

Introduction

The 1852 verdict

Such regulations [for price maintenance] seem *prima facie* to be indefensible, and contrary to the freedom which ought to prevail in commercial transactions.

Lord Justice Campbell, 1852

In the long history of the production and sale of books the separation of publishing and bookselling as distinct functions is a recent growth. Joint publication by share-holding booksellers continued into the nineteenth century, and in the absence of one responsible publisher 'it was indeed the name and address of the printer which were required by law on the title-page of a book. Copyrights were acquired jointly at auction sales and as many as fifty participants would share the expenses of the publication and receive copies of the book in proportion to their investment. In the eighteenth century the publishers, or wholesalers, would normally issue a book in unbound sheets and even when, in the first quarter of the nineteenth, binding in cheap boards became possible, uniformity of style would not necessarily be maintained and the fixing and maintenance of a retail price certainly were not. The 'discount question'—meaning price-cutting or free trade or literary protection, as it was seen through varying eyes—had come and had come to stay.

Joint publication inevitably produced problems and disputes between the partners, requiring an organized solution. Temporary committees of London booksellers were set up in 1808 to consider a new Copyright Bill then before the House of Commons, and in 1828 to make recommendations for the regulation in management and finance of share-holding enterprises. A period of trade depression in 1825–6, leading to a financial crisis which some publishing booksellers did not survive, and the successful co-operation in the Committee of 1828 led in the following year to a meeting of a Committee of London booksellers, held at the Chapter Coffee House, at which it was resolved that 'the practice of underselling having grown to an alarming extent, both by advertising . . . and also by ticketing of books, by which means great loss had been occasioned to respectable booksellers, and publishers, and serious injury done to the respectability

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R. J. L. Kingsford

Excerpt

[More information](#)

2 *Introduction : the 1852 verdict*

of the trade' measures should be taken to check such practice and to increase the respectability of the trade. It was then agreed that no reduction of the published price was permissible except one of 10% for cash payment and an allowance of not more than 15% to book clubs and reading and literary societies; that any persistent infringer should have his name erased from the list of booksellers; and that the committee should become a permanent one, to give effect to these regulations. The growth of advertising, or 'puffing' as it came to be called by those who regarded it as an unrespectable practice, was beginning to make book-buyers price-conscious.

The committee set up in 1829 continued to be effective and, in enforcement of the regulations, to publish lists of undersellers. Although reaction by rebels strengthened, it was not until 1852 that the internal dissension of the book trade became a matter of widespread public interest; and then, fanned by *The Times*, a great controversy broke out.

Apart from the fact that in 1850 the booksellers in general meeting had reiterated the regulations of 1829 and that price maintenance could be presented, by doubtful analogy, in the context of the corn laws and of free traders versus literary protectionists (with booksellers likened to farmers and authors to cotton planters) it is difficult to see why it should have seemed a greater public menace than at any time during the previous twenty years. In March 1852 *The Times* thundered in a leading article against 'this anomalous interference with the free course of competition and the natural operations of trade'; letters followed in its correspondence columns, signed and anonymous (including one from 'Two and Two' who, as others have done since, got his figures wrong and confused the bookseller's total allowance with his profit); and Gladstone spoke on the matter in the House of Commons. In the meantime the protagonists, the Booksellers' Committee and the rebels, were referring their dispute to arbitration and agreeing to accept the verdict, whichever way it should go. In January John Chapman,¹ a bookseller who specialized in the import of American books, had launched an attack on the Booksellers' Association, challenging in particular its jurisdiction over foreign books. The reply of William Longman² and John Murray³ on behalf of the Committee was

¹ This is the John Chapman with whom George Eliot lodged; see Haight, *George Eliot and John Chapman* (New Haven, 1940).

² This is the Longman whom Trollope apostrophized in *Barchester Towers* (1857): 'a difficulty begins to make itself manifest in the necessity of disposing of all our friends in the small remainder of this volume. Oh, that Mr Longman would allow me a fourth! It should transcend the other three.'

³ John Murray III, the grandson of the founder of the firm and the son of John Murray II, who had published Byron and Scott and had founded *The Quarterly Review*.

