

3009
Victoria Chambers,
London. S.W. 29 Novr 1886.

Sir,

With reference to my despatch
No 671, of the 8th September last, and
to previous correspondence, I have the
honor to transmit to you, under
a separate cover, for the information
of the Government, three copies of an
Imperial Parliamentary Paper (Switzer-
land No 3 (1886)) containing further
correspondence respecting the forma-
tion of an International Copyright
Union -

I have, &c.
(Ed) Charles Tupper
High Commr

The Honble
The Secy of State -
Ottawa.

2
No. 9957.

Dept of the Secretary of State -
Ottawa 14 Dec. 1886.

To the Gov. Gen's Secretary -
Ottawa -

Sir,

(Switzerland
Dec 3, 1886.)
I have the honor to transmit
to you herewith for the information
of H. E. the G. G. copy of a despatch and
its enclosures with further reference
to the subject of the formation of an
International Copyright Union.

I have, &c.,
(sd) J. Powell,
H. S. S.



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File: Copyright - Confine

1886

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state to you, for the information of Earl Granville, that the International and Colonial Copyright Act having been passed, Her Majesty's Government have accepted the invitation of the Swiss Government to be represented at a Conference to be held at Berne in September next for the purpose of signing the International Copyright Convention.

In view of recent correspondence with the Colonial Office, His Lordship presumes that the British Delegate should notify that the accession to the Union of Great Britain comprehends all the British Colonies; but I am directed to inquire whether Lord Granville thinks that it will be desirable to add a Declaration to the effect that anyone of the Representative Colonies may give notice of withdrawal separately by means of a communication to that effect made by the Imperial Government.

[+ In case Lord Granville thinks this course desirable, will you inform me whether he thinks that the list of the Colonies to be named in such Declaration should be the same as that now included in the Colonial Article contained in recent Commercial Treaties.]

I am, &c.

(Signed) J. Bryce.

No. 3.

+ To Colonial Office only.

It may be desirable for the British Delegates to advocate the view that the next International Conference for the revision of the Convention should not be held at an early date, in order that changes calculated to render necessary alterations in domestic law may not be adopted prematurely.

I am, &c.
(Signed) J. Bryce.

No. 8.

Mr. Bramston to Mr. Bryce. —
(Received July 30.)

Downing Street, July 29, 1886.

Sir,

I am directed by Earl Granville to acknowledge the receipt of your letter of the 19th instant, respecting the admission of the Colonies possessing representative government to the International Copyright Union, and to state to you, in reply, for the information of the Earl of Rosebery, that as the Countries, parties to the Convention, have, under Article XX, the right of separately denouncing it, Lord Granville thinks it may be desirable to secure the corresponding right of withdrawal for the large Colonies possessing separate elective Legislatures.

Ms. 12.

The Earl of Eddesleigh to Sir Francis Adams and Mr. Beyer.

Foreign Office, August 21, 1886.

Gentlemen,

I transmit to you herewith
copies of correspondence, as marked
in the margin,† with the India and
Colonial Departments, relative to the
inclusion of the British Colonies in the
scope of the International Copyright
Convention.

† Nos. 2, 8, and
10.

You will, accordingly, at the time
of signature, make a Declaration to
the effect that the accession of Great
Britain to the Union comprises all the
Colonies and foreign possessions of
Her Majesty, but that liberty is reserved
by Her Majesty's Government to notify
at any period the separate with-
drawal from the Union of the fol-
lowing British possessions, in the
manner prescribed by Article XX of the
Convention:—

India.

The Dominion of Canada.

Newfoundland.

The Cape.

Natal.

New South Wales.

Victoria.

Queensland.

South Australia.

Western Australia.

New Zealand.

I am, &c.

(Signed) Eddesleigh.

No. 13.

Sir F. Adams and Mr. Kerguel to the Earl of Addesleigh.
(received September 13.)

Berne, September 10, 1886.

My Lord,

We have the honour to report that the Third International Copyright Conference met at Berne on the 6th instant, the following States being represented:—

Germany.
Belgium.
Spain.
United States.
France.
Great Britain.
Haiti.
Italy.
Japan.
Liberia.
Switzerland.
Tunis.

