

539

CORRESPONDENCE

RESPECTING

COLONIAL COPYRIGHT.



Presented to both Houses of Parliament by Command of Her Majesty,
July 1874.

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Correspondence respecting Colonial Copyright.

No. 1.

Circular Despatch to Governors of Colonies.

Sir,

Downing Street, July 29, 1873.

BY the Circular despatch of the 1st of June, 1870, your attention was directed to the operation of the "Imperial Copyright Act of 1842," and a Draft Bill was submitted for suggestions and observations, which you might desire to offer.

This subject has continued to receive the consideration of Her Majesty's Government; and I have now the honour to transmit to you a copy of a despatch which I have addressed to the Governor-General of Canada on this question, together with the Draft of a Bill to amend the "Copyright Act of 1842," which it is proposed to introduce at an early period next Session, if, as I trust will be the case, it is found to meet the reasonable requirements both of the Colonies, and of proprietors of copyright in this country.

I should be glad to be furnished, at an early opportunity, with any suggestions which you may desire to offer upon this Bill.

I have, &c.
(Signed) KIMBERLEY.

Inclosure 1 in No. 1.

The Earl of Kimberley to the Earl of Dufferin.

My Lord,

Downing Street, July 24, 1873.

THE question of copyright, and of extending to Colonial authors the privileges enjoyed by authors under the Imperial Copyright Act, has, as you are probably aware, been for some time under the consideration of Her Majesty's Government. So far back, indeed, as the 1st of June, 1870, a Draft Bill, enabling persons publishing in a Colony to obtain Imperial Copyright, was transmitted to the Colonies in a Circular despatch, for the purpose of obtaining the views of the Colonial Governments upon the subject; and by a reference to pages 53 and 65 of the Paper presented to Parliament in July, 1872, of which a copy is annexed for your information, you will learn the nature of the replies returned to that circular.

In a despatch, of July 22, 1872, Lord Lisgar transmitted a certified copy of a Bill passed by the Parliament of Canada, intituled "An Act to amend the Act respecting Copyright," which was reserved for the signification of Her Majesty's pleasure.

There could be no doubt, and it was in fact admitted by the Minute of the Privy Council of the Dominion, inclosed in an earlier despatch from Lord Lisgar, of June 7th, that this Bill conflicted with the Imperial Legislation in force in the Colony on this subject; and Her Majesty's Government were therefore unable to advise the Queen to assent to the measure. I deferred, however, announcing to you their decision upon this point as they were then, and have been since, considering how, with a due regard to existing interests, the Colonies might be placed on a similar footing to the United Kingdom with respect to copyright.

There are, however, serious difficulties in framing such a Bill as would be likely to obtain the assent of Parliament; and although much attention has been given to the subject, both in this Department and in the Board of Trade, it has been impossible to introduce any measure during the present Session; nor, indeed, would it have been desirable to proceed with a Bill without having given to the Colonial Government an opportunity to express their views upon it. I have now the honour to transmit, for the consideration of your Government, the Draft of a Bill, which Her Majesty's Government

will be prepared to introduce at an early period next Session; and I trust it will be found to meet the reasonable requirements both of the Colonies and of proprietors of copyright in this country.

I do not propose to consider in detail the provisions of this Bill, which it will be perceived has been made applicable to all the Colonies, and thus secure uniform treatment of the subject throughout the Empire, but it may be useful to refer briefly to the leading features of the measure.

It will be seen that by the 6th Section, a Colonial author is entitled to the same copyright in this country as if his book had been published in the United Kingdom, subject, however, to the provision that, if, within twenty days after publication, the book is not published in the United Kingdom in a manner suitable to general publication, application may be made for a license to publish such book.

By the 7th Section, any Colony may, by passing an Act with certain specified provisions which are considered necessary to secure the rights of the author or proprietor of the copyright who publishes out of such Colony, bring itself within the Imperial Act; and in case of a failure by the author or proprietor to secure within a reasonable time sufficient publication within such Colony, application may be made for a license to publish the work within the Colony. This provision, it will be observed, corresponds with the provision in 6th Section.

The 8th Section provides for the case of such Colonies as may, from their position, size, or circumstances, be unable to avail themselves of the privileges given by the preceding section, and enables them, by passing Local Acts under certain conditions, which have been inserted to secure the interests of the author or owner of the copyright, to introduce foreign reprints of any work published outside those Colonies. Upon this point I may also refer you to the provisions of the 14th Section.

The provisions of the 11th Section, which apply equally to the Colonies and the United Kingdom, are such as the proprietors of copyright are reasonably entitled to require in the protection of their interests.

I have thus pointed out the principal features of the proposed measure, and I need only repeat that Her Majesty's Government trust that it may prove acceptable to the Government of the Dominion, and of other Colonies, and that they will see in it a proof of the desire of Her Majesty's Government to deal with the question in a broad and liberal spirit, and to consult, as far as possible, the interests of all parts of Her Majesty's possessions.

I shall be glad to receive, at an early opportunity, the views of your Ministers upon this Bill, as it is desirable that ample time should be given to Her Majesty's Government to consider, before the next Session of Parliament, any suggestions which may be made upon the subject.

I have, &c.
(Signed) KIMBERLEY.

Inclosure 2 in No. 1.

COPYRIGHT ACT (1842) AMENDMENT BILL.

Draft of a Bill to Amend the Law of Copyright.

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Preliminary.

1. This Act may be cited as the Copyright Act, 1873.

2. This Act shall be construed as one with the Act of the session of the fifth and sixth years of the reign of Her present Majesty, chapter forty-five, intituled "An Act to amend the Law of Copyright" (in this Act referred to as the principal Act); and the principal Act may be cited as the Copyright Act, 1842; and the principal Act and this Act may be cited together as the Copyright Acts, 1842 and 1873.

3. In this Act, unless the context otherwise requires,—

The term "British possession" means any part of the British dominions, as defined by the principal Act, which does not form part of the United Kingdom or of the Channel

Import title.
Construction.

Definitions.
"British possession":

Islands or Isle of Man; and all plantations, territories, settlements, and places under one legislature, as hereinafter defined, are deemed to be one British possession for the purposes of this Act;

The term "legislature" includes any person or persons who exercise legislative authority in a British possession; and where there are local legislatures as well as a central legislature, means the central legislature only; "Legislature:"

The term "Act," used in relation to a British possession, means any Act or ordinance, or other law; "Act:"

The term "foreign re-print" means a copy of a book in which there is for the time being a subsisting copyright in any part of the British dominions, printed or re-printed, as follows:— "Foreign reprint:"

(1.) In the case of a book first published in the British dominions, printed or re-printed in the dominions of any foreign state;

(2.) In the case of a book first published in the dominions of any foreign state, printed or re-printed in the dominions of some other foreign state;

"The term "person" includes a body of persons corporate or unincorporate.

4. For the purposes of this Act and the principal Act the Channel Islands and the Isle of Man shall be considered as forming part of the United Kingdom. "Person:"
Definition of United Kingdom.

5. This Act shall be proclaimed in every British possession by the Governor thereof as soon as may be after he receives notice of this Act, and shall come into operation in every part of the British dominions on the 1st day of January, 1874, which day is hereinafter referred to as the commencement of this Act: Provided that an Act in a British possession may be passed, and an Order in Council may be made in pursuance of this Act at any time after the passing of this Act, so that such Act or Order do not come into operation before the commencement of this Act. Commencement of Act.

Colonial Books in the United Kingdom.

6. In the case of a book first published after the commencement of this Act in a British possession, every person shall be entitled to the same right of copyright, and to the same benefits as if it had been first published in the United Kingdom, subject nevertheless to the following provisions:— Copyright in books first published in a British possession.

(1.) If within twenty days after the first publication of the book, the book is not published in the United Kingdom, in such number and manner as are suitable for general circulation therein, any person may apply to Her Majesty in Council for a license to publish such book, and Her Majesty in Council may, if it seems just, grant such license, subject to the provisions of this Act, upon such terms and subject to such conditions as to Her Majesty in Council may seem just;

(2.) Every such application shall be referred to the Judicial Committee of the Privy Council, and shall be dealt with by them as other proceedings before such Committee.

(3.) After the expiration of six months from the first publication of the book, if the book is not then published in the United Kingdom in such number and manner as are suitable for general circulation therein, any person may, notwithstanding anything in any Act, but subject to the provisions of this Act, import into the United Kingdom foreign reprints of such books.

Books having Imperial Copyright in Colonies.

7. Where it appears to Her Majesty in Council that in any British possession effectual and reasonable provision has been made by an Act of such British possession for all the following objects, namely,— Publication in a British possession of books first published out of such British possession.

(a.) For the registration and protection in such British possession of books first published out of such British possession, and entitled to copyright therein;

(b.) For collecting and remitting the per-centage payable under this Act upon reprints of such books sold in pursuance of a license under this Act in such British possession;

(c.) For making to one of Her Majesty's Principal Secretaries of State to be laid before Parliament returns of the numbers and prices of reprints of the said books sold in such British possession, and such other particulars with respect to those reprints as the Secretary of State may require;

(d.) For preventing the importation into such British possession of foreign reprints except according to this Act;

(e.) For imposing, collecting, and remitting a reasonable per-centage upon all foreign reprints imported into such British possession according to this Act;

(f.) For the periods directed by this section to be provided by an Act of the British possession, and the otherwise carrying into effect of this section; and

(g.) For any other objects for which, in the opinion of Her Majesty in Council, provision ought for the purposes of this Act to be made;

Her Majesty may by Order in Council direct that from and after the day of the date of the Order, or such later day as may be specified in the Order (which day is in this Act referred to as the commencement of the Order), this section shall apply to such British possession, and thereupon, so long as the said Order remains in force, the following provisions of this section shall apply in such British possession to every book first published out of such British possession after the commencement of the Order and entitled to copy-right therein (that is to say):—

(1.) If within such reasonable period after the first publication of the book as may be provided by the said Act of the British possession the book is not published in such British possession in such number and manner as are suitable for general circulation therein, any person may apply to such court in the British possession, as may be fixed by the last-mentioned Act, for a license to publish such book, and the court may, if it seems just, grant such license, subject to the provisions of this Act, upon such terms and subject to such conditions as the court thinks just;

(2.) The application shall be made and the proceedings upon such application shall be conducted in such manner as may be from time to time directed by the law of such British possession, or, if there is no such law, as the court by general orders or rules from time to time directs;

(3.) An appeal to Her Majesty in Council shall lie from any order made by the court in pursuance of this section;

(4.) Every such appeal shall be referred to the Judicial Committee of the Privy Council, and shall be dealt with by them as other appeals from courts in such British possession;

(5.) An order granting a license shall not be suspended by such appeal, but the person in whose favour the order is made shall be liable to account for profits or to pay damages as may be directed by Her Majesty in Council when the appeal is decided;

(6.) After the expiration of such reasonable period, not being less than six months from the first publication of the book, as may be provided by the said Act of the British possession, if the book is not than published in such British possession in such number and manner as are suitable for general circulation therein, any person may, notwithstanding anything in any Act, import into such British possession foreign reprints of such book, subject to the provisions of this Act and of the said Act of the British possession.

