not books sometimes sold to circulating libraries at 50 per cent. discount upon the nominal price?—I believe that novels are; but these I think are questions which simply concern the internal regulation of a trade.

579. (*Mr. Jenkins.*) Taking the price of a book at 31s. 6d. you would sell it at 21s.?—Somewhere about that.

580. How much would a book cost which you would publish at 31s. 6d.?—That is a question which it is simply impossible to answer, because one book at 31s. 6d. may cost one sum, and another may cost another. You cannot lay down any regular rule; you fix the price according to the number of copies that you can sell, and a thousand circumstance; but as for telling you what the cost of a book is selling at 31s. 6d. it is simply impossible.

581. Is it not a fact that there is a table which will give it to you?—Certainly not. Some books are published at a comparatively high price, because it is known that the sale must be very small and the price therefore must be high in proportion to the cost. Others are published at a low price in proportion to the cost, because a large sale may be expected. No regular rule as to the proportion between cost and price can be laid down.

582. In making your arrangements for a book, you would estimate the cost at a certain per-centage of the price which you expected to get, what is generally that per-centage?—I should not do so. When a book is published I see what it costs, and I fix the price according to what I think is a proper and remunerative price, and according to what I think the public will give. I have no other rule.

583. (*Mr. Fitzjames Stephen.*) In point of principle, from your long experience do you believe that there is any difference whatever between the sale of books and the sale of any other article?—I think not.

584. Are not all these questions relating to the

price at which you sell books, and the price at which you publish books, questions which, *mutatis mutandis*, might be asked with reference to every branch of business that is carried on?—Certainly.

585. (*Mr. Jenkins.*) Would not the analogy be fairer if there were no copyright law, and if there were free trade?—I do not see it.

586. (*Mr. Herschell.*) The case of every patent article at all events would be an analogous case?—Yes.

587. (*Mr. Fitzjames Stephen.*) Suppose the case of any person who possessed special skill either in art or in mechanics, or in any other way; suppose the case of a watchmaker, and that one of his mechanics had a particular gift for making balance wheels, and so on, would not the skill of that labourer have to be paid for, and would not it enter into the price of the watch?—Of course.

588. Whether he is protected by having the right to sell his labour, or whether there is copyright to prevent other people from publishing a book, is a matter of detail?—Yes.

589. (*Sir H. D. Wolff.*) How do you define that detail. In the first place, the skill of the labourer is his own property, and he may sell it or not as he likes?—Yes.

590. There is no special power given him by the Government to make his own price. Do not we in giving copyright give a special faculty to the producer to make his own price. For instance, you may have a man who makes good escapements of watches, and you may have a dozen men who do it; they produce the same article; but you cannot have two or three men writing the same book; it is a monopoly. Therefore do we not give a legal monopoly to authors and publishers by means of copyright, which is not given to the skilled workman mentioned by Mr. Stephen?—No doubt copyright is a monopoly.

591. If we get copyright in America it will give a certain advantage, no doubt, to authors and to publishers, and if they are to be allowed to publish a cheaper edition in America, it will give a certain advantage to the American public. What advantage will it give to the English public, so that you should ask us to have special legislation on the subject, if you are to keep up your dear books?—It is to the advantage of any nation that it should produce learned and valuable authors. It has always been considered one of the highest merits of all governments that they have protected art, literature, and science, and this is one of the modes in which literature is protected and encouraged. In my opinion it is a great glory to the nation to encourage art, literature, and science; and the public benefit thereby, because unless art, literature, and science were encouraged they would cease to exist.

592. Do you think that if we secured copyright in America we should get a larger supply of learned authors than we have at present?—I think that it is not improbable. It is always found that any profession which is highly remunerated is sought after and is filled by competent men; and I think it extremely probable that if there was a larger field for valuable works we should have a greater number of valuable works.

593. If you sold your books very cheap in America which you sell now dear in England, you would not be able to give much more to the English authors, would you?—That is a matter of detail which it is utterly impossible to argue about.

594. It is a very important detail when you are going to legislate about it?—It would be so much additional profit, of course, and if there is more profit the author partakes of it, and the publisher would give the author more.

595. Then what benefit would the consumer get in England?—The consumer benefits by the encouragement of literature and the greater production of valuable works.

596. Therefore you think that if we had copyright in America we should have a larger supply of good authors in England?—I think it very likely.

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597. But there is nothing tangible in that?—Certainly, it is a mere matter of opinion.

598. (*Mr. Trollope.*) As this question of America has been gone into, I must ask you one or two questions. You said that the American market for literature was supplied with works by English authors rather than those by American authors?—Yes.

599. Has it ever occurred to you to think why that is so?—It has often occurred to me that American authors are not encouraged to write books, because the books of English authors can be obtained at a very low price, and consequently the work of an American author could hardly be sufficiently profitable, the price at which he sold his book being to some extent, at any rate, governed by the price at which the works of English authors were sold. I really believe that that has actually some practical effect.

600. And you therefore believe that American literature is not encouraged in America, because the readers and those who supply the readers, namely, the booksellers, are able to get so large a mass of

literature from England that they will not pay a price to American authors sufficient to remunerate them for the work of writing?—I have no doubt that that is the case.

601. The want of international copyright then is more prejudicial to American literature than to English?—No doubt of it.

602. (*Chairman.*) In the event of its being thought advisable to enter into diplomatic communication with the United States for the purpose of negotiating a copyright convention, are you of opinion that the recent Canadian Act would afford a satisfactory basis for any arrangement of that kind?—I believe it would be a satisfactory basis, and further that the existence of that Act may be an inducement to the Americans to grant international copyright, because by that Act they are deprived of a large market.

603. Are the terms of the Canadian Act in your opinion sufficiently remunerative to an English author and publisher?—I think that it is a very satisfactory Act.

The witness withdrew.

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

Tuesday, 23rd May 1876.

PRESENT :

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

SIR HENRY T. HOLLAND, Bart., C.M.G., M.P.
SIR H. DRUMMOND WOLFF, K.C.M.G., M.P.
SIR JULIUS BENEDICT.
J. FITZJAMES STEPHEN, Esq., Q.C.
EDWARD JENKINS, Esq., M.P.

Dr. WILLIAM SMITH.
JAMES ANTHONY FROUDE, Esq.
ANTHONY TROLLOPE, Esq.
F. R. DALDY, Esq.

J. LEYBOURN GODDARD, Esq., Secretary.

SHARON GROTE TURNER, Esq., examined.

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604. (*Chairman.*) You are, I think, the secretary and legal adviser of the Copyright Association?—Yes; I and my predecessors have been connected with copyright for I should think 30 or 40 years, and have been concerned for many of the chief authors and publishers.

605. Among the subjects to which your attention has been directed, no doubt, is that of the registration of copyrights?—Yes; that is a material question.

606. Will you give us the benefit of your views on the question of the registration of copyrights?—I thought that it might simplify matters if I brought specimens of the forms in use at Stationers' Hall for the purposes of registration. I have them now before me. The first form is one which is necessary under the Act of 5th and 6th Victoria, chapter 45, and it is the one which is used for works of every description included in the word "book" in that Act. The headings of the columns in this form are the following: the first is, "Title of book," the next is, "Name of publisher and place of publication," the third is, "Name and place of abode of the proprietor of the copyright," and the last is, "Date of first publication."

607. Upon that form have you any observations to make?—Only this observation, that it is in use throughout the whole of the period of copyright. The entry in that form may be made 30 or even 40 years after the first publication of a book (when it is practically impossible in some cases to give the particulars truthfully), provided that no entry has previously been made at Stationers' Hall. "Form of requiring entry of proprietorship" is the title of the form.

608. Upon that the fee is how much?—5s. The next form which I have here is headed, "Form of currence of the party assigning in any book previously registered." This form is the one used for assignments of previous entries, and the fee for that entry is 5s. This is the form which they have now

in use at Stationers' Hall for all the assignments of works included under the denomination of "book" in the Copyright Act of the 5th and 6th Victoria, chapter 45, and for an assignment of every description of copyright under the international Acts, including all works of sculpture, literary works, paintings, and, in fact, everything which acquires copyright under the International Copyright Acts. It is to my mind somewhat anomalous that there should only be one form for registration of works altogether different, and requiring various particulars. The statement to be made on that form is that the persons making the entry is "the assigner of the copyright of the book hereunder described."

609. How would you propose to amend that form?—Perhaps you will allow me to mention that I have here the form used by the authorities at Stationers' Hall for the registration under the International Copyright Acts themselves, and the original entry of that is simply a copy in French of the first "Form of requiring entry," which I produced just now; and that is used by them for every work, whether book, print, or piece of sculpture, whether French or German, or, in fact, whatever the nation may be to which the question applies. Personally I have had the case of a foreign author who made very considerable objection, and did not see that this form was in any way applicable to what he particularly wished to enter; it simply refers to a "book."

610. (*Sir H. Holland.*) The last form is the form used under the International Copyright Act?—Yes, for the original entry; it is a copy in French of the original English entry to which I referred in the first instance.

611. With reference to the entry of assignment, is there not a discrepancy between the 13th section of the Act of the 5th and 6th Victoria, chapter 45, and the schedule to which it refers?—Yes.

612. The section of the Act provides that the place of abode of the proprietor of the copyright must

be registered, and in the schedule there is no column for the place of abode?—That is so.

613. Do I rightly understand that your objection to this entry is that it is too complicated in the case of international copyright and of foreign authors?—It is hardly applicable to the different species of copyright which it is practically compulsory to register under the International Copyright Acts.

614. And, therefore, it would be desirable to provide a new form of entry for the International Copyright Act?—Yes; then to proceed with the forms, I do not know that there is anything worth mentioning with reference to the entry of "The liberty of representation or performance of a dramatic piece, or musical composition," but they have separate forms for that entry and for its assignment, the fee for each, I believe, being 5s. These registrations are under the Act of William the Fourth.

615. (*Mr. Trollope.*) I presume that the form to which you have referred is altered, when used, to suit the work for which copyright is claimed, or for which registration is made?—Yes, as far as can be; it is the only form which they have.

616. Something is scratched out and something else is put in?—Yes; if you take the whole particulars, including the name of the publisher and the place of publication, it is hardly applicable to a piece of sculpture. Then the only other form for registration which I believe I need refer to is that under the Copyright (Works of Art) Act, namely, for paintings, drawings, and photographs.

617. (*Sir H. Holland.*) The Act of 1862, the Fine Arts Act?—Yes; there they have this one form, which seems to be very good for its purpose, and for which the registration fee is 1s. instead of 5s., as is the case in all the others, and it is more precise in many respects, there are more columns. That is both for the original entry and for the assignment, and it includes paintings, drawings, and photographs. (*The witness delivered in the various forms used for registration.—Vide APPENDIX.*)

618. (*Chairman.*) Have you any further observations to make under the head of registration of copyrights?—With reference to the continuance of the present registration at Stationers' Hall, it seems to me that one considerable anomaly is that the books which are there deposited do not remain, and therefore in the event of any question arising as to any title, or any question upon the book at all, there are no means of reference to it at the time in any way.

619. Would you propose that a copy of every book which is registered should be retained at Stationers' Hall?—My suggestion would be that the British Museum should be made the place for registration, and that either one or two copies, as might be considered necessary, should be deposited there; and reference could of course then be easily had, and I suppose that the fees which would be paid for searches, and for certificated copies of the entries, would probably go far to compensate any expense which might be necessary to be incurred.

620. Do you propose to substitute the British Museum for Stationers' Hall in respect of registration?—It almost seems to be the best course. Without saying anything against the institution of Stationers' Hall, authorities who are quite willing to do everything that they can possibly do, it does not seem to me that the place itself is fitted for it, or that the facilities there are great enough for carrying out the details with proper effect. I suppose that there is an enormous amount of literature now compared with the time when the Act of the 5th and 6th of Victoria, chapter 45, was passed; and several other species of copyright have been placed under their system of registration.

621. (*Sir H. D. Wolff.*) What do you pay for registration at Stationers' Hall?—5s. for the original entry, and 5s. for any assignment of the original entry under the Act of the 5th and 6th Victoria, chapter 45.

622. If you took away the registration from Stationers' Hall, you would take away a large revenue from the Stationers' Company, would you not; they

must make a good deal of money by it?—Practically it might result in the compensation of one officer. Mr. Greenhill is the only one, as far as I can remember. Beyond that, I think that there are only two clerks who have anything to do with the matter. I believe that the officer has the fees.

623. (*Mr. Trollope.*) You have recommended that the British Museum should be called upon to effect the registration which is now done by Stationers' Hall, on the receipt of the books which are given to the British Museum?—Yes, that there should be some specified time within which registration should be made, but I certainly think that it should be compulsory, and that within a certain time a book should be registered at the British Museum.

624. You are aware that four other copies may be demanded besides that which is given to the British Museum?—Yes, upon the particular libraries requiring them, but if they do not require them I believe they are not delivered.

625. Are those copies generally demanded?—I have understood as a matter of fact, not very unfrequently. In many cases they are, and in many cases they are not, according, I suppose, to the value of the book, and to the means that the particular libraries may have of taking the books.

626. Are you prepared to recommend that authors and publishers should be relieved from the demand for those four copies, seeing that tendering of the one copy which you propose to give to the British Museum would be a part of the duty of registration?—Yes; I would almost say two copies in the British Museum; but I do not know whether that is too much to ask.

627. You would not think it necessary to continue the compulsory tendering of the other four copies?—It might be dispensed with. It would, I think, be almost sufficient that the British Museum, as representing the British nation, should have one copy, or I would say two copies given to it.

628. You think that this tendering of one or two copies, as the case may be, should in effect have registration as its result?—Yes, that they should register upon the delivery of the copy.

629. The tendering of a copy and the registration of the book would be one and the same transaction?—Yes.

630. A certain fee being paid to cover the expense of that registration?—Yes. I do not know whether any case might arise as to Edinburgh and Dublin. They might think they should be still entitled to ask for a copy.

631. (*Sir H. Holland.*) I understand that you would desire to see the registration at Stationers' Hall abolished, and that it should be removed somewhere else?—As between Stationers' Hall and any other place, except perhaps the British Museum, I do not know that there would be any great advantage.

632. You would only suggest that it should be removed to the British Museum on the ground of the convenience of identifying the book deposited?—Yes, and making the necessity of the deposit which now exists, and the registration almost a concurrent act. We are now bound to deliver a copy to the British Museum within a certain time, which, as a matter of fact, I believe is frequently not done.

633. Would you prefer the British Museum to a separate Government office on the ground of the facility of identifying a book deposited? Is that the only reason why you mention the British Museum in preference say to a separate Government office for registration?—That would be the main but not the only one. I exclude a Government office, because the system there of course would be perfect and properly carried out, and many of the present anomalies avoided.

634. Of course there is no difficulty except in going from the office to the British Museum and identifying the book in the British Museum, as there must be some note in the Museum when a book comes in?—We have had very considerable difficulty there in tracing books. Only last year we had a case where the author himself knew personally one of the high

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officials in the British Museum, and it was only through his kindness and interesting himself in the matter, that the date was able to be really and completely traced as to when the first publication of the book took place, which was a point in dispute.

635. Would there be any difficulty in finding out at the British Museum when the book first came into the Museum?—No, I think that they would tell you that, but inasmuch as there is very frequently no mention as to the time, I do not think that they have any means of telling you the date of the first publication which is a most material point, because the copyright dates from that time. That is a point which now arises upon registration, namely, what is first publication.

636. Can you give me any special case in which you have had difficulty in ascertaining at the British Museum when the book was deposited there?—No, not when it was deposited.

637. Then the difficulty arises as to knowing whether it was deposited within the proper time according to law after publication?—Yes, I believe that they are not very particular if it is deposited within a reasonable time, but I fancy that there are no means of finding out as to the first publication. The Museum of course will take the book.

638. The registration of a book is only necessary by the Act of 1842 before action is taken?—Yes.

639. But when once a book is registered the author can bring an action for an infringement which has been committed before the registration?—Yes.

640. That is not the case, is it, under the Fine Arts Acts of 1862?—No.

641. An action cannot be brought for an infringement committed before registration?—No, it is expressly so stated in the Act.

642. Does not it strike you, as being a fairer principle, that no action should be brought for any infringement before registration?—Yes.

643. In other words, is not registration a kind of notice to the public, and should the public be affected until that notice is given?—No; I think that that would be only reasonable. It would practically amount to compulsory registration or it might be made to amount to that.

644. At all events in your opinion the Act of 1862 is fairer to the public than the Act of 1842?—Yes, because it gives them notice of the copyright being registered.

645. (*Mr. Fitzjames Stephen.*) As to the importance of registration, in your experience, do you consider that it is at all a common thing to take proceedings against persons for pirating books?—I do not think that it has been so much so of recent years, but it has happened a great many times.

646. The broad offence of publishing a complete copyright edition of a book written by another man would be easily detected, and damages would be so readily obtained for it, that it is very unlikely to be committed, is it not?—It is not, perhaps, a very common offence, but it has occurred.

647. I am speaking of the entire reprinting of a book already existing?—That would be a very rare occurrence.

648. Did you ever know such an instance?—No, not a complete reprint.

649. Then registration would guard principally against that, would it not?—It would be an evidence of right; because now copyright is transmissible, not only by the register, but also by bequest, and by deed, and, I believe, by writing; in fact it is very difficult to extract from cases which have been decided, how it is to be transferred properly; and a part of it might be transferred by registry, and a part without.

650. The only case in which the registry seems to be of much importance, is one which would very seldom arise?—My notion would be that the definition of copyright should be extended, and that it should include everything which it is now perhaps necessary to reserve specially, such as say dramatic rights, and rights of abridgment and translation, and any other right existing with copyright. There seems to be no

reason why those rights should be specially mentioned or made separate from the terms of copyright itself which might be made to include every right which is properly attached to it.

651. (*Sir H. D. Wolff.*) Has not an infringement of copyright taken place in the case of extracts, collections of poems, and so on?—Yes, and frequently even in an ordinary book a certain amount may be extracted, and a certain amount of fresh matter added; and it is for the court to decide how far it is, or not, an infringement; it depends upon the particular character of the book, its peculiar characteristics may have been copied and made use of unfairly in some other work, which would be an infringement, even when only a small part of the book may have been taken.

