

pic ✓ 98  
CANADA.

No. 111

Government House,

OTTAWA.

9 December, 1912.

Sir,

I have the honour to transmit, herewith,  
for your information, copies of an Approved Minute  
4th December. of the Privy Council for Canada regarding the  
Protocol to the Berlin Copyright Convention, upon  
which my telegram of the 6th instant was based.

I have the honour to be,

Sir,

Your most obedient

humble servant,

(SD.) ARTHUR.

The Right Honourable

Lewis V. Harcourt, M.P.,

Secretary of State

for the Colonies.



*Wic*  
*✓*  
COPY.

FROM GOVERNOR GENERAL TO MR. HARCOURT.

TELEGRAM.

*df*  
OTTAWA, 6th December, 1912.

CODE.

Your telegram 25th November; amendments in proposed additional protocol to Berlin Copyright Convention of 1908. Canadian Government concur in terms of protocol draft of which accompanied your despatch 7th March, subject to alteration proposed in Mr. Buxton's letter to Minister of Justice 27th August.

ARTHUR.



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*Certified copy of a Report of the Committee of the Privy Council, approved by His Royal Highness the Governor General on the 4th December 1912.*



The Committee of the Privy Council have had before them a report, dated 3rd December, 1912, from the Right Honourable the Secretary of State for External Affairs, to whom was referred a telegraphic despatch, dated 25th November, 1912, from the Right Honourable the Principal Secretary of State for the Colonies, with reference to certain amendments in the proposed additional Protocol to the Berlin Copyright Convention of 1908.

The Committee, on the recommendation of the Right Honourable the Secretary of State for External Affairs, advise that the terms of the Protocol, a draft of which accompanied Mr. Harcourt's despatch of the 7th March, 1912, be concurred in, subject to the alteration proposed by Mr. Buxton's letter to the Minister of Justice of the 27th August, 1912.

The Committee, on the same recommendation, further advise that Your Royal Highness may be pleased to inform the Right Honourable the Principal Secretary of State for the Colonies, by telegraph, in the sense of this Minute.

All which is respectfully submitted for approval.

*FK Bennett*  
*Assn* Clerk of the Privy Council.

The Honourable

The Secretary of State for External Affairs.



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TO

HIS ROYAL HIGHNESS THE GOVERNOR GENERAL-IN-COUNCIL:

The undersigned, to whom was referred a telegraphic despatch from the Secretary of State for the Colonies to Your Royal Highness, dated 25th November, 1912, with reference to certain amendments in the proposed additional Protocol to the Berlin Copyright Convention of 1908, has the honour to recommend concurrence in the terms of the Protocol, a draft of which accompanied Mr. Harcourt's despatch of the 7th March last, subject to the alteration proposed by Mr. Buxton's letter to the Minister of Justice of the 27th August 1912.

The undersigned recommends that the Secretary of State for the Colonies may be informed by telegraph in this sense.

Humbly submitted:

R. L. BORDEN

Secretary of State for External Affairs.

Ottawa, 3rd December, 1912.





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~~✓~~

Governor-General,  
Ottawa.

London,  
November 25, 1912.

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With reference to my despatch of the 5th July confidential and Buxtons letter to Minister of Justice August 27th regarding copyright convention I should be glad to know by telegraph whether your Ministers concur with terms of protocol subject to proposed alteration of paragraph No.1 since it is urgently necessary to circulate protocol amongst powers concerned.

Harcourt.

Date 26 Nov 12  
RETURNED TO  
The Minister of  
Agriculture  
Done 26/11/12  
✓ C.

Received  
C. D. Campbell  
C. D. Campbell  
1408  
12/11/12



COPY.

FROM MR. HARCOURT TO THE GOVERNOR GENERAL.

TELEGRAM.

LONDON, 29 May, 1912.

CODE.

My despatch 7th March. Confidential.

His Majesty's Government have decided in interests of British Authors it will be necessary to ratify Berlin Copyright Convention as from July 1st when Imperial Act 1911 comes into force. They propose in depositing ratifications to intimate that His Majesty's Government may find it necessary to withdraw from Convention if the proposals made for modification in accordance with resolution of Imperial Copyright Conference cannot ultimately be accepted. In pressing the acceptance of reservation H.M. Government assume that if accepted by Foreign Powers Canadian Government will be able to accept Berlin Convention, and I would be glad to learn views of your Government on this point as soon as possible. They will see on reference to proceedings of Conference 1910 that the reservation was suggested in interest of Canada and in the hope that Canada would accept Convention if it were secured.