Where the last-mentioned Act is altered by any subsequent Act of the said British possession, the Order in Council shall not be affected by such alteration, unless it seem fit to Her Majesty in Council to revoke or alter such Order.

8. Where it appears to Her Majesty in Council that, having regard to the position, size, or other circumstances of any British possession, foreign reprints of books first published out of such British possession ought immediately after such first publication to be permitted to be imported into such British possession, and that effectual and reasonable provision has been made by an Act of such British possession for all the following objects, namely,—

(a.) For preventing the importation into such British possession of foreign reprints, except according to this Act; and

(b.) For imposing, collecting, and remitting a reasonable per-centage upon all foreign reprints imported into such British possession according to this Act; and

(c.) For any other objects for which, in the opinion of Her Majesty in Council, provision ought for the purposes of this Act to be made;

Her Majesty may by Order in Council direct that, from and after the day of the date of the Order, or such later day as may be specified in the Order (which day is in this Act referred to as the commencement of the Order), this section shall apply to such British possession, and thereupon, so long as the said Order remains in force, any person may, notwithstanding anything in any Act, import into such British possession foreign reprints of any book, whether such book was published before or after the passing of this Act, subject, nevertheless, to the provisions of this Act, and of the said Act of the British possession.

Where the last-mentioned Act is altered by any subsequent Act of the said British possession, the Order in Council shall not be affected by such alteration unless it seem fit to Her Majesty in Council to revoke or alter such Order.

9. Where by any Act passed in any British possession, in consequence of which an Order in Council under this Act has been made, provision is made for the registration of

Importation of
foreign reprints
into certain British
possessions.

Registration before
commencing action.

books first published out of that British possession and entitled to copyright therein, a proprietor of copyright in any book first published after the commencement of such Order shall not, by virtue of the principal Act or of this Act, commence in such British possession any action, suit, or other proceeding, on the ground of any infringement of such copyright, unless in respect of the registration of such book he has complied with the conditions with which he is required by the said Act of the British possession to comply before commencing such action, suit, or proceeding.

10. Every Bill passed by the Legislature of any British possession for any of the objects mentioned in this Act, or for altering any Act of such Legislature in consequence of which an Order in Council under this Act has been made, shall either be reserved for the signification of Her Majesty's pleasure thereon, or contain a suspending clause providing that it shall not come into operation until Her Majesty's pleasure thereon has been publicly signified in the British possession in which it has been passed.

&c., in British possession.
Reservation of Colonial Act for Her Majesty's pleasure.

Protection and Remuneration of Proprietors of Copyright.

11. Where a second or subsequent edition of any book has been published, a license in pursuance of this Act shall not be granted for, and shall not authorize the reprint of, any edition of such book except the last edition published at the time of the grant of the license, save so far as the proprietor of the copyright assents to the publication of any other edition.

Publication under licence to be of last edition only.

There shall be printed on the title page of every book published under the authority of a license granted in pursuance of this Act, if the license was granted in the United Kingdom, the words "British edition," and if the license was granted in some British possession, words signifying that the edition is an edition of such British possession.

Any reprint of a book which does not conform with the provisions of this section shall be deemed not to be a reprint published under the authority of such license.

12. Where a license under this Act to publish any book has been granted, and there appear on the title page of the book the name and address of any person purporting to be the publisher thereof, the licensee shall forthwith give notice of the license to such person or to one of such persons if more than one be so named; such notice may be given by posting a registered letter containing a copy of the license, addressed to such person at the address mentioned on the title page of the book; and such notice shall be deemed to have been given at the time when such letter would be delivered in the ordinary course of post; and in proving the giving of such notice, it shall be sufficient to prove that such letter was prepaid, properly addressed as aforesaid, and put into the post.

Notice of license.

13. Where any person publishes a book by virtue of a license granted in pursuance of this Act, such person shall, in respect of each copy of such book sold by him, account for and pay to or for the benefit of the proprietor of copyright in such book, the percentage specified in the license, not being less than the percentage payable in respect of foreign reprints of such books imported into that part of the British dominions in which the license is in force.

Per-centage upon licensed reprints.

If the license was granted in any British possession such per-centage shall be paid in such manner as the Act making provision in such British possession for the collection of the same may from time to time direct.

A licensee shall, upon the grant of the license, give security to the satisfaction of the authority granting the license for the payment of the said per-centage.

14. Where foreign reprints of any book are imported under this Act, there shall be paid for the benefit of the proprietor of copyright in such book a per-centage upon the value of each foreign reprint imported of such amount, and collected and accounted for in such manner, as may from time to time be determined—

Per-centage upon foreign reprints.

(1.) If the reprint is imported into the United Kingdom, by Order in Council;

(2.) If the reprint is imported into a British possession, by the Act making provision in such British possession for this object.

Any Order in Council or Act determining as in this section is mentioned may either constitute different classes of books and impose upon the foreign reprints per-centages varying according to such classes, or may impose a uniform per-centage upon all the foreign reprints.

Colonial Dramatic Pieces and Musical Compositions.

15. Every person shall be entitled in respect of a dramatic piece or musical composition first publicly represented or performed, after the commencement of this Act, in a British possession, to the same rights and benefits as if it had been first publicly repre-

Copyright in dramas and music first performed in a British possession.

sented or performed in the United Kingdom, subject to the conditions which would in that case have applied.

Miscellaneous.

Rights of licensee.

16. Every person who is licensed in pursuance of this Act to publish a book shall register such license, if in force in the United Kingdom, in the register book of the Stationers' Company, or if in force in a British possession, in manner (if any) provided by some Act of that British possession, and upon such registration shall have in the United Kingdom or such British possession the same rights as the proprietor of the copyright in the book, as against all persons including such proprietor, with this qualification, that such license or the registration thereof shall not prevent the issue of the like license to such proprietor or another person, and shall not entitle the licensee to any percentage under this Act.

Concurrence of Colonial and Imperial copyrights.

17. All rights and remedies in respect of any book to which any person may be entitled under the principal Act or this Act shall be in addition to, and not in derogation of, any copyright in such book to which he may be entitled in any British possession under the law of such possession, and to the rights and remedies in respect thereof.

Partial assignment of copyright.

18. Nothing in any Act, and no rule of law, shall prevent any person from assigning, in the case of any book, whether published before or after the passing of this Act, the copyright therein to which he is entitled, either in the United Kingdom or any British possession, separately from the copyright elsewhere.

Amendment of 5 & 6 Vict., c. 45, s. 8.

19. Copies of books or editions required to be delivered for certain libraries under section eight of the principal Act, if published in a British possession, shall be delivered within six months after demand thereof made in writing, as mentioned in that section, and need not be delivered earlier.

Amendment of 5 & 6 Vict., c. 45, s. 10.

20. The value and sum mentioned in section ten of the principal Act may be recovered in any British possession in such manner as any Act of such British possession may from time to time provide, or if no such Act applies, then in the same manner as a summary penalty may be recovered in such British possession, or as near thereto as circumstances admit, or as a debt in any competent court in such British possession.

Making and publication of Orders in Council.

21. Her Majesty may from time to time make, and may from time to time revoke and alter Orders in Council for the purposes in this Act mentioned: Provided that no such alteration or revocation shall affect any right, interest, or remedy acquired before the time when such alteration or revocation takes effect.

Every such Order in Council shall forthwith be published in the "London Gazette," and shall be laid before both Houses of Parliament within six weeks after it is made, or, if Parliament be not then sitting, within six weeks after the commencement of the then next session of Parliament.

After the expiration of six months from the date of the publication in the "London Gazette," such Order shall be deemed to have been duly made, and shall not be questioned in any legal proceedings whatever commenced after such six months.

Temporary Provisions and Repeal of Act.

Application of Act to books published before Act.

22. The provisions of this Act with respect to books first published after the commencement of this Act shall extend to books first published before the commencement of this Act, and the provisions of this Act with respect to books first published after the the commencement of an Order in Council under this Act applicable to any British possession shall extend to books first published before the commencement of such Order in Council, subject, in each case, to the provisions of this Act and the following modification; (that is to say,)

For the periods defined by this Act in the case of books, and computed from first publication, there shall be substituted equal periods computed,—

(a.) In the case of enactments which come into operation upon the commencement of this Act, from the expiration of a period of six months immediately after such commencement:

(b.) In the case of enactments which come into operation in any British possession upon the commencement of an Order in Council, from the expiration of a period of six months immediately after such last-mentioned commencement.

Provided that,—

(1.) The term of copyright in any book shall not be extended by virtue of this section:

(2.) The proprietor of copyright in any book published before the commencement of this Act need not before commencing under the principal Act in any British possession

any action, suit, or other proceeding on the ground of any infringement of such copyright, comply with any conditions of the law of such British possession as to registration.

23. The provisions of this Act with respect to dramatic pieces and musical compositions first publicly represented or performed after the commencement of this Act shall extend to dramatic pieces and musical compositions first publicly represented or performed before the commencement of this Act. Application of Act to dramas and music performed before Act.

24. The Act of the Session of the 10th and 11th years of the reign of Her present Majesty, c. 95, intituled "An Act to amend the law relating to the protection in the Colonies of works entitled to copyright in the United Kingdom," is hereby repealed, but such repeal shall, in the case of each British possession, only take effect on the commencement of an Order in Council under this Act applicable to such British possession, or on the 1st day of January, 1875, if there is no such Order which commences before that day. Repeal of 10 & 11 Vict., c. 95.