652. (*Mr. Jenkins.*) There are cases in which sometimes a man claims an equitable right of copyright, and two men disagree as to the rights of which they have?—I suppose that there certainly must be an equitable right in copyright the same as in any other personal property.

653. Looking at all those contingencies, do you not think that it would be advisable to register every book?—Yes, I think that registration should be compulsory.

654. You think that registration should be a condition of copyright?—Yes; you may call it a condition if you like.

655. Referring to what you said just now, you were asked with regard to the amount obtained by the Stationers' Company for registration. Supposing that registration was made compulsory, would it not be possible to register at a lesser rate, and to remunerate the officials who are employed in the registration?—Yes, and I think that it would be fair to the owners of copyright that the registration fee should be reduced.

656. Have you looked at the Publishers' Circulars; do you know how many books are published in a year?—I cannot say at all.

657. Would it not be possible to obtain information as to the number of books, pamphlets, engravings, and everything which is the subject of copyright, and from that to frame a calculation?—I think that a fair calculation might be made. There is some evidence in favour of reduction, inasmuch as in the case of copyright under the Works of Art Act the registration fee is only 1s.

658. Do you think that it would be advisable to allow the registration of a title before the publication of a book; let us say for a temporary period?—Yes, very probably it would be.

659. With regard to the question of when the first publication took place, the difficulties about that question would be removed by a system of compulsory registration, would they not?—If you followed out the present forms you would have to state the date of first publication.

660. Putting aside the present forms, supposing that registration was made compulsory, would not copyright begin from the date of registration?—Yes, if registration was made to be first publication.

661. In that case no questions would arise with regard to the date of publication?—No, unless a man registered a book which he had not already published. I am aware that that has been decided against as a matter of fact in our courts, but at Stationers' Hall the authorities used to register unpublished works, and they put in the column under the head of "Date of first publication," "not yet published;" and it is a question now what is first publication in such a form that they are obliged to take notice of it.

662. What I am putting to you is this: Supposing that a system of compulsory registration was adopted, if a case came before the court in which there was a question whether the title of the book was registered, or whether the book itself was registered, in such case all that the court could take notice of would be the registration?—Yes, in the event you suggest.

663. In that case you remove any difficulties which may arise upon the question of the date of publica-

tion?—*Primâ facie* difficulties. You would not say that this entry was to be made absolutely incontrovertible in every sense; it is only, I suppose, to be *primâ facie* evidence of title. You would have a right to have the entry expunged, or varied, or altered, if a man had made it without a right to do so, as we can now do by application to a judge at chambers.

664. Then would you not fall back upon the question, whether or not there was a previous registry? Would you permit the courts to recognise the previous publication before registration, supposing that that system of compulsory registration was adopted?—I thought that you suggested that first publication should not be a necessary condition to registration.

665. Exactly. I should make the registration a condition of copyright; if registration is a condition of copyright, then previous publication would have nothing to do with the question which would come before the court as to the rights of competing authors or competing publishers to the same book?—You would make the term of copyright date from registration and not from the first publication of the book?

666. I am presuming that if registration was compulsory the book would be registered before it was issued; the thing would be contemporaneous, would not that be the effect of compulsory registration?—That would very likely be the effect. I do not see why you should not state the date of first publication. That seems to be the principle upon which the whole copyright law is founded.

667. Do you know the American law?—Not very deeply; it has not come enough before me.

668. Do you know that there is there no recognition of previous publication?—I do not remember. In France and Germany it is for the life of the author and so many years afterwards.

669. What is the rule in France and Germany?—In Germany it is for the life of the author and 30 years after; and in France it is for the life of the author and 50 years after, subject to some conditions in reference to the Code Napoléon.

670. Is registration then compulsory?—Yes, I think I may say that registration, or rather deposit, is.

671. Are you aware whether in that case they recognise previous publication?—Inasmuch as they have no definite term it would not be necessary in the way it is in our law; they do not have a definite term dating from the publication of the book.

672. I am imagining this case: Supposing that two persons happen to get hold of the same manuscript, that is to say, duplicates of the same book, and that they rush to the office to register, do you know what would happen in that case in France, whether previous publication would be taken to be evidence, or whether registration is necessary?—I think that it is stated that registration shall be *primâ facie* evidence, but it is subject to being upset in the case of fraud of course, or of an improper entry.

673. (Mr. Froude.) Is a copy of a newspaper registered?—It is supposed not to be necessary at Stationers' Hall, I believe, for the purpose of copyright.

674. Supposing that I, for instance, wrote a series of articles for a newspaper; if registration is to be the only guarantee of copyright, then anybody might take my articles and republish them?—That would be rather a question of detail to be arranged.

675. I was thinking of what would follow if Sir Henry Holland's suggestion was adopted; that nobody should have a right to an action to protect his rights unless he could prove registration. At present he can do it if he can prove publication in a newspaper?—The law protects periodical works, and works of that class, and it might easily be made to extend, if necessary, actually to articles in newspapers, and publications of all descriptions. The author is protected against their being published in a separate form for a certain number of years.

676. So very much valuable literature is now published in that form, namely, originally in periodical works, and then collectedly, that you would hardly

look upon it as a point of minor detail, but as a matter to be provided for?—Clearly.

677. (Sir H. Holland.) In France, I think, you will find that the copyright of a work arises on publication, performance, or representation, as the case may be, without any previous registration or formality, though a deposit of two copies of the work, one at the Bibliothèque Impériale, and the other at the office of the Minister of the Interior, Paris, is necessary, especially before any proceedings at law can be instituted?—Yes, but then the term of copyright apparently is irrespective of that.

678. In France the law gives copyright for life, and for a certain number of years afterwards?—Yes.

679. (Mr. Trollope.) You were asked whether you thought that registration should be compulsory. I think you said that you thought it should?—Yes.

680. Then you were asked whether, registration being compulsory, it should also be necessary to copyright, and you answered, I think, that you thought it should be evidence of copyright?—Yes.

681. If registration were necessary to copyright, it would follow, I think, that copyright would be lost if registration were not effected?—Until registration there would be no copyright.

682. You do not mean to recommend that the penalty of non-registration should be absolute loss of copyright?—It would be best, probably, as Sir Henry Holland recommended, that there should be no power of suing, or of obtaining remedies for a previous infringement.

683. Would you be prepared to recommend that so tremendous a punishment as loss of copyright should be the penalty of non-registration?—That would perhaps be too serious. I look upon registration as such a very simple and easy matter that there would be no difficulty in making it, especially if registration and deposit were one and the same act.

684. It is so simple and easy that you think that the non-performance of the duty should be attended with some penalty?—Certainly.

685. But would you recommend that that penalty should be the loss of copyright?—As I said before, that penalty seems too serious. Copyright only arises from a statutory enactment, at least that seems to be the opinion of the judges at the present day; and therefore particular statutory requisites should be carried out in order to enable the author or the proprietor to enjoy his rights.

686. Assuming that this registration was not effected by a certain time fixed, and that loss of copyright was the penalty attached to such negligence, then, at the end of that time, which probably would be a period of a month, or perhaps some weeks, anybody would be entitled to print and sell that work?—Yes, but the penalty mentioned by Sir Henry Holland would have the same effect in the case of many works, because if the book were not registered those who could publish it in a cheap form would immediately publish it, which they could do with impunity.

687. I do not think that the effect of Sir Henry Holland's proposition would be that the copyright would be lost?—It would be in a certain class of books; it might not be in the whole. It always seems to me that the value of the copyright differs very much in different works in the speed with which the result is seen; the time is very different in heavy literature from what it is in light literature. Any of our large publishers would bear me out in saying so.

688. (Mr. Jenkins.) If you do not register a patent you do not get it?—No. Then there are two other classes of registration in England; one in the case of bills of sale, and the other in the case of deeds affecting property in Middlesex and Yorkshire.

689. (Sir H. D. Wolff.) Supposing that you made registration compulsory in this way, what would you do in the case of a great poet, such as Mr. Tennyson; being about to publish a volume of poems, and somebody getting hold of his words and publishing them, you would leave him without a remedy, because he would not have registered?—An unpublished manuscript is a different thing.

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690. (*Mr. Fitzjames Stephen.*) You, no doubt, have had plenty of experience in the matter; do you not find that the registration of deeds in Middlesex and Yorkshire is almost an unmitigated nuisance?—Yes.

691. And that simply because it is neither one thing nor the other, it does not give you priority; it does not give you title, and gives you nothing but the trouble of going and making searches?—Yes. Of course it is limited to those two particular counties.

692. As to bills of sale, is not the object of compelling the registration of bills of sale simply to prevent fraud?—Yes.

693. That is to say that a man in the possession of property might give a bill of sale, and if it was not necessary to register it, he might make it an excuse for cheating execution creditors?—Yes.

694. I have a quantity of books and furniture in my chambers, I incur debts, or say that I have a stock in trade, and I incur debts; on the strength of that stock in trade, when execution is taken out against the goods I may turn the man who has proceeded against me round by a secret bill of sale; and in order to avoid that the law says, "Your bill of sale shall be of no good unless it is registered?"—Yes, within a certain period.

695. Can there be any kind of analogy between that and copyright in a printed book?—Copyright seems to me to stand entirely by itself, with the exception possibly of the patent law.

696. What harm would it do to anybody if there was no registration of copyright whatever, supposing that you abolished the whole system, what harm would it do?—As the law at present stands there is to a certain extent the registration which is equally available for assignment. The copyright in a book may be worth a large sum of money, or may not. In other cases of property it must be done by deed or writing. The assignment by registration saves the ordinary stamp duties.

697. Suppose that there was no registration at all. I will take you through the different persons interested. First of all there is the owner of the copyright?—Yes.

698. Would not the owner of the copyright be able to say, either "I am the person who wrote the book myself," or "I am his executor or assignee," or whatever it might be?—You mean upon proceedings being taken for infringement.

699. I do?—Yes.

700. There is a person who is not the owner, but who wishes to publish the book. Surely every such man must know perfectly well that he is not the owner of the book and has no right to publish it?—Yes.

701. Therefore, he could not be helped in any way by registration?—He might not know whether the copyright had expired or not.

702. I am assuming that you do away with registration altogether, leaving the copyright simply as it stands, and that the man who publishes a book acquires thereby the exclusive right of publishing it for 42 years. First of all I say that the registration does not seem to me to be of any particular benefit to the owner of the copyright, and you do not seem to say that it is?—It is no great tax upon him.

703. But is it any benefit to him?—It is an evidence of his right; perhaps that is the only sense in which I can say that it is of any benefit to him.

704. Would not the evidence of his right be equally as strong without it, because if he has written the book himself, he can say, "I wrote that book," and if he derives the right to it from some one else, he may say, "I am the executor or the assignee of the man who wrote the book"?—Yes.

705. Therefore registration does not do much good to the owner of the copyright?—I cannot help thinking that it is to a certain extent a protection against infringement.

706. But you say that any infringement, except by way of extract or abridgment, or matters of that kind, is extremely rare?—Certainly.

707. As a rule you do not want protection against

it; in fact you never knew a case of the sort?—I cannot go so far as that. You mean complete reprinting?

708. Yes; going by steps in the first place is the registration of any good whatever to the owner of the copyright?—I cannot say that it is, more than in the limited way which I have stated.

709. Now we go to the man who is about to infringe the copyright. Is it not the fact that everybody who proposes to publish somebody else's book must know perfectly well that he is publishing what does not belong to him, without any registration to tell him so?—Yes; but I do not know that that would be an argument against registration.

710. Therefore the registration gives no notice to the person to whom the book does not belong?—If it were made compulsory he would certainly have the means of ascertaining whether the copyright was in existence or not.

711. But he knows perfectly well that it is not his?—He might not, because as the law now stands, if a book goes out of print there is nothing to show that the copyright in that book may not have expired; it may be after the death of the author.

712. You put it that registration, if made compulsory, might be of some advantage in showing a man whether copyright had run out or not?—Yes.

713. As a practical question, do you know whether that is a matter of very great importance. Do you often find a difficulty in discovering whether the copyright of a book has run out or not?—We had practical experience in one case last year.

714. What was that case?—It was a case where a book was supposed to be out of print, and the man who was going to re-issue it, did not write to the author as he might have done, as his name and address were published in the preface, and he proceeded to reprint it; proceedings were taken against him, and he said that he had sent three or four times to the publishers and that they had said that the book was out of print.

715. (*Mr. Froude.*) Was that during the life of the author?—Yes, the author subsequently arrived upon the scene.

716. That person must have known that he had no right to do that during the life of the author?—He professed to say that the book being out of print he had a right to reprint it.

717. (*Mr. Fitzjames Stephen.*) How would registration have prevented that thing being done?—If he had gone to Stationers' Hall he would have seen whether the book was registered or not, which in fact it had not been.

718. Therefore you would establish a system of registration, partly for the sake of keeping a very negligent and imprudent person from doing an improper action?—Copyright is hardly the same as any other species of property that you can imagine. If you have a leasehold house you can go and see it, and you do not require to register it; but with copyright it is an intangible right altogether, it is established by statute.

719. You see a book and you know that you did not write it, and that therefore you have no right *prima facie* to publish it?—But the statute has only given the right for a certain period, it is not a perpetual right.

720. Generally speaking, when books are first published, is not the date of publication printed on the title page?—I do not think so; probably the year is put, but I have noticed that that is very frequently omitted.

721. Can you suggest any other benefit to any human creature which is got from registration, except that in some cases it would enable persons to know the fact that the copyright had run out?—If you include the present system of assignment as well, there is a very material benefit to the proprietor of the copyright.

722. What do you mean by the present system of assignment?—That entries of assignment should be made, or that assignment of copyright should be

made by entry in the register in the same way as is done at present.

723. Copyright would now pass by assignment without an alteration in the register, would it not?—It can be done by deed, but then it must pay the same stamp duties as every other conveyance.

724. Why should it not?—I do not know, but it does not if assigned by registration. As a matter of fact a simple entry in a register is sufficient at present; that is the only case of property in which that is so.

725. Can you tell me any advantage which anybody gets from the system of registration, except the one advantage that a man intending to publish somebody else's book may find out whether copyright is in existence, or not?—The certificate of the entry should be *prima facie* evidence of right.

726. Not conclusive evidence?—It might almost be made conclusive after a certain period.

727. Would it be conclusive or not, because that makes all the difference; would you make it conclusive evidence of the right or only *prima facie* evidence?—I would not make it conclusive evidence unless there were more particular requirements of registration than at present.

728. Then you are not prepared to suggest that it should be conclusive evidence?—Not unless further requirements should be made previously to registration.

729. Are you prepared to suggest the further requirements, and if so, what are they?—I should prefer to have a certificate of the *prima facie* right, liable to be upset in case of fraud, and by proper judicial proceedings as at present.

730. When there is no real question about a thing, is it your experience that making a matter legally *prima facie* evidence is of the least use? It seems to me that it is useful only when you do not want it?—It is rather an unusual thing now for an entry to be expunged or varied at Stationers' Hall; I should not think that there have been a dozen cases of it in the last 10 or 20 years.

731. Is it not generally the case that that is because it is perfectly clear who the owner is?—Yes.

732. If, therefore, the fact is perfectly clear without registration, how does registration make it any clearer; is it not adding a fifth wheel to the coach?—As a matter of fact, books are now seldom registered except for two reasons; one in the case of proceedings, and the other where I should say generally publishers have purchased the right and have paid a considerable sum of money for the right, and on completing their purchase, which is frequently done by regular deed and proper assignment, perhaps comprising a great many copyrights, all the entries are made. It may possibly be 25 years or more after the book was first published, but it is not the practice in my experience for authors or publishers in the ordinary course to register.

733. Then I come back to the first question. What advantage do you propose to give by establishing this system of registration, either to the author or to the publisher, or to the public. Who is to get any, and if so what, specific advantage from the establishment of a strict system of registration?—We must not exactly say that it is a new system.

734. I do not say that it is a new system, but I say a strict system?—There is nothing except as regards the question of the evidence of copyright, and the advantage to the general public of knowing how copyright is going; and possibly as respects the proprietorship of the book, registration is sometimes important. Of course it is mainly evidence of the possession of the copyright.

735. (Mr. Trollope.) You have said that you know no case of the absolute piracy of a whole book?—No, unless it has been under some misapprehension as to its being out of print, or something of that sort.

736. Therefore I presume that it is your opinion that the copyright law has been successful in deterring people from piracy?—Yes, I think that it has been practically very successful, especially in recent years.

737. You do not mean to express an opinion that

there has been no piracy, because there would be no tendency to piracy without such a law. It is, I presume, your opinion that the law of copyright has prevented piracy?—Yes.

738. There would be piracy enough if there were no law?—Yes, clearly.

739. If the tendency to piracy has been prevented by law, I presume that it is necessary that there should be the power of enforcing that law?—Yes.

740. There may be no necessity now to enforce the law, because the fear of the law may prevent piracy?—Yes.

741. But if there were no such power of enforcing that law there would be piracy; is not that so?—Yes I should think so, certainly.

742. Is not registration necessary for the enforcement of that law?—It is a very material help to it certainly. I will not say that it is actually necessary. It may almost be said to be necessary in reference to the international law which we now have.

743. At the present moment it is legally necessary?—Yes; in order to prevent infringement there must be registration before taking action; the actual proprietor for the time being of the copyright must enter in the register before legal proceedings are actually taken.

744. Therefore registration at present is essential to the enforcement of the law?—Clearly.

745. Therefore it is presumable at any rate that the Legislature in passing that law considered that registration should be a portion of the law?—Yes.

746. At the present moment, at all events, registration is necessary to the enforcement of the law?—Yes.

747. (Sir H. D. Wolff.) With regard to the annotated editions of works, they have copyright, have they not?—I suppose that you may take it as a rule that any work which has had a sufficient amount of labour and care expended upon it by an individual acquires a certain copyright.

