

Great Britain and Ireland, out of the three capitals, who does so large a business in publishing as Mr. Robertson?—Very likely not; I do not know that there is. There is not an amount of book production in Melbourne which can be said to be great in proportion to the area of the colony or the importance of the colony.

1129. Do you think that there is any other town in the world, with the same population, in which a larger amount of books is printed and published?—I do not know what the population is.

1180. (*Sir H. D. Wolff.*) Would you allow a book published in one colony, the copyright in which belongs to a resident in another colony, to return to that other colony? Supposing that a person in Canada writes a book and gives a license for the publication of that book in Australia, would you allow the book to go back to Canada?—That I think is a matter of private contract.

1181. No, it is a matter of law?—As far as law is concerned, if a man had a copyright in Canada under the Canadian Act, I do not think that you could possibly exclude it.

1182. But you have spoken about the Imperial law by which a book published in one colony is to have copyright in all the colonies?—Yes.

1183. A colonist might write a book, such as a hand-book, containing very useful advice to emigrants in all colonies; with the consent of the author in Canada that book might be republished in Australia, and a man going from Australia to Canada might take that book with him; would you allow that book to be introduced in Canada, or would you put the same restrictions as we put on Tauchnitz' books coming into England?—I would leave that to Canada.

1184. It is a matter of general law?—As far as importation is concerned, under the present law, books produced anywhere within the British dominions can be imported into England, or any other part of the British dominions, except such as are produced in Canada under the Act which has just been passed.

1185. But reprints can be?—Reprints produced in Canada cannot be imported into England without the author's sanction, or the sanction of the copyright owner. No person may reprint a book in any other part of the British dominions without the author's sanction, and of course his sanction implies the right to bring it in, and no one has authority to prevent it.

1186. At the present moment does the sanction given by an author for the reprint of one of his books in the colony give the right of entry into England if the book is reprinted there?—Yes, for every colony except Canada.

1187. Supposing that an author authorised a book to be reprinted in Australia, would anybody owning that book be allowed to bring it into England?—Yes, you could not stop it.

1188. Or to bring any number in?—Yes. It was for that very reason that it was necessary to embody the point in the Imperial legislation of last session on Canadian copyright.

1189. (*Chairman.*) Have you any other suggestion to make on the question of Colonial copyright?—I have one more remark to make; I wish to observe that I think that it would be a great improvement on the present cumbrous system of giving notice to the Canadian authorities of copyrighting a book, if a British Museum certificate, such as I described in my previous evidence, were to be received there by the Minister of Agriculture as notice of the book being in copyright.

1190. (*Mr. Fitzjames Stephen.*) That would be a question also rather of Canadian legislation, would it not?—Yes, for the Canadian authorities, and to be worked through our Colonial Office.

1191. (*Chairman.*) With respect to international copyright, will you give us the benefit of your views upon that aspect of the question?—The first point on which I should make any remark is one which has been already referred to, and that is that registration in one country should be evidence of copyright, but

the difficulty attaching to that is that a certificate given from Stationers' Hall or the British Museum, as the case may be, would not at present, I believe, be accepted under existing conventions as evidence of copyright by the French or German authorities; but both those authorities are most anxious to come to an understanding by which one registration shall run throughout all countries with which we have international copyright, and in order to carry out the suggestion that registration in one country should be sufficient, I think that it is necessary so far to modify existing conventions as to get each country to accept that principle.

1192. Have you any other point to which you wish to direct our attention?—I think that the only other remarks which I should like to make upon that branch of the subject have reference to copyright with America. At present the Americans seem very unwilling to give us copyright, and the chief obstacle arises from their desiring to secure the entire manufacture, or I may say re-manufacture, of each book in their own hands. They have practically offered copyright to England, I believe, on the basis of the book being entirely re-manufactured in America, and in order to make their point thoroughly clear they have used the word "re-set," to imply that the type must be entirely re-set in that country. I think that it would be extremely unfair towards English authors that that arrangement should be accepted, because the cost of reproducing the book in America must actually come out of the author's pocket, which I may illustrate by saying that of a work printed over here the printing perhaps may cost 200*l.*; an American publisher comes to an English author and says, "I will give you so much for your work, but remember that I shall have to go to the expense of producing it again, and therefore I must give you 200*l.* less than if you gave me a set of stereotype plates, which can be produced for a very small sum." Therefore, practically, the author is paying for the production of a new set of plates by the American manufacturers.

1193. (*Mr. Trollope.*) Are you now speaking of books reprinted in the United States?—Of books which would be reprinted under such an arrangement in the United States.

1194. For home consumption there?—Yes. Now in dealing with the question in Canada the arrangement ultimately agreed upon was that a book should be reprinted there, by which it is universally understood that stereotype plates may be sent over, but you must print the book off in that country; the object of that arrangement being to insure that a book should be produced in such a form that it would be suitable for the market, and I cannot say that I consider that unfair; it entails a little more expense in production, but I think that in any large English-speaking community it is quite fair for them to arrange with us on the basis of the Canadian Act, that local reprinting and republication shall confer copyright, and I have great hopes that America will yet agree to an arrangement on that basis. I would give them the manufacture so far as each American copy is concerned, that is to say, the printing off, which would not be that injury to the author which their proposal would be.

1195. Would not the acceptance of what you say they have proposed be a great boon to the English author?—It would be half a loaf, which you may say is better than none; but it certainly would be very unfair to the English authors, because there are a vast number of books to be considered besides novels and books which can be easily reproduced. I refer to works of history and travel, scientific and illustrated books. Take as an instance Mr. J. G. Wood's Illustrated Natural History, to reproduce the illustrations over there would cost some thousands of pounds, and I think that if Mr. Wood had to make an arrangement with them they would very naturally say, "We must give you so much less because we have to incur this great expense over again before a copyright can be acquired in the book." Indeed, in many cases this condition would destroy the value of the copyright,

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and prevent the book being copyrighted at all in the United States.

1196. Is such a case as you have just quoted of Mr. Wood's work a usual case?—It is more or less the case in all books, the principle of the Americans being that for the sake of protecting their manufactures they want us to concede to them the right of reprinting in every sense of the word, that is, of doing everything which contributes towards the production of the book, and not merely printing it off from the stereotype plates.

1197. The number of English works now printed in the States is very great, is it not?—Yes.

1198. What proportion of that number do you suppose is of such a nature as this work which you have described; would there be one in a hundred?—Certainly, considerably more than that.

1199. Are you speaking of works of high art, of which the reprinting there would be so expensive as to prevent the author from having his proper profit upon them?—I say that you take from the author's pocket everything which is unnecessarily spent in reproducing the book, when he himself could here supply you with the material ready made. It refers to the great majority of books, books of travel and scientific works, a work on geology or medicine, for instance.

1200. (Mr. Fitzjames Stephen.) It applies to every book more or less, it is only a question of degree?—Yes.

1201. (Mr. Trollope.) You have quoted works of history, and works of travel. Would not works of history, and works of travel, and books of poetry, and dramatic works and novels, all come within the same law?—It is less felt in novels; first of all, because the circulation of novels over there is generally larger than that of the more solid class of books; and secondly, because the cost of producing a novel as a rule, in relation to its price, is very much less.

1202. Is the cost of producing a novel less in reference to each individual copy than the cost of producing such a book as Trevelyan's "Life of Macaulay"?—In relation to its retail price, yes.

1203. Is not the printing of one as expensive as the printing of the other?—There is more printing in one than in the other, and therefore there would be more resetting up of the type.

1204. But word for word, is not the expense of one the same as the expense of the other?—Yes, word for word.

1205. Then in what way is the novel more cheaply produced than the other book?—The novel as a rule contains fewer words in relation to its price.

1206. A book of history, or of biography, is not subject to any peculiar difficulty, as a book would be such as that of Mr. Wood's to which you alluded?—It is only a question of degree. If there were illustrations in it, it would make the production still more costly. If there were a great deal of letterpress it of course would be more costly than if there were only half the quantity.

1207. You mean by that, that a long book would cost more to print than a short book?—Of course it would.

1208. (Chairman.) As to maps I suppose that it would operate in the same way?—Yes.

1209. Works of history or of travel might have maps in them?—Yes. By the proposal of the American Government, the resetting of the type and all maps and illustrations were to be done over there.

1210. (Mr. Fitzjames Stephen.) Were the plates to be remade there?—Yes, I may mention another objection. The author would be practically debarred from revising his work or watching it through the press. Novels, and perhaps some other works would probably be reset over there by arrangement, but in other cases it would be very undesirable, and I think it would be most unwise to make it a condition of copyright. I

would leave everything but the printing off of the book free. Under the American Act an author may set up and print his book in England, and yet retain his copyright.

1211. (Mr. Trollope.) Is it within the power of any man or body of men in the United States to make such an offer and to carry out that offer?—No such offer could be made with validity, but it could be made by the Minister of State there, to our Minister and sent over here to ascertain whether an arrangement on that basis would be acceptable.

1212. But it must in point of fact, if carried out, be the result of an Act of Congress?—Undoubtedly.

1213. (Mr. Fitzjames Stephen.) First of all the treaty would have to be accepted by the Senate, and then there would have to be a Bill in Congress?—I think that first of all the Congress and Senate would have to pass a Bill, which would enable them to accept such an arrangement, and that when that Bill had been passed, the Minister of State would be authorised to negotiate a treaty with England on the basis of that Bill. Public opinion on the subject is growing over there, as we see by the periodical and other literature, and I have great hopes that before long they will be prepared to accept an arrangement on the basis of the Canadian Act, viz., that American copyright should be conferred on books printed and republished in the United States. In fact, I should be very glad to see our Government explain to them the basis of that Act, and tender that basis as the basis of a treaty between the two countries.

1214. (Sir Julius Benedict.) Is there any possibility of an English musical author protecting his rights in America?—There is not at present, because books and music are on the same basis; they are affected by the same law over there, and as we cannot protect our English books, neither can we protect our English music at the present time.

1215. Have not several endeavours been made to induce the American Government to revise these laws, and to assimilate them if possible to the English?—No; but attempts have been made to induce them to enter into treaties with Great Britain on the subject.

1216. Have not all those endeavours been hitherto fallacious, and productive of no result?—They have, I believe, failed.

1217. Is there any expectation that now there would be a possibility of modifying this state of things?—I have said that the question is exciting much more interest in the press in America than it has hitherto done, which I look upon as a hopeful sign; and I have suggested that a certain proposition should be made to the American Government with a view to test their willingness to advance the question, and to enter, if possible, into a treaty with us. I have suggested that the basis of our proposal to them should be, that if we go to America and print and republish a book there they shall give us the benefit of their copyright law, and that if they come to us they shall have the benefit of ours. At present they get the benefit of ours by first publication here, but we are quite unable to avail ourselves of theirs.

1218. (Chairman.) And that would include musical compositions, would it?—It would, and also dramatic.

1219. (Sir J. Benedict.) Is there any appearance of a treaty for copyright with Austria?—I do not know.

1220. Is it not almost the only State which has no arrangement for the protection of copyright?—To the best of my belief we have not any international treaty with Austria on the subject.

* * * The witness handed in a copy of the *Minority Report upon an "Act to grant Foreign Authors a Copyright,"* submitted at a meeting of publishers held in the Directors' Room of the Mercantile Library Association, New York, on February 7th, 1872. The Report will be found in the Appendix.

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

Tuesday, 20th June 1876.

PRESENT :

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

FARRER HERSCHELL, Esq., Q.C., M.P.
EDWARD JENKINS, Esq., M.P.
Dr. WILLIAM SMITH.

J. A. FROUDE, Esq.
ANTHONY TROLLOPE, Esq.
F. R. DALDY, Esq.

J. LEYBOURN GODDARD, Esq., Secretary.

JOHN MURRAY, Esq., examined.

1221. (*Chairman.*) You have views, I believe, that you would like to bring before the Commission, on some of the points connected with copyright?—The Commission, I believe, have had before them the question of registration. You are aware that the present mode of registration is quite optional. It might be perhaps worthy of consideration whether a compulsory registration with a proper regulation of the fees might not be resorted to with benefit to the owners of copyright, as well as to the public generally.

1222. With respect to the regulation of fees, have you any observation that you wish to make on that point?—At present the fees are rather exorbitant; 5s. is the sum paid; and as the registration is not compulsory the result is that very few books are registered. Considering the great increase in the number of books published now I should imagine that a fee of 2s. 6d. would produce returns sufficient to pay for one or two clerks; therefore there would be no expense on the subject. It is at present done by an officer in the Stationers' Company, who receives the fees; the company are not benefited by them.

1223. (*Mr. Trollope.*) Does the clerk receive the fees?—The treasurer.

1224. (*Chairman.*) Would you propose to keep the registration when it is compulsory at Stationers' Hall or not?—I do not know what the Stationers would say as a body; but I do not think that they would lay any stress on its being retained there. And I might perhaps offer for consideration whether, considering that we have to send our confiscated books, the five copies, to the British Museum, the registration might not be transferred thither. Then, in consideration of the compulsory nature of the registry, some boon might perhaps be obtained in the way of obtaining copies of the certified Register to send to foreign countries in order to secure copyright abroad. And also it is possible that a copy of the register might be furnished to the Custom House in cases where it is necessary to protect English copyrights from foreign importation. All that business might be done at the same place at one time; and instead of doing it, as we do now, registering at Stationers' Hall and sending copies to the British Museum, those two acts would be done together and at the same place.

1225. (*Mr. Trollope.*) You propose, then, that the rendering of the book to the British Museum should be the act of registration?—That it should be the act of registration; a small fee being paid at the same time.

1226. (*Chairman.*) With respect to the other copies which now have to be delivered to the Universities, have you any opinion upon that subject?—I would submit to the consideration of the Commission whether it is not a hardship that literature alone should be selected for that impost. When the Houses of Parliament were furnished we did not send to Mr. Gillow, the upholsterer, for four tables or four chairs. I cannot help thinking that the republic of letters (which includes to my mind authors quite as much as publishers, we being in the same boat) deserves some consideration. It is, on the whole, a very hazardous business, that of publishing, and a great many books are published which never repay the cost of producing them, which are, after all, probably of some benefit to the world, but if it were not that booksellers were enter-

prising a great many of them might be left in the author's desk.

1227. (*Mr. Dalby.*) Do you think that it would be desirable to deliver the book at the British Museum and also to pay a fee for registering it?—My proposal would include certain advantages to be obtained from the registration. Of course the chief gain of registration is the securing of copyright; at present it is not imperative to register until your copyright is imperilled. I think that there would be a compensating advantage in a compulsory registration under these circumstances.

1228. (*Chairman.*) With respect to the right of abridgment, have you any observations to make upon that point?—I believe that at present there is some doubt on the law, and I would submit whether it might not be possible to put in a clause into the Copyright Bill which should make it entirely unlawful to produce an abridgment of a work without the author's consent. I may mention an example of a work which has now got a very great name, but which at the time it was published obtained very little attention, "Austin on Jurisprudence," a work which is now very deservedly placed at the head of all legal books of instruction. I had a communication some time ago, I think made through Mr. Longman, to the effect that his firm had been offered an abridgment of this work, which is one of the most original works of its class that have been published for a great many years, and as it at present stands it is made a manual in all legal schools and examinations.

1229. (*Mr. Trollope.*) Was it published by your house?—It was published by my father, merely to oblige a friend originally, without any idea that it would sell. He only printed 500 copies. This gentleman to whom I refer would probably have saved the owners of the copyright the trouble of selling any more copies of the book; I mean that the abridgment might have been produced at half the price.

1230. How many years were there still to run of the copyright?—15 or 16 years probably.

1231. (*Dr. Smith.*) Do you mean to say that the gentleman who proposed to abridge this work would have had a perfect right to do it; that you would have had no power of stopping it?—I did not acknowledge that right, but I felt the matter so ticklish and doubtful that, with the consent of the owners of the copyright, I got an authorised person to make an abridgment of it, so that if there were really demand for the work the publisher and author should have the means of obtaining it in that shape.

1232. (*Chairman.*) May I ask you if you took any legal opinion upon the point, whether an abridgment of the nature described was permissible under the existing law or not?—I am not quite sure whether I did so; but the thing was dropped, and therefore it did not come to that point.

1233. (*Mr. Trollope.*) Is it not generally understood that anybody might make such an abridgment?—I believe the legal decisions are rather at variance; they are not all in one direction.

1234. (*Mr. Froude.*) Using the name of the author?—Using the name of the author.

1235. (*Dr. Smith.*) Are you aware of the statement of Mr. Copinger in the Law of Copyright, which I believe is a standard work on the subject, "A fair abridgment when the understanding is employed in

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“retrenching unnecessary circumstances, is not a piracy of the original work. Such an abridgment is allowable, and is regarded in the light of a new work. The law with reference to abridgments, might, we think, with justice receive some modification. The decisions on the subject are somewhat inconsistent. The fundamental principle on which is based the protection afforded to authors from piracies appears to be the injury or damage caused to them by the depreciation in the value of their original works. It seems a very unsatisfactory answer to an original author who has been injured by an abridgment to say that because the useful author has exhibited talent and ingenuity both in the taking and in the use which he has made of it, the original author has no remedy”?—I have heard the substance of a part of that passage, the first part of it, pointing out the very ticklish state of the law on the subject, and that has been in a great degree the reason of my mentioning it on this occasion as a matter that it would be very desirable to determine by a special enactment. Of course the hardship is tolerably visible.

1236. (*Mr. Trollope.*) Then you would recommend that the author should be protected by copyright law against abridgments?—Yes, the author if he chooses should alone have the right of abridging, or somebody authorised by him.

1237. In point of fact that he should have the same power as to the abridgment that he has as to the rest of the copyright?—Yes.

1238. (*Chairman.*) In the event of the author of a work of the kind which you have described being unwilling to permit any abridgment, do you think that some relaxation of the proposed law should be made so as to enable the community to have the advantage of the substance of a work of that kind?—I think it would be rather an interference with a man's right of property, which is not usual in other things. In the hurry of leaving home I failed to bring with me a book which exemplifies another subject which I believe has been discussed here—the question on the expiry of a copyright, of allowing a publisher to reprint an early edition, one uncorrected by the author. A very curious example was brought to me quite recently in the case of a book which has some celebrity, which is now out of copyright, the first edition of Milman's *History of the Jews*. The publisher to whom I refer has reprinted it with a statement that as there are in this work many passages which have been objected to as not quite consistent with orthodox views of the Bible, he has taken the liberty to revise the edition throughout and to omit all those passages.

1239. (*Mr. Trollope.*) Can you name the person who has remodelled the Dean's book?—I am not quite sure whether it is not a namesake of mine. That is a case of altering the author's opinions entirely, without any leave asked or had.

1240. (*Mr. Froude.*) After the copyright has expired I suppose the public is the only protector of the text from expurgation?—Yes, but at least if there were a stipulation in the Act that only the latest and improved edition of an author was to be published, and that the public reprinting should not commence until that copyright was expired, that would be putting off the evil day.

1241. (*Mr. Trollope.*) There would of course be no means of doing away with such expurgations after the expiration of the copyright?—No.

1242. (*Mr. Froude.*) But is it the law then that at present if a book has gone through a number of editions during the author's lifetime, after his death the public can take possession of the first edition as soon as the copyright of that edition has expired?—Yes. The instance that has already been brought before the Commission is that of the work of Mr. Hallam, in which you may recollect that he made most considerable corrections and additions some 10 or 15 years after the original publication of the work; in fact his corrections amount to very nearly a volume.

1243. (*Dr. Smith.*) And then, directly the copyright of the first edition had expired, a publisher reprinted

it?—A publisher reprinted the inferior book, a publisher having unfortunately the name of “Murray,” so that the public were entirely unprotected in that respect.

1244. (*Mr. Trollope.*) How long ago did that take place?—I think it must be eight or ten years ago.

1245. (*Mr. Dalry.*) Would not the same remark apply with equal or greater force to Sir Charles Lyell's *Geology*?—It would, no doubt.

1246. His mature views found expression I presume in his later editions?—Yes.

1246. But if the earlier edition were put forward as an uncopyrighted edition, when the copyright expired it would be presumed to express his views?—It would be an imperfect work; and the science of geology has so entirely altered since that edition was published, that anybody who paid any attention to the subject would discover that he had made a very bad bargain in buying and had not got a book which represented the present state of the science.

1248. But would it not be possible to republish it at the expiration of the copyright, and represent it as Sir Charles Lyell's views on geology?—Yes.

1249. (*Mr. Trollope.*) You propose to obviate this evil by extending the period of the copyright?—Yes, by extending the period of the copyright by taking it from the date of the publication of the author's last revised edition.