25. Her Majesty in Council before issuing an Order under this Act applicable to any British possession shall be satisfied either—

(1.) That reasonable and effectual provision is made by law in such British possession for causing to be distinctively marked all foreign reprints of any book lawfully imported before the commencement of such Order, so long as the further importation of such reprints is unlawful; or Proviso as to foreign reprints imported before Act.

(2.) That such provision has ceased to be necessary.

26. Save as is otherwise provided by this Act, or may be otherwise provided by any Act of a British possession, no action or suit, seizure, or other proceeding which could not have instituted, effected, or taken if this Act had not passed, shall, by virtue of this Act, be competent in respect of anything done or in respect of any copies of books printed in or imported into any part of the British dominions before the commencement of this Act. Limitation of right of action.

North America.

No. 2.

Governor Hill, C.B., to the Earl of Kimberley.—(Received September 5.)

My Lord,

Government House, Newfoundland, August 26, 1873.

I HAVE the honour to acknowledge the receipt of your Lordship's Circular despatch of the 29th July,* respecting a draft Bill to amend the "Copyright Act of 1842," and to transmit herewith the opinion of the Acting Attorney-General, which contains the views of my Responsible Advisers upon this Bill.

I have, &c.
(Signed) STEPHEN J. HILL.

Inclosure in No. 2.

Sir,

St. John's, August 23, 1873.

I HAVE the honour, in accordance with your Excellency's instructions, to report upon the Circular despatch, with inclosures, relative to the operation of the "Imperial Copyright Act of 1842."

It appears to me that the draft of a Bill to amend the Copyright Act of 1842 has been well considered, and that it has been very carefully framed to meet the various rights of individuals, and to provide against the many difficulties that beset the formation of a law which shall have a general application, and which is designed to meet the reasonable requirements of all the Colonies as well as the proprietors of copyright.

If it were not for the objections raised by the Canadian Executive to the extension of Imperial copyright privileges to Colonial authors unless local publication were first made, I should have thought that the first draft Bill of 1870 would have met the exigencies of the case.

As it is, and having reference to the draft Bill of 1873, I have only to suggest:—

1. The desirability of a consolidation of the whole law of copyright instead of amendment only.
2. That the time (twenty years) mentioned in the first part of section 6 may be too short.
3. That it might be preferable to apply the same rules to publication by license as to importation of reprints, and to assimilate the periods.
4. That it might be well to dispense with the necessity of application to Her Majesty in Council (except on appeal) and leave the ordinary Courts of Law to determine in an action for infringement whether suitable provision for circulation had or had not been made. Upon this point I would observe that if a book be not effectively published by the author in any given place after a reasonable time, it will rarely be found either that its publication by others will take place at all, or that its publication or importation will be considered objectionable by the proprietor of the copyright elsewhere; and the necessity for expensive and troublesome proceedings before the Privy Council, to be instituted by the intending publisher, may be calculated to debar useful publications that might otherwise take place.

If the principle of license be adhered to, I would suggest that the mode of obtaining it might be simplified by providing for a notice to the proprietor of the copyright of the intention to publish within a given time, unless the proprietor did so, or unless he granted a license to the intending publisher to do so, in default of which, and on proof of the notice, the Secretary of State or other authority might issue a license.

5. In section 8, providing for importation of foreign reprints, the words are "ought immediately after such first publication to be permitted," &c., I do not see why the provisions of the clause should be so restricted.

* Page 3.

It is the section with which this Colony, with possessions similarly situate, is principally concerned; and it seems to me, that the object of the provision would be better served by using "*at any time*" instead of "*immediately*."

I have only to add that there is no copyright law in this Colony, and that we are subject to the present Imperial Statutes which are found in operation for the protection of the British author, while at the same time it may be observed that the injury to the proprietors of copyright is not to be estimated by the circulation of foreign reprints of their publications in the Colonies, as the number circulated would, under an effective execution in the Colonies of the Imperial Statutes, be very limited.

I have, &c.

(Signed) ROBERT J. PINSENT, Q.C.

His Excellency Colonel Hill, C.B.,
Governor and Commander-in-chief.

No. 3.

The Earl of Dufferin to the Earl of Kimberley.—(Received January 24.)

My Lord,

Government House, Ottawa, January 9, 1874.

I DULY referred to my Government a copy of the draft of a Bill on the subject of copyright inclosed in your Lordship's despatch of the 24th July, 1873, and I have now the honour of forwarding a copy of an Order of the Privy Council approving a Report by the Honourable Mr. Mackenzie, acting in the absence of the Minister of Agriculture, who states, in the concluding part of his memorandum, "that he is of opinion that any change beyond the extending of the privilege of copyright to Canadian authors is not urgent, and that a postponement of the question would not be likely to cause a detriment to the public interest."

I have, &c.

(Signed) DUFFERIN.

Inclosure 1 in No. 3.

Report of a Committee of the Honourable the Privy Council, approved by his Excellency the Governor-General on the 8th day of January, 1874.

THE Committee of Council have had under consideration the despatch of the 24th of July, 1873, from the Right Honourable Her Majesty's Secretary of State for the Colonies on the subject of copyright, and of extending to Colonial authors the privileges enjoyed by authors under the Imperial Copyright Act, and transmitting, for the consideration of the Canadian Government the draft of a Bill which Her Majesty's Government will be prepared to introduce on the subject during the next session of the Imperial Parliament.

They have also had before them the annexed Report, dated 7th January, 1874, from the Honourable Mr. Mackenzie, acting in the absence of the Honourable the Minister of Agriculture, to whose Department the above-mentioned despatch was referred, and they respectfully report their concurrence therein, and advise that a copy thereof and of this Minute be transmitted by your Excellency to the Earl of Kimberley for the information of Her Majesty's Government.

Certified,

(Signed) W. A. HIMSWORTH, Clerk Privy Council.

Sub-Inclosure.

THE Undersigned, the Minister of Public Works, in the absence of the Minister of Agriculture, has the honour to report, as follows, in the matter of the draft of a Bill to amend the law of copyright transmitted with a despatch of Lord Kimberley.

1. As regards the extending to Colonial Authors the privileges enjoyed by authors under the Imperial Copyright Act, there seems to be no difficulty in the way. The Canadian Copyright Act of 1868, now in force, gives to English authors all the privileges granted to Canadian authors upon the simple condition of publishing in Canada; and

an alteration in the English Copyright Act in the same sense would be accepted as a boon.

2. As to the question of reprints of copyrights, there appear to be four different interests at stake, which are somewhat in conflict, namely, the author's interest, the public interest, the publisher's interest, and the book trade interest.

3. The authors contend that they have an undeniable and inalienable right to dispose of their property as they please; the public seems to be satisfied with the supply of books which it now gets; and the book trade also appears disposed to be in favour of things as they are.

4. These three interests are not advocating, at least for the present, any material change, beyond extending to Canadian authors the privileges of the Imperial Copyright Act as before stated.

5. The publishers, however, although not unanimous in their opinions, are advocating the changes which were embodied in the Canadian Act of 1872, intituled "An Act to amend the Act respecting Copyrights," which Act has been disallowed in England.

6. As to the draft submitted of a Bill to amend the law of copyright, the Undersigned is of opinion that, owing to the intricacy of proceedings therein provided, the operation of such a measure would be attended by difficulties likely to lead to litigation.

The Undersigned, therefore, is of opinion that any change beyond the extending of the privileges of copyright to Canadian authors is not urgent, and that a postponement of the final solution of this complicated question would not be likely to cause detriment to the public interest.

The whole respectfully submitted.

(Signed) A. MACKENZIE,
Acting for the Minister of Agriculture.

Department of Agriculture, Ottawa, January 7, 1874.

No. 4.

Report to the Senate of the United States.

MR. MORRILL, of Maine, from the Joint Committee on the Library, submitted the following

Report.

The Joint Committee on the Library, to whom was referred the resolution directing them to inquire into the practicability of securing to authors the benefit of international copyright, report—

That, after attentive consideration of the subject-matter, they have found the question of international copyright attended with grave practical difficulties, and of doubtful expediency, not to say of questionable authority.

At the outset of the examination much embarrassing contrariety of opinion between those who demand the measure as a just recognition of the rights of authors to their works, and those representing the manifold interests, occupations, and domestic industries involved in the contemplated legislation became conspicuous; in the prominence and fervour of which the primary motive of any and all contemplated constitutional action, namely, the promotion of the progress of science and the useful arts, seemed—unconsciously, of course—likely to be overcast.

On behalf of authors and artists it is insisted that Congress owes it to universal authorship to grant protection to literary and scientific productions, irrespective of nationality, as a matter of justice and right; that the Constitution in this respect, as in the case of domestic authors, is mandatory in its character; that the mode and manner of such protection are prescribed, in terms, in its provisions; and that none other than the mode prescribed is at all allowable, leaving Congress no discretion in the premises; and that not to legislate in this behalf is to refuse the performance of an obvious duty; and that, having by the law of copyright secured to domestic authors exclusive rights to their works, thereby recognizing the obligation of protection to authorship, Congress stands derelict in the performance of its whole duty, in that it has not provided equal protection to universal authorship.

Upon the soundness and cogency of this proposition both American and foreign authors are understood generally to be agreed.

A portion of the American publishers (and they are among the most important) are willing to accede to the demands of the authors, upon the condition of satisfactory stipula-

tions as to the medium of communication with the American public through their publishing houses ; while the authors divide on the question of publication, a portion, not illogically, insisting upon the supposed duty of absolute protection without stint, limit, or condition, and a part are disposed to yield to the terms of the publishers ; and this adjustment of the matter, it is supposed, would redound to the progress of science and the arts.

A portion, and much the larger number of domestic publishers, are understood to be either hostile to the whole subject of international copyright, or consider all action in regard to it at least of questionable utility to the world of letters, and especially to the progress of science and the arts in this country, and among our own people.

The printers, type-founders, binders, paper-makers, and others engaged in the manufacture of books, in large numbers remonstrate against the measure as calculated to diminish the popular sale and circulation of books, by raising the price thereof, and thus prejudicial to this branch of industry.

These classes, interests, and industries have been ably represented before the Committee, and it may be observed that from these the measure is invested with its special interest, as we are not aware of any popular representation or demand, by memorial or remonstrance, or otherwise, on behalf of either book buyers or readers, or the mass of the people.

