principally, and of American copyright, which raise the whole principle of copyright law; and I propose to take them last.

The following are the questions of the first kind—questions of detail, in the order in which I propose to take them—viz., first, as to the duration of copyright; second, as to registration; third, as to deposit in public libraries; fourth, as to translations of books; fifth, as to abridgments; sixth, as to dramatisation of novels; seventh, as to musical and dramatic works; eighth, as to the imitations and translations of foreign plays; ninth, as to lectures; tenth, as to university copyright; eleventh, as to the form of international copyright; twelfth, as to the consolidation and codification of the law.

First, then, as to the duration of copyright. Under the British Imperial Act, (as the Commissioners know) copyright in books lasts until the expiration of 42 years from publication, or until the expiration of seven years from the author's death, whichever last happens; in France for the life of the author, and 50 years afterwards; in Germany for the life of the author, and 30 years afterwards; in Italy for the life of the author and 40 years afterwards, or 80 years from publication, whichever is the longest. In Italy during life or 40 years from publication the right is absolute; during the remaining time, according to the information we have from the Foreign Office, "it is *restreint*;" what that means we do not exactly know, but I have heard that it is through the medium of a license to publish on payment of a royalty. In the United States it is for 28 years certain, with power to the author, his wife or children, to renew for 14 years more. And in Canada, under the present Canadian Act, it is the same as in the United States. Several suggestions have been made for amendment of the Imperial law in this respect.

It has been proposed to prolong the term; and the reasons given for this are, that the copyright may expire just at a period when the author's family are needing help, and when the book, if a good one, is at the zenith of its reputation; and, secondly, that it is desirable to give the author a prolonged control over his work, so that uncorrected or incomplete editions may not be published without his authority. It seems to me, as regards the first of those arguments, that it is quite clear, from the evidence, that no publisher would give more in the first instance for the original copyright, in consequence of the prolongation, and therefore that whenever the copyright is parted with the author and his family would get no good whatever from the prolongation. It seems also very doubtful whether any such prolongation would have the least influence in inducing authors to write and publish, which after all, is one of the chief objects of copyright, and the English law already gives a longer term than the law of the United States and of Canada, which are the countries with which it is most desirable to come to an agreement. Then, as regards the prolonged control of the author over his work, it seems to me that it may be very properly left to the public to choose which edition they will prefer, when the copyright is at an end. The probability is that if the author publishes a good and correct edition they will buy that, and if it is intended that the author shall have the power of suppressing opinions, which he may have changed since he published them, the benefit of any such power seems to me, to say the least, extremely doubtful. On the whole, it appears to me that the balance of argument is against prolongation of the existing periods; but this subject was so very fully discussed in the well-known debates on Mr. Serjeant Talfourd's Bill, that it really is hardly necessary to go into that question. Those debates will be found in Hansard, Vol. 56 of 1841, and Vol. 61 of 1842.

Then a second suggestion has been made by Mr. Daldy and Mr. Dicey) to substitute for the existing fixed period a fixed period of say, 28 years, and a further period on the application of the author or his family. This is in accordance with the law of the United States and of Canada; and there seem to me to be strong reasons in favour of it. It is quite clear, from the evidence of the publishers, that they would give just as much for a copyright of 28 years in length as for one of greater length. If therefore the copyright is sold outright by the author he will get as much for 28 years as for 42. At the end of that time, if his book proves to be one of permanent value, he or his family would, whatever the original arrangement may have been, have the opportunity of prolonging the copyright and making a fresh arrangement with the publisher. On the other hand, if the book is of little or no value, the copyright will expire and be done with at the end of 28 years; and that is also an advantage. What the exact periods should be would depend upon the view which is taken of the proper duration of copyright. There would be an obvious advantage in assimilating our law to that of the United States and of Canada, namely, 28 years certain, with power to prolong for 14; but if it is not thought desirable to shorten the existing period, there would be no difficulty in making the original term 28 years, with power to the author or his family to prolong until the expiration of 14 years from that date, or until the expiration of seven years from the author's death, whichever should last happen. I think that an objection has been made to this proposal, on the ground that it would amount to an interference with the right of private contract. It does not seem to me that that is a sound objection. This right or property is a creature of the statute law, and the statute law which makes it, can modify it. It is a right to prevent the multiplication of copies. That right may be given absolutely for 28 years with a power of revival of that right under certain conditions in certain events; and as it exists in Canada and United States, I can see no reason why it should not exist here. It seems also to have existed under the first Copyright Act that was passed in this country, the Act of the eighth year of Queen Anne. There was an absolute term of 14 years, and power to the author if living at the end of the 14 years, to prolong it for 14 more.

2864. (*Mr. Fitzjames Stephen.*) Does not the Act of Anne say that it is to return to him, if he is then living?—You are right; he is not to apply, but it returns to him. It is, however, the same principle, viz., that the first absolute term ceases at the end of the 14 years.

2865. And that is so in several of the other Acts?—I daresay it is. A question of detail would be whether, if this principle were adopted, the power to prolong should be given after the author's death to his legal representatives, or to his widow and children, or to his widow, children, and grandchildren. It is given to the widow and children in the United States. So far with regard to the duration of copyright in books.

Next, it seems that there is great inequality in the duration of the present copyrights in different subject matters. The duration of copyright in translations is now five years; in dramatic and musical compositions, if not printed and published it is possibly perpetual (there is a doubt about that); in lectures 28 years or life; in engravings 28 years; in paintings, drawings, and photographs, life and seven years; in sculpture, 28 years. I see no reason why the period should not be the same as that for books in all these cases, as Mr. Daldy has already suggested. The rights of the author in magazine articles would require a special rule; and I think that they might properly revert to him in three years for the remainder of the term for which copyright ordinarily lasts. At present the law is that the right reverts to the author after a long period, 28 years; the practice in some of the most important reviews is, that the right of publication reverts to him in one year. As a matter of law it might very well revert to him, say, in two years or three years, and then remain in him as long as it would remain if it had been an original book.

2866. I suppose the principle of that last suggestion of yours is that you would allow the author of an

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article in a periodical work to publish it at the time when the owner of the review or newspaper had got all the use that he practically was likely to get out of the article?—Yes.

2867. And with regard to the other matter, the question of detail about the power to prolong being given to the widow and children, surely copyright must in all cases be part of a man's personal estate. I mean why should there be a distinction between copyright and any other personal estate?—The reason is that the application for extension of copyright has always been grounded on this, that it is desirable for the sake of the author's family; and in the United States, and in Canada that has been acted upon, and the right has been given to the author's family.

2868. That makes it an exception to all other property, does it not?—Yes, and it is a very exceptional sort of property.

2869. Suppose you make it property at all, as far as the question of devolution goes, why should it go differently from any other property?—In saying that it is different from all other property, I think there is one case which is somewhat like it where the right is not part of the personal estate; that is the right to damages under Lord Campbell's Act, which go to the family.

2870. In that case the family are the people who are injured?—And in this case they are the people we want to benefit.

2871. As regards property, one generally leaves a man the right of disposing of that as he thinks proper. Supposing that the children were well provided for, and that for some reason he did not wish to leave the property to his widow, why should he not be able to leave it otherwise?—I see no reason; I think you might leave him the power of distributing it amongst his own children as he pleases.

2872. Then surely it would be a simpler thing to treat it as personal property altogether?—I think the other form is the better, because it would be better for him and his family that it should revert to them at the end of its period. It seems to me that it would be better to divide it in the way in which it is divided in the United States.

2873. As to making the term of copyright identical for different kinds of property, it is the same as regards books and dramatic entertainments, but different as regards all works of art, I think?—Yes, I think it is; but I do not think that any principle has been followed.

2874. But at the same time is there any reason why those differences should be made?—No, I suspect you will find that they are historical.

2875. The last Copyright Act was passed in 1862 or 1863, there must have been some reason considered sufficient then, and that gives life and seven years after?—There is always when a Copyright Act is introduced, a conflict between those who maintain the absolute principle of monopoly, and who would go in consequently for perpetuity, and those who go in for absolute freedom and destruction of monopoly, and it is generally a matter of compromise between these two things.

2876. (*Mr. Trollope.*) I understand you to recommend that whatever changes may be made, there should be no prolongation of copyright?—That is my present impression.

2877. And I think you base that on an assumption, at any rate partly on an assumption, that the publisher would give no more to the author, if copyright were prolonged than he does at present?—That is one reason.

2878. Do you think that the contract generally made by the author with the publisher is for the entire sale of his works?—I know very little about that, except what I have gathered from the evidence before this Commission, and from that I gather that a common contract now is one for half profits.

2879. Half profits would leave at any rate the property in the author's hands?—Half, but half only.

2880. And therefore that ground of recommending the Commission to entertain no idea of prolonged copyright, would only extend at any rate to half the property?—Quite so.

2881. I had imagined (perhaps you will tell me if I was wrong) that that was the chief ground on which you based your recommendation?—No. The chief ground on which I base the opinion that copyright should not be prolonged is, that with the present term of duration the author gets a sufficient remuneration, and that it is for the interest of the public that the copyright should expire at the time at which it now expires.

2882. Of course you are aware that in the way in which copyrights run out at present, the copyrights of an author become extinguished at different periods. For instance, take the case of Mr. Charles Dickens' works; the copyright of his "Pickwick" runs out I think next year, and I think that for a portion of his works it will not run out till 1912. Does it not appear to you that that is irregular and anomalous?—No, it seems to me a very fair thing that the copyright should date from the time of publication, which is our present law. This is the point so much argued on the debates on Mr. Serjeant Talfourd's Bill, in which Lord Macaulay took so strong a part. I only refer to that as a reason for not going at great length into a subject which has been so fully discussed in those debates.

2883. But if the anomaly still exists, if it be an anomaly, it cannot but well be discussed again. Let me put the case of an author whose works are worthy to be published as a whole, and remind you that a very short period after the author's death a portion of those copyrights may become extinct, and a portion of them may remain for many years afterwards. Do you not think that it is well that there the power of bringing out the whole work together should remain in the same hands?—I cannot see it. As regards the author and his remuneration, he will have had the benefit of the copyrights which have become extinct for a long period, whereas of those which have not become extinct he will have had the benefit for a short period comparatively. Therefore I can see no reason, as regards justice for himself, why the copyrights should not end at different times.

2884. That will often come to this, that a man's entire works cannot be published uniformly till some period after his death, and as to that I think the present law is hardly sufficient?—I suppose the argument means that if the copyrights all ended at the same time the owner of the copyrights would in the meantime have the power of publishing a complete edition, whereas he would not have the same facilities for publishing a complete edition if some of the copyrights were extinct and some were not. In the first place it may very well happen that the author has parted with the copyrights of his different books to different persons; therefore I do not see that you have a much greater security for a complete edition in the one case than you have in the other. Then I think the argument goes as much in favour of shortening the longer copyrights as of lengthening the shorter ones. But I believe that an author or publisher who has some of the copyrights in his hands would have no difficulty in publishing them together with other books in which the copyright has run out. In fact I know that it is done. Therefore I do not think there is much in that argument.

2885. Assuming the case of a person having published a certain work, and the copyright in that work having expired, and that after the death of that person it is proposed to publish this work against the wishes of, say, the husband or wife, do you see any objection to that being allowed, or do you think such a law ought to be altered?—I do not think there is anything in the law that requires alteration. I do not think that copyright exists or ought to exist in order to enable an author to recall that which he has once given to the public. The object of the law of copyright is to give the author adequate remuneration and encouragement. That which he has once given to the public becomes the property of the public, and I think it would be a very mischievous thing to enable the author at any

time to withdraw what he has given to the public, and the argument, if good for anything, goes not only to the time for which copyright lasts, but to all time. Now take, for instance, a poet, he very often in subsequent years alters his original poems. Many persons still continue to think that the original edition is the best, and would rather have that; and I see no reason why they should not have it. Take again the case of an author altering his opinions. Racine is said in his later years to have wished to withdraw his plays. Sir Charles Lyell altered his opinion about the length of time that man had been upon the earth. He was not the man to shrink from avowing any change of opinion, but supposing he had, when he changed his opinion, chosen to withdraw from the world the chapter in which he stated his earlier opinion, I think it would have been a misfortune for the history of the progress of human opinion. Take another case. There is a late very learned book I once learned a great deal from myself, a criticism on the Gospels, by a German philosopher, Gfrörer; that was not at all an orthodox book. He subsequently, as I am told, became a Roman Catholic, and might very likely have wished to suppress his book altogether. I think that such a power should not be given.

2886. (*Sir L. Mallet.*) I think I gather from your remarks that although you are against any prolongation of the period of copyright you are equally against any reduction of it?—For myself I should have preferred that which was the original proposal of Lord Macaulay in 1842, viz., 42 years; or that which has become the law of the United States and Canada, namely, 28 years, and a prolongation for 14. But the prolongation for seven years in case the author was living at the end of the 42 years was carried against Lord Macaulay in the House of Commons; and I think it improbable that that duration would now be shortened. I myself should prefer the law of Canada and the United States.

2887. You see no force in the argument which is sometimes used that as it may be presumed that the particular term of copyright was fixed from some idea that that term was the proper term in order to give a sufficient motive to the author to write without there being too strong an interest, it is incontestable that as the area of copyright has extended by the growth of copyright treatises, and new communities adopting them, the remuneration of the author has very much increased. Would it not be rather natural that in proportion to the area of consumption the term of protection might be diminished without diminishing the inducement to the author to write?—Yes; still one must not lose sight of the fact that the tendency hitherto has been to prolong rather than to diminish. We have, by the statute of Anne, 14 years, with a return to the author for 14 years more. That was in the year 1710. In 1814 it was made into 28 years absolute, and the life of the author; in 1842, the life of the author and seven years, or 42 years, whichever is the longest.

2888. I think I understood you to say that you would propose to give the same term as is given to books to all other copyrighted articles, to engravings, and photographs, and sculpture, and all the other articles which are protected by copyright. Does it not appear to you that with regard to works like engravings, which are merely after all a form of copying an original work, there is something rather anomalous in giving as great a protection to them as to original works?—I presume that the protection given to the engraving is only a protection given against an absolute copy of that engraving; it does not prevent another person from engraving the same picture or the same object. So with the copyright in a photograph; of course, it only prevents you from photographing from the photograph, not from photographing from the object itself.

2889. (*Mr. Daldy.*) I want to ask you whether you think that the reason for making the duration of copyright in the case of paintings different from that which occurs in all other statutes, was to be found in the difficulty of fixing the date of publication of a painting?—I do not know enough of the history of the Acts to be able to judge on that point; but I cannot conceive that there would be any real difficulty in fixing the time for the publication of a painting if you adopted a system of registering such as has been proposed in the evidence.

2890. As a matter of fact you are not aware that that was the reason?—I am not aware of it.

2891. (*Dr. Smith.*) You have stated in answer to questions which have been put to you that you understood that the ordinary mode of publishing books now was by dividing the profits between the publisher and the author; are you aware that in that arrangement the author does not necessarily part with his copyright: that it is a division of profits, and not a sale of half of the copyright?—I am not acquainted of course with the arrangements between authors and publishers, but a sale of half the profits for 42 years would in fact be a sale of half the profits of the copyright for 42 years.

2892. But are you aware that that is not usual; that when an author publishes on the principle of dividing profits it is not the dividing of profits for 42 years, but the dividing of profits for each particular edition, and that at the end of the first edition, or of the second edition, as the case may be, the author is at liberty, unless he has made a special assignment, to take his work to any other publisher?—If that is so then of course it shows that the copyright, subject to arrangement as to the particular edition, remains in the author altogether; but I do not know whether as a fact it is so.

2893. I ask the question on this ground, because you assumed that the publisher by that arrangement was benefited to the amount of half the share, just in the same way as he would be benefited to the amount of the whole share by purchasing the copyright?—I am extremely ignorant of the arrangements between authors and publishers. I only took that from what I had seen in the evidence given before this Commission.

2894. But assuming that when an author publishes a book on the principle of half profits he does not part with his copyright, unless by a special assignment, and that he is at liberty at the expiration of the period to take his work to any other publisher, then the publisher is not benefited?—In that case the question of the duration of the term of copyright affects the author only and not the publisher; and the reason for dividing the periods fails *pro tanto*.

2895. Are you aware of the principle which guided the German and French jurists in recommending that the law should be as it now stands in Germany and in France, that the copyright in one case should be 30 years, and in the other case 50 years after the author's life?—No, I am not.

2896. Are you aware, as has been stated to me by an eminent jurist in Germany, that the principle was to provide that the children of an author should, during the period of their natural lives, derive a benefit from the work of their parent, but that as it would lead to great uncertainty to put it in that form they fixed upon some term which, as a general principle, would cover the lives of the children?—No, I was not aware of that.

2897. Assuming such to be the case do you see any force in that argument?—I do not see any great force in it when you take the arguments which there are on the other side. It seems to me that if the author has had a long period during his own life during which he has been obtaining large profits from his copyright he is perfectly well able during that time to provide for his children; and it seems to me that there is great force in Lord Macaulay's argument, that by the form of copyright you suggest you may be giving the longer copyright to the worst works of the author, and the shorter copyright to the better works of the author. That was the great argument by which he convinced the House of Commons.

2898. Do you see any force in this argument which has been brought before us that an author publishes a work, say in an incomplete form, and improves it

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subsequently, and that in seven years after his death the publishers have the power of injuring the sale of the superior work by republishing the inferior and imperfect addition. To make my meaning clearer, I will take a case. Take for instance a standard work like "Hallam's History of the Middle Ages;" that was originally published, I believe, in the year 1819, and was very much improved and enlarged to the amount of one third by Mr. Hallam. Directly upon Mr. Hallam's death, he having lived more than 42 years from the time of the publication of the first edition, another publisher, happening to be of the same name as the publisher of the first edition, publishes the first edition as "Hallam's History of the Middle Ages," and thus prejudices the sale of the later and better edition, and so far injures the representatives of Mr. Hallam?—I see no force in that case at all as regards any argument in favour of a longer duration of the copyright of the earlier work. It seems to have been an unfortunate case; there seems to have been an unfortunate similarity of names, and if there was anything like misrepresentation, so that the public were deceived by that into buying one work when they thought they were buying the other, then I think there ought to be a remedy of a different kind, but not a remedy by a longer duration of the copyright of the earlier work. I think you must leave the public to judge whether they will have the better edition or the worse edition, and that the better edition must stand upon its own merits, and upon the notice which the publisher can give of its superiority.

2899. But do you think that the justice of the case would be met by an alteration of the law to this effect, that the publisher should not have the right of republishing the earlier edition till the copyright of the later edition had run out. I am not proposing any extension of the term of copyright for the later edition, but simply that publishers should be forbidden to republish the earlier edition while the later edition is still copyright?—I think that would be extremely undesirable. It would be giving the author an inducement to publish new editions merely for the sake of prolonging his copyright, and to make what would in fact be sham alterations for that purpose.

2900. Do you imagine that the law of copyright exists simply for the benefit of the public, and not also for the benefit of the author?—The ultimate object, I take it, of the law of copyright is, like that of every other law, the benefit of the public; but no doubt the more direct and immediate object is the benefit of the author, that is to induce and encourage the author to exert himself in a way beneficial to the public. You cannot separate the two objects.

2901. But you think that there should be a great distinction drawn between property in copyright, and property, say in land and houses, or in any other property?—I think there is a distinction as a matter of fact.

2902. Unquestionably there is, but you think further that there ought to be a distinction?—I think that certain incidents follow from the actual and natural existing distinction. You cannot give the enjoyment of a piece of land, or of a house, to any person, without giving it to him altogether. The nature of the right in the case of copyright is a different one; it is a right to prevent the multiplication of copies. That you can modify in a great many ways. You cannot multiply land or a house, and if you are to have property in them at all, it must be absolute and perpetual property.

2903. (*Mr. Herschell.*) You propose that at the end of three years, in the case of a work published in a periodical, copyright should revert absolutely to the author?—I think that a reasonable time.

2904. I suppose during those three years, that is to say from the commencement, you would allow him to retain, as at present, the right of separate publication?—That would depend upon his arrangement with the owner of the magazine.

2905. I mean you would allow him to retain, by arrangement, as at present, the right of separate publication?—Yes. I am only speaking of what should be the law in the absence of a special arrangement between the owner of the periodical and the author.

2906. Do you think that during those three years, supposing him to have retained his right of separate publication, he should be entitled to a copyright, and should be able to prevent a separate publication by any one else, though he himself may not have separately published it?—Yes, I am inclined to think that it would be right; both he and the owner of the periodical should during the period of, say, three years, have the right of preventing the publication by third parties; and after that time, in the absence of special agreement, the right should belong to the author for the usual period of copyright dating from first publication.

2907. (*Sir H. Holland.*) With regard to that proposal which you said you understood to be Mr. Daldy's and Mr. Dicey's, to have a fixed period of 28 years, do I rightly understand you, that you would have a fixed period absolute of 28 years, and that then it is to revert as altogether new property after the lapse of 28 years, to the author?—Yes.

2908. Therefore *pro tanto* you would diminish the present property of the author, as he now has it, for his life and for some years after?—*Pro tanto;* but as according to the evidence before the Commission the publisher will give no more for it, you do not really diminish the value of any saleable article he has at the time.

2909. At all events you diminish the legal extent of his property, it may be that you do not injure his purse, but you do certainly diminish his property?—You alter the nature of his property.

2910. Do I understand you that you would propose absolutely to prevent him engaging himself to renew that term of copyright after 28 years?—That might be a question. That point is not I think settled by the Canadian or the American law; but it would be a question whether you should say that it should return to him in the absence of any special agreement by him to the contrary, or whether you should entirely prevent his dealing with it until the time arose. I have not a very distinct opinion upon that point.

2911. I am aware that there has been no decision in America or Canada upon it, but it is an important question, because if you do absolutely prevent him engaging himself to renew the copyright, you distinctly interfere with his power of contracting?—Yes; I do not think there is any harm in that myself.