1250. Could you give us your opinion as to the present duration of copyright?—I should consider it on the whole perhaps rather an author's question than a publisher's; I do not know that we have any right to complain.

1251. You have had the interests of many authors in your keeping?—A great many, and still have.

1252. Speaking on their behalf do you think that the law, as it now exists, gives them sufficient security?—It gives them sufficient security, perhaps, but whether for a sufficient length of time is a question on which perhaps my opinion would not be of very great value. I have no complaint myself to make of the duration of copyright.

1253. You mean that you have no complaint to make from the publisher's point of view?—Not from the publisher's point of view, but of course the works that are of value, even for the present extent of copyright, are so very few that that fact might furnish a claim for still further prolongation in the case of the author of a really very successful work.

1254. Can you call to mind at the present moment any authors of celebrity, whom you have known, or whose cases you have known, whose copyrights have run out before that property has come to be of value, but which copyrights have come to be afterwards of great value?—I do not recollect at this moment. If my attention had been called to that in time I might have found some cases of the sort.

1255. Was not Wordsworth's a case of that nature?—I think before Wordsworth died he had a very considerable sale for his works.

1256. But his copyright ran out very shortly after his death?—Very shortly after his death.

1257. And are you not aware that the property of the copyright was more valuable then than it had been at any previous time?—I am not at all acquainted with the extent of the circulation of Wordsworth's works. I should think they must have fallen off very much since that time.

1258. You are not prepared then to recommend that any alteration should be made in his respect?—I think not.

1259. Are you aware what the period of copyright is in France?—I do not recollect at this moment.

1260. You are not aware that it runs to 50 years after the death of the author?—Yes, I believe it does.

1261. Are you aware that in Germany it runs to 30 years after the death of the author?—Yes. Of course in a great many cases it would be a boon to authors if the period were lengthened.

1262. Do you think that if it be a boon it is one which the author deserves on account of the property which he has himself created?—I think so, indeed. It is very hard that the product of a man's brain should fare worse than any other property which he possesses or may have created.

1263. (*Dr. Smith.*) Are you aware of what I have heard stated in Germany (and I believe the same is the case in France), that the principle which underlies that regulation is that the children of an author ought to be able to enjoy the copyright for the period of their own lives after the death of their father?—Yes, that would appear a very just principle for the author and one generation after him to enjoy it.

1264. (*Chairman.*) With respect to a considerable number of works of value, the suggestion that you have made that copyrights should run from the author's last revised edition would practically be a considerable extension of the term of copyright, would it not?—It would be a very considerable protection to the author.

1265. And it would be, would it not, an extension of the term of copyright?—Yes. Of course the great claim that these reprinted editions have is their cheapness, but I believe that if they were examined into they would be found to resemble all other cheap things, cheap boots and shoes, and so forth, in the fact that they are very badly got up and probably very ill printed. If you were to make a quotation from one of these editions, even as it stands, in many cases you would find great errors.

1266. (*Mr. Trollope.*) In recommending that this extension of copyright should be given to books that have been altered by the author, you would not extend it to editions that had not been altered, would you?—That would be virtually extending the copyright absolutely.

1267. The extension which you propose would only be given to such books as were virtually altered by the author?—Yes.

1268. It would not be given to simply renewed editions?—No; it would be an additional protection to the author, of course, whose interest it would be that an imperfect work should not continue in circulation, or that it should be kept as long as possible out of circulation, when a better was to be had.

1269. Would it not offer a temptation to an author to make certain alterations in his book merely for the sake of renewing the copyright?—It might do so.

1270. (*Dr. Smith.*) But might it not also be an inducement to an author to keep his book up to the day, and to the advancement of knowledge in that particular department?—Certainly.

1271. (*Mr. Trollope.*) It would enable the writer of a novel to leave out a chapter, and to get an extension of 14 years for his copyright, because he had left out the chapter?—That is an omission; whether that would be considered as an improvement I do not know.

1272. (*Mr. Froude.*) You said that there were only a very small number of books the copyright of which was of real value, and that you might perhaps give the authors of those few books which have continued to have an interest for the public, at the time of the expiration of the copyright, a claim on some further consideration; but are not those precisely the books which the public would be most anxious to have cheap?—But I cannot consider that the public do not get the best books cheap now. It is true they must be content to wait for them. You do not expect to get the newest fashions at a reduced price until a year or so after they are first published to the world; and in the same way with books. If we look to Macaulay and to Grote there are cheap editions of both of them; and I rather think of your own history. After a certain time the form is altered. There is no inducement for a publisher to keep up the price of books; rather the reverse, because by lowering the price he comes down to different circles of purchasers descending according to their means.

1273. But still I suppose the public think that they gain some advantage from the expiration of a copy-

right, and that they can get the books slightly cheaper; and what I ask is whether it is not precisely of the very best class of books that the public would be most anxious that the copyright should be shortest?—Yes; still you have to consider that along with cheapness you must be on your guard against bad printing and inferior paper and inferior type, which those who have a regard to their eyes would willingly avoid by paying somewhat higher.

1274. (*Mr. Jenkins.*) Is not the French and German system a system of cheap printing throughout, from the issue of the original edition onwards?—I do not think there is a very material difference. One of the sources of the greater cheapness of French and German books consists in this, that French and German purchasers are content to buy their books stitched up in paper. Anyone who knows anything of books knows that one of the larger items which cannot be well diminished is for the binding of the books. English purchasers are not willing, as a rule, to take the books unless they are fairly well bound.

1275. But have publishers ever tested that; have they ever issued original editions of books, like Macaulay's History, in cheap paper form, such as the form in which books are issued in Paris?—I think that some of the editions of Macaulay are so issued, but they are also sold bound up.

1276. But I mean originally from the first edition?—I am not aware of its having been tried in first editions; but I am quite sure that both the English booksellers and the public generally would be opposed to them; that it would act prejudicially to the sale of the work if it were attempted to be delivered in that shape; it does not suit English ideas.

1277. Is not ours the only country in which books are so dearly published at the outset?—If you will allow me to say so, if you refer to original American works, I do not think that you will find that difference. A book which I have in my mind at present is Ticknor's "Remains," in two volumes; I cannot precisely say what the price is, but I think the two octavo volumes are 28s., which is as nearly as possible what would be the price in this country. It is necessary to understand the elements of the cheapness of English books reprinted in America. First of all the American publishers, as a general rule, have no authors to pay. Then in the mere matter of printing the difference of printing from manuscript added to the author's corrections compared with a mere reprint of what is already in type, I think Mr. Daldy will bear me out in saying, is probably from 40 to 50 per cent., in many cases the expense of corrections being the same amount as that of setting up. But the American reprinters have also this great advantage; every book which is published is for the publisher a lottery; it is quite impossible to say whether it will be a success or not; or at least in almost all cases it is impossible; but the American publisher gets over his copy with this advantage that he gets along with it the judgment of the press, the criticism at least of the weekly periodicals, which enables a man very generally to form an opinion of what is the value and the probability of success of a work. That is an element of immense consequence and importance in any publication.

1278. (*Mr. Trollope.*) Is it not the case in addition to that, that the Americans reprint only the works of established authors?—They print from hand to mouth now; books as they come out here are generally reprinted in America, not all of course; they use their discrimination, in which they are guided in a great degree by the judgments of the press.

1279. (*Mr. Herschell.*) Is a very large percentage then of the works published here at once republished there?—I think a very large proportion; I cannot tell what, but a great number.

1280. (*Mr. Jenkins.*) Is it not the fact that there are agents here for nearly all the great American publishing houses, and that they pick up any promising work?—Yes.

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1281. You said that the first advantage of the Americans was that they had nothing to pay to authors; but as a matter of fact—as to authors of any reputation, they do pay them for the early sheets, do they not?—There is a great improvement I must allow, and quite recently one house in America (and I have no doubt that it is not a solitary instance) gave as much as 1,000*l.* to the Livingstone family for the early sheets of his “Last Journal;” that was considered very creditable to them.

1282. Are you aware that there are authors in England who have received more from their American publishers than from their English publishers?—No, I was not.

1283. Do you know that a novelist, for instance, got more for his novels from Americans than he would have got in England?—I am not aware of that.

1284. Coming to a comparison of the system of the United States with the system of England, is it not the fact that they cannot in America, owing to the state of their tariff and from other circumstances, produce a book as cheaply as we can?—I do not think there is any material difference in the cost of production; the price of labour may be a little more, but that would apply only to original American works.

1285. I am applying it to any books published; are you aware that a book which sells in America for a dollar and a quarter, which represents 5*s.* here, would be a very inferior book in every way as regards paper and type and binding to a book that would be sold for 5*s.* in England?—I was not aware of the difference. American books are generally turned out very well as far as my experience goes.

1286. Are you aware that one of the objects of the Canadian publishers in pressing for international copyright was that they would be able to produce a better book and to undersell the Americans on their own ground?—They may have held that out, the production of a better book; but I take it that on the whole the object of undersellers generally is to do everything as cheaply as possible. I should be a little dubious as to the betterness of the book in Canada over that in the United States; because all the technical parts of publishing, printing and so on, are very well understood in the United States.

1287. (*Mr. Daldy.*) Do you think an English author gets just as much from America from his work now as he would under a reciprocal Law of Copyright?—It is very difficult to foresee. There is one thing I think that is quite certain, that no international copyright with America, will ever take place unless the Americans see their advantage in it, and that any scheme that has not that result, that does not give them the fullest advantages, will not succeed.

1288. But if we had an international copyright would it benefit English authors?—On the whole I should think it would; I should think American publishers would probably be led then to compete if they had a full protection in their own country.

1289. (*Mr. Jenkins.*) Is not the real difficulty about getting the Americans to recognise the rights of English authors in that way this, that English publishers intervene with claims which the Americans refuse to recognise?—I am not aware of any such claims.

1290. Have you at all taken any interest in the question of international copyright with America?—I have taken an interest in the question of international copyright with America most certainly. Many years ago I was induced with a great many others, both authors and publishers, to take steps with a view to getting an International Bill passed.

1291. I wanted to find out from you whether the Americans had not evinced a desire to recognise the rights of English authors, supposing that the English publishers do not interpose with their claims?—I am not aware of anything of the kind. For the most part with my own publications (but that has been a matter for my own personal consideration) I have made over to authors anything that has been obtained from America with certain exceptions. In works of which

the sale is doubtful and the cost of outlay large, the publisher certainly has a claim; but as a general rule I allow my authors to have the benefit of anything that comes from America.

1292. But is not the real difficulty this, that the Americans say that they are perfectly willing to recognise the author's copyright but not to protect the transfer to an English publisher of a copyright there to be available in the United States; is not that really one of the difficulties at this moment in negotiating a copyright with the Americans?—I am not acquainted with any circumstances that would have that bearing.

1293. At all events perhaps we could get your opinion upon this point; do you see any difficulty in allowing the English author to obtain a copyright in America independent of the English market?—I take it that it would be only necessary for the author to introduce such a stipulation when he was making his arrangement with the English publisher.

1294. Then supposing that the Americans were willing to grant to the author personally the right of obtaining a copyright in America, do you think there would be any injustice in making it a condition that it should be a personal right, and not one transferable to an English publisher?—It would be certainly shackling an English author if he were not allowed to make what conditions he chose with his publisher. Supposing his publisher said, “I will give you a certain sum of money,” or “I will give you certain conditions on the understanding that I am to have the right in America as well as in this country,” and supposing the author were willing to do that in consideration of the bonus that he obtained, would it not be hard to interfere and say that he should not do so?

1295. But assuming that for reasons of public policy (the reasonableness of which we need not go into just now) the Americans were unwilling to allow the English publisher to come in as a competitor, supposing they were to go on the protective system and were to say, “We are perfectly willing to grant the personal right to an English author of having his copyright here providing that he publishes here through an American publisher,” do you see any objection to our agreeing to that?—It is a matter that has not occurred to me before. I do not know of any instance in which that has arisen. It seems to me from my experience of publication that you would only substitute the author for the publisher. I do not see what difference this would make to the Americans.

1296. Then I want to ask you from the publisher's point of view, would it not be an injustice in certain cases to a publisher to make that the rule: Let me give you an instance, supposing that you collect a number of authors and get together a large geographical or other cyclopedia, then you would ask to be protected in the United States for the labour you had undertaken just as the English author was, because to a certain extent you would be the inventor of the ideas and matters brought together. Then do you think that it would be possible to make exceptional provisions in any legislation in America to protect cases of that sort?—With regard to dictionaries and encyclopedias I have no doubt that there would be a very considerable injustice if the publisher were not to maintain his rights. As you say he is virtually the inventor of the book; and supposing that he has properly remunerated all these authors and contributors he is fairly entitled to any advantage which would arise from such a work.

1297. (*Mr. Trollope.*) You seem to doubt whether an international copyright in the United States would be of advantage to the English author; am I right in that?—If the question is whether he would get greater advantage than authors of eminence do at present, no doubt it would be an advantage to have the thing fixed and settled, and not to depend upon chance.

1298. At the present moment is not the English author in this condition, that if he chooses to submit to terms dictated to him by an American publisher, he

may have his book published in America at a certain price, to be paid to him?—Yes.

1299. But if he refuses to submit to those terms he cannot make his bargain?—I think that for a really good book very few authors would be placed in that position. I think that there is sufficient competition among the American publishers. The very fact which has been mentioned to-day, that most of the best American houses have agents over here on the lookout for everything of the kind, would indicate pretty well that there must be a certain competition to obtain works of this class, and if one publisher refused terms another would be very likely to grant them. Of course if there were an international copyright, that instead of being a matter of doubt would be a matter of certainty; because the English author might withhold the right of publishing at all, I suppose, unless he got the terms that suited him.

1300. Are you aware that if an American publishing house has taken upon itself the publication of a certain author's works, and if that author afterwards bargains for the reproduction of his works by another American publisher, the first publisher may practically destroy his rival's profits by republishing the work as soon as it comes out?—He can do so I believe.

1301. And that has been done, has it not?—Yes.

1302. So that an American publisher has at the present time the power of saying this, "I will give you so much for the early sheets, but if you do not take my offer, but sell the early sheets to another publisher, I will destroy that other publisher's profits by immediately reprinting the work." You are aware that that has been done?—I believe that has been done, but I think that there is a better feeling arising in America, and that the whole question of author's rights is considered in a better light, a more favourable one for the author, than it used to be in America.

1303. At any rate an international copyright would give the English author the same power of dealing with the publisher in the United States as he has here in England?—Yes.

1304. I think you said that in your opinion the British author now gets nearly as large a profit from his works in the United States as he could expect to get if an international copyright law were established?—In saying that I was speaking, perhaps, rather rashly; it is a thing which experience alone could prove. He may obtain a larger profit possibly after such an international copyright law is established.

1305. You probably have known the terms which have been obtained by some authors in America?—The only instances in my own experience quite recently are these: I know that Sir Charles Lyell received from time to time very considerable sums; and Mr. Darwin, I believe, makes arrangements which are satisfactory to him for his various works; and, quite recently I obtained for the Livingstone family 1,000*l.*

1306. That, I believe, is quite an exceptional case. As a rule do you think that the price that a successful author can get from America amounts to 25 per cent. of what he could get in England?—There, again, I cannot say; I have no experience; I have never made any calculations on the point.

1307. You would not, perhaps, be surprised to hear that in the case of many popular authors it amounts to about 10 per cent.?—I should not be surprised.

1308. You know what the population of these islands is?—Yes.

1309. You know that the population of the United States is a larger population?—Much larger.

1310. Probably you are aware that the population of the United States is a more reading population?—Very much more so.

1311. Putting these things together, would it not appear that the popular author, whether an American or an Englishman, should receive from the sale of his works, at any rate as large a sum in the more populous country in which there are a greater number of readers than he receives from the less populous country in which there is a smaller number of readers?—That

would depend of course upon the work being as well adapted for America as it is for England; but no doubt, *cæteris paribus*, the largest population ought to consume the largest number of books. We are very much limited in the circulation of books generally in this country by circulating libraries.

1312. But an international copyright, if it were established, would give at any rate to the author the power of realising those profits, if they were to be realized?—Yes.

1313. (*Mr. Froude.*) I believe you published Mr. Motley's works?—Yes.

1314. Has he a copyright in this country?—American authors' rights, when their works are first published in this country are respected, and I believe the law protects them as it at present stands.

1315. He has a copyright in America as well?—He has a copyright in America as well.

1316. Do you think it desirable to modify that law and give to the American author the same measure as their law gives us?—If you mean to ask whether it might be an inducement to them to pass an international copyright law it might be so.

1317. (*Mr. Trollope.*) Would not that be retaliation?—It would be retaliation.

1318. Does retaliation generally beget peaceful prosperity?—As a general rule the present proceeding is heads I win and tails you lose.

1319. (*Mr. Daldy.*) I think you said that Mr. Darwin made arrangements with America which were satisfactory to him; does the publication in any way interfere with that; cannot any author make his arrangements direct with an American publisher at the present time without the intervention of the English publisher?—I should have thought it rather hard if Mr. Darwin had not consulted me; but he is always most open and kind, and I never made the least objection.

1320. As far as you are concerned you have no power to prevent it, have you?—It would be only in the case of the sale of a copyright that a publisher would have any right to interpose. Mr. Darwin preserves his own copyright, and therefore he is perfectly entitled to do what he pleases.

1321. (*Mr. Jenkins.*) But supposing that an author sold you a copyright without any special terms, would you claim the right to take whatever he received from Germany and France and the United States?—Unless there were a separate stipulation I should consider that I was entitled to that.

1322. But on a mere transfer of the copyright if you said, "I will give you 100*l.* for that book," and nothing more was said, what do you presume you would possess under that transfer, the English copyright or any rights whatever that may attach to that book?—I have no instance of the sort in my mind wherein there was not some express stipulation.

1323. (*Mr. Trollope.*) Do not you always make an express stipulation in the bargain at the time?—The instances in which one purchases copyright are very few. As far as my experience goes I consider it very much better for the interest of an author that he should not sell his copyright. If his work is to be a successful one he may make a bad bargain, and if it is to be an unsuccessful one I may make a bad bargain.

1324. (*Mr. Jenkins.*) Take another case; take the case of half profits and no particular stipulation; supposing you arranged with Harpers to get 100*l.*, or 200*l.*, or 500*l.* for early sheets, what would you consider would be the right sum for you to receive for that transaction?—If the work were a very costly work, and one not of a very large sale, and in which the remuneration was small, I should consider that I was fairly entitled to a share of the American profits.

1325. Not legally entitled?—Legally I mean.

1326. (*Mr. Froude.*) Are not the half profits always calculated on each edition; the half profit is calculated on the cost of the edition, the printing of the edition, and the sale of the edition here?—Yes.

1327. In America it would be different, would it not?—The American publisher is saved a considerable

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part of the expense by having the benefit of my printed sheets fully corrected, and any illustrations that there may be.

1328. But still, if you arrange for the publication of a work on the half profits system, and you give the author the half profits as is sometimes done, you estimate those half profits on the cost of the edition that you publish, and the returns which come when that edition is sold?—Yes; but the American book is also to be productive of profit.

1329. (*Mr. Trollope.*) If it is a half profit arrangement with you, without any given certain term to restrain it, do you not consider that the contract for half profits is to extend over the whole term of copyright?—Over the whole term of the copyright; but that is also a matter of private arrangement. When a work becomes very successful I do not by any means

adhere to that proportion. I give the author greater benefit eventually if the work has really succeeded and has taken root; but at the first starting of a work, considering the risk of success, the outlay and so on, half profits would appear to be very fair conditions.

1330. If I make a contract with you for a work, for half profits without any other definition, without any other term, as to time or as to the edition or as to country, but simply a contract for half profits for the work, do not you suppose that you are legally entitled to the half profits of that work during the whole period of copyright?—Yes, I think I am, but I always make it a specific condition in my agreements.

1331. If it pleases you to make any other arrangements with an author who has been popular or successful afterwards you can do so, but your legal right remains for the term of the copyright?—Yes.

The witness withdrew.

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

Friday, 23rd June 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.

ANTHONY TROLLOPE, Esq.
F. R. DALDY, Esq.

J. LEYBOURN GODDARD, Esq., Secretary.

GEORGE WASHBURN SMALLEY, Esq., examined.

G. W. Smalley,
Esq.
23 June 1876.

1332. (*Chairman.*) Will you kindly state in what capacity, if any, you are here?—I am a journalist, an American, living in London, and I am here at the request of the Commission.

1333. I believe that you are willing to give the Commission some information respecting the general view on international copyright taken by the literary classes in the United States—can you give us any information on that subject?—The question is one to which I can only give a general answer. The literary men with whom I have talked on the matter have never expressed any other opinion than a very strong one in favour of an international copyright. I think that I may say that I know most of the literary men of distinction in America, and have talked with many of them on this subject more or less during many years past.