The protection in his works that the author demands, it will be noticed, is an absolute and exclusive right of property therein. To all such appeals to Congress (without entering into the consideration of such a pretension as an abstract proposition), it is deemed sufficient to reply that the framers of the Constitution did not seem to have apprehended the justice of a claim so extensive on the part of authors, nor to have contemplated the promotion of the progress of science by legislation so partial and engrossing as that proposed ; but, on the contrary, in the interests of science, and altogether subservient to its ends, and as an incentive to authorship to enter into its service, did provide for the enjoyment in their works of an especial privilege for a limited period.

The nature of the prerogative conferred, its use and limitation, are, each and all, alike inconsistent with the assumed rights ; and, whatever abstract rights of property the author may be supposed to have in his production, it is clear that his appeal to Congress for protection can be recognized only within the express limitations of the Constitution.

It became important, in the outset, to bring to the examination of the subject a just appreciation of the provision of the Constitution in relation to it ; that provision is as follows :—Congress shall have power “to promote the progress of science and the useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries.”

All opinions, interests, policies, and economies must be brought to the test of this clause of the Constitution, in which the objects and manner of legislation are clearly expressed, and must constitute the rule of action upon the subject.

It may be proper to remark that the policy of national copyright does not necessarily enter into the discussion. It may be assumed that the Constitution not only contemplated such legislation, but that such action is supposed to be consistent with and in the interest of science, and tends to its progress. Nor is it supposed that a question properly arises as to the abstract rights of the author in his writings ; neither is it important to consider whether any such rights had been recognized in England or in the American States anterior to the Constitution, as these rights do not constitute the object nor form the basis of that legislative action contemplated in the Constitution.

The constitutional provision is primarily in the interest of science, to which the rights and interests of authors are subordinated, and with which they are not necessarily, in all respects, identical. The very terms of the instrument are a limitation on the power of Congress against the recognition of such absolute right ; thus, “by securing for limited times to authors exclusive right to their writings.”

The precise question is, are the terms of the constitution equally applicable to international copyright, and would their application “promote the progress of science ?”

The language is sufficiently comprehensive, doubtless, to include all authorship. But in construing the constitution, reference should be had to the condition of affairs at the period of its adoption, the obvious intent of the framers, as gathered from contemporaneous history, and must receive such construction as will carry out the object in view.

It was, it should be observed, to constitute, in a qualified sense a Government in the interests of the people of the United States. Its framers would not, therefore, be expected to be solicitous for the protection of individual rights of those alien to its jurisdiction, nor were the circumstances of their national position such as were calculated to invite to the consideration of topics so eminently international in their operations and relations.

Besides, it must be borne in mind that the Constitution of the United States antedates all legislation upon international copyright in any country; that no thought of such a law was suggested to the convention that framed that instrument. Nor are there to be found in the history of the times such sentiments and opinions upon the subject as to justify a reasonable supposition that such a proposition could have been present in the minds of those who proposed the particular provision. It may be safe, therefore, to assume that international copyright was not within the contemplation of the Constitution, whatever interpretation the language may be thought to be susceptible of. To the argument as to the mandatory character of the provision in the interests of universal authorship, it may be replied that none but citizens could properly lay claim to protection of individual rights, and that, under the Constitution, these were all subordinated to the interests of science, and that, whoever invokes the protection of the one, must show that his demand is, at least, compatible with the other.

Whether the Constitution, in what it provides, is to be regarded as mandatory or permissive, confined to American or domestic authors, or extended to foreign or alien, in spirit and intent, it demands as a primary, essential, and paramount consideration, that whatever is done in its name shall be in the interest of, and for the promotion of the progress of science. In the presence of this paramount object, all rights of authors, publishers, booksellers, and book-makers must needs take a secondary place in legislative consideration. Nor is it less certain that herein lies the true interest of all genuine authorship. A demand for copyright, national or international, as a measure of protection to a property right simply, necessarily tends to sink the question of science to the level of a commercial transaction, and subjects it to the odium of an indefensible monopoly. It is only when considered as a tribute to genius, the quality and beneficence of whose productions are of universal recognition in the world of letters, that science and authorship become identical. It cannot be doubted that if, under undue stimulus of national copyright, the quality of literary productions should become inferior, commonplace, and baneful, Congress, in the interests of science, could apply the remedy, by limiting the privilege or denying it altogether.

It has even been said that a tendency in this direction already exists; that authors who write for fame are growing fewer, and that writers who write merely for money are multiplying; that, in short, the relations between writers on one side, and publishers and the public on the other, are growing more mercenary; but this may be said to arise from the fact that the men of true genius who are really entitled to the honourable name of American authors are confounded with men who have no just claim to such a distinction. A question fairly arises and presents itself at the threshold of any proposition of copyright, whether this commercial spirit is identical with, and friendly to, the progress of science. Considering the undeniable fact that a larger portion of authors are now writing for gain than formerly, and that publishers have come to estimate their writings by the profits likely to accrue from their publications, can it be inferred that from such a union of literature and commerce the highest interests of science are likely to be promoted? Under the influence of this union, can it be denied that a class of books are put upon the market which, in literary quality, bear slight resemblance to the productions of genius, and others, where the attribute of authorship could not well be discovered? And yet these all seek shelter under the laws of copyright, and enjoy that exclusive privilege designed alone for genius and the votaries of science.

While, doubtless, the constitutional provision had its origin in the belief in the identity of the interests of authorship and science, it is true that the law of copyright, as it lies in the Constitution, is not the protection of authors as an object—not as the reward of genius independent of science, but as an incentive to the former in the interests of the latter.

Is the question of authorship, in its relations to science, so simple and of such universal application as to be productive of equally beneficial results when subjected to the method of the Constitution as a rule for the different nations and differing conditions of letters therein?

Authorship, standing by itself, although the essential element, still is not all the world of letters, and cannot in any measure, having at heart the interests of literature, be considered as standing independent and by itself. If it be conceded to be the soul of science, it is essential that its productions should be embodied in books; and these involve the varied skill, industries, and cunning workmanship of many hands, and at last, and not the least important agency, the enterprise, capital, and address, of the publisher through whom these books are to be introduced to the reading public.

These interests press upon the legislator at the very threshold of any measure of international copyright, demanding consideration and protection. The right conferred

upon the foreign author, a variety of questions of labour, art, skill, and the like enter into the practical question, and force upon consideration the chances of ruinous monopolies at the world's great book-centres, when competition and a provident share in opportunities would seem to be our necessity.

The question before us is not national copyright, but whether the monopoly of the foreigner in his work enjoyed in his land, can, in the interests of science, fairly be claimed for him in every land where his work may be printed. The English author has the exclusive privilege secured to him as an incentive to his genius. Does it need the further stimulus of privilege in other lands? And, if so, can such privilege be considered as demanded in the interests of literature, or, would the fruits of such encouragement compensate for the natural repression of the diffusion of knowledge? Assuming now that the measure cannot be commended or rightfully demanded in the interests of authors alone, nor in that of authors and publishers combined, it remains to be seen whether the facts justify the conclusion that the measure can be granted in the interests of science.

It will doubtless be conceded that international copyright would have the effect to enhance the price of books of foreign authorship in the American market, and a tendency and the probable effect to increase the price of the American copyrighted book in our own market.

While it may be conceded that the tendency of the law of copyright is to stimulate the production of literary and scientific works, it is believed to be equally true that one of its effects is to repress the popular circulation of such works. Such, it is apparent, must be its natural tendency, and such is understood to be the fact in this country and in England, especially the latter. As a general proposition, during the existence of copyright, the interests of both publisher and author are best consulted by a small edition and consequent limited circulation, as a larger profit may be realized from a small edition at high rates than the reverse. Notable instances may be given in proof of this general proposition in England and our own country. The average price of seventy-five English books, as given below, is 5 dol. 60 c., and the average price of the American reprints of the same books is only 2 dol. 40 c.

The lowest prices of some English books reprinted in America. (The American prices are generally taken from *Bibliotheca Americana*, 1820 to 1866, or *American Catalogue*, Kelly, 1836 to 1871.)

Name of Author and Title of Work.	English Price.		Price of American Reprint.	
	In Sterling.	In Gold.	D.	c.
Alison, Life of Marlboro	s. d.	D. c.	D.	c.
Aytoun, Scottish Cavaliers	30 6	7 50	1	75
.. Ballads and Fermilian	7 6	1 87	1	50
Browning, Mrs., Poems	13 6	3 37	1	50
Belcher's Mutineers of the Bounty	30 0	7 50	1	50
Burton's Lake Regions of Africa	12 0	3 00	1	50
Bulwer, Athens—its Rise and Fall	31 6	8 00	3	50
.. Caxtoniana	31 6	8 00	1	50
.. Novels	21 0	5 25	1	75
.. Lady Budget, &c.	2 6	0 62	0	50
Braddon, Miss, Girl's Book	31 6	8 00	2	50
.. Lovers of Arden	4 6	1 25	0	90
Conybeare and Howson, Life of St. Paul (complete)	31 6	8 00	6	75
Collins, Poor Miss Finch	48 0	12 00	3	00
	31 6	8 00	0	50
			to 1	00
Darwin, Variation of Plants, &c.	28 0	7 00	6	00
Dixon, Free Russia	32 0	8 00	2	00
.. Fair France	16 0	4 00	1	50
Dickens' works	132 0	33 00	10	50
Dilke's Greater Britain	28 0	7 00	1	00
Desert of the Exodus	28 0	7 00	3	00
Foster's Life of Landon	28 0	7 00	3	50
.. Life of Dickens	12 0	3 00	2	00
Guizot's Meditations	10 0	2 50	1	75
Grote's Greece, per volume	8 0	2 00	2	00
Gould's Origin of Religious Belief	15 0	3 75	2	00
Goulbom's Sermons	6 6	1 62	1	00
Huxley's Lay Sermons	7 6	1 88	1	75
Holland's Recollections	10 6	2 62	2	00
Hemans' Poems	12 6	3 12	0	75
Hughes, Tom Brown at Oxford .. .. .	..	1 75	0	50