748. Then it would be difficult to prove the infringement of the copyright of a book which was annotated, unless you had some system of registration, would it not?—Yes; I think certainly that a system of registration is good for copyright, for the reason that it is a peculiar right. I do not think that there is any other exactly like it; it seems to me that registration amounts to simple means of testing the right, or of evidencing it. It simply exists by statute, and it has been expressly decided that there is no right except by statute.

749. (Sir H. Holland.) As regards an annotated book, the registry would not show what the annotations were, but a comparison with the book for which the copyright was taken out must be made?—But you would enter the copyright of the annotated book.

750. I understand you not to assent to the proposition which Mr. Fitzjames Stephen has put to you, that there would be no more difficulty in proving your right if you had not registered than if you had?—No.

751. Because as time goes on it might be much more difficult to prove the publication if you had no registration?—Yes.

752. Even although it may only be *prima facie* evidence, yet it points to the time, and so assists in the way of testing the time of first publication?—It is I think a very material assistance.

753. (Mr. Jenkins.) Considerable difficulty might arise at the termination of the copyright, with regard to the question what was the first day of publication?—Yes.

754. Take for instance the case of Sir Walter Scott's books, it might be a very important question whether they were published in May or whether they were published in June, might it not?—Yes, and it is necessary to be more precise even than that.

755. Do you think that if you went to the publishers and asked them whether they would tell you the date of the publication, they would be likely to do so? If you, as another publisher, said to them, "I am anxious not to infringe your copyright," do

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you think that they would tell you what the date was?—I think so. In many cases they might not know; but I do not see why they should not tell me if they did know.

756. (*Mr. Trollope.*) Are you aware that publishers often put an erroneous date on their title pages?—I know that frequently a book published at the end say of 1875 bears the date of 1876.

757. (*Mr. Dalry.*) I think you have said that you wish to see registration compulsory and made a condition of copyright. May I ask you how, under such a system, you propose to deal with articles written in a book or magazine; would you have each article registered, or would you consider the registration of the magazine sufficient to include everything published therein?—At present registration of separate articles I believe is not necessary.

758. But the registration of the book covers the registration of the articles in it?—Yes.

759. Then if you made it compulsory it would, I suppose, be necessary for every contributor to ascertain that the magazine was registered before he sent in his contributions, if registration was a condition of copyright, otherwise a person might be contributing without having copyright?—But might not the registration of the periodical itself be sufficient to protect all the articles published in it, and also to give protection when the term to which the publisher was entitled expired, and to which the author himself would become entitled for some period of years.

760. I was asking as to the onus which this would throw upon a contributor to the magazine. Do you propose that he should ascertain that the magazine was registered, because if the copyright of his article depended upon the magazine being registered, he would have a vital interest on that point?—Yes; I think that very likely some alteration might be necessary as regards detail in the case of encyclopædias and abridgments, and so forth.

761. With reference to the books which are given to the four public libraries, are you aware that officers have been appointed by each of those libraries to watch books as they are published, and to make demands upon the publishers for copies of them?—I believe so.

762. Therefore the chance of their not receiving them, if the books were of any value, would be exceedingly small?—Yes.

763. (*Sir H. Holland.*) I do not think that you quite answered Mr. Trollope as to the effect which you proposed to give to registration if made compulsory; whether you intended, if a person did not register, to destroy the whole copyright, or whether you merely intended, if he did not register, to prevent his right of action for the infringement of the copyright?—I think that those answers were to the previous questions of Mr. Fitzjames Stephen.

764. If you make registration compulsory, do you propose to make any alteration as to the effect of non-registration; have you considered that question?—I should like to consider it; that is a very serious point.

765. The question is whether, if you make registration compulsory, you propose, if the person does not register, to destroy his copyright altogether?—That seems almost too much, as I have said. I should think that the penalty of not being able to recover for any previous infringement would be sufficient.

766. If you wish to make a change as to registration, and to make it compulsory, you say that you consider that the loss of copyright would be too heavy a penalty for non-registration?—That is true. With regard to the International Copyright Acts which require registration, a certificate of registration ought to be made sufficient evidence of copyright, both in the country in which you have copyright and in this country.

767. That is not quite an answer to my question. At present registration is only necessary if you want to bring an action?—Yes.

768. I understand you to propose that registration should be compulsory?—Yes.

769. Do you intend the registration under those circumstances to have precisely the same effect as

registration now has, namely, simply to entitle a person to bring an action; or do you propose that if a person does not register he shall absolutely lose the copyright?—I think that registration should be an essential condition of copyright.

770. Therefore you would make registration compulsory, and if the person did not register he would lose his copyright?—He would have no copyright until registration.

771. (*Mr. Fitzjames Stephen.*) Or rather he never gets it?—Yes, in one sense, if he does not register.

772. (*Mr. Trollope.*) What period would you propose for registration?—We are a little dependent now upon the present law as to registration being in the United Kingdom. There might be differences with regard to books published in Dublin or Edinburgh, or anywhere else; but I should think that two or three months, after first publication, ought to be considered a sufficient time in which registration might be completed.

773. You would say two months?—Two months.

774. You think, then, that in the event of a work not having been registered within two months, the property in that work should become common to all the world, although none of the 50 years during which such property is protected in France, or of the 30 years allowed in Germany, or of the 42 years allowed here had elapsed?—I do not say that. I think, as I said before, it is a serious matter, and my opinion is that the penalty of non-recovery would be sufficient.

775. You are prepared to recommend punishment so heavy as that?—No; though I consider that registration is such a very simple matter that it would practically amount to there not being the slightest difficulty. If I thought that there was any really serious practical difficulty, I of course would not have alluded to such a penalty for a moment.

776. To abstain from stealing an apple would be a simple duty, would it not?—Yes.

777. But you would not enforce that duty by hanging the thief?—No; we have a penalty commensurate to the offence.

778. I agree with you that compulsory registration is necessary, and I think that it should be enforced by a penalty; but I am anxious that you should give your best attention to the matter, so as to say whether you would really endeavour to enforce that duty by depriving the delinquent of that which in certain cases might be a very great property indeed?—I should be very sorry to think that it would have that effect.

779. (*Mr. Fitzjames Stephen.*) I suppose that your view would rather be that a man should not have any copyright until he had registered?—Yes.

780. You have said several times that you would make registration a condition of copyright. I think that that was your expression, that is to say, that a man would not acquire the property which the statute gives him until he had fulfilled the condition of registering his book?—Yes.

781. Then Mr. Trollope naturally asks you how long a time you mean to allow a man in order for him to comply with that condition?—No doubt the intention of the Act of 1842 was to promote registration, and it may be done in that particular way.

782. (*Sir H. D. Wolff.*) Supposing that some author in India sent a book home to England, and that his publisher did not register it within two months, you would not say that that author was never to have his copyright after that time merely on account of the laches of his publisher?—Of course that would be very serious. That brings up the point as to the British dominions and the colonies, and publishing in the United Kingdom, which is a very serious point indeed.

783. The author in that case would lose the whole of his copyright?—Suppose the other alternative which was suggested just now; if anybody saw that the work was not registered, and was disposed to play the part of the pirate, he would republish

and sell it, and therefore it would amount to the same thing.

784. Supposing that Dr. Livingstone, for instance, from the middle of Africa, sent home his book to be published, and that he was still in Africa, surely it would be very hard to punish him by the loss of his copyright merely because by some accident the book was not registered during two months after publication?—I think that cases of accident and fraud ought to be separately considered.

785. (*Mr. Froude.*) May I ask you whether any public interest, or private interest, or any interest results to anybody from leaving a book unregistered. Is leaving a book unregistered an advantage to anybody? Because if not, is not the drift of all this, and the natural common sense of it, that publication and registration shall be made one and the same act, without any separation between them, and that any book which is published shall be in the condition which you now seek to attach to it by registration, and that whatever the form is, it shall be one and the same?—Yes, unless there had been previous publication.

786. If there is any public interest in books being left unregistered, in order that persons may publish them cheaply, then it may be better to leave the matter as it is; but otherwise is it not a simple solution of it all to make it one act?—Yes. It would, I think, be clearly necessary to make some alteration as to first publication, because that matter is now in a very undesirable form. It was decided under the Act of 5th and 6th Victoria that there was no copyright in anything which was not published, but as a matter of fact they used to register at Stationers' Hall books about to be published; and the question is now what is first publication. If you wish to make an entry of first publication in the register, you are at perfect liberty to do so; but there are really no means of testing what first publication is, whether it is sending the first presentation copies, which is frequently done, or sending copies to the review, and so on; or whether it may be the sale of the first copy at the publishers, and the date of first publication is so material that a mistake of a day is sufficient to vitiate legal proceedings; that occurred in one case and they had to begin again.

787. (*Sir H. Holland.*) Have not the decisions pretty well settled what is a first publication. I understand you to say that there is a difficulty now in deciding what is first publication, whether sending a presentation copy or otherwise; and I ask you, have not the decisions tolerably well settled what is first publication?—Yes, to a certain extent; but then the entry at Stationers' Hall is brought forward as evidence of the date of first publication, and in many of these cases of legal proceedings the first thing which you have to do is to make an entry at Stationers' Hall, assuming that it has not been done, which in nine cases out of ten it has not. There must be the date of first publication, and it may be in the case of a book which has been published for 25 or 30 years. In the particular case which I have mentioned, there was very considerable difficulty in obtaining the date of first publication.

788. How do you propose to meet that difficulty?—If there was any legislation it might be distinctly defined. This and many other points might be clearly defined by Act of Parliament: it is not defined in the Act of 1842 who shall possess copyright; it is not even said where the first publication shall be, or to what extent the copyright itself shall run. It has all been a matter of case law founded upon what is supposed to be the construction of the statute, and I suppose that it is not even now quite certain as to who may possess copyright.

789. (*Sir H. D. Wolff.*) There is a provision in the German law for a public notification of the registration. Would it be a good thing to advertise the

registration in the "London Gazette"?—The "London Gazette" is a mysterious publication, and it is very expensive to advertise.

790. (*Mr. Jenkins.*) Would it not sufficiently meet the case to follow the American and Canadian practice, and to publish on the book a statement of the place of registration?—Yes.

791. Do you think that there would be any practical difficulty in obliging the publisher, in the case of every book or newspaper, to state the place of registration on it?—No.

792. Have you beside you the formula in the Canadian Act?—Yes; "Entered according to Act of Parliament of Canada in the year [] by A.B., in the office of the Minister of Agriculture." It does not say who that A.B. is, that is the peculiarity. Perhaps it is hardly necessary to put A.B.; according to the English law it would perhaps be sufficient to say, "Entered according to Act of Parliament, so-and-so."

793. (*Mr. Daldy.*) Reference has been made to the German copyright law; copyright by the German law dates from the beginning of the year next ensuing?—I believe that it does.

794. (*Dr. Smith.*) How do the 42 years now date, do they date inclusive of the year of publication, or exclusive of the year of publication?—From the day of publication.

795. (*Mr. Fitzjames Stephen.*) What is publication, is it exposing a book for sale in a shop, or what?—That I think is clear publication. I have mentioned one or two difficulties which have already arisen as to what is first publication.

796. (*Chairman.*) I think that you have suggested that that should form a part of any new legislation upon the subject, namely, a definition of first publication?—Yes.

797. (*Mr. Trollope.*) If I understand your proposal, the registration of which we have been speaking would be publication?—If they were made simultaneous, that clearly might be taken as the date of publication.

798. And therefore registration would be of great use in that particular?—Yes, of very material use.

799. (*Sir H. D. Wolff.*) There is no record kept, I suppose, at the publishers now, of the day when they consider that publication begins?—No; as a matter of fact they can tell only approximately by looking at their books when such and such works were sent out.

800. (*Sir H. Holland.*) Do you propose to push publication further than compulsory registration, or would you say that there should be no publication before the date of the registration, and that that is to be taken as for all purposes the date of publication?—That would be the original publication, as I gather from the conversation which has taken place. My impression is that there might be an interim registration, that there should be a power of entry, and for publication to follow within a certain period.

801. And that that publication should be registered?—Yes.

802. (*Chairman.*) Then you would have two registrations?—Yes, that might be the result.

803. (*Sir H. Holland.*) Supposing that a person was not ready to publish, he might take out an interim registration?—Yes.

804. Is it your view that he should be allowed to publish without registering, or must he register, and must that be taken as the date of publication, so as to avoid all questions of what is or not a first publication?—I think that the registration on the publication of the book should certainly be made essential.

805. Is the registration itself to be taken as the publication of a book; is that what you mean?—Yes, if it had not been previously published.

The witness withdrew.

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

S. G. Turner,
Esq.

23 May 1876.

Friday, 26th May 1876.

PRESENT:

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

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

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

J. LEYBOURN GODDARD, Esq., Secretary.

JOHN BLACKWOOD, Esq., examined.

J. Blackwood,
 Esq.
 26 May 1876.

806. (*Chairman.*) You are, I believe, the head of the well-known firm of Blackwood and Sons, Edinburgh?—Yes.

807. You are also the editor of "Blackwood's Magazine"?—I am, and I have been so for nearly 30 years.

808. Therefore in both those capacities you have had your attention directed, no doubt, to the subject of copyright?—Yes, it is my daily life; perhaps daily bread would be also an accurate expression.

809. Will you be so good as to give the Commission the benefit of your opinion, in the first instance, on the term of copyright; what is your view as to the existing term of English copyright?—My view is that the duration after the author's life at present is too short, and that it ought to be very materially extended.

810. Have you formed any opinion as to what the extension ought to be?—I think that the French term is 50, and the German 30 years after death of the author; I would like the longest best, namely, 50 years; but at the same time 30 years would work well.

811. You are no doubt aware of the popular objections which might be raised to any extension of the term of copyright; have you considered them?—Yes; I think that the objection to the extension generally lies as to the price at which books are sold. Now my own feeling is that the extension would not reasonably affect it, because every publisher now is aware from actual experience that in order to reap the full benefit of a book, he must work it in a very cheap form as well as in an expensive one, and I think that the old objection about the high price of books is in real effect done away with.

812. Can you give the Commission any idea of how soon, after the first publication of a book, the publisher would find it to be his interest to bring out a cheap edition?—I can say what I have done myself, that within a couple of years I have brought out a cheap edition of a book originally published at a very high price, and have worked it successfully; I thought that it was both the interest of the author and the interest of myself to do it.

813. (*Sir H. Holland.*) Have you any objection to stating the name of the book, or will you state what was the price of the cheap edition as compared with the original price?—Perhaps I may mention "Adam Bede," which is a pretty long novel; it was published at a guinea and a half, and the price of the cheap edition is 3s. 6d.

814. How soon was the cheap edition published after the first edition?—In a few years, I forget how many years now; I would as soon not name any individual instances. I know all these things professionally, so that I do not much care to name individual cases.

815. (*Chairman.*) You have a case in your memory in which the first edition being costly, you within two years found that it was your interest, and the interest of the author, to bring out a cheap edition?—Yes. I could name an immense number of instances.

816. Can you give the Commission a correct idea of the price of the costly edition in the first instance, and the price of the cheap edition in the second instance?—The first edition was published as a novel, which has a nominal price of a guinea and a half, but as Mr. Trollope well knows we do not receive it.

817. (*Mr. Trollope.*) Cannot you give some instance of a book not a novel?—Yes, I can give you

the instance of Alison's "History of Europe;" that was published as a book at 15s. a volume originally, and we reduced it to four shillings.

818. In what interval?—It was some years, but it had more than 30 years of copyright to run when we reduced the price, when we brought out what was called a people's edition.

819. (*Chairman.*) Therefore you would, as I understand it, argue from that and other instances, that an extension of copyright would not necessarily induce the authors and publishers to keep up the high price of books?—No, I can say so most confidently; in fact the knowledge that the term is running out rather induces the proprietors to keep up the price before playing their last card, as it were, in the cheapest edition of all.

820. (*Mr. Dalry.*) With reference to Alison's "Europe," was not an intermediate edition published before this cheap edition?—Yes; Sir Archibald was accused of writing a history in 20 volumes, but it was a history in 20 editions also, I am happy to say, and there was a 6s. volume edition which had an enormous sale, and then the people's edition came after it, and had an enormous sale also.

821. Was not the 6s. volume edition issued much sooner than the people's edition?—Yes, much sooner.

822. Speaking generally, do you happen to remember how soon the 6s. edition was issued after the completion of the original edition which was published in volumes?—I cannot say exactly, it was not a very long time.

823. (*Mr. Trollope.*) Less than six years?—I should think about that time, but this can hardly be definitely answered as the book was the labour of a lifetime, and published volume by volume over a term of some 20 years.

824. (*Sir H. D. Wolff.*) One of the objects which are proposed by this Commission is to obtain an international copyright in America?—Yes.

825. Do you think that the objection which the Americans feel against giving us copyright is that they might be forced to purchase books at the high price at which they are sold in England in the first instance?—No, I really do not think so. I hold that international copyright with America would be the greatest boon to authors and to literature, both in England and in America, that could possibly be conferred, and every effort should be made to obtain it. All other questions are small in comparison with that, and I think that the boon to the Americans would be as great as it would be to us. The boon to America would be in this, that it would give their national literature fair play instead of leaving their authors to compete at a disadvantage with best English writers, among whose works the American publishers can pick and choose and publish at any price they like.

826. What boon would it be to English literature, except that it would remunerate the authors?—It would almost double the author's receipts, as it were; I do not mean that it would double the sale, but an increase of the sale is the point that brings in the whole profit.

827. Do you not think that the price at which books are published in England at the present moment is an artificial price, owing to the system which we have in England of circulating libraries?—The fact is that publishers and authors must simply work with the means that they have of conveying their books to

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the public, and it is no particular fancy either of authors or of publishers that there should be circulating libraries, but as long as there are we must work through them.

828. You tell us that you have published cheap editions of books some years after they have come out?—Yes.

829. And for those you get, I suppose, a sale?—Yes.

830. Supposing that instead of publishing those cheap editions some years after the dear editions came out, you began by publishing a cheap edition, do you not think that as you sell your cheap edition well now when the cream of the whole book has been skimmed away, you would sell it still better if the cheap edition came out in the first instance?—I think that the risk would be so very great that you would neither find author nor publisher inclined to take it.