The Delegates of all these States, save those of the United States and Japan, had received Full Powers from their Governments to sign the Convention, and the signature accordingly took place on the 9th instant.

No Delegates from Sweden and Norway were present, but the President read a note which he had received from the Swedish Minister for Foreign

Foreign

Foreign Affairs, to the effect that those governments expected to be able to adhere to the Convention before the date fixed for the exchange of ratifications.

The British signed copies of the Convention, Additional Article, "Protocol disclosure", and procès-verbal of signature are inclosed in this despatch, together with printed copies of the records of the present Conference.*

*The records are not reprinted with the present paper.

In view of the instructions contained in Lord Rosebery's despatch of the 2nd ultimo, we proposed at the first sitting that the next meeting of the Conference shall take place ten years after the date of signature, unless four signatory Powers should collectively demand an earlier meeting; and we accepted on addition to this proposal submitted by the German Delegate, to the effect that such a demand must not be made at an earlier date than four years after the signature.

The English and German proposals were combated by the Delegates of France and Russia, who were of opinion that an earlier meeting might prove desirable.

In view of these conflicting opinions, a suggestion was made by the President M. Drey by way of compromise, to



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to the effect that the next Conference should take place from four to six years after the date at which the Convention should come into actual operation; and as an interval of from about five to seven years from the date of signature would thus be secured, she had no difficulty in accepting this proposal, which was eventually adopted unanimously. At the suggestion of the British Delegate seconded by the German Delegate Paris was selected as the next place of meeting and it was arranged that the actual date within the limits agreed upon should be fixed by the French Government in consultation with the Central Swiss Office.

The amendment to Article VII, which had been proposed by the Swiss Government, did not give rise to much discussion, it being recognized that it did not alter the sense the Article as drafted last year; and the insertion was accordingly accepted by a unanimous vote save the German Delegate, whose Government was not favorable to the slightest amendment of the draft agreed upon last year.

The Declaration which had been

been proposed by the French Government gave rise to some debate, the Italian and German Delegates giving reasons against its adoption, especially in regard to paragraph 4.

We confined ourselves to a statement of the position of English law on the question of the dramatization of novels, and added that though, as agreed upon last year we should prefer that no amendment to the draft Convention should be made, we were authorized by the Government to accept the Declaration, subject to such modification of the last paragraph as would suffice to meet the requirements of English law.

The French Delegates eventually withdrew their proposal entirely and the Convention as signed is consequently identical with last year's draft, except the insertion of the few words of a purely formal character proposed by the Swiss Government in Article VII.

An important feature of the Conference, especially from an English point of view, was the presence of the United States Delegates, who made a Declaration which will be found at page 18 of the records* expressing the sympathy

* See Enclosure 18 of the records
5th No. 13.

sympathy of his Government for the substance and objects of the Convention and their hope that they might find themselves in a position to adhere to it at an early date.

We venture to call your Lordship's particular attention to this Declaration as giving promise that the important literary and artistic interests of Great Britain in the United States may before long be afforded adequate protection.

The Declaration respecting the British Colonies which we made in accordance with the instructions contained in your Lordship's despatch of the 2nd ultimus will be found in the Procès-verbal of Signature.

The only suggestions which it appears necessary for us to submit to your Lordship's consideration are as regards the course to be pursued by Her Majesty's Government with reference to the existing Copy-right Conventions between Great Britain and foreign States.

The following Conventions are at present in operation:—

1. Prussia, 13th May, 1846.
2. Saxony, 24th August, 1846.
3. Brunswick, 30th March, 1847.
4. Thuringian Union, 1st July, 1847.
5. Hanover, 4th August, 1847.

The enclosure
4 in Nos. 13.

6. Oldenburg, 28th December, 1847.
7. France, 3rd November, 1857.
8. Anhalt, 8th February, 1853.
9. Hamburg, 16th August, 1853.
10. Belgium, 12th August, 1854.
11. Prussia and other German States, 14th June, 1855.
12. Sardinia (applicable to Italy), 30th November, 1860.
13. Greece, 19th November, 1861.
14. Spain, 11th August, 1880.
15. Germany, 2nd June, 1886.