Name of Author and Title of Work.	English Price.		Price of American Reprint.	
	In Sterling.	In Gold.	D.	c.
Hughes, Tom Brown's School Days at Rugby	s. d.	D. c.	D.	c.
Harveis, Music and Morals	12 0	3 00	1	75
Jowett's Plato	120 0	30 00	12	00
Kingslake's Crimea	32 0	8 00	2	00
Kingsley's At Last	20 0	5 00	1	50
.. Ravenshoe	31 6	8 00	1	75
.. G. Hamlyn	6 0	1 50	1	25
Layard's Nineveh	36 0	9 00	1	75
Lever, Lord Kilgobbin	31 6	8 00	0	75
Lockhart, Fair to See	31 6	8 00	0	75
Mulock, Hannah	21 0	5 25	0	50
.. Girls' Book	4 6	1 25	0	90
Morley's Voltaire	11 0	3 50	..	..
Macgregor, Rob Roy on the Jordan	12 0	3 00	2	50
Oliphant's China	21 0	5 25	3	50
Pressense, Early Years of Christianity	12 0	3 00	1	75
Russell's American Diary	21 0	5 25	1	00
Robinson's Diary	36 0	9 00	4	00
Reclus, The Earth	24 0	6 50	5	00
Scheller's Spectrum Analysis	28 0	7 00	6	00
Speke's Africa	21 0	5 25	4	00
Sacristan's Household	6 0	1 50	0	75
Stanley's Jewish Church	24 0	6 00	5	00
.. Eastern Church	12 0	3 00	2	50
.. Sinai and Palestine	14 0	3 50	2	50
Trollope, Harry Hotspur	9 0	2 25	0	50
.. Can You Forgive Her?	12 0	3 00	1	50
.. Orley Farm	12 0	3 00	1	50
Thackeray's novels	7 0	1 75	6	50
			to	0 75
Tyndall, Heat	10 6	2 62	2	00
.. Sound	9 0	2 25	2	00
Tennyson's works, incomplete	9 0	2 25	0	75*
The Speaker's Commentary	30 0	7 50	5	00
Vambey's Asia	21 0	5 25	4	50
White's St. Bartholomew	16 0	4 00	2	50
Wilfred Cumberland (George Macdonald)	31 6	8 00	1	75
Wood's Homes without Hands	21 0	5 25	4	50
.. Bible Animals	21 0	5 25	4	50
Whymper's Alaska	16 0	4 00	..	..
Wallace's Malay Archipelago	24 0	6 00	3	00
Warren's Ten Thousand a Year	9 0	2 25	1	50
Spencer's Psychology	18 0	4 50	1	50
.. Essays	16 0	4 00	2	50
.. Biology	34 0	8 50	5	50
Total .. ..	..	121 22	184	80

* Complete.

The same general fact may be further illustrated by comparing the prices of English books reprinted here with the prices here of American copyrighted books of a similar character.

ENGLISH REPRINTED.				AMERICAN COPYRIGHTED.					
			D.	c.				D.	c.
Dixon's Free Russia	2	00	Bush Reindeer Dogs, &c.	3	50
Kingsley's At Last	1	50	Cox's Winter Sunbeams	3	00
Kinglake's Crimea	2	00	Motley's Histories	3	50
Macaulay's Histories	1	50	Bancroft	3	00
Hallam	2	00	Kirke's Charles the Bold	3	00
Dilke's Greater Britain	1	00	Prime's Around the World	3	00
Dickens' Novels	50 c. to	0	75	Hawthorne .. ..	..	..	2	00
George Eliot's Novels .. ..	..	0	75	Mrs. Stowe .. ..	..	..	2	00
Charles Reade's Novels	25 c. to	0	75	Bayard Taylor .. ..	..	..	1	50
Robertson's Sermons .. ..	..	1	50	Beecher's Sermons .. ..	..	..	2	50
Tennyson's Poems .. ..	..	0	75	Longfellow .. ..	..	..	1	50
Grote's Greece .. ..	..	1	50	Draper's Civil War .. ..	..	..	3	50
Hume's England .. ..	..	1	50	Hildreth's United States .. ..	..	..	3	00
Muller's Science of Religion .. ..	..	2	00	Hodge's Anthropology .. ..	..	..	4	50
Palmier's Desert of the Exodus .. ..	..	3	00	Thomson's Land and the Book .. ..	..	..	5	00
Wallace's Malay Archipelago .. ..	..	3	50	Agassiz's Brazil .. ..	..	..	5	00
Froude's Short Stories .. ..	..	1	50	Bancroft's Miscellanies .. ..	..	..	3	00
Barrow's Arctic Voyage .. ..	..	1	00	Hayes' Arctic Boat Journey .. ..	..	..	2	50
Layard's Nineveh .. ..	..	1	75	Stephens' Egypt .. ..	..	..	3	90
Burton's Regions of Central Africa .. ..	..	3	50	Stephens' Central America .. ..	..	..	6	00
English Common Law Reports .. ..	..	4	00	Wallace's Reports .. ..	..	..	6	00
Exchequer Reports .. ..	..	4	00	Blatchford's Reports .. ..	..	..	7	50
Bulwer's Queen's Bench .. ..	..	6	00	Abbott's Reports .. ..	..	..	7	50
Bulwer's Common Pleas .. ..	..	6	00	Lansing's United States .. ..	..	..	8	00
Equity Cases, M. Rolls .. ..	..	6	00	Chancery, 8 c't, of N. Y. .. ..	..	..	7	50
Daniel's Chancery Practice, 3 vols. .. ..	..	15	00	Fisher's Patent Cases, 3 vols. .. ..	..	..	75	00
De Witt's Surgery .. ..	..	4	00	Ashurst's Surgery .. ..	..	..	6	50
Total	78	70	Total	181	00

And a similar effect will be observed by comparing the home prices of American copyrighted books with their prices when reprinted in England.

The English prices are generally taken from the English catalogue by Sampson Low, 1835-1862.

Name of Author and Title of Work.	American Price.	English Price.				
		In Sterling.		In Gold.		
		s.	d.	D.	c.	
Abbott, Franconia Stories	D. c.	1	0	0	25	
„ Learning to Read	0	90	1	6	0	37
„ Young Christian	1	75	1	0	0	25
„ Child at Home	1	00	1	0	0	25
Barnes, Four Gospels	3	00	5	0	1	25
„ Acts	1	50	2	6	0	62
Beecher, H. W., Eyes and Ears	1	75	3	6	0	87
„ Lectures to Young Men	1	50	1	6	0	37
„ Royal Truths	1	75	3	6	0	87
Cooper, Novels, per copy	0	75	1	0	0	25
Curtis, G. W., Lotus-Eating	1	50	3	6	0	87
„ Nile Notes	1	50	1	0	0	25
Du Chaillu, Country of Dwarf	1	75	1	6	0	37
Greenwood, Grace, Forest Tragedy	1	25	1	0	0	25
„ History of my Pets	1	00	1	0	0	25
Hawthorne, House of Seven Gables	2	00	1	0	0	25
„ Twice-Told Tales	4	00	2	0	0	50
„ Scarlet Letter	2	00	1	0	0	25
Holmes, O. W., Autocrat of Breakfast Table	1	50	2	6	0	62
„ Professor at Breakfast Table	1	75	3	6	0	87
„ Elsie Venner	3	00	2	0	0	50
Irving, W., Life of Goldsmith	1	50	1	0	0	25
„ Life of Columbus	1	75	2	6	0	62
„ Knickerbocker	1	75	1	0	0	25
Jarves, J. J., Parisian Sights	1	50	1	0	0	25
Longfellow, Miles Standish	1	25	1	0	0	25
„ Outremer	1	50	2	0	0	50
„ Hiawatha	1	50	1	0	0	25
„ Poems, complete	1	50	2	0	0	50
Lowell, Bigelow Papers	1	50	2	6	0	62
„ Vision of Sir Launfal	0	75	2	0	0	50
Melville, Omoo	1	50	1	0	0	25
„ Typee	1	50	1	0	0	25
Parton, Life of Greeley	2	50	7	6	1	87
Phelps, Rev. A., Still Hours	1	00	1	0	0	25
Prescott, Philip II	4	50	5	0	1	25
„ Mexico	6	00	5	0	1	25

Name of Author and Title of Work.	American Price.	English Price.	
		In Sterling.	In Gold.
	D. c.	s. d.	D. c.
Prescott, Ferdinand and Isabella	6 00	5 0	1 25
Robinson, Greek Lexicon	6 00	8 6	2 12
Stowe, Mrs., Pearl of Orr's Island	2 00	5 0	1 25
.. Uncle Tom	2 00	2 6	0 62
.. Minister's Wooing	2 00	2 6	0 62
Sedgwick, Miss, Hope Leslie	3 00	1 0	0 25
.. Linwoods	3 00	2 8	0 66
.. Married or Single	3 00	2 0	0 50
Sigourney, Mrs., Letters to Mothers	1 50	2 0	0 50
.. Letters to Young Ladies	1 50	1 6	0 37
Squiers, Wackna	1 50	1 0	0 25
Thomson, Land and the Book	5 00	7 6	1 87
Taylor, B., El Dorado	2 25	2 0	0 50
.. At Home and Abroad	2 25	3 6	0 87
Thoreau, Walden	2 00	6 0	1 50
Upham, Professor, Madame Guyon	3 00	7 6	1 87
.. Interior Life	1 50	3 6	0 87
Emerson, R. W., Conduct of Life	2 00	1 0	0 25
.. Representative Men	2 00	1 0	0 25
.. English Traits	2 00	1 0	0 25
	121 05	..	36 06

From the above exhibits it would seem clear that the law of copyright, as existing in England and this country, in its practical operations in the two countries, tends unmistakably to check the popular diffusion of literary production by largely increasing the price. This fact could be further illustrated by recurrence to the vast disproportion in the sale of the cheaper reprints and the copyrighted editions in both countries.

England is the great book making and producing nation with which this country has to do, and, consequently, our interests would be most affected by the proposed measure; and that such measure would not promote the progress of science and the useful arts among the American people is believed to be obvious and to admit of little doubt.

The policy of the different States of Europe as to the protection of literary property varies as to the period of time for which it is granted. In England and in this country the protection is ample. The prevailing policy among the nations seems to be to grant such protection to literary property as is deemed a proper incentive to production.

It is questionable whether any system of international copyright could be proposed which would be equally beneficial or just, owing to the different languages prevailing among them.

