

*R. A. Shields*

## **Imperial Policy and the Canadian Copyright Act of 1889**

When Canada's Minister of Justice, Sir John Thompson, introduced legislation in the House of Commons on 11 March 1889 dealing with copyright he opened a lengthy struggle with the United Kingdom involving such issues as the right of a self-governing colony to legislate contrary to existing imperial statute law, Britain's international treaty commitments relevant to copyright, and the interests of concerned British authors and publishers. In a similar manner Thompson's proposals brought to light a growing Canadian concern that the country's printing and publishing industries would succumb to unbridled United States competition unless adequate safeguards were implemented by the federal government. Of greater significance to both Canada and Britain in the emerging imbroglio was to the degree to which a dependency of the Empire could assert its autonomy in a field such as copyright let alone in other areas involving such prickly issues as fiscal and defence policies where Ottawa had already established a broad degree of independence. Indeed, the ensuing conflict between Canada and the United Kingdom on the copyright issue cast considerable light on the self-government the Dominion had already achieved within the Empire and the degree to which Canadian administrations were prepared to extend that autonomy in the declining years of the nineteenth century and the opening decades of the new one.

It is more than significant that John Thompson's copyright legislation made its appearance at a particular point in time when the campaign for imperial unity had assumed a new dimension with the establishment in London of the Imperial Federation League in 1884. Throughout its existence the League was viewed by many in the self-governing colonies as a direct threat to colonial self-government and the comments of the League's first president, William Edward Forster, a former Chief Secretary to Ireland, gave credence to this fear. In one of his initial observations regarding imperial unity Forster

described the Empire as "one State in relation to other States." Thus, self-government for the colonies had introduced a principle in imperial affairs that could well bring about the disintegration of the British Empire. It was with this problem in mind that the Imperial Federation League had been established, he argued.<sup>1</sup> What Forster had said in essence was that the League had been established to fight colonial self-government and many of his colleagues interpreted Canadian copyright autonomy in this light.

Of considerable concern to the advocates of imperial unity in Britain as well as interested British authors and publishers was the precedent Canada's assertion of copyright independence might well establish for other members of the Empire. Regarding Ottawa's proposed legislation, Hugh Arnold-Forster, the stepson of William Edward Forster and the provisional secretary of the Imperial Federation League, was particularly critical. Arnold-Forster, as a United Kingdom author and publisher of considerable repute, was hardly an unbiased observer of the scene. In addition to his activities with the Imperial Federation League Forster was a senior member of the publishing firm Cassel and Company. During his career with Cassel's he prepared a large number of educational handbooks the general purpose of which was to stimulate a greater degree of patriotism among his readers.

According to Arnold-Forster, Canada's legislation establishing the country's copyright autonomy raised "very serious" issues. If London permitted Sir John Thompson to proceed it would mean very simply that the "property of British authors" would be seriously "jeopardised." Of more significance for Arnold-Forster were the imperial consequences of Canadian copyright independence. Should Ottawa be allowed to continue unhindered the Canadian example might well be emulated in Australia and other regions of the Empire.<sup>2</sup>

Where the U.S.A. was concerned considerable fear was expressed in British publishing circles regarding Canada's copyright initiative. Though Washington had not subscribed to the Berne Copyright Convention of 1886 to which, however, Britain had given her adherence and that of her Empire, several United States publishing firms gave compensation to British authors whose works they published. They did so only on the understanding that Canadian establishments were denied publication privileges of the works in question. In essence, the behaviour of United Kingdom authors and United States publishing firms posed a serious threat to Canada's publishers and printers and explains in good part the dedication and tenacity of Sir John Thompson in defending and promoting his 1889 bill.

Essentially, Ottawa's legislation granted copyright provided that the author concerned published or republished his work in Canada within one month of publication elsewhere. This requirement could be extended for a further period if the Minister of Agriculture was persuaded that satisfactory progress had been made by the author or his publisher for publication facilities in the Dominion. Should such interested parties fail to take advantage of these provisions the Minister was empowered to issue a license to any other person to republish the work in question provided that an agreement to pay a royalty of ten per cent on the retail price of every book sold under the license was filed with the Department.<sup>3</sup>

Expanding on this theme Sir John explained that copyright in Canada was governed by both Canadian and imperial legislation. Thus, under a Canadian enactment of 1875 an author obtained copyright only on the condition of printing and publishing in the country. However, by virtue of a British statute of 1842 which was still in force, United Kingdom authors enjoyed copyright protection throughout the Empire and reprinting privileges in Canada could only be obtained with the consent of the particular author. Canada's publishing houses were thus unable to reprint the works of British residents without a transfer of the rights of the author. The problem for the Canadian publishing industry had been magnified by Britain's adherence to the Berne International Copyright Convention of 1886 to which Canada had acquiesced. Under the terms of this agreement the citizens of a great number of foreign countries enjoyed British copyright protection and thus were able to deny republishing rights to Canadian interests.

On the issue of United States competition Sir John was particularly emphatic. While Canadian publishing houses were prohibited from reprinting copyrighted works, American firms all too often purchased a British author's rights which extended to Canada under the 1842 statute. Having bought these rights for what Thompson delicately described as "a large consideration," United States publishers issued "enormous editions" possessing copyright "all over Canada." This situation, of course, militated against Canadian publishing houses and should be allowed "no longer to continue," the Justice Minister argued.

Continuing his attack against both United Kingdom copyright law and United States competition, Thompson pointed out that American authors obtained copyright for their works in Britain by residing there "for a very short time." The copyright obtained extended to Canada

and permitted such authors to deny the publication in the country of any or all of their works.<sup>4</sup>

The Canadian Copyright bill received almost immediate support from Canada's leading journal of commercial opinion. In a lead editorial *The Monetary Times and Trade Review* pointed out that the duty on imported American reprints was hardly ever collected for the simple reason that British authors rarely made a formal claim with Ottawa for such revenues either from a lack of understanding of Canadian customs regulations or from indifference. Now, under the new legislation with its licensing provisions, British authors were guaranteed a royalty return. Though in the United Kingdom literary lights would now benefit by Ottawa's proposals, the *Monetary Times* anticipated opposition to the legislation. British authors, it observed, held a "curious notion" that imperial copyright should be "effective throughout the whole . . . Empire."

Anticipating a British argument that the republic of letters should know no national boundaries, particularly within the Empire, the *Monetary Times* insisted on Canada's right to self-government in the matter. The editorial pointed out that imperial patent law did not apply to Canada and therefore no distinction should be made between Canadian legislation on that topic and enactments applying to copyright.<sup>5</sup> The journal's opinions, it will be seen, carried little weight with imperial authority.