The last Convention on this list, for practical purposes, brings the whole of the German Empire within the terms of the Convention with Prussia of the 13th May, 1846, and the 14th June, 1855.

Therefore, Great Britain has Copyright Conventions only with Germany, France, Belgium, Italy, and Spain, all of which States have now signed the International Copyright Convention.

The Convention with Italy has been denounced by that Government, but stands prolonged until the 31st December next. The Convention with the German States, France and Belgium, can be terminated at a year's notice, and that with Spain by a notice of six months.

The International Convention just signed is to be ratified within the delay of one year, and is to come into operation three months after.

after the exchange of ratifications.
When it has once come into operation, it seems that the stipulations of the now existing Conventions between Great Britain and foreign States will become unnecessary, and perhaps embarrassing, and we would therefore venture to suggest that three months after the signature of the International Convention, viz, on the 9th December next, notice of termination of the existing Copyright Conventions should be given to Germany, France, and Belgium; that the Convention with Italy should be further prolonged till the International Convention comes into operation; and that notice should be given to Spain on the 9th June next of the termination of the Copyright Convention of the 11th August, 1880.

By these means, the whole of the existing Conventions would be kept in force for certain till the International Convention comes into operation, and would terminate, at all events, shortly after that date.

We believe that the International Copyright Union, which may now be said to be founded, will not only efficiently replace the existing

existing conventions, but will confer upon British owners of literary and artistic property far more extensive and satisfactory protection than is now enjoyed by them abroad; and we entertain strong hopes that, before the expiration of many years, the Union will comprise all the principal States of the world which have any practical interest in the matter.

We have, &c.

(Signed) F. O. Adams.

J. H. G. Bergne.

Inclosure 1 in No. 13.

Convention concernant la Création d'une Union Internationale pour la Protection des Oeuvres Littéraires et Artistiques.

Sa Majesté la Reine du Royaume-Uni de la Grande-Bretagne et d'Irlande, Impératrice des Indes; Sa Majesté l'Empereur d'Allemagne, Roi de Prusse; Sa Majesté le Roi des Belges; Sa Majesté Catholique le Roi d'Espagne en son nom Sa Majesté la Reine Régente du Royaume; le Président de la République Française; le Président de la République d'Haiti; Sa Majesté le Roi d'Italie; le Président de



Pour la Belgique	"	Maurice Delfosse
Pour l'Espagne	"	Almiron
	"	Villa-Amil
Pour la France	"	Emmanuel Arago
Pour Haiti	"	Louis Joseph Janvier
Pour l'Italie	"	E. Di Beccaria
Pour Libéria	"	Koentzer
Pour la Suisse	"	Droz
	"	L. Richonnet
	"	A. D'Orbelli
Pour la Tunisie	"	L. Renault

(Translation.)

Procès-verbal of signature.

The undersigned Plenipotentiaries assembled this day to proceed with the signature of the Convention with reference to the creation of an International Union for the protection of literary and artistic works, have exchanged the following declarations:—

1. With reference to the accession of the Colonies or foreign possessions provided for by Article XIX of the Convention:

The Plenipotentiaries of His Catholic Majesty the King of Spain reserve to the Government the power of making known His Majesty's decision at the time of the exchange of ratifications.

The

The Plenipotentiary of the French Republic states that the accession of his country carries with it that of all the French Colonies.

The Plenipotentiaries of Her Britannic Majesty state that the accession of Great Britain to the Convention for the protection of literary and artistic works comprises the United Kingdom of Great Britain and Ireland, and all the Colonies and foreign possessions of Her Britannic Majesty.

At the same time, they reserve to the Government of Her Britannic Majesty the power of announcing at any time the separate denunciation of the Convention by one or several of the following Colonies or possessions, in the manner provided for by Article XX of the Convention, namely: —

India, the Dominion of Canada, Newfoundland, the Cape, Natal, New South Wales, Victoria, Queensland, Tasmania, South Australia, Western Australia, and New Zealand.