1334. (*Mr. Trollope.*) You of course know the nature of copyright?—Yes.

1335. I have no doubt that you know what are the advantages which copyright gives to an author?—Yes, I understand that.

1336. You are aware that there is a copyright law in England?—Yes.

1337. You also, no doubt, are aware that there is a copyright law in America?—Certainly.

1338. And that the two are in many respects alike?—I should think that the last American statute had been modelled very much upon the English statutes and decisions. There is a statute of 1870 which is a codification of all the previous laws. All the law in existence in America at this moment on the subject of copyright, I should suppose, except judicial decisions, is to be found in the Act of Congress of 1870.

1339. The protection which is given by American copyright to American authors is the same as that given by English copyright to English authors?—It is very like the English law; the term is not quite the same. The copyright in America is for 28 years, with a right of renewal for 14 years.

1340. Therefore, there is reason for supposing that the legislature in your country and the legislature in our country have had the same idea in giving protec-

tion to authors?—In domestic copyright I should think there was very little difference.

1341. You are aware also that there is no international copyright between America and England?—I am sorry to say that I am.

1342. And I suppose that you are aware likewise that the readers of America make use of English books, and that the readers of England make use of American books?—Certainly; we make use very largely in America of English books.

1343. And I think that you will admit that we also here make very large use of American books?—More or less.

1344. Therefore you probably would be prepared to agree with me that there is more necessity for an international copyright between the United States and England than there can be for such an arrangement between any other two great countries?—I think so, most decidedly.

1345. In point of fact, though the laws of the two countries are of course various, and the political interests are various, the literature is one and the same?—Yes.

1346. Longfellow's Poems, in point of fact, are as much open to us here as they are to you there?—Yes, and more so; because they have been reprinted very largely without copyright, or were a few years ago.

1347. I am therefore justified in saying that though the two countries are politically different, yet, as far as literature goes, they can only be regarded as one and the same?—Certainly, if I understand your question.

1348. We read your books as much as we read our own, and you read our books as much as you read your own?—I think that we probably read some of your books almost more than we do our own.

1349. Therefore it would stand to reason, I think, that if there were an international copyright your authors would get the same advantage from their English readers that they do from the American readers, and that our authors would get the same advantage from the American readers that they do from the English readers?—Precisely.

1350. And you imagine that those are strong reasons why we should have an international copyright?—I think that they are very strong reasons.

1351. Perhaps you may be able to tell us what is the predominant feeling of your countrymen on the subject?—I do not think that it is a question on which my countrymen generally, speaking in a broad way, have formed an opinion; it is not a question, I should say, which has been brought to the attention of the majority of people in either country; but if you speak of those persons who have particular occasion to be interested in the matter, men of letters, literary men, men who are members of learned professions, I have no hesitation in saying that I think that the great majority of opinion in America is very strongly in favour of an international copyright.

1352. You do not think that there is any strong national feeling against it?—I do not think that there is a national feeling against it. It used to be said, I know, when this matter has been discussed, as it has more or less at Washington, that the feeling against it was western; that is to say, that many members of Congress and senators from the Western States were likely to be found opposing it.

1353. Have you heard why they would oppose it?—That is a hard question to answer. I have not read any speeches on that subject for a long time, but I suppose that it would be put broadly upon the ground of greater cheapness of literature in the absence of an international copyright.

1354. By "literature" you mean English literature?—I mean that books written by English authors can be published and circulated at a cheaper rate if the publisher has not to pay the English author a royalty.

1355. But do you yourself think that that is so?—I did not express that as my own opinion, but as the opinion of the men to whom I was referring, who were opposed to a copyright law.

1356. The subject, I think, has been before your Houses of Congress, has it not?—It has, more than once.

1357. Do you happen to remember what the opinion of the majority of the Senate was?—I cannot give you figures.

1358. Do you remember that your Senate has on two occasions agreed to a recommendation made by your Government as to an international copyright?—Yes, I remember that. I thought that you were asking me with reference to the western opposition what the proportion was. I know that the Senate voted in favour of an international copyright law.

1359. Therefore the opposition to the measure has come from the House of Representatives and not from the entire Congress?—I should suppose that it would be a matter of treaty, and the ratification of the treaty would be wholly within the jurisdiction of the Senate; the House of Representatives have nothing to do with that. If a treaty were made between the two Governments it would have to be ratified by the Senate, and that would have the force of law, but whatever legislation was necessary to carry into effect the provisions of that treaty would undoubtedly require the assent of the House of Representatives and of the Senate and of the President.

1360. (*Sir H. D. Wolff.*) Would it not be necessary to have some Act of legislation?—It would be convenient.

1361. How could you make it penal, for instance, to infringe the treaty? Have the clauses of a treaty in America the effect of law when they are merely ratified by the Senate?—For practical purposes I think that it would be indispensable to have a law; there must be penal provisions as in our domestic law; we have a penalty for not registering, and a penalty for infringement; and so on, and a corresponding law would require to be passed undoubtedly for the enforcement of a treaty.

1362. (*Sir H. Holland.*) And also for the mode of procedure under the treaty itself, in the same way as under the Extradition Treaty it was necessary to have

an Act of Congress to carry out the procedure under the Treaty of Extradition?—Precisely.

1363. And more particularly as to penalties?—Yes.

1364. (*Mr. Trollope.*) Was it not in consequence of that necessity that the proposed arrangement—I think in 1868—broke down?—That I do not remember.

1365. Have you considered what effect an international copyright would have upon American authors?—I have no doubt that it would improve the condition of American authors; that literature would be a much more remunerative profession under an international copyright than it is now in the absence of one.

1366. You mean much more remunerative to American authors?—To American authors.

1367. Can you explain to us why that should be so?—It is very easy to see that in the absence of copyright it is possible for American publishers to reprint, and they do very largely reprint, English books without making any payment to the authors of them; and it floods the market with literature which can be published at a rate which omits payment to the author. Books are published cheaper if the author is not paid for writing them, and they get possession of the market; and a publisher who is applied to by an American author to publish an American book may answer, and I know often does answer, "No, you want me to pay you; I can publish English books, for which there is a demand, without payment to the author, and it is more to my profit to do so." The practical result is to discourage American publications.

1368. So that the American publisher falls, as it were, out of the habit of paying anything to the authors whose books he prints?—He pays to authors of what one may call established reputation and position. Any book by an American author which is published is published under an arrangement with the author as it is here. The author is protected there, as he is here, by a copyright law; but there is no doubt that the publishers are in the habit of reprinting many English books without payment to the author.

1369. And they feel that they can carry on their trade without investing any large portion of their capital in that peculiar commodity?—Undoubtedly they do a very large business in book publishing in which the author of the book gets no share of the profit.

1370. And therefore it appears to them to be unnecessary to buy books from native authors at what you may call large prices?—I do not know that the moral influence is so important as the practical effect. A book publisher finds that he can carry on his business without making large payments to American authors, and he is very likely to continue in the mode of business upon which he has entered.

1371. You think therefore that it is certain that both to the English author here and to the American author in your country an international copyright would increase the profit from his work?—I never heard it doubted by literary men here or there.

1372. And from what you said just now I am led to suppose that you think that those persons in your country who have attended to the subject, men of literature and men of thought, are of opinion that writers should receive for their work the best price which can be got from the reading capacity of the two countries?—Certainly.

1373. (*Sir H. D. Wolff.*) With regard to the publishing of books in America, are they published at higher prices than in England or lower?—As a rule lower. There has been a change within the last 10 years; the prices of books are higher, but it still remains true that the average price is lower there than it is here.

1374. Take for instance a novel of Bret Harte's, in what kind of form is it published in America?—I do not know in what form Bret Harte's last novel is published, but as a rule novels appear there in a cheaper form than they do here; they are published in a single volume, or at most in two volumes, and upon cheaper paper, and in closer type than is used here.

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Esq.

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1375. And they are bought a good deal by the public?—They are bought by the public.

1376. And are not read through circulating libraries?—There are circulating libraries, but there is no such system of circulating libraries as exists here; the rule rather is that a person who wants to read a book buys it instead of borrowing it from a circulating library.

1377. I suppose that the popular English books which are published in America are very largely bought, the sale of them is very large?—Very large.

1378. Far greater than what it would be in England?—I have no doubt of it; they are published in a much cheaper form, and there is a very large sale for books of popular fiction, for instance, published in that way.

1379. And arrangements are made between English and American publishers to give them the early sheets?—Yes, that is common.

1380. For which the author is paid by the American publisher?—Yes.

1381. But even in that case I suppose the form in which the book is published is the same as the usual American form, namely, a cheap one?—It is usually so. An arrangement is sometimes made, as I have no doubt you are aware, to export printed sheets from this country, but that would hardly be done in the case of a work of fiction.

1382. Take Ticknor's recent *Life*, that book in America has been published at rather a high price, almost equal to the English price?—I think that it is published at six dollars, which would be 24s.

1383. That is in two volumes?—It is in two volumes, octavo.

1384. Are they for instance as large as the "*Life of Macaulay*"?—Just the same size.

1385. (*Sir H. Holland.*) In much closer print?—Much closer print.

1386. There is double the matter in them?—There is much more.

1387. (*Sir H. D. Wolff.*) Do you think that if in America a copyright were accorded to English authors the course of trade in America would allow the publishers to publish these English books at a higher price than that at which they are published at the present moment? Naturally if you have a copyright there is a monopoly, therefore, instead of any publisher being able, as at the present moment, to publish an English book, that right would be restricted to one publisher?—Yes, it would be restricted to one.

1388. Do you think that the result of this copyright in English books being extended to America by an international treaty would be that the price of English books would be raised in America?—Do you mean the price of imported sheets or of a reprinted book?

1389. I mean the sale price in America, whatever it was?—I think that it would raise the price.

1390. You of course know that treaties are subject to termination, either a natural termination or a termination by notice on either side. Supposing that international copyright raised the prices of books in America to a very appreciable extent, do not you think that public feeling would demand, after a certain number of years, that the treaty should be dissolved and renounced?—It would be a question of the extent of the rise in price. It would have to be very considerable before it would produce a general feeling of that kind.

1391. You do not think that they would stand an English novel being published in America at 30s. because they had extended the copyright to the author?—I doubt whether that question has very much to do with copyright. It seems to me that the difference in the method and the price of publication arises rather from the circumstance that the English publisher either appeals to a different class or publishes on a different system from the American. The English publisher, I suppose, publishes his novel in three volumes with the view of selling the greater portion of his edition to circulating libraries, and many English works of other classes are published in an expensive form, appealing to a limited class able to pay a considerable price for the book. Now in America the book would

very likely be published in a cheaper form, with a view to a larger circulation—not a limited circulation at a high price, but a larger circulation at a moderate price, and that quite irrespectively of the question of copyright.

1392. But at the present moment the American public are accustomed to have books at a cheap price on this account, that if one publisher reprints an English book at a high price, another publisher has an equal right of publishing that book at a cheap price, therefore the natural competition of trade reduces the price; but if that competition were done away with the publisher who got the copyright from the English author would have a monopoly of the sale, and that might be a temptation to him to raise the price?—I think that the rule would still hold in that case, that he would publish his book in such a manner as to obtain the greatest profit from it; and the theory in America among publishers is that it pays better to publish a book at a moderate price with the view of getting a large circulation of it, and in a less expensive form, than it does to publish it at a high price in the expectation of only a limited circulation.

1393. (*Mr. Daldy.*) Do you know the American copyright law pretty well. You spoke just now of the copyright being renewable?—The statute will speak for itself. The following is the enactment:—"The author, inventor, or designer, if he be still living and a citizen of the United States or resident therein, or his widow or children, if he be dead, shall have the same exclusive right continued for the further term of fourteen years, upon recording the title of the work or description of the article so secured a second time and complying with all other regulations in regard to original copyrights within six months before the expiration of the first term; and such person shall, within two months from the date of said renewal, cause a copy of the record thereof to be published in one or more newspapers printed in the United States, for the space of four weeks."

1394. That, I think, limits it to the author's representatives?—Yes.

1395. Is copyright restricted to American citizens or residents?—In America it is.

1396. Is it necessary for an American both to print and to publish his book in America in order to acquire copyright?—No.

1397. You have said that there is a strong national feeling, chiefly in the Western States, in opposition to international copyright, and that you think that it is on account of their desire to maintain as great a cheapness as possible for books?—I hardly think that I said that there was a strong national feeling. I certainly meant to limit it.

1398. A feeling in the Western States?—I do not wish to do any injustice to the Western States; what I meant to say was that so far as I have known any active opposition or any strong feeling expressed against an international copyright, if my memory serves me, the men who expressed it were men who represented in Congress the Western States. I therefore inferred that they represented the feeling in existence there. I think that that is the substance of the answer which I gave, or certainly ought to have given, before.

1399. May I ask you whether any feeling has been expressed against the high rate of import duty imposed on books imported into America. Are you aware of the expression of any strong feeling on that subject?—It would be limited to a very small class of persons, I think, if it has been expressed. There are Americans who prefer English editions of English books, and efforts have been made, with more or less success, to reduce the duty on books imported from England; but the great majority of book buyers in America would still buy the American edition whatever the duty might be, or if the duty were wholly removed, because it would be published in a cheaper form, and it would be within the means of a much greater number of book buyers.

1400. Still, would you say that although the opposi-

tion aims at obtaining cheapness, it is directed against international copyright and not against import duties, as far as you are acquainted with it?—There is undoubtedly a strong opposition to international copyright, but I should say as a rule that the opposition to the duty on imported books had come from those who were in favour of an international copyright.

1401. Speaking of the effect on American authors, will you tell me whether you think that American copyright works are cheaper or much cheaper than copyright English works, comparing the copyright books of one country with the copyright books of the other country?—I think that they are cheaper.

1402. Do you know Mr. Holmes' books?—Yes.

1403. Do you think that they are cheaper than such books would be published here?—When I say yes, I ought to say that I have known nothing personally of the dealings in books in the United States for many years, because I have been living here: but at the time when I bought American books, books were certainly published much cheaper in America than in England. I cannot answer that question specifically in reference to Dr. Holmes' books, because I do not know what the prices of them are as they are published at this moment. I know in a general way that the prices of all books of that character have been raised within the last 10 years by the American publishers, for which there are reasons quite independent of this inquiry.

1404. Are you acquainted with the current editions of Washington Irving's works in America?—I cannot say that I am acquainted with the current editions; my experience goes back more than 10 years.

1405. You think that an international treaty would tend to raise the price of books over there. Do you consider that the extent of that rise would be simply the additional cost of the copyright, or do you think that it would be greater?—I do not see why it should be greater.

1406. I understand you to say that American authors would be more highly remunerated if an international copyright treaty existed?—I am very sure of it.

1407. (*Sir H. D. Wolff.*) What I wish to elicit from you in asking about the price being raised in consequence of the copyright is this: the price of the copyright no doubt would be an additional element of expense; but it is a monopoly, and would it not give a temptation to raise the price generally, the publisher who had the monopoly could do so if the public would stand it?—I tried to explain before why that did not seem to me likely to occur merely in consequence of an international copyright, namely, that I did not think that it would change the customs of the trade and the habits of dealing in books which now exist in America. The relations between the publisher and the public would be very much the same as those which exist now.

1408. (*Sir H. Holland.*) You are probably aware that there have been negotiations at different times for a copyright convention between the United States and this country?—I know that there have been.

1409. You are aware that a convention was actually signed in 1853 by Mr. Crampton and Mr. Everett?—I have heard of it.

1410. And that it was rejected by the Senate in 1853?—Yes.

1411. Have you any ground to doubt the accuracy of the reason which Sir Edward Thornton gives for that rejection, in a despatch of his dated the 5th March 1870, namely, that it was, in fact, the publishing interest which prevailed with the Senate and induced them to reject that convention?—I have no doubt that that is correct; that would be one very strong reason.

1412. Are you aware that a convention was again proposed in 1870 by Sir Edward Thornton to Mr. Fish, which draft convention was submitted to the publishers, and that they were, I will not say, altogether unanimous, but as a body strongly opposed to the convention, and that therefore it dropped?—I did not know that that was the reason. I had heard of the negotiations. I think that I know very well what the publisher's feeling in the matter is, namely, that

they will never consent, so far as they are concerned, to what they call an English publisher's copyright; neither do I think that the general sentiment of literary men, or of any other class that I know anything about in America, is in favour of such an international copyright as that.

1413. In fact you think that the publishers would never consent to any international convention which did not provide for the printing and setting up in America?—I should prefer to state it in this way, that I do not think that they would consent to an international convention which permitted the exclusive manufacture in this country of English books, and the export of the manufactured book from this country to America. The influence of that upon printing and other kindred trades in America would be very injurious.

1414. It was reported in that despatch of Sir Edward Thornton's, with reference to the convention of 1870, that it "had been referred to various authors and publishers in the United States, and that the former had almost unanimously expressed themselves in favour of such an arrangement between the two countries, but had at the same time expressed their opinion that it would be impossible to overcome the resistance which would be made by publishers to the proposal then submitted, unless an article were inserted stipulating that those British authors who obtained a copyright in America should be obliged to have their works set, printed, and bound in that country"; and in the same despatch Sir E. Thornton points out that Messrs. Appleton and Company, publishers, of New York, maintained that unless such an article was inserted, no copyright convention should be agreed to. Have you any reason to doubt the correctness of those statements?—Not the least.

1415. And that, as I understand, rather bears out your view, that the main opposition proceeds not from the literary persons of whom you have been speaking, but from the publishers?—Yes, I am quite certain that the opposition is not from the literary class.

1416. As bearing that out, are you aware that in the years 1870 and 1871 four different Bills were introduced into Congress, and that of those four Bills three required publication in the United States, and two of these three required publication by citizens of the United States?—I am not prepared to say anything on the subject of those Bills.

1417. I asked whether you were aware of the fact, because it is rather important, as showing what the views of the American publishers are. Probably you are not aware of Mr. Morrill's report to the United States Senate?—I do not think that I have ever seen it.

1418. Your opinion is distinctly, that an international copyright convention would improve the condition of American authors?—Very distinctly.

1419. Do you not think that the advantage to American authors would be very considerable in the case of school books. Are not the school books of the American authors increasing even now, and will they not very much more increase if there is an international copyright?—I have no special knowledge on the matter. I have an impression that American school books are more valued in America than English school books.

1420. And it would tend somewhat, though perhaps not materially, to raise the price of those school books?—I should suppose that it would.

1421. But I understand you to say that, looking to the course of trade, and to the way in which the trade has been conducted in the United States for a long time, you do not think that any very great increase in the price of American books would arise from a convention?—I do not see why it should.

1422. They would still be published in a cheap form, so that they might be bought by the masses?—Yes. As I said before, that question seems to me to be one more or less independent of the copyright question.

G. W. Smalley,
Esq.
23 June 1876.

1423. The fact of an international convention will not affect the regular course of business, which is to publish cheap editions?—I do not see why it should.

1424. (*Mr. Trollope.*) An international copyright would not operate to create any alteration of the form of publishing?—I should think not.

1425. (*Chairman.*) But at the same time you think that it would have an effect in favour of the native authors?—A very distinct effect.

1426. Will you have the kindness to explain how under an international copyright the price of books published in America by native authors is not to be raised, while at the same time the remuneration to the native authors is to be increased?—The number of books of American authors would be increased, and the total amount paid to American authors would thus be increased. It is equally true that if the American author were no longer subjected to competition with English authors except on equal terms—that English and American authors were equally entitled to copyright, that is—the price paid to the individual American author might be augmented. A book might still be published at the same price as now, but the American publisher would then be equally ready to publish an American book of which the native author had the copyright, because he could no longer publish an English book and get the same price and sell the same number of books without having to pay any copyright to the English author. In addition to that, the

American would benefit by a more perfect copyright in England than he now has.

1427. (*Sir H. Holland.*) It is in fact the exclusion of the power of printing English books without paying anything for them?—Undoubtedly.

1428. (*Sir H. D. Wolff.*) Do you think that an American publisher would rather publish an English book for which he pays no copyright than an American book for which he does pay copyright?—If he can get the same price from the public for the two books it is clearly to his profit to do so.

1429. That is as much as saying that one book comes into competition with another book. Supposing, for instance, that an American wrote a very interesting novel which would have a sale, and that the American publisher of the novel had the chance of publishing an English novel without paying copyright, one does not appear to me to interfere with the other; he would be willing to give the American author the price of his book and the two would not come into competition?—The two particular books might not, but the publishers, I suppose, would calculate the elements of cost of each book which he could issue, and if in the one case he must pay the author, and in the other not, I suppose that he would consider that he could publish the latter book at a less price to him, and at a less cost to the public.