As his legislation would only take effect with a British denunciation of the Berne Convention as it applied to Canada, Thompson swiftly contacted London on this point. Admitting that imperial legislation adopting the Berne Convention extended to the Empire, the Justice Minister pointed out that the copyright act could not be proclaimed in force until London had given the required year's notice of termination where Canada was concerned. Having urged Whitehall to act on behalf of its dependency he then turned to a lengthy and elaborate justification of his proposals.

Over and beyond his criticism of United States publishers' purchasing the copyright to British works, Sir John noted the practice of American authors publishing a very limited edition of their own works in the United Kingdom. These limited editions immediately obtained British copyright which again by the imperial statute of 1842 extended to Canada. Thus, by obtaining copyright for their own productions in Canada by prior publication in Britain and by the purchase of copyright from British writers, both United States publishers and authors exerted an overwhelming influence on the Canadian

market. The fact that American reprints were so much cheaper than the United Kingdom originals effectively prevented the latter from competing in Canada. Further, the denial to Canada's publishers of reprinting privileges had essentially "thrown into the hands of American competitors" the reprinting of British works for Canadian readers to "the very great detriment of the publishing interests of Canada."

Realizing full well that his policies could lead both to a conflict with imperial authority and a challenge from United Kingdom authors, Sir John sought refuge in the subtleties of the British North America Act. Referring specifically to Section 91 of that statute he observed that it granted Parliament in Ottawa "power as full as that possessed by the Imperial Parliament to say who should, and who should not, have copyright" within Canada. Where British authors were concerned the Justice Minister attempted to mollify a potentially dangerous adversary by pointing out that writers enjoying copyright prior to the proclamation of the legislation would continue to enjoy such protection in Canada.<sup>6</sup>

Imperial reaction to John Thompson's analysis was a curious mixture of adversity and sympathy. At the Colonial Office John Bramston, at that time an assistant under-secretary, described the Justice Minister as "verbose and not very kind." According to Bramston the key question was whether the Canadian parliament had the right to legislate in opposition to existing imperial statutes and thus deny their operation in Canada.<sup>7</sup> Sir Robert Herbert, the permanent under-secretary to the Colonial Office, came down heavily on John Thompson's side. As Herbert interpreted the British North America Act, Section 91 most certainly empowered Ottawa to legislate in opposition to imperial statutes and to amend or repeal any such statutes as they applied to Canada. To argue otherwise would be an admission that the "grant of self-government" of 1867 had been "imperfectly conceded." If Whitehall insisted on its supremacy then the result could only be "a serious constitutional difficulty" with Canada.<sup>8</sup>

Robert Herbert's opinions were stiffly opposed by Lord Knutsford, the Colonial Secretary. In the first instance he suggested that the Colonial Office take no action on the Canadian legislation until the matter had been discussed with Frederick Dalrymple, the honorary secretary of the British Copyright Association. In these brief comments Knutsford had revealed himself as susceptible to influence from an obviously concerned interest group in the United Kingdom. Regarding Sir John Thompson's arguments on Ottawa's powers un-

der the British North America Act, the Colonial Secretary was negative. As Knutsford saw it, that Act granted the federal government "full and plenary power" over copyright but only with view to obtaining uniformity throughout the country and to prevent the development of copyright systems in the provinces. The legislation, he insisted, did not give Ottawa the right to interfere with British copyright law such as the 1842 statute, and therefore the imperial government should not sanction any measure that was in conflict with a United Kingdom enactment.<sup>9</sup>

An impartial and balanced assessment of Canadian policy was presented by William Edward Davidson, the legal adviser to the Foreign Office. According to Davidson the federal government was convinced that its legislation "practically superseded" the provisions of Britain's 1842 statute. The Canadians he noted, argued that where the two statutes conflicted Ottawa's copyright act took precedence on the very simple grounds that subsequent legislation nullified previous action on the subject: *posteriores priores leges abrogant*. The Canadian reasoning, he suggested, had been bolstered by the British North America Act and the power to "exclusive legislative authority" over many matters including copyright "not only against the various provincial legislatures but even against the United Kingdom itself."

In turning to a more negative analysis of the problem, Davidson referred to Samuel Smiles' work *Thrift*, which had been published in Britain in 1875. Smiles' book had been promptly republished by the Belford Brothers publishing house of Toronto and had resulted in court action by the author to obtain an injunction against Belford. In his action Smiles had argued that though he had not availed himself of the printing and publishing provisions of the Canadian Copyright Act of 1875 he nonetheless enjoyed copyright in Canada under the terms of the 1842 imperial statute. The Ontario Court of Appeal in its decision *Smiles vs. Belford* had ruled in favour of the author in 1877. As Davidson observed, this decision was upheld by the Court of Appeal for Canada and thus laid down the principle that the British North America Act of 1867 did not give Canada any right to legislate on copyright or for that matter on any other questions exclusively granted to Ottawa under Section 91 when contrary or hostile to existing United Kingdom statutes.<sup>10</sup>

With opinion somewhat divided in Whitehall it was understandable that reference was made to the Law Officers of the Crown for a ruling. Perhaps less understandable was the fact that Lord Knutsford availed himself of the opinions of the British



Copyright Association while the Canadian bill was being adjudicated. Speaking for the Association, Frederick Daldy bitterly criticized the licensing requirements of John Thompson's bill arguing that such provisions would "rob the author of the control of the fruit of his own brain and labour" and would interfere with a writer's property by "compelling him to sell at a fixed price."<sup>11</sup>

In the spring of 1890 the Law Officers ruled that the British North America Act did not empower Canada to amend or repeal United Kingdom statutes that had granted certain groups "privileges" in the Dominion. In his correspondence with Ottawa, Lord Knutsford specifically referred to the pressure to which the administration had been exposed in his comment that "special objection" was taken to Canada's legislation by "the proprietors of copyright in Britain." This group, he explained, was particularly concerned with the requirement that authors republish in Canada within one month of publication elsewhere. He pointed out that the Canadian Copyright Act of 1875 which had received imperial approval imposed no time restrictions whatsoever regarding reprinting and republishing. Faithfully reflecting Frederick Daldy's exhortations, the Colonial Secretary attacked Ottawa's licensing provisions. Arguing that the issuance of licenses by the Department of Agriculture would be quite appropriate in those cases where authors had not made "adequate provision" for republication in Canada, Knutsford dismissed Thompson's time requirement of one month as "hardly reasonable."<sup>12</sup> The Colonial Secretary's lengthy reply, which less than subtly called for amendments to the legislation, engendered a swift reaction in Ottawa.

Correctly interpreting Lord Knutsford's despatch as merely a vehicle for the views of the British Copyright Association, Sir John Thompson bitterly criticized that body and Frederick Daldy as "hostile" to any measure whereby Canada established her right of self-government over copyright. Thompson went so far as to argue that Daldy and the Association would not be satisfied until the Canadian government agreed to an "entire abandonment" of the 1889 bill and had implemented measures designed to safeguard "more strictly" the owners of copyright in Canada.