2. With respect to the classification of the countries of the Union having regard to their contributory part to the expenses of the International Bureau (No. 5 of the final Protocol):

The

The Plenipotentiaries declare that their respective countries should be ranked in the following classes namely: —

Germany in the first class.
Belgium in the third class.
Spain in the second class.
France in the first class.
Great Britain in the first class.
Austria in the fifth class.
Switzerland in the third class.
Luis in the fifth class.

The Plenipotentiary of the Republic of Liberia states that the powers which he has received from his Government authorize him to sign the Convention, but that he has not received instructions as to the class in which his country proposes to place itself with respect to the contribution to the expenses of the International Bureau. He therefore reserves that question to be determined by his Government, who will make known their intention on the exchange of ratifications.

In witness whereof, the respective Plenipotentiaries have signed the present procès-verbal.
Done at Berne the 9th day of September, 1886.
(Signed)

(Signed)
For Great Britain

For Germany
For Belgium
For Spain

For France
For Haiti
For Italy
For Liberia
For Switzerland

For Tunis

F. O. Adams.

J. B. J. Berque.

Otto von Bulow.

Maurice Delfosse.

Almira.

Villa-Amil.

Emmanuel Arago

Louis Joseph Janssen.

E. A. Beccaria.

Koentzer.

Drey.

L. Kichornet

A. D'Arletti.

L. Penault.

Inclosure 5 in No. 13.

Declaration of Mr. Winchester, United States Minister.

Extrait du Procès-verbal de la séance du 6 septembre, 1886.

M. le Président et M. les Délégués,
Par une note circulaire du Conseil
Fédéral Suisse, le Gouvernement des
Etats Unis a été invité de même
que les autres Puissances représen-
tées à la Conférence littéraire
qui a eu lieu dans cette ville en
septembre 1885, de donner des
Délégués des instructions et des
pouvoirs



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est garantie aujourd'hui par la
legislation intérieure de presque tous
les Etats. Ce droit doit être reconnu
et garanti sans distinction de na-
tionalité et sans égard aux front-
ières politiques.

Grace aux efforts persévérants
du Gouvernement de la Confédération
Suisse, qui avec tant de succès
a pris l'initiative de ce mouvement,
et aux travaux patients et intelligents
des Conférences qu'il a réunies dans
cette ville, la protection des oeuvres
de littérature et d'art, retardée
sans raison pendant si longtemps,
est désormais assurée au moyen
d'une Convention Internationale uni-
forme, efficace et complète. C'est
là un résultat dont nous félicitons
le Gouvernement Fédéral et qui lui
fait le plus grand honneur.

(Translation.)

Extract from the Procès-verbal at the
Sitting of the 6th September, 1886.

Mrs. President and Delegates,

Through a Circular Note of the
Swiss Federal Council, the Govern-
ment of the United States has been
invited, in concert with the other
Powers represented in the Copy-right
Conference held here in September
1885

1885, to instruct and empower a Delegate to attend this Conference and to sign, on behalf of the United States, the International Convention for the general protection of literary and artistic property, which was drafted and referred by the Conference of last year.

The Government of the United States again finds it impracticable to depute a Plenipotentiary Delegate, and is constrained to withhold its formal participation as a Signatory in the International Convention, which resulted from the deliberations of 1885, and thus transform that Convention into a full diplomatic engagement. To exhibit its benevolence, however, towards the principle involved, the Government of the United States desires, with the pleasure of this Conference, to be represented here, and has conferred upon me the honour to attend this Conference as a Delegate, provided that my attendance is fully recognized and admitted to be without Plenipotentiary powers, but under the limitation and reservation that the United States not being a party to the proposed Convention reserves their privilege of future accession under provisions of Article

Article XVIII thereof, which declares that "Countries which have not joined in the present Convention, and which by their Municipal laws assure legal protection to the rights whereof this Convention treats, shall be admitted to accede thereto on their request to that effect."