2912. Upon the whole may we take it that your view would be that he should not have the power of contracting to renew the term of his copyright after 28 years?—I am disposed to think so, but should like to consider the point further.

2913. (*Mr. Fitzjames Stephen.*) You say that the publisher would not give more for 42 years than for 28 years?—That seems to be the result of the evidence.

2914. But look at it in this way. Suppose that a work is published in this year 1876, and suppose that 10 years hence that book has attained a considerable position and has become by degrees valuable property. If there is only 18 years then to run of the copyright I should think that would sell for less than 32 years, would it not?—I should think so.

2915. Look again at this case; suppose that a man does not part with his copyright, but (which I believe is the usual plan) makes an engagement with his publisher for each edition; then it makes a considerable difference to him whether he is able to go on for 42 years or for 28 years?—When the end of the 28 years arrives he would be still able to renew and to go on making the same arrangement as before.

2916. So that if you diminish it to 28 years you do take away a very valuable property, though it may be true that if at the beginning of the 28 years he sold the copyright outright the value would be the same as in the other case?—I do not think that you take it away from him. It comes back to him or to his family.

2917. I understood you to say that by shortening the term of copyright to 28 years from 42 you do not

practically diminish the value of the property, because a publisher would give as much for the term of 28 years as he would for the term of 42; that was what I understood your argument to be?—No; my argument was, that if he wishes to part with it at the beginning of the 28 years, you do not diminish its value for the purpose of sale at that time.

2918. Does not that observation lose its importance when you take into account the fact pointed out by Dr. Smith, that the sale of copyright out and out at any time is the exception, not the rule?—Of course the value of the arrangement to the author and his family ceases in proportion to the extent to which he retains the copyright in his own hand. The value of the arrangement, as I understand it, is, that at the end of this period a certain amount of property certainly returns to the author and his family. If, without any such arrangement, he retains the copyright in his own hand, he gets the same thing under the existing law, as he would under Mr. Daldy's proposed arrangement. If, on the other hand, he sells the copyright out and out, it would under that arrangement be quite certain to return to him or to his family.

2919. (*Sir H. Holland.*) Suppose that 14 years out of the 28 have expired, and he then desires to sell his copyright, surely if he had the power of contracting beyond the 14 years, he would get a very much larger sum for his copyright?—Certainly; without any doubt at all, for the purpose of sale, as you approach the end of 28 years, you diminish the value of his property, that is, for the purpose of sale, but not for the purpose of enjoyment. If he became bankrupt his family would retain it, and his creditors would not get it.

2920. (*Mr. Trollope.*) But you diminish the selling value?—You diminish the selling value.

2921. (*Mr. Herschell.*) He gets the smaller sum plus 14 years of copyright still in him instead of the larger sum which wipes it all out?—Yes; that is exactly the state of the case.

2922. (*Chairman.*) I will put one general question, bearing in mind the incidents which would appear to follow from your proposed change, which have been brought out by questions put by different Commissioners, are you still of opinion that the change which you suggest would be of advantage?—I am inclined to think so, but will reconsider the point.

2923. I think we now come to heading No. 2, Registration. Will you give the Commission your views upon that subject?—The result of the evidence which has been given seems to be, that registration, as now effected at Stationers' Hall, is quite useless and in many cases a nuisance. The difficult question has seemed to me to be whether the best way was to do away with registration altogether, or to make it efficient, correct, and complete. You must consider what registration can do, and what it cannot do in this case. It cannot in this case do what it does in many other cases, for instance, in the case of stocks, shares, ships, or land, namely, be conclusive evidence of the original title. It cannot prove that the book registered was written by the person who registers it. It cannot prove that it is not a piracy. And again a registration here is not as valuable as it is in other cases, such as that of patents, for the purpose of giving notice to the world that a certain thing has been appropriated. The subjects of ordinary patents are things which many men are likely to discover, and which, if not discovered by one, are likely to be discovered by another, and hence the necessity for notice to the world. But no person is likely to write the same book as has been written by another; and if one man copies the work of another, whether registered or not, he does it with full knowledge that he is appropriating what has been already published by another. Consequently registration is neither so useful to the owner, nor so necessary for the public as it is in the other cases referred to. But it is notice to the world, that copyright is claimed, and it gives, or might, if properly managed, give, a fixed and published date from which copyright is to run. Those are two advantages. In the case of foreign books it gives notice to the English public that the author, if publishing in a country with which we have a treaty, intends to enforce his rights in this country, and it probably will give our own authors greater facilities for enforcing their rights in foreign countries. Registration is, I believe, more thought of abroad than here, and an English author would very likely find it difficult to enforce his rights in France or Germany, unless he could show that he had some registered title here. This we found as a matter of fact to be the case with trade marks. In that case we had arrangements with foreign countries, whereby our traders were placed on the same footing in those countries with the native traders. But we found that our manufacturers could not enforce their rights to trade marks abroad without showing some title by register in this country similar to the title by registration which prevailed abroad, and the consequence was that the Government were last year obliged to bring in a Bill for the registration of trade marks, which is now the law. Another advantage which might, if it were necessary, be derived from registration is that it might be made absolute evidence of transfer or devolution of title. The division of copyright into shares; the separate rights of publication, translation, and representation; the assignment of all these rights; their transmission by death, marriage, or bankruptcy, may all be registered, so as to make the register book perfect evidence of title for all purposes of sale or transfer. If this were done, it would be practically compulsory, since then registration would be the only means of absolutely securing title. In this case there must be elaborate provisions, such as those contained in the Shipping Acts; there must be books carefully prepared and kept, and fees paid for each transaction to cover the expense. Whether such a system is required by the state of dealings in copyright property I am unable to say. But, putting aside this question of making a complete register of title, it would seem that the reasons in favour of a simple original registration of copyright would scarcely be strong enough to justify it, if it inflicted much annoyance, or trouble, or expense. But it need not do so: it would be a very simple thing if made, as has been proposed, in connexion with a deposit at the British Museum. This then is what I would suggest: let the deposit be accompanied by a statement or affidavit that the book is published; let the book be registered at the time of deposit; and let the entry, in the absence of evidence to the contrary, prove publication. Let the depositor have a certified copy of the entry, and let this be receivable in evidence. Let the published copies of a book so registered bear on their title page "Registered at the British Museum," and let there be a heavy penalty for printing these words when there has been no registry. If there is to be such a register at all, it ought to be complete and correct, and I do not see any way in which this can be effected except by making it entirely to the interest of the author or publisher to make it so. For this purpose he ought to have no right to take any proceedings for breach of copyright committed before entry on the register. This would give him a motive for making it at the right time. I do not see how this would cause any hardship. Suppose the registration to have been omitted, or postponed by accident or neglect, or suppose a copy of the book to have been stolen whilst in the press, then it may be said a piratical publisher might print and publish; he might even register his piratical publication. Of course, to meet any case of that kind, there must be a power in the courts of law to set the register right if an entry has been incorrectly or fraudulently made, and in case of thefts or gross and deliberate fraud there would be power to punish. As regards copies piratically, but not fraudulently, published before registration by the real author, there might, if necessary, be power to stop subsequent sales. And if this is not thought a sufficient safeguard, I see no reason why there should not be an interim registration, so that when a man intends to publish a book he should be able to protect it provisionally in the same way as is done in the case of a patent, and then complete the

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registration afterwards. If this system of registration were adopted, I think it should extend to everything which is the subject of copyright (except designs, which stand on a different footing). In the case of dramatic and musical pieces, represented but not published, of lectures not printed, and of sculptures and paintings, there could be no deposit, but simply a registration of the title, and name of the author, and date of publication or representation. There seems to be no reason why engravings and photographs, if copyrighted, should not be deposited. Then a provision would have to be made for works published in the colonies. It is pretty certain that there would be in all cases registration in the colony, and publication would date from the time of registration there; and an official copy of the colonial registration, accompanied by a copy of the work, should be sent to the British Museum if it was intended to claim Imperial copyright. That assumes that there is to be copyright in the colonies. Provision would also have to be made in a similar way for registration of foreign works under international copyright arrangements. Assuming that there will always be some registration of the foreign book in its own country, an official copy of that registration, attested at the British Consulate, might be sent to the British Museum and there registered. And in the same way an office copy of the entry in the British Museum of an English copyright book might be sent to, and received and registered by, the registering departments of foreign countries. The plan I have thus suggested seems to be very like that which is adopted in the United States; and as the Commissioners may like to have the law and instructions of the United States, I will put them in (*the same was handed in, vide Appendix, paper marked A.*).

2924. (*Mr. Fitzjames Stephen.*) I do not quite gather how the system which you propose differs very much from the existing system?—In the first place I would transfer it from Stationers' Hall to the British Museum; then I would make the receipt of the book at the British Museum, or the certificate given there, a certificate of registration. Then I would say that there should be no remedy for breaches of copyright committed before registration, and that makes a very essential difference indeed.

2925. You propose that a man should not be able to take proceedings for anything done before the registration?—Yes.

2926. In respect to dramatic copyright, can you give us the reason why the law is different in this respect?—I have not any idea. All these different Acts on the different subjects of copyright seem to have been framed with very little reference to one another.

2927. The main thing in your proposal would be that the owner would not be able to bring an action for anything done before registration, that is the principal alteration?—Yes, which would compel him to register.

2928. (*Mr. Trollope.*) If I understand you right, you do not intend to make registration compulsory?—That would practically make it compulsory, because you would have no right to bring an action for any breach of copyright committed before you had registered, so that you would take very good care to register in order to prevent piracies.

2929. But you would not inflict any penalty for non-registration other than that which would come from the want of power to obtain redress?—Experience in registering makes me attach very little value indeed to penalties. Penalties must be enforced through the medium of some government office, and no government office will go about hunting for penalties in a case of this kind. The only way of making registration effectual is to make it to the interest of the registering person to do it himself, and to do it correctly. That is the way in which the registration of ships (with which I have been much concerned) and the registration of stock, has been made effectual. There a person has no secure title unless he registers, and consequently he takes very good care to keep the register correct.

2930. You are aware that the delivery of a copy at the British Museum is compulsory?—That is compulsory.

2931. That being compulsory is enforced?—That is enforced, because it is the interest of the British Museum to do it; they would have no interest in enforcing a penalty.

2932. (*Chairman.*) Unless it went to them?—Unless it went to them, which it would not.

2933. (*Mr. Trollope.*) They enforce this delivery by legal proceedings, if necessary?—Quite so.

2934. Could not the registration which would, in point of fact, be effected by the very delivery of the book, and which therefore must take place when the book is delivered at the British Museum, be made compulsory in the same way?—I think that might have some effect in making the registration compulsory; the British Museum would for their own sake look after the deposit of the book, and when the book was deposited that would necessarily be a registration, and therefore as regards books published in England of which a copy has to be deposited, that would be an additional security. But it would not touch books and other things which are not deposited there.

2935. Therefore, practically, registration would in that way be compulsory?—It would, to some extent. But I should prefer the additional security I have proposed.

2936. You probably are aware that the British Museum has objected to undertake this work of registration?—I was not aware of that; I did not gather that from the evidence of the Librarian, who came before you.

2937. It being the case that the Trustees of the British Museum have objected to undertake this work of registration, does that alter your opinion at all?—I can hardly think that if it were shown to be for the benefit of literature that they should undertake this duty, a public body, such as the Trustees of the British Museum, would object. There is, however no difficulty whatever in setting up a registration elsewhere. Any department, the Board of Trade, or any other department, could do it with the greatest ease; only it seems to fit in so very neatly with the deposit at the British Museum.

2938. You gave a list just now (a very valuable list it was) of the reasons which induced you to think that this registration was expedient. Do you not think it is another reason, that it would be well that the country should have a list of all literary and artistic works which are brought out in the course of a year?—No doubt. I think that is a very desirable thing.

2939. (*Mr. Daldy.*) I suppose you are aware that at present a summary remedy is enforced against anybody who neglects to deposit a book at the British Museum within a certain time after its publication?—Yes.

2940. Would not that of itself be a sufficient safeguard to ensure the deposit and registry, if your system of registering at the British Museum was carried out?—I should much prefer to see the additional security which I have suggested. And it is to be remembered that the deposit at the British Museum would not extend to foreign books or other things not deposited there. I intend to suggest that there should be no deposit of foreign books; and it is a question whether there should be any deposit there of colonial books.

2941. Are you aware that foreign countries have made a complaint of the trouble in registering in England?—Yes; innumerable complaints, both to the Government before this Commission began its labours, and since.

2942. Would that induce you to advise that the registry in one country should be received as *primâ facie* evidence in another?—Yes. I propose that a copy of an entry in the official registry in one country, attested by a consular officer of the other country, should be accepted by the registering department of that other country.

2943. Would you enforce it in the case of every

book?—In the case of every book for which it was intended to claim copyright.

2944. You would not find foreign countries complain of that, you think?—I do not think so; I think that is what they have asked for. They complain of the present requirement of deposit, and the trouble that is given to them, but they have all of them suggested that there should be a registry, and the French certainly agree to such a plan as I have proposed.

2945. (*Mr. Herschell.*) I presume the British Museum authorities keep a record day by day of every work that they receive at present?—They must do so.

2946. So that according to your scheme the delivery of the book which now takes place in every case, and the record that they keep in every case, would of itself be the registration that the law requires?—Yes; so far as concerns the registration of the original copyright. If you go beyond that, to make the register a record of title, you must make it something more elaborate and arm the British Museum with additional officers for the purpose. But from my experience in the matter of registration of ships, I can say that there is not the slightest difficulty in doing that through the medium of ordinary clerks. You can frame the enactments so as to prevent them having any difficult questions of title to decide.

2947. Can you tell us whether at present, practically speaking, there are any exceptions to the delivery of all books at the British Museum, or whether the present penalty is sufficient to induce everybody to deliver the book?—I think so. Whether it might be worth while in the case of some of the very expensive books to incur the penalty, I do not know, but a respectable publisher would not do that.

2948. (*Sir H. Holland.*) I suppose, with reference to interim registration of title, you would fix some limit beyond which that interim registration should not last?—Yes, three or six months, say.

2949. And with reference to the admission of a certificate, some doubt, as I understand, has been raised whether the foreign governments would agree to that?—Probably you are aware (it appears in the correspondence before us between the Foreign Office and the French Government) that France has concluded conventions with 37 States which do not require deposit of copy on registration, and that only in England and in Spain are these stringent formalities required?—That is so; and I think in some countries they do not even require a registration in their own country of the copy of the original registration, but in most countries they do.

2950. I see that by Article 3 of the convention between France and Bavaria which has been much pressed upon us, it is sufficient for the authors or publishers "to establish their copyright by showing a "certificate granted by the competent authorities in "either country to the effect that the work in question "is an original one, enjoying in the country in which "it was published the protection of the law against "piracy"?—That is a certificate which no English administration could possibly give. Neither the British Museum nor anybody else can certify that the work is an original work, or that it is not a piracy, but only that it has been registered at the British Museum.

2951. That is not the kind of certificate that you would wish to be given, but simply a certified copy of the registration?—Yes.

2952. And that ought to be in our courts *primâ facie* evidence that the law of the foreign country has been complied with?—Yes; but the copyright would, of course, notwithstanding, be open to any objections on the ground of piracy.

2953. Our object being to satisfy ourselves that the local law as to registration has been complied with?—Yes, quite so.

2954. (*Chairman.*) In the event of the objection of the Trustees of the British Museum to accepting the duty of registering works being held to be valid, do you know enough of the capacity of Stationers' Hall to be able to give an opinion as to whether it might be still enabled to continue the duty on the enlarged basis suggested?—I know very little of Stationers' Hall except from a visit there to see what they did, and from the evidence before this Commission, neither of which have impressed me favourably as to the business capacities of Stationers' Hall; but, however this may be, I think that if you are going now at this time to make a complete and perfect system of registration, it would be much better to place it in the hands of some responsible department, than in the hands of a private company over whom the Government have no control.

2955. (*Mr. Herschell.*) If the difficulty with reference to the British Museum should be found insuperable, your scheme might be approximately carried out, might it not, by compulsory registration, say, at Stationers' Hall, on the production of a receipt for the book from the British Museum?—Yes, if it is determined to retain the Stationers' Company as the registering body.

2956. (*Dr. Smith.*) But your strong opinion is that it would be better to put it in some office under Government control?—Certainly.

2957. In case the British Museum declined, you would see no difficulty in that duty being performed by the Board of Trade, or some similar Government office?—None whatever.

2958. (*Earl of Devon.*) What control at present has the Government over the British Museum; has it any?—It has the control that their estimates are voted annually by Parliament.

2959. (*Chairman.*) But not proposed by a member of the Government?—No, but they are a public body with large responsibilites.

2960. (*Mr. Fitzjames Stephen.*) You have not given us your opinion as to the importance of having registry of title in copyrights?—No, because I am not sufficiently acquainted what amount of complexity or difficulty of dealing there is between authors and publishers, and the assignees of authors and publishers.

2961. Have you any reason to suppose that there is any difficulty about it?—I have no reason to have any opinion of the kind.

2962. (*Chairman.*) Now passing to No. 3, the deposit of copies in certain public libraries, will you give us your opinion upon that?—At present copies of books published in the United Kingdom have to be deposited at Oxford, Cambridge, Edinburgh, and Dublin, besides the British Museum. Formerly a very much larger number had to be deposited, I think nine, under the Act of Anne, and more under subsequent Acts. It seems to me that all deposits should be done away with, except those at the British Museum; and even as to those at the British Museum, looking at it as a question of principle, it would seem to be a question whether the nation ought not to buy the books that it wants. But if you can associate with the deposit at the British Museum a simple system of registry, then I think that, and the practice of foreign countries, may afford a good reason for continuing the deposit at the British Museum. Then as regards foreign books everyone seems to be agreed, the Trustees of the Museum included, that the deposit of those should be done away with. It would be also a question whether, if books are published in the colonies, and are deposited at the office in the colony, the deposit of those books at the Museum should not also be done away with. Paintings, sculptures, unprinted musical or dramatic pieces, and unprinted lectures, cannot, of course, be deposited at the Museum. I see no reason why engravings and photographs should not be deposited, if books are.

2963. I fancied in one of your former answers you suggested that photographs should be registered, if they were to be the subjects of copyright?—Yes.

2964. Then if the photograph is not intended to be copyrighted, would you still make it compulsory on the photographer to deposit a copy in the Museum?—Certainly not; the Museum would not thank you for all that rubbish.

2965. I ask the question because the only witness we had from the Museum said he wished to have every single photograph that was taken?—I cannot conceive

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that the Trustees of the British Museum would wish to have all that rubbish.

2966. Then would you draw a distinction between photographs that are to be the subject of copyright, and ordinary photographs?—I think so. If a man thinks his photograph sufficiently valuable to claim copyright in it, then you might require him to deposit it.

2967. (*Mr. Trollope.*) Have you heard any expression of opinion from Oxford or Cambridge on the subject of the deposit of books?—No, I have not inquired there.

2968. You have no reason at any rate to think that they would agree with you?—None at all.

2969. Have you any reason for thinking that they would violently disagree with you?—No, I have no reason for an opinion one way or the other, but I believe they are quite rich enough to buy the books they want.

2970. Are they willing enough?—Whether they are willing or not, if it is just to do away with it, I should do away with it. I cannot see that they have any vested right to a gift of all future books.

2971. The question is whether we should not create a very violent feeling of anger there by taking away the right?—That I do not know; but I cannot suppose those learned bodies to be so unreasonable.

2972. (*Earl of Devon.*) As to deposit, supposing an alteration were to take place in the law of copyright, which should give to works published in the colonies the opportunity, by registration there, of obtaining a period of copyright, should you in that case require deposit in the colony itself, or would you think it necessary that it should take place here?—I am inclined to think that it would be sufficient that there should be a deposit in the colony.

2973. (*Dr. Smith.*) Do you think that if the Universities were deprived of the right which they now possess under the statute, they would have any claim to compensation?—None whatever. I cannot conceive such a claim. I cannot conceive what claim a university can have to the continuance of a right to take a copy of all future books.

2974. Are you aware that when other bodies that previously enjoyed the rights of copies were deprived of that right, compensation was given to them by Parliament?—No, I am not aware of it.

2975. Do you think that the precedent adopted in that case is one that should be followed?—No, I do not. Very strange compensations have been given by Parliament.

2976. (*Chairman.*) Now we come to the question of translations of books. Will you tell us what your view is upon that head?—The present conditions are first that notice of the intention to reserve a right of translation must be printed on the title page (15th and 16th of Victoria, chapter 12, section 8). To this no objection is made. Secondly, that the original must be registered and deposited at Stationers' Hall within three months of publication abroad. This is complained of, and might well be done away with. Whatever is necessary in the way of registration to protect the original, should protect the translation. Thirdly, a translation of the whole, or a part, must be published within one year after the registration of the original, and the whole must be published within three years. This time is complained of as being too short, and there seems to be no objection to extending at any rate the one year to the three years asked for by the French. M. Gavard has suggested that the commencement of the translation should be within three years and the end within nine years, but it seems to me that that is asking for a very long time. Fourthly, the translation must be deposited at Stationers' Hall. This is complained of. If the translation is a work published in a foreign country, it should be dealt with in the same way as any other foreign publication. But if it is a work published in this country, it should be deposited and registered in the same way as other works so published. The copyright in translations lasts only for five years, and the French ask that it may be prolonged to 10 years. I know of no reason why it should not last as long as the copyright of the original.

2977. (*Mr. Fitzjames Stephen.*) Is that last statement quite correct? If you look at the 15th and 16th of Victoria, chapter 12, and sections 2 and 3, as I read them, it comes to this, that the Queen may authorise the foreign author to prevent publication of any unauthorised translation of his book for five years after the publication of an authorised translation?