831. But the risk is great on account of the system which has crept in in England through the circulating libraries. Are you aware that in France, where circulating libraries scarcely exist, cheap editions of books are published in the first instance, and also that authors get very large profits from them, and publishers too?—Yes, I am quite acquainted with the system, and we work our system as well as we can, but foreign copyright books—take for instance some of Victor Hugo's—are not much cheaper after all.

832. For instance, there was a very popular author, who, I am sorry to say, is now dead, namely Gaboriau whose books sold very largely; the volumes of Gaboriau were certainly larger than the volumes of English novels, they were more closely printed, and they were three francs apiece?—I think that you are departing from the question altogether. This is a question of copyright. It seems to me that publishers and authors must conduct their business as best they may, and name their own prices for the books.

833. I grant you that.—You may rely upon it that we have thought over all these points all our lives, and we do what we think is best according to the circumstances.

834. I perfectly grant you that. You publishers and authors make your own arrangements to get the largest amount of profit, but at the same time we represent the public, and are we bound to give you special protection to enable you to keep up this price?—I deny the special protection. I consider that the work of a man's brain is more emphatically his property than any other kind of property.

835. No doubt it is, but at the same time we give you special protection for it?—It is not special protection at all, every property in the country is protected, and why should not books be protected; why should it be called special protection?

836. Because it is a special protection to you. In the case of patent inventions, which is the analogy that has been drawn to books, you do not have a term of patent for 40 years or 50 years, you have a term of patent for 14 years?—A patent is a totally different thing; another man may invent the same patent, but no other man could write the same book. No other man could invent an "Adam Bede."

837. I grant you that. You say that there is no analogy with patents; you have a special protection for your books, and that you cannot deny?—Yes, I will deny it to be a fact. I do not call it a special protection, it is a protection like that which is given to any other kind of property.

838. What analogy have you in any other kind of property to that of books?—You are going away into an abstract question about property.

839. If you say that there is no analogy to books in any other species of property, and if you get copyright, you have a special protection?—So far from my saying that there is no analogy I say that the analogy is stronger, that books are more distinctly the creation of a man's own hand and brain than any other kind of property, and that therefore they are a property which should certainly be protected.

840. (Sir H. Holland.) You would take the converse of Sir Drummond Wolff's proposition; you

would say that the creation of a man's brain is his property, and *prima facie* should be protected in perpetuity, but that the law in the interests of the public has fixed a limit to the monopoly of that property?—Yes; you and I are quite agreed about it.

841. That is your view upon it without saying which is right and which is wrong?—Yes, that is my view of it.

842. (Sir H. D. Wolff.) The property of an author in his book is a property which he chooses himself to produce, nobody forces him to produce it?—Just so.

843. He produces it for his own interests, and having produced it for his own interests we give him a special protection in the property which he himself produces, do we not?—That comes back to what we were saying before; I deny that, I say that a book is property like any other property, and that it is more peculiarly property than any other, and that it should not be called a special property, or a monopoly in any way.

844. Our object must be the same as the object of the public, namely, to encourage literature in every possible kind of way, and therefore if we are encouraging literature by obtaining this copyright in America, no doubt it is the duty of the Government to do so; but at the same time I cannot help thinking (and some others hold my views) that the present system by which books are published at a high price, and by which different profits are made before they get to the public, is an artificial system which is prejudicial to the public. Therefore I ask you whether you do not see your way, in case we can obtain these privileges in other countries which you have in England, to facilitating the sale of books to the British public at a lower rate by a different method than is at present known; that is to say, do you see no way by which the authors and the publishers may receive sufficient remuneration for the books, and by which the public may become the proprietors of the books rather than the hirers of them, and by which you may do away with the system of circulating libraries?—In reply to that question I beg to say that the case is simply one which must be met as the circumstances arise. The business both of authors and of publishers is to consult and please the public, and we will adapt ourselves to any case which arises to the best of our ability; but as to the price at which to sell a book the circumstances guide us, and no legislation would work any change in what is merely a business operation.

845. We were told the other day that if you had copyright with America the result would be that the publishers would publish a dear edition in England, as they do now with the assistance of the circulating libraries, and that they would publish a cheap edition in America for the American circulation, where they have not a system of libraries. Therefore it appears to me that getting copyright in America might be of benefit to the English author and of benefit to the English publisher, and that it might be an advantage to the American public, but that the English public would really have no temptation to take any steps in the matter?—Whoever gave that evidence was merely giving an opinion, and it is certainly not an opinion in which I should concur. The thing would happen exactly as the circumstances arose.

846. Certainly; but the Americans are not likely to give you international copyright which will make books in America dearer than they get them now, and I do not see why we should be called upon to legislate merely for the benefit of the American public?—The Americans would certainly get that benefit which there might be; but what you are quoting about our publishing dear here and cheap in America is merely speculative; the thing might arise, but it is not likely.

847. You publish dearer here than in France, for instance?—Authors and publishers will meet each occasion as it arises.

848. But customers have also to be considered?—Very well. We have to please the customers, and we endeavour to do so.

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848. But you do not please the customers?—Do you mean that authors and publishers are to write and publish without any profit?

850. No; I want you to have profit, but I maintain that you are to have it by paying regard to the public interest, and not by having a machinery which exists in no other trade?—You are going into the details of the business, which you had better leave to the men who have been brought up in it all their lives to look after.

851. I am perfectly aware that you want profits, but we want cheap books?—I do not think that this great country spends so much in literature that you can complain.

852. I think that the present system by which a person cannot get a book for a long time at a rate commensurate with a man's ordinary means, and make himself possessed of it, is a very faulty system. You force us to go to Mr. Mudie, or to Mr. Smith, or somebody else, and hire a book for a week from him instead of keeping the book and digesting it at home?—If you carried out the same principle you might get it for nothing.

853. I do not say that at all?—I think that your questions are really out of the scope of the matter in hand. I think that you are entering into the question of how the publishers and authors are to conduct their own business; now no law could be passed about that. I might agree to do one thing, but another man might say, "I will not do it."

854. But you are asking us to pass a law to enable you to keep up that system?—It is not to enable us to keep up that system, or any other system.

855. But practically you keep it up. You ask us to obtain protection for you in foreign countries, and you cannot do anything to make literature cheaper in England?—You yourself could not put it in a practical way in which we could do anything. We say that we endeavour to please the public; our wisest course is to please the public.

856. (*Chairman.*) Is there anything in the present law which compels authors and publishers to bring out new works in a costly form in the first instance?—There is no such law; we naturally publish in the form that we think best for the authors and for ourselves.

857. With respect to the circulating libraries;—In the event of any legislation being adopted which would have a tendency to destroy circulating libraries, are you of opinion that the poorer class of the readers of books could afford even room to stow away the books which they would wish to read in their own homes?—It is a very doubtful question. I am no lover of circulating libraries, and I am very sorry that people do not buy books instead of reading them from circulating libraries.

858. So far as you know, are you of opinion that owing to the machinery of circulating libraries, books now come into the temporary possession of a great mass of readers who, if there were not those libraries in existence, might possibly be deprived of the opportunity of reading those books?—I think that the deprivation applies more to novels than to anything else; there are doubtless more people who read novels through circulating libraries; and it is to novels chiefly that the deprivation would apply, but moreover masses owe their first and best miscellaneous reading of every kind to circulating libraries.

859. (*Mr. Trollope.*) You have been asked as to the effect of copyright in giving a monopoly. You are probably aware that the first law giving copyright was passed in 1709?—Yes; Queen Anne's Act.

860. You are aware that that Act gave copyright for 14 years, are you not?—Yes.

861. Are you aware what was the intention of that Act?—I really could not say beyond the express wording of the Act, and what one might judge from it; I do not know what passed at the time.

862. Are you aware that the object of that Act was not to give increased rights to authors, but to limit the rights of authors?—Yes, that was always my understanding of that Act, and that previously copyright was, just like any other property, perpetual.

863. Are you aware that previously to the Act of 1709 authors were presumed to have a perpetual copyright, and that this Act giving them 14 years of copyright was passed with the object of limiting their right, and not of creating their right?—I suppose that it was, but as a fact I do not know it; I have always supposed that that was the object, and that previously copyright was supposed to be like any other sort of property, and would have been valuable if there had been any public to read, but there was comparatively none.

864. Has it ever come to your knowledge that under that Act certain action was taken at law; for instance, that booksellers were proceeded against on the part of the holders of the copyright for publishing books, even after the expiration of the 14 years?—No.

865. You never heard of a case in which Thomson's "Seasons" was published after the expiration of the 14 years of copyright, and in which an action was brought against the publisher on the ground of his infringing the right of the author, although the 14 years had passed?—I have heard of the case, but I have forgotten the details about it.

866. Are you aware that of the four judges before whom the case was tried, two of them, Lord Mansfield and Judge Blackstone, were of opinion that the author's rights were so paramount that even the Act of Parliament curtailing them to 14 years did not suffice to rob him of the property, even though the 14 years had elapsed?—I was not aware of that.

867. You were not aware that judges so great as Lord Mansfield and Judge Blackstone have thus recorded their opinion in favour, at any rate, of a much prolonged copyright?—Probably I had heard of it, but I had forgotten the circumstances.

868. With regard to circulating libraries, do you think that copyright has anything to do with circulating libraries?—I think that unless there were copyright there would be very few books worth reading.

869. Did copyright create circulating libraries?—Certainly not.

870. Has it had any effect in creating them?—None at all.

871. You have been told, and I believe quite truly, that circulating libraries as they are constituted in England do not exist in France?—No.

872. Is there not a copyright law in France?—Yes.

873. And a copyright law in France extending the right of authors even beyond the term which copyright gives to authors in England?—Yes.

874. Therefore, from analogy, I presume you would imagine that as copyright has not created circulating libraries in France, copyright can have had nothing to do with the creation of circulating libraries here?—Copyright has nothing whatever to do with the creation of circulating libraries. Circulating libraries have simply arisen as a convenient mode of people getting hold of a book. In my own time the extent of reading books through circulating libraries is 20 times what it used to be. I am very sorry for the system; I so far agree with Sir Drummond Wolff.

875. Consequently we may suppose that it is your opinion that circulating libraries have arisen in England because they have suited the wishes and ways of the people?—They have suited the convenience and habits of the people, which is really what must be consulted.

876. With respect to international copyright, it was stated by you, I think, that an international copyright with America would be of advantage to literature in the two countries?—Yes, that is very strongly my opinion. I think that it would be of enormous advantage.

877. With regard, first of all, to America. Has it ever come to your knowledge that literature is not well remunerated in the States?—My own experience is that it is not.

878. Have you ever heard that publishers in America have stated to authors in America that they cannot afford to give them long prices, because they are able to supply the market with English literature without

paying those long prices?—I do not know. I do not think that they would state that such was the reason, but I know the fact that the American author is met by cheap editions of the best English books on every hand, and that is a dead check upon American literature. I have never heard an American publisher say so to me, but I know the Act to be so.

879. And it would appear to you rational that it should be so?—Yes.

880. (*Sir H. Holland.*) Are you aware of a report which was made by Mr. Morrill to the Senate of the United States in 1874, in which report he says, "It will, doubtless, be conceded that international copyright would have the effect to enhance the price of books of foreign authors in the American market, and a tendency and a probable effect to increase the price of the American copyrighted book in our own market," which means the American market, and are you aware that that report was accepted by the Senate?—I had not heard of that. I have heard similar statements of opinion, but I do not really think that it would have that effect; in the end it would lower the price from the larger field which the author would get.

881. It would enhance the price of English copyrighted books in the American market?—Yes, it might, in fact, give more to authors.

882-3. And would it not have a tendency to increase the price of the American copyrighted book, because it would tend to increase the price of all books?—That would be the tendency, but not materially, nor beyond what was fair. Supposing that there was an international copyright, books as a rule having a larger field of circulation, would be sold cheaper to the public.

884. An English book would not be sold cheaper than the present price of an English book in America, would it?—I think that it would. One could not tell.

885. Even if copyrighted in America?—Even if copyrighted in America it would be sold cheaper than at present, I think, certainly. On that point I have no doubt.

886. (*Mr. Trollope.*) I have asked you about the condition of authors in America with regard to this subject of international copyright. I will now put a question to you on the condition of authors in England, upon the same subject. You said that an international copyright with America would do good to literature generally. Do you not suppose that an increase of remuneration in any commercial operation would produce an increase of supply?—Yes.

887. And an amelioration of the article supplied?—Yes.

888. We are apt to think that on our bench we have good and honest judges, because we pay them well. Do you not think that the same effect would result with regard to authors in England?—I certainly think so, and have always acted as thinking so.

889. You imagine that the better their remuneration the better would be the work which they would do?—I think so, from the ordinary acceptance that the more you make it worth a man's while, the better he is likely to do his work.

890. And the better the literature the better, probably, would be the literary position of the people who enjoy that literature?—Yes.

891. And therefore in that way the question is answered as to what good would be effected to the country at large by an international copyright in America?—Clearly so.

892. With regard to the subject that Sir Henry Holland has just been speaking of, you have said (and some of the Commissioners seem to be surprised that you have said) that the price of English books in America would not be increased by an international copyright?—I think that in the first instance it would. I do not think that that was exactly what I said. In the first instance it certainly would be increased, but in the long run it would not.

893. The first result of international copyright in America would be to give to some one publishing

house the exclusive right of printing a book?—It might do so; it would be according to the private bargain which was made.

894. That would be the probable result?—Yes; one would naturally correspond with one house.

895. Therefore the publishing house which had purchased this right would be free from all fear of competition?—Yes.

896. And in that way would be secure of a certain sale?—Yes, according to the nature of the book.

897. Do you not think that such security of sale enables a man to go into much larger operations than he could do if he had no such security?—Certainly; he can take a greater risk.

898. If you were publishing, as you have published, novels by George Eliot, you could print, protected as you now are, a far greater number than you would be able to do if the publisher next door to you were able to print other copies on the next day?—Yes. I would then hardly print at all, because I should not know what was to be done.

899. Printing in that way you would be able to sell cheaper than you could do if you sold after an insecure fashion?—Yes.

900. And in that way the books which you sold could be published cheaper than they would be if you were liable to that competition?—I would not say so in all cases.

901. Would not that be the result in the book trade generally?—An extension of the ground over which a book is to be sold, and of the number of customers, will infallibly in the long run lead to a reduction in the price of the book. When you have a large audience it is worth your while to bring out the book cheap.

902. (*Sir H. D. Wolff.*) Are you aware that in America there is an understanding amongst publishers to pirate English publications; that they do not interfere with each other, but that one man publishes one sort of book and another publishes another?—There is a sort of consideration among them. I do not know how far it is binding. I have known it broken, and I have known it kept.

903. But generally speaking it does exist in America?—I have heard of such a thing, but as to its actual existence I cannot speak. I do not think that it goes much further than this, that houses which are on good terms with each other will not come forward and try to cut each other's throats. I think that that is about the state of the case.

904. If there were international copyright in America, do you conceive that you would publish your book in England and also publish it in America, or would you publish your book entirely in England and sell it in America; that is to say, would you print the whole book for publication in England and send so many thousand copies to America, or would you do it separately?—Sometimes the one and sometimes the other. For instance, at present we sometimes send copies, and we sometimes send stereotype plates, to America. When we have stereotyped a book we send them a cast of the plates; and sometimes if they write to us about it we send them a certain number of copies of the book, but if they want a very large number they print for themselves. If we had copyright we should decide it as the circumstances might suit.

905. Either the author or the publisher gets paid in certain cases for having the early right of publication in America?—Yes.

906. That is not a very large sum generally speaking at the present moment, is it?—No, but it has been increasing of late.

907. You have copyright with the continent?—Yes.

908. And Baron Tauchnitz pays for the copyright abroad, does he not?—Yes, but it is not a thing of very great consideration.

909. In proportion to the sale, from which source do you derive most, from selling the early sheets in America, or from selling your copyright to Baron Tauchnitz?—I always leave that to the author. I hardly ever negotiate the thing myself. I think that

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they are more inclined to be liberal to the author than to the publisher, and I always leave the author to negotiate it.

910. From your knowledge do you think that they get more from America, or more from Baron Tauchnitz?—I should say that they get more from America, from the total difference of the field.

911. Therefore, would you say that the place where you have not copyright pays a larger proportion than the place where you have copyright?—I think that you would put the state of things in America better if you said that the English-speaking population there was a thousand to one, and that naturally there is more demand for an English book in America than on the Continent.

912. There is a large demand for those Tauchnitz editions, is there not?—It is very considerable.

913. And they are very largely sold?—No doubt they yield a very considerable profit.

914. And people buy those editions abroad, and read them and keep them?—Yes, and bring them into this country.

915. Mr. Trollope asked you whether you thought that it was copyright which kept up the circulating library system, and you said that you did not think so. Do you think that what keeps up the circulating library system in England is the high price at which books are published in England in the first instance?—That may help it, but I really do not think that it is worth going into that point. You may rely upon it that the publishers and authors have considered the subject thoroughly, and act according to the best of their light.

916. No doubt they do, but we want information to report upon?—I do not know what legislative Act could be passed to stop the library system, or to prevent an author or publisher publishing his book at any price he chose.

917. That you must leave to us; we want information to go upon, and I think that this matter will be of importance in the preparation of our report. If you do not object to answering the questions I will put them to you, but of course if you do not like answering I will not ask you the questions?—What question do you wish to ask me?

918. At the present moment you say that you publish your dear edition, whether it is a book of George Eliot's or of Sir Archibald Alison's, or anything else, you publish a dear edition in the first instance?—Yes.

919. Is not that edition principally sold to the circulating libraries?—I would not say that exactly. It depends upon the class of book.

919a. But to a great extent?—It is to a considerable extent.

920. You afterwards publish a cheap edition; is that edition principally bought by private consumers or by publishers?—By both, but of course more by private consumers than librarians.

921. When you get to the very cheap edition that is bought by the private consumers?—Yes.

922. I am given to understand that the price at which books are sold in the first instance is what may be called an artificial price, that is to say, a much higher price than the cost of production?—Than the cost of paper and printing, but not than the cost of brain.