HARCOURT.



CANADA  
282  
NO: \_\_\_\_\_

98  
DUPLICATE



DOWNING STREET

19 April, 1912.

Sir,

With reference to Your Royal Highness's despatch No. 77 of the 14th February, I have the honour to request you to inform your Ministers that His Majesty's Government have considered it desirable that the Imperial Copyright Act 1911 (1 & 2 Geo. 5 Ch. 46) should be brought into operation on a uniform date, and that this date should be the 1st July 1912. Arrangements have accordingly been made with a view to the Act being brought into operation on the 1st of July in Colonies not possessing responsible Governments, and in the Protectorates and Cyprus.

I have the honour to be,

Sir,

Your Royal Highness's most obedient  
humble Servant,

(Signed) L. HARCOURT.

✓ Date 2 May 1912  
REFERRED TO  
The Minister of

Agriculture  
Done 2nd May  
RB

GOVERNOR GENERAL

HIS ROYAL HIGHNESS

THE DUKE OF CONNAUGHT AND OF STRATHEARN, K.G., K.T., K.P.,  
G.C.B., G.C.S.I., G.C.M.G., G.C.I.E., G.C.V.O.,  
etc., etc., etc.,

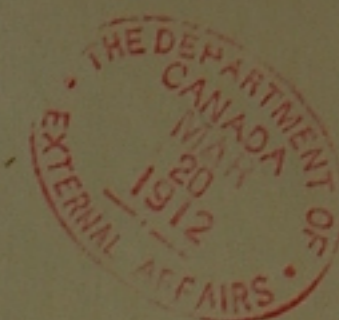


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DUPLICATE



CONFIDENTIAL

Date 20 March 1912  
REFERRED TO  
The Minister of  
L.M. 20/3/12

Downing Street,

7 March, 1912.

HEADS OF SUGGESTED ADDITIONAL ACT OR PROTOCOL.

Sir,

In the event of any country outside the Union

With reference to previous correspondence on the subject of Copyright, I have the honour to acquaint Your Royal Highness for the information of your Ministers, that His Majesty's Government have had under consideration the manner in which the ratification of the revised Berne Copyright Convention should be effected in order to carry out the provisions of Resolution No. 4 (b) of the Imperial Copyright Conference of 1910.

2. As the result of enquiries made by the Secretary of State for Foreign Affairs from the other Contracting States and the Copyright Union, it has become clear that the modification of the terms of the Convention suggested by the Conference cannot be effected by this country as a matter of right by means of a simple reservation but that it must be effected by means of an additional Act or Protocol assented to by all the Contracting States.

3. His Majesty's Government have, therefore, drawn up the draft additional Act or Protocol of which a copy is enclosed.

I have, etc.,

(Signed) L. HARCOURT.

GOVERNOR GENERAL

HIS ROYAL HIGHNESS

THE DUKE OF CONNAUGHT & OF STRATHEARN, K.G., K.T., K.P.,

G.C.B., G.C.S.I., G.C.M.G., G.C.I.E., G.C.V.O.  
&c., &c., &c.





Reference to previous despatch:

S. of S. No. 4 - 4 Jan. 1912.

Government House,

OTTAWA, 14 February, 1912.

Sir,

I have the honour to forward, herewith, for transmission to  
the Board of Trade,

copies of the document noted in the subjoined schedule.

I have the honour to be,

Sir,

Your most obedient humble servant,

The Right Honourable

The Secretary of State for the Colonies.

(SD.) ARTHUR

DATE.	DESCRIPTION.	SUBJECT.
1912.  12th February.	Letter from Secretary of State for External Affairs.	Uniformity of copyright law throughout the Empire.



M.

DEPUTY MINISTER'S OFFICE  
OTTAWA 10 FEB. 1912.

To

His Royal Highness the Governor General:

No. 4.