2978. Will you just read the 2nd section?—Her Majesty may, by Order in Council, direct that the authors of books which are, after a future time, to be specified in such order, published in any foreign country, to be named in such order, their executors, administrators, and assigns, shall, subject to the provisions herein-after contained or referred to, be empowered to prevent the publication in the British dominions of any translations of such books not authorised by them for such time as may be specified in such order, not extending beyond the expiration of five years from the time at which the authorised translations of such books herein-after mentioned are respectively first published, and in the case of books published in parts, not extending as to each part beyond the expiration of five years from the time at which the authorised translation of such part is first published.

2979. Then you have to look to the next section which you gave us to see what that time is, and if you look at the third condition about the translation, it seems to me that the whole thing comes to this, that the Order in Council may say, you shall have the right of preventing any unauthorised translation from being published within five years after you have published an authorised translation, and your authorised translation must be published within three years of the publication of the original. For instance, suppose a man publishes a book in Paris in 1860, then within three years of 1860 he may authorise a translation in England; that takes us to 1863?—He must complete it within that time.

2980. And when he gets it published in England, under the Order in Council, he may prevent anybody else from publishing another translation till 1868?—That I think is so.

2981. But a copyright in the authorised translation lasts for just the same time as any other copyright. Suppose I translate a French book, being authorised by the French author, thereupon I obtain copyright in that translation for the usual term of copyright; and I have this further advantage, that the French author could prevent anybody else from publishing another translation for five years after my translation; but when the five years of my translation have expired, then, as I read those Acts, you or any other person, may publish a translation; then you would have a copyright of that translation for the ordinary term?—Having published a translation you would have a copyright for the ordinary term of copyright, but you would not after the expiration of five years from the publication of that translation, have any right to prevent another person from publishing another translation, that is what I meant; and it comes to much the same thing, because if there is a power to anyone else to publish another translation, after the expiration of five years from the publication of the first translation, that would in itself take away the value of the copyright of the first translation.

2982. Suppose a translation of Heine's poems is published which he authorises, he might have very bad taste in English, and he might authorise a very poor translation. Another man, five years afterwards, might publish another translation which might be very valuable?—That is possible in a case like a poem, where all depends on form; not so perhaps in a treatise for instance on jurisprudence. But I see that you have raised a question of some importance, namely, whether, supposing the author himself to publish a very bad translation, then the author's bad translation should prevent a good translation from being published during the whole of the remaining period of copyright.

2983. Do you not think that the existing law

makes a reasonable arrangement upon this subject, if the effect of that is that the author is able to prevent any unauthorised translation for five years, and if after that any person is able to publish a translation who thinks fit to do so, the effect of which will be that if the authorised translation is a very bad one, there is likely to be a better one afterwards?—Yes, there is something to be said in favour of that. On the other hand, I think it is rather hard upon an author, if you are to recognise this principle of some amount of property in his work, not to give him the benefit, in the case of a long and important work, for a longer period than five years of the sole right to the translation. I still think there is something in the French complaint.

2984. But has he any right at all in the translation of his book, otherwise than the right to authorise it; it is the translator who has the right?—The question is whether you are to give him such a right or not. The question is whether this is a thing which it is right and fair to give him by statute.

2985. Is it suggested that the author shall have any copyright in the translation? I did not know anyone suggested that?—He gets his copyright through the translator, what the French press for, is that the period during which you should protect an authorised against an unauthorised translation, should be extended from 5 to 10 years.

2986. That would be for the benefit of the translator and not directly for that of the author?—But it is assumed that the author makes his own terms about the translation.

2987. (*Mr. Trollope.*) You are probably aware that authors are in the habit of selling the right of translation?—I imagine so.

2988. And that therefore they have a direct interest in it of exactly the same nature, as they have in their own work?—Exactly so, that was the view which I took.

2989. (*Sir H. Holland.*) Then am I right in assuming that though you would not grant the full term which is proposed by M. Gavard, yet upon the whole you think some alteration is required?—I think M. Gavard asks for 10 years, which I do not think is unreasonable. I refer to M. Gavard's evidence, at question 1800, I think it is.

2990. M. Gavard in answer to question 1799 proposes to extend the duration of protection from 5 to 10 years?—That does not seem to me unreasonable. I had originally thought there was no reason why the protection should not extend during the whole period of copyright, but there is a great deal, I confess, in what Mr. Stephen says on the other side. I should like to reconsider the point, and mention it again.

2991. (*Chairman.*) Now we come to heading No. 5, Abridgments. What have you to say upon that point?—It seems to have been long ago decided in terms that the author of a book has no copyright in the abridgment of it. This seems anomalous. There appears to be no reason why anyone should be at liberty to take the contents out of a copyrighted book, analyse them, and make a profit out of the analysis, without the leave of the author. There might be some difficulty in determining what is an abridgment as distinguished from fair extracts from, or discussion of, the book, but this would not be a more difficult question than many which the courts have now to determine. I would suggest that the author should have an exclusive right to abridge for a certain period, say three years or five years, and that if he then publishes an abridgment the copyright in it should last as long as the copyright in the original work. That may of course be a matter in question, but I think that for a certain term he ought to have the right to abridge.

2992. (*Mr. Fitzjames Stephen.*) Have you looked into the authorities on that subject?—I know that they make very fine distinctions indeed.

2993. But you have not looked through the cases with a view to give that answer?—No, I have not, I have only looked at the evidence and the text books.

2994. Should you be surprised to learn that it may be very much questioned whether the common impression as to the law of abridgments is right?—I should not be in the least surprised.

2995. Do you think that this condition of the law, assuming the statement of it to be a correct one, would be unreasonable: that first, as a general principle there is no copyright in what is not original; secondly, that originality for that purpose is a question of degree, which must depend upon the circumstances of each particular publication?—That is very much what the courts have to do, to find out whether a thing is original or not.

2996. And lastly that the word "abridgment" has no legal signification whatever?—I do not know enough of the cases to say that.

2997. And therefore that, as the last result of all, it cannot be affirmed that at the present time anybody has the right to make an abridgment?—I think that is a very likely thing.

2998. I suppose you would admit that in particular cases a work might be so abstracted and digested, its arrangement and language so changed, that something which was popularly called an abridgment, might really be quite a distinct work?—Yes.

2999. A work fitted for a different class of readers, not likely to interfere with the sale of the work to those for whom the original was made, and involving the exercise of independent intellectual labour?—That I should call an original work, and not an abridgment as I have used the word here.

3000. A book published under the title of "an abridgment" might be an original work?—It might be.

3001. Consequently the question of what constitutes originality must be a question of degree to be determined by the particular circumstances of each particular book?—Yes. At the same time when you find it laid down as a general rule that there is no copyright in abridgments, and you find the courts constantly refining that rule away, it is desirable to make the rule simple and intelligible

3002. If the law were codified, and if it should turn out that the actual law is as I have stated it, or very nearly so, you would not think it required any important alteration, but just putting in clearer words?—Just so.

3003. (*Mr. Trollope.*) You suggested three or five years; have you formed any idea which would be the best term?—No, it is a question of expediency. I do not think it is of very great consequence. All that I mean is this, that if a man chooses to publish a book, we will say, without an index or proper table of contents, (that is the simplest form of plagiarism in the form of an abridgment which I can suggest,) and if he does not choose to publish them within a certain period, let somebody else be at liberty to do it.

3004. Does it not occur to you that most books which are abridged, are not abridged till after five years, and that therefore the term should be prolonged?—I should have thought three or five years was long enough.

3005. Would you not think that such abridgments as you remember, have been brought out longer than three or five years after the date of publication of the original work?—I have not looked to that, but I think if an author thought an abridgment was going to be valuable he might bring it out within that time very well.

3006. Does not a book which is going to be very valuable often achieve its reputation long after that period?—Yes, perhaps so; but I do not think that would alter my view of the matter.

3007. (*Mr. Fitzjames Stephen.*) Is not your suggestion as to the three or five years based on a view of the actual law which I suggested to you is incorrect?—I am taking the case where the abridgment is what you would at once say was a plagiarism, taking it and copying the heads of the chapters.

3008. Would you assume that the view of the law which I suggested to you as being the true one, is the true one. If that were so, why should you allow a man to make an unlawful abridgment, an abridgment in a bad sense at any time during copyright, and why should you forbid him to make an abridgment in a harmless sense at that or any other time?—If you can distinguish between them in that way that may meet the case; but I am not quite certain that I should go

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that length. Suppose that a man publishes a book, he ought, I think, to have the exclusive right for a certain period to complete the utility of his book by publishing a digest, table of contents, or index. If he does not do it within a certain time, he ought not to have the right of preventing other people from doing it. Take the case of a book with much learning and valuable contents, written and published, as the Germans sometimes do, without table or index, or higgledy-piggledy, if he will publish it in that form, and not give the public the benefit of a guide to it, let somebody else publish a guide to it.

3009. (*Mr. Froude.*) Would you allow a man under any circumstances making an abridgment, to make use of the author's name. Supposing Gibbon's History of Rome to be published now, would you allow a man to take possession of Gibbon's name within three or four years of the original publication, and publish an abridgment calling it an abridgment of Gibbon's History?—Not "an abridgment by Mr. Gibbon," but "by Mr. Smith," say.

3010. You think he might use the name of the author, and get the advantage for himself of any credit that attaches to the name?—He might call it a table of contents, by Mr. Smith, to guide the reader through Mr. Gibbon's History.

3011. (*Mr. Daldy.*) Do you mean to limit your term of "abridgment" to a table of contents?—I am taking that as the most simple form of plagiarism; that would be a piracy, I take it, according to Mr. Stephen's view of the law.

3012. Would you think it right for anybody to emasculate an important work by taking the substance of it, publishing it in fewer words, calling it an abridgment of the original work, and issuing it for his own profit?—Certainly not. I think it would be wrong.

3013. May I ask you whether your opinion is that an abridgment which shall take the substance of the original work should be published without the author's sanction during the existence of the copyright?—No, not in that sense of abridgment.

3014. (*Mr. Fitzjames Stephen.*) Of course you are aware that it has been repeatedly held that there is no copyright in an immoral or irreligious or libellous publication?—Yes.

3015. Is not the practical effect of that this, that if a piracy is committed upon the copyright of a work of that character, one of the judges of the High Court, probably of the equity division, would refuse an injunction to prevent that piracy?—Yes.

3016. The consequence of which is to encourage any publication of such a work without a remedy?—Yes.

3017. Do you think that that is a proper state of things?—No; but ought it not rather to be met by some extension of the criminal law as against the pirate than by giving any right to the original author of the criminal publication.

3018. Do you not think it again an inconvenience that whereas an imputation of that kind is an imputation of a crime, and an imputation of the kind of crime which ought to be decided upon by a jury, the law as it stands gives a single judge the opportunity of convicting a man of publishing an indecent or irreligious book without the intervention of a jury?—I have not considered that point sufficiently. I only know generally that great hardship has been inflicted under that law.

3019. Would it not seem to be the right thing, that if a man defends himself against the charge of piracy on such a ground as that, he being from the nature of the case *particeps criminis*, he should be in the first instance compelled to give security before he is allowed to defend himself on such a ground, that he will not publish the book, and next that he should be compelled to give security that he will prosecute the other person?—There certainly would be no hardship upon the defendant in such a case in putting terms of that kind upon him.

3020. Because the defendant, from the nature of the case, must have been publishing the book himself?—Yes.

3021. And could you not by some such means secure the right of the party accused to have the question of his guilt or innocence in the matter of the publication determined by the tribunal ordinarily appointed by the law for that purpose, and not by a single judge?—Yes, it seems so, but I should like to think the subject over.

3022. The matter has not occurred to you in that light?—No, but I see the importance of it.

3023. (*Chairman.*) Now passing to heading No. 6, the Dramatisation of Novels, will you give the Commission your view on that question?—It has been decided that copyright in a novel does not secure to the owner the right of dramatising it. This seems to be an anomaly which ought to be remedied. The converse case namely, novelization of a drama, appears to stand on the same footing, but I do not know whether that is a practical question. A Bill for giving novelists a copyright in the dramatization of their novels was introduced in 1866 by Lord Lyttelton, was supported by Lord Stanhope, was opposed by Lords Taunton, Granville, and Cranworth, and was defeated by 89 to 11. It proposed to give to authors for life and seven years afterwards the exclusive right of dramatising or causing to be represented at any theatre any novel, romance, poem, or other work of fiction. It was opposed on the ground that the principle of copyright does not prevent the free use of the ideas contained in the original work, that the Bill would lead to endless litigation, and that it would be bad both for the author and for the public to prevent the dramatisation. It seems to me that the first two objections are matters of degree rather than of principle. What is or is not a piracy must always be a question, and a difficult one, for the courts. As regards the last objection it is a question whether it might not be met by giving the author, say, three or five years within which to dramatise his novel himself, and then throwing it open to the public to dramatise it. On the whole that is what I would suggest.

3024. (*Mr. Fitzjames Stephen.*) Is there not a considerable distinction between the exclusive right of representing a drama and the exclusive right of printing a book?—Of course they are two separate things.

3025. Quite separate things?—Yes, quite separate.

3026. To represent a drama you have all the theatrical arrangements to make, you have to rearrange the matter, with a view to those theatrical arrangements, and you also in the result perform a piece which rather spreads the reputation of the author, and which I should have thought is not at all likely to diminish the sale of his novel?—That may be so, but the question is whether, if he really gives the framework and the substance of what is represented on the stage, he ought not, on the principle of copyright, to derive some benefit from it. I am inclined to think on the whole that he ought. I do not put it on the ground of a right to prevent caricature, or misrepresentation, because I wholly dissent from that doctrine, but on the ground that if he gives substantially the framework and substance of the story, he ought to derive some advantage from it.

3027. Suppose a man writes a novel and another man reads it to his friend, is that an infringement of a copyright?—No.

3028. Or if he reads it to 50 persons, or to a large hall full of people, is that an infringement of the copyright?—No, I do not think it is.

3029. Suppose he gets actors and actresses to read it out with certain accompaniments; where do you draw the line?—It is very difficult to say where you would draw the line; but suppose it came to be the habit in some country to hear things read in public instead of to see them represented as they now are, I can quite understand the law of copyright being stretched so as to include public readings for money.

3030. The fact that printing has been invented is an element in the case; printing having been invented, the question is what amount of privilege you give to an author?—Yes.

3031. (*Chairman.*) You would propose to limit the right which you give to the author to dramatise his own work to a short term of years?—Yes.

3032. (*Mr. Trollope.*) You said that you would limit this new privilege to three or five years. Do you think that that would give the protection that is needed?—What I meant was that if he did not produce a drama from it within that period, then anybody else might do so. If he produced a drama he would have the copyright in the drama.

3033. Of course you are aware that many novels that attain a certain degree of celebrity do not attain it during those three or five years?—I think novels on the whole generally do attain celebrity very quickly, whatever other books do.

3034. Are you aware that many novels have been dramatised long after that period?—That may be the case, still I think that the period I have named is long enough.

3035. But if it be the case that novels are dramatised after that period, would not that go to show that the term should be longer?—I am inclined to think not, because I think that if we had such a law as I have proposed the author would have this law before him, and he would consider carefully whether he thought it worth his while to dramatise it or not, and he would take it to a theatrical manager, and ask him whether he thought it a dramatisable novel; and under these circumstances, if it were not dramatised within the period named, I think it would be fair that it should go to the public.

3036. Let me suggest to you that the original idea of dramatising a novel seldom occurs to the novelist himself, but to the dramatist, and the proposition comes from the second workman, not from the first. That being the case, would it not be probable that this dramatiser of novels would wait till the three or five years had run out?—Very likely that is the case under the existing law, but if you had such a law as I propose, I think the novelist would take care to put the novel into the hands of a dramatiser or stage manager and say, "Do you think it worth while to dramatise this?"

3037. You have not gone closely enough into the subject to be aware that that is not the way in which this work is done, that the idea of dramatisation comes from the dramatiser and not from the novelist?—No, I do not pretend to know it thoroughly, but still for all that, I think that the public have to be considered, and I do not think it is unfair if the author does not dramatise his work within a certain period that the public should have the benefit of it in the shape of a drama.

3038. The protection then that you would give is limited by what you conceive to be the good of the public?—What is fair to the novelist, and for the good of the public.

3039. But if it should prove that these three years do not protect the novelist, and that his novel being worthy of being dramatised, was dramatised after that, then you would think the period too short a one, would you not?—I want to give him a reasonable amount of protection, and I want also to give the public the benefit of the drama; and what I have suggested appears to me a fair compromise.

3040. You have not found out what is the usual length of time between the publication of a novel and the dramatisation of it?—No, I have not.

3041. You said that you were quite averse to the idea of protecting a novel from caricature?—Certainly, through the medium of copyright, that is to say.

3042. Do you think it fair to a novelist that his characters, with the names which he has given, and the plot in which he has involved them, should be represented to the public in a perfectly different guise from that which he himself has drawn for them?—I do not think that there is anything unfair to him or more unfair than there is to all our public men who appear in "Punch" and "Judy" every week; and I do not think it does any harm to a novelist's reputation.

3043. Whatever words may be put into the mouth of the character in "Punch" or "Judy" are not believed by the public to have come from that man. If Mr. Gladstone or Lord Beaconsfield is made in "Punch" to say certain words, nobody supposes that they have said those words?—Possibly not.

3044. But if I put a character into a novel, and put into that character's mouth words which are perfectly decent and perfectly becoming, and that character is brought out on the stage with unbecoming words and indecent words, will it not be supposed that I am the author of those unbecoming and indecent words?—I certainly should not suppose it.

3045. (*Sir H. Holland.*) Might it not be supposed?—I do not think that any rational person would suppose it.

3046. (*Mr. Fitzjames Stephen.*) You confine your protection to novels, and you would not extend it to histories, as I understand, yet a man might found a drama upon a history as well as a novel?—When that case arises, we may prepare to meet it.

3047. Has not the case arisen? Mr. Tennyson's tragedy of "Queen Mary" has a very distinct relation to Mr. Froude's "History of the Tudors"?—I have not heard that Mr. Froude has complained of it.

3048. Shakespeare is supposed to have taken considerably from Hall and other works of that kind. Do you consider that that sort of use of historical books should be put down?—One must consider who it was that Shakespeare took from. Plutarch could scarcely claim copyright.

3049. (*Sir H. Holland.*) Take the case of an historian. He does not construct a plot, and introduce imaginary persons and conversations, as a novelist does. The history is founded upon facts and upon documents, whereas a novel is entirely imaginary; and you would observe a great distinction, therefore, would you not, between dramatising a novel and dramatising a history?—Yes; in the one case there is really something in the nature of a robbery, I think, in the other case not. I think that in certain of the cases that have come before the court it does amount to taking something of the novelist's which it is fair and right to secure to him by law.

3050. (*Mr. Fitzjames Stephen.*) And of course you are aware that it has been held that although the man may write the play, he may not publish it, if it amounts to the piracy of a novel?—Yes.

3051. (*Mr. Daldy.*) Do you not think that if the right to dramatise the novel were to be retained by the author, his own interest in it would induce him to do it, if it would be any public benefit?—That is what I think. Possibly it might do in many cases; but I would limit the time within which he should have the exclusive right.

3052. Would not at any time his own interests induce him to do it?—That raises the question whether if you give a man entire control, his own interest will at all times induce him to do what is most for the benefit of the public. That is a question which cannot be answered absolutely in the affirmative. Different persons may have different opinions about what is for the benefit of the public, and what the public will like. For instance, I see it stated that George Eliot wishes to have the power to prevent the dramatisation of his novels altogether. I do not see why he should have such a power.

3053. You would take it from him after a given time?—Yes.

3054. (*Chairman.*) Are you aware what the law of France is with respect to the dramatisation of novels?—I believe that it protects the dramatisation of novels. The law of America certainly does; you will find it in so many words in their Acts.

3055. (*Mr. Daldy.*) For the whole period of the copyright?—I think it is for the whole period of the copyright.

The witness withdrew.

Adjourned to to-morrow at 2 o'clock.

Thursday, 30th November 1876.

PRESENT:

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

The Right Hon. the EARL OF DEVON.
SIR HENRY T. HOLLAND, Bart., C.M.G., M.P.
SIR JOHN ROSE, Bart., K.C.M.G.
SIR LOUIS MALLET, C.B.
J. FITZJAMES STEPHEN, Esq., Q.C.
FARRER HERSCHELL, Esq., Q.C., M.P.
DR. WILLIAM SMITH.
JAMES ANTHONY FROUDE, Esq.
ANTHONY TROLLOPE, Esq.
F. R. DALDY, Esq.

J. LEYBOURN GODDARD, Esq., Secretary.

T. H. Farrer, Esq.

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THOMAS HENRY FARRER, Esq., further examined.

3056. (*Chairman.*) Are there any further observations upon the points on which you gave evidence yesterday which you wish to make to the Commission?—I wish to say, in the first instance, that I very likely may have made mistakes, and may in future make more mistakes, arising from my necessary ignorance of the actual state of dealings between authors and publishers. Those dealings are private matters into which we have no means of inquiring. Arising out of that observation, I would mention, with respect to the suggestion of Mr. Daldy for adopting the American plan of dividing the period of copyright, that the merits and importance of that suggestion depend upon the facts. If, as I rather gathered from Dr. Smith, it should turn out to be the case that authors seldom or never part with their copyright, the reasons for any plan of that sort fail; if on the other hand they do part with it, as I should rather have gathered they did from the fact that Mr. Daldy was the person to make the suggestion, then I think that there is a great deal to be said for that plan, because it accomplishes one of the main objects of a prolonged term of copyright, namely, a provision for the family, more effectually than the plan of an undivided period.