923. Therefore by the publication of your first edition you have a profit; of course you have the expense of paper and so on, but then there is a profit for the publisher and a profit for the author?—Not always, I am very sorry to say; there are a good many cases where there is no profit.

924. That is a misfortune, but I am speaking of the work of a distinguished man like our friend opposite, or anything of that kind. He gets a profit, and the publisher gets a profit, at least they ought to do so?—They ought always to do so. Mr. Trollope, I am sure, will agree with me there.

925. I ask you to take a case in which there is profit just to illustrate my view. Assuming that you have the work of a popular writer, you publish a dear

edition, out of which there is a profit, and you then publish a cheap edition which goes more directly to the public than the first, and there is also a profit on that edition. The first edition, which goes principally through the circulating libraries, we assume gives a profit, and afterwards you publish a cheaper edition which also gives a profit?—Yes, if it does; of course that is as the case may be.

926. I am assuming the case of a writer whose works will produce a profit. Do not you think that if in the first instance you did not publish your dear edition, but published your cheap edition, and it went straight to the public in much larger quantities than it does subsequently when the cream has been taken off, the same profit might come to the publisher and to the author as comes at present?—It possibly might; but I have answered that question before by saying that I have never found either author or publisher inclined to run so great a risk; and my own opinion is that a great author is the worst paid person in the world; and I shall certainly always publish a book at a price which I think would bring in most to the author. I love the public, I daresay, as much as most people, but I will not pretend such affection for them as to say that I would injure my own business for the sake of the public.

927. But we are wanting you to secure a larger field?—I have considered it with a pen in my hand, and with all the figures before me, and have calculated it to a nicety, and I have never yet seen a case where I was inclined to advise the author to join with me in taking the risk.

928. Is not that because the system of circulating libraries is in existence, and therefore you think that you are doing more justice to the author, and more justice to yourself, by carrying on the ordinary system; but assume that that system was broken down, and that you at once published cheap editions which went straight to the public instead of going to the circulating libraries?—To begin with, I could not extinguish the circulating libraries.

929. But assume that they are extinguished?—Who is to extinguish them?

930. Will you assume that they are extinguished?—That might possibly arise, but no man alive can answer that question on general grounds.

931. (*Sir H. Holland.*) I understand that, as a general proposition, you think that the interests of publishers and of authors are better consulted by a small edition with a limited circulation at a higher price, than by a large circulation at a small price in the first instance?—Everything depends upon the actual case as it arises, but in a general way you do get more by starting first at a high price.

932. Of course there may be special cases, but I understand you to say, from your experience, that you have not found any instance of a special case of that kind, where it would be to the interest of the author and the publisher to publish at once a cheap edition?—No, I have not.

933. Can you tell me what advantage is gained either to the author or to the publisher by putting on a price, say, of 30s., when the book is sold the same day in all libraries in the town at 28s., or even 25s.?—We cannot possibly help the retailers taking off the discount; I publish my own novels now at, I think, 25s. 6d., because I have found them being demanded at so low a price that I would not go on with the humbug of saying that I published a book at a guinea and a half, when I sold it at so much less.

934. Then supposing that a lower price was originally put on, and that instead of 31s. 6d. you put on the discount price of 28s., would there still be a discount, do you think, allowed?—There would. I find that the same discount is demanded when I reduce the price as was demanded when it was high.

935. (*Sir L. Mallet.*) With reference to Sir Drummond Wolf's questions, which he put just now, as to the relative advantage to the public and the author from the sale of dear editions, or cheap editions, is it not the fact that the cheap editions which were published by Dickens and Thackeray sold at one time at 1s., and

went direct to the public, and did not it amply remunerate both the author and the publisher?—Those, in reality, were not cheap editions; they were 1s. numbers, they were sold at the price of 24s. in reality; the public were seduced into paying 1s. at a time, and they went on till they found that they had paid 20s. or 24s.

936. (*Sir H. D. Wolff.*) But the public bought the book rather than the libraries?—Yes, that is the effect of number publication.

936a. That the books go to the public instead of to the libraries?—They go to the libraries too.

937. (*Sir L. Mallet.*) With reference to Mr. Trollope's questions, I think that he was discussing the question as to the effect upon the author and the publisher, and on the price of books, and also on the reading public of England, of an international copyright treaty with America. Has it ever occurred to you, as it has to me, that if we were to succeed in making an international copyright treaty with America this point ought to be considered. The present copyright law of England, which gives a certain protection to authors, I presume was framed with the object of giving to authors that which was considered, rightly or wrongly, the amount of protection necessary to call forth their best efforts. That, I presume, was the intention, at all events; it may not have been altogether successful, but that was the principle of the measure?—Yes.

938. Assuming that that principle be confirmed by the examination which is now going on, and that the conclusion arrived at be that the term of copyright need not be extended in order to elicit from the author his best efforts, if you succeed in making a copyright treaty with America, or with other countries, does not this question arise, that if you extend the area of readers and the sale of books, a larger profit will probably ensue to the author, and probably to the publisher also, and in that case would it not be a necessary consequence of such arrangements that the term of international copyright should be reduced, the area of consumption and of profit being larger. The assumption being that the profit is already at a sufficient point, it seems to follow that if we extended the area of consumption and of profit, we might reduce the term of protection, and obtain the same results in stimulating authors to their best efforts?—I cannot follow that. I do not think that the two points hinge upon each other, and moreover my feeling is that the author of a really good book can never possibly get too much profit, and that the State should look to that as much as they can.

939. That is another question?—The books for which we are legislating are books which ought to be preserved and protected in every way, they do not come to many in a generation.

940. (*Sir H. D. Wolff.*) You are of opinion that copyright should be considerably extended to authors?—Yes.

941. There are some books like educational books which go on selling almost for ever, take for instance Mavor's Spelling Book, does not it sell constantly?—I do not know, but I believe that it does. I was not so fortunate as to be the proprietor of it.

942. In the case of a book of that kind, do you think it fair that the copyright should be extended to almost an indefinite period?—It is as well that it should belong to the man who made it, I think, as to anybody else.

943. With regard to what Sir Louis Mallet asked about, namely the works of Dickens and Thackeray, those were shilling numbers of about 32 pages?—Yes.

944. And there were about 24 numbers, I think, to each book?—Some were 20 numbers, some were 21, and some were 24. I think that that was the sort of way in which they were divided.

945. Owing to the size of those pages, and so on, I think that a novel of Dickens or of Thackeray was rather larger than an ordinary three volume novel, was it not?—Yes, some of them were, and some were not.

946. Assuming that they were the same as a three-volume novel, the public got them for 20s. each, assuming that there were 20 numbers?—Yes.

947. And taking the reduction at 2d. in the shilling, the price really came to about 16s., and the public bought those books. Supposing that you published three-volume novels at 16s., do you think that they would go to the public?—It would depend upon who wrote them.

948. I am talking of a popular writer?—To lay down a rule about the price of a book in that way is impossible. To tell anybody to follow in the steps of Dickens, or Thackeray, or Mr. Trollope, and to publish in the form which they selected, would be of no good, it would not answer with an ordinary novel.

949. (*Dr. Smith.*) With respect to circulating libraries, you have been asked whether it is not the fact that circulating libraries take the larger number of copies of the editions published at a dear price. Is not that true of novels, but not true of historical works? For instance, take such a work as Alison's "History of Europe" or Grote's "History of Greece," is it not the fact that by far the largest number of the copies of such works is bought by the public, and not by the circulating libraries?—No question of it.

950. (*Sir H. D. Wolff.*) Of the first edition?—Of any edition of a historical work the greatest number is bought by the public. If there is any success at all to speak of, it is comparatively a small number which goes to the circulating libraries. The public buy it to keep, and even with first class novels the sale to the public is large.

951. (*Dr. Smith.*) That is what I supposed, namely, that the circulating libraries supply the public chiefly with novels, while important historical works are purchased by the public for themselves?—Yes. I should say so, and a large portion of the copies of a really good novel does go directly to the public.

952. With respect to international copyright, are you acquainted with the provisions of the Canadian Act of Parliament which was confirmed by the Imperial Act of Parliament last session?—Yes, generally.

953. Are you aware that what the Canadians insisted upon as a *conditio sine qua non* of obtaining copyright in Canada was that the whole should be reprinted in Canada?—I was not aware that that was so.

954. Such is the fact, and such being the fact, do you imagine that the United States would be likely to grant an international copyright without its being a *conditio sine qua non* that the work should be produced, that is to say printed in the United States?—I do not think that they would make such a condition, because sometimes printing is as expensive in the States as it is here, and sometimes they ask me to print for them here instead of my sending out stereotype plates.

955. (*Sir H. Holland.*) In a parliamentary paper presented in 1872, and at page 48, I find that Sir Edward Thornton submitted the draft of a convention which the English Government had approved of to Mr. Fish and it was referred by Mr. Fish to various authors and publishers in the United States; and Sir Edward Thornton says:—"The former have almost unanimously expressed themselves in favour of such an arrangement between the two countries, but have at the same time expressed their opinion that it will be impossible to overcome the resistance that would be made by publishers to the proposal now submitted, unless an article were inserted stipulating that those British authors who obtained a copyright in this country should be obliged to have their works set, printed, and bound in this country." Are you aware that the American Government afterwards declined to agree to the terms of that convention in 1870?—No, I have not heard of it, but I should be perfectly agreeable to the printing and everything, if they will only give us the copyright.

956. (*Chairman.*) Will you give us the benefit of your views as to the basis of any convention which

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might fairly be negotiated between the two countries? —If anything was put before me I could give an opinion as to whether it was feasible. All that I could say at present, would be simply that there should be a copyright between the two countries if the two countries could agree about it, and I should be very willing to yield any details which the Americans wished.

957. (*Mr. Trollope.*) Are you aware that the American Senate did on one occasion agree to an international copyright?—I have heard so.

958. The proposition having been recommended to them by the Committee of Foreign Relations; and are you aware also that the question was brought before the House of Representatives, and was very strongly supported there, and only lost by a small majority?—Yes, I had to do with that matter. A very long time ago (I should think it must have been 25 years ago now) there was a strong attempt made in America for uniting American authors and English authors, and the late Lord Lytton took great interest in the movement and took great charge of it, and a number of others assisted to work it, and it was very nearly carried. We were as nearly as possible at that time successful in carrying it. I remember seeing all the correspondence; it was chiefly addressed to Lord Lytton. I think that at the beginning of it Sir Henry Bulwer was in America, or his successor (I forget exactly how that was). All the correspondence was with the late Lord Lytton, and we really thought that we were to get American copyright at that time; and the feeling of American authors was all in our favour. I remember their writing as strongly as possible about it.

959. Did you ever hear that the opposition to international copyright in the United States at last sprang from any general feeling in the country?—No; I am positive upon that point, that it was a mere lapse which happened in the House; I remember thinking as much at the time.

960. Did you happen to hear that the opposition came from any one particular class of men?—No; my understanding (my recollection of it is very vivid) was that there was no national feeling in America on the subject as against it.

961. Therefore, if the cause to which we have alluded did not operate again, there would be no reason for supposing that an international copyright with the States is beyond our reach—No; I do not think that it would raise a violent storm of opposition.

962. (*Mr. Dalry.*) Have you had an opportunity of comparing the price of American copyright books with that of English copyright books, and do you find the American copyright books cheaper or dearer than English copyright books of a corresponding class and character?—I really never have compared them, but I should say that they are very much about the same. I think that Mr. Motley publishes his books at just about the price that we would do in this country.

963. Do you know whether in the French copyright law any restriction is placed on the mode in which

the book is to be brought out by the publisher?—None that I ever heard of.

964. With reference to the price of books here, do you think that the price at which literature is now circulated in England is a restriction on the amount of reading which would take place in England, or would you attribute it to any other cause, say the want of more time to read and study?—I should not attribute it to the price of books; I think that everybody can provide himself with reading if he wishes to read.

965. With reference to cheap editions, the editions of Thackeray and of Dickens in England would, I suppose, somewhat correspond in character to an edition of Washington Irving in America, or an edition of Bancroft's histories. Do you find that there are American editions of those books as cheap, or cheaper, than the editions of the copyright books here? Are the editions of Bancroft and of Irving, in America, relatively as cheap as the editions of Thackeray and Alison and Dickens here?—I think that on the whole we are fully cheaper; I am not quite certain.

966. (*Dr. Smith.*) Are you aware in reference to a work recently published in the United States, namely Ticknor's *Life*, which appears in two volumes of about the same size as Trevelyan's "*Life of Lord Macaulay*," that it is published at very nearly the same price in the United States as Lord Macaulay's *Life* is published at in this country?—I was not aware of it. That rather confirms what I was saying. I have seen the book, and I presumed from my knowledge of such matters that it would be about the same price.

967. (*Sir L. Mallet.*) In answer to a question put by Dr. Smith, I think you said that there are a certain class of books, important historical books more particularly, which go principally directly to the public on their first sale, instead of going principally, as in the case of ordinary novels, to the circulating libraries, and that those books are sold at a certain price which some people consider a high price. Do you not think that if that price was reduced you would get a larger sale than if it was kept up at its present sum, or do you think that the amount now given by the public is the price which on the whole insures the highest profit to the publisher and the author?—That is very much what I have answered before to Sir Drummond Wolff, that nobody can exactly say, but that each publisher and author will exercise their own judgment as to what price they will put upon the book; they will put on what they think is most likely to answer.

968-9. But is it not the result of a very wide experience, that in all trades which are more or less protected, and in which there is a certain element of monopoly, the producer is very apt to consider that he will get a larger profit by a small sale at a high price, than by a large sale at a low price?—That is a sort of abstract question; it may be so, but in reality we try both, and we find that there is a market for both.

The witness withdrew.

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

Tuesday, 30th May 1876.

PRESENT:

SIR HENRY T. HOLLAND, BART., C.M.G., M.P., IN THE CHAIR.

SIR H. DRUMMOND WOLFF, K.C.M.G., M.P.

J. FITZJAMES STEPHEN, Esq., Q.C.

DR. WILLIAM SMITH.

JAMES ANTHONY FROUDE, Esq.

ANTHONY TROLLOPE, Esq.

F. R. DALDY, Esq.

J. LEYBOURN GODDARD, Esq., Secretary.

FREDERIC RICHARD DALDY, Esq., a Member of the Commission, examined.

970. (*Chairman.*) I think that you have expressed your willingness to make a statement to us as to the existing condition of copyright, and to offer any suggestions which occur to you; will you kindly do so?—

I will refer you to the Analysis of the Statute Law of Copyright which has been drawn up by the secretary for the Commission. (*A copy of this Analysis will be found in the Appendix.*) I think that the simplest way

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of getting at the end proposed by this Commission is to take this analysis and to go into each point which requires consideration *seriatim*.

The principal subjects for consideration appear to me to be the following:—

- Definition of copyright.
- Duration of copyright.
 - ” for magazine articles.
- Registration.
- Office for registration.
- Copies to public libraries.
- Abridgments.
- Penalties, &c.
- Copyright in lectures.
 - ” dramatic pieces.
 - ” engravings.
 - ” paintings, sculpture, &c.
 - ” designs.
- Colonial copyright.
- International copyright.

The first point which is worthy of attention is in the “definition of terms.” Under the letter (c.) it is here stated that the word “copyright” in the existing Act means “the sole right of multiplying copies.” Now I venture to suggest that the whole of our copyright law should be thrown into one statute. It is in one statute in Germany, in the United States, and in Canada, and it is practically in one statute in France. I do not know about other countries. If the whole of the copyright law were thrown into one statute I would give a more extended definition of copyright. I would consider it as “an exclusive right to copy, print, engrave, photograph, or in any way to multiply copies, dramatize, abridge, translate, represent, perform, or deliver.” The reason for including these words is that to dramatize is an inherent part of copyright. I hold that if a man has written any work which is capable of being dramatised, the right to dramatize it belongs to him; that as the original work was the fruit of his brain, he has a right to make what use he can of it, and not merely to multiply copies thereof. The same reasoning would apply to abridging a work, and to translating, and to representing, and to performing on the stage, and to delivering a lecture.

971. Have you collected those words from different existing Acts, or have you taken each subject and worked it out yourself?—I have, as far as possible, taken the words from different Acts; some from one Act and some from another; I have not taken them from the existing English Imperial Acts, but perhaps one from a German Act, one from an American Act, and so on.

Under the next head we get “Duration of copyright.” At present it is very variable. We know that under the several Acts it varies from 42 years to seven and five years, according to the subject matter. In books, excepting for the universities which have perpetual copyright, the duration is 42 years, or seven years after the author’s death, if he lives for a longer period. The universities of Oxford and Cambridge, the four universities in Scotland, Trinity College, Dublin, and the colleges of Eton, Westminster, and Winchester have perpetual copyright in books given or bequeathed to them. In articles in magazines the proprietor of the magazine stands in the place of the author, but after 28 years the author has a right to publish separately.

972. (*Mr. Trollope.*) What is a magazine supposed to include?—I do not know; it is a periodical; it may be anything.

973. It is a very loose term?—It is, but it has a conventional meaning; it is, I presume, a storehouse of literature.

974. In the Act is there no other definition than the word “magazine”?—In this analysis there are the words “reviews, magazines, periodical works, or works published in a series of books or parts.” In translations protected by international copyright the term is five years, but the translation must be partly published within one year. In engravings the term is 28 years; in paintings, drawings, and photographs, it

is for the life of the author, and seven years after it. Now, I find that in almost every country the duration of the copyright in these several things is uniform, and I venture to suggest that in England copyright should henceforward be for 28 years renewable by the author, or his heirs or representatives, for 28 years more, by registration or re-registration within five years before the expiration of the first period of 28 years. If the author be alive at the end of 56 years, namely, the two periods of 28 years, I would then suggest that the copyright should be for the rest of his life and 10 years afterwards by re-registration, and I would concede no perpetual copyright to the universities; I think that what I have suggested should apply to all copyrights.