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R. J. L. Kingsford

Excerpt

[More information](#)*Introduction : the 1852 verdict* 3

to invite Lord Campbell, later Lord Chancellor, with other eminent men to be chosen by him from names suggested, to arbitrate; and as the Committee's decision to abide by the decision and to resign if it were unfavourable came to be regarded as binding upon the whole Association, the Association was in the event fighting for its life. Lord Campbell selected George Grote, the historian, and H. H. Milman, Dean of St Paul's, as his colleagues, and beginning on 14 April the arbitrators received oral evidence from the Committee and a written record from the dissentients which included letters from such notable figures as Carlyle, Darwin, Dickens, Mill and Tennyson. The issues were argued in terms of commerce, of free trade or monopoly, with analogies from Mr Cobden's manufacture of muslins and Mr Bright's new line in carpets, and of the irreparable financial consequences to publishing and bookselling if the undersellers were allowed to continue without restraint. With hindsight we may now be surprised that it was assumed that the maintenance of a fixed price would inevitably cause the book-buyer to pay more and that no one argued that if the bookseller were prevented from giving away part of his trade allowance, the publisher could reduce it and so reduce also his fixed price. The arbitrators gave their decision on 19 May, and one may be permitted to wonder whether they had discussed the propriety of Gladstone's speech in the House of Commons seven days earlier, in which he praised the enterprise and energy of the undersellers and said that he could not much doubt what the verdict of the arbitrators would be. The decision was unequivocal: the regulations were harmful and vexatious and inconsistent with principles of free trade, and authors, the public and even booksellers would benefit from their abandonment. Platitudinous and shallow though Lord Campbell's verdict now seems to have been, it was effective. The Booksellers' Committee resigned, and although a new committee was set up to consider continuing co-operation within the trade, it could not recommend any alternative to unlimited competition and the Association ceased to exist.¹

In spite of, or because of, his victory Chapman himself was insolvent by 1854, but underselling continued. Efforts were made unsuccessfully in 1859-60 to restart a Booksellers' Association; and the London Booksellers' Society, founded in 1890, failed to persuade the leaders of the now

¹ Chapman printed *A Report of the Proceedings of a meeting (consisting chiefly of authors) held May 4th, at the house of Mr. John Chapman, 142 Strand, for the purpose of hastening the removal of the Trade Restrictions on the Commerce of Literature* (London, 1852). In 1906 in a pamphlet entitled *Publishers and the Public*, *The Times* reprinted the leading articles, reports of speeches and correspondence which it had printed in 1852. The story is also told at length in Barnes, *Free Trade in Books* (Oxford, 1964).

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R. J. L. Kingsford

Excerpt

[More information](#)

4 *Introduction : the 1852 verdict*

separate publishing trade to enforce a system of 'net' published prices. In 1852 the book trade had entered a period of free trade which was to last until the end of the century, and it was to wait for 110 years for a judgment contrary to the verdict of Lord Campbell. While during the latter half of the nineteenth century the prosperity and number of booksellers declined, the publishing trade enjoyed considerable expansion. Between 1801 and 1851 the population of Great Britain had almost doubled; in the seventy years since 1780 wages generally had increased by 50–100%; and in the second quarter of the century the demand for books, presumably from the new commercial classes, produced a decrease in the average price of new works from 16s. to 8s. 4½d. After the Elementary Education Act of 1870, which was to create in due course an entire population able, even if unlikely, to read books, the gradual decline in illiteracy and the immediate demand for school textbooks within a population still rising in number and in income resulted in an increase in the number of new books published annually, from approximately 2,600 in the middle years of the century to 6,044 in 1901. In this large increase religion had no share, but in novels and juvenile books, in history and biography, in economics and economic history, and in poetry and drama there were substantial increases.