3057. Will you continue your supplementary observations upon the evidence of yesterday?—First, I wish to refer again to the subject of copyright in translations. There are three things to be provided for; first of all, the protection against unauthorised translations *before* the publication of the translation authorised by the author; secondly, the protection of that translation itself from subsequent unauthorised translations; and thirdly, the copyright in the authorised translation itself. On consideration I think that the protection against unauthorised translations before the publication of the authorised translation ought to be extended from three to five years; and that the protection against unauthorised translations after the publication of the authorised translation ought to be extended to 10 years at least; but I am not at all sure that it ought not to be extended to the whole period during which the copyright in the original book extends; and I think that the copyright in the translation ought to extend as long as the copyright in the original book.

3058. (*Mr. Fitzjames Stephen.*) It might be longer?—Yes, if it is to have the usual term of copyright dating from its own publication. But I am inclined to think that it ought to cease when the copyright in the original book ceases. I mention 10 years as a minimum period for the protection of the authorised translation against other translations, because it is what the French claim; but I am not at all sure that it ought not to extend during the whole period of the original book; and my reason is this: If you were dealing with what Mr. Stephen mentioned, namely, translations of poems, it would be a different thing, it would be a question whether they need any such protection at all; they are really original works; a good translation of a poem is a thing of very great merit, and is very rare; but the things which we have to consider are translations which are really little more than copies; they are semi-mechanical things, and I do not see why the original author should not have all the benefit which is to be derived from them during the period that his original copyright lasts.

In the next place, referring to the dramatisation of novels, I want to say one word upon the point which Mr. Trollope put, viz., that real injury may be inflicted on the novelist by the representation in a drama of characters using words which have never been put into the mouths of the characters in the novel, and which are represented as having been used in the novel. For any injury of that sort it seems to me that the remedy is not to extend copyright, but is to be found in the ordinary law concerning misrepresentation. It is rather analogous to the case of Clark v. Freeman, 11 Beav. 112, and the case of Byron v. Johnstone, 2 Meriv. 29, where Lord Byron got an injunction against somebody for publishing works in his name; and there is a similar precedent about paintings. The Act of the 25th and 26th Victoria, chapter 68, section 7, provides a penalty for the fraudulent use of a painter's name, or for a fraudulent alteration of his works and attributing the alteration to him. That seems to me to be the direction in which you should seek a remedy for such an injury as Mr. Trollope has suggested, and not in any alteration in the law of copyright.

3059. (*Sir H. Holland.*) But in this case there is no reference to the novel, and no attributing any expressions to the author of the novel; there is nothing that you put into the mouths of any of his characters?—I understood that that was virtually what was done.

3060. There is nothing in the play which is published?—No, but in the criticism upon the play.

3061. Then you would punish the critic of the play?—The person with whom the injury originates.

3062. (*Mr. Fitzjames Stephen.*) Might not one leave it to the courts to consider whether or not it was a case of *damnum absque injuria*, one of those slight evils for which the law does not provide any remedy, and as to which people have to give and take?—What was represented to me was that the sale of the novel was injured in consequence. If that was the case it would be a serious injury to the author, and I should think that under the existing law he would have a remedy.

3063. Might not you leave it alone. If he had sustained any appreciable injury, either in character or in property, then he would be able to bring an action, as the law stands; and if he had only received a mortification to his feelings, and no appreciable injury to his character or property, why should you step in to give him a remedy?—That is my impression.

3064. Therefore it would be better to let it alone?—Yes, provided that the law gives a remedy for a thing of that sort, which I am inclined to think it does.

3065. Can you say that it does not, until an action has been brought and has failed?—No. There is a doubt about the case of Clark v. Freeman, 11 Beav., 112. That was a case in which Sir James Clark endeavoured to obtain an injunction against a man who published quack pills under Sir James Clark's name. He did not succeed; but I think that that decision has been questioned by Lord Cairns since. At any rate it is in that direction, and not in the extension of copyright, that the remedy for such an injury would be.

Then, still referring to the subject of the dramatisation of novels, I would observe that the case of the dramatisation of a novel is rather similar to that of translation. You need to be, first of all, protected before the authorised dramatisation; and secondly, protected after it for whatever period may be thought

fit; and thirdly, there is of course under the existing law the copyright in the authorised drama.

Lastly, I would refer to the point which Mr. Stephen puts as to the injury which may be inflicted on an author by a single judge sitting in Chancery and refusing an injunction against piracy on the ground that the original publication contains seditious or treasonable or blasphemous or atheistical matter in it. I have looked at those cases, viz., the case where Lord Eldon refused an injunction in the case of Southey's Wat Tyler, and the case where Chief Justice Eyre intimated an opinion to to the same effect about Priestley's works, and the still more recent and more striking case before Lord Eldon, concerning a work by the well known surgeon Lawrence. I think that such decisions are an evil; but times have changed, and I do not think that we should get such decisions from the courts in these days, and I am not sure that an author would not stand nearly as good a chance in the shape of an appeal to the higher courts as by reference to a jury. Still I think that it might be very fair to say that where that was the only defence an injunction should go, to be dissolved only if there were a conviction upon a criminal information.

3066. Plus an undertaking on the part of the defendant that he would not publish the criminal matter?—Certainly; that should be added.

3067. It is a monstrous thing, as it strikes me, that a man is to come into court and say "Please let me "publish somebody else's treasonable work with im-"punity, because he ought to be hanged for publishing "it"?—Quite so.

3068. (*Chairman.*) We will now go to No. 7, Music and the Drama?—First of all there seems to be a doubt whether copyright in the case of printed and published music dates from the first publication or first public performance. That doubt arises under the 20th section of the Act of the 5th and 6th Victoria, chapter 45. That doubt ought to be cleared up, and I should think that probably it ought to be from whichever first happens, and it would be desirable that both should be registered. Then there is a further doubt, under the 3rd and 4th William IV., chapter 15, section 1, whether in the case of music or dramas performed, but not printed and published, the copyright lasts for the same time as in books or is perpetual. It is a most curious clause, which seems to limit the period in cases of works which are printed and published, but which does not limit the time in the case of works which are not.

3069. (*Mr. Fitzjames Stephen.*) It seems to me that the two Acts together come to this: if a man publishes a dramatic piece of any sort, that is a book under the Act; of Victoria, and he has copyright in that book for the term given by that Act; if he does not first print and publish, but if he first represents without printing or publishing, then he has the exclusive right to represent that piece for the term of years given by the Act; of William as amended by the Act of Victoria. If he publishes first, and does not represent until afterwards, it seems to me extremely doubtful whether he gets any exclusive right of representing the drama, and whether he does not abandon that exclusive right by publishing?—That is another view of it.

3070. I did not propose to discuss the question, but merely to state the way in which I had read the Act, and to see whether it occurred to you as a possible view. Of course the very fact that two persons read these Acts in different ways shows that there is a doubt which should be cleared up?—Quite so, and I do not wish to say more than that. The argument for the construction I gave is that the second Act is intended to extend the period of copyright, while under the first clause of the first Act there is no limitation to the period of copyright, and that consequently it could not have been the intention of the second Act to limit the period which the first Act had already given. Whether that argument is good for anything or not I do not say, but it is quite obvious that the doubt ought to be cleared up. Then there seems to be another doubt, namely, whether protection is given to songs and music not played in a place of dramatic entertainment, for instance in the case of an oratorio performed in Exeter Hall. That is a doubt which also ought to be cleared up, I think, in favour of copyright.

3071. There is a case about what is a place of dramatic entertainment. It had reference to Crosby Hall, and it was held that that was a place of dramatic entertainment?—I was not aware of it.

3072. (*Sir H. Holland.*) Let me direct your attention to Lord Denman's judgment in the case of Russell v. Smith, with reference to Crosby Hall, in which case he said, "The use for the time in question, "and not for a former time, is the essential fact. As "a regular theatre may be a lecture-room, dining-"room, ball-room, and concert-room, on successive "days, so a room used ordinarily for either of those "purposes would become for the time being a theatre "if used for the representation of a regular stage "play. In this sense, as 'The Ship on Fire' was a "dramatic piece in our view, Crosby Hall, when used "for the public representation and performance of it "for profit, became a place of dramatic entertain-"ment"?—Certainly.

3073. That seems to be sound sense?—Yes; those words seem to make it clear that any place, whatever it is generally used for, becomes a place of dramatic entertainment within the meaning of the Act when a *dramatic piece* is performed in it. But I am not sure that they make it clear that a concert room is a place of dramatic entertainment within the meaning of the Act when a *musical piece*, say a symphony of Beethoven's, is performed in it.

3074. (*Mr. Daldy.*) Is it not necessary that the place should be licensed in order to make the performance a dramatic entertainment?—You would not deprive the author of his right to a remedy for his copyright because a man had infringed another law which required the place to be licensed.

3075. (*Mr. Fitzjames Stephen.*) Do you think that any new Act should be so worded as to include and show the effect of the cases under the old Acts?—Certainly, if those cases go far enough to embrace all public performances of music to which copyright extends.

To go to another point, inconvenience has arisen under the Act of the 3rd and 4th William IV., chapter 15, section 2, by which the authors of songs or dramatic pieces, can recover a sum not less than 40*s.*, or the actual damage sustained, from anyone who performs them in public without the author's sanction. This seems to have been recently enforced against persons who sing well-known published songs in all sorts of places, say in village concerts, where you take a few pence at the door in order to cover expenses; and it seems to have been done oppressively by somebody who has taken up the thing on speculation. That seems to be a real hardship, and one which ought to be met in some way. There are various ways in which it might be met, either by abolishing the separate right of singing as distinguished from printing and selling, or by enabling the court to lower the penalty; or the owner might be required, as a condition of recovering damages, to state on the face of the song that it is not to be sung without leave, and to state also on what conditions that leave can be obtained. It certainly is an inconvenience as it stands at present.

3076. In several of the Acts there are *qui tam* penalties; do you approve of them in such matters?—Certainly not; they ought to be done away with.

3077. (*Sir H. Holland.*) In reference to your statement, that it might be put on the copy of the music what rights were reserved, and where a person who wished to sing the song might apply, might there not be some difficulty in a case where the right had been assigned?—Yes, that had occurred to me. That no doubt would be a difficulty, but still I think that it would be a smaller difficulty than the difficulty as it at present exists.

3078. Am I to understand you to say that you

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would have a penalty, perhaps of less amount, and that you would then leave it to the author alone to sue for it; that is to say, that he should not be allowed to employ an agent to collect cases and sue for him?—You can hardly prevent that, I think; if you allow a man to employ a solicitor, you cannot prevent his employing whom he pleases.

3079. (*Mr. Fitzjames Stephen.*) Do you not think that you would get rid of the difficulty by taking away the penalty, and enacting that a man should recover such damages as he could show himself to have sustained?—Yes; I am inclined to think so in the case of songs at any rate. But at first sight I think that it is a question whether the penalty for singing single songs might not be done away with altogether.

3080. (*Sir H. Holland.*) Have you considered the question whether it would not be better upon the whole to diminish the penalty, and to let it be recovered summarily?—I do not think that there is any objection to recovering a penalty summarily, if it is a penalty which it is right to recover at all.

3081. Upon the whole you would prefer to see the penalty done away rather than, as some witnesses have suggested, diminished in amount?—I think that it is very well worth consideration whether, in the particular case of single songs, the penalty might not be done away with, without touching the remainder of the clause applying to the performance of dramatic and musical compositions.

3082. Under the words "single songs," would you include the singing of two or three single songs out of the same opera at one of these school feasts?—Yes. If you could confine it to such things as school concerts, I would do away with the penalty altogether; the difficulty is to distinguish between them and other things.

3083. Should you consider that the penalty ought to be incurred for singing, for instance, two single songs out of the same opera?—There, of course, you may possibly get into difficulties.

3084. Would it not therefore be better to lower the penalty and to allow it to be recovered summarily?—There would be difficulties about that in the case of plays, where the complaint is that the penalty is now insufficient. There is a great deal to be said for Mr. Stephen's suggestion, namely, to let the parties show the damage which they sustain, and recover it.

3085. Does not that practically amount to preventing their recovering altogether, except in very important cases, from the difficulty and expense of bringing an action?—It would prevent them in many trifling cases from doing so.

3085*a*. (*Mr. Fitzjames Stephen.*) Is it desirable that they should be able to recover in many cases?—Certainly not, I think, in the case of these songs; but I am not so sure of it in the case of the performance of a dramatic piece in a provincial theatre.

3086. (*Mr. Trollope.*) Then the object of the law, as you would now propose it, would be to take away the power of recovering any damages at all?—Yes, in the case of single songs published separately, or at any rate in the case of single songs published separately without notice on the face of them that the right of public singing was reserved.

3087. In cases in which the right of public singing had been reserved by notice, would you give the power of recovering summarily?—I think that I would give the power of recovering summarily if you are to recover a penalty at all.

Another point has been raised relating to dramatic representations. It has been decided under the 19th section of the International Copyright Act of the 7th Victoria, chapter 12, in the case of Boucicault v. Delafield, 33 L. J., ch. 38, 12 N. R., 101, and the decision has been repeated in the last few days, that a dramatic writer first representing in a foreign country has lost his copyright or stage-right, or whatever you choose to call it, in England. It is a very curious thing that in the United States there have been decisions in a totally different direction. Although the United States statute requires that a person, in order to obtain copyright, shall be resident in the United States, it seems that the United States courts have held that an American assignee of a drama which has been previously represented in England, can under the common law of the United States, and without the formalities required by the United States statute, both prohibit publication in print and prevent performance there. It is a very curious point indeed, it almost raises in the United States the question raised in Millar v. Taylor, whether there is a legal copyright in the United States, independent of the United States Copyright Act. Complaints have been made before this Commission of the effect of this upon English authors, who cannot manage their representations in the United States, where they get very large sums by them, so as to be exactly contemporaneous with their first representation in England, and so they lose their right here. I cannot see any reason why prior representation in a foreign country should prevent an author from obtaining protection here. But this, one should bear in mind, is connected with the very important question which will have to be considered by and by, whether either authors or the public have any interest in the law which requires first publication in England as a condition of English copyright. I do not think that you can quite separate the representation of dramatic pieces from the publication of books; and in the International Copyright Act they come together. The section under which the decision in Boucicault v. Delafield was made is the 19th section of the 7th Victoria, chapter 12, "And be it enacted that "neither the author of any book, nor the author or "composer of any dramatic piece or musical com-"position, nor the inventor, designer, or engraver of "any print, nor the maker of any article of sculpture, "or of such other work of art as aforesaid, which "shall after the passing of this Act be first published "out of Her Majesty's dominions, shall have any "copyright therein respectively, or any exclusive "right to the public representation or performance "thereof, otherwise than such (if any) as he may "become entitled to under this Act." Therefore whatever is the rule with regard to the representation of dramatic pieces is the rule with regard to books, and they would have to be considered together.

3088. (*Mr. Daldy.*) Would you go so far as to give any protection to an author who published out of the British dominions, and did not publish at all within the British dominions?—I would rather postpone that question, because it forms part of a very important subject to which we shall come by and by. I only mention it now as connected with this question of the representation of the drama.

3089. (*Chairman.*) Have you stated your opinion?—I have stated my opinion that so far as a dramatic entertainment is concerned I see no reason why prior representation in a foreign country should prevent an author from obtaining a copyright or stage-right here.

3090. (*Mr. Trollope.*) Of course you mean to recommend that the law should be altered so as to give that copyright?—I do.

3091. (*Mr. Fitzjames Stephen.*) On the question of dramatic copyright, have you any opinion upon this subject, whether a man by publishing a play makes a present of it to the public, and whether, when he has published a play, anybody is at liberty to represent it on the stage who chooses to do so?—I should be inclined to think that he ought to be enabled to sever the two rights, and to treat them as two distinct interests, the one the publication for the purpose of reading, and the other the representation.

3092. I was asking as a question of existing law; do you know how it is, because it is not very clear?—It is not very clear.

3093. Ought not it to be made clear?—Quite so.

3094. There are cases which come near it, but I have not been able to discover any case which exactly fits it?—I do not know of any case; but undoubtedly, throughout these statutes, the right of representation and the right of printing and publishing are treated as two different things.

3095. (*Chairman.*) We will proceed to No. 8?—No 8 is, Imitations and Translations of Foreign Plays. The principal grievance of the French, namely, that the right of making fair imitations of plays was reserved by the 6th section of the 15th and 16th Victoria, chapter 12, has been done away with by the 38th and 39th Victoria, chapter 80, and the declaration under it dated the 11th of August 1875. But it is to be feared that the difficulty which the French have felt, may yet remain in another form, since it will not be easy to say what amount of resemblance or adaptation will bring an imitation within the common law definition of piracy.

3096. (*Mr. Fitzjames Stephen.*) What is the statute to which you have referred?—It is a statute which enables the Queen to dispense with the section of the International Copyright Act which says that nothing in this Act shall prevent fair imitations and adaptations. The French apparently thought that their failure to recover in this country arose under this clause. I doubt whether they will not find very nearly the same difficulty now that the clause has gone; however, they were content with the repeal of that clause.

Then there is another grievance which is much complained of by the French, namely, that in order to protect any imitation or adaptation of a foreign play, it is necessary within three months of first representation or publication in a foreign country to register the original, and within three months more to make, register, and deposit a literal translation. I think that that should be done away with. It ought to be sufficient to register the imitation or translation which it is intended to use or protect. The right of publication or representation might be reserved to the author for three years, and if he published or represented in England and registered within that time, he should have a copyright in what he did. I am inclined to think also, as in the case of the dramatisation of a novel, that he ought to be protected from unauthorised imitations. How long that should last may be a question, but if he did not produce an imitation or adaptation of his own within a fixed period, three years or whatever it may be, then other persons ought to be at liberty to translate or imitate.

3097. Having looked at that Act, do you think that it will do the least good to the French?—You refer to 38 & 39 Vict., chapter 80. I am, as I said, inclined to think not.

3098. Do you think that the original proviso was of any use?—I think that it made little, if any, difference.

3099. Do you think it altered the state of the common law?—Probably not; it may have turned the scale in a doubtful case.

3100. (*Chairman.*) Then we come to No. 9, namely, Lectures?—Upon the subject of lectures, copyright exists in lectures if previous notice be given to two justices residing within five miles. This is really no notice and gives needless trouble. It would be better for the lecturer to give notice at the time of delivery, or to give it by posting a notice in the lecture-room. If the lecturer does not publish within a given time, say one, two, or three years, his exclusive right should cease, and anybody should be able to publish his lectures.

3101. Why do you fix upon so short a period as one or two years. If you give protection for any term, is not that too short a time?—That is very immaterial. A lecture is generally an ephemeral thing, and if a man intends to publish it he will probably publish it within that time.

3102. (*Mr. Fitzjames Stephen.*) Supposing that a man delivers a lecture with no intention whatever of publishing it, is he not to be at liberty to keep his own private manuscript locked up in his desk, and not to publish it at all, or allow anyone to publish it?—I think that in the case of a lecture delivered in public he has given it to the world; shorthand writers may have taken it down in the public lecture-room, and he cannot say that he has not given it to the world. I would give him any right to obtain profit from it if he can; but, as with regard to other things, I would say that having once given it to the public, he ought not to be enabled to prevent its being multiplied.

3103. It seems to me to be a limited publication for a limited purpose, and that it is not for us to decide whether there should be a more extended publication or not?—I am inclined to think otherwise when he has once given it in that form.

3104. Does it not come within the general principle which applies when you make a limited publication of any private document whatever, as for instance, in the common case of writing a letter,—you write a letter to a man, and it gives him the right to read it or show it to his friends, but not the right to publish it?—No, I do not think that it does. I assume of course that the present Act applies to the case of lectures given to the public generally, and often upon payment of money at the doors. If a lecture is given to pupils, it is a different thing; but as regards a lecture given in this more general way, I think that when a man has given it in that form he cannot complain of its appearing in the newspapers.

3105. (*Chairman.*) Do you draw any distinction in this respect between lectures so delivered and sermons preached in churches?—I think that there is no distinction as respects sermons preached in churches. If I remember rightly (Mr. Stephen will correct me), when a lecture or a sermon is given in a place publicly endowed there is no copyright in it.

3106. (*Mr. Fitzjames Stephen.*) Can you explain to me the difference between the lecturer's right under that statute and his right at common law as stated in the case of Abernethy's lectures. In that case Mr. Abernethy had people restrained apart from the statute from publishing the lectures which he delivered; he delivered them for profit, for fees, and he was able to restrain his pupils from publishing them in the "Lancet." The Act seems to me to re-enact exactly what was decided in Mr. Abernethy's case, and then to go on adding that queer provision that if a man gives notice to two justices he is to be able to do what he could have done without it. The only difference which I can see is this, that according to that Act he is also to recover a penalty?—Yes.

3107. But I can see no other right which that statute gives him; can you explain to me whether there is any other right?—It is like several of the other copyright statutes, it rather limits the common law right than extends it.

3108. But it does not say that the common law right is to be taken away?—That raises the same kind of question as was decided in the great case of Millar v. Taylor, and I will not pretend to give a positive opinion on the point. But this is the proviso referred to: "Provided further that nothing in this "Act shall extend to any lecture, or lectures, or the "printing, copying, or publishing any lecture or "lectures, or parts thereof, of the delivering of "which notice in writing shall not have been given "to two justices living within five miles from the "place where such lecture or lectures shall be "delivered, two days at the least before delivering "the same, or to any lecture or lectures delivered in "any university or public school or college, or on "any public foundation, or by any individual in "virtue of or according to any gift, endowment, or "foundation, and that the law relating thereto shall "remain the same as if this Act had not been passed." I think there has been some question as to sermons under that proviso.

3109. (*Sir H. Holland.*) Then there might be a difference between sermons delivered by clergymen of the Established Church, and those delivered by Dissenters?—Yes, or rather between an endowed church, and a church where there was nothing but pew rents.

3110. (*Mr. Trollope.*) Do you make any difference between lectures given upon payment and lectures given free?—I do not think that this Act makes any difference between them.