975. Supposing that the author should not re-register within five years before the end of the 28 years, he would lose his copyright altogether?—Yes; I give him five years in which to re-register, and I will tell you the reasons for my suggestion. We have had it in evidence before us, that publishers will not give more for a book if it has 40 than if it has 30 years to run, and my experience is that that is perfectly true. But the Americans and the Canadians foreseeing that, have provided that after a first period the author or his representatives may renew the copyright for another period—not the person to whom it may have been assigned for the first period,—and he can then sell it for another 28 years.

976. But if he should not register within five years before the end of the 28 years he would lose his copyright?—Yes. That is the case with the American copyright law, and I must say that there is a sound reason for it. If the author should be alive at the end of the 56 years, I propose that he should have the copyright for the rest of his life, and that it should continue for 10 years afterwards, by re-registration.

977. (*Sir H. D. Wolff.*) Suppose that he is dead?—Then the 56 years end it.

978. Then his heirs would have no right to re-register?—No, not after 56 years.

979. (*Mr. Trollope.*) Then the chance of his dying on one day or another would make a difference of 10 years?—Yes, it now makes a difference of seven years in our copyright law.

980. In the first instance you propose 28 years?—Yes.

981. And you propose that before the expiration of those 28 years the author may register for another 28 years?—Yes.

982. Or his representatives, not being his assigns?—Yes.

983. That means his heirs?—Yes.

984. That will then give 56 years?—Yes.

985. Then before the expiration of the second 28 years he may re-register for how long?—For the rest of his life, and 10 years.

986. But suppose that he is dead?—Then that does not operate.

987. You have mentioned his representatives, not his assigns;—while he is alive he has no representatives except his assigns?—Exactly so, he must himself re-register if alive at the end of the 28 years.

988. (*Chairman.*) Would you have him re-register more than once: he re-registers for the second 28 years, if he happens to live longer would you have him again re-register? Surely it would be sufficient without it, inasmuch as if he lived beyond the second 28 years it would be well understood that he had it for life, and that his heirs and executors had it for 10 years afterwards, you would not have a re-registration in that case, would you?—I think that it is to the author’s interest that he should re-register, because the reason why these periods are named is, that both the author and the public shall be considered in the matter. After the first period of 28 years most books die out, not one twentieth of them are worth re-registering. The country would accordingly in many cases give a shorter copyright than at present; and if the books are not worth anything to the authors, and are not worth re-registering, surely it is desirable that that should be the case. With reference to those few books which are

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supposed to live, I hold that it is desirable to give them as long a copyright as they can possibly have, for the benefit of the author and his family; and if we divide the term into two periods of 28 years, and if the book has continued to sell for the first 28 years, it has gained notoriety and reputation, it has quite a different value, and the author, under my plan, has an opportunity of selling it again under these changed circumstances, and when its value is far better known. If it really will last for 56 years it is a work of literature which would be practically permanent, and therefore if the author should be alive and able to derive benefit from it at the end of that time, I would give him the right of re-registering it for his life and 10 years longer.

989. (*Dr. Smith.*) If I understand you aright, your object is to prevent a publisher from having more than 28 years, supposing that the author has sold him his copyright; is that so?—If I might traverse your question, I would rather say that the object is to enable an author to sell the copyright again after 28 years. It is not in restriction of publishers; it is for the benefit of authors.

990. (*Mr. Trollope.*) But it would be a restriction on publishers?—Yes, as in the case of the American law and of the Canadian law. Practically, it would be this, that an author in the first instance has only 28 years of copyright to sell to any publisher. I hold that a publisher will give that author as much for it as if he had 50 or 100 years of copyright to sell.

991. But it would be a restriction?—It would act as a restriction in that way; but the object of it is to benefit the author.

992. (*Sir H. D. Wolff.*) Would you not allow the author to bind himself to the publisher for a second 28 years?—I have said No, because I think that in many cases it would operate unfairly towards the author; and on the whole it would be much more to his advantage not to be allowed to part with the whole of his term of 56 years at once.

993. Do you not think that it might raise complications afterwards?—It is in operation now in America; and it is in effect in Canada. I think that it would enhance the value of copyrights, would benefit authors very considerably, and would be just to publishers.

994. (*Mr. Fitzjames Stephen.*) Whatever time is fixed for the duration of copyright, it must be an arbitrary time?—Yes, I know not why, but we have always gone in sevens since statute law has affected the question at all.

995. Any period which you take would be a merely arbitrary period?—Yes, one reason for fixing 28 years is that it represents the fee simple value of the copyright at the time of its inception,—at the time when it is sold to a publisher. I am here contemplating the case of its being sold to a publisher.

996. If you alter any period which has been established, and to which people have become accustomed you have to set the disadvantage of making an alteration against the possible advantage of the alteration; both periods, namely, the established period and the altered period, being completely arbitrary?—Yes and I have given as a reason for suggesting the new period, that it is in the interest of authors that it should be done, and I added that so few books would live beyond the first 28 years, that it would be of advantage to the public. The ephemeral works would be out of copyright in a shorter time, but if a book was worth retaining or had any commercial value I would then give the author by re-registration the benefit of it for another 28 years.

997. (*Chairman.*) What is the next point which you have to bring before us?—On page 2 of the analysis, letter (c.), reference is made to “encyclopædias, reviews, “magazines, periodical works, or works published in a “series of books or parts, for which various persons are “employed by the proprietor to write articles.” In those cases the copyright belongs to the proprietor who employs a person to write the articles, if it is so arranged between them, but the author after 28 years

has the right to republish the articles separately except in the case of encyclopædias. For 28 years there I would substitute 3,—not in the case of encyclopædias certainly, but in the case of periodical literature.

998. (*Sir H. D. Wolff.*) At the end of three years the writer of an article would resume his copyright?—The publisher would have the exclusive right for three years; after that time the publisher could continue to publish it in his magazine or periodical, but the author would have the right of separate republication.

999. You do not give the publisher the right of separate republication at all?—He has not it, nor would I give it to him, except by special contract. Of course an author and a publisher can contract together for a longer period, but 3 years covers the case of nearly all articles, and I feel that much useful literature is now lying dead because it cannot be utilised in consequence of this 28 years' restriction.

1000. (*Dr. Smith.*) Is it not the fact that no publisher objects to the republication of an article after a certain time. I know that in the case of the “Edinburgh Review” and the “Quarterly Review,” Messrs Longmans and Mr. Murray always give permission to an author to republish after a twelvemonth?—That would increase the reason for giving authors a statutory right after three years. I have three or four magazines, and never hesitate to give permission to the author, but at the same time I think it is right that no special application to the publisher from the author should be necessary.

1001. (*Mr Fitzjames Stephen.*) You think that a legal right should be given to the author to do that which a liberal-minded and honourable publisher would allow him to do?—Yes.

1002. (*Mr. Trollope.*) You do not think that the author should be reduced to the position of having to ask it as a favour, but that it should be given to him as a right?—I would give it to him as a right.

1003. (*Sir H. D. Wolff.*) Would you allow the author to republish his article during those three years?—No, but I would do so after the three years.

1004. (*Chairman.*) And you would not allow the proprietor of the magazine to republish the article in a separate form during those three years?—No, nor at all except by special arrangement with the author.

1005. (*Sir H. D. Wolff.*) In the case of a book which is published in parts, such as a magazine, when does the copyright date from—does it date from the publication of the first part, or from the publication of the last part?—I should say from the date of publication of each part.

1006. (*Mr. Trollope.*) But the copyright of the entire book would date from the publication of the last part?—Yes, obviously, because it must be had in its entirety.

1007. (*Chairman.*) What points will you take next?—At letter (d.), on page 2 of the analysis under the heading “Property in Copyright” it is stated that “No assignment of the copyright in any book “which contains a dramatic piece, or musical composition, is to convey to the assignee the right of “representation or performance, unless the assignment is registered and an intention that such right “shall be conveyed is expressed in the register.” I cannot in any of the Acts find a form under which that can be done, or any way in which that is to be carried out. That is an imperfection in the present Acts.

1008. (*Mr. Fitzjames Stephen.*) Is there any power to register the assignment?—There are certain forms at the end of the Act of the 5th and 6th of Victoria, chapter 45, but not one for this purpose. It may be advisable now to take what I wish to say on assignment. I think that copyright should be assignable as a whole, or in parts, or shares, and that the right to translate, abridge, dramatise, represent, perform, or deliver should be assignable separately, and without the right to copy or multiply copies. When written for another who employs an

author for the purpose, I think that what is written should be the property of the employer. Now under our present law we can only assign a copyright as a whole, and considerable difficulty is often raised. An author will come to a publisher and arrange with him to publish on the terms of sharing profits, and I have seen agreements worded which compel an author to assign to the publisher the whole of his copyright, subject to his being paid a share of profits on each edition, or a royalty on the sales. I know also that the copyright of certain books (it was much more common formerly than it is now) is split up into shares. I myself am the proprietor of a 144th share in the Annual Register, but I cannot register it. Therefore I say that the copyright should be assignable as a whole, or in parts or shares, and that it should be expressed on the register, and that the right to dramatise, to represent on the stage, perform or deliver as a lecture, translate or abridge, should be assignable separately.

1009. (*Mr. Trollope.*) Any individual may own and have a legal title to a part of a copyright at the present moment?—Yes, he may by special agreement but not under the Act.

1010. I may hold an eighth, or a tenth, or a twentieth part, and have a legal claim to it?—Undoubtedly; that is by ordinary law, but if you attempt to register it at Stationers' Hall you will find that you cannot do so. I have said that when written for another who employs an author for the purpose, what is written should be the property of the employer. I would enlarge that by saying when written or produced for another, because a point which has been brought before me has been the case of engravings. We employ several persons to produce wood engravings, but more especially steel engravings. Under the present law I am afraid that although we employ a man to produce the engraving, it is necessary for us to take a separate and distinct assignment of it before we can acquire a legal title to it.

1011. (*Sir H. D. Wolff.*) You mean from the person whom you employ?—From the person whom we employ. Therefore we are in this position, we pay him to do the work, and when it is done, until he gives us a legal assignment of it, the property is not ours although we have paid him for it.

1012. Cannot he assign it by a previous contract?—He can undertake to assign it afterwards.

1013. Can he assign it before it is done?—That may be, I must leave that question to the lawyers.

1014. (*Mr. Trollope.*) An undertaking to assign is a bond, is it not?—Yes, and it is done, but I am anxious to make this as simple as possible.

1015. (*Sir H. D. Wolff.*) Supposing that he undertakes to assign before he begins the work, and that he does not assign after the work is finished, the question is whether he can be prosecuted for damages for not fulfilling his contract to assign, or whether he can be enjoined against reproducing the work?—I should not call that a question of copyright. I should refer the gentleman to his lawyer on that point; probably that would be the case. I merely look upon this as a simplifying of the question. If I employ a person to do a certain work, and pay him for doing it, that work should be mine.

1016. (*Chairman.*) Might there not be some difficulty in the assignment of a part of a copyright as regards the right to publication in one part, say, of the United Kingdom, or in the United Kingdom and not in some other places: might not some complications arise in that way? The difficulty was pointed out by Lord St. Leonards in the case of *Jeffries v. Boosey*. He was against that divided assignment?—I think that the greatest assistance which could be given to authors would be to allow them, in assigning, to put on the register what they consider they have assigned.

1017. You do not think that it would tend to over-encumber the register?—I would make them pay for it, and would make the register self-supporting. I think that it would not over-encumber it, because it

would be simply that a certain portion, or the right to publish in one place, was transferred. Whatever was transferred ought to be on the face of the register.

1018. Supposing that you assigned three or four works to seven or eight people, and that the point arose of the right of publication at a particular place; would you have the assents of all those separate assignees appear on the register?—Such a case as that might occur, but I do not think that it would in practice, and what has been assigned might be described on the register.

1019. (*Mr. Trollope.*) Would it be necessary, according to your suggestion, that every author should enter upon the register every sale which he made of any part of his copyright?—No, but that he should have the power to do it. At the present time, the author in many cases, in his arrangement with the publisher for half profits, practically parts entirely with the copyright. I would give him the right to register, and of showing that he still had a *bonâ fide* interest in that one half of the copyright, and I would let the publisher, for his protection, take the other half; they are partners in it. That is their actual condition, but at the present time you cannot get that on to the register.

1020. Are you aware that with regard to very many books the author makes variable and different bargains?—Yes.

1021. He may make a bargain for the first edition for a certain royalty, and a bargain for the second edition for half profits?—Those are not bargains which affect copyright at all.

1022. But I understand you to say that the register should contain a record of all the sales which the author made of a portion of his copyright?—Yes, not a time portion, but a division, a share.

1023. If I sell my copyright for 10 years, then it is a portion of my copyright?—Yes, a time portion, and I see no objection to your being able to put on the register that you had sold it for 10 years.

1024. Does it not occur to you that under your plan the entries on the register would become so innumerable that they would, by their own complication, defeat their object?—I think not; if you sold your copyright for 10 years you would perhaps do it over again for another 10 years, and there would be three entries in 20 or 30 years. But the case of selling for 10 years is not one which I contemplate; it is sometimes done, but the more general rule is to enter into an arrangement to publish and share profits, and where an attempt is made to define the duration of that arrangement, it is for the period of copyright. I think that that is the practice. At the present time in carrying out that practice it is very common so to arrange the agreement, that the whole of the copyright is handed over to the publisher in consideration of his paying certain profits to the author. I think that it would be more advisable for various incidental reasons, to leave one half (if it is half profits) specifically under the control of the publisher, and one half alike under the control of the author.

1025. (*Mr. Fitzjames Stephen.*) With regard to the registration of ships, ships are always held in sixty-fourths?—Yes, and the parts are registered.

1026. And sales are always dealt with; you sell or buy so many sixty-fourths of the ship, and those are registered?—Yes.

1027. I suppose you consider that to some extent that might more or less afford a precedent for your view as to registering shares of copyright?—Undoubtedly.

1028. (*Chairman.*) What is the next point?—Under letter (f.) on page 2 I see a proviso that nothing is to affect the rights to perpetual copyright of the universities and certain educational institutions. I venture to suggest that perpetual copyright should be done away with entirely, unless it be made general. I see no grounds whatever on which our educational institutions in the present day should stand in an exceptional position.

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1029. (*Mr. Trollope.*) You say that perpetual copyright should be abolished, unless it be made general?—Yes.

1030. We are not to understand you as recommending that it should be made general;—or in other words that perpetual copyright should be established by law?—No, but that I wish to do away with the distinction between property which is held by the universities, and property which is held by individuals.

1031. Therefore in point of fact you would recommend that any perpetual copyright now existing should be abolished?—Yes.

1032. (*Mr. Fitzjames Stephen.*) Apart from the right to publish the bible, can you give us any information as to the extent of perpetual copyright?—We have a return which will be brought before the Commissioners, mentioning about half a dozen books which the universities still hold.

1033. (*Sir H. D. Wolff.*) Do you think that the universities and the educational institutions will wish to adhere to their present right of perpetual copyright?—No, I do not think that it is of any good to them.

1034. (*Mr. Fitzjames Stephen.*) In point of fact its abolition would only amount to abolishing by legislation a curiosity?—Yes, it is not serious, but it abolishes an invidious distinction which is of no value to the universities.

1035. (*Mr. Trollope.*) The power itself is an absurdity?—I think so.

1036. (*Chairman.*) What is your next head?—"Copyright existing when the Act was passed." A provision was made in the Act of the 5th and 6th Victoria, chapter 45, for extending the copyright which was already in existence; and under that law the copyright could be extended, although it had been purchased by a publisher, by the joint consent of the author and the publisher. I think it is fair that that joint consent should be required because it is to the interest of both to do it. The publisher has made his bargain upon the understanding that at the expiration of that time, the stereotype plates would belong to him, and he would be enabled to use them after the expiration of the copyright; therefore he ought to be consulted; the author obviously should be consulted and I would suggest that if any alteration of the term were made, it should be extended to copyrights already in existence, by the same plan by which it has been extended in the existing Copyright Acts of the 5th and 6th Victoria, chapter 45.

1037. (*Mr. Fitzjames Stephen.*) With reference to section 5 of that Act, which provides for the case of a refusal to republish after the death of the author, have you any remark to make upon that rather singular provision?—I suppose that that is an exceptional provision which may be left; I suppose that it is held *in terrorem* over an author.

1038. Are you aware that this section was put in force with regard to Sir Kenelm Digby's "Broad-Stone of Honour"?—I was not aware of it, but I know that a very materially altered edition of Sir Kenelm Digby's "Broad-Stone of Honour" was published during his lifetime; the original edition I know he was anxious to suppress, and I do not think that he was compelled to republish it.

1039. (*Chairman.*) You are aware that the provisions of the 5th section of the statute only apply to the proprietor of the copyright refusing to publish after the death of the author?—Yes.

1040. (*Mr. Trollope.*) It would be impossible to give an author the right altogether to stop the publication of a book, would it not?—He could prevent the re-issue of more copies, but he could not suppress those already in existence.

1041. The author could not by any act of his take away from the publishing world at large the right of republishing the work after the copyright has elapsed?—Certainly not; it would only be within that time. It is quite clear, that the question must

have been considered, and that the provision must have been granted with some little hesitation, because the matter is placed in the hands of the Judicial Committee of the Privy Council, who may grant a license, but are not bound to do so.

1042. (*Chairman.*) What is the next point?—The next point is the "presentation of copies to libraries," and the "registration of copyright." I think myself that the present law which compels each author or copyright owner to give five copies of his books to various institutions without any consideration for them, is injurious to him, and not required by any sense of equity that I can possibly imagine; and I think that a better system would be to create a registry office at the British Museum and for them to register on the deposit of a copy there. I should maintain the present law compelling every author, or copyright owner, to deposit a copy at the British Museum; and I think that in return for that copy he should get a receipt, which should be an acknowledgment of registration. The practice at the present moment is to give him a receipt, and it is only a question of modifying the form of the receipt, and we have then a *bonâ fide* registration to start with. I would not, however, deny copyright for the first 28 years, even if the book were not registered.