In his determination to convince London that Britain's 1842 legislation had brought "great hardship and inconvenience" to the country, Sr. John resurrected his favourite theme of United States domination of the Canadian publishing industry. Pointing out that the U.S.A. was not a party to any international copyright convention, the Justice Minister emphasized the purchase by America publishers

of British copyright and then the subsequent sale of reprints not only in the United States but to the "reading public of Canada" as well. As Canada's publishers rarely obtained copyright privileges from United Kingdom authors their lack of business had led on occasion to the "transfer of printing establishments from Canada to the United States."<sup>13</sup>

By mid-summer of 1890 with the copyright imbroglio at an impasse John Thompson travelled to London to press a settlement of the issue in addition to discussing other matters engaging the attention of Ottawa and Whitehall. In a lengthy memorandum prepared for the Colonial Office he elaborated on Canadian grievances additional to those he had analyzed earlier. Regarding the practice of United States authors' obtaining copyright in the United Kingdom and thus in Canada, he noted that such authors frequently visited the Dominion for a brief period, forwarded a few copies of the work in question to Britain and thus obtained protection throughout the Empire. There was no requirement for these authors to print their works in Canada as the imperial government had interpreted the 1842 statute to imply that publishing did not necessarily mean printing. As Whitehall interpreted the 1842, legislation, the term "publish" meant simply the registration of the work in question for copyright purposes with the Board of Trade. The residence requirement in Canada or the United Kingdom was of such brief duration that upon his return to the U.S.A. the author enjoyed full protection in Canada and his works entered both the Canadian and British markets as foreign reprints carrying imperial copyright.

Canada's authors, Thompson emphasized, were at a marked disadvantage compared to their American contemporaries. A Canadian writer was denied copyright protection in the United States for the very simple reason that Washington had not concluded an agreement with Britain on the topic nor had the American administration adhered to the terms of the Berne Convention. In order to remedy these inequities as well as the problems affecting the country's publishing houses, Ottawa had brought forward its latest copyright legislation.<sup>14</sup>

With a view to bringing as much pressure as possible on the imperial government, Canada's Justice Minister arranged two private meetings with Lord Knutsford. During these sessions additional impediments to Canadian self-government emerged. According to the Colonial Secretary, Ottawa's copyright proposals were not only undesirable but they quite possibly violated Britain's Colonial Laws



Validity Act of 1865 let alone the Copyright Act of 1842. Simply put, the Colonial Laws Validity Act proclaimed invalid any colonial legislation that conflicted with a statutory enactment of the imperial parliament. Thompson, understandably, demurred pointing out that many federal and provincial acts had been approved which were in conflict with British statutes. To deny the competence of Canada's parliament to legislate on the question of copyright because of conflict with the Colonial Laws Validity Act would result in a vast range of Canadian legislation being challenged, he emphasized.<sup>15</sup>

At the second meeting Lord Knutsford indicated clearly that the administration was bound by the Law Officers' ruling. Needless to say, Thompson continued to contest this view. He suggested that even if the Judicial Committee of the Privy Council ruled against Canada, Ottawa would then request the imperial government to repeal the Colonial Laws Validity Act. As Knutsford appeared unwilling to discuss this possibility, Sir John suggested that London consider amending imperial copyright law as it applied to Canada.

Indicative of the pressure to which the Colonial Secretary and the administration were exposed was Knutsford's candid admission that it would be impossible to modify imperial statutes on the issue given the strong feeling in the United Kingdom regarding copyright uniformity throughout the British Empire. He nonetheless made a temporizing gesture to Canadian susceptibilities by suggesting that Ottawa should formally request the imperial government to approve the 1889 bill. Sir John replied that Canada would be better off contesting the applicability of the Colonial Laws Validity Act which, he argued, was the key element employed by the Law Officers in denying Canada the full powers inherent in the British North America Act. As Thompson caustically observed, the Law Officers' interpretation of the former statute was being applied solely in the interests of British publishers.<sup>16</sup>

In the aftermath of Sir John Thompson's abortive discussions with Knutsford it was apparent to the Colonial Office that Canada was faced with three options on the copyright issue. In the first instance, the Justice Minister could return to Ottawa to discuss with his cabinet colleagues the preparation of a case contesting the validity of the Colonial Laws Validity Act by means of a referral to the Judicial Committee of the Privy Council. Secondly, the Canadian government could officially petition London to introduce legislation confining the copyright privileges of British authors to the United Kingdom. Finally, the imperial government itself could implement legislation

formally recognizing the right of Canada to issue licenses as provided in the 1889 act.<sup>17</sup> None of these possibilities, however, was acted upon over the succeeding years though John Thompson's general policies were subjected to a clinical analysis in the Colonial Office.

According to John Bramston, the Canadian government was tilting at windmills. Examining the country's customs regulations he noted that a duty of 15 per cent was levied on all imports of printed books, periodicals and pamphlets while reprints of United Kingdom copyright publications were subject to an additional 12 1/2 per cent for the benefit of British authors. For the year ending June 30, 1889 imports from the U.S.A. of British copyright books were valued at \$15,941 and on this amount a duty of \$2,388 had been paid. As Bramston studied these figures he came to two possibilities: Canada's publishers were "making all this fuss" for the sake of less than \$16,000 annually in American competition to their own interests. He further suggested that only a small portion of the imported reprints paid duty as the opportunities for smuggling were "so great" along the Canada—U.S.A. frontier that smuggled reprints were probably as numerous as those that entered legitimately.

Where the United Kingdom was concerned Bramston was convinced that Canadian publishers wanted to reprint some of the British works valued at \$240,000 that had entered Canada in fiscal 1889. Such publishers would only have to pay a 10 1/2 per cent royalty to the author while British exporters would still face the Canadian duty of 15 per cent. Regarding that duty Bramston predicted that Canada's printers and publishers would lobby parliament for an increase.