The years 1895 and 1896, in which the history of the Publishers Association begins, saw the publication of Hardy's *Jude the Obscure*, Housman's *A Shropshire Lad*, Meredith's *The Amazing Marriage*, Stevenson's *Weir of Hermiston*, and Lewis Carroll's *Symbolic Logic* (accompanied by a folder containing nine counters, four red and five grey); Kipling, Maitland and the Webbs were in their prime as authors and Bernard Shaw was writing his early plays and Conrad his early novels. William Morris, to whose influence the coming renaissance of English printing was to owe so much, died in 1896, and that year brought also the birth of the *Daily Mail* and the repeal of the statute which required power-driven vehicles to be preceded by a man carrying a red flag. Then as now London was the main centre of book publishing. Of the 58 firms who were admitted to membership of the Association within its first year 53 were in London, 4 in Edinburgh and 1 in Bristol; and of the 53 in London 17 were housed within the shadow of St Paul's and 16 in the Covent Garden–Strand neighbourhood. The names of approximately half of the 58 still appeared on the title-pages of the new books of the 1960s.

1

1895-1900

*The founding of the Association
and the Net Book Agreement*

When on 23 January 1895 booksellers from London and all parts of the country met to found the Associated Booksellers of Great Britain and Ireland, they believed that a collapse of retail bookselling was imminent, and the only immediate aims of the Association were to persuade publishers systematically to adopt ‘net’ prices—fixed retail prices from which no discount could be given—except for such special categories as school books which would be subject to a reduced discount, and to convince them of the need to enforce the system.

MACMILLAN AND MARSHALL

The fixing of net prices for selected books had developed in the hands of one firm during the preceding five years. In 1890 Frederick Macmillan published Alfred Marshall’s *Principles of Economics* at a net price, and it has been accepted that its success and Marshall’s willing agreement to the fixing of a net price played a decisive part in the establishment of a net price system. That by successfully publishing *Principles of Economics* Macmillan inaugurated the system there can be no doubt, but since the publication in 1965 of Marshall’s part in the correspondence¹ it must be conceded that Marshall’s acceptance was not accompanied by full understanding of what was meant.

Before 1890 Macmillan had fixed some net prices but always for ‘large books selling for several guineas’² and not for books expected to have a wide sale at moderate prices; and Macmillan’s original proposal in March 1890, which Marshall accepted, was that the price of *Principles of Economics*

¹ C. W. Guillebaud, ‘The Marshall–Macmillan Correspondence over the Net Book System’, *Econ. Journal*, LXXV, no. 299 (1965).

² Macmillan to Marshall, 15 April 1890. It should be noted that there were net prices before 1890.

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R. J. L. Kingsford

Excerpt

[More information](#)

6 1895–1900: the founding and the Net Book Agreement

should be 16s. subject to the usual (variable) discount. In the following month Macmillan wrote¹ that he had become convinced that present discounts of twopence or even threepence in the shilling produced two evils: the inflation of nominal prices, to give room for the discount, and price competition between booksellers, which had so reduced their profit that they held inadequate stocks and gave inadequate service and only remained in business by selling Berlin wool and other fancy goods. He was also convinced in the absence of uniformity of opinion among publishers, booksellers and authors, that a net book system could only be introduced by stages. He then proposed that the price of *Principles of Economics* should be 12s. 6d. net, the trade price to be 10s. 5d. with a 5% discount on settlement, 25 copies not to be charged as 24 or 13 as 12½, as was then generally done. Marshall's book, he wrote, would be an ideal choice for experiment: it was important to choose a good book because if it did not sell, its failure would be attributed to its 'netness' and not to its quality; and it would not 'in any case come in the way of the "cheap-jack" booksellers, who are the only opponents of our scheme'. Macmillan's choice of a book by Marshall was indeed an inspired one, because economists (for example, Mill in the 1852 Book War) had generally opposed fixed prices as a restrictive practice.

Marshall accepted the net price, but before the end of the month of publication he was advocating a net system under which the published price would be the one charged by the bookseller on short credit, a discount of 1d. in the shilling would be given for instant cash, and an addition of 5% per half-year would be charged for long credit.² His belief that customers paying cash should be rewarded and those taking long credit should be penalized continued to grow, and he was to return to it in letters to Macmillan in 1897³ and 1898. Macmillan replied—and it is hard to see how he could have done other—that 'as the competition which had brought retail bookselling to the verge of ruin came about through the pretence of giving discounts for ready money, it would be very dangerous to begin the same system with *net* books' and that 'the only safe plan is to treat all bookselling as if it was a cash business (which for the most part it is) and to make no provision for long credit'.⁴ Macmillan's reply and the heat of September 1898 drew from Marshall the

¹ *ibid.*

² Marshall to Macmillan, 28 July 1890.