1043. (*Mr. Fitzjames Stephen.*) Does not the present law bear very hardly indeed on persons who publish exceedingly expensive works?—Very hardly indeed. I have known cases in which works published at 10 guineas each have been got up at very considerable cost; perhaps only 75 or 100 copies have been produced, and of those 75, five are obliged to be given away to the libraries, which is a tax of about 8 per cent. on the whole undertaking.

1044. I daresay that you are acquainted with "Gould's Birds of Australia"?—I know of its existence.

1045. Do you know what the price of that book is?—I do not.

1046. I have heard it said that it was hundreds of pounds, and I almost think so?—I think that it was 120 guineas.

1047. I think that it was more?—It may be so.

1048. Supposing that the book was only 120 guineas, it would cost Mr. Gould 600 guineas to comply with the requisitions of that enactment?—Yes.

1049. (*Dr. Smith.*) Are you aware that in order to avoid that requisition he would not publish the book?—No; but I am aware of cases in which I have not published books in order to avoid that requirement.

1050. I believe that that is the fact with reference to Mr. Gould's books?—I was not aware of it.

1051. (*Mr. Trollope.*) It is intended by your proposal that this presentation of a single copy to the British Museum should carry with it registration?—Yes, at the present time you present a copy to the British Museum, and the British Museum gives you a receipt for it. I merely propose that that receipt should contain certain particulars, and should have the force of a register.

1052. You propose that that receipt should be a certificate of registration?—Yes. I find that it would not impose very great duties on the British Museum, because, taking last year as an instance, very little more than 5,000 books and new editions were published during the year; therefore it comes to an average of, I think, something less than 20 a day; and if the book is given to the British Museum, I think that the least the State can do in return for it, is to give a receipt in the form requisite under an Act of Parliament. At present the Museum authorities are bound to give a receipt.

1053. Would you have no fee payable?—Not for that receipt. I propose that the British Museum shall register on the deposit of a copy there, and that the receipt for the copy delivered shall be an acknowledgment of registration. With regard to first publication, I think that it should date from the day

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of registration if within three months of publication; in unregistered books from the day of publication as at present. I propose that copies shall be delivered under penalty, as at present. I also propose that a certificate of this register shall be obtained on payment of 1s., and that transfer of copyright shall be made on payment of a fee of 5s., and there are certain other details which I would introduce. Either on the title or on the back of the title of every book I would have the words "Registered at the British Museum." If anybody felt himself aggrieved, and fancied that copyright was unduly claimed for a book he would know where to go to find out how things actually stood. I would also have notice at the back of the registration receipt of addresses to which it was necessary to send certificates for the purposes of customs. I refer there particularly to an entry which is required in a more cumbrous form now by the Customs in London before they can prevent a pirated edition from being imported into England. At present the publisher representing an author must go down to the Customs and make a declaration that his statement is true, and give certain particulars which are entered. I propose that everything should hinge on this one receipt of the book by the British Museum, and that a copy of that registration should be a sufficient notice to the Customs that the book was in copyright, and they would have therein all the materials for noting how long it would remain in copyright. I also propose that a copy of this register should be sent to the colonies, and especially to Canada, should be considered there as sufficient notice that a book was in copyright, to authorise the Canadian authorities to treat it as a copyrighted book. At present the mode of distributing these notices to our colonies is so cumbrous that it is practically useless. You go to the Customs; they, I believe, send the document to the Colonial Office, and from there it is sent to the seat of government of the respective colonies, and from there it is distributed to the various custom house officers; the result, being that it does not reach its destination for months after the book has been published, and in the case of Canada it is practically useless. I propose that these certificates should be taken out and sent by the copyright owner; it is his duty to look after his own property; not necessarily the author, but the copyright owner or his agent. I think that is all I have to say upon that point.

1054. (*Chairman.*) As I understand your plan, you would do away altogether with the Stationers' Hall registration?—Entirely. In every other country the registration follows the book, and is where the book is given.

1055. Am I to understand that the first publication is to date from the end of the first year after publication, or after registration?—From registration. Registration and publication, according to my proposal, must be almost identical in time. It is true that there might be a case in which the time might be extended, but usually it is done within a month; indeed we are compelled within the bills of mortality to send to the British Museum within the first month after publication. I have borrowed the suggestion as to the end of the year from the North German Copyright Law. That is a plan followed out by them, and it gets rid of that crucial question, the identical day of publication, but if the date of registration be the date from which the term of copyright is to run there will not be any difficulty in fixing it. For unregistered books the date must still be the day of publication.

1056. Would any difficulty arise from making the date of registration the date of publication, with the view of avoiding any question of what was the first publication?—Not when the work once came on to the register, but it would be very awkward if before it was on the register a portion of it had been copied, such a copy would have been taken from a non-copyright work, and I have known a novel set up in two days. That would involve a question of interim copyright which is cumbrous.

1057. Are not such cases very rare?—Very rare indeed. I am merely speaking of the possibility of it.

1058. Do you think that there would be any practical difficulty in making the date of registration operate as the date of first publication?—Not any.

1059. You would have one copy deposited at the British Museum?—Yes, which should be the consideration to the British Museum for giving this registration.

1060. That would be, in the case which Mr. Stephen spoke of, namely, of a book costing 120 guineas, a very large tax?—It would, but I think that in all cases the State should take care to provide itself with a single copy.

1061. What would you do with subsequent editions?—I would leave that entirely to the discretion of the author or publisher. If he had new matter to register he would deposit his copy, he should not acquire copyright in his new matter unless he did.

1062. (*Mr. Trollope.*) You do not recommend that any fee should be charged for registration itself?—Not for the initial registration. I would give the copy of the book itself as a sufficient fee.

1063. Do you think it probable that Parliament would throw that onus and that expense upon the British Museum?—I do, because the British Museum has merely to continue its present practice, and give a receipt for every book presented to it, and all that my suggestion amounts to is an alteration of the form of that receipt, not more labour.

1064. Registration books must be kept at the British Museum?—The receipt is now entered in a book kept for their own purposes.

1065. Would that suffice for the purposes of national registration?—I consider that it is little more than compelling them to keep their present register book in a certain form, and perhaps to add certain particulars.

1066. The question is whether in considering this matter you do not think you would be more likely to get it done if you suggested that the author, or publisher, or proprietor of the copyright should bear the expense of registration, which would be very small?—When you consider that the average is less than 20 books a day it does not really amount to a heavy matter; but when provision is made for giving these certificates and transfers, which have to be paid for, I consider that the receipts from them would much more than repay all the expenses of conducting the office.

1067. (*Sir H. D. Wolff.*) You would charge fees for searching the register, and things of that kind?—Yes, and for duplicates and transfers, but not for the original entry. I wish to get rid of the idea that the author is to give a book to the British Museum for nothing; he has a consideration for it when a registration certificate is given to him.

1068. A man might register a pamphlet which was worth nothing?—Yes, but on the other hand he might register a book worth five guineas. I have included pamphlets in the estimate of 20 books a day.

1069. (*Mr. Fitzjames Stephen.*) I was going to suggest one objection to you, which is, that under your system in proportion as the benefit of registration is less the expense of registration becomes greater?—How.

1070. A man is less likely I suppose to pirate a very expensive book than to pirate a cheap one?—Yes, that is perfectly true.

1071. Then the proprietor of the very expensive book has to pay guineas for the registration, and the proprietor of the cheap one has to pay perhaps only a shilling?—That is very true; but I do not see that that is a reason why he should be saddled with an extra fee as well.

1072. But I am putting it rather as a defect in, if you will allow me to say so, your very ingenious suggestion?—I am not prepared to say that the book is not to be given to the State, but I think that the State should, in consideration of receiving the book, be compelled to do something in the way of a register.

1073. If I understand you rightly you would maintain the system of one presentation copy on general grounds; and your view is, that as you have to give a

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presentation copy at all events, it might conveniently be made the basis of a system of registration?—Undoubtedly.

1074. (*Mr. Trollope.*) What is the next head?—What comes afterwards will be rather short until we come to colonial and international copyright. *Précis*, or abridgments, or extracts, are provided for in the definition of copyright.

1075. (*Chairman.*) To what head will you now take us?—To the right of action. It should be against all infringers. I am under the head "Infringement of copyright, and remedies" (page 4). In the case of a book, the book must be printed unlawfully, and the person is not responsible unless he knows it to have been so unlawfully printed, and he must sell with guilty knowledge, and so forth. In the case of an engraving, the onus of proving that it is not in copyright rests with the vendor, and I propose that it should do so in all cases. A person who deals in wares, I think, is bound to know the origin of those wares, and whether they are legally saleable or not. So much for the right of action.

In music I would give the same copyright as in books, but I would let it date from the first occurring of either public performance or first publication for sale of copies. In the case of a book it must be first publication; in the case of music there is such a thing as first public performance, and I would let the copyright date from either the first public performance or the first publication.

1076. (*Mr. Trollope.*) Suppose that there is no public performance at all?—Then it will be from first publication.

1077. Suppose that there is no publication?—If there is no publication then it will be from first public performance, and if there is neither one nor the other, it is like an unpublished manuscript and it is the property of the author in perpetuity. The registering of the first performance should be imposed upon a man who wishes to get the copyright when he knows that that is the initial stage of copyright.

1078. (*Sir H. D. Wolff.*) If the work was not completed you could not deposit a copy?—No, but you could deposit the title, as is done under the American and the Canadian Acts.

1079. (*Chairman.*) Have you to deposit at the British Museum copies of musical works?—At the present time, in the case of musical compositions *in manuscript*, it is sufficient to register only the title. That registration of the title which has now to be made at Stationers' Hall would henceforward be made at the British Museum, on the payment of a fee because there is no book in consideration for it.

1080. (*Mr. Trollope.*) In the number of 5,000 works which would have to be entered at the British Museum you have not included musical compositions?—No, but they are not very numerous now.

1081. (*Chairman.*) You would enforce a fee for the registration of a musical composition?—Yes for the registration of a musical composition which was for performance, because no other consideration is given; but that is easily worked out. In music I would suggest that every published copy should contain notice of the place of entry.

1082. Just as in the case of a book?—Yes, I would treat dramatic pieces just as I have treated music, giving them the same copyright as books, but having an entry made for performance just as you enter a piece of music for performance, namely, the title of the drama. To lectures I would give the same copyright as in books, but to date from the first occurring of either public delivery or publication, and that would have to be treated in the same way if a person wished to retain his copyright.

1083. (*Mr. Trollope.*) Is there any occasion to distinguish between lectures and books?—Yes, a person very often gives a very valuable lecture, but it would be unfair to him to let it be taken down and published.

1084. Unless a lecture be printed there is no question of copyright?—Yes; at present, unless steps be taken to give two days' notice to two magistrates within five miles of the place of delivery, anybody may attend and take down the words of a lecture, and publish it for his own profit.

1085. (*Mr. Fitzjames Stephen.*) How is it with regard to sermons?—The same applies to sermons, except where they are delivered for a pecuniary consideration. It is supposed that a clergyman is paid by the stipend which he gets from his parish, or other *quasi* public source, for addressing the congregation, and that no harm accrues to him from what he says getting further abroad in the world. I remember the case of Mr. Melvill's Golden Lectures; he felt very much aggrieved by their being published without his consent.

1086. (*Sir H. D. Wolff.*) An incorrect report might be published?—Undoubtedly, and I think that the fairest way of treating a lecture is to assimilate it to books.

1087. (*Mr. Fitzjames Stephen.*) It is certainly rather a cumbrous proceeding, namely, for a man to go to two magistrates within five miles, and say, "I am going to preach a sermon on such a subject on Sunday next"?—He has to do it at the present time.

1088. But is it not rather cumbrous?—Yes.

1089. (*Mr. Froude.*) Practically, when a man is going to give a lecture, the reporters for the newspapers attend, and take it down, and publish it?—Yes, a man who gives a lecture, and wishes it not to be reported, is bound, I think, to give notice of it.

1090. (*Mr. Fitzjames Stephen.*) Would it not be sufficient if he put up a notice at the doors or in a visible place, where it was to be delivered, "This lecture is copyright," or "This sermon is copyright." Why should he not do that?—I should also compel him to register, because otherwise you would never know the date of the copyright, and how long it had to run. It would apply to so very few cases that it is not worth very much consideration.

1091. There might be a protection for a month or something of that sort?—Yes, by such a notice as you suggest.

1092. There would be no objection to that?—None at all.

1093. (*Mr. Froude.*) Do you know what the law in the United States is as regards sermons and lectures?—I do not think that they are included.

1094-5. (*Chairman.*) Upon English copyrights what have you further to say?—In engravings I would suggest that the copyright should be as in books, and that there should be a notice at the foot of the engraving of the place of entry on those published separately. As respects those published with letterpress in books or serials, I would suggest that they should be deemed to be parts of a book. When the engraving was engraved for another, I think that the copyright should be the property of the employer without further assignment.

In works of fine art, paintings, sculptures, and so forth, I would have the copyright as in books, but the copyright to date from the first occurring of either first publication of an engraving, or sale, or letting for hire or public exposing in consideration of payment of the picture, or a replica of the whole or part thereof; copyright to pass over only by written transfer registered at the British Museum.

With regard to copyright in manufacturers' designs, I have not studied that branch of the subject.

Adjourned to Friday, 16th June, at half-past 2 o'clock.

Friday, 16th June 1876.

PRESENT:

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

SIR H. DRUMMOND WOLFF, K.C.M.G., M.P.
 SIR LOUIS MALLET, C.B.
 SIR JULIUS BENEDICT.
 J. FITZJAMES STEPHEN, Esq., Q.C.
 FARRER HERSHELL, Esq., Q.C., M.P.

EDWARD JENKINS, Esq., M.P.
 DR. WILLIAM SMITH.
 ANTHONY TROLLOPE, Esq.
 F. R. DALDY, Esq.
 J. LEYBOURN GODDARD, Esq., Secretary.

FREDERIC RICHARD DALDY, Esq., a Member of the Commission, further examined.

1096. (*Chairman.*) You now propose to give us the benefit of your views on the question of copyright as it affects the colonial aspects of the subject?—Yes. On my previous examination I followed the analysis of the statute law of copyright, and I will now take up the point of colonial copyright. The first observation which I have to make is that Imperial copyright should run throughout the whole of the British dominions; it does so now, if the book be published in the United Kingdom, but I think that publication in a colony, or in any place outside the United Kingdom, but within the British dominions, should acquire the protection of the Imperial Copyright Laws. At present if a book be published in Canada or Australia, it only has the protection of the local legislature, and I know of nothing to prevent an English firm here reprinting a book published in Canada. That I think is obviously unfair towards the Canadians. Efforts have been made, I know, and correspondence has taken place through the Colonial Office with a view to that being remedied, but though the correspondence has been printed and published no remedy has yet been applied.

1097. Have you any other observations to make upon the colonial branch of the question?—I wish to say that I think that protection under colonial Acts should, as in the Canadian Act, depend upon republication in the colony; that is to say, that we should not ask the colonial authorities to protect our books under their own Acts unless we republished them in their colony. At the present time we have the protection of the Imperial Act. That Act runs through the whole of the British dominions; but, as in the case of Canada, the Imperial Act was modified by the Act of 1847, and the result is that books can be imported from the United States on the payment or the pretended payment of a small duty.

1098. (*Mr. Trollope.*) Do you mean that there should be no protection till a book had been republished in the colony?—No; it has the protection of the Imperial Act, but I think that it should not acquire protection from the Colonial Act unless it was republished in the colony. You understand that the Imperial Act runs throughout the whole of the British dominions; but the Imperial Act has been seriously modified in the case of Canada and the West Indies, and that modification has enabled American reprints to be imported into these colonies on payment of a small duty. Canada has passed an Act lately by which she offers to give the protection of her own Copyright Act to all books which are reprinted and republished there, and the effect of her giving that protection is that American reprints of such books as are protected are excluded.

1099. (*Dr. Smith.*) Under the Canadian Act which was ratified by the Imperial Act of last session giving that copyright in Canada which you mention, do you know whether if a book is not reprinted in Canada, a Canadian publisher can reprint a book published in this country?—A Canadian printer or publisher cannot reprint it in the colony because he is forbidden by the Imperial Act of 1842.

1100. Is not that Imperial Act modified by the Canadian Act which received the sanction of the Imperial Act of last session?—No; the Imperial Act is modified by the Act of 1847, but it is not interfered

with by the Act which was passed in Canada and here last year.

1101. The reason why I ask the question is this, that a Canadian publisher has this year re-published Mr. Smiles' work on Thrift, and maintains that inasmuch as that book has not been reprinted in Canada, he has the power of reprinting it?—And I believe that you will have to convince him through the law courts that he has not that power. I believe that he intends to raise that question, it is not at all an unlikely thing for him to do. But undoubtedly he has not that power.

1102. (*Mr. Trollope.*) That I think is beyond question?—That is beyond question.

1103. Was it not on that point that Lord Kimberley's Bill was withdrawn, and another Bill put forward in its place?—No, I cannot say that it was upon that point. The chief point of Lord Kimberley's Bill, to which there were objections, was that a book could be republished there without the sanction of the copyright owner of the book.

1104. That is what has been done with reference to the book of which Dr. Smith speaks?—Yes.

1105. (*Mr. Jenkins.*) I understand you to base your opinion, which you say is without question, not upon anything special in the Canadian Act, but upon the general and overbearing potency of our Imperial Act?—Yes; it is forbidden by the Imperial Act.

1106. But in the Canadian Act itself, as I understand it, there is nothing specifically put to prevent a man from republishing an English book as long as there has been no registration?—It does not refer to the subject in any way.

1107. It is a *casus omissus* in the Act, and the ground, I presume, which is taken by the Canadian publisher who published Mr. Smiles' "Thrift," is that it is a *casus omissus*, is it not?—It may be. I cannot tell what his ground is, but I say that the case is provided for by the Imperial Act, and that therefore it is quite unnecessary to provide for it in the Colonial Act.

1108. Let us take the theory which has been broached recently of Canadian legislative independence under the Confederation Act, copyright having been mentioned as a subject upon which the Dominion legislature was authorized to legislate; supposing that it should be found that we did grant them that power, and that they exercised it, and that the Queen has approved of it, what becomes of your Imperial Act?—Of course that is a matter of opinion. I think that at the present time Imperial statutes do run there. I know that it is a subject under discussion, but it would affect many other Acts; it is not a copyright question. If you show that the Imperial Acts do not run in Canada, I must certainly say that the case is not protected under the Local Act, but I do not consider it a *casus omissus*. I think that it was not referred to because it was supposed to be protected by the Imperial Act.