Concluding his analysis, John Bramston found Canada's legislation wanting. Canadian publishers under the proposed law might well reproduce British works for their own nationals but finding themselves barred from the much larger United States market they would probably agitate for an increase in duty to prohibit entirely the entry of United Kingdom produced books which would only work "to the detriment of the English author."<sup>18</sup>

With matters at a standstill in the summer of 1890 an inter-departmental dispute ensued in Whitehall between the Board of Trade and the Colonial Office while at the same time the Copyright Association increased its agitation against the Canadian legislation. Revealing itself as an ardent supporter of British literary interests, the Board called for "uniformity" of copyright law throughout the Empire maintaining that such "uniformity" would be "seriously im-

paired" if colonial parliaments were allowed to legislate on the issue. As for Canada, the Board completely rejected Ottawa's complaints with the rather inappropriate suggestion that Canadian publishing houses would fare much better when changes were implemented in the "legislation and procedure of the United States," an obvious reference to Washington's unwillingness to either join the Berne Convention or to conclude a copyright agreement with Britain.<sup>19</sup>

Despite John Bramston's frequent criticisms of Canada's copyright proposals his department rallied to Ottawa's cause. In a display of inter-departmental pique, the Colonial Office pointed out to the Board of Trade that a licensing system in the colonies, to which the Board took such strong objection, had been unanimously recommended by the Royal Commission on Copyright which had been appointed in 1875 and which had reported in 1878. At that time the Commissioners had supported the issuance of licenses by the self-governing dependencies in those cases where the copyright owner had not availed himself of the copyright legislation of any particular colony. The Commission had further argued that where authors had not reprinted or republished in a colony "within a reasonable time after publication elsewhere," the colonial government should be entitled to issue licenses for republication after guaranteeing an adequate royalty. Emphasizing their support for colonial autonomy in this field, the Commissioners had bluntly observed that any such legislation should not be "settled by the Imperial Legislature" but rather should be implemented by "special legislation in each colony."<sup>20</sup> In retrospect it is clear that Sir John Thompson's legislative initiative of 1889 had conformed with the Commission's guidelines.

The Colonial Office riposte to its sister department carried an implicit criticism of inconsistency. The Office noted that among the Commissioners was Frederick Dalrymple, though he had supported the concept of colonial licensing in 1878, was now promoting "a different view to that which he then apparently entertained . . ."<sup>21</sup> Understandably, the Colonial Office did not refer to the fact that Lord Knutsford whose support for Sir John Thompson was at best questionable had also been a member of the 1875 Copyright Commission!

By the close of 1890 Canadian policy over copyright had become clear. As Sir John Thompson described the situation "a little more prodding" of the imperial government would do "no harm" and in order to promote this goal the Justice Minister prepared yet another

statement of Ottawa's case.<sup>22</sup> In the first instance, Whitehall should introduce legislation "declaring the full authority" of Canada to act on copyright regardless of earlier British statutes. Further, in view of the "doubts" that had been expressed regarding the Canadian parliament's power to introduce measures hostile to imperial enactments, the Canadian copyright act should be "ratified and confirmed" by parliament at Westminster.<sup>23</sup>

With no indication forthcoming from London that the administration was willing to entertain Thompson's requests the Canadian parliament took concerted action. At the end of September, 1891, both Commons and Senate approved a joint address calling upon the imperial government to accede to the country's oft-repeated demands.<sup>24</sup> The parliamentary address at least spurred Whitehall to action though not along lines acceptable to John Thompson.

In order to solve the copyright problem that had now endured over three years an inter-departmental committee was established to arrive at appropriate recommendations. Among the committee's members was John Bramston who had hardly identified himself as an advocate of Canadian copyright ever since the bill had first been introduced in the House of Commons. His colleague Sir Henry Bergne, the Superintendent of the Treaty Department of the Foreign Office, was noted for his staunch defence of British international treaty commitments such as the Berne Convention and for his opposition to colonial measures that threatened imperial suzerainty.<sup>25</sup> Alexander Hugh Bruce, the sixth Baron Balfour of Burleigh, the parliamentary under-secretary to the Board of Trade, was selected to represent that department. Regarding the Board's attitude little need be said given the fact that it had consistently supported the supremacy of imperial statute law on copyright and had quite openly acted as a spokesman for the British Copyright Association. Rounding off the committee was Courtenay Ilbert who at that time was serving as a parliamentary counsel. Ilbert's appointment was doubtless due to his reputation as "a first rate parliamentary draftsman" who would have "an unflinching grasp of law and legal principles" particularly where differences arose over the wording of British and Canadian statutes.<sup>26</sup>

When the interdepartmental committee issued its findings on 20 May 1892, it contained both a lengthy historical analysis of imperial copyright legislation and a rejection of Canada's 1889 enactment. The committee noted that the Copyright Act of 1842 granted an author copyright throughout the British Empire following first

publication in the United Kingdom for a period of forty-two years or seven years after the author's death, whichever period was longer. In order to receive such protection a book had merely to be published in Britain, not printed, and the author in question did not have to be a British subject nor did he have to reside in or be domiciled in any portion of the Empire. Also, as the committee pointed out, first "publication in the United Kingdom" was consistent with concomitant publication elsewhere."

The committee admitted that the legislation in question gave no protection to a colonial author for works first published in his own colony. In Canada, for example, an author might avail himself of Canadian copyright protection but "such legislation would not operate elsewhere." With a view to expanding colonial autonomy in the field the imperial government had introduced the Colonial Copyright Act of 1847, more popularly known as the Foreign Reprints Act. Under the terms of this statute Whitehall by order-in-council could permit a dependency to legislate on such matters as "importing, selling, or otherwise dealing in books copyrighted in the United Kingdom" which had previously been governed by British statutes provided that "sufficient provision" was made "for securing to British authors reasonable protection within the Colony."

Canada had accepted the provisions of the Foreign Reprints Act by assessing United States reprints of British copyright works a customs duty of 12 1/2 per cent to be collected by the government and paid to Whitehall for the benefit of United Kingdom authors. Thus, the committee argued, Ottawa had adhered to and followed the provisions of the 1847 Colonial Copyright Act.

Turning to the international scene the report noted that Canada had "expressly assented" to the Berne Copyright Convention of 1886. The Convention to which Britain had given approval by the Imperial Copyright Act of the same year and adopted by order-in-council in 1887, embodied two important principles: the principle of imperial copyright whereby the author of a book published in any part of the Empire obtained copyright throughout the Empire and the principle of international copyright by which an author of a work published in any country adhering to the Convention enjoyed copyright in all the member states.

For the committee the provisions of the Berne Convention were "strictly reciprocal" and any country imposing as a condition of copyright a provision for reprinting "locally" a work published in a member state had violated the Convention and therefore "must with-

draw." Significantly, the report did not acknowledge Canada's request of three years earlier to be relieved from the obligations of the Convention.

Where Sir John Thompson's legislation was involved, the committee was specific and hostile. Imperial approval of the Canadian law would mark an abandonment by London of long-standing policy on both imperial and international copyright. Equally, Canada's bill, if implemented, would be a significant departure from Britain's practice of making copyright independent of the place of printing. Admitting frankly that its views had been influenced by the British Copyright Association, the members rejected Thompson's legislation on the grounds that it injured "the rights in Canada of British authors."