Whilst not prepared to join in the proposed Convention as a full signatory, the United States does not thereby wish to be understood as opposing the measure in any way, but on the contrary, desires to reserve without prejudice the privilege of future accession to the Convention should it become expedient and practicable to do so. Should any question exist that the representation of the United States in this Conference, even under specific and recognized limitation, is such a participation as would suffice to exclude them from the category of the "Countries that have not joined" in that instrument and thereby to exclude them also from the privilege of future accession, should they desire to avail themselves of it, I desire to emphasize the fact, that the course of the United States is in no wise intended or to be construed as a participation in the result.

mult either by acceptance or rejection. The position and attitude of the United States is one of expectancy and reserve.

The Constitution of the United States enumerates among the powers especially reserved to Congress, that "to promote the progress of science and the useful arts by securing for limited terms to authors and inventors the exclusive right to their respective writings and discoveries," which implies that the origination and limitation of measures to those ends rests with the Legislative rather than the Treaty-making Power. Copyright-like patents so on the same footing of regulation by Federal legislation, and the Executive branch of the Government cannot be so mindful of the continued pendency of its consideration by the Legislative Department, or disregard the Constitutional right of that Department to conclude International Treaties on this important subject.

The question of international copyright is one of great interest to the United States. In fact, few other countries can lay claim to greater concern than that naturally felt by a people distinguished for enlightened extensive



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extensive and growing intellectual life, and whilst not infringing upon the constitutional prerogative of Congress to initiate and conclude copyright legislation, likewise to define the rights of aliens and citizens within its jurisdiction, the Executive in its first annual Message to Congress, inviting its attention to the Conference of last September, said: "Action is certainly desirable to effect the object in view; and the Secretary of State for Foreign Affairs, in his official despatches relating to this Conference, freely expresses his concurrence with the principle sought to be enunciated by the proposed Convention, and conveys the hope that the time is not distant when the right of property in the creation of the mind may be universally secured under conditions favourable alike to the author and to the world's right to share in the diffusion of ideas."

The brain that creates is entitled to and should receive its just and full compensation; this is a sentiment having its origin in the natural sense of honesty. Literary property has been to some extent recognized in all ages, and is to-day guaranteed in almost every

every State by domestic legislation. This recognition and guarantee should be without distinction of nationality and without regard to political frontiers.

It is a matter of congratulation and redounds much to the credit of the Swiss Government, through whose active efforts the movement was successfully inaugurated and supplemented by the patient and intelligent labours of the Federal Conference held here at her invitation, that a just and permanent settlement once for all of the grave question of the protection of works of literature and art, so long and unjustly denied, is promised by means of a uniform, efficacious, and complete International Convention.

No. 14.

The Earl of Salisbury to Sir F. Adams.

Foreign Office,
September 30, 1886.

Sir,

I have received your despatch of the 10th instant, signed by yourself and Mr. Bergue, reporting your proceedings as British Delegates to the Third International Copyright Conference which met at Berne



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Berne on the 6th instant, and in which you enclose the British signed copies of the International Copyright Convention, Additional Article, Final Protocol, and Procès-verbal of Signature, which were signed on the 9th instant.

I have referred that despatch to the Board of Trade, and I have now to acquaint you that the proceedings of the British Delegates, as reported therein, are approved by Her Majesty's Government.

I have to add that I have addressed a similar communication to Mr. Bergue.

I am, &c.
(Signed) Goldesleigh.

Switzerland. No. 3 (1886).
==.

Further Correspondence respecting the
Formation of an International
Copyright Union.

(In continuation of "Switzerland No. 2. (1886)"
C-4856.)

Presented to both Houses of
Parliament by Command of Her
Majesty. September 1886.



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Enc. 9956.

Dept of the Secy of State.
Ottawa, 14 Dec, 1886.

To the Hon^{ble}
Sir, Chas Lupper G.C.M.G.
High Comm^r for Canada
9 Victoria Chambers
London S.W. Eng.

Sir,
I have the honor to acknowledge
the receipt of your despatch 82849 of
the 29th ult^o and its enclosures with
reference to the subject of the forma-
tion of an International Copyright
Union and to state that the matter
will receive consideration

I have, &c.,
(sd) G. Powell,
H. S. S.