1109. (*Chairman.*) What is the next point to which you wish to refer?—The next point to which I wish to draw attention is that I think importations under the Act of 1847 should be stamped.

1110. (*Mr. Trollope.*) Are you now speaking of all the colonies?—All the colonies which have in any way acquired rights under the Act of 1847.

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1111. You are not referring especially to Canada?—No, but Canada and the West Indies, broadly speaking, are the only colonies which have availed themselves of the Act of 1847. I suggest that importations under the Act of 1847 should be stamped, and that unstamped copies should be liable to seizure. The Canadian Government have often expressed their anxiety to do justice to English authors, and to enforce the duties payable under their Act, which was passed there in consequence of the Act of 1847. They passed a Customs Act levying a duty to be settled by Order in Council. I think that it is now 12½ per cent., which amount of duty is payable upon all books imported from the United States or elsewhere; but so little money was received from it by authors in England that complaints were made, and in reply to those complaints the Canadian Government generally pointed out that it was impossible, with such a long frontier as 3,000 miles, efficiently to exclude those books; and I now make the suggestion that those books should be stamped, and that unstamped copies should be liable to seizure, because I think that it would very materially assist the Canadian Government in carrying out what they express as their wish upon the subject. They wish to carry out the Act, but have a difficulty in doing so.

1112. (*Mr. Jenkins.*) That Act is not in force now in Canada, is it?—Yes. It now applies to all books which are not reprinted in Canada.

1113. Collaterally with the other Act?—Yes; you will see the object of it.

1114. (*Chairman.*) Do you apply that proposal to all books, whether imported over land or by sea into Canada?—All books which possess English copyright and liable to author's duty. Let the Canadian authorities extend it as far as they like, but my suggestion primarily refers to books possessed of English copyright.

1115. (*Dr. Smith.*) You mean by that, foreign reprints?—Foreign reprints. I suggest that when a parcel of American reprints is brought into Canada, to ensure the duty being paid, each copy should be stamped, and that copies circulated or exposed for sale in the shops which are not stamped should be liable to seizure. It is simply a more efficient way of carrying out a Customs law.

1116. (*Mr. Trollope.*) Is there any mode now in Canada of checking the sale of United States reprints?—Only by publishing in Canada itself.

1117. No Custom House record is kept of the copies of United States editions which are brought into Canada?—No, I do not expect that any Customs House record is kept. I presume that the invoice is presented to the Custom House authorities. They say, "If this book is copyright you must pay duty upon it," and the Canadian authorities most properly, and I think generously, in the last Act have thrown the onus of proving that a book is out of copyright on the importer, that is to say, that they now profess to charge duties on all books which come in unless the importer can show that they are out of copyright.

1118. These American editions are not stamped in the way that you suggest, are they?—No; for instance, in the case of the Queen's book, a publisher over there told me that he himself had imported more than 10,000 copies of "Our Life in the Highlands."

1119. Imported from where?—Imported from the United States into Canada.

1120. No duty was paid upon them?—No.

1121. Was there any stamp upon them?—No; my suggestion is that they should be stamped.

1122. Is any stamp now put on books imported from the United States into Canada, these books being reprints of English copyright works?—No; my suggestion is, that a stamp should be put, and that those which are unstamped should be liable to seizure where found. It would enable anybody then to seize unstamped books, and of course the importers would be far more careful in paying their duty.

1123. Then what you now recommend is, that the British Parliament should make a recommendation of

that kind to the Canadian authorities?—That the British Government should make that recommendation to the Prime Minister of Canada, and ask him whether he can see any difficulty in carrying it out.

1124. (*Dr. Smith.*) You would not recommend any clause of that kind in a British Act of Parliament?—Certainly not; it is merely a question of collecting Customs dues.

1125. (*Mr. Jenkins.*) Is it not a question of collecting on behalf of the authors a certain duty which is levied upon these goods for their special behoof? For instance, I understand that under the Act of 1847 an author was entitled to receive from the Colonial Government whatever amount they levied upon the importation of these books?—Yes; and in consideration of this duty being collected and paid to authors Canadians were allowed to import American reprints of their works.

1126. You would hardly call that a Customs duty?—Under one of their Customs Acts they levied a duty, or took power to levy a duty, which duty was to be sanctioned by the Privy Council over here, and it was, I think, ultimately arranged to be 12½ per cent. on the invoice price. Whatever that duty was, it is clear that it has not been collected.

1127. I only want to point the distinction between interfering with the levying of a local duty, which would be a very serious interference with a country that had a responsible government, and interfering with the levying of a duty of this sort which is done by agreement between the Colonial and the Imperial Governments?—This duty was levied as the consideration for allowing the Colonial Government to import for the benefit of the people American reprints.

1128. Under the Act of 1847 it was made a condition of excepting the country from the conditions of the Act of 1842 that they should levy on behalf of the author a certain duty upon the books?—Yes.

1129. I simply wanted that we should mark the distinction (you probably will admit it) between our interfering with the levying of that duty by an Act of Parliament here, which we may have a right to do, and our interfering with the ordinary Customs duty, which would be levied by the Government of Canada for its own revenue purposes?—I should not think of interfering with it by an Act of Parliament here, my suggestion would be that an intimation should be made by the Imperial Government to the Canadian Government that they can far more efficiently collect the duties which they have undertaken to collect, by stamping each book on which duty has been paid.

1130. But you admit that it would be competent for Parliament here to pass an Act which made it a condition of the importation of such books into our colonies that this duty should be levied by a stamp?—Yes, the Imperial Parliament would undoubtedly be competent to pass such an Act.

1131. (*Mr. Fitzjames Stephen.*) Have you made any proposal with regard to the arrangements which would be necessary in respect of local copyright laws, there is a local Copyright Act in India for instance?—I have merely said generally that I think that protection under colonial or local Acts should depend upon republication in the colony or place where the Act runs.

1132. If I understand you rightly, your proposal would be that a man who published a book in Calcutta should thereby obtain a copyright in London amongst other places?—That would arise under the first proposal, that if the book were published anywhere in the British dominions he should have the benefit of the Imperial Copyright Act.

1133. In a colony with a legislature would you have every book invested with two sets of copyright, namely, one copyright under the Act of 1842, and another copyright under any local law which there might be?—If that book were republished there, I think that it should have the benefit of the local law in any respect in which the local law differed from the Imperial Act.

1134. I am supposing it not to be republished here, but to be originally published in Calcutta?—I would

let the publisher of it have the privilege also under the Imperial Act, not only in India but throughout the British dominions.

1135. How would you arrange the matter, supposing that the Indian copyright law said that a man publishing a book in Calcutta was to have copyright for 50 years, and that the English copyright law said that the copyright was to be 42 years, would you have two sets of copyright, one running out in 42 years and the other in 50?—Yes; but the Imperial law being for the shorter time would only protect him outside India and in the rest of the British dominions for the 42 years.

1136. One can imagine that in India a system of registration is compulsory, and it is necessary, in order to give a man copyright, and that under the Act of 1842 such a system is not necessary in order to give him copyright?—Yes.

1137. Then would you allow him in India to have the benefit of the General Imperial law, and to sue a man although he had not registered; because if you did, it would conflict with the Indian Act?—I think that the Imperial Act overrides the Indian Act. That is a point which I must certainly leave to lawyers.

1138. The Indian Government have power to repeal English Acts in India passed before a certain time, the Copyright Act among the rest, would you take that power away from them?—You are laying your foundation specially in reference to India; some minor difficulties might require adjusting, but I think that the broad principle should obtain that a book published anywhere in the British dominions should have copyright throughout those dominions.

1139. I use India simply as an illustration because I know about it, but the reason why I am asking you these questions is, that it rather seemed to me that the rational thing would be that wherever you have a legislature, that legislature should for practical purposes make what laws it thought right regarding copyright; and I should rather like to know why you consider that laws relating to copyright should be uniform throughout the Empire, instead of being regulated by the legislature of each particular part of the Empire?—Because the legislation which goes on in separate parts of the Empire is essentially local legislation, and implies a republication in each instance within the area to which that legislation refers. Hence to obtain copyright throughout the British dominions we must have a publication in England and a republication in Canada, at the Cape, in Australia, in India, and so on; and if we have not the benefit of the Imperial Act, if we do not republish in those countries, American reprints may come in.

1140. (*Mr. Trollope.*) If I understand you rightly, you are not suggesting that any law should be passed in England giving these altered rights to the colonies, but that suggestions should be made to the colonial governments that such laws should be passed there?—My suggestion is that publication in any part of the British dominions should be protected under the Imperial Act. A correspondence has been going on, and I think that nearly all our colonies have been consulted; and that legislation has been offered to them.

1141. (*Mr. Fitzjames Stephen.*) In fact, you propose that publication in any part of the Queen's dominions should give copyright throughout the whole of the Queen's dominions?—Yes.

1142. (*Mr. Trollope.*) Would it not result from that, that if the inhabitants of Victoria wanted to do away with copyright altogether, they would be prohibited from doing so even among themselves?—Yes, it would be so, undoubtedly.

1143. Are you prepared to recommend that the colonies should be bound in that way?—I think so. I must say that I think that copyright is a property which ought to be protected, and which can only be protected by law, because it is not a property which can be protected by physical force, and that therefore the wisest way is to use this general law to protect it throughout the whole of the British dominions.

1144. Are not the colonies interested in the duty of

protecting their own property by their own laws?—Yes, but this is not necessarily their own property. If a book is published in Great Britain, you by existing statutes say that it shall have protection throughout the whole of the colonies, but that if published in Canada it is not to have that protection.

1145. Is not any property which I may take into Victoria guarded by the laws of Victoria?—Yes, as far as the laws of Victoria can operate upon it.

1146. Is not all property protected in Victoria by the laws of Victoria?—As far as those laws apply to property, I suppose that it is, but I do not know that all property is. I am under the impression that copyright property is not protected by the laws of Victoria. I do not know that they have a copyright law at all.

1147. Ordinary property is protected in Victoria by the laws of Victoria?—Yes, I believe so.

1148. And Victoria would resent it, would she not, if we were to dictate to her an alteration in the laws by which that property should be protected?—I should look upon my proposal as a concession to Victoria, because by the present law an English copyright book is protected throughout Victoria; but to acquire that protection it must now be published within the United Kingdom. The suggestion is that that protection shall obtain also if it be published in any other part of the British dominions. It is to enable the colony to publish books and acquire protection under the Imperial Act.

1149. (*Mr. Fitzjames Stephen.*) You are of course aware that local copyright laws exist in various parts of the Queen's dominions?—Yes.

1150. For instance, in India and in Canada, and possibly in other parts?—Yes.

1151. If you provided that publication in Canada or in India should be equivalent to publication in Great Britain under the Act of 1842, the effect of that would be that a person publishing in Canada would obtain one set of rights under the Canadian Act and another set of rights under the Act of 1842?—Yes.

1152. You would thus have two sets of copyright of the same book in the same place?—Quite true; but one area of protection would merely be co-extensive with the local law, and the other area of protection would be co-extensive with the whole of the Queen's dominions.

1153. We will suppose that in Canada the term of copyright is 50 years, and that in the rest of the Empire it is 42 years, the effect of publication in Canada under your system would then be to give a man first an exclusive right of publication for 42 years under the English Act, and next an exclusive right of publication for 50 years under the Canadian Act; whereas in the rest of the Queen's dominions he would have only one of those rights, namely, for 42 years?—Quite so.

1154. Would it not be better, and would it not simplify the matter, to say that the extension of the Act of 1842 to the Queen's dominions should be taken to be subject to any local law which there might be. I mean that if there was a copyright law in Canada, a man should have only one set of rights, namely, the Canadian right, and not the English right?—I think not. I think that it would be almost necessary for him to have both sets of rights.

1155. If he had both sets of rights how would you manage if the two sets of rights were conflicting, as they might be?—I conceive that they could never conflict as far as extent of protection was concerned, because they would cover different areas.

1156. The extent of protection would not raise the question; but in order to bring an action in respect of a breach of the copyright under the English Act you must have registered your book in a particular way?—Yes, now.

1157. Supposing that the Canadian Act involves a different system of registration altogether, then a man in Canada complies with the English Act, and does not comply with the Canadian Act, and he is able to bring an action for the infringement of his copyright, although he has not complied with the local law?—

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He seeks protection under the Imperial Act; he does not ask for the protection of the local Act in that case.

1158. Then the effect of that is that the Imperial Act practically supersedes the conditions which the Canadian Parliament think right for registration in Canada, because it gives you a right collateral to it?—Yes.

1159. Therefore, in point of fact, the Colonial Act on that system would to that extent be repealed, or at any rate rendered superfluous?—It might render it superfluous.

1160. Would not that be an interference with what was intended by giving a colony a responsible government?—I do not want to go into the question of responsible government in a colony, but I am only speaking as far as copyright is concerned.

1161. What I am coming to is this, that the effect of your proposal would really be, either that the Colonial Act must coincide with the English Act, or that the English Act would render the Colonial Act superfluous?—I suppose (but you can correct me if I am wrong) that all Colonial Acts are subject to Imperial Acts.

1162. Certainly not. Might it not be a question whether it would not be a more proper course to confine the effect of publication within the United Kingdom to giving copyright within the United Kingdom, than to extend the whole copyright law to the entire Queen's dominions?—I must say that I think not; because the effect of it would be that, unless you republish a book in each of the colonies separately, you lose your copyright *quoad* those districts, and practically you limit the operation of your copyright law to Great Britain and Ireland, and you are seriously curtailing the privileges or the protection which authors at present obtain.

1163. (*Mr. Herschell.*) Would it not meet the object which you have in view to provide that publication in any one of Her Majesty's dominions should give copyright throughout Her Majesty's dominions, but subject to any local copyright law existing in the dominion in which the book was published?—I think that it would be better to give a general protection, and to leave the question of the effect of the local law to be settled when the time arises. At present in Canada there is no difficulty; we now see a double copyright running there; anything which has the protection of the Imperial copyright law may not be reprinted in Canada. I see no necessary conflict between that and the Canadian copyright law, nothing which is a hardship to the colony, in fact they seem to be working in the same way.

1164. (*Mr. Jenkins.*) Have you thought that perhaps the difficulty might be solved by taking an analogy from foreign countries. You know that it has been suggested that registration in one country should be good in another. The operation of that would be that in France an Englishman would get a French copyright, whilst in England a Frenchman would get the limited copyright of England; is not that so?—Yes.

1165. Would you suggest that the same principle should be applied as between England and her colonies?—No; not to the extent of making a convention between England and each of her colonies on the subject of copyright; but colonial registration might be sufficient if it had the same force in our courts as imperial legislation.

1166. Have you any objection to that. Supposing it to be admitted that they had the right of legislating separately upon those questions, would there be any difficulty in having such a convention?—I think that arranging those conventions would be far more complicated, and that we should have more difficulty in doing it than by letting the two Acts run co-ordinately.

1167. On consideration, are you prepared to assert that it would be more complicated?—Yes; because the moment you begin to enter into a convention, both parties have to be considered, and some mutual

understanding is come to which may be a modification of the existing rights on both sides.

1168. There is a difference between having on the one hand two laws, one a superior Imperial law and the other a local provincial law, operating in the same place and in different ways, and on the other hand a law in the colony operating within the colony, and a law within the United Kingdom operating within the United Kingdom. Do you not think that one would be simpler than the other?—No; it would be simpler in one sense, that is to say, in the machinery which would establish it, but I do not know what would be gained by it.

1169. Why do you think that you must put a colony in a different position from a foreign power with reference to this particular matter if you have given to that colony a responsible government?—I think that the colonies are more intimately connected with the United Kingdom than foreign governments are, and we have looked upon them hitherto as an integral part of ourselves. I see no objection to allowing the Colonial Act to fix the duration within the colony itself of copyright in a book originally published in that colony, but *quoad* that book I would let the Imperial Act regulate it in all other parts of the British dominions.

1170. Then may I ask what is the object which you have in view in recommending that first publication in a colony should give Imperial copyright?—To let the colony have the advantage which it does not now possess, of copyright throughout the whole of the rest of the British dominions for a book published within itself.

1171. Then if by a convention with the Imperial Government without involving a complicated interference of imperial and local law that advantage could be obtained, would you not be satisfied with it?—I can only say that I prefer an Act to a convention, but if the same rights were obtained it does not seem to me to matter much.

1172. (*Chairman.*) Does it occur to you that a convention between the mother country and one colony could secure the copyright of books published in that particular colony throughout the rest of the Colonial Empire? Could any convention do that?—I think not and that is why I say that when the question was raised the probability is that there would be complicated circumstances which would prevent the convention from operating as simply as an Act of Parliament would operate.

1173. Am I right in supposing that your idea is by an Imperial Act of Parliament to give to books published in the colonies the same copyright as books published in the mother country have now in the various colonies?—Yes, the same copyright as books published in the mother country would have at the time when that Act was passed. I say that because there may be some modification as to the time of copyright.

1174. (*Mr. Fitzjames Stephen.*) Can you tell me whether there is practically any part of the Queen's dominions in which any considerable number of books are published out of the United Kingdom?—Only Canada and India, and in India although the number may be considerable they are chiefly local or for local purposes.

1175. (*Mr. Trollope.*) Have you not heard that Mr. Robertson, of Melbourne, publishes a very considerable number of books?—He publishes a number, but not a very great number; the great majority of his books he gets from England; he may reprint and republish a few, but the great majority come from England.

1176. Are you speaking of the majority in number?—In value and in almost every sense. I mean to say that he sells very many more books imported from England than those which he prints and publishes himself.

1177. No doubt he does, but I think you will find that he has a very large trade both in printing and publishing?—He is one man to supply almost the whole of the Australias; there is scarcely another man who is doing a business to be compared with his, and that is I think small for such an area.

1178. Do you think that there is any publisher in