In what was a critical and at times brutal dissection of Canada's copyright law only a few points of substance emerged from the committee's report. It suggested that if Ottawa was interested in lowering the price of books for the benefit of the Canadian reading public consideration might be given to reducing or repealing the import duties on such items. Further, the imperial government might consider approving a copyright law incorporating a licensing system provided that the work in question had not been produced in either Canada or Britain within "a reasonable time" and that adequate royalty safeguards were established. By "reasonable time" the committee suggested a period of twelve months noting that Ottawa's bill did not provide such "adequate safeguards."<sup>27</sup>

The committee report initially created a division within the ranks of the Colonial Office and evoked a savage rebuttal from Ottawa. Rising to defend the Canadian bill and placing himself in direct opposition to John Bramston his departmental colleague, John Anderson, at that time at second-class clerk in the North American Department, insisted that the report played into the hands of those Canadians who favoured annexation to the United States. He pointed out that advocates of annexation lost no opportunity in arguing that Canada suffered serious disabilities as a member of the British Empire. The imperial government by demanding that the copyright act be amended "in the interests of English publishers" gave the annexationists the "very weapon" they were seeking. The Conservative government at Ottawa, Anderson emphasized, would find it very difficult to refute annexationist arguments by constantly referring to Canada's "complete self-government" for the very simple reason that imperial obstinacy effectively denied Canadians the power to "regulate the rights of copyright in the Dominion."



In an obvious reference to the joint Commons and Senate address of 1891, Anderson noted that the Canadian parliament had demonstrated "a strong and unanimous feeling" in favour of the 1889 act. That "strong and unanimous feeling" would now be strengthened in the light of the committee's highly negative report. Eventually, Whitehall would have to "give way" to Ottawa's demands but British procrastination and delay would have created much "mischief" and in terms of the unity of the Empire such "mischief" would then be "past recall."

Turning to past history John Anderson recalled that as far back as 1873 the Colonial Secretary at that time, Lord Kimberley, had suggested that the self-governing colonies be permitted to license reprints of British copyright works when the author concerned had not reprinted his books in the colony within a period of six months after first publication. Now, in 1892, the interdepartmental committee had recommended a period of twelve months. For Anderson this was completely unacceptable. Over the passage of twenty years Canada had developed and Canadians were "proud of the position" their country had achieved "among the nations." To now offer Canada a compromise that had been refused when the country "was still in its infancy" would be seen as "nothing short of an insult."

John Anderson concluded his pungent assessment by observing that the "fate" of the copyright bill posed "very serious problems" for London's future relations with Ottawa. Given the gravity of the situation, he rejected the report emphasizing that the committee members would have to come up with much better arguments to justify their case.<sup>28</sup>

It is more than obvious from the evidence that John Anderson had solidly supported Canada. What is equally obvious is the fact that he had openly criticized John Bramston who had represented the Colonial Office on the committee. Bramston was swift to reply. He pointed that the committee members, unlike Anderson, had to deal with the question over and beyond "the Canadian standpoint." His junior colleague, he suggested, had completely overlooked the possibility that the imperial parliament might well refuse to approve the Canadian bill. Having tacitly acknowledged the influence that British authors and publishers could bring to bear upon the administration, Bramston observed in a highly sarcastic vein that he doubted that Canada would "haul down the British flag" merely because Ottawa had been asked to reconsider its legislation. Immediate imperial approval of Thompson's bill would mean the with-

drawal of Canada from the Berne Convention and lead to the "break up altogether of the international system of copyright" to which Ottawa had adhered "only six years ago."<sup>29</sup> Needless to say, Bramston did not refer to the fact that Sir John Thompson had been demanding Canada's withdrawal for the very same period.

John Bramston's views carried the day. Lord Knutsford agreed that the imperial government could hardly take action on the committee's celebrated report until it heard from Ottawa.<sup>30</sup> Thus, yet another solicitation of the Canadian government's views was made and the fate of the copyright bill was consigned to an undetermined limbo.

In Ottawa Sir John Thompson, Prime Minister since 25 November, 1892, following the resignation of Sir John Abbott, permitted himself a private expression of rage over continual imperial delay. Writing to John Ross Robertson, the president of the Canadian Copyright Association and the publisher of the Toronto *Evening Telegram*, he admitted that if the conflict with London involved only "a mere matter of business profits" he would be prepared to give up the interminable trans-Atlantic squabble. However, the continued frustration of Ottawa's goals was "a question of principle" and it had become Canada's duty to express "dissatisfaction with the present system."

Reviewing the country's experiences at the hands of imperial officialdom, Thompson accused Whitehall of negotiating with Canada "in a spirit of mere trickery." Initially, London had agreed that copyright was a "very important" issue and the Royal Commission in its report had unanimously supported a colonial license system. Somewhat taken aback by the Commission's strong endorsement of Canada's proposals, the imperial government had urged further consideration of the entire issue. This was followed, the Prime Minister noted sarcastically, by a request from Lord Knutsford for a statement of the Canadian cabinet's views, a lengthy letter from Thompson himself as Justice Minister at the time, and an address from both Houses of Parliament, all in order "to strengthen" the Colonial Secretary's hands in pressing for concessions which he had previously championed as a member of the Royal Commission. Bluntly describing Knutsford as "so weak," Sir John cordially damned the Colonial Secretary for resorting to the "old expedient" of appointing a committee of civil servants to study all over again Canada's copyright legislation despite the fact that it had already been "considered and reported on by statesmen, and experts of the highest rank."

On the issue of imperial parliamentary approval of his bill, Thompson remained skeptical. The introduction of a bill endorsing Canada's act would more than likely be defeated by "the influence of the privileged classes," the Prime Minister noted, employing a none too subtle euphemism for Frederick Daldy and the British Copyright Association. Sir John was equally dubious concerning a judicial ruling. The act and Ottawa's power to legislate on the problem would sooner or later come before the Judicial Committee of the Privy Council. Thompson observed that in the normal course of events many Law Officers of the Crown eventually received appointments to the Committee. Thus, "three or four gentlemen" who had earlier ruled against Canada's copyright would be called upon to render a final judgment regarding its constitutionality. Demonstrating his suspicion of and contempt for the Empire's ultimate court of appeal, the Prime Minister recalled that his previous experience with such law officers did not lead him to believe that they would be "free from prejudice," nor would they be convinced even "by the plainest case." Given these circumstances, the Prime Minister concluded that he would choose the lesser of two evils and continue to press the imperial government to enact legislation placing Ottawa's authority "beyond cavil."<sup>31</sup>

In his continuing battle with Whitehall John Thompson became very aware that the interdepartmental committee's report had been partly based upon the delicate state of Anglo-American relations relevant to copyright. As far back as the spring of 1891 Congress had approved legislation whereby copyright was granted to any author provided that two copies of the book printed from type set within the United States, were deposited in Washington on or before publication. A foreigner who sought such copyright had to prove, in addition, that his country granted United States citizens the benefit of copyright on the same terms as those enjoyed by his fellow nationals. This requirement, of course, was very easily met by United Kingdom residents. Under the Act of 1842 a foreigner obtained copyright in Britain and the Empire by mere publication in the United Kingdom without any obligation as to the type being set in either the mother country or the colonies.