In view of the whole case, your Committee are satisfied that no form of international copyright can fairly be urged upon Congress upon reasons of general equity or of constitutional law; that the adoption of any plan for the purpose which has been laid before us would be of very doubtful advantage to American authors as a class, and would be not only an unquestionable and permanent injury to the manufacturing interests concerned in producing books, but a hindrance to the diffusion of knowledge among the people and to the cause of universal education; that no plan for the protection of foreign authors has yet been devised, which can unite the support of all, or nearly all, who profess to be favourable to the general object in view; and that, in the opinion of your Committee, any project for an international copyright will be found upon mature deliberation to be inexpedient.

15/9

West Indies.

ANTIGUA.

No. 5.

Governor Irving, C.B., to the Earl of Kimberley.—(Received September 29.)

My Lord,

Leeward Islands, Antigua, September 11, 1873.

I HAVE the honour to acknowledge the receipt of your Lordship's Circular despatch of the 29th July, on the subject of the proposed amendments to the Copyright Act of 1812, in which you request me to furnish any suggestions which I may desire to offer upon the draft Bill inclosed in your despatch.

I have the honour to report that the general provisions of this Bill are unobjectionable as regards the Leeward Islands.

I have, &c.
(Signed) HENRY T. IRVING.

TOBAGO.

No. 6.

Lieutenant-Governor Ussher to the Earl of Kimberley.—(Received September 29.)

My Lord,

Government House, Tobago, September 8, 1873.

I HAVE the honour to acknowledge the receipt of Circular of the 29th July, on the subject of "Copyright," and I have no suggestions to make upon the subject in respect to this Colony.

I have, &c.
(Signed) H. T. USSHER.

TRINIDAD.

No. 7.

Governor Longden to the Earl of Kimberley.—(Received October 24.)

My Lord,

Trinidad, September 13, 1873.

WITH reference to your Lordship's Circular despatch dated 29th July, I have the honour to state that I have no suggestions to offer as to the proposed Copyright Bill.

I inclose a copy of a letter from the Acting Attorney-General to whom I referred your Lordship's Circular for any observations he might have to offer.

I have, &c.
(Signed) J. R. LONGDEN.

Inclosure in No. 7.

Sir,

Attorney-General's Office, September 11, 1873.

IN answer to your letter dated 4th September instant I have the honour to say that for obvious reasons we have no local law regulating copyright.

There are two Ordinances which by relation touch the subject.

D 2

The first is the Ordinance No. 4 for 1844 entitled "An Ordinance for the better administration of justice in civil cases, and to extend and define the jurisdiction and powers of the Supreme Civil Court," and the second is the Ordinance No. 22 for 1865 entitled "An Ordinance to amend and consolidate the laws relating to the Customs."

By the first Ordinance it is enacted "that every person shall be entitled to have the like relief in equity, or the like remedy by action at law, as he would be entitled to and have in the like case in England;" and as the first Ordinance was passed after the statute of the fifth and sixth of the Queen, chapter 45, all rights of action arising under that statute would necessarily be introduced by the said Ordinance.

By the second Ordinance "Books, wherein the copyright shall be first subsisting, first composed or written or printed in the United Kingdom, and printed or reprinted in any other country, and which shall be named in any printed list of such books made by the Commissioners of Her Majesty's Customs," are prohibited to be imported.

I have no suggestions to offer on the draft Bill sent me, but I conceive that on the advent of a period when persons in this country shall require the benefit of such a law, its provisions will be useful and sufficient.

I have, &c.
(Signed) M. MAXWELL PHILIP,
Acting Attorney-General.

The Hon J. Scott Bushe,
Colonial Secretary.

BARBADOS.

No. 8.

Governor Rawson, C.B., to the Earl of Kimberley.—(Received October 24.)

My Lord, *Windward Islands, Barbados, September 20, 1873.*

WITH reference to your Lordship's Circular despatch of the 29th July last upon the subject of the Imperial Copyright Act of 1842, I have the honour to submit copy of a report from my Law Officers, which explains the position of this Colony as regards the Act in question, and the effect which the passing of the proposed amending Act would have upon the Colonial law. There will be no difficulty in passing an Act here to assimilate the local to the Imperial legislation on the subject.

I have, &c.
(Signed) RAWSON W. RAWSON.

Inclosure in No. 8.

Opinion of the Law Officers.

THE Act of this Island No. 257, which authorizes the importation into the Island of foreign reprints of books printed or published in the United Kingdom was passed under the authority of the Imperial statute 10 and 11 Vict., cap. 95. That statute suspends the operation in certain cases, and on certain conditions, of the statute 5 and 6 Vict., cap. 45, which prohibits the importation into any British possession of books composed, printed, or published in the United Kingdom, wherever there is copyright, and reprinted in any other country. As the Bill proposed by Her Majesty's Government repeals the statute 10 and 11 Vict., cap. 95, and is to form one with the statute 5 and 6 Vict., cap. 45, and will extend to all parts of the British dominions; the passing of it will necessitate legislation here, and such an Act as is mentioned in the 8th section of the new Bill will probably be sufficient.

(Signed) JOHN SEALY, *Attorney-General.*
CHARLES PACKER, *Solicitor-General.*

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BAHAMAS.

No. 9.

Governor Hennessy, C.M.G., to the Earl of Kimberley.—(Received October 29.)

My Lord,

Government House, Nassau, September 16, 1873.

IN reply to your Lordship's Circular despatch of the 29th of July, I have the honour to state that, after consulting the Attorney-General respecting the draft Bill for amending the Copyright Act (1842), I am of opinion that it will be a useful measure, as far as this Colony is concerned.

I have, &c.
(Signed) J. POPE HENNESSY.

JAMAICA.

No. 10.

Governor Sir J. P. Grant, K.C.B., to the Earl of Kimberley.—(Received October 30.)

My Lord,

King's House, October 6, 1873.

I HAVE the honour to acknowledge the receipt of your Lordship's despatch of the 29th of July last, forwarding the draft of a Bill to amend the "Copyright Act of 1842," which it is proposed to introduce into Parliament, and on which I am asked to furnish any suggestions I may desire to offer.

2. In reply I have the honour to observe that there is now in operation in Jamaica an Act (22 Victoria, chapter 21) duly assented to by Her Majesty in Council on the 23rd of April, 1859, which is founded on the Imperial Act 10 and 11 Victoria, chapter 95, the provisions of which latter Act, in regard to the importation of foreign reprints into this island, are very similar to those contained in the 8th section of the proposed Bill. If, therefore, an Order in Council were made under this section, it would seem that the position of Jamaica, in the matter of the introduction of foreign reprints, would be much the same as it is at present.

3. It appears to me that if the draft Bill is passed into law as it stands, there might be some question as to its effect upon the Jamaica Act before alluded to. The Bill seems to assume that fresh legislation in the Colonies will be necessary, but it is not so stated, nor is it declared what will be the effect upon Colonial legislation under 10 and 11 Victoria, chapter 95, of the repeal of that statute, and possibly it might be expedient to add to the proposed Bill some provision to continue in force existing Colonial Acts respecting foreign reprints, passed under the 10 and 11 Victoria, chapter 95, if the conditions are such as would entitle the Colony to an Order in Council under section 8, in the same manner as if such Colonial Acts had been passed subsequently to the proposed Bill becoming law.

4. So far, therefore, as Jamaica is concerned, I am not aware of any objection that might be urged against this measure, so long as the principle upon which it is founded is maintained.

I have, &c.
(Signed) J. P. GRANT.

ST. VINCENT.

No. 11.

Lieutenant-Governor Rennie to Governor Rawson, C.B.—(Received October 30.)

Sir,

Government House, St. Vincent, September 26, 1873.

I HAVE the honour to acknowledge the receipt of the Earl of Kimberley's Circular despatch of 29th July last, inclosing a draft Bill to amend "The Copyright Act of 1842."

2. This Colony can have but little interest in the question, as it would be quite impossible to publish any book in St. Vincent; but the Colonial Legislature will, I fancy, readily afford the necessary protection to authors and owners of copyrights in other countries.

3. Two local Acts, No. 88 of 1852 and No. 223 of 1864, passed under the Imperial Statute 10 and 11 Victoria, chapter 95, provide already for this protection, and it would only seem necessary, in the event of the proposed amended Copyright Act being passed, to repeal those laws and re-enact somewhat similar ones.

I have, &c.
(Signed) W. H. RENNIE.

ST. LUCIA.

No. 12.

Administrator Diel to Governor Rawson, C.B.—(Received November 14.)

Sir, *Government Office, St. Lucia, October 20, 1873.*

I HAVE the honour to acknowledge the receipt of the Earl of Kimberley's Circular despatch of the 29th of July last, inclosing copy of a despatch addressed by his Lordship to the Governor-General of Canada on the question of Copyright, together with the draft of a Bill to amend the "Copyright Act of 1842," which it is proposed to introduce at an early period of the next session of the Imperial Parliament.

2. In reply I beg to state, for the information of his Lordship, that I have submitted the proposed measure to the Legislative Council, and that they have expressed their entire approval of it. No suggestions occur to me to offer upon the Bill.

I have, &c.
(Signed) MACNAMARA DIEL.

HONDURAS.

No. 13.

Lieutenant-Governor Cairns to Governor Sir J. P. Grant, K.C.B.—(Received November 14.)

Sir, *Government House, Belize, October 4, 1873.*

I HAVE the honour to acknowledge the receipt, by last month's mail packet, of the Circular (2) despatch dated the 29th July, with which were transmitted a copy of a despatch addressed by Lord Kimberley to the Governor-General of Canada, and the draft of a Bill to amend the Copyright Act of 1842, which it is proposed to introduce early in next Session.

2. The projected legislation in regard to copyright cannot but be beneficial, so far as such a measure would have operation in British Honduras, by greatly increasing the value of any literary work which may be first published in the Colony, and, in the event of the local Legislature remaining inactive under the powers proposed to be given, by leaving undisturbed the prohibition against the importation of foreign reprints of works in which British copyright is subsisting.

3. The Attorney-General, with whose assistance I have considered the subject, is not prepared to offer any suggestion for the improvement of what he rightly characterizes, as I think, a "maturely elaborated scheme."

I have, &c.
(Signed) W. W. CAIRNS.

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South Africa.

CAPE OF GOOD HOPE.

No. 14.

Governor Sir H. Barkly, K.C.B., to the Earl of Kimberley.—(Received December 3.)