1430. Would it not depend very much upon the goodness of the book?—It would depend very much, I suppose, upon the probable sale; he would look upon it as a purely commercial enterprise.

The witness withdrew.

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

Tuesday, 27th June 1876.

PRESENT:

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

SIR JOHN ROSE, Bart., K.C.M.G.
SIR JULIUS BENEDICT.
DR. WILLIAM SMITH.

ANTHONY TROLLOPE, Esq.
F. R. DALDY, Esq.

J. LEYBOURN GODDARD, Esq., Secretary.

EDWARD DICEY, Esq., examined.

E. Dacey, Esq.
27 June 1876.

1431. (*Chairman.*) I believe that you have for some time taken an interest in the copyright question, more especially in that branch of it which refers to international relations?—I have come across copyright questions in the course of my business in many ways; I have known many people who take an interest in the matter, and I have seen a good deal of the working of it in one way or another.

1432. With respect to the international relations between the United States and this country, have you any opinions which you would like to express upon that subject?—I should like to say first of all, with regard to the general question of copyright, that my views as to what copyright should be are not unfairly represented, to the best of my knowledge, by the existing arrangement; I am speaking of England alone. As to whether the time should be longer or shorter, seems to me to be a matter upon which I do not feel competent to express any very definite opinion; but I have a very strong opinion that copyright is essential to authors, and that their works must be protected. If anything which I have written has led some people to think that I object to the existence of copyright, I wish to say that that is an entire mistake. I do not think that without copyright, of a sufficiently long duration to enable the author to get a return from his works commensurate to the return which he would get in other fields of labour, you would have literary works of reputation. Therefore if it could be shown to me that the present period or arrangement was not sufficient for that purpose, I should be strongly in favour of extending it.

1433. (*Mr. Trollope.*) You know the period of copyright in France. You are aware that it is 50 years after the death of the author?—So I have understood.

1434. You are probably aware that in Germany it is 30 years?—No, I was not aware of that.

1435. Do you think that either of those arrangements is preferable to the English arrangement?—It seems to me, generally speaking, that they protract the period at which the work becomes common property to rather a long date. If you could frame a system under which a man might have the benefit of his productions for life, and his children might further have the benefit of them until they had got out of the state of education, it would represent my idea of a copyright.

1436. Do you not feel that if you extended the privilege to the life of the children there might be a great difficulty in ascertaining whether a child were alive or not. 'A daughter might have married and gone to some foreign country, and you might not be able to trace her?—Yes, I presume that 42 years was fixed upon on the estimate that that would be the ordinary probable period of a man's life.

1437. You are of course aware that a great many valuable copyrights now run out very shortly after the author's death?—Yes.

1438. You are probably aware that some of Mr. Dickens' copyrights will expire within a few years of the present date?—Yes.

1439. And that they are now producing a large income?—Yes.

1440. Taking the case of Mr. Dickens, does not it

appear to you that a man who has created so great a property should be enabled to leave some greater portion of it behind him than that which he is enabled to do under the present law?—If you look upon the question of the abstract right and equity of the arrangement, I confess that I see immense difficulty in basing a limited copyright upon any principle of equity. The only principle upon which I base it is that you must secure a sufficient profit to induce a writer to produce works. Now most certainly if anybody could be guaranteed the profit which Mr. Dickens received from his works, he would produce them if he had the power to do so.

1441. I will go to another case, that of a great poet. You probably may be aware that the property of Mr. Wordsworth's works was not nearly so great a short time before his death as it became after his death?—I should think so.

1442. Do you not think that in that case the German term of 30 years after his death would have given to him, and to his family, a fairer amount of the property which he had created than that which they have been enabled to enjoy under our law?—It would have given a much more beneficial amount to them, and in that case it would have been fairer as far as regards the family, but it is a point upon which I really do not feel competent to express a very definite opinion.

1443. (*Mr. Daldy.*) With reference to the duration of copyright, you know the American law of copyright?—Yes.

1444. Can you give us any reason for the American copyright law breaking the term into two periods, namely, a period of 28 years, and a subsequent period of 14 years. What is the reason for that arrangement?—I think that it is simply one of the accidents of legislation, I never heard any philosophical ground assigned for it.

1445. Do you think that it would be accounted for by supposing that a copyright was never worth more than 28 years' purchase, but that if it did live beyond that time it would be fair to the author to extend the time and to allow him to sell it for a further period?—It might have been so, but my impression would be that the saleable value of any copyright beforehand, before the book had got into vogue, was much below 28 years' purchase.

1446. But it would not exist beyond 28 years under any circumstances?—Certainly not.

1447. If, however, it became valuable afterwards, would you think it fair to the author that he should have the right to sell it at the expiration of 28 years, and have another term of protection for his copyright?—There certainly would be nothing unfair to the author in it, nor do I see anything detrimental to the interests of the public in an arrangement of that kind; but, as I said before, I rather demur to the theory of abstract fairness coming into the question.

1448. (*Chairman.*) We will now ask you for your view upon international copyright?—My view, briefly speaking, with regard to international copyright, as far as I have paid attention to the subject, is this. Of course in theory an ideal international copyright law would be one between all civilized nations, and in the course of time one must hope that there will be something of that kind; but as an immediate question, so far as England as a book-producing country is concerned, the international copyright question would be more strictly defined as an Anglo-American copyright question; and I think I may state so for these reasons, that to the best of my belief there are no French, German, or Italian books published here in the native language, and that you may say that for foreign consumption, there are no English books published abroad. The Tauchnitz editions constitute not only an apparent exception, but a very real exception to that rule; but from the best of my observation the Tauchnitz editions are sold, not for the foreign public, but for the British tourist abroad; and supposing that anything happened to stop the exodus of English people to the continent every summer, the Tauchnitz editions

would cease to be published. That of course constitutes no reason why there should not be an arrangement which would protect English authors against the republication of their works by Baron Tauchnitz, which are bought across the frontier by English people; but it makes the question an entirely different one from that of a foreign nation using our own language and reproducing our own works. The sale of the Tauchnitz editions is to my mind a sort of sale *in partibus* of English books to subjects of this country. Therefore, I say that I consider that for practical purposes, speaking simply with regard to literature—and not with regard to music, or with regard to the drama, in which entirely different questions come in—but with regard to English authors, the one market which they could secure of great value to themselves by an international copyright, is that of America; and by America I include Canada, for this reason, that, if you made a perfect arrangement with Canada it would be practically useless, owing to the length of her imaginary frontier, unless it extended to America. If English authors had perfect protection in Canada, their works would be undersold in the Canadian market by contraband American books carried over the frontier, and to the best of my belief no power on earth would ever stop that contraband trade. Therefore I consider the international copyright question to be virtually, for any immediate purpose, an Anglo-American question. With regard to the other colonies, there does exist a copyright law between England and Australia; and, of course, if the colonial legislatures have no objection to the extensions of our copyright laws to their territories, that solves the question as far as they are concerned. To the best of my view, the international question, I repeat, is the question how far English authors can be guaranteed an interest in their works in America, and how far American authors, *vice versa*, can be guaranteed an interest in their works in England. From my experience of America I should say that American authors, as a body, are very favourable (I should think from my knowledge without exception) to the establishment of a copyright with this country; and for very obvious reasons. In the first place, a certain small number of them, men like the late Mr. Hawthorne, Mr. Russell, Mr. Longfellow, and Mr. Lowell, and I should say to a far greater pecuniary extent authors like Artemus Ward and Mr. Clemens would earn a most substantial increase to the profit of their works if they had copyright in England; and more than that—apart from the question of pecuniary profit in a foreign country, and of having a new market in another country—American authors are perfectly well aware that their market value in their own country is depreciated by the competition of works for which nothing whatever is paid. As far as I have perceived, an American author of distinction receives far less for his work than an author of analogous distinction would receive in this country; and what is even more than that, an unknown author in America receives almost nothing; he has no encouragement to enter upon the trade of literature, from the simple fact that if he goes to a publisher he is told that his novel or his poem, or whatever it may be, can be matched by a similar work produced in this country, for which nothing is paid, and which is also a work by a man whose name is more or less known on the other side of the Atlantic. Upon those grounds, and also because they are men of higher education and higher culture than the bulk of people, the American literary men as a body are strongly in favour of copyright, and would use their influence as far as it went, I have no doubt, to promote the extension of a perfect international copyright. But on the other hand, as far as I have noticed, the influence of American literary men is extremely small in America. Socially, their position may be very good, perhaps even better than it is here, in the analogous cases, but they have no political influence whatever; they have no great part in public life, they are a class with the sort of power which the antiquarian has in this

E. Dickey, Esq.
27 June 1876.

country; they are looked up to and respected, but they do not possess any great influence as regards either public feeling in the States, or the legislation of the country. Then there is a further difficulty, namely, that the literary men of America, with one or two very rare exceptions, belong exclusively to one small state, Massachusetts; they are therefore a sectional body, and belong to a state which is declining in political influence, owing to the numerical increase of the west; and therefore they have the same sort of influence as British writers might have if they were exclusively confined to Scotland, and if the whole production of literature was confined to Scotland. On those grounds I consider that the goodwill, undoubted, of American literary men towards the formation of an international copyright, is not a powerful element towards its success, though undoubtedly it is an element. On the other hand, the American publishers, as a body, are entirely opposed to the existence and the operation of any international copyright. The present system suits them extremely well; in fact, no system probably could be devised which would suit them better; and, unless you find a man exceptionally high-minded, the chances are that he will favour a system which suits his own purpose. I should add that, as far as my observation goes, American publishers are not a numerous, but are a very active and energetic body, and are connected through the press with all the wheels by which legislation is worked at Washington. Legislation is perhaps influenced by indirect personal agencies in every other country; but this is eminently the case in America, and therefore American publishers exercise an influence upon Congress, out of proportion to their general influence in the country. They, also, in opposing copyright, have in their favour the strong protective sentiment of all trades in America. There is a general feeling throughout all people in business in America that the protective system hangs together, and that if you throw it over in one respect, you are very likely to throw it over in another. Therefore the large class of traders who have no interest one way or another in the copyright question, would act closely together against the grant of an international copyright, upon the ground that it might interfere with their system of protection in other respects. There is a further feeling in the country, especially the western parts, that copyright would be a benefit to England, and therefore must be an injury to America; and the sort of ignorant hostility to England, which is very prevalent in the United States, especially in the voting class, would come into play with respect to any proposal for an international copyright law, as it would be looked upon in America as a concession to England, and as a boon to benefit England at the expense of America. Then, again, a consideration which I think has a far more powerful influence is this: the whole system of publishing in America is one of cheap publications. You have there an enormous body of readers. I should think that, compared to the population of the country, the number of people who read books is perhaps larger than in any other country. On the other hand they are not wealthy in the mass; they are not people who collect libraries, but they buy what we should call cheap editions, and the result of that is, that with a few exceptions, the great mass of books which are published in America are published very cheap. The consequence is that all over the States you can buy what may be called the modern classics of England, copyright or no copyright, at a very low figure indeed, and the public have in consequence the great advantage, as they estimate it, of this very cheap literature. Of course if it could be shown that the granting of a copyright would not enhance the price of works republished in America, this objection would disappear; but, rightly or wrongly, the great mass of the American public are fully convinced that if you were to grant a copyright law to English works published in America their price would be raised; that the English system of publishing works at high prices would be introduced into the country; and that therefore they would be

debarred from the practical perusal of the modern English works.

1449. (*Mr. Trollope.*) Do you think that that is a general opinion in the country?—I think that it is very general. The common argument is this, they say, “We go over to your country and see the price at which your English books are published, and if you had the right of re-publishing works in America of course you would raise the price of the English book to the American public.”

1450. Do you think that the readers of books in America consider that argument?—I do not think that the readers of books consider any argument much in any country; but when that argument is brought before them it has a great effect upon their minds, and this is the popular argument put forward by the persons opposed to an international copyright.

1451. That is the argument generally put forward by publishers, but have you ever known it to be put forward by politicians of note who have discussed the question in the States?—I should say yes. The copyright question is not a question which interests the great mass of mankind in any country, but it is one which chiefly concerns ourselves. When we put it to them that the present system is a great hardship upon English authors, they say, “that is very true, but we are a new country, and our system depends upon its popular reading and education, we must have cheap books, our people will not pay dear.”

1452. You are aware that the Senate at one time agreed upon the terms of an international copyright with England?—Yes.

1453. They agreed to a recommendation made by the committee of foreign relations?—Yes, I understood that they did.

1454. (*Dr. Smith.*) Are you aware that an American may obtain copyright in this country by publishing his work here first?—Certainly.

1455. And that he may then obtain copyright in the United States in virtue of his being an American citizen?—Yes, I have often thought this to be a hardship to an English author.

1456. On the other hand an English author, if he first publishes in America does not obtain copyright there in consequence of his being a foreigner, and loses copyright here in consequence of first publication in America, are you aware of that?—I am. It is a privilege which has been largely used by American authors. Mr. Hawthorne used it to a considerable extent, and Mr. Motley has used it.

1457. Would you be prepared to recommend that our law should be altered so as not to give an American copyright here by first publication?—As a matter of justice I should certainly recommend it; as a matter of policy I should say that as our best friends with regard to copyright are the American men of letters, it might be prudent not to offend them.

1458. Might it not be a means of forcing them to use their influence to obtain an international copyright?—I think that it might certainly.

1459. (*Mr. Trollope.*) That would be retaliation, would it not?—I do not know that you can call it retaliation, it would be simply saying, “We want reciprocity, and unless you let our authors have copyright, on publishing advance sheets in America, we cannot do it here.”

1460. I think that it would be retaliation if we were to take away from them an advantage which they now enjoy because they do not give us the same advantage?—The word “retaliation” seems to imply something vindictive.

1461. Do you think that this withdrawal of what the Americans now enjoy would be the best means of inducing them to accede to our view of settling the question?—Certainly not; I think that it would produce an undesirable effect in America, and strengthen the impression of hostility, which is a great deal too strong already. I may say briefly that my view is that for practical purposes, for saleable purposes, we have to ask far much more than we can possibly give in return. I mean this; if we had an interna-

tional copyright, that is to say, if the English copyright law could be extended to America, so that an Englishman and an American would be on the same footing, English authors would gain 25*l.* for every 1*l.* gained by the American authors, because the demand for English works in America is so infinitely larger than the demand for American works in England; and also because the supply of literature in England is so much larger than the supply of literature in America. Therefore, if we demand a copyright, we are practically saying to the Americans, "Give us an advantage which will profit us directly far more than you," and that being the case, when we are asking for more than we can give, our object should be to be as conciliatory as possible, and to meet American views in every possible way if we are to get anything from them, as we cannot force them to make concessions; it is only by persuasion that anything can be done. On the ground of persuasion being the only weapon at our disposal, I should deprecate any proposal like the rescission of the present system as given to American authors, as being likely to alienate the class of people in America who are most strongly our friends in the matter.

1462. We have given commercial free trade to nations which have not given it back to us?—Certainly.

1463. And we ultimately found that our views prevailed by doing so?—We found it to our own benefit to do so.

1464. We at any rate found that our views prevailed?—I do not know that with regard to America.

1465. (*Sir J. Benedict.*) You know Americans and American authors very well, and I had occasion during my stay in America to be acquainted with several of them. What you have justly remarked about the paucity of talent in America is perfectly true. If any treaty could be based on the ground that it was desirable for the Americans, as much in literature as in music and fine arts, to extend their operations so as to make it worth the while of young men of talent to pursue a literary career, do you not think that it would answer the purpose much better than seeking for a hostile measure so as to exclude copyright from an American author in England. I mean, if it was put on the ground of elevating the character of American literature. I do not say elevating it generally, because American authors as we know occupy a very high station in almost every branch of science; but I mean as regards young men who earn a very scanty subsistence and who are actually obliged to write in the newspapers almost for nothing?—That is perfectly true.

1466. The same thing applies in a much higher degree to music. Although the States have existed for a century, you can scarcely quote a single American composer of really great renown, and for the reason that all the compositions not only of England but of France, Italy, and Germany are printed and published in America at almost a nominal price, the consequence of which is that comparatively very few distinguished native musicians are to be found in America; and on those grounds, and chiefly on those grounds, it would be an argument which would come home to them if such a system as I have mentioned could be adopted, recommended by the Senate and by the Legislature. Do you coincide in that opinion?—I perfectly agree with you in that view; and if I were an American lecturing in America in favour of copyright, that is the one argument on which I should base my case, namely, that you cannot have a national literature or national music while you are exposed to the competition of the unpaid foreign producer. But if English people put forward that argument, it does not weigh to the same extent with Americans, because they do not believe that our wish in getting a copyright law is to produce a native literature in America; they say, "You want to get a copyright law, because it benefits yourselves." Therefore when we put forward the argument that we are doing it for the

benefit of America, they distrust it; and it is not a strong argument on our side.

1467. The ground for almost every measure may be distrusted; but it might be proposed. The benefit might not be immediate, but perhaps measures could be adopted to protect American authors to a certain degree?—Exactly so.

1468. By establishing a sliding scale, if I may be allowed the expression, and so extending it, and making it more easy for them to acquire copyright?—This is exactly what the conclusion of my argument is, that distrusting, rightly or wrongly, the possibility of establishing an extension of English copyright to America, I think on the other hand it would be possible within a reasonable time to get a system established under which the English author and the English composer would have a valid and substantial interest in their works guaranteed to them by law in America, and *vice versa* as regards the American author and the American composer in England. It seems to me that the practical point is this. I am speaking now of the American publisher's view, and, after all, the publisher's view is filtered very much through the mass of the country. What they have always said to me is, "We never will consent to any arrangement by which the English author can say, "Unless you give me such and such terms you shall not re-publish my book in America." They say that they are perfectly willing on the other hand to consent to an arrangement by which an English author is guaranteed some percentage or bonus upon his works if reproduced by them; but what they insist upon is that the right of re-publication, and the price at which the re-published work is sold, shall be within their arbitrament and not within the arbitrament of the English author. Now about the abstract justice or equity of that point I will say nothing, because, as I have said, I do not think that practically the question is one in which you can argue upon abstract grounds. The most distinct proposal that I ever saw put forward was that which I believe was formulated in the course of last year by the Canadian Government for a royalty of 10 per cent. upon every copy of a book.

1469. (*Mr. Trollope.*) Was the royalty 10 per cent. or 12½?—I think that it was 10 as formulated by the Bill or by the arrangement which was come to.

1470. Are you speaking of the arrangement under which it was proposed that the Canadian publishers should be enabled to publish whatever they pleased, giving a percentage of the price to the author?—Yes.

1471. That was the Bill which we have called Lord Kimberley's Bill, and under that Bill the amount of the royalty was I think 12½ per cent.?—I did not know it by that name. The amount may have been 12½ per cent., though I think it was 10 per cent. I think that if you proposed an arrangement of that kind with America you would have in your favour the active support of the American authors as a body. Though the American publishers would not probably wish for such an arrangement in itself, yet they would feel that the question was one upon which it was better to have a positive arrangement, and they would very willingly accept a compromise of that kind as giving them still the lion's share (which is what they insist upon having) of the profit on re-publication. On the other hand the American public would feel that to make an arrangement of that sort would remove the sort of slur attaching to them of pirating English works without making any return; and the argument that this 10 per cent. or whatever was the amount of percentage given to the author would very materially increase the price of English works in America so as to altogether alter the conditions of sale, is obviously untenable. On those grounds I think that if the proposal was brought before the American Government in an acceptable way, it is not unlikely that they would consent to some arrangement of that kind.

1472. Do you not think that any such terms should be proposed to us from the States rather than proposed

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E. Dickey, Esq. by us to them?—Any proposition, to my mind, to be successful must come from us, and not from them.

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1473. Supposing that this Commission recommended our Government to press upon the American Government some law of international copyright, would it not be better that we should press upon them to propose to us a measure of which they should fix the details, rather than that we should attempt to fix them?—I think that it might be so, but, on the other hand, I doubt Americans ever really initiating a measure of their own, because, as I have said, the chance of an international copyright is not a grievance which affects the great mass of Americans at all, it does not come home to them in any manner whatever; and there are so many conflicting interests there that, practically, the matter would be allowed to go on sleeping for many years to come unless the initiative was really taken by this country.