3111. I understood you to use the words "for profit?"—What I was saying rather referred to

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lectures given in large public assemblies, and not to lectures given to pupils, those are something of a more private character.

3112. Then you make a difference between lectures to pupils and those given in a public character?—I think that there is a difference.

3113. If I opened a room for a set of pupils and gave a lecture to those pupils at so much a-piece, that would be a lecture given in a pupil room, and at the same time would be a public lecture, would it not?—Yes, if you opened it to all the world; but it might only belong to a special class, in a school, for instance, or in a college.

3114. I cannot understand how a difference could be made. You of course might exempt Oxford, or you might exempt Cambridge, or you might exempt King's College, but I do not see how you could exempt school lectures generally?—I think that there is a difference.

3115. (*Mr. Froude.*) Is it lawful for a shorthand writer to take down lectures. I give a lecture in a room, and a shorthand writer takes it down, and it appears publicly the next day?—It would depend upon whether this Act is substituted for the common law or not. If, as in the case of the great decision in Miller v. Taylor upon the original Copyright Act, it is held to be substituted for the common law, you could not stop the publication of your lectures unless you had given public notice to two justices living within five miles.

3116. And if I had not previously given notice, I could not recover?—No.

3117. (*Mr. Daldy.*) After what has passed, are you still of opinion that all lectures should be unprotected by copyright?—I think that all lectures given in public places, to which the public have access, and to which a shorthand writer has access, ought to be open to publication, if the lecturer himself does not choose to publish them.

3118. (*Chairman.*) In that answer do you include the case of sermons preached in churches?—I had not thought of the case of sermons preached in churches. I should be inclined to give a preacher a copyright in his sermons.

3119. (*Mr. Daldy.*) Would you give the lecturer the right to reserve it by notice?—Certainly, the right to reserve it to himself, so as to make any profit out of it which he could, but not the right to withhold it from the public.

3120. (*Earl of Devon.*) Are you aware of any instance in which a notice has been given to two justices for the purpose of the Act?—No.

3121. (*Mr. Froude.*) If a lecture is taken down by a shorthand writer, and published in the paper, and the lecturer subsequently publishes it himself, does he then secure his copyright after it has appeared in the newspaper?—Yes, if he has given his notice to the two justices, which I think is a snare to him, and which I should like to do away with.

3122. Would you still give him the power of reserving his right, that is to say, interdicting the shorthand writer?—Quite so, with the view of publishing the lecture himself.

3123. (*Mr. Daldy.*) Would you allow him, even if it was published in the newspapers, to have an edition of his own?—Certainly.

3124. Supposing that Professor Tyndall, for instance, delivers a lecture, he may like to issue a corrected report of his own afterwards; would you give him a copyright in his lecture as issued by himself?—I think so.

3125. (*Mr. Trollope.*) You would allow the lecturer to claim the right, I think you say, for three years?—I said so. I do not know whether that is the right term, but there should be some term.

3126. Supposing that he does not claim that right, and that the lecture is taken down and printed, is the man so taking it down, or any other person, under your scheme, to be allowed to give that lecture again; may the lecture be repeated as a lecture?—I have not thought of that point, but I think that he might do that.

3127. (*Sir H. Holland.*) Surely there is no right of representation, he merely reprints the lecture, and he reads it out?—Yes.

3128. (*Mr. Trollope.*) If I give a lecture this week, some gentleman, who thinks it worth his while to do so, may give that lecture again the week following?—I do not think that there is anything in the present law to prevent it.

3129. If I have given notice to the justices, can I prevent it?—I doubt it.

3130. (*Chairman.*) Take the case of Thackeray's lectures on the Georges?—The Act of Parliament only relates to printing and publishing, it does not relate to delivering.

3131. (*Mr. Trollope.*) Do you not think that the same protection which you would give to a lecturer against publication by another, should be given to him against re-lecturing by another?—If that right of repeating a lecture became really valuable, I should say so, but I should think that generally the repetition of a lecture by another person would be rather flat, and is not likely to become common.

3132. Have you not heard of gentlemen who have repeated for many years lectures on astronomy, and have lived by doing so?—Yes.

3133. Should not any imitator be debarred from taking those same astronomical lectures and endeavouring to live by them?—If the thing became of sufficient value to make it desirable to deal with it, I think that it might be dealt with; at present I doubt whether it is of sufficient value to do so.

3134. (*Dr. Smith.*) I should like to ask your opinion of the state of the law with respect to lectures. Supposing that a lecture is reported in a paper, and is at the interval of a month published by the lecturer in a separate form, he not having given notice to the justices of the peace, has he a copyright in the lecture which he prints?—I should doubt it under this statute.

3135. (*Chairman.*) Will you now proceed to No. 10?—No. 10 is with regard to University Copyright. The universities and certain colleges have perpetual copyrights—I do not know of what value those copyrights are to them—and they have the right of accepting further copyrights and enjoying them for ever. Certainly that is an anomaly, and there seems to be no reason why it should exist. I do not suggest that you should take away their existing copyrights without giving them compensation, but I certainly think that for the future they ought not to have the right of enjoying perpetual copyright any more than anybody else. I do not suppose that they care about it.

3136. Is there not a similar exemption in favour of the universities with respect to the power of holding land in mortmain?—I believe that there is.

3137. May we not therefore perhaps assume that the same principle of general policy is to be found in both those exemptions?—I think that the two things stand upon a very different footing; we must take them each upon its own footing. Whether either of them would exist if you were to make the law for the first time now is doubtful, but, however that may be in the case of mortmain, in the case of copyright I do not know why the universities should have the power of restricting the sale of a work for ever.

3138. (*Sir H. Holland.*) You are, perhaps, aware that in Germany they have only 30 years from publication, and that it applies to academies, universities, and other corporations, public institutions for instruction, and learned and other societies, when as editors they are to be regarded as authors enjoying that right for 30 years?—I was not aware of that.

3139. (*Mr. Fitzjames Stephen.*) Is it not a thing which is explained by the history of it; was not it the impression originally that copyright in individuals was permanent?—I think so.

3140. And when people were under the impression that copyright in individuals was permanent, it was a natural thing to think that copyright in a corporation would be more especially permanent?—Yes.

3141. And when the statutes were passed, the

universities were afraid of losing their rights, and applied to Parliament; that is the history of it?—Yes, it is. I remember that it is mentioned, in the case of Miller *v.* Taylor, that the universities were frightened by that decision, and consequently got this Act passed to save their copyrights.

3142. So that you may regard university copyright as a sort of legislative revival of the old ideas about copyright?—Yes, a sort of salvage out of the old system of copyright.

3143. Have you any opinion upon the subject of Crown copyright?—No, I cannot say that I have. I have not looked into the question of Bibles, as it was so fully gone into by a committee some little time ago. I believe that there is more competition in Bibles than in anything else.

3144. Is not the right in the Crown?—Yes, but the universities, and the Queen's Printers in London, Edinburgh, and Dublin have the right of printing Bibles.

3145. (*Mr. Daldy.*) Under patent?—Yes, under patent from the Crown.

3146. (*Mr. Fitzjames Stephen.*) How is it as to the Bible Society?—They have to get their Bibles from one of those printers; and there is greater competition in Bibles than in anything else.

3147. (*Mr. Trollope.*) Do you recommend that the universities should lose their copyright?—I do not know that it is worth while to meddle with the copyrights which they possess, but for the future I do not see why they should have them.

3148. (*Mr. Daldy.*) Are you aware that the universities have made arrangements for purchasing the copyright of printing the new translation of the Bible which is now notoriously in preparation?—I was not aware of it, but if it is the case, it is a very important fact.

3149. Would you think it right that the universities, having acquired that copyright by purchase, should retain it in perpetuity, or be limited like any person?—I think that their copyright in it ought certainly to be limited.

3150. (*Mr. Fitzjames Stephen.*) Are you aware whether corporations other than the universities can have copyright?—I am not aware of any reason why an author should not assign his copyright to a corporation.

3151. (*Dr. Smith.*) Are you aware that Stationers' Hall have perpetual copyright in certain works which they publish, in their almanacks for instance?—I am aware that there is some special copyright in almanacks. That, I think, was one of the things which were a Crown right at one time

3152. Did not they acquire it under a charter?—Probably.

3153. If you took away the perpetual copyright from the universities, would you propose to take away the perpetual copyrights from the Stationers' Company also?—I suppose that their perpetual copyright in an almanack comes to very little indeed.

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3154. Are you aware that the Stationers' Company derive a very large income from those almanacks?—But they have no monopoly of publishing almanacks, so that it only comes to an ordinary publication. A copyright in an almanack to last for more than 42 years cannot be of any great value, or any great restriction on the public.

3155. (*Mr. Daldy.*) Would not a copyright in the name of the almanack be of great value?—That is rather in the nature of a trade mark than of a copyright.

3156. At the present time is it not assumed, at any rate, that the Stationers' Company have the exclusive right to the title of "Moore's Almanack"?—I was not aware of it.

3157. (*Mr. Trollope.*) Has not Mr. Murray the right to the continued name of the "Quarterly Review"?—Certainly.

3158. (*Chairman.*) We will now come to No. 11, namely, Form of International Copyright?—I am inclined to think, though I have not attempted to frame the outline of a Bill, that the best form of proceeding in this case, as in other cases of international arrangements, would be an Act stating exactly what the law of this country was to be, with power to the Queen by Order in Council to apply it to any country which reciprocated; following the example of the Extradition Treaty Act, the Rules for Meeting at Sea, and other recent cases.

3159. The next subject is Consolidation and Codification?—It seems to be extremely desirable to consolidate the law, the greater part of it is statute law, and that statute law is extremely confused and badly drawn, and I think might be put into a very simple form.

3160. (*Mr. Fitzjames Stephen.*) Would it not be well to put in not only the statute law, but the effect of the cases?—Yes, so far as it is possible to do so.

3161. In going through the statutes, especially upon the subject of international copyright, I think you will find that there are some very curious questions left undecided by the existing law?—I dare say that is so.

3162. And the Acts are of all dates; the earliest of them is the Engraving Act, which was passed in the reign of George II.?—Yes, I think so.

3163. And they come down to the 38th and 39th of Victoria?—Yes, and they are drawn in all sorts of forms.

3164. And in very different styles?—Yes, and some of them in very bad styles.

The witness withdrew.

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

Wednesday, 6th December 1876.

PRESENT:

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

The Right Hon. the EARL OF DEVON.
Sir HENRY T. HOLLAND, Bart., C.M.G., M.P.
Sir JOHN ROSE, Bart.
Sir JULIUS BENEDICT.
Dr. WILLIAM SMITH.
ANTHONY TROLLOPE, Esq.
F. R. DALDY, Esq.

J. LEYBOURN GODDARD, Esq., Secretary.

BOYDELL GRAVES, Esq., examined.

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3165. (*Chairman.*) I believe you are able to give the Commission a good deal of information respecting copyright in fine arts?—I scarcely like to ask for longer time, but I feel that I have not studied the subject quite so much as I should wish to have done. I should be glad to have given more attention to it, because I feel a deep interest in it; and the more I look into it the more I am convinced it requires very careful consideration.

3166. The Act of 1862, I believe, is at present the Act which regulates copyright in fine arts generally, is it not?—In paintings, drawings, and photographs.

3167. Not sculpture; that is under a separate Act?—Yes.

3168. Would you kindly state to the Commission in what way, in your opinion, the Act of 1862 either fulfils or does not fulfil its object in the

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matter of paintings, photographs, and drawings?—I think that with regard to the first clause of the Act of the 25th and 26th Victoria, it is very confused indeed in the way in which it is drafted; and, so far as I am aware, artists feel very much aggrieved that they should be compelled either to give or take a memorandum in writing in order that the copyright may have effect. I think you will find that it is absolutely necessary, in order that copyright should pass, that an agreement in writing should be signed, either by the artist if he sells his copyright to the purchaser of the picture, or by the purchaser of the picture if he wishes to retain the copyright to himself, except in the case of commissions, where copyright seems to pass without any writing whatever to the person commissioning the work to be executed; and, as far as I can understand, artists would very much prefer that copyright should vest in them as such, and be separate from the painting which they sell, that is to say, that the copyright should be vested in them apart from the work itself. It is so abroad; in France and in Germany copyright remains with the artist until he parts with it, and I think the artists of England would prefer that that should be so here as well.

3169. (*Mr. Trollope.*) Are you speaking of engravings?—No. I am speaking at the present moment of paintings and drawings.

3170. (*Dr. Smith.*) Do you mean that after the artist has sold his picture, he still wishes to reserve to himself a copyright for engraving?—For all purposes; that the artist would wish to reserve the copyright to himself to do whatsoever he will with it, apart from the question of selling the picture, that is to say, that the purchaser of the picture should stipulate for the purchase of the copyright, if he wishes to have it.

3171. But is the copyright of a picture of any value, except for the purposes of engraving from it?—It may be. It is chiefly valuable for the purpose of engraving, but it may be valuable for the purpose of photographing, or for reproducing in any other form.

3172. But if he has sold it and it has passed into the hands of another person, is it intended by that reservation that he should have access to the painting without the permission of the purchaser?—No, I do not suppose that can be intended. He must get permission from the purchaser for the loan of the picture, but without such a provision as I am suggesting it might be very unjust to the artist himself, because the purchaser of the picture might allow the work to be copied in such a way as would do injury to the reputation of the artist himself; in other words, the purchaser might lend his picture to be reproduced, and it might be reproduced so indifferently that it might injure the reputation of the artist, if it were done without his sanction and consent, which it could be if the copyright passed with the picture.

3173. (*Sir H. Holland.*) And therefore, in the absence of any written contract, you would let the copyright be reserved in the artist?—Yes, unless he parted with it in writing.

3174. But that in the absence of any written agreement the copyright should remain in the artist?—I think that is what the artists generally would wish to have.

3175. You said that the first clause of this Act of 1862 was badly drawn, and that the artists were aggrieved at having to give or take any memorandum. But a memorandum is only a written contract; and in the case you suggest a written contract would have to be entered into if they wished to pass the copyright?—Certainly; but the question is whether in the absence of any agreement in writing it would not be more equitable that the copyright should remain with the artist; and there are several reasons why it should do so.

3176. There is no doubt that the first section of that Act is very badly drawn, because it might be that the copyright would cease altogether according to the wording of that Act. It begins by saying that the person shall not retain the copyright, unless it be expressly reserved to him by agreement in writing, and then it goes on to say that the purchaser shall not be entitled to copyright except by an agreement in writing; and therefore, if there was no agreement, the copyright would be in neither?—Thatis so, except the case of commissions.

3177. Therefore there is no doubt that an amendment is required, and the amendment which you suggest is that the copyright should remain in the artist, unless there is a special agreement to the contrary?—I think it would be more equitable, and I think so for several reasons.

3178. One reason you have already given, namely, that the artist then retains the right of preventing inferior copies of his picture being taken, or any inferior engravings made from it?—Yes, and another reason I think in the public interest would be this, that it is easier for the public to ascertain in whom the right is actually vested if the artist retains the copyright; because were it to pass with the picture, the picture might change hands many times in the course of a single year, and a person wishing to make use of that picture for legitimate purposes might not know to whom to apply to obtain permission; whereas if the copyright were vested in the artist, he would at once know to whom to go. These are the chief reasons why I think it would be better to reserve the copyright to the artist himself. I think he should have the right of superintending any copy that might be made of his work; and really if the purchaser wishes to secure the copyright, he can do so by a stipulation to that effect, and therefore sustains no injury.

3179. (*Mr. Trollope.*) Does not an artist at present retain a certain copyright in his picture without any agreement?—Not after sale of his painting, unless he retains it in writing.

3180. Could anyone for instance copy Mr. Frith's "Derby Day," which is now in our National Gallery?—That may be exceptional from being public property.

3181. Does not an artist retain a copyright in his picture even though he makes no agreement?—Not since 1862, if he sells the picture without reserving the right by agreement in writing.

3182. If no agreement be made the picture can be copied by anyone?—If the picture had been painted since 1862, and were sold by the artist to a purchaser, without a reservation in writing of the copyright, to himself it could be copied without the artist's consent.

3183. Do you think that Mr. Frith's "Derby Day," being in a public gallery, could be copied without leave from Mr. Frith?—I do not know how far its being in a public gallery would make a difference.

3184. (*Earl of Devon.*) What would be your answer to this question. An artist paints a picture and does not dispose of it; it remains his property; he exhibits it to the public at the Academy exhibition. Can anybody copy that, he not having disposed of it?—I should apprehend not.

3185. (*Mr. Trollope.*) My question referred to a picture which is the property of the government, and which is exhibited in a gallery in which the government allows all the pictures to be copied?—I do not think Mr. Frith sold that painting to the government direct, but that case may be exceptional. I have, however, reason to believe that permission to copy the work of a living artist is invariably refused by the keeper of a public gallery, unless with the consent of the artist himself or of the owner of the copyright.

3186. (*Sir H. Holland.*) Are you aware that there was a Bill introduced by Lord Westbury called "The "Fine Arts Copyright Consolidation and Amendment "Bill," in 1869, and have you seen that Bill?—I am aware that such a Bill was introduced, and I have seen it.

3187. Are you aware that in that Bill by the third section it was proposed that where the work was sold the copyright should vest in the purchaser, unless there was an agreement in writing to the contrary?—I am.

3188. I understand that you dissent from that Bill?—I think that section unjust to the artist.

3189. And therefore you think that the Bill to that extent is based on a wrong principle?—So far.

3190. (*Chairman.*) All this evidence refers exclusively to paintings, drawings, or photographs?—Yes.

3191. (*Sir H. Holland.*) I do not understand that in the case supposed you would let the author have any rights over the picture itself further than that he can prevent anything being done to it, or engraved from it?—Further than that no copy should be made from it without his consent, but there ought manifestly to be conditions under which that right is exercised. I mean with respect to registration, and so forth. That brings us further on.

3192. Conditions as between whom, the purchaser and the seller?—No; I mean as to the right vested in the artist.

3193. Conditions precedent to the copyright being in the artist?—As to whether he should retain the copyright unless he fulfils certain conditions.

3194. But you do not give the artist any right to say to the purchaser, "I must have that picture engraved," only to prevent anything being done without his consent?—Just so; as a rule it adds to the value of the picture that it should be engraved, and therefore the owner would mostly give consent, or consent would be stipulated for by the artist when he sells his painting.

3195. Then that would be matter of contract?—Yes. With regard to the term of copyright, the term given by this Act of 1862 is simply the author's life and seven years after his death. But that seems very short indeed, and very unfair in particular instances.

3196. (*Mr. Trollope.*) It does not give 42 years?—Not to paintings, unless the author lives 35 years after the sale of his painting. It seems very unfair under certain circumstances.

3197. (*Sir H. Holland.*) Will you tell us how it is unfair?—It may be unfair in this way; that an artist may arrange for an engraving to be made of his work, and the engraving itself may take two or three years to be made. In the meantime the artist may die, and there would then only remain some four or five years for the copyright to run.

3198. (*Chairman.*) It it not a fact that there have been instances in which many years have elapsed before the picture has ever found its way into the house of the owner?—I daresay there may have been such instances, but I think they are exceptional; mostly two or three years is the extreme limit of time required.

3199. (*Dr. Smith.*) You state that you are dissatisfied with the period of copyright now existing under the Act. It was stated to us by Mr. Le Neve Foster that the reason why that period was fixed, namely, for life and seven years afterwards, was the difficulty of ascertaining what might be called publication of a picture. Does that occur to you as a valid reason?—I think it a difficulty, but one which might be surmounted.

3200. What would you propose in place of the present period?—I think if a fixed term could be adopted, so as to make it analogous to other terms of copyright, it would be better. The difficulty is, of course, that of fixing the first sale; but I should imagine this might be got over in one way or another. My idea is that the requirements of the case would be met by a sort of compromise between those who would maintain registration throughout and those who are adverse to registration. Some say, with regard to registration, that it is very hard upon the artist to enforce it; that he not being a man of business but a man quite unaccustomed to these forms and regulations, it is throwing a difficulty in his way about that which is the creation of his own brain, and, further, that he should not be fettered with these restrictions. Others say that no step should be taken without registration. But registration, if it exists at all, should be complete, and registration is difficult to enforce in every case. The question is whether a compromise might not be arrived at in some such way as this, that if copyright were conferred upon the artist he should retain the copyright until he parts with it in writing, independently of what becomes of the painting; that he should have the right of registration at any time within five years from the first sale of his painting; that if he fails to register within fiv years his copyright should lapse altogether. I think it would be unreasonable to ask the artist to register within three months, and it would be especially hard in the case of a young artist, who perhaps in the course of a few years might rise to eminence, so that works which he thought of no moment at the time they were painted, he might derive some advantage from if the right were still retained to him; and if three months were fixed as the time for registration it would be altogether inadequate. An artist might think his work of no moment, as regards copyright, at the time of the sale of his painting, yet afterwards it might turn out to be of great value; and it is therefore desirable to grant a longer term for the purposes of registration, say five years. This arrangement would exclude a great many copyrights that are of no value. There would, for instance, be an equal right in a signboard, and so on, but such copyrights, failing registration, would lapse.

3201. (*Sir H. Holland.*) At the end of the time, as I understand you, he can have no copyright in the picture. Supposing anyone by stealth engraved it, or made a copy of it, he would have no right to prevent it. Do you propose that the copyright should cease altogether, and not that it should be vested in the purchaser?—Possibly there would be no harm in the copyright passing to the first purchaser at the end of the five years, if the artist did not claim it.

3202. I want to ascertain your views; you have come to give us your views as representing a large firm upon this question?—I think it would be better in the public interest that the copyright should lapse in such a case.