My Lord,

Government House, Cape Town, November 4, 1873.

HAVING consulted my Responsible Advisers on the subject of the amendment of the Law of Copyright, as embodied in the draft of a Bill forming one of the inclosures to your Lordship's circular despatch of the 29th July last, I have the honour to inform your Lordship that they see no objection to the proposed Bill as regards this Colony.

2. It is in compliance with the request of my Advisers that I beg to transmit, for your Lordship's information, the inclosed copy of an Act, entitled the "Copyright Act of 1873," passed during the last Session of the Colonial Legislature, which appears to provide sufficiently for the protection of copyright, within the limits of the Colony, in respect of works published at the Cape.

I have, &c.

(Signed) HENRY BARKLY.

Inclosure in No. 14.

[No. 2 of 1873.]

Act to Protect and Regulate the Rights of Authors in respect of their Works.

[Assented to 26th June, 1873.]

WHEREAS it is expedient to protect the rights of authors in this Colony in respect of their works and to afford encouragement to the production of literary works of lasting benefit to the Colony: Be it enacted by the Governor of the Cape of Good Hope, by and with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:—

Preamble.

1. The copyright in every book which shall, after the passing of this Act, be published in the lifetime of its author shall endure for the natural life of such author, and for the further term of five years, commencing at the time of his death, and shall be the property of such author and his assigns: Provided always, that if the said term of five years shall expire before the end of thirty years from the first publication of such book, the copyright shall in that case endure for such period of thirty years.

Duration of copyright of books published during the author's lifetime.

2. The copyright in every book which shall be published after the death of its author shall endure for the term of thirty years from the first publication thereof, and shall be the property of the proprietor of the author's manuscript from which such book shall be first published and his assigns.

Of posthumous works.

3. A registry book wherein may be registered, as hereinafter enacted, the proprietorship in the copyright of books and assignments thereof, shall be kept by the Registrar of Deeds, in his office in Cape Town, and shall at all convenient times be open to the inspection of any person on payment of one shilling for every entry which shall be searched for or inspected in the said book of registry; and the Registrar of Deeds shall, whenever thereunto reasonably required, give a copy of any entry in such book, certified under his hand, to any person requiring the same, on payment to him of the sum of five shillings; and such copies so certified shall be received in evidence in all courts, and

Regulations for Registry.

shall be *prima facie* proof of the proprietorship or assignment of copyright as therein expressed, but subject to be rebutted by other evidence.

4. It shall be lawful for the proprietor of copyright in any book heretofore published, or in any book hereafter to be published, to make entry in the registry book aforesaid of the title of such book, the time of the first publication thereof, the name and place of abode of the publisher thereof, and the name and place of abode of the proprietor of the copyright of the said book, or of any portion of such copyright, upon payment to the Registrar of Deeds of the sum of five shillings; and it shall be lawful for such registered proprietor to assign his interest or any portion of his interest therein, by making entry in the said registry book of such assignment, and of the name and place of abode of the assignee thereof, on payment of the like sum; and such assignment so entered shall be effectual in law to all intents and purposes whatsoever, without being subject to any stamp or duty, and shall be of the same force and effect as if such assignment had been made by deed or other instrument.

5. If any person shall deem himself aggrieved by any entry made under colour of this Act in the said registry book, it shall be lawful for such person to apply by motion to the Supreme Court in term time, or to any judge of the Supreme Court in vacation, for an order that such entry may be expunged or varied, and thereupon such Court or Judge shall make such order for expunging, varying, or confirming such entry, either with or without costs, as to such Court or Judge shall seem just; and the Registrar of Deeds shall, on the production to him of any such order for expunging or varying any such entry, expunge or vary the same accordingly.

6. If any person shall print or cause to be printed any book in which there shall be subsisting copyright without the consent in writing of the proprietor thereof, or shall import for sale from parts beyond the Colony any such book so printed in parts beyond the Colony, or, knowing such book to have been so unlawfully printed or imported, shall sell, publish, or expose for sale, or shall have in his possession for sale, any book so unlawfully printed or imported, without such consent as aforesaid, such offender shall be liable to an action for damages at the suit of the proprietor of such copyright.

7. All copies of any book wherein there shall be copyright, and of which an entry shall have been made in the said registry book, and which shall have been unlawfully printed or imported without the consent of the registered proprietor of such copyright, in writing under his hand, first obtained, shall be deemed to be the property of the proprietor of such copyright, and who shall be registered as such, and such registered proprietor shall, after demand thereof in writing, be entitled to demand delivery up to him of all existing copies, and to sue for and recover the same, or damages for the detention or conversion thereof, in an action against the party who shall detain the same.

8. A printed copy of the whole of every book which shall be published in this Colony after the passing of this Act, together with all maps, prints, or other engravings belonging thereto, finished and coloured in the same manner as the best copies of the same shall be published, shall within three months after such book shall first be sold, published, or offered for sale within this Colony, be delivered gratis on behalf of the publisher thereof to the librarian of the South African Public Library, and also to the librarian of the Graham's Town Public Library; and if any publisher of any such book shall neglect to deliver the same, pursuant to this Act, he shall for every such default forfeit a sum of five pounds sterling, to be recovered by such librarians respectively for and on behalf of the said libraries.

9. In the construction of this Act the word "book" shall be construed to mean and include every volume, part or division of a volume, pamphlet, sheet of letter-press, sheet of music, and map, chart, or plan separately published; the word "copyright" shall be construed to mean the sole and exclusive liberty of printing or otherwise multiplying copies of any book; and the word "assigns" shall be construed to mean and include every person in whom the interest of an author in copyright shall be vested, whether derived from such author before or after the publication of any book, and whether acquired by sale, donation, legacy, or by operation of law or otherwise.

10. This Act may be cited for all purposes as the "Copyright Act of 1873."

Mode of registering and assigning copyright.

Objections to entries in registry to be decided by Supreme Court.

Persons infringing copyright liable to damages.

Books unlawfully printed or imported to become the property of proprietor of copyright.

Copy of every book published in Colony to be presented to South African and Graham's Town Libraries.

Penalty for default.

Interpretation of terms.

Short title.

NATAL.

No. 15.

Lieutenant-Governor Sir B. C. C. Pine, K.C.M.G., to the Earl of Kimberley.—(Received April 7.)

My Lord,

Government House, Natal, February 11, 1874.

WITH reference to your Lordship's Circular despatch dated 29th July last, I have the honour to inform your Lordship that, on referring the same to the Attorney-General, that officer reports that, "having perused the draft Bill inclosed in the despatch from the Right Honourable the Secretary of State, he does not see that any amendments are required in the interests of this Colony."

I have, &c.
(Signed) BENJ. C. C. PINE.

Eastern Colonies.

CEYLON.

No. 16.

Governor the Right Hon. W. H. Gregory to the Earl of Kimberley.—(Received December 1.)

My Lord,

Queen's House, Colombo, Ceylon, October 30, 1873.

I HAVE the honour to acknowledge the receipt of your Lordship's Circular despatch dated the 29th July last, forwarding a draft of a Bill to amend the Copyright Act of 1842, and requesting me to furnish you with any suggestions which I may desire to offer upon the Bill.

I have the honour to inform your Lordship that we have no Copyright Act in Ceylon, and the necessity for one is now beginning to be felt. The Draft Act is amply sufficient to meet the reasonable requirements of this Colony.

I beg to submit the suggestion of the Queen's Advocate for consideration, whether the period of twenty days for the publication in the United Kingdom of a book first published in a British possession is not too short. Three months would be a reasonable time.

I have, &c.
(Signed) W. H. GREGORY.

SINGAPORE.

No. 17.

Governor Sir H. St. George Ord, R.E., C.B., to the Earl of Kimberley.—(Received December 1.)

My Lord,

Government House, Singapore, October 23, 1873.

I HAVE the honour to acknowledge the receipt of your Lordship's Circular despatch of the 29th July, 1873, forwarding for any suggestions I may desire to offer a draft Bill to amend the Copyright Act of 1842.

2. Having referred your Lordship's despatch and inclosures to the Attorney-General, this Officer informs me that there is no necessity for any action in the matter here; any measure that may be found suitable to other Colonies similarly situated as this, will be equally adapted to the Straits Settlements.

I have, &c.
(Signed) H. ST. GEORGE ORD.

HONG KONG.

No. 18.

Governor Sir A. Kennedy, C.B., K.C.M.G., to the Earl of Kimberley.—(Received December 31.)

My Lord,

Government House, Hong Kong, November 8, 1873.

I HAVE the honour to acknowledge the receipt of your Lordship's Circular despatch of the 29th July covering the draft of a Bill to amend the Copyright Act of 1842, and calling for any suggestions which I have to offer upon it.

The subject of this proposed enactment has little, if any, immediate interest for this Colony, but its provisions are suitable so far as they will affect Hong-Kong.

I have, &c.
(Signed) A. E. KENNEDY.

LABUAN.

No. 19.

Governor Bulwer, C.M.G., to the Earl of Kimberley.—(Received January 9.)

My Lord,

Government House, Labuan, November 26, 1873.

I HAVE laid before the Legislative Council of this Island your Lordship's Circular despatch of the 29th July last on the subject of a proposed amendment of the Copyright Act of 1842, for the purpose of extending to Colonial authors the privileges of copyright, and for securing, with due regard to the reasonable requirements of the Colonies and of proprietors of copyright in Great Britain, the uniform treatment of the subject throughout the Empire.

2. I have the honour to inform your Lordship that, in the opinion of the Council there is nothing in the circumstances of the Colony to prevent the adoption of the measure which Her Majesty's Government is prepared to introduce into Parliament; nor have I, on the part of the Colony, any suggestions to submit to your Lordship on the subject.

I have, &c.
(Signed) HENRY BULWER.

MAURITIUS.

No. 20.

Governor the Hon. Sir Arthur Gordon to the Earl of Carnarvon.—(Received May 29.)

(Extract.)

Mauritius, April 27, 1874.

LORD KIMBERLEY'S Circular despatch of the 29th July last, respecting Colonial copyright was, on its receipt, referred to the consideration of the Acting Procureur-General, who has just reported to me that he has no observations to offer upon the subject to which it relates.

Australia.

SOUTH AUSTRALIA.

No. 21.

Governor Musgrave, C.M.G., to the Earl of Kimberley.—(Received November 24.)