1474. In taking the initiative, as we propose to do, would it not be more desirable to leave to them the details of an Act or treaty, which must after all be their Act, or their treaty?—In answer to that question, I would say that my own view is strongly that no copyright arrangement between America and England can ever be concluded upon this side of the water. If I might venture to give my own suggestion of the course to be pursued in the interest of copyright, it would be that the Commission should recommend certain principles, whatever they might be, and that in order to see how those principles could be carried out in practice, a joint commission should be appointed of a certain number of English men of letters whose names are known in America and a certain number of Americans, or a commission should be sent out to America to arrange the terms of agreement. When once you come to the actual terms of any agreement, such as I have mentioned, of the nature of a royalty, you have to deal with such a vast number of technical points, and have to conciliate so many personal and private interests, that I doubt its ever being carried to a successful issue without direct personal communication between the representatives of the two countries.

1475. (Chairman.) The representatives of the two countries would be the English Minister at Washington and the American Minister for Foreign Affairs, would they not?—To my mind the question would have a far better chance of being solved if America was represented by two or three men in America, of whom America is proud as literary men, because their pride in their literary men is out of all proportion to the number of literary men that they have. I think that if you could devise any arrangement which could be endorsed by such names as Longfellow and Lowell and Motley, and by similar names over here, such a proposition would command far greater weight in America than even a much more satisfactory understanding arrived at between the American Minister and the Foreign Office here. In all American matters when you come to politics the party element is so strong, to an extent which, happily, is quite unknown here, that if a copyright scheme was proposed by a Democratic minister the Republicans would oppose it, and *vice versa*. My feeling is that though the American literary men have no direct political influence in America, yet on a point like this their opinion would go a very long way indeed in influencing the opinion of the country.

1476. (Dr. Smith.) If I understand you rightly, you would propose, as the most effectual means of accomplishing the object, that our Government should, if the American Government would consent to it, appoint a small commission of eminent literary men to go over to America to consult with eminent American literary men, and to agree upon some common terms?—Yes, that would exactly express my suggestion. I do not think it at all necessary, as far as England is concerned, that the men should be eminent literary men, because as a common rule, I do not think that men are the best judges in their own craft; but they should be men whose names are known in America.

1477. (Chairman.) You would have, in fact, an Anglo-American Commission?—An Anglo-American Commission.

1478. (Dr. Smith.) If I understand you aright, you have a strong opinion that a *conditio sine qua non* of obtaining a copyright in America for English authors is that the English books should be entirely produced in America, that is to say, that they should be printed, stereotyped, and bound in America, and that there would be no possibility of obtaining any international copyright on the basis of sending over the copyright books from England to America?—I should say, certainly not; that any proposal of that kind would be fatal to the prospect of any arrangement being concluded.

1479. And one of your reasons is that the principle of protection which is so strong in the United States would apply; and another reason would be that the interests of the American publishers and printers and bookbinders would be so opposed to it that there would be no chance of their listening to any proposal of that kind?—Exactly; that expresses my view precisely. I do not know whether I have made myself perfectly clear on this point. When I talked of the appointment of an Anglo-American Commission, the utility of the appointment at all, according to my idea, is conditional upon the broad principle being accepted by this Commission that we are willing to negotiate on the basis of a royalty and not of a general extension of copyright.

1480. (Mr. Daldy.) Do you, or do you not, see any difficulties in collecting such a royalty throughout the whole States?—Yes, I see very great difficulties.

1481. Do you see any practical way of getting over those difficulties?—Yes. No doubt there would be difficulties attending it; but I do not think them insuperable difficulties, if you have goodwill on the part of the Canadian and American Governments. If they wish to evade the agreement after the Act was passed, both on this side and that, it would be a very difficult Act to enforce; but on the other hand they have been successful in enforcing a large number of obligations of a similar kind with regard to Customs. One of the reasons why I spoke of the necessity of an Anglo-American Commission is the excessive difficulty of arranging any system involving payment by royalty in such a way as to guarantee the share of the English producer of the work; but still I do not regard that difficulty as insuperable. It has been suggested to me that the object might be effected by means of stamps; that no copy should be sold without a Government stamp, and that in proportion to the number of stamps issued a return should be made. That is one mode.

1482. Each country would require an organisation which would superintend not merely the distribution of these stamps to which you refer, but also the distribution of the money in England to the copyright owners?—Exactly so.

1483. Are you aware of the nature of the present Canadian copyright law which was passed last year, and sanctioned by an Imperial Act here?—No, I cannot say that I am well aware of its practical working, and of the conditions of it.

1484. Are you aware that under the second heading of the fourth section of that Canadian Act the condition of obtaining a copyright in Canada is, that the work shall be printed and published in Canada?—Yes.

1485. Naturally the basis of that proposal is that local republication shall give copyright. No copyright can be obtained in Canada unless the book be actually republished there?—Exactly.

1486. The local publication is the condition of the local copyright?—Yes.

1487. To which is attached the condition that the book shall also be printed there?—Yes.

1488. Do you think that any proposal on that basis would be acceptable to the Americans, namely, that the book should be printed and published in America, and that they should give us the benefit of their copyright law as regards an English work, on condition that we did print and publish it there?—As I take it,

in Canada, by virtue of this Act, the English author has no right to say that his work shall not be republished in Canada.

1489. Yes, he has that right. The copyright is given to any English author or publisher who does republish over there; but it rests with him to do it, or not?—I should say on the face of it that such a proposal would not be entertained in the States.

1490. Why?—On the ground which I have already stated, that it would interfere in the first place with the profits of the publishing trade; and that in the second place it would be regarded popularly as likely to enhance the price of republished English works in the States, and that to some extent it would be regarded as an interference with native traffic.

1491. (*Mr. Trollope.*) I understand you to say that you do not think that the United States would admit any international copyright law which did not insure to them the power of reproducing the article in their own country?—I think not; that is my view.

1492. (*Mr. Daldy.*) I intended to ask you whether a person on reprinting and republishing in America could obtain a copyright, or whether such a proposal would be probably entertained there, that an author on reprinting and republishing over there should obtain the benefit of the American copyright?—I should say not. I should say that such a proposal would not be favourably entertained.

1493. I have asked what would be the objections to it?—The objections to it are, first of all, that it would materially diminish, or be expected to diminish, the profits of the bookselling trade in America, from the fact that if the English author has the right of refusing his consent to the republication of his work, it means that he has the right of saying at what price that work shall be republished. Therefore, as far as it went, it would undoubtedly tend to increase the cost of republication in America; and anything which tended materially to increase the cost of republication in America would be opposed to the popular sentiment of the country, or the popular prejudice of the country, and therefore would not be acceptable.

1494. Do not you think that that would be outweighed by the security which would attach to anybody who did republish a work that he should have no competitors; he might republish it at a lower price, because he could distribute it throughout the whole market, instead of having competing editions, might he not?—As far as I know there is a sort of understanding and rule adhered to by American publishers, that if one American publisher republishes an English work, another will not republish it at the same time. I know that in one or two instances that rule has been broken through, and I know one very memorable instance in which it was broken through, but as a common rule there is an understanding between the members of the trade that they do not republish each others works in competition.

1495. There is no security for it?—There is no security whatever.

1496. Are you sufficiently acquainted with the American copyright law to know that an American is not bound even to have his own book printed over there, that an American book can be printed in England, and yet if published in America will obtain copyright there?—Yes, I am aware of that.

1497. Therefore they do not in any way interfere with the printing of their own copyright works?—No.

1498. They may be produced anywhere?—Yes.

1499. With reference to the observations which you have made as to the English system of high-priced works, do you consider that the works of American authors in which there is copyright, are published at a price, speaking generally, much below the price at which English works of a similar character are published over here?—I should say so, certainly.

1500. Do you think that the works of their popular authors are issued in such cheap editions

over there as ours are over here; take Washington Irving, for example, or two or three other of their standard writers?—I should say certainly that the price of a standard work in America was 75 per cent. below that in England.

1501. (*Mr. Trollope.*) Would you be surprised to hear that Cooper's novels in America cannot be bought at anything like so low a price as Dickens' novels can be bought at here?—I should be very much surprised to learn that a new novel had ever been published in America at 31s. 6d., or above two dollars.

1502. But you would not be surprised to hear that Cooper's works in America, as now published, must be bought at a much higher price than Dickens' works can be bought at here?—Dickens' works at the present moment are sold here extremely cheap.

1503. (*Mr. Daldy.*) Are not the works of several other authors sold as cheap over here at the libraries and bookstalls? I am referring to works of fiction?—They are sold as cheap after a certain period has elapsed. But our difficulty is this, in America the circulating library system is practically unknown; everybody who has a book does not get it from a library, but buys it for himself, if he has the book at all. Our high-priced system in England, owing to the library system, does not in the least hinder the ordinary reader of books from obtaining a work which comes out within a very few days of its publication. But if we had no circulating libraries in England, undoubtedly the mass of readers in England could not buy books within an early period of their publication.

1504. But would not local reprinting and republication ensure books being issued over there of a character to suit the market?—Not if that reprinting and republication were weighted with very high terms securing authors' rights.

1505. Does not it depend also upon the arrangement to be made? If an author cannot get one price, are not the chances that he will accept another?—That is a point upon which I feel a hesitation in expressing an opinion; it is a trade point, upon which I do not feel competent to speak with absolute certainty; but my impression is that in the case of a really popular English author, the English market is so much more profitable to him than any foreign market, that his arrangements and his publisher's arrangements would be based upon what is best adapted to the English market, and not so much upon what is good for a transatlantic or colonial sale.

1506. And you do not think that that would be sufficiently avoided by letting the Americans publish for themselves in America; that is to say, letting them locally republish?—Taking an extreme case, there is no English writer whose works are more popular in America than Mr. Tennyson. Supposing that Mr. Tennyson had a power of saying to an American publisher, "I will not sell you the privilege of republishing my works except upon terms which would not make it worth your while to republish;" the result would be to create a large piracy of the English copies of Mr. Tennyson's works in America, and the English publisher would find that he would get more by the profit on his pirated editions than by selling the work to an American publisher for republication. The publisher would say, if I publish Mr. Tennyson's works, the American public will have them, either in one way or another. If I refuse the permission to republish in America, the only result will be that a very large number of copies will, in some way or other, be smuggled over to America and be sold there.

1507. Undoubtedly?—And it is quite conceivable that it might be far more to my profit as a publisher to have an extra number of Mr. Tennyson's poems smuggled over, and sold at a high price, than to allow the republication in America at a low price, upon which naturally I could not get any very large amount, because the profit on a dollar book, and still more on a 50 cent. book, is very small.

1508. But are you aware that a provision is made in the Canadian Act which expressly meets that point,

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that if an author does not republish in Canada, American editions of his works can be introduced?—Yes.

1509. And by parity of reasoning, unless an author printed over there he could not acquire copyright, and therefore would not cheap editions be introduced?—If that is the case it seems to me to militate entirely against clause number 3 in the Canadian Act, because if the Canadian publisher has a right to say, "If you do not agree to my terms, I may in six months republish without your consent," where is the benefit to the author? He practically has to accept the terms which the Canadian publisher chooses to offer him.

1510. But surely the author can republish the work at any time, and he obtains a copyright from the time of its republication; that, I think, is under the 15th clause?—"Shall be entitled to copyright under this Act." I think so.

1511. If a proposal were made to America simply to revise that suggestion, offering that they should have the printing and publishing of the work in

The witness withdrew.

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

Friday, 30th June 1876.

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

PRESENT :

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

DR. WILLIAM SMITH.
JAMES ANTHONY FROUDE, Esq.
ANTHONY TROLLOPE, Esq.
F. R. DALDY, Esq.
J. LEYBOURN GODDARD, Esq., Secretary.

SHARON GROTE TURNER, Esq., further examined.

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1514. (*Chairman.*) I believe that you propose to supplement the observations which you made before us on a former occasion with some further explanation of your views on one or two points which arise upon the law of copyright?—Yes. I think that the last time I was here I got into rather a technical discussion about registration, which perhaps took up more of the time than otherwise would have been expended. The first general question which strikes me is the assimilation of the Law of Copyright in all the different works, both as to the term of the copyright, as to its extent, and also as to the conditions for obtaining it. As you are aware the present law differs materially in different species of copyright. The next point which strikes me is as to what works should be the subjects of copyright. I think that the works which should be the subjects of copyright are all those now entitled to copyright under the different Acts, and all productions of the fine arts by manual labour or mechanical process.

1515. How does that definition differ from the existing definition?—I rather suggest that the definition should include all the works now entitled to copyright under the different Acts—which should of course be entitled to copyright as heretofore,—with the addition of the productions of the fine arts. That more especially refers to lithography, oleography, and some of the modern appliances for the reproduction of different works.

1516. (*Mr. Dalby.*) Are they not the subject of copyright at the present time?—By inference only in some Acts, but there are now great varieties of means of producing copies of works which did not exist some time ago. I believe that photographs are not mentioned in the International Acts at all.

1517. Are you under the impression that the definitions of copyright at present do not include these new processes to which you refer?—I suppose that they must be considered to include them, but I think that they should be more definitely included.

1518. (*Sir H. Holland.*) You are aware that at present there are provisions in the Act which include prints taken by lithography or any other mechanical process, and also that copyright in photography as well

America, and that on no other terms could a book be copyrighted in America, do you think that the Americans would be injured. I am supposing that under such terms anyone else may republish an author's work: it is not copyrighted until the author publishes an edition over there?—If I understand you rightly you wish to know whether I consider that such an arrangement would be a fair or just one to the author. I think that it would be a very fair arrangement, but I should say that the Americans would not be prepared to accept the arrangement, simply on the ground that it was a fair one in the abstract. Although Americans with all people wish to act fairly and honourably, in so far as they can without any sacrifice to themselves, yet a desire to act fairly—there as elsewhere—is not the dominant feeling.

1512-3. (*Sir J. Rose.*) Do you think that there has been within the last three or four years any change on the part of authors and publishers in America in favour of copyright?—In favour of copyright pure and simple, I think certainly not.

as in paintings and drawings has been given by the Act of the 25 & 26 Vict. c. 68?—Yes; but I think that there should be a clear definition as in the German Act.

1519. You think that there should be a large definition to include all those subjects?—Yes, that is my notion.

1520. (*Chairman.*) Having given us your view as to what works should be the subjects of copyright, will you say who in your opinion should be entitled to possess copyright?—It seems to me that there should be three distinct classes. In the first place all persons who at the time of the first publication, production, or representation of their works shall be natural-born or naturalized British subjects in any part of the British dominions wherever resident at the time of first publication, production, or representation; secondly, alien friends wherever resident at such time; and thirdly, any person residing temporarily or otherwise in the British dominions at such time. I should like to remark that those suggestions are founded upon the difficulties which to a certain extent exist at present. It is not defined by the Act of 1842 who are to be the possessors of copyright, and under the Engravings Act I think the right is given to every person, while under the Fine Arts Act it is limited to British subjects, or residents within the British Dominions; and the question, as I have no doubt you are all very well aware, was raised chiefly in the celebrated case of *Routledge v. Low*, where the judges in the House of Lords differed in opinion. We have also to consider the effect of the Naturalization Act of 1870, which states that all aliens, I think, shall be entitled to hold personal property in the same manner as any of Her Majesty's subjects, and as copyright must be considered as personal property, the present legal decisions are possibly unsustainable. That seems to be a very important point with regard to the question, and it is one which no doubt will receive the full consideration of the Commissioners. I merely suggest that the larger the opportunities of obtaining the right can be made it seems to me the more it will be to the advantage of everybody concerned.

1521. (*Sir H. Holland.*) You propose to extend

this copyright law to the colonies as I understand—to all the British dominions?—Yes.

1522. Do you propose to make first publication in the United Kingdom necessary?—No; my notion is that first publication in the United Kingdom should not be an essential.

1523. (*Chairman.*) Have you any observations to make as to the definition and the extent of copyright?—I think that copyright should be extended, if you may say so, to include, without express mention, the right of dramatizing and translation; and the extent of copyright certainly as to place should be the whole of the British dominions—as to time either 42 years from the date of first publication, production, or representation, or 28 years with the right of renewal reserved to the author or producer or his representatives for other than valuable consideration for a further period of 14 years, that further period to be only obtainable on registration, say within 6 or 12 months before the expiration of the 28 years.

1524. (*Mr. Trollope.*) Would that be a second registration?—I should propose that; in fact, re-registration.

1525. Do you propose that the term should not be prolonged for any period after death?—It seemed to me that the 42 years would practically be the utmost extent in point of value which would probably accrue.

1526. You are recommending that the term now allowed by law should be curtailed?—No; that is not my notion. I do not so much object to the specified time, if it is thought advisable to extend it, being beyond the 42 years; but taking all things into consideration I think that it seems advisable to dispense with the alternative of the life of the author.

1527. According to your present recommendation the author might lose his copyright within the period of his own life?—Yes, that might possibly be the result of fixing the term at 42 years.

1528. Would it not be not only possible but very probable?—But I think that he would have obtained the full value of his copyright during the 42 years.

1529. Do you think that it would be admitted generally that Mr. Dickens, had he been alive, should now have lost the copyright of his "Sketches by Boz"?—I think that it is hardly fair to take the case of a work which was published before the Act came into operation. The actual term of copyright possessed by Mr. Dickens at the time would have been known and the proportionate value paid at the time of the production of his work.

1530. Do you not think that the way to look at a question like that is to see the effect of it in a certain case which is familiar to us?—Yes, except that I think that you ought to take it with reference to the law which existed at that time.

1531. You, however, intend to propose that if an author lives more than 42 years after the publication of his book he shall lose the copyright in his own lifetime?—I think that 42 years would be sufficient to enable him to reap the advantage, and I would dispense with the alternative.

1532. But you do intend that an author who lives beyond the 42 years shall lose the copyright in his lifetime?—He might in some cases.

1533. Therefore you recommend a curtailment of the present time?—In most cases I think that the 42 years would include the author's decease.

1534. At present if an author lives for 42 years after the date of publication and then dies, does not his copyright run for seven years longer?—Yes.

1535. You would deprive the author's estate of that seven years?—It might so happen in special cases.

1536. Do you not think that you are proposing very materially to curtail the period of copyright now allowed?—I do not think it would be so. Of course you lose those particular seven years in special cases.

1537. (*Dr. Smith.*) Allow me to put this case to you. There was a very important work written by Mr. Hallam, namely the History of England during the Middle Ages, which if I remember rightly was

published in 1819. Mr. Hallam I believe survived the 42 years?—Yes.

1538. Take also, for instance, Dean Milman's History of the Jews, in like manner Dean Milman died quite recently. Under your recommendation, in the cases of both those gentlemen, the copyright would have expired during their lifetime, and their representatives would have been debarred of the advantage of the sale for seven years after their death. So that as Mr. Trollope says, it seems to me that your recommendation would materially shorten the copyright of standard works?—But if the author had received the proportionate value of the work at the time, it seems to me that neither he nor his representatives would be the losers.

1539. In what way would he receive any proportionate value. Works of that kind are almost all published on the principle of sharing the profits between the publisher and the author, and even if that were not so, when there is so long a period of copyright as 42 years the author would probably not receive any more from the publisher if he sold it at the time, while if he did not sell it and was receiving a portion of the annual profits he would clearly be deprived of that portion of the annual profits by the term of copyright being shortened, do you not think so?—Yes, if he simply had it upon a half profit agreement he would, but he would make a fresh arrangement at the end of the first 28 years which would fully compensate him.

1540. Then what you state as to the proportionate value being increased would not apply in such a case?—Your remark is only founded upon the present state of the law, and not upon the state of the law which would exist if it was well known that the author had 28 years, and further than that a period of 14 years for which to make a fresh bargain, which seems to me very different. According to my proposal, he has 28 years absolutely in the first instance for which he makes an arrangement with the publisher, and then at the end of that time he or his own personal relations, if dead, can make a fresh bargain for 14 years, and it is very difficult to think that he or they would be losers.

1541. (*Mr. Trollope.*) These 28 years, and 14 years together, make the term at present allowed of 42 years?—Yes; but Dr. Smith very justly suggests that the value of the copyright for 28 years would probably be very much the same as the value of the copyright for 42 years at the time of the first publication of the work, and upon my plan at the end of 28 years the author or his representatives can make another arrangement for 14 years.

1542. (*Dr. Smith.*) Allow me to put the question again to you. We had the evidence of Mr. Murray that it was a very rare thing indeed for him to purchase the copyright of any work of importance, and that in almost all cases of books which he published the copyright belonged to the publisher and the author, and that they divided the profits?—Yes.

1543. Your argument goes on the assumption of the selling of the copyright, which as we understand from Mr. Murray rarely takes place?—Taking the question of a half profit agreement, I would say that the arrangement would only be made for the 28 years in the first instance, and that at the expiration of that time the author, either through Mr. Murray or through any other publisher, might make a fresh arrangement according to the nature of the work.