On 15 June, 1891, Lord Salisbury, holding down the twin portfolios of Prime Minister and Foreign Secretary, reached an agreement with the United States whereby American citizens would continue to obtain copyright protection under the terms of the 1842 statute. Canada's demand for approval of her legislation was now being rejected in addition to other reasons on the grounds that "the in-

ternational arrangement with the United States" precluded any consideration of Canadian interests, Sir John observed. In defending his bill, the Prime Minister noted that American citizens who held copyright in Great Britain would be on an identical footing as their British contemporaries. He further argued that if the United States denounced its agreement merely because the Canadian market would be denied to American authors, then Ottawa would become even more vociferous in its demand for approval of the 1889 bill.

Sir John openly accused Whitehall of coming perilously close to placing "an important commercial interest of Canada at the disposal of a privileged class in Great Britain to be bartered for privileges for that class in a foreign country." Muted strains of separation from the Empire coloured the Prime Minister's polemic in his terse observation that Canada's publishing industry had been placed at a disadvantage compared with other countries for the very simple reason that Canadians had "retained connexion with the Empire." Sir John's conclusion was emphatic. The country's legislation must be approved whether or not a better copyright agreement was reached between London and Washington.<sup>32</sup>

Whitehall's response to John Thompson's missive was generally resigned and mildly approving. At the Colonial Office John Anderson applauded the submission as "very able" though not particularly "diplomatic." Again revealing his understanding of Canadian policy, he urged his superiors to recognize "the full right of Canada" to legislate on copyright "as on all other matters of domestic concern." To do so would avoid "a very prolonged argumentative struggle" with Ottawa in which London would be "worsted in the end." The maintenance of imperial authority in the field, Anderson insisted, was an "anachronism." The United Kingdom did not assert its control over Canadian patent law and to continue to regulate copyright was "a serious invasion of the rights of self-government."<sup>33</sup>

John Anderson's recommendations carried the day, at least in the Colonial Office. His proposals were forwarded to the Board of Trade and the Foreign Office as reflecting the department's considered opinion though John Bramston gloomily predicted that British publishers and authors would make it "very difficult to pass any bill through Parliament."<sup>34</sup>

Despite the Colonial Office and John Anderson's best efforts, no progress at resolving the issue was reached in the first months of 1894. In a move that was obviously designed to force London's hand, Ottawa announced early in the new year that it would no longer

collect the duty of 12 1/2 per cent on foreign reprints of British copyright books for the benefit of the holders of the copyright. The reason advanced by the Canadian government was the "expectation" that London would shortly amend imperial copyright legislation as it applied to Canada.<sup>35</sup>

The Canadian government's action availed little. Though the Colonial Office remained sympathetic, the Board of Trade continued to urge its sister department to "shelve this question." The Board's adamant stand earned it a sharp rebuke from John Anderson who accused Board officials of displaying a "very great ignorance" of the entire problem, particularly as the Canadian bill had been in suspension for six years.<sup>36</sup> In a similar vein Sir John Thompson indicated that his patience had worn thin. Writing to Frederick Daldy, he declared that the copyright struggle had gone beyond the stage of negotiations. The reason was simple. The treatment Canada had received was "too bad to be spoken of with patience."<sup>37</sup> In what now appears to have been a next to last-ditch attempt to salvage his bill and to restore Anglo-Canadian relations to some degree of normalcy, the Prime Minister called upon John Ross Robertson to travel unofficially to London with a view to persuading Whitehall to move more quickly on the issue. Robertson himself was not optimistic. Displaying a considerable inferiority complex and a fear of being easily intimidated, he remarked the "civility was not a distinguishing characteristic of the under officials at Downing Street." Though he might well escape from an encounter with the administration "without broken bones," Robertson felt that he would "subject himself to snubs" which he had "no desire to encounter."<sup>38</sup> Despite these misgivings, he travelled to Britain.

In his report to the Prime Minister, Robertson admitted that he had not visited the Colonial Office for fear of being rebuffed. His contacts outside Whitehall, however, led him to a bleak conclusion. British authors, publishers and Frederick Daldy were so influential that the imperial government would "never recede from its present position." As an example of this influence he cited an unidentified member of the publishing trade who commented "with a laugh and a sneer,"

when the day comes that Canada has a right to ride roughshod over the Imperial Act the connecting link between England and Canada will be severed.<sup>39</sup>

The imperial government's procrastination, and more particularly that of the Board of Trade, was undoubtedly due to the influence of

the British Copyright Association. It is also apparent that the administration was under considerable pressure from the United States. The American Legation in London made specific reference to the "agitation of Her Majesty's Dominion of Canada" suggesting that if the "agitation" proved successful it would lead to "unrestricted freedom of literary reproduction" in that country. Should this occur, which meant very simply that London had approved the Canadian legislation and its mandatory licensing provisions, the result would "imperil the existing copyright agreement between Great Britain and the United States."<sup>40</sup>

Taking matters into his own hands Sir John Thompson visited London in late 1894 to deal with copyright and other matters. In his contacts with the new Colonial Secretary, the Marquis of Ripon, Thompson emphasized the need for a speedy resolution of the problem which he described as having reached a critical stage. The Prime Minister suggested a meeting with Ripon before the end of November as the Colonial Secretary was scheduled to leave London on December 3.<sup>41</sup> Thompson, of course, did not live to bring his labours to fruition as he died of a heart attack at Windsor Castle on December 12.

Under a new administration assembled in Ottawa and led by Sir Mackenzie Bowell, the copyright problem remained alive. The Minister of Justice, Sir Charles Hibbert Tupper, urged his father Sir Charles Tupper, Canada's second High Commissioner to London, to impress the imperial government with the need either to accept the Canadian bill or to introduce legislation approving it. As the younger Tupper described the situation, if British manufacturing and commercial interests could not interfere with Canada's fiscal autonomy no more so could authors in the United Kingdom dictate the country's copyright policies.<sup>42</sup>

With London apparently unwilling to antagonize vested British interests and yet acutely aware of Canadian annoyance the struggle became increasingly a contest between publishing groups in both countries. Vigilant as ever regarding his Copyright Association, Frederick Daldy subjected the Colonial Office once more to his opinions. Speaking not only for his own organization but also for the incorporated Society of Authors, the Printsellers Association and the sections of the London Chamber of Commerce representing the printing and allied trades, music publishers, photography and the fine arts, Daldy staunchly opposed Canada's aims. Never one to dissemble his words, he scathingly described Ottawa's proposals as "moral robbery."<sup>43</sup>