The undersigned, to whom was referred a despatch from the Secretary of State for the Colonies to Your Royal Highness, dated 4th January, 1912, on the subject of a suggestion of the Board of Trade that legislation should be passed in the self-governing Dominions at an early date with a view to securing uniformity of copyright law throughout the Empire, has the honour to report that, owing to the late period of the session, Your Royal Highness's Advisers are of opinion that it would be better that any action in this matter which they decide to take, be deferred until the next Session of Parliament.

The undersigned recommends that the Secretary of State for the Colonies be informed in this sense.

Humbly submitted:  
[Signature: Edw. A. Roche]  
Secretary of State for External Affairs.

Ottawa, 12th February, 1912.

Your obedient servant,

The Under-Secretary of State  
for External Affairs,  
Ottawa.

Deputy Minister.





DEPUTY MINISTER'S OFFICE,  
OTTAWA, 10 Feb., 1912.

Sir,-

I beg to acknowledge the receipt of your communication of date the 22nd ultimo, being copy of a despatch addressed to His Royal Highness the Governor General signed by the Right Honourable the Secretary of State for the Colonies, transmitting copy of a letter from the Board of Trade with its enclosures, being copies of the Copyright Act of 1911, and requesting that His Royal Highness would invite the attention of the Canadian Government to the suggestion made by the Board of Trade that legislation should be passed in the self-governing Dominions at an early date with a view to securing uniformity of copyright law throughout the Empire.

In reply I beg to state that the Minister is of the opinion that as the Session is now far advanced the proposal to introduce new legislation at this stage would hardly meet with the approval of Parliament and consequently it would be better that any action that the Government may see fit to take in the direction of causing legislation to be passed on the subject of Copyright in view of the resolutions of the Imperial Conference of 1910 and the Copyright Act of 1911 be deferred until the next Session of Parliament.

Your obedient servant,

The Under-Secretary of State  
For External Affairs,  
Ottawa.

*Geo. F. A. McInnes*  
Deputy Minister.



Downing Street,

4th January, 1912.

Sir,

With reference to previous correspondence on the subject of Copyright, I have the honour to transmit to Your Royal Highness, to be laid before Your Ministers, the accompanying copy of a letter from the Board of Trade forwarding copies of the Copyright Act 1911.

2. I have to request <sup>you</sup> to invite the attention of your Government to the suggestion made by the Board of Trade, that legislation should be passed in the self-governing Dominions at an early date, with a view to securing Uniformity of Copyright Law throughout the Empire.

I have the honour to be,

Sir,

Your Royal Highness's most obedient  
humble servant,

(Sd.) L. HARCOURT.

GOVERNOR GENERAL

HIS ROYAL HIGHNESS

THE DUKE OF CONNAUGHT AND STRATHEARN, K.C., K.T., K.P.,

&c.,

&c.,

&c.



BOARD OF TRADE,

(LABOUR DEPARTMENT)

Gwydyr House, Whitehall,

LONDON, S.W., 22nd December,

1911.

Sir,

I am directed by the Board of Trade to transmit herewith a copy of the Copyright Act, 1911, which has now been passed, and to suggest, for the consideration of Mr. Secretary Harcourt, that copies of the Act should be transmitted to each of the Self-Governing Dominions.

The Board desire me, at the same time, to summarise briefly the principal provisions of the Bill in relation to the United Kingdom and the Self-Governing Dominions respectively, as follows:

As regards copyright in the United Kingdom

(1) The act repeals all the existing statutes relating to Copyright with a few minor exceptions (S.36) and consolidates and amends the law on this subject.

(2) Copyright will subsist in all original literary, dramatic, musical or artistic works which are first published within the parts of His Majesty's Dominions to which the Act extends, and also to unpublished works of which the authors are British subjects or residents within those parts of His Majesty's Dominions (S.I. (2)). Publication means the issue of copies to the public (S.I. (3)) and first publication includes simultaneous publication and publication within 14 days (or any longer time that may be fixed by Order in Council) after publication elsewhere (S.35 (3)).

(3) In return for reciprocal privileges the above conditions may be declared by Order in Council to be satisfied by subjects or



or citizens of a foreign country named in the Order, by residents in a foreign country or colony so named by first publication there, as the case may be (Ss. 26 (3) and 29).