1544. (*Sir H. Holland.*) Would you bar the author from making an arrangement with the publisher including an undertaking on the part of himself or his representatives that the bargain should run on for the additional 14 years?—Yes, I should not like that.

1545. Would you limit the contract between the author and the publisher to the 28 years?—It is rather difficult to limit the right of contract generally speaking. I suppose that it could be done, but it is a very exceptional case. I should, however, like to see it done.

1546. If the power to contract is not limited the

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author would be enabled to make a contract for 28 years and would bind his representatives, if necessary, to renew it for 14 years longer?—The publisher would to a certain extent run the risk of losing the copyright from non-registration, and I am not prepared to say whether it might not be best to prevent any such power of contract.

1547. (*Dr. Smith.*) Are you not aware that the Legislature is very indisposed to limit the right of contract?—Yes.

1548. Do you not think, upon reconsideration, that your proposal would in reality limit the advantages which authors at present enjoy by having copyright for the term of their lives and seven years after death. Taking for instance an author who publishes a book at the age of 27 or 28, which obtains a great sale, does it not seem hard that you should interfere with his present existing rights by shortening the term of copyright?—Do you mean with reference to existing works?

1549. Yes, and others?—There would have to be some special legislation with regard to works already existing, but I was assuming the case of works hereafter published.

1550. Do you make this proposition in the interest of authors or in the interest of the public?—Of both.

1551. Then you think that authors would benefit by having their copyright shortened?—I consider that the advantages of being able to make two separate arrangements during the term would certainly compensate for the possible shortening of the seven years. It is by no means in every case, nor I think in the majority of cases, that the copyright extends now beyond 42 years; it is a rare thing for books of any particular magnitude or importance to do so; so that the period of 42 years as a rule would see the author dead. I should think that that is a matter of fact; taking an author to be 40 years of age at the date of first publication, 42 years would bring his age to over 80.

1552. (*Mr. Trollope.*) Are you prepared to acknowledge that what you are proposing would be a shortening of copyright?—I cannot admit that it would be so in every case, that result might arise in some cases.

1553. At present copyright exists for 42 years, or the life of the author, and seven years after the life of the author, does it not?—Yes, the Act says that it shall be the longer term of the two, either 42 years or the other term.

1554. You propose to limit it to 42 years, do you not?—Yes. My proposal is rather that the term should be 28 years, with a certain power of renewal for 14 years.

1555. 28 and 14 together make 42?—Yes.

1556. Therefore you propose to limit copyright to one of the alternative terms which now exist, without giving the period of the author's life and seven years after his life?—That is not an exact statement of my proposition.

1557. I think that it is a right statement of your proposition so far as time is concerned?—A term of 28 years with an additional 14 years is hardly the same as 42 years, because the extra 14 years are only to be given to the author himself or his representatives.

1558. At any rate you do not propose to add anything to the terms as they now exist?—Not as to time.

1559. Therefore, although you do in some respects curtail copyright you do not in any respect propose to lengthen copyright?—No.

1560. Are you not therefore proposing to take away from authors a part of the advantage which the law at present gives them?—Yes, as to time, but counterbalancing those disadvantages, as I consider, by giving other advantages certainly equal in a pecuniary point of view.

1561. (*Dr. Smith.*) I have in my mind at present a work which was published in the year 1838, which now brings in several hundreds a year to the author.

The author is at present 63. According to your plan in a very few years he would cease to have the advantage of the copyright; he would lose the several hundreds a year which he is at present receiving, and his family would also lose the benefit for seven years after his death?—Yes, but the present remuneration he is receiving is founded upon the law as it existed when his work was published.

1562. What compensating advantages would an author derive for that loss, under your new system?—In the first place he would have the copyright for 28 years; and you must excuse me for repeating that it seems to be the opinion that the price paid for the value given for 28 years is quite as much as would be given for 42, of course that depends upon evidence. Therefore at the end of 28 years the author would have had the previous advantage of his copyright, and he would have the advantage of making a fresh arrangement, and he would probably receive a very large amount for the last 14 years of that copyright instead of a small amount as in the first instance, assuming that it was a valuable work, or otherwise the question of time would not be important.

1563. Are you aware that we have had evidence that it is a very rare thing indeed in the case of works which are likely to be of permanent value, such as histories and some other works, for the author to sell his copyright to the publisher?—We have not that law which would give a man 28 years within which to ascertain the value of his work, and then 14 years in which to make a fresh agreement.

1564. (*Mr. Froude.*) But surely I have exactly the same power now as you wish to give me. I make an arrangement for any part of the 42 years if I please?—Yes, by inference you could, though there is no express enactment on this point, and I should propose to limit this and reserve the 14 years to the author or his personal representative.

1565. I can make an arrangement with my publisher for 28 years and can reserve the rest?—As a matter of fact I think that it is very rarely done.

1566. (*Sir H. D. Wolff.*) Are you aware that Mr. Kinglake, for instance, never sold his copyright beyond one edition?—That is very possible.

1567. Therefore the power is absolutely in the hands of the author at the present moment?—It may be in the power of a particular author of very great celebrity to make such an arrangement, but I think that it would be out of the case in the majority of instances, it would be almost impossible, it would be hardly worth the publisher's while to go to the expense, and generally it would be, I think, a very unusual thing.

1568. Do you think that any book which a publisher would take on half profits during the term of the copyright is likely to be taken at all if it is only for 28 years?—I think so. The American law is the same; as also the Canadian; *i.e.*, 28 years with the power of renewal for 14 years under certain conditions for the author and his children.

1569. Supposing that a publisher took a book from a young author on the half-profit system, he would look to the fact that if the reputation of that young author increased he might sell the book on the half-profit system during the last years of the copyright under the present arrangement. Is it not rather like a man who buys pictures from a young artist, and gives a small sum for them on the chance that they will increase in value on the reputation of the artist being established?—In the case of a picture it is the picture itself which increases in value; but in the other case it is the multiplication of the copies of the book and not one particular article.

1570. If your scheme were adopted, do you not think that publishers might insist that the author should give up the whole of the 42 years, namely, the 28 plus 14, and say that they would decline to make an arrangement with him unless he undertook to do so?—They never could get rid of the obligation to register within a certain period before the expiration of the first 28 years, and, therefore, they would always

be running a great risk in that event, and then there is the question which Sir Henry Holland asked just now, as to whether it might be possible or desirable to limit the power of contract in the first instance, so that it should be simply for the 28 years, leaving the author or his representatives at the end of that period to make a fresh arrangement.

1571. Would not it damage the author more than the publisher?—The practical value now is said to be the same for 28 or 42 years. Of course the value of a book differs according to its character. In the case of novels and light works one, two, or three editions may be sold in a very short time. In some cases I suppose classical works, and works of a character like that, would take a long time for one edition alone to be sold.

1572. With regard to works of fiction, for instance, the early works of an author have an enormous value towards the end of his life. Take, for example, Lord Lytton, or Mr. Dickens, or Mr. Thackeray. Of course a publisher would say to a man at the beginning, "You are unknown. I am buying your book, and I want to have the whole swing of it." When the author was wanting money he perhaps would get less money from his publisher?—Possibly.

1573. Do you think that it would be right to say that a man should be able to outlive his copyright? That supposing that he lived longer than the 42 years anybody could come before his face and publish an edition of his work to which he perhaps might object?—I think that we have to consider the interests both of the authors and of the public in this matter, and I think that their interests are to a certain extent easily compatible; and whether the 42 years or the 28 years with the 14 years would not give the full advantage to the author is the question. I should be very sorry to do anything to limit the rights of the author, but I do not want to limit the rights of the public.

1574. You have assumed that a man cannot write a good book before he is 40, but men have written books at 20 which have been very popular, and supposing that a book was published when a man was 20, then by the time he was 62 you would take away from him all power over that book and all the profits, just in the last days of his life when he would like to receive money for doing nothing, would not that be very hard upon him?—He might not receive the full benefit during the 28 years, supposing that he had entered into an arrangement for receiving half the profits or some portion of them, but if he had sold the copyright when he was at the age of 20 for probably very little value under the present law, not then being known, he would be very much benefited by the new Act because, at the end of the 28 years he could make a fresh arrangement for the 14 years. I think that we should not lose sight of that.

1575. But at the end of the 14 years he would lose the control over the publishing and the profits. Taking a man whose copyright began at the age of 20 years then for the period of his life between 62 and 75 he would be deprived of the profits, and perhaps would see spurious editions of his work published before his face, would not he be liable to that?—Yes, he might in special cases.

1576. Do you think that you would encourage literature by shortening the copyright or by lengthening it?—That is rather a difficult question to answer; if you mean the dissemination of literature, I should say that by not extending the copyright beyond a reasonable time you would certainly not prevent the production of literature.

1577. Do you think that you would most encourage authors to publish good books by merely giving them a copyright for 28 and 14 years, or by allowing copyright to remain as it is, or by lengthening the term which would be the greatest inducement to the author?—I do not think that any lengthening of the copyright would be a large inducement.

1578. It is now the life of the author plus seven years or 42 years, whichever is the longest?—Yes.

1579. Supposing that you did away with that, and

made the copyright for 28 years plus 14 years, with re-registration, do you think that it would be as great an encouragement to an author to devote himself to literature as the present arrangement?—Yes. The only thing would be that he might not have the control of the publication of his work during the last few years of his life, but you must not be too sentimental as to that. If the author and his family have received the full value of his works, I do not see that they would be prejudiced; and the public would be benefited by having the thing thrown open at an earlier date.

1580. But how do you appraise that full compensation to the author?—He would be able to make a fresh arrangement at the end of the first 28 years, there would then be a better opportunity for making a fresh arrangement; and that opportunity is given not to any person who may have acquired the copyright by purchase, but simply to the author and his personal representatives.

1581. Then you propose by this means to put a limitation on the power of the author as regards his right to sell his book to the publisher?—I propose that that should be limited to 28 years.

1582. (*Mr. Dalry.*) You have told us, I think, that the full purchase value of copyright is represented by 28 years or under. Do you not propose that the second term should be only 14 years?—Yes; I think that would in most cases fully compensate the author.

1583. Do you think that a publisher would give as much for that term of 14 years as he would for a second 28 years?—It very much depends upon the value of the book, but I think it very likely that he would give more for 28 years.

1584. Should you consider the author over-compensated?—No.

1585. This division of copyright would only operate in the case of books which were sold to publishers?—Not altogether so.

1586. But for the sake of obtaining the benefit of the second-sale for 14 years you would take away the advantages now obtainable by authors who enjoy a longer period, and retain a half interest in their books. Would that be fair towards those authors?—You mean those authors who only have an agreement on the scale of profits.

1587. Those authors who retain their copyright with an arrangement with their publishers for half profits. The half profits may by the present law go on for 42 years, and the rest of the author's life if he lives afterwards?—Yes.

1588. You would throw the copyright open to the public, and prevent the author from having any benefit from the half profits after the 42 years. Would not that be a curtailment of his interest in his work?—To a certain extent it would.

1589. And would it not apply to all works of which the copyright was in the possession of the author?—Yes.

1590. Therefore the advantages of your new proposal would only apply to those authors who actually sold their copyrights to publishers. After telling us that they would not get the fee simple value, if I may so call it, of the second portion of their copyright, but only for 14 years by your proposal, do you think that that is a sufficient compensation to them for taking away from them the present value of the copyright in the books which they hold in their own hands?—Perhaps there would be no objection to the extended term being increased. I do not see that there would be any objection to it. That is a question which requires consideration and thought as far as regards the term. I do not see why it should not be 28 years if that is thought to be a more satisfactory basis to go upon.

1591. (*Chairman.*) You mean two periods of 28 years?—Yes.

1592. (*Mr. Dalry.*) As being just to the author?—I should like full justice to be done to the author's rights; and if the 14 years is not sufficient, then 28 years might be the extended term instead of 14.

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1593. In speaking of your enlarged definitions of copyright I noticed that you spoke of translations and dramatic representations, but said nothing about abridgments. Do you think that the right of abridgment should remain?—I was going to put the question of abridgments more under the head of infringement.

1594. With regard to publication, I think that you said that the copyright might belong to any natural-born British subject, or alien friend, or any resident?—Yes.

1595. You do not think it necessary that the work should be first published within the United Kingdom?—I think that first publication in the United Kingdom should not be requisite, but that first publication within some part of the British dominions should certainly be requisite.

1596. (*Sir H. Holland.*) Would you require that the person at the time of publication should be himself within the British dominions. You are aware that there was a difference upon this point between Lord Cairns and Lord Westbury on the one hand and Lord Cranworth and Lord Chelmsford on the other?—Yes.

1597. Lord Cairns and Lord Westbury considered it not necessary that the person should himself be within the British dominions at the time of publication, provided the publication was within the United Kingdom?—I should say that residence should only be necessary where the author is not a natural-born or naturalized British subject or an alien friend, in all other cases residence should not be essential.

1598. All foreigners in time of peace are alien friends. You do not consider that they should be necessarily resident even for a day within the British dominions at the time of publication?—No.

1599. After what has passed, and the questions which you have been asked, are you not now inclined to think that in order to make your proposal as to the 28 years and the subsequent 14 or 28 years really workable in the interest of the author, you must limit the power of contract so as to prevent the author in the first instance from making any arrangement with the publisher beyond the first 28 years?—That might possibly be for the advantage of the author; but to limit the freedom of contract is a very serious question.

1600. I only want to see, after what has passed, what is the inclination of your opinion. In the case of a well-known author he would be able of course to make his terms with the publisher, but in the case of a young and unknown author coming to a publisher, unless he was prevented by law from contracting beyond the 28 years, is it not probable that the publisher would take steps to secure to himself the advantage of the further 14 years?—I think that the compulsory re-registration is a very important matter in order to save that, because in the event of non-registration the whole copyright and the advantage expected to be got would fall.

1601. But then you could put into the contract, either a penalty or liquidated damages in the event of the nonfulfilment of the undertaking to register?—Yes.

1602. What, upon the whole, are you inclined to recommend?—I do not like to state my humble opinion upon such a serious point as that of doing anything against freedom of contract.

1603. (*Chairman.*) Have you any other observations to make upon the definition and extent of copyright?—I think that in magazines and similar periodicals the right of publication of the various articles in any other form should revert to the authors of such articles after say three years from their publication in the magazines.

1604. With respect to the conditions requisite for obtaining copyright, do you wish to make any observations?—I think that there should be first publication, production, or representation in some part of the British dominions, first publication, production, or representation to be defined by the Act. I also think that there should be compulsory registration at the

British Museum within three months if the work is published, produced, or represented in the United Kingdom, or six months if in any other part of the British dominions. Then I think that there should be a compulsory deposit of one best copy of the work at the British Museum within a similar period. Then I am of opinion that registration might be made compulsory on the person making the deposit and the officer receiving the deposit if the work was not previously registered, that if a man went to deposit a copy at the British Museum it should then be incumbent that the registration should be made.

1605. Do you propose to enforce that by any penalty on the officer at the British Museum?—I suppose that the legislation on that point would be sufficient, he should make an entry on receiving a copy. I do not know what would be the usual rule about a penalty on a public officer; it would form a part of his duty, and no doubt he would make the entry as a matter of course. Then we should get the registration without a double act.

1606. (*Sir H. Holland.*) You could impose a penalty upon him, but if a public duty is imposed upon the officer, a *mandamus* would also lie against him to perform that duty, that is, to register the book and give a certificate?—That may be so. Then I think that there might be a proviso for interim registration within three months before first publication if published in the United Kingdom, or within six months previously if published elsewhere. Of course this is on the assumption that first publication within any part of the British dominions is to be sufficient to secure copyright. As to the fees for registration I think that 1s. in each case would amply compensate and more than compensate for the expenses which would be incurred.

1607. (*Mr. Daldy.*) Why would interim registration be necessary?—The object of that is this. Supposing that a work was going to be published, the title and probably one or two other particulars, such as the name of the author and of the publisher, might be registered, and that of course would prevent anyone else from interfering with that title, and it would be a necessity that the work should appear within a certain period afterwards; it would protect the work during that time.

1608. Would you then make the existence of copyright depend upon registration?—I would suggest that the penalty on non-registration should be the inability to recover damages in respect of any previous infringement, or to stop the sale of any copies of the infringed work during the period.

1609. If the author has his copyright in virtue of his publication why does he need any protection? Do you suppose that anyone can copy his work before it is published?—No; it is more a question of the title. The case has occurred where the title has been intended and fixed upon and advertised to a very considerable extent, and some one else has published that particular title and registered it beforehand, and by that means has got the advantage of all the advertisements; and in some cases it might be very serious. Interim registration gives an extra protection to the author's right.

1610. (*Sir H. Holland.*) As I understand you, you would make the deposit of a copy of the book and registration simultaneous acts?—Yes, if the registration had not been previously made.

1611. By an interim registration?—No, the interim registration was supposed to be a separate point altogether. I propose that a person should register within three months under the penalty of not being able to recover damages.

1612. Do you see any objection to making registration and publication the same act, treating registration as first publication, so as to avoid questions which have been raised in the courts of what is first publication; do you see any objection to saying that the date of registration shall be taken as first publication?—I think that that might perhaps be carried out if a substantial interim registration were agreed upon.

1613. That would be merely for the purpose of securing the name of the work. I suggest that the first publication shall be considered to have taken place at the date of registration?—I see a difficulty if you are to register within three months, or within a certain period, within a certain period of what?

1614. I would not provide for registration after publication. I suggest that the date of first publication shall be taken to be the date of registration. An author wishes to publish his book and to get copyright in it, he goes to the British Museum and deposits his copy and gets a certificate of registration, and then it should be provided that first publication shall be considered to have taken place from the date of the certificate; do you follow what I mean?—Yes, quite.

1615. You will probably agree that the great object is to simplify, as far as possible, registration?—Clearly.

1616. And also, as far as possible, to avoid any question as to the date of first publication?—Yes.

1617. Would not those difficulties be avoided by providing that registration shall be effected by the deposit of a copy at the British Museum or at some Government office; that a certificate shall be given, and that publication shall be taken to be as from the date of that certificate?—Yes. This is in fact doing away with the first publication as the period from which copyright is to count, and saying that it shall run from the date of registration. I think that the American system is on this principle.

1618. At present you do not see any objection to that plan?—Objections might arise in the case of works not so registered as regards infringement.

1619. At present an author when he has registered can sue for an infringement prior to registration?—Yes.

1620. Would it not be better and more consistent to do what I suggest, than to provide that he should not be able to sue for any infringement prior to registration?—The date of registration then would be exactly the date of first publication; it would no doubt very much simplify the matter.

1621. What I would suggest is that the copyright should run from the date of registration, and that registration should be effected simply by depositing at the British Museum or Stationers' Hall, or some Government office, whichever might be fixed upon, a copy of the book or work?—Yes.

1622. And the author would then receive a certificate of registration?—Yes.

1623. In the colonies you propose that six months should elapse before the deposit at the British Museum?—Yes, that was more particularly as to India.

1624. But might not it be provided that registration should be carried out in a colony in the same way, namely, by the deposit of a copy of the book at a Government office, with a certificate, and for a copy of the book to be transmitted to the British Museum?—Clearly.

1625. And in your opinion would it not be desirable that that certificate granted by a Government officer should be *prima facie* evidence throughout all the British dominions of copyright having been properly obtained in the place where the certificate was given?—Yes.

1626. A certificate, for instance, would be given of registration in Calcutta. Would it not be desirable that the production of that certificate should be *prima facie* evidence that the copyright was properly secured at Calcutta?—Yes, I see no objection to that, but as in many cases books would have to be printed and ready for distribution before registration, I think there should be an *ad interim* power of protecting the rights of the author until the actual registration was made.

1627. It would not be inconsistent with my suggestions to give interim registration?—By no means.

1628. (*Mr. Trollope.*) Did I rightly understand you to say that if registration be not effected, the author is to lose all his privileges?—No, that was a

point upon which I said I should be very sorry that such a thing should happen; but I say that until registration he should not be able to recover damages, or to stop the sale of any such book. That is the case now with some of the copyrights.

1629. In the event of a book being reprinted by a second and an unauthorised publisher before registration, in such a case as that what would become of the property so created after registration? Let me put an example of the case to you: an author sells the copyright of a work to Mr. Murray; it is not registered; Mr. Longman then in the exercise of his power republishes the same work; it is then registered. What becomes of Mr. Longman's property in the copies which he has republished?—I should say that the owner of the copyright should not have a remedy in respect of any infringement committed previously to registration, nor be able to stop the sale of any copies which had been *bona fide* printed previously to registration.