My Lord,

Government House, South Australia, October 8, 1873.

I HAVE called the attention of my Responsible Ministers to your Lordship's Circular despatch of the 29th July last, inclosing copy of one which you had addressed (24th July, 1873), to the Governor-General of Canada, with the Draft of a Bill to amend the "Copyright Act, 1842," which it is proposed by Her Majesty's Government to introduce in Parliament at an early period next Session, if it is found to meet the reasonable requirements both of the Colonies and of proprietors of copyright in Great Britain.

2. Your Lordship stated in that despatch, that you would be glad to be furnished at an early opportunity with any suggestions which my Ministers may desire to offer upon this Bill. In reply, I have the honour to state, that the passing of this Bill will be regarded as a great boon by Colonial authors, and as affording remedy to an injustice long existing, by extending to them advantages which hitherto they have not enjoyed. My Government do not desire to offer any suggestions, and content themselves with expressing a hope that the measure may now shortly become law.

I have, &c.
(Signed) A. MUSGRAVE.

WESTERN AUSTRALIA.

No. 22.

Governor Weld to the Earl of Kimberley.—(Received December 31.)

My Lord,

Government House, Perth, November 5, 1873.

IN reference to your Circular despatch of the 29th July, 1873, inclosing Draft of a Bill to amend the "Copyright Act of 1842," I have the honour to state, for your Lordship's information, that I have no remarks to make upon a measure, which, so far as my opinion may be of any value, ought, I think, to be considered by the Colonies as a proof of the desire of Her Majesty's Government to consult their interests, and to deal liberally with the question.

I have, &c.
(Signed) FRED. A. WELD.

QUEENSLAND.

No. 23.

The Marquis of Normanby to the Earl of Kimberley.—(Received January 26.)

My Lord,

Government House, Brisbane, November 28, 1873.

WITH reference to your Lordship's Circular despatch of 29th July, 1873, and former correspondence on the same subject, transmitting a copy of a despatch addressed to the Governor-General of Canada on the operation of the Imperial "Copyright Act of 1842," together with the draft of a Bill to amend the said Act, which it is proposed to introduce

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at an early period next Session, if it is found to meet the reasonable requirements both of the Colonies and of proprietors of copyright in England. I have been requested by my Responsible Advisers to state to your Lordship that, after giving the draft Bill their full consideration, they are of opinion that as its provisions meet the reasonable requirements of the Colony of Queensland, they do not think it necessary to offer any detailed observations upon it.

I have, &c.
(Signed) NORMANBY.

GIBRALTAR.

No. 24.

Sir W. F. Williams, Bart., G.C.B., to the Earl of Kimberley.—(Received August 29.)

My Lord,

Gibraltar, August 20, 1873.

I HAVE the honour to acknowledge the receipt of your Lordship's Circular despatch of the 29th ultimo, transmitting to me a copy of a despatch from your Lordship to the Governor-General of Canada on the question of the Imperial Copyright Act, 1842, together with the draft of a Bill to amend the law relating to copyright which it is proposed to introduce next Session if it is found to meet the reasonable requirements both of the Colonies and of proprietors of copyright in the United Kingdom, and in compliance with the request of your Lordship for any suggestions upon this question which I may desire to offer, I have the honour to state that I do not see any reason why the proposed Copyright Amendment Act should not extend to Gibraltar as recommended in my predecessor's despatch of the 13th August, 1870.

I have, &c.
(Signed) W. F. WILLIAMS.

ST. HELENA.

No. 25.

Governor Janisch to the Earl of Kimberley.—(Received October 2.)

My Lord,

St. Helena, September 9, 1873.

IN reply to your Lordship's Circular despatch dated 20th July last, transmitting copy of a despatch addressed to the Governor-General of Canada on the subject of the Copyright Act of 1842, together with the draft of a Bill to amend the Act, I have the honour to report that, after having laid this despatch before the Council, I have no suggestions to offer upon this Bill.

I have, &c.
(Signed) HUDSON R. JANISCH.

LAGOS.

No. 26.

Acting Administrator Lees to the Governor-in-chief.—(Received October 28.)

Sir,

Government House, September 23, 1873.

IN reply to the Circular despatch of the 29th July, inclosing the draft of a Bill to amend the "Copyright Act of 1842," I have the honour to transmit a Report on the subject from Mr. Mayne, Chief Magistrate of the Settlement.

I have, &c.
(Signed) C. C. LEES.

Inclosure in No. 26.

Mr. Mayne to the Acting Administrator.

Sir,

Lagos, September 22, 1873.

I HAVE the honour to report, with regard to the accompanying Circular, that I can see no reason why the proposed measure should not prove well adapted to deal with any questions of copyright, which may arise in this Settlement.

2. I must observe, however, that no such questions have as yet arisen, nor are they, in my judgment, likely to arise for some time to come. It seems only reasonable to assume that, in a Settlement so primitive as that of Lagos, no question is likely to be stirred, with which the provisions of an Act, prepared with a view to the requirements of the far more complex and elaborate societies which exist in other Colonies, would not be competent to deal.

I have, &c.
(Signed) ROBT. D. MAYNE.

BERMUDA.

No. 27.

Governor Lefroy, C.B., to the Earl of Kimberley.—(Received December 13.)

My Lord,

Government House, Bermuda, November 15, 1873.

WITH reference to your Lordship's Circular despatch, dated July 29 (received September 12), inclosing a proposed Copyright Act (1842) Amendment Bill, I have the honour to inclose a Report of the Attorney-General on this subject.

Mr. Gray is of opinion that there will be little difficulty in inducing the Legislature of this Colony to pass such an Act as is contemplated by section 8; but that there will be some difficulty in giving effect to its provisions, and that no benefit can result to the copyright holder proportionate to the trouble of affording him better protection.

2. In these opinions I concur. No books are reprinted in this Colony. The sale of books here is perfectly insignificant. The number of passengers arriving in the Colony from foreign countries of a class to introduce books is very small, and the number proceeding from the Colony to places other than New York or Halifax is still smaller. It would appear to follow that there is no way in which the interests of holders of copyright can have suffered appreciable injury under the present system, or do so by its continuance.

3. Copyright books reprinted abroad are subject to a duty of 15 per cent. when imported into Bermuda, of which 10 per cent. is payable to the proprietor of the copyright. The total sum collected under this head in the last three years has only amounted to 11. 4s. 1d. I am told that English cheap editions have driven American reprints out of the market, a very few copies of the London and Edinburgh Quarterlies, and of "Blackwood's Magazine," are the only books of that class imported by the two booksellers of this Colony.

I have, &c.
(Signed) J. H. LEFROY.

Inclosure in No. 27.

Opinion of Attorney-General Gray on Law of Copyright

Sir,

Bermuda, November 10, 1873.

I HAVE the honour to return the Colonial Office Circular despatch of July 29, 1873, relating to a proposed amendment of the law of copyright, with its inclosures, including the draft Copyright Bill. They should have been returned earlier but for the pressure of other official work, and the time required to master the provisions of the Bill, which is a little involved in its structure.

Under certain conditions it would, no doubt, be practicable materially to check, if not to prevent entirely, the importation of foreign reprints of British publications, or to secure to the copyrighter a reasonable compensation for the use of his literary property. I will not repeat here the arguments for and against such legislation, as affecting a little

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Colony like this, summed up in my Memorandum of July 27, 1870, on the Colonial Office Circulars of 1st and 2nd June, 1870.

The conditions of successful exclusion or protection seem to be :—

1. A prompt registration in the Colony of the work to be protected;
2. The imposition of a highly protective duty on foreign reprints of copyright works duly registered; and
3. Stringent regulations for enforcing that duty.

With all these conditions fulfilled, the importation of foreign reprints will be greatly checked; and, as scarcely any reprints are now imported, except works of fiction, the result will probably be that cheap American novels will supersede English novels, an exchange which neither morally, socially, nor politically will benefit Bermuda.

It may be doubted whether any system of literary protection will ever perfectly answer its purpose which does not embrace as a primary condition the distinct announcement on the title-page of the book of its being a foreign reprint; but of course nothing short of International Conventions could secure this.

The reciprocity between the United Kingdom and the Colonies offered by the draft Bill is perfect in theory, but will obviously be very far otherwise in practice.

I presume that the only clauses of the measure which affect a Colony situated as Bermuda is, are the 8th and 14th, which leave it open to the local Legislature to adopt measures for enforcing, in certain cases, a restrictive duty on foreign reprints, or at least a compensatory duty for the benefit of the owner of the copyright.

This scheme does not materially differ from that of the Bermuda Act for the Protection of the British Author passed in 1848, which Act, it must be acknowledged, has proved utterly ineffective.

It seems to me that the system of compensation proposed by that Act would have been more effectual if the holder of the copyright had been left to register his work in the Colony on his own responsibility, and if the protection of the Act had only extended to works so registered. The proprietor in that case would have no cause to complain if foreign reprints were imported before registration. But as long as Government undertakes the duty of furnishing lists of copyright works there is a probability that the importation into these islands, which at the best is very small indeed, will be always a little in advance of the reception of the lists here.

Although the scheme proposed seems to be theoretically complete enough, it is not easy to see how Revenue officers can be kept sufficiently informed of the titles of books entitled to protection. The importer can of course be easily rendered legally and penally responsible for smuggling books, or any other articles of commerce; but with respect to literary property, the practical check on the importer's accuracy must always be very slight.

Let the system be ever so perfect in itself, or well adapted to the Empire at large, it may be feared that in Bermuda the duty must be either so light as to afford no real compensation to the holder of the copyright, or so heavy as to hold out an inducement to smuggling; and in either case the trouble of collecting it must be out of all proportion to the resulting benefit to the copyright holder.

But I see no reason to believe that the local Legislature would hesitate to second the wishes of Her Majesty's Government with respect to this difficult subject, or to adopt any scheme which promised adequate protection to the owners of copyright works. At all events, there are no pecuniary interests to be conciliated or which will deter the Legislature from giving any reasonable protection to the British author and publisher, or warp its judgment in dealing with the subject.

As the details which are to affect this Colony are to be contained in a local Act, there are no parts of this Bill which call for any special suggestions from me.

I have, &c.

(Signed) S. BROWNLOW GRAY.

His Excellency Major-General Lefroy, C.B.,
Governor and Commander-in-chief, Bermuda.