Arguing on behalf of the Canadian Copyright Association, Richard T. Lancefield, the honorary secretary, took to the London press to point out that Canada's legislation was far more favourable to British authors than that approved by the United States in 1891. Under the terms of the American law a United Kingdom author had to publish simultaneously in the U.S.A. with publication elsewhere. Also, to secure United States copyright the author had to have his type set within the United States. If he failed to meet these conditions any American publisher could reprint the book without payment of royalty. In Canada, on the other hand, a British author was granted a grace period of thirty days following publication elsewhere. Further, the proposed Canadian law specifically permitted the importation of British plates duty-free.<sup>44</sup>

The growing resentment in Canadian literary circles over the shackles of imperial control was amply demonstrated by the country's Copyright Association. That organization pointed out in terms remarkably similar to those employed by the late John Thompson that United States publishers, by purchasing copyright privileges from British authors, had always insisted that such privileges include Canada. As the Association viewed the contemporary scene, Canadians "resented this sale of their market" and were determined to obtain the legislation that would put a "stop" to the invasion from the south.<sup>45</sup>

Needless to say, the claims by Canadian pressure groups to control their own market did not go uncontested by their adversaries in Britain. G. Herbert Thring, secretary of the Society of Authors (Incorporated), remarked that British authors "of any standing" preferred that copyright should remain "an Imperial matter." Candidly emphasizing his members' pecuniary interests Thring directly accused the self-governing colonies, and he might just as well have said Canada, of having proved their "incapacity" to "collect any material portion of the duties or [*sic*] imported reprints." Having echoed one of John Bramston's long-standing complaints against Ottawa on the issue of duty collection, Thring turned to the potential American market. In an undisguised display of self-interest, he opposed Canada's bill purely and simply for the reason that its implementation would force Washington to denounce the 1891 agreement with London and thus deny British authors the privileges in the U.S.A. that had been "so hardly won!"<sup>46</sup>

An agreement of sorts, and only a tentative one at that, was reached in late 1895 when the several interest groups agreed to

discuss their differences in Ottawa. Among the more prominent personalities involved were Hall Caine, representing the Society of Authors in Britain; John Ross Robertson, speaking for the Canadian Copyright Association; Sir Charles Hibbert Tupper, Minister of Justice; Sir Mackenzie Bowell, Prime Minister; Joseph Ouimet, Minister of Public Works and acting Minister of Agriculture and, needless to say, the indefatigable Frederick Daldy from the British Copyright Association.

During a session occupying most of November 25, a rough working agreement was reached. Under its terms Canadian publishers would have the right to reproduce copyright works of authors who had not published their books in Canada within sixty days of publication elsewhere. This period could be extended for an additional thirty days at the discretion of the Minister of Agriculture before he issued a license to reprint to a Canadian firm. Further, the license issued would be limited to a single one and would require either the knowledge of the author regarding its issuance or his sanction. Finally, royalties to the author were to be safeguarded by the Controller of Inland Revenue through the implementation of appropriate regulations ensuring a ten per cent royalty on the retail price of each book sold. Hall Caine pointed out that legislation of this nature would place British, United States and all foreign authors on an equal footing regarding copyright in Canada and therefore would not violate either the terms of the Berne Convention or the United Kingdom's agreement with Washington.<sup>47</sup>

Though Charles Hibbert Tupper assured the delegates that the government would seriously consider implementing the compromise arrangement in legislation, his administration and subsequent governments failed to act on the issue. The resignation of Mackenzie Bowell as Prime Minister on 27 April, 1896, and the defeat of the Conservatives by the Liberals in the general election of that year precluded any action on the topic. Indeed, it was not until 1911 that the imperial government acted on the matter at the urging of Wilfred Laurier's Minister of Agriculture, Sydney Fisher. It was mainly due to pressure from Fisher that the imperial parliament approved legislation in that year empowering the self-governing colonies to repeal or amend any or all statutes relating to copyright that had originally applied to them including the 1911 enactment itself. This liberty was finally acted upon by Canada in 1921 when Parliament approved the Canadian Copyright Act of that year and thereby abrogated all imperial statutes relevant to copyright that had previously restricted Ottawa's authority.

Though a period of thirty-odd years would elapse before Canada established her autonomy over the prickly field of copyright, it can be argued that the ground rules and guidelines appropriate to that aspect of self-government had been laid down over the period 1889 to 1894. During these years Sir John Sparrow Thompson had consistently, vigorously and frequently in a highly impolitic manner brought to the attention of the imperial government the questionable status of his country's autonomy and in the face of such a powerful lobby as the British Copyright Association and such a redoubtable adversary as Frederick Daldy. It can be equally argued that the imperial government's legislative action in 1911 and that by Ottawa in 1921 owed their inspiration and origins to Canada's persevering Prime Minister. While introducing the Copyright Act of 1921, Charles Doherty, the Minister of Justice, frankly admitted that Whitehall's eventual recognition of Canada's right to establish her own legislation stemmed directly from "the line of argument which Sir John Thompson had developed."<sup>48</sup> It seemed a fitting tribute to the late nineteenth-century endeavours of the country's fourth Prime Minister.

Over and beyond the substantive efforts of Sir John Thompson to assert Canada's copyright autonomy, it is more than obvious that Whitehall's control over this field stood out as an anomaly in the evolution of Canadian self-government, let alone independence. In addition to James Edgar's declaration of the country's sovereignty in such fields as tariffs and the maintenance of military forces and to which reference has already been made, Ottawa had successfully established her right to an all but independent role in the negotiation of commercial treaties with foreign governments. In the diplomatic field Ottawa had also persuaded a reluctant Whitehall to grant quasi-official recognition to foreign consuls resident in the Canadian capital.<sup>49</sup> Given these striking developments it was more than obvious that the lack of control over copyright stood as an exception to the country's relatively swift approach to nation state independence.

Ottawa's declaration of copyright autonomy in 1921, in addition to the other extensions of Canadian independence which had preceded it, formed an appropriate background to the Imperial Conference of 1926. The Conference clearly recognized that each self-governing member of the Commonwealth was sovereign in all aspects of its internal and external relations. This declaration would obviously have been inapplicable to Canada had imperial regulation over copyright remained in effect.