1630. Do you not think that that would, in truth, punish the author for non-registration by the actual loss of his copyright?—Compulsory registration must to a certain extent do that in some form; it is the only reasonable way I suppose of enforcing the registration if it is to be made compulsory. We say that the author shall not lose the property in his copyright, but that until he complies with the Act he shall not acquire the protection of the legislature to stop other copies of the same work.

1631. Assuming those other copies of the same work to have been published you cannot stop their sale after registration?—No. The object is to procure an immediate and full registration of all copyright works, that being considered really for the benefit of all persons concerned, authors, publishers, and the public.

1632. (*Mr. Dalry.*) Would not the difficulty be met by proposing that the copyright should date in the case of unregistered works from the time of publication, and of registered works from the time of registration?—I cannot help thinking that that would have the effect of neutralizing the compulsory system of registration, because if the same benefits could be got by dating from first publication, and also from registration, there would not be the same inducement to register.

1633. You say that it would neutralize the effect of compulsory registration, but registration would be compulsory, would it not, under your proposal by penalties such as now exist for not delivering a book at the British Museum?—The penalty for non-registration I thought should be the inability to go for any infringement made previously to registration.

1634. Is there not a penalty now enforceable for not delivering a book at the British Museum within a certain time?—Yes, but that is hardly applicable to the other case, I think that that is a criminal penalty recoverable before a magistrate; there is a certain fine.

1635. But if there be a penalty for not delivering a book, and if the registration and the delivery of the book occur at one and the same time, would it not operate on not registering?—It seems to me that the penalty is meant to operate on different persons.

1636. As a matter of fact might it not be made a penalty on not registering?—It might, but I think not without legislation.

1637. (*Chairman.*) Have you any further observations to make?—With reference to the assignment of the copyright (no doubt this has been put before you before) I would suggest that the rights of dramatizing and translating should be as it were added to the present definition of copyright, and should be separately or conjointly assignable, either as at present by entry in the register, or by some instrument in writing and then an entry of the assignment in the register subsequently. I suggest that those entries should be made within three months after the date of the assignment, and a fee of 1s. would probably be sufficient. I would also propose that unregistered assign-

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ments or entries should be void as against any subsequent assignments duly entered and registered.

1638. Have you any further observations to make on the subject of infringement and penalties?—I think that infringement of copyright might be more clearly

defined, that is more especially as to abridgments and quotations, whether verbatim or other extracts from larger works. As far as the penalties are concerned I think that they are very efficacious at present for the protection of copyright.

The witness withdrew.

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

Tuesday, 4th July 1876.

PRESENT :

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

SIR HENRY T. HOLLAND, Bart., C.M.G., M.P.
SIR JULIUS BENEDICT.
EDWARD JENKINS, Esq., M.P.
DR. WILLIAM SMITH.

J. A. FROUDE, Esq.
ANTHONY TROLLOPE, Esq.
F. R. DALDY, Esq.

J. LEYBOURN GODDARD, Esq., Secretary.

J. WINTER JONES, Esq. }
GEORGE PRICE TATE, Esq. } examined.

J. W. Jones,
Esq., and
G. P. Tate,
Esq.
23 July 1876.

1639. (*Chairman, to Mr. Winter Jones.*) Will you be kind enough to tell the Commissioners what are the proceedings at the British Museum with respect to the deposit of books?—By the provisions of the Copyright Act of 1842 every bookseller is bound to deposit at the British Museum within one month from the day of publication one of the best copies of all books issued by him. Those books are brought to the Museum and a receipt is given. The Act of Parliament makes it obligatory upon the bookseller to deposit his book and to take a receipt at the same time; the trustees are not bound to send the receipt to any person who may transmit books, but the person who delivers books is required to wait and take a receipt at the time of delivery. That is an important fact which I should be glad to put on record.

1640. Does the book come straight from the publisher to the Museum, or through the intervention of Stationers' Hall?—Direct from the publisher to the Museum.

1641. Is it your opinion that the present system works satisfactorily, or have you any alteration that you would suggest?—No, it works very well. It has been suggested that it might be more advantageous if the printer of the book, instead of the publisher, were bound to deliver, because the publisher sometimes endeavours to evade the Act. But it is doubtful now I think whether such a course would be advisable, as it is by no means uncommon for publishers to print their books abroad, inasmuch as the work is in many cases done there more cheaply than in England. So that to make it obligatory upon the printer instead of the publisher to deliver a copy would be to incur the risk of losing all books printed abroad for English publishers.

1642. Then with respect to foreign books, how are they delivered at the British Museum?—Foreign books by the provisions of the Act which regulates International Copyright are sent to Stationers' Hall, and the proper officer of Stationers' Hall is bound to forward them to the Museum within one month after delivery.

1643. Are you of opinion that that system works satisfactorily?—I think it is not of any value. So far as the system goes it may work very well, but it produces next to nothing.

1644. In the way of books to the Museum you mean?—In the way of books. They only send those for which they may desire to obtain copyright in England, and the greater number of books consist of music and not of any works of importance. I have here a list for April, and the Commissioners will see that this list represents the deliveries for French books and German books; of course those include States besides France and Germany; but this is all that we get. This is one month's delivery, and the greater part of it is music. This (*producing it*) is the register which is kept at the Museum. June 21st

there were 24 works comprising 23 volumes in French and 5 in German; six parts of volumes in French, and four in German. The music comprised 70 works in French and 31 in German; and 10 volumes in French and 9 in German; and of separate pieces of music, 59 in French and 21 in German; and of parts of works one in French and two in German. Maps and Atlases, which I need hardly inform the Commissioners constitute a very important class of publications abroad, we seldom get at all. In fact so decided was the feeling of the Trustees upon this point, that when a letter was addressed from the Board of Trade to the Trustees, on the 13th of February 1875, calling attention to the literary convention of 1851 between the governments of France and England, submitting proposals for its modification suggested by the French Government, and requesting the opinion of the Trustees thereon, especially as regards Article No. 8 (which comprises the compulsory registration and deposit of works by French authors in England), the Trustees replied on the 4th of March 1875 that they would not object to relinquish the article of the convention which relates to the deposit of books at the British Museum. That was the question which was put to us. The convention is almost valueless. When it was first entered into Sir Anthony Panizzi was at the head of the department of printed books, and I was acting with him as assistant keeper, and we used to abstain from purchasing foreign works till we saw what we got through the International Copyright Act, but we used often to get only title pages or fragments sent in order to secure the copyright without sending us the entire work; so that we were obliged to purchase foreign works without waiting for what the International Copyright Act might produce.

1645. That is still the view of the Trustees, I understand you; the view which they entertained in 1875 they entertain now?—Yes; that what we obtain through the International Copyright Act is really of no value.

1646. (*Mr. Trollope.*) It has been suggested to us that the Museum might be used for registering all books. I have no doubt you are aware that books now are registered at Stationers' Hall?—Yes.

1647. I daresay you are not aware that not one in 20 of the books published is registered?—No, I was not aware of that.

1648. It has been thought advisable by some that a compulsory registration of all books published in England should be established, and it has been recommended that that registration should be effected by the British Museum on the acceptance of the one copy which is now presented. It has been proposed by some witnesses before us that this should be done without a fee; by some it has been proposed that it should be done with a fee. Do you think it possible that the British Museum should undertake the duty?—That is a question which I should desire, with the permission

of the Commissioners, to refer to the Trustees; but if I may express my own opinion, it seems to me that you wish to compel a bookseller to protect his property. At present if he does not deliver a copy to the Trustees he is subject to a fine; the Trustees are empowered either to bring an action against him, or to proceed before a magistrate, and he is subject to a penalty not exceeding 5*l*. The penalty, as it appears to me, attached to his not registering books at Stationers' Hall is this, that he does not protect his property.

1649. You are aware, no doubt, as regards registration of books, that the publishers register them only when there falls upon them a special necessity for protecting property?—Yes.

1650. The property is, as a rule, safe, and as long as it remains unattacked no registration is made. But there are reasons, independent of the safety of the property, which make a compulsory registration expedient; and it has seemed that that registration could be most easily effected on the presentation of the copy to the British Museum. The Commission would be obliged to you if you could, either now or in some manner which may after consideration seem expedient, give them an opinion as to the practicability of such an arrangement?—So far as the possibility of such an arrangement is concerned, it is a mere matter of detail. We should require more space, and we should require more assistance. As to the expediency of it, it is a question which, as I said before, I think ought to be referred to the Trustees. If the Commissioners will allow me I will mention it to them and report what has been said.

1651. We have been told that the number of books to be so registered would probably be 5,000 a year. Would that require any special provision as to space and additional hands?—We keep the register up to the last day. This register is made up to last night, from the 1st of January to the 3rd of July. The total of articles (of course that is not volumes) is 14,707.

1652. (*Chairman.*) Does that include, may I ask, foreign publications?—No.

1653. (*Mr. Trollope.*) That includes prints, I suppose?—No. That is a point which I shall submit by-and-bye, that we should be entitled to prints by the English Copyright Act. It includes music. It includes volumes, parts of volumes, and single sheets; and of music, parts of volumes and pieces; and of maps a single map, and sheets, and Atlases. Now for last year, 1875, we had a grand total of 29,919 different articles. They comprise 6,399 works in 6,912 volumes, 17,627 parts of volumes, and 934 sheets. Of music 2,571 works in 311 volumes, 1,964 pieces of music, and 514 parts of music which were comprised in 392 works. Then of maps we had 372; 1,637 sheets of maps, and 20 Atlases.

1654. For each of those I think you have given a receipt?—Yes.

1655. Might not that receipt be so formed as to be in itself a registration?—It is a registration; it is evidence of publication. Here is the volume, if the Commissioners would like to see it, with the copy of the receipts (*producing the same*).

1656. I was asking the question with reference to your statement that additional space would be required at the Museum. The Commission might possibly feel themselves unwilling to recommend anything which would cause considerable disturbance to the British Museum, and the purpose of my question now is to ascertain whether the registration which we are suggesting could not be effected by the same act which is now performed, and in the same space and with the same trouble which are now taken by you in giving the receipts which are necessary?—So far as the receipt is concerned that is very simple, but I presume that if the receipt were made to answer the purpose of registration we should have persons coming to search and to make extracts, otherwise it would be good for nothing. We keep a copy of the receipt, that is the counterpart which we keep (*handing in a volume, and explaining the pro-*

cess to the Commissioners.) That is a registration as far as it goes.

1657. Will you have the kindness to consider the matter and let us hear from you on the subject?—Yes.

1658. (*Mr. Jenkins.*) When I came in you were speaking of the convention of 1851, and I did not quite clearly understand whether you were stating that under that convention the foreign author was obliged to send his book, whether he desired to register in England or not?—No; he sends what he desires to register to Stationers' Hall, and the proper officer at Stationers' Hall is bound to deliver that at the Museum within one month.

1659. Then, under the 15 & 16 Vict. c. 12., which is the Act ratifying that arrangement, it is only in order to secure a copyright translation in England that authors send their books here at all, is it not?—The object is to secure the copyright of the original works as well as of translations.

1660. Then with reference to the loss which you say it is to the British Museum not to get these foreign works, have you any idea of the extent of the loss which you incur in that way?—I have a letter here which may give some general idea upon that point. The number registered is so small that it is not worth consideration so far as the British Museum is concerned. I requested one of the officers of the Library to give me a statement of the numbers, and he says that "the number of works annually received under the provisions of the International Copyright Act, has ranged during the last 10 years from 126 to 206 French works, together with from 300 to 850 French musical works; the average would probably be about 170 of one and 500 of the other. The German works have ranged from 30 to 80 with from 200 to 500 musical compositions. The French works are of a very miscellaneous character; imperfectious occur, but the cases of single volumes or odd volumes being deposited to preserve the copyright of the set, are less common now than formerly. The number of works appearing in the '*Bibliographie de la France*' during the same period has averaged about 12,000 annually. In some years upwards of 13,000 entries occur," and so in the '*Allgemeine Bibliographie für Deutschland*,' which is the same kind of publication for Germany, I find that the number annually recorded is about 14,000.

1661. I am not quite sure that I understand the point of the remarks that you made; did you say that the Trustees of the British Museum were anxious that the provisions of the convention should be enforced with greater stringency?—No. What I meant to convey was that they did not consider that they were of any value to them at all, and that they were quite willing, as far as they were concerned, to give up any benefit which they derived from the International Copyright Act. As a matter of fact we never wait to see what we get under the International Copyright Act.

1662. With reference to another question, which I do not think has been raised, copies of each new edition under our own domestic copyright ought to be sent to the British Museum, ought they not?—If there is any variation.

1663. That is to say, supposing for instance that an illustrated edition comes out, you expect to get a copy of that, do you not?—Yes.

1664. Does not that load the shelves of the Museum with a large number of useless works?—I think not. It might be considered to have that effect upon an ordinary library; but persons come to the British Museum to prove a fact. Sometimes we have a pamphlet which says "second edition" on the title page. It may be precisely the same, indeed a part of the first edition with merely that addition. But then there may be a dispute, "Is there a second edition or not?" And then persons come to the Museum to verify the fact whether it is the same or not. Therefore it is very important that such copies should be preserved there.

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1665. Then according to you the Museum exercises two functions; one is the mere literary function of providing a library for reading, and the other is that of recording the works which are issued in the country. Is not that so?—Yes, and in Scotland and in Ireland; we are also entitled to works published in the colonies; but it is very inconvenient to bring an action for them, and therefore the keeper of printed books is always allowed to purchase them.

1666. The point which I wanted to emphasize was this: you admit that the Museum does discharge both those functions. The one is what I may call the purely literary function of providing reading for those who wish to refer to certain volumes, and the other is that of keeping on record the various issues of various works?—Quite so.

1667. Then do not you think that it would be right, seeing that that function is thrown upon the Museum, that it should also have the function of registering those works; because I want to put it to you that at present, if you want to bring the two points together, first the registration at Stationers' Hall, and secondly the form in which the original book was published, you have first to go to Stationers' Hall, and then to the British Museum. Would it not be an advantage to unite those two functions?—Unless it be understood that the deposit at Stationers' Hall is necessary, so far as the property in a work is concerned, I do not see the necessity of going to Stationers' Hall at all.

1668. Then you might have at the British Museum an office at which the registration which takes place at Stationers' Hall might be carried out with greater convenience?—As a matter of detail there certainly is no difficulty in doing it beyond what I have already stated. Our difficulty would be that we could not have a separate office. As a matter of detail I do not see any difficulty in it beyond that of finding space, which we have not, and having an addition to our establishment.

1669. And would not that give an additional security to authors in the first place, and additional facility to those who wished to make inquiry with reference to evidence concerning the publication of books?—It might do so. So far as the existence of the book at the Museum is concerned, that is a simple fact which can be always ascertained by coming to the Museum. But, as I said before, it seems to resolve itself into a question of securing property. The Museum gives evidence of the publication of the book. But if I understand the question rightly you wish to render it compulsory on the publisher to secure the property of the book. Of course it is always competent to the author of a book to send a copy to the Museum should he so desire, but I do not see how he is to be compelled to do so.

1670. But what I am anxious to do is to try and separate the functions. Now take one of two alternative propositions; either the British Museum should be left simply to exercise the functions of a literary institution, and then another institution should be created where registration and record and deposit of works for reference for purposes of evidence could be made, or the British Museum should combine both functions. Now which of those are you prepared to support?—As far as the question of evidence is concerned the British Museum already does perform that function. It is not at all an uncommon thing for us to have to produce a volume which has been deposited at the Museum. The simple deposit at the Museum is an evidence of publication which is received in a court of law.

1671. Would it not be a great convenience if there were attached to the Museum a register which would give the additional evidence necessary to prove copyright?—As I said before it is a matter of detail, and whatever the law might say was evidence of copyright might be so arranged; but it appears to me that the law has not already said that, unless so far as the deposit at Stationers' Hall is concerned. Your object appears to me to be to compel the establishment of evidence of the publication of a book, that is to say,

to compel a bookseller, or an author, to secure his property by registering it. At present it is optional with him to do so or not, and I do not see how you can get over that, because if we have a register at the Museum an author is not obliged to register or a bookseller may not be obliged to register; but he is obliged to deposit.

1672. Supposing that we make registration compulsory by law in every case, and in addition to that the deposit of a copy at the British Museum, would it not be better if registration were made compulsory, that you should do the registration rather than Stationers' Hall?—It appears to me, if you will allow me to say so, that there is no way in which you could render it compulsory, unless you attach a penalty to a man not protecting his property. He is bound to deliver, or we summon and fine him, because the Trustees have a claim to the book.

1673. I suppose with regard to music the insistence upon the deposit of copies there is simply a matter of record, is it not?—It stands on precisely the same footing.

1674. I mean there is no means of making the music available for the general public?—Quite the reverse. We have a separate catalogue of our music, which is very much consulted; and we have in fact a very large musical library comprising ancient as well as modern music; we have a very fine collection of music.

1675. Then I will ask you whether you do not think it would be sufficient to oblige the author or publisher to register, and deposit the original edition and then leave it afterwards to the Museum to purchase any copy of any succeeding edition which it might consider to be necessary. Would not that be sufficient?—I think not. We have often thought at the Museum that it might be an advisable thing to give us say 2,000*l.* or 3,000*l.* a year, and let us buy the books, giving notice to the booksellers that we should buy every book that they sent. I think that we ought to have every edition in which there is any variation at all. Many important questions, literary questions certainly, arise upon that. No doubt the Commissioners are well aware of the case of Pope's Works, for example, where copies of a particular edition vary from each other owing to alterations made while going through the press.

1676. (*Mr. Froude.*) It is difficult to say what an alteration is; is a correction of a misprint one?—Hardly that; but sometimes they alter only the title page. When a work has lost all interest with the public it is not uncommon for it to come out with a totally new title page, and appear as a totally new work. We ought to have that copy in order to be able to show the fact. I have here for the information of the Commissioners, a copy of a case which was submitted to the law officers of the Crown. This is more on the subject of publication; but it refers to various difficulties which arose when we began to put this Act of Parliament into force as to what was publication and what was not.

1677. (*Mr. Trollope.*) Do you not think there would be any other use in registration over and beyond that of protecting the property of the publisher?—It is a very important thing to know what works are published; but then I think we get that by the compulsory deposit of books at the Museum, because we look very sharply after them.

1678. (*Mr. Dalry.*) I think you told us that the publisher was obliged to fetch away his receipt from the Museum, that you were not bound to send it?—Yes.

1679. Are you bound to give that receipt?—Certainly. The Act directs that the work shall be deposited, and that a receipt shall be given by a person properly authorised.

1680. You have spoken of the large number of works of music, of musical pieces, sheets of maps, and so forth, registered at the Museum, but according to our returns we do not in the published circulars get more than about 5,000 or 6,000 new books or new

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editions published in the year. How do you make out the difference?—Ours is a record of every delivery, and I need not tell you, as an instance, that the "Quarterly Review" comes out in a certain number of parts every year, namely, four parts.

1681. And that record refers to all magazines?—Yes; we roughly estimate the aggregate at about 7,000 volumes a year, when they are bound.

1682. Should you see any difficulty in giving your receipt in the form of a register; would it entail more expense on the Museum?—No; there would be no difficulty, I think, in altering the form of our receipt. These things are very much matters of detail.

1683. If the British Museum were made the office for registration, could it be expected to be self-supporting by fees?—I do not know why it should. The Stationers' Hall is a private company. The British Museum is a public institution, and I do not know, supposing that legislation goes so far, why a person who desires to have an extract should not have it made.

1684. And be allowed to search?—And be allowed to search.

1685. And also transfer his copyright as at Stationers' Hall at present?—I do not know, that is another matter; I do not go so far as that; but I think, as far as the use of our books is concerned, I do not see why that should not be done.

1686. With regard to French or German books, you showed us a long list of all those works; over what space of time does that extend?—Over one month, the month of April. This volume in my hand shows the monthly entries during the year 1875. Taking French and German works together we received a total of 300, comprised in 335 volumes, 229 parts of volumes, and 57 single sheets. Then of the music there were 2,199 works, comprised in 204 volumes, 1,411 pieces of music and 813 parts of music, 81 photographs and nine chromo-lithographs.

1687. In giving us the statistics just now of the publishers' delivery, I think you mentioned 6,399 works and 6,912 volumes; do you mean that those 6,399 works were comprised in the 6,912 volumes?—Yes.

1688. If the British Museum authorities were to consider that such a register should be self-supporting, do you see any difficulty in making it self-supporting by moderate fees?—No, I do not.

1689. (*Dr. Smith.*) You stated in answer to one of the questions that the best copies of every work published must be sent to the British Museum?—Yes.