3203. (*Mr. Trollope.*) Do you not think that the penalty you propose would be too severe?—Then make the term for registration longer. I do not think it would be a hardship on the artists themselves, if they failed to register within five years, to lose their claim to copyright.

3204. You think that the penalty of the absolute loss of copyright would not be too severe for the omission to register?—No; not if the artist did not register within five years. I mean to say that if his picture were copied within the term of five years, he should be able to register at any time he pleased within that five years, and that if it were copied previous to registration, neglect to register should simply affect his right to proceed for penalties.

3205. Are there not pictures which become valuable after the lapse of five years, which previously to that were not valuable enough to make registration probable?—Yes; but if no term were fixed for registration an artist would never register at all. I rather think that some reasonable term should be fixed, and I think possibly five or six years is quite enough time for a man to make up his mind whether he cares to reserve his copyright or not.

3206. (*Earl of Devon.*) Will you explain a little more fully what inconvenience you think would arise to an artist, or what objections exist to an earlier registration. Why should not compulsory registration take place within three months if the man wishes to obtain the privilege of copyright, or within some such time after the completion of his work?—But you can hardly say when a work is complete in his studio.

3207. Then take the sale, if you please. Why should not the man be compelled within a certain time after the sale of his work, say three months, to register, assuming that there is no pecuniary objection, but that the fee for registration is put at a very low sum indeed?—There are so many works produced that I think it would unnecessarily hamper the artist; besides, an artist often scarcely knows whether his copyright will be of value or not.

3208. But would it not be worth while spending 5*s.*

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in that state of ignorance?—I think it would entail a great deal of difficulty upon him constantly sending to the registrar every work he does, and 5*s.* might in many instances prove an excessive charge.

3209. (*Sir H. Holland.*) But the fact of a sale shows that there is value in a picture?—It does not necessarily follow there is value in a copyright, and artists are very averse to comply with registration.

3210. (*Mr. Trollope.*) But if you make registration compulsory, does it follow necessarily that the penalty of non-registration should be loss of copyright. You wish to make registration compulsory, and you must do that by a penalty; cannot you imagine any penalty less severe, and that would yet be sufficient, than the loss of copyright?—You need not give him right of action till he had registered; that is to say, that he should not have any redress for infringement of his right till he had registered, but that would amount to this, that he need not be compelled to register at all.

3211. Supposing a fine were imposed, would not that be enough?—Of course artists themselves would rather not be compelled to register at all. They consider it a very great hardship that they should be compelled to register. They think that their work being the product of their brain, they should retain the right independently of registration. But on the other hand I cannot but think that in the public interest registration should be required; and myself, I do not believe that any law with adequate provisions against infringement would be passed unless subject to registration. It only remains to be considered what term should be granted. I think three months is too short a term for an artist to be obliged to register. I do not know that it need be five years, it might be one year.

3212. (*Sir H. Holland.*) You said you considered that there should be some extension of the present term, which is the life of the author and seven years after his death; what extension do you propose?—I should think that proposed in the Society of Arts Bill, 30 years, would be fair, because that assimilates to the law of Prussia more particularly. The French term is longer still.

3213. (*Dr. Smith.*) You mean for life and 30 years after death?—Yes, that is the law of Prussia.

3214. That would get rid of the difficulty, would it not, of determining the period of publication?—Yes, certainly, and also that of fixing when the first sale takes place.

3215. (*Sir H. Holland.*) And you do not think that that would be too long a period, 30 years after life, to extend to works of this kind, paintings and drawings, and photographs?—I think not. There is also the question of commissioned works in this clause of the Act, as in the case of portraits, &c.

3216. (*Dr. Smith.*) Would you state your views on commission work?—My idea is that in commissions the copyright ought to vest in the person commissioning the work, more especially in the case of portraits where a person sits for his portrait, which might otherwise be copied and photographed and put in the shop windows without his permission, and even in opposition to his wishes.

3217. Then you would draw a distinction between a painting painted by an artist without a commission and sold, in which case you would give the artist the copyright unless he parted with it by special agreement, and the case of a painting in which the painter was commissioned by some one to paint it?—Yes.

3218. In that case, without any special agreement, the copyright would vest in the person who had given the commission, that is your view?—Yes.

3219. (*Sir H. Holland.*) And that would apply not only to the case of portraits but to any picture?—Any picture commissioned to be executed on behalf of any person.

3220. But I do not quite see what reason you have for making that distinction. Why should not the artist have a copyright just as much in the second case as in the former case?—In the case of a commissioned work not being a portrait, the person commissioning the work would mostly suggest the idea intended to be carried out.

3221. He may do so, but an order is constantly given, to Mr. Birkett Foster, for instance, to paint a picture with no more instructions than that it must be "something with trees in it." There is very often no design, no sketch given by the purchaser, he merely gives the order?—My suggestion more particularly applies to portraits.

3222. But you said that you made no distinction between portraits and other drawings on this point?—That is so.

3223. What is the real reason why there should be any difference as regards the artist between a picture that he has himself painted, and a picture that has been ordered. It is the artist's work in the one case as well as in the other?—Certainly; only that in the one case the gentleman commissioning the work, ordering it to be done on his behalf, would be likely to feel that he should retain a right to himself in his commissioned work.

3224. The question is whether he should retain the copyright?—I do not see why he should not.

3225. On what ground do you base the opinion. It is not on the ground of the difference of work on the part of the artist; the artist has done the same work in both cases. Then is it simply because it has been ordered in one case?—That it has been ordered on behalf of the person commissioning the work to be done.

3226. (*Mr. Trollope.*) How would you define a commission-picture?—A work executed by an artist on behalf of a person who is to pay for the work.

3227. Then if I ask Mr. Millais to paint me a landscape and he paints one, that is a commission, is it?—Certainly.

3228. But I have given him no idea?—The work that he may be executing for you is one of which you might suggest the idea, or you might not.

3229. I am supposing that I do not. Is that picture in any different category from the same picture if I had bought it after it had been painted?—I think there is a difference, though I am hardly able to explain it in precise words.

3230. (*Mr. Daldy.*) Would not the commissioner and the artist stand in the relation of master and workman, as in the case of a person employing an engraver to produce an engraving for him?—I think so.

3231. Do you think it of importance that that relationship should be maintained?—Yes.

3232. (*Dr. Smith.*) I understood you to say just now, as one reason for the copyright vesting in the painter, unless it had passed by special agreement, that it would be then known by the public, much more easily than it is at present, in whom the copyright vests, inasmuch as the painting often passes through several hands?—Yes.

3233. Would not that argument also apply in the case of a painting painted on commission. If it vested in the author and not in the person who gave the commission, the public would more easily know in whom the copyright vests?—It might so apply in that case certainly. I see there is a difficulty there; but then commissions are exceptional.

3234. (*Chairman.*) In the case which you contemplate, would you make it necessary that the commission should be a contract in writing?—No, I think not; there is no contract in writing under the present Act for commissions.

3235. How does the present Act bear on that matter?—The copyright is vested in the person commissioning the work, without any memorandum in writing. I think you will find the words "the person for or on whose behalf the same shall have been made or executed" are specially omitted in the last clause of the section.

3236. You are suggesting an alteration of the law, are you not?—Not as regards commissions. I think, so far as commissions are concerned, it is satisfactory as it is.

3237. (*Dr. Smith.*) Do not you think that great

difficulty would arise from having the copyright different in the two cases; in the one case where a painter paints without a commission, and in the other case where a painter paints in virtue of a commission?—No, because it could always be ascertained whether the work had been commissioned or not.

3238. How could it be ascertained?—Either by enforcing registration, or on cross-examination if the question came to be disputed.

3239. But is it not advisable to avoid disputes?—If registration were enforced it would be clear enough in whom the copyright vested.

3240. (*Chairman.*) But I understood you to say just now that it could be ascertained either by registration or by cross-examination in case of dispute. If there was compulsory registration it could then be ascertained, but if there was not how could it be?—There might be a difficulty about it then, but still the person who copied would know that he was copying somebody's work.

3241. Therefore, upon further consideration, you still do not think that there would be any particular difficulty in having two different classes of copyright?—No, I do not, in the case of commissions as distinct from non-commissioned works of the artist himself.

3242. (*Mr. Trollope.*) And you think that there would be no difficulty in ascertaining whether a picture had been a commissioned picture or not?—No.

3243. (*Mr. Daldy.*) Could not the ownership of the copyright, as a general rule, be ascertained by application to the artist?—Yes, certainly, if he were alive.

3244. The artist or his representative?—Yes.

3245. (*Mr. Trollope.*) Might not a difficulty or a difference of opinion arise between the artist and the purchaser as to whether there had been a commission or not in the particular case?—I think not in the generality of cases.

3246. If a gentleman had given an order to a painter to paint him a picture at some indefinite period; if, for instance, I were to say to a painter, "I shall be glad to take a picture of you when you have leisure to paint me one," and if after ten years time a picture is sent me, is that painted on commission?—When that picture was delivered I should consider that the artist assumed that it was in execution of his commission; though it had been ten years in hand, when he delivered it to the gentleman who commissioned it, it would be a virtual carrying out of his commission.

3247. Do not you think that such a mode of disposing of a property would be too loose? Ought an artist to be held to have made away with his property in such a manner as that?—He is not compelled to deliver it to the person commissioning unless he accepts the commission. If a commission were given in that loose way he is not compelled to execute the work and to deliver it to the person who had commissioned him to paint a picture.

3248. If it is painted on commission he is compelled, if not by law at any rate by honesty, to deliver it?—But I mean when he did deliver the picture it would be inferred that that was the commissioned work.

3249. (*Dr. Smith.*) Will you allow me to put you another question in reference to that which Mr. Trollope has asked. Is it not the fact that in an artist's studio a person frequently comes in and sees a picture partly finished, and then says that he should like to have that picture for a certain sum. Would that be a picture painted on commission or not?—I apprehend not.

3250. Do not you think a difficulty might occur in determining, if the question of copyright arose, whether it was a picture painted on commission or not?—No; I should imagine that it having been begun previous to the time that the purchaser saw it, it would scarcely be maintained that it was a commission. It had not been begun *ab initio*, as it were, by—it had not started in the idea of—the commissioner; it was the idea of the original artist; it was simply not completed, and the purchaser said he would take it when it was completed.

3251. (*Sir H. Holland.*) But supposing that the artist had sketched in a few trees and a bridge, and that then he received an order from some one to paint him a picture of a landscape, and that he finishes up that picture which he had begun, and then delivers it to the person who had ordered it; is not that a picture on commission?—Possibly a little difficulty might arise in such an extreme case.

3252. Is there any difference between that case and the purchaser coming in and happening to see these few trees and a bridge sketched in, and saying, "If you will finish up that picture I should like it"?—I think much depends upon whether the artist delivers the picture as a work of his own or as a commissioned work at the time of delivery.

3253. Does it not in fact turn upon what the artist delivers at the time he delivers it. He delivers a picture, and he either delivers it in fulfilment of a commission or not. If it is in fulfilment of a commission, then that picture is one that was ordered on commission?—Yes.

3254. And it therefore turns upon what passes at the time of delivery?—Yes. The question of copyright in portraits seems chiefly to arise in photographs, where persons have a right in the negative of the photograph that they sit for.

3255. Has there been any decision on that subject?—I know questions have arisen on the subject. I do not know whether there has been any decision in law as to whether when a person sits for his portrait he is virtually commissioning himself to be taken. But I think it would mainly turn upon this, whether the sitter goes to the photographer to have his portrait taken, or whether the photographer makes application to the sitter.

3256. Take the case of a photographer who writes to a member of parliament, saying, "Will you come and be taken"? In that case you are conferring a favour and have no right in your photograph?—Just so.

3257. But in the other case where you wish to have your photograph taken, and you go and have it taken, what is your view?—I think that the copyright should be vested in the person sitting for the portrait, because otherwise it might be surreptitiously reproduced, or exhibited in public windows; or being the portrait of one's wife, or near relative, it might come to be publicly exhibited with other portraits, a proceeding which might, under certain circumstances, be manifestly undesirable. With regard to the sale of copyright by the artist himself, such sale ought to pass in writing. I mean when he sells his copyright to a second person, and such transfer should be registered within three months. I refer to any assignments of the copyright to a second person.

3258. Do you think in such a case where there has been an assignment, any notice should be given to the original purchaser of the picture?—I do not see that it is necessary. I would suggest that if copyright were registered by the person purchasing the copyright; he should be compelled to state, as part of such registration, the date when the painting or drawing was first sold; that is presuming that so many years copyright is given, and not the life of the author and so many years after his death.

3259. (*Chairman.*) Have you any further observations to make on this branch of the subject?—Referring to the fourth clause of the Act of 1862, as to the registration at Stationers' Hall, I would wish to remark that no inquiry whatever is made at the time of registry. I mean that anyone could go and register at Stationers' Hall. They make no inquiry as to whether you are the person really authorised to register or not. They take no pains to ascertain whether you are the real proprietor; you sign a form, and that is all.

3260. (*Sir H. Holland.*) Do you propose to throw the onus upon the registrar of going into the question of title?—Hardly the question of title; but I think some *primâ facie* evidence should be given beyond merely sending in a document. Perhaps that duty could hardly be borne by Stationers' Hall; but it is

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worth consideration whether some government officer should not be appointed to see that there is some *bonâ fide* claim to be entitled to register.

3261. (*Chairman.*) But are you prepared to tell the Commission what kind of evidence you would think necessary?—In the case of the purchase of a copyright, I would suggest that the document upon which the copyright hinges should be produced at the time of registry. Supposing that every copyright must be assigned in writing, I would propose that at the time you proceed to register you should be compelled to show the document in virtue of which copyright has passed, whether by ordinary assignment or agreement, or by will, letters of administration or assignment in Bankruptcy.

3262. Take the case that you have been speaking of, that of a picture painted on a verbal commission, what would be your written evidence of that?—Of course then there would be none. My observation would only apply where copyright passes to a second person.

3263. (*Mr. Trollope.*) The copyright would have passed to a second person, would it not, in the case of the verbal commission to which the chairman alluded?—Hardly so. I did not suppose that it would pass from the artist to the person commissioning, but that it was in fact vested in the person commissioning the work.

3264. Then the person registering it would have no document to show?—In that case he would not. This would only be applicable to the case where copyright passed into the hands of a second party.

3265. But how can the Stationers' Hall judge whether the application is made by a first party or a second?—By their forms. You will see that their forms refer separately to the author of the copyright and to the proprietor of the copyright.

3266. (*Sir H. Holland.*) If a man is fraudulently inclined, of course he could come prepared to fill up each column, and what would you have the Stationers' Hall do then?—I do not think they could do anything, but some government officer might be empowered to inquire more minutely into the claim of the person who registers, because once on the registry it is very difficult to remove that registration.

3267. (*Dr. Smith.*) Did I understand you aright that there should be some *primâ facie* evidence that the copyright belongs to the person who registers it, in addition to his simple statement?—Precisely.

3268. You would not impose upon the officer the necessity of inquiring strictly into the title?—No, not strictly, but that there should be *primâ facie* evidence that the person registering is entitled to what he registers.

3269. (*Sir H. Holland.*) Have you known of any grievance arising from want of care in that respect being taken on the part of Stationers' Hall?—Personally not, that I can speak positively upon.

3270. You are aware that there are penalties for making a wrong registration, and also that the registry can be amended?—Yes; but the person who seeks to remove the entry must be aggrieved, that is, it must be done by some person whose right conflicts with the right which is entered.

3271. But do not you think that is sufficient, that the person who makes a false registry is liable to a heavy penalty, and that the register can be amended?—I hardly think so, because it may not be the person who is entitled to the copyright who applies, but the public who are interested in it.

3272. (*Chairman.*) I think I understood you to say not long ago that under the present law artists are very reluctant to undertake the trouble of registration?—I know that they are.

3273. If you were to make the form of registration still more burdensome, is it not likely that the artist would be still more reluctant to undergo it?—Very likely he would, but in this case the burden of proof would fall upon the purchaser of the copyright, and not upon the artist.

3274. Have you any further observation that you would like to make upon this branch of the Act of 1862?—I should like to refer to the words in the fourth section: "And in addition thereto, if the person "registering shall so desire a sketch, outline, or pho- "tograph of the said work." It is copies of the registry that are *primâ facie* evidence, and the copies could not have the sketch upon them which the original has, or may have. What I mean is, that the copy issued by the Stationers' Hall under their stamp would not be the *facsimile* of the original register, because the original would in some instances have a sketch on it which the copy would not have. The artist himself might make a little sketch in the corner to give the idea of the work. The copy produced in evidence would not have that sketch upon it.

3275. Could not the copy have a photograph of the original sketch?—It might; if they established a photographic department for the purpose of making facsimile copies of the registry.

3276. (*Sir H. Holland.*) That fourth section only refers to the former Act?—Yes. Then as to section 6, it does not appear that it is an offence under that section to export. In the Bill that was suggested by the Society of Arts the word export is introduced as well as import. It seems to be no offence under that sixth section to export any number of repetitions. The words are, "or knowing that any such repetition, "copy, or other imitation has been unlawfully made, "shall import into any part of the United Kingdom;" but the word "export" is not there.

3277. (*Mr. Daldy.*) Are you referring to the question of guilty knowledge?—No; simply to this, that it is not an offence to export any number of repetitions. Then with regard to guilty knowledge, it has always been a very difficult point to show what is guilty knowledge under this clause; and the Bill of the Society of Arts proposed that if the person who sold copies refused to give information of whom he had obtained them, that should be considered to be evidence of the guilty knowledge of the sale.

3278. (*Sir H. Holland.*) Which section in the Bill of the Society of Arts is what you call the guilty knowledge section. Do you mean the 20th section?—I think it is the 16th section.

3279. "Refusal, &c. to give information where "copies were obtained is to be *primâ facie* evidence "of their being unlawful?"—Yes. You may know that persons knew it, but yet you cannot show it.

3280. I presume that now since 1869 the law has been so far altered that you could administer interrogatories to them which they would have to answer upon oath?—I believe not when taking proceedings to recover penalties before a magistrate. The defendant's mouth is closed, and you have to prove guilty knowledge. It is very difficult to prove that. You may know very well that the person offending had perfect guilty knowledge, but you cannot clearly bring it out in evidence; and the question is whether from their refusal to give information whence they obtained the copies, it would not be fair to infer that they had guilty knowledge. And that brings another difficulty to the fore. In the 8th clause of the Act of 1862 the only remedy given is "by summary pro- "ceeding before any two justices having jurisdiction "where the party offending resides."

3281. Are you prepared to abide by sections 13, 14, 15, and 16 of the Bill of 1869 (because I confess they appear to me to be highly inquisitorial clauses), by which if a person imports or exports or sells or lets for hire, or exhibits or offers, or carries about any unlawful copy of a work of fine art in which there is a registered copyright, he is bound on demand in writing, though he may have known nothing about its being unlawful, to give you every information as to the copies, where he got them, and what he gave for them, and then if he does not comply you haul him before the magistrate; and if the magistrate is satisfied that the demand is lawful, then he has to comply with it. But would you say that any publisher might demand of a person an explanation of where he got the copy he is carrying about?—Certainly not, unless he is the owner of the copyright, the person aggrieved.

3282. Had you any part in preparing the Bill of

1869?—I had several conversations with the late Mr. Blaine about it, and also made some suggestions with reference to amendments to be introduced.

3283. Did you go through it with Mr. Blaine?—I did.

3284. Have you a recollection of the provisions of sections 13, 14, 15, and 16, which bear on the point that you have just mentioned?—Yes; but I should wish to have time to reconsider them individually. I do not know whether they might not be capable of modification, but in principle they are absolutely necessary. I could give you an instance of a case that occurred only the other day, and prove to you how difficult, if not impossible, it is to get at where these persons live.

3285. By section 13 of the Bill of 1869 you see: "Every person who shall import or export, or cause "to be imported or exported, into or out of any part "of the British dominions, or shall exchange, publish, "sell, let to hire, exhibit or distribute, or offer or "hawk or carry about, or keep for sale, hire, exhi- "bition, or distribution, any unlawful copy, repetition, "or imitation of any work of fine art in which, or "in the design whereof, there shall be subsisting "registered copyright, shall be bound on demand in "writing delivered to him or left for him at his last "known dwelling house or place of business, by or on "behalf of the registered proprietor for the time being "of such copyright, to give to the person requiring "the same, or his attorney or agent, within 48 hours "after such demand, full information in writing of the "name and address of the person from whom, and of "the times when he shall have imported, purchased, "or obtained such unlawful copy, repetition, or "imitation, also the number of such copies, repeti- "tions, or imitations which he has obtained, and also "to produce to the person requiring such information "all invoices, books, and other documents relating to "the same; and it shall be lawful for any justice of "the peace, on information on oath of such demand "having been made, and of the refusal or neglect to "comply therewith, to summon before him the person "guilty of such refusal or neglect." Therefore any person who carries about pictures may be called upon by any other person to do all this?—It says, "by or on behalf of the registered proprietor."

3286. If a person comes and makes a demand on me for some copies that I have got, how am I to know that he is the registered proprietor in the first place, and is it not an inquisitorial requirement that I should be compelled to satisfy this demand, because I may have got these copies without knowing that they were unlawful at all?—Such instances might arise, and ought to be met.

3287. Having called your attention to the provisions of section 13, I will ask do you still think that they should be adopted as they are, do you not think that some modification is necessary?—Possibly they might press heavily in the case of a person who could not bring forward satisfactory evidence showing he did not know, but I am of opinion that the clause in itself, in order to ascertain whence these copies are obtained, is necessary.

3288. But should you not go before the magistrate first and show that these copies are unlawful, or are likely to be unlawful?—Yes, but that is arranged for by another clause, the 15th.

3289. That is only enabling you to seize copies provided you could show that they are unlawful; I am speaking of section 13?—In the case you mention I see that a hardship might possibly arise where a person did not really know from whom he obtained the copies, and did not know that they were unlawful.