## NOTES

1. "Imperial Federation," *Nineteenth Century*, XVII (1885), pp. 201-218.
2. Arnold-Forster to *The Times*, London, 30 November, 1894.
3. Canada, *Debates*, Commons, 11 March, 1889, I, col. 524.
4. *Ibid.*, 20 April, 1889, cols. 1399-1400.
5. See editorial entitled "The Copyright Bill," 22 March, 1889.
6. *Parliamentary Paper*, Great Britain, [c.7783], LXX, 1895, "Correspondence on the subject of the Law of Copyright in Canada," Memorandum by Thompson, 3 August, 1889.
7. Minutes of 25 September, 1889, *Colonial Office Records*, Series C.O.42/800, Canada, original correspondence, Public Record Office, London. Hereafter cited as C.O.42.
8. *Ibid.*, Minutes of 26 September, 1889.
9. *Ibid.*, Minutes of 29 September, 1889.
10. *Ibid.*, Davidson to T.H. Sanderson (Assistant Under-Secretary, Foreign Office), undated.
11. Daldy to Knutsford, Belvedere, Kent, 22 February, 1890, *Parliamentary Paper*, Great Britain, [c.7783], LXX, 1895, "Correspondence on the subject of the Law of Copyright in Canada."
12. *Ibid.*, Knutsford to Preston (Governor-General), London, 25 March, 1890.
13. *Ibid.*, Thompson to Knutsford, Ottawa, 14 July, 1890.
14. Thompson to Knutsford, London, 14 July, 1890, *Macdonald Papers*, Vol. CCLXXIV, Public Archives of Canada (P.A.C.), Ottawa. Hereafter cited as *Macdonald Papers*.
15. *Ibid.*, Thompson to Macdonald, London, 15 July, 1890.
16. *Ibid.*, Thompson to Macdonald, London, 25 July, 1890.
17. Minutes by John Bramston, 24 July, 1890, C.O.42/803.
18. Minutes of 25 July, 1890, C.O.42/805.
19. Board of Trade to the Colonial Office, 16 August, 1890, *Parliamentary Paper*, Great Britain, [c.7783], LXX, 1895, "Correspondence on the subject of the Law of Copyright in Canada."
20. *Parliamentary Paper*, Great Britain, [c.2036], XXIV, 1878, "The Royal Commissions and the Report of the Commissioners," p. 195.
21. Colonial Office to the Board of Trade, 17 September, 1890, *Parliamentary Paper*, Great Britain, [c.7783], LXX, 1895, "Correspondence on the subject of the Law of Copyright in Canada."
22. Thompson to Macdonald, Ottawa, 15 December, 1890, *Macdonald Papers*, Vol. CCLXXIV.
23. Thompson to the Governor-General-in-Council, Ottawa, 15 December, 1890, *Parliamentary Paper*, Great Britain, [c.7783], LXX, 1895, "Correspondence on the subject of the Law of Copyright in Canada."
24. The bi-partisan approach to the issue of copyright autonomy was well reflected in subsequent comments by James Edgar who became Liberal Speaker of the Commons in 1896. Referring to the conflict with London he argued that a denial of Canada's right to legislate on copyright would be a rejection of the "rights of self-government." Edgar emphasized that the country already legislated on matters affecting "life and death" and such other important questions as military forces and tariffs. See Edgar's letter to *The Times*, 26 December, 1894.
25. For examples of Bergne's advocacy of Britain's treaty obligations see R.A. Shields, "Imperial Reaction to the Fielding Tariff of 1897," *The Canadian Journal of Economics and Political Science*, (1965), pp. 524-537, and "Sir Charles Tupper and the Franco-Canadian Treaty of 1895: A Study of Imperial Relations," *The Canadian Historical Review*, XLIX (1968), pp. 1-23.
26. See *Dictionary of National Biography 1922-1930*, ed. J.H.R. Weaver, (Oxford, 1937), p. 444.
27. See *Committee Report*, 20 May, 1892, *Parliamentary Paper*, Great Britain, [c.7783], LXX, 1895, "Correspondence on the subject of the Law of Copyright in Canada."
28. Minutes of 16 May, 1892, C.O. 42/813.
29. *Ibid.*, Minutes of 18 May, 1892. Italics the author's.
30. *Ibid.*, Minutes of 1 June, 1892.

31. Thompson to Robertson, Ottawa, 24 January, 1894, *Thompson Papers*, Letter Book XLI, Public Archives of Canada (P.A.C.), Ottawa. Hereafter cited as *Thompson Papers*.
32. Thompson to Governor-General-in-Council, Ottawa, 7 February, 1894, *Parliamentary Paper*, Great Britain, [c.7783], LXX, 1895, "Correspondence on the subject of the Law of Copyright in Canada."
33. Minutes of 26 March, 1894, C.O. 42/822.
34. *Ibid.*, Minutes of 11 April, 1894.
35. Aberdeen (Governor General) to Ripon, Ottawa, 30 March, 1894, *Parliamentary Paper*, Great Britain, [c.7783], LXX, 1895, "Correspondence on the subject of the Law of Copyright in Canada."
36. Minutes of 9 March, 1895, C.O. 42/833.
37. Thompson to Daldy, Ottawa, 21 July, 1894, *Parliamentary Paper*, Great Britain, [c.7783], LXX, 1895, "Correspondence on the subject of the Law of Copyright in Canada."
38. Robertson to Thompson, Toronto, 26 July, 1894, *Thompson Papers*, Vol. CCXV.
39. *Ibid.*, Robertson to Thompson, Toronto, 25 October, 1894.
40. James R. Roosevelt to E. Grey, London, 16 August, 1894, *Parliamentary Paper*, Great Britain, [c.7783], LXX, 1895, "Correspondence on the subject of the Law of Copyright in Canada."
41. Thompson to Ripon, London, 9 November, 1894, *Bowell Papers*, Vol. XIII, Public Archives of Canada (P.A.C.), Ottawa.
42. Charles Hibbert Tupper to Charles Tupper, Ottawa, 8 September, 1895, *Tupper Papers*, Vol. XVIII, Public Archives of Canada (P.A.C.), Ottawa.
43. Copyright Association to the Colonial Office, London, October, 1894, *Parliamentary Paper*, Great Britain, [c.7783], LXX, 1895, "Correspondence on the subject of the Law of Copyright in Canada."
44. See Lancefield's letter to the Editor, *The Times*, 22 March, 1895.
45. Circular of 25 March, 1895, *Colonial Office Records*. Confidential Print, North America, Series C.O. 880/15, Public Record Office, London.
46. *Ibid.*, Thring to Colonial Office, London, 23 May, 1895.
47. *Sessional Papers of Canada*, Vol. V (1895), Paper 8 (b), "Conference on the Copyright Question."
48. Canada, *Debates*, 25 May, 1921, III. col. 3833.
49. For examples of these extensions of Canada's autonomy see R.A. Shields, "Imperial Policy and Canadian-American Reciprocity 1909-1911," *The Journal of Imperial and Commonwealth History*, V (1977), pp. 151-171, and "Imperial Policy and the Role of Foreign Consuls in Canada 1870-1911," *Dalhousie Review*, LIX (1980), pp. 717-747.