³ 'We [academic economists] are agreed that a trader may fitly borrow from the private person (e.g. via bank): but that when the consumer borrows from his shopkeeper it is economically forcing water to run uphill, and morally harmful.' 3 December 1897.

⁴ Macmillan to Marshall, 15 September 1898.

Cambridge University Press

978-0-521-13084-4 - The Publishers Association 1896-1946

R. J. L. Kingsford

Excerpt

[More information](#)*Macmillan and Marshall* 7

rejoinder: 'I cordially approved the net system for my book when it was suggested to me. But that was because I misunderstood the proposal. . . The Meteorological Office makes me hope that it will have rained before this reaches you; and if so you may be inclined to forgive me.'¹ In that letter and in subsequent ones in the next month it becomes clear that his main wish is that what he called 'grave scientific books' should, together with school books, be outside the net system so that scholars, with lower incomes than buyers of general literature, should pay less, and because the bookseller's margin should be less on a category of books of which he could do little or nothing to advance the sale. We may think that this was an argument, not against the net book system, but for varying trade margins on different kinds of order—whether for stock or a chance order and whether large or small—which were to become accepted practice within the net book system. 'One thing at least is clear,' concluded Mr Guillebaud from his reprint of the correspondence, 'Marshall's criticisms of the working of the net book system were not based on opposition to the principle of resale price maintenance when applied to books.'

THE SPREAD OF NET PRICES

During 1890 Macmillan published other books at net prices and his lead was quickly followed by other publishers, but when in 1894 the London Booksellers' Society tried to persuade Longman, Murray, Bentley, Black, Smith-Elder, and Blackwood to enforce their prices, they refused to do so; and in a printed circular dated 11 April in that year the Society confined itself to saying that its principle was to limit the discount to 25% and asking booksellers whether, in particular, they wished Warne's edition of Nuttall's Dictionary, published at 3s. 6d., to be sold at less than 2s. 8d. for cash.²

From its foundation in the following year the Council of the Associated Booksellers urged booksellers and publishers to support the net book principle and on 10 July a circular was sent to all publishers requesting a formal meeting and proposing that all books published at net prices should be sold at the full price, that prices of 7s. 6d. upwards should be net prices and that the maximum discount allowed on other books should be 25%.

¹ Marshall to Macmillan, 17 September 1898.

² London School of Economics: Library of Political and Economic Science, Coll. G.403.

Cambridge University Press

978-0-521-13084-4 - The Publishers Association 1896-1946

R. J. L. Kingsford

Excerpt

[More information](#)8 *1895–1900: the founding and the Net Book Agreement*

REGULATION REJECTED

Later in the month a small meeting of publishers was held at John Murray's publishing house, then as now at 50 Albemarle Street, and at their request C. J. Longman wrote on 29 July to the Secretary of the Associated Booksellers, reminding him of Lord Campbell's verdict of 1852 and deducing that any combination of booksellers and publishers originated for the purpose of regulating prices to the public and enforced by coercion or exclusive dealing was altogether unpracticable, and advancing a suggestion, which he had made at the meeting, that fixed retail prices should be abandoned and that publishers should fix wholesale prices and announce them to the public in their advertisements. Perhaps not surprisingly Longman's letter, of which he sent copies to the trade papers,¹ did not commend itself to the booksellers.