3290. Do you not think the first step should be to make application to the magistrate and to give some *primâ facie* evidence showing that these copies are unlawful?—Yes, possibly. I do not know that I am prepared to maintain the 13th clause in its integrity. The 15th clause is decidedly necessary.

3291. The 15th clause is for the seizure of piratical copies in the possession of hawkers?—Simply taking them before a magistrate.

3292. "If any person" hawks, carries about, &c., "all such unlawful articles may be seized without "warrant by any peace officer or the proprietor of the "copyright, or any person authorised by him, and "forthwith taken before any justice of the peace;" but they may seize without warrant these copies?—I am not sure whether it should not read, "by any peace officer on behalf of the proprietor of the copyright or his duly authorized agent." As the law now stands, you see these things being sold before your eyes, and you, the proprietor of the copyright, have no means of redress whatever. Were it a question of your watch you could give the offender into custody; but here your property is equally at stake, and yet you have no efficient ready redress. But the copies are not supposed to be delivered over to you, they are to be taken before a magistrate, and he is to adjudicate.

3293. This 15th clause is for the seizure of piratical copies; it is quite different from the point that I was referring to, the demand under the 13th clause?—Yes; instances might well arise where a person might not know from whom he obtained them, and it would be very hard to make him liable in penalties if he did not know. But with regard to the 15th clause, it would seem to be very material, especially as penalties are only now recoverable before a magistrate having jurisdiction where the person offending resides, which residence it is next to impossible to ascertain. By this Bill it was proposed that it should be either where the person offending resides, where he carries on business, or where the offence was committed. These persons go round from house to house selling these illegal copies, and refusing to give either a name or an address. They have no address; if you apply for it, they tell you to write to a post office; and if you write to the post office they will bring you what you want, provided on inquiry they consider it safe so to do.

3294. (*Chairman.*) In what cases does this occur?—Mostly in the case of photographs taken from copyright engravings; but there is the difficulty that these things are sold openly before your eyes; you see your own property being sold, and you are powerless to obtain any redress.

3295. (*Sir H. Holland.*) I presume you would agree that there should be some penalty for a wrongful seizure?—Most clearly. A case occurred quite recentl which was rather singular, where a person had been convicted, not only of selling but also of making these pirated works, and it was admitted on sworn evidence that both the copies and the negatives from which these copies were taken were in his possession. A conviction had been obtained for sales of similar copies. The magistrate's order was given that these copies should be delivered up, in accordance with the 25th and 26th of Victoria, but it was then found there was no power to enforce the order, though it was admitted that negatives and copies were on the premises. The magistrate himself stated that he was powerless to enforce his own order. If, however, power had been vested in the magistrate to grant a search warrant, they could have been seized, so that I believe those clauses of the Bill of 1869 to be necessary; but with regard to the 13th clause, a possible hardship might accrue. The subject would require very careful consideration. But in general, with regard to the sale of piratical copies, the difficulty would be met by giving the option to the prosecutor of summoning the offender before a magistrate having jurisdiction where the offence is committed, or where the offender carries on business, or where he resides. The last alternative, that of the present law, is frequently inoperative, and is, I believe, quite exceptional in an Act of Parliament, magisterial power being generally given where the offence is committed. There is one other circumstane to notice under the 8th section of the Act of 1862. Power is there given to take proceedings for infringement of the Engraving Acts, under this 25th and 26th of Victoria, before a magistrate, but the penalties recoverable are only the penalties given under the Engraving Acts.

3296. "All pecuniary penalties which shall be

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"incurred, and all such unlawful copies, imitations, "and all other effects and things as shall have been "forfeited by offenders pursuant to this Act, and pur- "suant to any Act for the protection of copyright "engravings"?—Yes; but the penalty in that case, as regards paintings, drawings, and photographs, is 10*l.*; but with regard to engravings it is only 5*s.* Though power is given to proceed under this Act before a magistrate for summary remedies, the penalties of this Act are not given, but the penalties of the Engraving Acts only.

3297. But they specially mention the pecuniary penalty pursuant to this Act. That would refer to the penalty mentioned in the seventh section?—But under the Engraving Acts the penalty is only 5*s.*; there is no means of obtaining the penalties of this Act for an infringement of the Engraving Acts; all that can be recovered is the 5*s.* given by the Engraving Acts, which is manifestly unjust.

3298. You say that penalties under this Act cannot be recovered?—What I mean is this, that this eighth clause enables you to proceed before a magistrate for an infringement of the Engraving Acts, but it does not enable you to recover the penalties of this Act, but only the penalties of the Engraving Acts.

3299. Then your point is that the penalties given by the Engraving Acts are not sufficient?—Yes, precisely.

3300. Are you satisfied with the amount of penalty as regards these paintings and photographs?—Yes.

3301. Because I find, on looking at the Bill of 1869, that it was proposed to increase it?—Yes; but the 10*l.* for each offence is sufficient as a penalty, because there is a further reservation for damages.

3302. Then I may take it generally that you are not prepared to assent to the whole of this Bill of 1869?—Not in its entirety, but mainly. There are many changes proposed in that Bill which it is highly desirable should be carried into effect.

3303. (*Chairman.*) Now if you please we will go to the Engraving Acts. First, with respect to the period of copyright, I think it is 28 years, is it not, after publication?—Practically as far as engravings are concerned, that term is sufficient, but still if all copyright is to be on one model, there could be no objection to the period being extended.

3304. What are the points to which you would direct our attention?—In any revision of these Acts it is highly important that the copyright should continue to be vested in the person who causes the engravings to be made, for this reason, that ninety-nine out of every hundred engravings now made are made by an engraver on behalf of a publisher, and the instances of an engraver making his own work and publishing it himself are extremely rare; and one of these Acts specially provides that the copyright shall be vested in the person causing the engraving to be made.

3305. (*Sir H. Holland.*) Then you do not wish any alteration in the law in that respect?—No alteration. I was afraid that were the Engraving Acts to be repealed that fact might possibly be overlooked. Then again there is the difficulty as to the date upon the plate; it is required that the true date of publication shall be engraved upon the plate and printed on every impression. Many difficulties arise on the question of what is really the true date, and it might be advisable, nay preferable, to substitute for that requirement registration previous to publication, and that the copyright should date from the time of registration.

3306. Instead of from publication?—Well, you see it is possible that the date may have been truly engraved on the plate and printed on every impression, and that the printer with a motion of his hand may actually accidentally erase the whole of that date so engraved upon the plate, the result of which would be a copy in existence without a date, and this from no fault whatever on the part of the proprietor. For this most difficult demand I would substitute compulsory registration, the fact of which could always be ascertained by referring to the registry

3307. In other words you would have compulsory registration?—Compulsory registration in lieu of the date upon the plate.

3308. And copyright from the date of registration?—Yes.

3309. (*Dr. Smith.*) As to the term of copyright, I suppose that under the word "engravings" maps are included?—Yes, they are. I was referring to engravings properly so called.

3310. Do you think that 28 years is a sufficient term for copyright in the case of maps, many of which have involved as much time and labour and research on the part of the author, and on the part of the person who draws the map, as a literary work can?—I should think not; but my observation merely applied to engravings. I have no knowledge on the subject of maps. I think possibly it might be better to make the term of copyright 28 years, renewable for 14 years longer.

3311. (*Chairman.*) Will you proceed with your criticism on the Engraving Acts?—The great difficulty with regard to piracy of engravings is the want of a sufficient remedy in the case of infringement; that the penalties given by the Engraving Acts are simply 5*s.*; that these penalties are perfectly insufficient to restrain the injury done by infringement, and that they ought to be the same penalties as are given by the 25th and 26th of Victoria. Power is given to proceed under the 25th and 26th of Victoria, but the penalties of that Act are not given to the Engraving Acts.

3312. (*Sir H. Holland.*) Are you aware of any ground upon which that difference was made, or was it merely accidental?—I hardly know; I believe, as originally drawn, it was intended to have given the same penalties, but I am informed that Mr. Gambart the publisher, made an objection to any alteration in the penalties, he having some idea that it would interfere with the working of the Engraving Acts.

3313. Have you any power now to seize upon engravings which are manifestly an infringement of copyright?—No, not without proof of sale being first given. Copies could be ordered to be given up by the Court, after the infringement had been proved.

3314. But you have no means of what I might call any interim proceedings, getting a warrant and bringing up the engravings before the magistrate, to be impounded for the time being?—None whatever. A person may continue to sell them from house to house, but under the Engraving Acts there is no remedy available.

3315. I understood you to say that you would like to see some form of summary proceeding which would enable you at once, at your own risk, to seize upon what you knew were pirated engravings?—Yes; at one's own risk to seize upon them and to cause them to be detained by the magistrate until evidence was given as to ownership. And as to the jurisdiction of the magistrate, that it should not be simply where the person offending resides, but also where the offence is committed, or where the offender carries on business.

3316. At the present moment engravings are on the same footing as pirated books; there is no summary mode of proceeding to seize the engravings?—No, nor to recover the negatives, even after conviction, or the copies. Those summary powers are most material for the Act to be of any advantage at all. Anything short of that would enable people to evade the Act entirely.

3317. But you are aware that there are no summary proceedings of that kind in the case of books?—I am not aware of that. I did not know it. I should like to mention, that in any future Act of Parliament the Channel Islands should be included, and also the Isle of Man. I mention this because it has been found that a great many piracies have been imported into England from Jersey, and that the offenders cannot be got at there.

3318. (*Chairman.*) You think that the Isle of Man is on the same footing?—Yes.

3319. (*Sir J. Benedict.*) Has there been any music

pirated in the Channel Islands?—It may have so been, but I have no knowledge of it.

3320. May I ask whether the duration of engravings' copyrights is fixed by the present Act at 28 years, instead of 42, which is the term for musical copyright?—Yes, 28.

3321. Would it not be desirable to have a uniform term for all?—I think so; as far as possible it is desirable to have an uniform date for all copyright. There is one remark which I should like to make with regard to international copyright, and the regulations required to be observed in Germany, as distinguished from France and other countries. Whereas under the international conventions with other countries power is given to register at any time within three months, it would seem that registration has to be effected in Berlin previous to publication. Between Germany and France three months is given on either side, as also between England and France, but between England and Germany registration must ensue previous to the sale of copies. That little difficulty should now be put right, so that all international copyright may be on one and the same footing.

3322. (*Sir H. Holland.*) You say that you knew of the Bill of 1869 and were consulted about it by Mr. Blaine?—Yes.

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3323. Did you see the Bill after it had passed through the Committee of the House of Lords?—Yes.

3324. And it was then altered and materially altered?—Yes, I think I saw the last alteration; I believe so.

3325. Mr. Le Neve Foster, who has been before us, said that it had unfortunately gone before the House of Lords, who did not understand the question, and that the alterations were all bad and rendered the Bill useless, or something to that effect?—I do not think they ever got further than the first or second clause; Lord Kimberley made some objection to the term of copyright, and to copyright being granted to other countries which did not grant reciprocal copyright to us. I have reason to believe that Lord Westbury felt somewhat annoyed at the want of personal interest shown by the House in his Bill and withdrew it.

3326. I understand that although you agree generally with it, you are not prepared to support it in all its details?—No, certainly not.

3327. And especially you differ from the Bill in that very important clause with respect to the ownership of the copyright remaining in the artist?—Yes.

The witness withdrew.

Adjourned to to-morrow at half-past 2 o'clock.

Thursday, 7th December 1876.

PRESENT:

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

SIR HENRY T. HOLLAND, Bart., C.M.G., M.P.
SIR LOUIS MALLET, C.B.
Dr. WILLIAM SMITH.
ANTHONY TROLLOPE, Esq.
F. R. DALDY, Esq.
J. LEYBOURN GODDARD, Esq., Secretary.

ERSKINE NICOL, Esq., A.R.A., examined.

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3328. (*Chairman.*) I believe that your attention has been called to the present state of the law affecting copyright in fine art?—Yes.

3329. Will you tell the Commissioners generally what your views upon the subject are?—Perhaps the best evidence which I could give would be to mention some of the piracies which have been made, and the manner in which they are made. The objectionable parts, I think, of the present working of the Act are, first, the influx of piratical copies made abroad and brought into this country for sale; secondly, the photographs made from plates and hawked about from door to door. Another very serious grievance to painters is the making of copies of pictures, and signing them and selling them as originals; and another form is, imitations of the painter's work with the signature forged.

3330. You have mentioned four distinct acts of piracy?—Yes, four distinct forms.

3331. Under the existing law, does your experience lead you to think that those acts of piracy can be performed with impunity?—Yes.

3332. (*Mr. Trollope.*) Does that extend to copying a picture and selling it as an original?—It does. I may state roughly that I have from six to a dozen copies submitted to me every year of my own works, duly signed, some of which are so close that I have great difficulty in coming to a decision upon them.

3333. (*Chairman.*) Your first head is the influx of piratical copies made abroad and brought into this country for sale. Will you give the Commission any facts which are within your own knowledge to bear out that statement?—Several of my own works have been lithographed in Germany from the prints which have been published here, and have been brought over here and sold at nominal sums of, I think, 1*s.* to 1*s.* 6*d.*; vulgar, cheap things.

3334. Those copies have been lithographed from authorised engravings published here?—Yes.

3335. (*Sir H. Holland.*) Are those lithographs sold in shops, or are they hawked about and sold?—Both. I have seen them repeatedly in shops, and I have seen them hawked about.

3336. (*Chairman.*) Are they sold in shops of respectable printsellers?—No.

3337. When your attention has been called to these piratical copies, have you taken any steps, or have you tried to take any steps, to prevent them?—None; I think that the steps to be taken should be taken by the publisher.

3338. Is there no legal remedy under the present law to which the publisher can have recourse?—I believe that the only remedy would be prosecution.

3339. If there is a remedy, and if the publisher does not avail himself of it, how can the legislature be called upon to apply a fresh remedy?—I am scarcely capable of saying whether there is a positive remedy or not; a publisher would be more likely to answer that question.

3340. (*Mr. Trollope.*) Would these copies be seized or stopped at the Custom House?—No, they have free liberty of access here.

3341. (*Sir H. Holland.*) Are you aware of the 10th section of the Act of the 25th and 26th Victoria, chapter 68, by which it is provided that "All repetitions, copies, or imitations of paintings, drawings, or photographs, wherein or in the design whereof there shall be subsisting copyright under this Act, and all repetitions, copies, and imitations of the design of any such painting or drawing, or of the negative of any such photograph, which, contrary to the provisions of this Act shall have been made in any foreign State, or in any part of the British dominions, are hereby absolutely prohibited to be imported into any part of the United Kingdom, except by or with the consent of the proprietor of the copyright thereof, or his agent authorised in writing; and if the proprietor of any such copyright, or his agent, shall declare that any goods imported are repetitions, copies, or imitations of any such painting, drawing, or photograph, or of the negative of any such photograph, and so prohibited as aforesaid, then such goods may be detained by the officers

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" of Her Majesty's Customs " ?—I was not aware of that enactment; that is clear. Still those things are not so dealt with.

3342. That is to say, these copies of which you complain have been smuggled in?—Yes, they have been smuggled in.

3343. (*Mr. Daldy.*) Are you referring to copies of engravings which possess copyright in this country?—Yes.

3344. Do you know whether those engravings have complied with the International Copyright Act?—Do you mean in so far as registering the copyright?

3345. Registering?—Yes.

3346. And still those copies are allowed to come in?—They are.

3347. (*Sir H. Holland.*) What remedy would you propose in order to meet that case?—I am not prepared to say.

3348. Would you wish to see a summary power given of seizing all copies which were found in any shop?—Yes, I think that that would be most advantageous.

3349. And would you be prepared to go so far as also to have a penalty inflicted upon the person in whose possession these copies are found, provided that it could be shown that he had knowledge that they were unlawful and had been smuggled in?—Yes, where knowledge was shown; but it might be a little severe if he was ignorant of the fraud which he had committed.

3350. You say that it is in the lower shops alone where these things are found. I suppose that in some of these cases the people are really ignorant that they have been smuggled in?—In many cases I believe that they are.

3351. (*Mr. Trollope.*) Do you think that the sale of these piratical copies, as you call them, does you harm as an artist?—I think so decidedly; they are, in the first place, a very vulgar multiplication of your work, and they must eventually deteriorate the value of your copyright.

3352. Can you say how it acts?—It re-acts upon the publisher; it interferes with his sale in the country of his publication.

3353. You think that the sale of the higher work is lessened by the common distribution of the lower work?—Decidedly.

3354. (*Sir H. Holland.*) You seem hardly to have studied the Fine Arts Act of the 25th and 26th Victoria, chapter 68, because I observe that by section 8 there is a summary jurisdiction given to the magistrates, and that you can recover penalties before them in respect of these piratical copies?—The difficulty in that case, I think, is to discover the pirating party.

3355. The difficulty I take it is not so much to find the party, because you have the party in possession of these pirated copies, but the difficulty is, is it not, to prove his fraudulent possession of them?—His complicity in the fraud.

3356. His knowledge that they are unlawful?—Yes; and those men are creatures of straw, you cannot make anything of them.

3357. Are you aware of any instances in which proceedings have been taken?—No, except in a general way from the press.

3358. Are you aware of cases in which copies have been found in shops of the kind which you describe?—Yes.

3359. In those cases has nothing been done?—Nothing that I am aware of.

3360. Do you content yourself with complaints to the person who is in possession of these copies?—I have complained in two or three instances, but the thing is so vast (it extends over the whole country) that there seems to be no end to it.

3361. I can quite understand its being vast, and increasing largely, if cases are allowed to go unpunished; but why is it that in the interest of artists no one comes forward and prosecutes a single case; it is a very inexpensive proceeding before magistrates?—There have been very many prosecutions by Messrs. Graves and Messrs. Gambart & Co.; they have repeatedly prosecuted, and with very considerable trouble have got judgments; but then the punishment is so slight and trifling that it seems to have no effect.

3362. Then I misunderstood your former answer. I thought you said that no proceedings to your knowledge had been instituted in cases of this kind, but I now understand from you that there have been proceedings?—Yes.

3363. You say that the penalty is so small that it has no effect; would you have the penalty largely increased, and imprisonment in addition to the penalty, provided you could prove unlawful knowledge?—I think so decidedly. The great difficulty in prosecuting men of that description is, that although you punish them individually their business goes on the same; persons are imprisoned for six months, and the business goes on in the same way.

3364. Would not that difficulty be met to a certain extent by a summary power to seize all piratical copies which were found in the possession of such a person?—Yes, and that is done as far as possible.

3365. In the same manner as there is the power of seizing indecent books in the possession of shopkeepers?—Exactly so.

3366. As far as I can make out from looking at the statute I think that the law is, that by going before justices and getting their order you may recover these unlawful copies; but that unless you have gone to the justices or magistrate you may not go in and seize them, or if you do so it is at your own peril?—Exactly so. I think that what is wanted is some more summary way of proceeding, with hawkers especially.

3367. (*Chairman.*) Then we understand you to suggest that the penalty should be increased, and that the proceeding should be made more summary?—Yes.

3368. We will now come to head No. 2?—Photographs made from plates and hawked from door to door.

3369. (*Mr. Trollope.*) Those are photographs of an artist's pictures?—Yes, but made from the plates.

3370. (*Mr. Daldy.*) Photographs from the engravings?—Yes.

3371. (*Mr. Trollope.*) Is that an injury to the owner of the engraving or to the artist?—To both.

3372. You think that it is an injury to the artist?—Decidedly.

3373. (*Chairman.*) You mean that it has a tendency to diminish the original price which would be given by the publisher of the engraving to the artist?—I think that it must have that tendency in the end. I have had it repeatedly said to me by publishers that they could not give large copyright on account of the difficulty in contending with piracy; it is a strong argument.

3374. Are these photographs, according to your experience, sold in shops, or are they chiefly or exclusively hawked about by people?—They are sold in shops and are hawked about, and they are placarded through the streets, and are carried even in wheelbarrows.

3375. (*Sir H. Holland.*) To meet that state of things I suppose you would like to have a summary power of seizure?—The most summary power, I think.

3376. And possibly a penalty upon the person who was hawking them about, leaving it to the magistrate to decide whether it was a bad case or not?—Yes.

3377. I think that some provision of that kind was introduced in a Bill which Lord Westbury brought into the House of Lords in 1869, was it not?—It was; I have seen a copy of the Bill.

3378. (*Mr. Daldy.*) Would you be prepared to throw the onus on the possessor of these photographs of proving that they were copyright or non-copyright?—I would propose a summary mode of dealing with parties of that description, and would allow the owner of the copyright to prove his title to it; but I would give him the power to seize whatever was issued to the world.

3379. If the hawker had bought these photographs innocently, you would still allow the owner to take possession of them?—Decidedly; the same as with stolen goods.

3380. (*Sir H. Holland.*) But in such case you would not propose to inflict a penalty; that would be left in the discretion of the magistrate?—I would leave it to the discretion of the magistrate.

3381. (*Chairman.*) We come now to No. 3?—Making copies of pictures and signing them, and selling them as originals. That affects the artist more directly.

3382. Is that practice largely resorted to?—Largely.

3383. (*Mr. Trollope.*) Under the present law is there no punishment for it?—There is a punishment, but there is the difficulty of taking steps and discovering who the copyist is.

3384. Adding the signature of the artist would be a forgery, would it not?—Certainly.

3385. (*Sir H. Holland.*) I would refer you to the seventh section of the 25th and 26th Victoria, chapter 68, "No person shall fraudulently sign or otherwise "affix, or fraudulently cause to be assigned or affixed, "to or upon any painting, drawing, or photograph, or "the negative thereof, any name, initials, or mono-"gram: No person shall fraudulently sell, publish, "exhibit, or dispose of, or offer for sale, exhibition, "distribution, any painting, drawing, or photograph, "or a negative of a photograph, having thereon the "name, initials, or monogram of a person who did "not execute or make such work;" and so it goes on. Therefore there is ample provision in the statute for punishing persons who commit these acts, but you say that it is difficult to carry it out in practice?—It is difficult to carry it out in practice.