1690. Do you mean by that that if there is a work published on large paper and small paper, or on vellum paper and ordinary paper, you are entitled to the large copy or the copy printed on the best paper?—I may instance one work about which I had a correspondence with the publishers many years ago. The work was issued in three different styles; one was sold at 12s. the part, one at 30s., and one at three guineas, and of course they sent us the one at 12s. I immediately wrote to say that I thought they had made a mistake, and they said yes, they had, and they were very sorry, and they sent me one at 30s.; and then I reminded them that we were entitled to the best, and then they sent me one at three guineas. Other libraries are only entitled to that kind of copy of which the greater number is printed; that is the distinction between the British Museum and other libraries.

1691. You have stated that the British Museum are entitled to works within one month of publication?—Yes.

1692. Has it been brought before the notice of the authorities of the British Museum what constitutes publication?—I think the question has hardly arisen. A new work of course we know; we are guided by the date of any subsequent issue. If you publish a work this month, and in six months you publish what purports to be a second edition, the month of course runs from the publication of that second edition so far as the second edition is concerned.

1693. But have you any means for ascertaining

when the work is published?—We keep a register; we have a kind of debtor and creditor account against all the booksellers; we have a large register in which we enter every work as it appears in the trade circulars; in fact from all sorts of advertisements. When we find that a book is advertised it is entered in our register, and then in a final column we enter whether it has been delivered or not.

1694-5. But you still are not able to tell within a few weeks, or sometimes a month, when the work is published?—Mr. Tate is the receiver and would answer that question better than I can.

(*Mr. Tate.*) Beyond the publishers' circulars and advertisements of that class we have no other means; we are obliged to depend entirely upon those as guides in matters of that sort. All new publications are not entered in the booksellers and publishers' circulars. They are advertised doubtless in some form or other; but it would obviously be impossible from any collection of that sort made from day to day to arrive at advertisements of all new publications.

1696. If I understand you right you have no certain means of knowing when a work is published?—We have no certain means.

1697. (*To Mr. Winter Jones.*) Did you ever take the opinion of the law officers of the Crown as to what constitutes publication? I will put the question in this way: there are some books published by subscription and not bearing the name of any publisher on their title page. I will take for instance Mr. Gould's "British Birds" as an illustration. Have you ever ascertained whether such a work is published within the meaning of the Act or not?—We have, so far as the British Museum is concerned, and that case I have now laid before the Commissioners, and if the Commissioners will allow me I will read the opinion on that very point. This is the opinion of the present Lord Chief Justice and the late Lord Chancellor, then Sir Richard Bethell (*reading the opinion*).

1698. Did you ever take the opinion of the law officers of the Crown as to what constitutes publication?—We did.

1699. Supposing the work has been published by subscription without the name of the publisher on its title page, have you taken the opinion of the law officers upon that point?—We have.

1700. In consequence of that opinion have you ever taken proceedings against persons who published a work by subscription without the name of a publisher on the title page and did not deliver a copy to the British Museum?—To the best of my recollection I did proceed against a publisher in Ireland. But our experience has been that they have generally given way. When I say the publisher, I mean those who have issued books in that manner. They have not allowed the matter to go into Court but have given way and delivered the books. We did take the opinion of the law officers, and we were advised that works issued only to subscribers were claimable by the Trustees, and that the Trustees might take proceedings at law for their recovery.

1701. (*Sir H. Holland.*) Might I ask have you had many cases where you have found it necessary to enforce penalties for omission to deliver books?—Yes, a good many. I have got a return here in which I find that since May 1850 we have taken proceedings in 158 cases.

1702. Up to the present time?—Up to the present time. Prior to that, the collection of books under the copyright rested with the secretary of the Museum, Mr. Forshall, who never would prosecute anybody; but when it came into the hands of Sir Anthony Panizzi as keeper of printed books, he was more vigorous, and we soon got about three times as many books as were procured before.

1703. May I ask whether you think that now there are many books published without your getting copies of them?—I think there are occasionally; but I am bound to say that I do not think the cases are numerous. When I was keeper, for 10 years, I very steadily followed up the booksellers, and the result was

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that at last they used to deliver very well indeed. I found that more music was kept back than anything else; and then I used to summon them for one small piece, and on one occasion I summoned a man for a little piece worth 2s. 6d., and he delivered 300 other pieces of which we knew nothing.

1704. Then with respect to your present staff, which you keep up for the purpose of receiving books and giving these receipts and registering, have you a special number of persons told off for that purpose?—There is a receiver and some one to assist him, and then there is an attendant who stamps the books when they come in.

1705. Does the receiver give the receipt?—He fills up the receipt; the receipt itself is signed by the keeper of the department.

1706. And he keeps the register of the receipt?—The receiver keeps the register in the Copyright Office, an office set apart for that purpose. The keeper of the printed books signs the receipt under the authority of a power of attorney from the Trustees.

1707. Does the present work fill up pretty well the time of that staff?—Yes, certainly; because the duty of the receiver is not merely to fill up receipts when a book is brought, but to search through advertisements in order to ascertain what books are published.

1708. Of course if registration were made compulsory and if it were moved from Stationers' Hall to the British Museum, the work that is now done at the Stationers' Hall would be no guide as to the amount of work that would be thrown upon the British Museum?—I think not.

1709. Because now registration is not compulsory?—No.

1710. But, as I understand you, subject to the views of the Trustees, you see no reason why, if the staff were proportionately increased to the work, and if room were found it should not be done by your staff?—I see no reason, as a matter of detail.

1711. I think you said that you did entertain some doubt as to what would be the proper penalty to enforce if the registration were compulsory. You are aware that at the present time if an infringement is committed, or rather if a book is printed before an author registers, he can still after registration recover retrospectively?—Yes.

1712. If registration be made compulsory, would not in your judgment the proper penalty be, that the author should not be able to recover retrospectively?—Yes, no doubt.

1713. It would be hardly possible to impose such a penalty as that he should lose his property in the book; but it might be provided that he should not be able to recover for any acts prior to registration?—Yes, that might answer the purpose.

1714. Then I understand you to say that in the present state of things, under the International Copyright Act, your Trustees would really prefer to give up the convention?—That is to say, they do not hold it to be of any value, and they are quite prepared to give it up.

1715. But supposing that it is not to be given up, can you suggest any state of things which would improve the existing one?—Not at all; because it is voluntary on the part of foreign publishers whether they will send their books or not. As far as the Stationers' Hall are concerned I believe they do their duty very well. Every month they send up a list and the books with it.

1716. And it would be hardly possible to compel foreign publishers to send books?—I think not.

1717. I think you said that you had some observations to make about prints?—Yes. We are not entitled to prints; and I think it would be very desirable, if any legislation follows this Commission, that the Trustees should have a claim to prints. I believe that the printsellers themselves would be very glad that it should be so. It is not an uncommon thing for a printseller to sell off all his copies, and when he wishes to refer to one he has not one to refer to.

1718. Have you a right to photographs?—No.

1719. Nor engravings, nor etchings, nor lithographs?—No. All those, I think, ought to come in, they would be valuable; in fact, we have to purchase them.

1720. (Chairman.) On the subject of photographs do you mean that a copy of every photograph that is taken should be sent?—The only difficulty which has presented itself to my mind arises from the character of the photographs which are issued; but still a great many are very important, and very valuable; and I think it would be very desirable that we should have them.

1721. Have you at all reflected upon the decay of a great many inferior photographs?—I believe that there are processes now by which they are made all but permanent. I believe the autotype process is a permanent process.

1722. (Dr. Smith.) If the Legislature gave you a right to a copy of each plate, do you think that you ought to be entitled as in the case of books to the best print?—I think so certainly.

1723. Because you are aware that prints taken early, proof impressions, are oftentimes of very considerable value?—Very great indeed.

1724. Would not that be rather a tax imposed upon printsellers, to require them to give to the British Museum such very valuable impressions?—The only question which suggests itself to me with respect to that point is the wear upon the plate, because beyond that it is merely a question of a piece of paper and a little ink. Of course the printsellers will take off a few copies without letters, and sell them at a very high price; but if they took off an extra copy for the Museum they would not injure their plate, and I do not myself see that it would be any tax at all. It has been said with respect to printed books, that it is a great tax upon the bookseller to send an expensive book. The bookseller provides for that when he is calculating his expenses. Expensive books are very few in number, and I think the argument applies still more strongly to prints.

1725. (Sir H. Holland.) On the other hand, from an Imperial point of view, it would certainly seem desirable that all the best prints should be stored up in the British Museum?—I think so; and we ought also to consider that the British Museum is supported at the expense of the public, and that artists as well as authors come to the British Museum to assist them with ideas, so that it would be only a small return which they would make for the great benefit which they receive from the Museum.

1726. (Mr. Trollope.) I wish to go back for a moment to the question of penalties for non-registration. Sir Henry Holland has just now suggested to you that the penalty for non-registration, if books were registered at the British Museum, should be that the author or proprietor of the copyright should have no power of protecting himself from piracies made before registration. Have you any objection to reconsider that subject. If so, to enable you to do so, I would suggest that A. publishes a book without registration, printing, I will say, 1,000 copies; B., becoming aware of the fact, prints 4,000 copies, so as absolutely to glut the market with the work. You will see that in such a case the author or publisher would have no means of preventing the sale of those 4,000 copies because they had been printed before registration. Do not you think that in such a case as that a total loss of the copyright would be too severe a penalty?—I think it would be very severe, but the penalty must be severe to compel registration.

1727. You are inclined to think that some penalty short of that might be exacted?—My difficulty is in suggesting to my own mind what penalty you can impose. I do not myself see any. The case you have put is not at all an unlikely case to occur.

1728. But you are inclined to think that in such a case such a penalty would be excessive?—Yes.

1729. (Sir H. Holland.) Possibly any difficulty of that kind might be met by an interim registration. If an author was desirous of protecting any book that he was going to publish, he might have power, say a

fortnight before, of making an interim registration?—Yes, that no doubt would be a very good course.

1730. (*Chairman.*) With respect to the photographs, you have given a general answer that you think that the British Museum ought to have a copy of every photograph that is taken?—Yes.

1731. With respect to the portraits of the millions of people who are now photographed, do you mean that a copy of every likeness of every person who is photographed in the United Kingdom should be deposited in the British Museum?—It was the objection which I have discussed with Mr. Reid, the keeper of our prints, because it struck me forcibly that that was a grave objection. At the same time I think the advantage of having photographs is very great, but perhaps we ought to have some power of rejecting things. Some photographs are very important indeed, they may have been photographs from designs existing abroad, or in private collections which we have not got. of drawings of great value; it is very desirable that we should have those.

1732. (*Mr. Froude.*) You would limit it to photographs offered for sale I presume?—Certainly.

1733. (*Chairman.*) Are you able to give the Commissioners an idea how and where you would draw the line between those photographs which you think for public purposes ought to be deposited in the Museum and those which, even if offered, you would undoubtedly I apprehend reject?—I think photographs of historical personages might be kept, but certainly not photographs of actors or actresses, or anything of that kind.

1734. Some may say that actors and actresses are unquestionably historical personages; but you might go to a still inferior grade, say to people in service, male and female; you would not like to have photographs of all the maid servants and so forth, would you?—That difficulty would be got over, if it were made a condition that the Trustees should apply for photographs as other libraries are bound to apply for books under the existing Copyright Act.

1735. You would suggest that on the application by the Trustees for a photograph, the publisher of the photograph should be bound to deliver it?—Yes; that, I think, would leave the selection in the hands of the Trustees. There is another point which I would mention, namely, that in any new Act it would be well to introduce the word "newspapers." Of course we claim newspapers under the general expression "single sheets"; but there was a judge who said that he considered that newspapers were not claimable under the Copyright Act, a decision in which I cannot agree with him at all.

1736. Was that decision appealed against, may I ask, or not?—I think not. I forget at this moment what judge it was, but it had not any direct application to the question to be tried; it was *obiter dictum*; it merely came out in a remark about something else.

1737. Then the law is not settled in that direction?—We have never had occasion, never thought it necessary, to take proceedings for a newspaper yet; but I should not hesitate myself to do so. I am sure that they would be bound to deliver.

1738. (*Mr. Froude.*) You are bound, I believe, in return for having books deposited with you, to produce them when they are called for, are you not?—Yes.

1739. Is there any limit of time to that?—None at all. Of course the book has to be catalogued; and as our staff is limited, sometimes the books are in excess of the powers of the staff to catalogue. But my own practice (and I believe it is the practice still) was if any person engaged on literary work wished to see a book which had been delivered at the Museum but was not yet inserted in the catalogue, to let him see it at once, or to have it entered at once.

1740. But there is no limit of time the other way?—No.

1741. You must be aware that a great number of books, and still more pamphlets, are printed on wretched paper which goes to pieces?—Yes, I have seen that often.

1742. Then what happens?—We buy another copy.

1743. You are bound to do that, are you?—We feel it a duty.

1744. Is there any penalty for it?—No.

1745. (*Sir J. Benedict.*) Do you think that it would be advisable to provide for the change of place of the Registry of Copyrights, which ought to be where the published works are deposited, namely, at the British Museum, where reference to the works themselves may be had without difficulty, and where the catalogues of the works deposited may be referred to without fee or reward. In the present instance, as you have mentioned before, the registry of new works is very deficient?—Not that the registry is deficient, but that it is a very large registry; that we have a very large collection of music, and that our catalogue shows the collection to be large, because it is in a great number of volumes.

1746. Do you find that in the case of all musical publications copies are deposited?—No, we receive a great many; but when I had to look after that matter I found that publishers of music were more lax than any others.

1747. And do not you think that with an uniform fee for registration, say 1s. for each musical work, which fee would insure the registration being properly made at the British Museum, there would be no fear of evasion; and it would be of advantage to publishers and to authors were such registration to be made at the British Museum; and would you not have officers appointed who would undertake that registration without any other claim. Of course musical publications are multiplied in such numbers that it is almost impossible to provide against piracy; but piracy would be much more easily prevented if, at the time of depositing these publications in the British Museum, they were registered and the copyright was insured. It has always struck me that that would be an immense boon to the authors. My opinion is (and I should like to know whether you share it) that the publishers would be quite willing to pay that fee. There are thousands that evade it; whilst by that registration the copyright could be insured I think there is not one publisher that would not submit to that fee?—The question of music I presume would come within the same category as any other published work, so that it is embraced by the broad question of whether the register should be at the Museum or whether it should still continue at Stationers' Hall. Of course we get a great many pieces of music.

1748. If it were provided that the fee for registration should not exceed 1s., that the copy of such registration should not exceed 1s., that each registration should be compulsory, and no security should be given for the copyright if it were not done, are you not of opinion that every work would be sent to you, and on such conditions the small fee named would answer every purpose. At present it is excessive, I hear about 5s.?—I do not know; we merely receive these things at the Museum and give receipts for them, for which no charge is made. The question of the registry is a totally different thing.

1749. Do you think there would be any difficulty in having them registered at the Museum?—As I have said before it is a question of space and of staff. We should want more room and more men than we have. As to the fee, that is another and a minor consideration altogether.

1750. (*Sir H. Holland.*) Do I rightly understand you to say that you now require newspapers to be deposited at the British Museum?—Yes. If you will allow me I will mention the number, of which I have here a statement. In 1873 we received of numbers of newspapers 40,651; in 1874 we received 111,607; and in 1875 we received 115,563. We were obliged to receive them under the Copyright Act when Mr. Ayrton stopped the deposit of newspapers at the office in Somerset House.

1751. Has any objection been made by any of the newspapers to the deposit?—Yes; some have done so; they referred to that *dictum* of one of the judges

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G. P. Tate,
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4 July 1876.

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whose name I have forgotten; but in general they came in very well.

1752. But have any altogether resisted depositing?—They did at the first, but not in the last two or three years. There is no difficulty with them practically now.

1753. I find in the case of *Cox v. "Land and Water" Company* it was held that a newspaper is not within the Copyright Act of 1842, and is not a sheet of letter-press, and that it is a well-known species of publication, and would have been inserted by name if intended to be included in the Act. Probably that is the decision to which you referred just now?—It is so.

1754. But you have not found that the newspapers have relied upon that decision and refused to deposit?—A few did in the first instance; but I believe they have given in.

1755. It is in truth to their advantage that a copy of their paper should be deposited?—I think so. In 1875 the number of provincial newspapers (including Wales) was 1,163. Then in London we received 291; of the Scotch 167; and of the Irish 135, making a total of 1,756 newspapers which we received in 1875 under the Copyright Act.

1756. (*Mr. Trollope.*) Do you mean that you receive daily a copy of every daily paper?—Yes; some are sent daily, some at longer intervals.

1757. (*Mr. Froude.*) Do you bind them all up?—Yes, we bind them up in volumes. Supposing the "Times" or any other paper issues two or three editions we only bind the first, because we get the additional matter of the second and third editions in the next day's paper. We make that distinction, and that alone reduces the number of volumes of the "Times" from about 12 to 6.

1758. (*Sir H. Holland.*) May I ask is it not the case that the public make a great deal of use of the deposited newspapers?—Very great.

1759. And therefore it is very desirable that this deposit of newspapers should continue?—Quite so. The Trustees are so well aware of their importance that they have applied to the Government to provide a separate building for the reception of the newspapers.

1760. (*Chairman.*) Do you bind up the daily provincial papers as well?—Yes.

1761. (*Mr. Trollope.*) This is done with every copy of every newspaper published in the three kingdoms?—Yes; I should be very glad if one or two of the Commissioners would do me the honour to visit the Museum and see the newspapers. It is a curious collection, and is really very important. Before leaving I should like to hand in extracts of statistical details which I have had made. (*The same were handed in; vide Appendix.*)

The witnesses withdrew.

Adjourned to Friday next at half-past 12.

Friday, 7th July 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.

JAMES ANTHONY FROUDE, Esq.
ANTHONY TROLLOPE, Esq.
F. R. DALDY, Esq.

J. LEYBOURN GODDARD, Esq., Secretary.

Monsieur CHARLES GAVARD, Minister Plenipotentiary, acting as First Secretary of the French Embassy, examined.

Monsieur
C. Gavard.
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1762. (*Chairman.*) I believe that you are able to give the Commission some information respecting the views of the French Government on certain points of international copyright?—Yes.

1763. Will you have the kindness to give those views to the Commission?—I wish to call the attention of the Commission to the Convention of 1851, Article 3, Article 4, and Article 8. Article 8 concerns the deposit and registration which the authors are obliged to make by the French order. After they have made the deposit and registration of the book in France they have to comply with the same regulation in England; and we wish that that deposit and registration should be rendered unnecessary; that is the amendment which we desire to obtain; that is the first point.

1764. What do you propose to substitute?—The French Government wish that when the author has complied with the regulations in the country of origin he should have no other deposit and registration to make, and that that compliance should give his rights an absolute character. They wish to assimilate literary property to property in general. Without entering into the question of principle, they wish to simplify the formalities to be complied with by authors in the two countries. If an author were obliged to deposit and register his work in every country, it would be a serious burden to him, because of the price of each copy, and the difficulty in making the deposit in due time everywhere. There are numerous examples of authors who have not been able to make the deposit in due time or to comply with the formalities, and who have in consequence lost their rights. To go to the bottom of the matter, it appears that the deposit is merely for the purpose of adding to the collections of books, in France at the National Library; and in England at the British Museum. The doing away with this registration and deposit is demanded in the

interests of the authors, and its maintenance is demanded in the interests of enriching the respective libraries in the two countries; and the French Government consider that the interests of the authors should rather be considered in demanding the abolition of the deposit and registration than the interests of the libraries. On this point the French Government have come to terms with all the countries on the Continent with the exception of one. All the conventions have successively done away with the necessity of the deposit. The deposit is the principal embarrassment or grievance to the trade.

1765. (*Sir H. D. Wolff.*) Do foreign authors enjoy in France the same rights as French authors even when no convention exists between the countries?—In my opinion as a jurist they do enjoy those privileges; they enjoy a double privilege, namely, that of the convention where there is one, and without it, under the general law, they enjoy the same rights as French authors. If they claim under the French law of 1852 the protection of their rights, they must fulfil the stipulations of that law, which requires deposit to be made in France. If, on the other hand, they claim the protection of the Treaty, they have only to fulfil the formalities laid down in the Convention. Should our proposal be accepted, not only will there be abolished the deposit of which I have spoken, but also the registration to which I am about to refer. Before continuing further, I must state that, independently of the Convention, English authors, like all other foreigners, are protected in France by the decree of the 20th March 1852, which prohibits piracy generally. Up to this point, I have only spoken of the deposit. Besides the deposit, foreign authors in England are compelled to register their works; the French Government ask also that this registration may be dispensed with. As certain countries have maintained this registration it is