(4) On the other hand, the right to obtain copyright by first publication may be cancelled by Order in Council in the case of subjects or citizens of a foreign country which does not give adequate protection to the works of British authors (S. 23)

(5) No conditions other than those of nationality, residence or first publication are imposed in respect either of the existence of copyright or of the exercise of the rights comprised therein. In particular, the Act abolishes all requirements with regard to the registration of copyright and also the requirement which previously existed as to notices reserving performing right in music. On the other hand "innocent infringers" are exempted from liability to pay damages (S. 8).

(6) The term copyright is, except in a few special cases, the life of the author and 50 years after his death. During the last 25 years of copyright, however, any person may reproduce the work on payment of a royalty of 10 per cent; the author is disabled from assigning the benefit of these 25 years or dealing with it in any way during his lifetime, but may bequeath it by will (S. 3). Provision is also made for securing the re-publication or performance of works withheld from the public (S. 4)

(7) It may also be mentioned that the works entitled to copyright will now include lectures, works of artistic draftsmanship, works of architecture (subject to a special restriction on remedies (5.9), and mechanical instrument records and rolls and cinematograph films (Ss.) 1 (2) and 35 (1).



(8) Copyright includes, in general terms, the sole right to reproduce the work or any substantial part thereof in any material form whatsoever. In particular, copyright includes the sole right to make <sup>no</sup> translations and (subject to Section 19) to reproduce a work on mechanical instrument records and rolls (S.1. (2). ~~and 3~~)

(9) Special provision is made as to the reproduction of musical works on mechanical instruments (S.19)

(10) The Act will come into force on July 1st 1912, or such earlier date as may be fixed by Order in Council (S.37 (2)).

As regards Copyright in the Self-Governing Dominions -

(1) The Act will not apply to any Self-Governing Dominion unless declared by the Legislature of that Dominion to be in force there, wither with or without modifications as to procedure and remedies and certain other matters; in this event the benefits of copyright will automatically be exchanged between that Dominion and the United Kingdom (S.25 (1)).

Any Self-Governing Dominion which has <sup>thus</sup> ~~taken~~ adopted the Act may subsequently repeal it so far as regards that Dominion (S.26 (1)).

(2) In the case of Self-Governing Dominions which do not so declare the Act to be in force:-

(a) If a Dominion passed legislation under which British works enjoy within the Dominion rights substantially identical with those conferred by the Act, the Dominion will on the issue of a certificate by the Secretary of State to that effect be treated, for the purposes of the rights conferred by the Act, as if it were a Dominion to which the Act extends (S.25(2)).

(b) In the case of other Dominions, works, the authors of which are resident in such Dominions, will obtain no



No copyright in the United Kingdom(except by virtue of first publication within the proper area)unless an Order in Council is issued conferring copyright on such works,on terms of reciprocity (S.26 (3)).

(c) Orders in Council relating to Copyright issued in the United Kingdom will have no operation in any Self-Governing Dominion;each Dominion is empowered to issue such Orders for itself (S.30)..

(d) The Copyright statutes repealed by the Act will continue in force in each Dominion,so far as they were previously operative,until repealed by the Legislature of that Dominion (S.26 (2)),full power of repeal is conferred by the Act (S.26 (1)).

It will be obvious that the effect of the Act is to make it urgently necessary for each Self-Governing Dominion to enact legislation on copyright at an early date.

The Copyright Act has been framed in accordance with the Resolutions of the Imperial Conference,so as to enable legislation to be enacted by the Dominions in such a manner as not to impair,but to extend,the existing uniformity of copyright law throughout the Empire. This object will be attained in the case of any Dominion which declares the Act to be in force,or which passes legislation granting substantially identical rights to British authors.. In any other case, however,there will be considerable danger that the mutual interchange of the benefits of copyright not only with the United Kingdom but also with other parts of the Empire and with foreign countries may be seriously impaired,and the Board express their earnest hope that each Self-Governing Dominion may find it possible to adopt one or other of the two alternative courses indicated above which will ensure uniformity of Copyright Law throughout the Empire,enable the Empire as a whole to accede to the Berlin Convention, and give effect to the unanimous resolutions of the recent Imperial



copyright Conference.

I have, etc.,

(Sd.,) G.R.ASKWITH

The Under-Secretary of State,  
Colonial Office.