3386. (*Mr. Trollope.*) As a fact, is it common that pictures of modern artists are copied and signed with the artist's name and sold as originals?—It is only too common. I have, as I mentioned before, half a dozen such copies every year submitted to me.

3387. And of course what happens to you happens to other persons?—Yes.

3388. So that you think that it has become a necessity that the law should give you the power of stopping this proceeding by easier means than you have at present?—Yes. I understand that in Paris when a copy is submitted to the artist he has the power to arrest it at once.

3389. To lay his hands upon it?—To lay his hands upon it when it is submitted to him; so that according to the law which prevails in Paris, if a picture was brought to me for authentication, and I found it to be a copy duly signed, I should have the right to retain it.

3390. And to make it your own property?—And to make it my own property; to destroy it.

3391. Is that the law in France?—I am told so.

3392. (*Sir H. Holland.*) That is to say, supposing that you are the proprietor of the copyright?—Of course; that is always understood.

3393. (*Mr. Trollope.*) Do you see why it should be necessary that you should be the owner of the copyright in order to interfere. In such a case as that would you not wish to interfere, not as protecting the picture which had been painted, but as protecting yourself against the supposition that you had painted perhaps an inferior work?—Yes; it might be so.

3394. The protection required is against forgery?—Yes.

3395. (*Chairman.*) Are you acquainted with the provisions in that Bill of 1869, which was introduced in the House of Lords by Lord Westbury, with respect to the penalties proposed to be imposed upon that class of offence?—Yes. I have the Bill.

3396. Do you agree generally with the penalties which were proposed in that Bill?—Yes, and I think that the penalties in the clause relating to the hawking of piracies were just such as are required, summary penalties.

3397. I notice that with respect to fraudulent copies, with which we are now dealing, the penalties were proposed by that Bill not to be inflicted if the artist whose work was copied had died more than 20 years before?—Yes.

3398. Do you agree in drawing a distinction of that sort?—I am not prepared to say.

3399. It was, I believe, understood at the time that that proposal was to justify the copying of works of great artists deceased, and not to interfere with that particular branch of trade?—Yes. I do not see any reason why such a permission should not be granted.

3400. Is it not on the purchaser the same amount of fraud as it would be in the case of a living artist?—Yes, it would be the same amount of fraud on the owner of the picture.

3401. (*Mr. Trollope.*) With regard to copies, can you tell me whether a picture may be copied which belongs to the Government and which has been hung in one of our public galleries; for instance, could Mr. Frith's "Derby Day" be copied by anybody without Mr. Frith's leave?—Not without the publisher's leave, and I rather think Mr. Frith's too, although I am not sure, but certainly not without the publisher's leave.

3402. (*Sir H. Holland.*) You mean not without the leave of the proprietor of the copyright, whether he is artist or whether he is publisher?—Yes.

3403. (*Mr. Trollope.*) Suppose that there had been no assignment of the copyright in such a case as that; because I take it that in many cases pictures are sold without any assignment of the copyright?—Very rarely now among artists of any note.

3404. But it would be very common among artists not of note, would it not?—Very common.

3405. So common as to be the rule?—I should think so.

3406. And those pictures afterwards might become of note. All great artists have painted pictures before they were men of note. You cannot say whether such a picture as that might be copied?—I am not quite sure.

3407. (*Dr. Smith.*) In reference to Mr. Trollope's question, I understand Mr. Trollope to mean that there are a large number of paintings in the National Gallery which of course belong to the nation: the director of the gallery gives permission, does he not, to persons to copy those paintings?—Yes.

3408. What I wish to know is whether a person who copies such paintings which belong to the nation, having received permission from the director to copy them, can sell them?—In the National Gallery, as I understand it, persons are only allowed to copy pictures where no copyright is standing. There are pictures of Landseer's, Rosa Bonheur's, and other artists, hanging there which they are not allowed to copy. I had an instance the other day, of getting a ticket for a foreigner, and those were my instructions.

3409. (*Sir H. Holland.*) Are you aware whether that is the case abroad?—No. I do not know. I know that it is the same thing in the Scottish National Gallery; no student is allowed to copy any work where the artist is alive, without his permission.

3410. (*Chairman.*) We will now go on to No. 4?—No. 4 is almost included in what has gone previously; instead of copies of pictures it is imitations; imitation of an artist's style and class of subject, where the signature is forged. I have had those imitations repeatedly submitted to me.

3411. (*Mr. Trollope.*) You do not propose to interfere with imitation of style where there is no signature, do you?—No, but I would decidedly interfere with imitation of style where there is a signature.

3412. That is to say, you would interfere with the signature, which would be a forgery?—Yes.

3413. But you could not interfere with mere imitation of style?—Certainly not; but if your signature is forged, and the work is sold as your work, I would interfere.

3414. (*Chairman.*) Is there any other observation which it occurs to you to make on the subject of the law as it stands at present?—No.

The witness withdrew.

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Sir FRANCIS GRANT, P.R.A., examined.

3415. (*Chairman.*) You have heard, I think, a good deal of Mr. Nicol's evidence; do you in the main confirm the views which he has placed before the Commission?—I entirely agree in everything which he has said.

3416. In your own experience have you had proof of the justice of the complaints which he has made of the present condition of things?—Yes. I am sorry to say that I cannot give you very much information, because the subject is one with which I am not very conversant, but I wrote a letter to the secretary which, in case I could not appear, I hoped he might produce. What I am most conscious of is the immense deterioration in the value of copyrights which has existed for many years past in consequence of photographic piracy.

3417. (*Mr. Trollope.*) You find that that piracy has greatly deteriorated the value of copyright?—To an immense extent. In former years, for instance, a publisher would estimate a work at 300*l.* which now he only estimates at 100*l.* He says, "In the very "first week that I bring out a print it is photo-"graphed." I have known it in hundreds of cases.

3418. You agree with Mr. Nicol in his evidence as to the common practice of forging the name upon pictures intended to be sold as original?—Yes.

3419. (*Sir H. Holland.*) Do I understand rightly that there is a deterioration of copyright in pictures as well as in prints; does the fact of these piratical photographs being taken of the prints affect the copyright of pictures?—Certainly.

3420. It affects copyright both in the pictures and in the engravings?—Yes; a publisher dares not risk a large sum; in fact, he is afraid to engrave a work, because no sooner is it engraved than he is undersold by piratical photographs.

3421. And many pictures are bought, are they not, specially with the view of their being engraved?—Certainly.

3422. (*Dr. Smith.*) Is it not the fact that the chief value of the copyright of the picture is the right of engraving it?—Certainly.

3423. (*Chairman.*) If I understand you, you attribute this deterioration in the value of the copyright of pictures more to the spread of photographs than any other cause?—Than to any other cause.

3424. (*Sir H. Holland.*) And being aware, as you are, that the Fine Arts Act does give certain remedies to meet these cases, you are of opinion, with Mr. Nicol, that the remedy is not sufficiently summary and easy?—I think so. I know that Mr. Graves, who has been my publisher for 20 or 30 years, has frequently prosecuted; but he says that it involves such an amount of trouble, and such loss of time and such expense, that he is quite tired of doing so. We require a simpler process and a shorter process.

3425. Do you lean to providing in some way for a speedy seizure of all piratical copies or photographs?—Certainly.

3426. Wherever found?—Wherever found.

3427. Either in the possession of a shopkeeper or in the possession of a man hawking them about?—Certainly.

3428. (*Mr. Trollope.*) Or upon a private wall?—Upon a private wall I think we should let them alone.

3429. (*Sir H. Holland.*) They would hardly be for sale?—No; I would not go so far as that. If such a copy had once got into a private dwelling, and was hung upon a wall, I think that it would be out of our reach.

3430. You would rather stop the practice at the fountain head, where there are a good many copies together, to be sold or taken about?—Certainly.

3431. (*Chairman.*) Mr. Graves, in his evidence yesterday, suggested that a distinction might properly be made *qua* copyright between pictures which were painted on commission and pictures which were not so painted, but which were subsequently sold. He suggested that in the one case, in pictures not painted on commission, it would be quite right that the copyright should remain vested in the artist, even although there should be no written agreement on the subject, but that on the other hand, in a case where pictures were painted on commission, and there was no written agreement, the copyright should vest in the gentleman who had given the artist the commission. Do you think that a distinction of that sort ought to be drawn in any alteration of the law?—No; I entirely disagree from that view; for I feel that in all ages it has been an acknowledged fact that copyright is the property of the artist, and that the gentleman who commissions the picture has no claim whatever except by special agreement; in that case he may have a claim, but copyright has always been considered for the last century as essentially the property of the artist; and I may add that to prevent mistakes when public bodies apply to me wanting to know the terms for painting any particular picture, I almost invariably, after mentioning what the terms are, put in, "I reserve to myself "the right of copyright," and I think that that simple reservation ought to be in the hands of the artist.

3432. Perhaps you are able to tell the Commission whether that view of yours is, to the best of your belief, generally shared by artists?—It has always been my impression during my past life that it is entirely shared by artists.

3433. (*Mr. Daldy.*) Would you so far extend it as to say that the artist should be allowed to take copies of a portrait which he had been commissioned to paint?—Certainly not, if prohibited by the gentleman who commissioned him.

3434. Then in what way could he use his copyright if he retained it?—By going to a publisher and saying, "What will you give me for the copyright of this "picture?" It is property; it is worth money.

3435. "I will give you a picture to engrave"?—Yes. At the present moment Mr. Graves has an engraving of mine. I went to him and said, "Now "what copyright will you give me for this picture?" I am quite certain that 20 years ago, before the piratical photography went abroad, he would not have hesitated to give me 300*l.* for it; as it was, he made a difficulty in giving 100*l.* That is the deterioration which has followed from photographic piracy, because the moment that the print is finished and engraved it is hawked about the country. I could mention a remarkable instance, if I might venture to do so, in the case of the late Duke of Rutland; when his print appeared in Leicestershire, in a very few days photographic copies were hawked all over the county, and were in the shop windows at Melton, one of which I now possess; the consequence of which was that numbers of men of moderate means preferred giving 1*s.* 6*d.* for a photograph to giving 3*l.* 3*s.* for a print. The injured party was the publisher, who had gone to the expense of paying for the copyright of the picture.

3436. Do you think that the value of copyright is influenced to any serious extent by the duration of it as at present arranged under our Acts. For instance, at present, I believe, the copyright in a picture is for the artist's life and seven years afterwards; do you think that a sufficiently long copyright?—Quite, I think; at least my experience has been so.

3437. Do you think that the value of the copyright, when it comes to be sold, is deteriorated by the short time which it has to run after the artist's death. I will ask you to bear in mind the time which it would take to engrave the picture?—My experience has been in another direction, and I am hardly qualified to give an opinion upon pictures like Landseer's or Nicol's. I would therefore rather decline to answer the question.

3438. (*Mr. Trollope.*) I want to go back to Mr. Nicol's evidence as to the forgery of the names to pictures. I think that you heard what he said, that it was quite a common thing that pictures were brought to him with his name forged to them, and which pictures were sold as original?—Yes.

3439. Is that so common as to require any special remedy?—I hardly know. I know that the late Sir Edwin Landseer complained very much of the quantity

of copies which were made from his works, and which were sold as originals, and which were sent to him to say whether he would authenticate them; but that is not much in my department.

3440. If it be so, Mr. Nicol, from the nature of his art, would be peculiarly subject to it, and if it be so, do you think that it is a question of copyright, or a question of a breach of the law in another direction?—It is simply a breach of the law by committing forgery; it is fraud.

3441. (*Chairman.*) Is there any other observation which occurs to you on the present state of the law?—There is one suggestion, which was made to me by Mr. Graves; he said that it would be a great advantage to the public and to our posterity, if every artist who sold the copyright of a portrait was required to put the name of the individual represented, and the date of the picture, and his own name, on the back. Mr. Graves said, "What a tremendous "advantage it would be in future ages." At this present moment numbers of valuable and beautiful portraits exist, and we do not know who the individual represented is. If we knew whom the portrait represented it would be perfectly invaluable in the case of the trustees of the National Portrait Gallery It was merely a suggestion of Mr. Graves's, and not mine, that the artist should attach the name of the individual whose portrait was painted, the date, and his own name at the back; it certainly would make portraits more valuable.

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3442. The proposal is that in addition to registration, the affixing the names of the artist and of the subject, and the date of the painting, on the back, should be a condition precedent to copyright?—Yes.

3443. The law at present necessitates registration in order to enable the owner of a copyright to proceed against any person infringing the copyright; in your opinion is that a wise regulation, or not?—I know that in two or three cases Mr. Graves has managed all that for me; he has gone through the form of registering the copyright, and has required me to get the written authority of the chairman of the committee before he would take possession of the copyright; all that I left to be managed entirely by Mr. Graves, and it appeared to me simply vexatious and troublesome, but I am not able to give any decided opinion upon the subject, for I have not studied it thoroughly.

The witness withdrew.

Adjourned to Wednesday, 17th January 1877, at half-past two o'clock.

Wednesday, 17th January 1877.

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

THOMAS FAED, Esq., R.A., examined.

T. Faed, Esq. R.A.

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3444. (*Chairman.*) Has your attention been called to the present state of the law of copyright as affecting fine art?—Yes.

3445. Will you be good enough to give the Commission any views which you have formed on that subject?—I think that in the first place the copyright ought to be the property of the painter and inventor until he sells it; that is the first feeling which I have in the matter; and my reason for feeling so is that the present state of the copyright law very often interferes with the sale of pictures. That does not, perhaps, apply to men in an established position, but it certainly applies very strongly to young painters. Some purchasers will not hear of copyright, supposing, I fancy, that they are only buying half a picture, while others, knowing better, very likely suppose that they are getting a picture and a half. I have found, decidedly, in my early life that copyright as it exists interfered with the direct and quick sale of pictures.

3446. (*Mr. Trollope.*) You mean that the non-possession of the copyright has interfered with the sale of the picture?—Yes; raising difficulties the moment that you mentioned it. Some say, "I do not care for half a picture, I like to have all or none;" and yet expressing no desire to buy the copyright but simply regarding it as a sort of interference with their property.

3447. (*Chairman.*) Then, if I understand it, the point in the law which you think defective is that unless there is a specific agreement in writing that the copyright is to remain with the author of the picture, it devolves upon the purchaser of the picture; is that the point?—Yes; knowing the copyright as distinctive property, it should be the painter's until he sells it.

3448. Whereas the law, if no specific agreement is entered into in writing, passes the copyright in the picture to the purchaser of it?—That, I think, is an unfair law.

3449. (*Sir H. Holland.*) The difficulty is, is it not, that under the present statute the author of the picture cannot reserve the copyright to himself except by an agreement in writing, and at the same time the purchaser cannot have the copyright unless there is an agreement in writing to that effect?—Yes.

3450. And therefore it seems probable that the copyright is altogether lost in the absence of an agreement in writing?—Yes.

3451. I understand that you would wish the law to be that the copyright, by law, should vest in the painter of the picture?—Precisely so.

3452. And that if the purchaser wishes for the copyright, he can have it by an agreement in writing?—I feel so strongly.

3453. Would you make any difference in the case of a picture painted under order; would you, in that case, let the copyright be in the person who gave the order?—Certainly not; the painter would still be the author of the design, the person who gives the order does not give you the design; he may ask you to paint a scene in the life of General Washington, but that does not make the picture, that is merely the subject.

3454. You would keep the copyright in the painter, and not let it vest in the person who gave the order?—Unquestionably.

3455. We have had some evidence to the effect that where the picture was painted under an order, the copyright might properly vest, without any writing, in the person giving the order?—I do not see much difference between the painter taking his own subject, and the subject being given to him. If a commissioner gives a commission for a picture, he does not tell you what expression to give the figures, how to group them, and so on.

3456. Therefore you would prefer to have the rule simply, that where there is no agreement in writing vesting the copyright in the purchaser, it

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shall remain in the person who paints the picture?—Precisely so.

3457. (*Mr. Trollope.*) Is it customary at present for painters to make written bargains that they shall keep their copyright?—I can only tell you what my own practice is. When I sell a picture, I say, "I reserve the copyright;" but I mostly sell my pictures to dealers, who buy copyright included In the case of selling pictures to private men, if I know them very well, I don't like to ask them to sign a written agreement, but simply take their word.

3458. Is that the practice, do you think, generally in the profession?—I should not think so, but I do not know.

3459. With regard to dealers, do you make a written undertaking with them to sell them the picture and the copyright, or the picture without the copyright?—I sell them the picture and the copyright for a certain sum, and they give me a paper to sign for registration.

3460. Which assigns the copyright?—Which assigns the copyright.

3461. Therefore it is altogether in the power of you or of any other artist to settle the matter, before the sale of the picture, by a memorandum?—There is no doubt that it is to be done.

3462. (*Dr. Smith.*) If I understand you rightly, your wish is, that unless there is a specific agreement on the part of the painter assigning the copyright, the copyright should vest in him?—Yes that would be understood by all.

3463. (*Chairman.*) Will you pass on to any other branch of the subject which has occurred to you?—I have thought about registration. I must confess that I do not very well see how we can get over it, and yet there are a great many inconveniences connected with registration. You may be far away from the place of registration. I do not, however, know that I can really find much fault with it; it is inconvenient, but I think that that is almost all that I can say in the matter. There is another point which I may mention. You may make a present of a sketch to a friend; now you could not register it, nor could you ask him or her to sign an agreement that the copyright is yours, and yet that sketch might be the germ of a future picture, and in it be vested the copyright.

3464. (*Mr. Trollope.*) You mean that the reasons which you now give are reasons against what we should call compulsory registration?—Quite so.

3465. Do you not think that compulsory registration for works of art would be altogether impossible?—I think that it would be very difficult. I gave you the reasons just now.

3466. If it applied to a picture of any size it must apply to all pictures?—Precisely so.

3467. And it would make the sale of a small unregistered drawing for 2*s.* 6*d.* illegal?—Quite so.

3468. Therefore you would think that compulsory registration must be out of the question with regard to works of art?—It appears to me almost impossible to do it.

3469. (*Sir H. Holland.*) But still you want to protect the work?—Yes.

3470. (*Mr. Trollope.*) If you desire to register for protection you can do it now, can you not?—There would not be so much need for registration if my view of the matter were made law; namely, that the copyright is your property as long as you do not sell it, the one would almost prevent the necessity of the other, or at least to a great extent.

3471. (*Dr. Smith.*) I was going to ask you that question. If your view prevailed and if the law was altered accordingly, there would not be that necessity for registration in the case which you have mentioned of a sketch; if the copyright vested in you without any special assignment, then the previous alteration which you have suggested would meet that difficulty, would it not?—That is my view.

3472. (*Sir H. Holland.*) I do not quite follow that. You suggest that the artist should have the copyright, just as a person who writes a book has the copyright. Why should not registration by description be just as necessary in the case of a picture as registration in the case of a book. The object of registration is to enable you to prosecute some one who has infringed your copyright. What distinction do you make between registration for a book in which the copyright is in the author, and registration in the case of a picture in which the copyright is in the painter?—In the case of a picture there may be many scraps and sketches, all valuable, experiments in charge of composition, &c. You take a book and you register it at once, but in the case of a picture you would require to register perhaps two original sketches (some people make more), you would require to register even individual drawings of figures.

3473. That is to say if you publish those figures, but if the figures remain in your studio there is no necessity for registration, the registration is only necessary where you publish?—Yes, but you sell those things; you do not make a careful sketch of a picture costing you a great deal of time, merely to keep it in your studio, it must be sold at some time, and you may sell it at once.

3474. Take the case of sketches of figures which are afterwards introduced into the finished picture; you say that those sketches at some time may be sold?—Precisely so.

3475. That shows that those sketches are of value?—Yes.

3476. Should not, therefore, the form of registration be gone through, just the same as in the case of a small pamphlet or a book?—It is a great trouble.

3477. Is there any other reason, further than its inconvenience?—I commenced by saying that I really did not make much objection.

3478. But I thought that you had rather gone off from that, after questions were put to you, and that you had rather arrived at the conclusion that it was impossible to register?—No, it is not impossible certainly, but is difficult and inconvenient.

3479. (*Mr. Trollope.*) An artist might make a dozen drawings in a day and sell them all?—Quite so.

3480. If the registration of every work of art which he performed was compulsory, he would have to register all those dozen drawings?—Precisely so.

3481. But although an artist might make 12 drawings in a day and sell them all, together or separately, an author could not well write 12 books in a day?—No; neither could do so well.

3482. (*Chairman.*) Have you anything to say on the subject of the injury done to artists by the multiplication of photographs?—I know that I have suffered a great deal through that practice myself. I remember some 18 or 20 years ago that I was in receipt of many hundreds a year for copyrights, but I get very little now. Mr. Graves says that he cannot afford to pay so much for the copyright now, that the pictures are no sooner engraved than they are pirated and sold in every quarter of Great Britain, and the result is that he is incapable of paying the sums which he used to pay. I am perfectly sure that he is correct, for I have seen those everywhere. I have seen large photographs of his engravings in gentlemen's houses in the country, influential men, even members of Parliament; hawkers go round with them, and sell them for 10*s.* or 12*s.* each, framed.

3483. (*Sir H. Holland.*) I suppose we may take it that you would agree with Mr. Graves that it is very desirable that there should be a power given to seize photographs, or pirated copies of pictures, which are being taken about and sold?—I think so most emphatically.

3484. You think that besides any penalty which is attached to the person knowingly selling them, power should be given to seize these actually pirated copies or photographs?—I should say so; it seems to me that that would be only just.

3485. (*Chairman.*) Is there any other suggestion which you would like to make on the subject of copy-