THE ASSOCIATION FORMED

Nevertheless, a meeting of publishers and booksellers was held at Anderton's Hotel in the Strand on 10 October at which it was agreed that a meeting of publishers should be summoned to consider the desirability of appointing a Committee to meet the Committee of the Associated Booksellers. The meeting took place on 21 November at Stationers' Hall² and Longman was voted into the chair. After a unanimous vote against the appointment of a Committee on the ground that it would be unfair and misleading to the booksellers in encouraging them to expect some concession which it was not possible for publishers to make, it was agreed, again unanimously, that a Committee be appointed to draw up rules for the formation of a Publishers Association, and the following firms were elected to form a committee of nine: Longmans, Green & Co.; Macmillan & Co.; John Murray; Routledge & Sons; William Heinemann; Sampson Low, Marston & Co.; R. Bentley & Son; William Blackwood & Sons; Smith, Elder & Co. After two meetings in December (Longman continuing in the chair and R. B. Marston acting as Secretary) the Committee submitted draft rules to a general meeting held on 23 January 1896 and attended by representatives of forty-nine firms, including some whose eligibility was uncertain or to whom by accident an invitation had not been sent. Rules were agreed³ with the addition of a wise precaution against the possibility of continuous re-elections of the same persons to

¹ *The Publishers' Circular*, 3 August 1895.

² which was to be the place of publishers' meetings until its partial destruction by bombing in December 1940.

³ see App. I.

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R. J. L. Kingsford

Excerpt

[More information](#)*The Association formed* 9

the offices of President and Vice-President, and notwithstanding the difficulty of defining a book-publisher. Anyone it was said, not for the last time, could call himself a publisher; and it may be thought that the problem was hardly solved by acceptance of the eligibility of 'individuals who for not less than one year have carried on the work of *bona fide* book publication'. The existing Committee was empowered to accept or reject applications for membership and, when the Association had thus been brought into existence, would then dissolve. The Committee went to work and when the first constitutional meeting was held on 12 March, fifty-five firms had been admitted and three more were added before the end of the year.¹ The meeting was informed that a bank account had been opened and it proceeded to the first elections: C. J. Longman, President; John Murray,² Vice-President; Frederick Macmillan, Honorary Treasurer; and ten firms to form the first Council.³ It was agreed that the Rule which provided that member firms must be represented by partners or directors should be amended to include also managers or secretaries and finally that voting by proxy should not be permissible. The Publishers Association had been founded.

THE FIRST YEAR

The Council met for the first time on 26 March 1896 and found plenty of work requiring its attention. It gratefully accepted an offer from the Stationers' Company of office accommodation in Stationers' Hall and of the part-time services of William Poulten, Beadle of the Company, as a paid Secretary⁴ and by the end of its first year it had held thirteen meetings, as against the four prescribed in the Rules, and had appointed six sub-committees. In the inaugural address on 21 April⁵ C. J. Longman, to whose initiative and wisdom the infant Association owed a particular debt, called attention to three matters requiring the collective attention of the trade. He outlined the *desiderata* in the law of copyright—compre-

¹ see App. 2. The eligibility of Oxford and Cambridge University Presses may have seemed doubtful. Cambridge, then in partnership with C. J. Clay & Sons, backed both horses and the application from Clay was the one accepted. Oxford made no application until 1898. It may also be noted that at the Annual General Meeting in 1904 G. Gill & Sons moved that an inquiry be made into the right of the University of Cambridge under its charters to carry on business as printers and publishers and as an examining body. The motion was referred to the Council, which after an investigation by the Officers decided that there was no *prima facie* cause of complaint justifying a committee of inquiry.

² John Murray IV, later Sir John Murray, K.C.V.O. (died 1928).

³ see App. 2.

⁴ at £1 per week, increased in 1897 to 30s. The office of Honorary Secretary was held by R. B. Marston of Sampson Low, Marston & Co. (see p. 106) until 1904 when he resigned and the office was discontinued.

⁵ P.C., 25 April 1896.

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R. J. L. Kingsford

Excerpt

[More information](#)10 *1895–1900: the founding and the Net Book Agreement*

hensibility, liberality, universality, and ease of enforcement—and drew attention to a threat from Canada to universality even within the British law. He deplored antagonism, held by some to be natural, between author and publisher and regretted that the differing points of view which were inevitable between seller and buyer were aggravated by lack of clarity in publishers' agreements or even by the absence of any written agreement. Lastly, while expressing to the booksellers his sympathy with any proposal which stood a reasonable chance of mitigating their financial difficulties, he saw no good purpose in reviving recent proposals for a ring to raise the effective retail price and to enforce it.

IMPERIAL COPYRIGHT

Longman's hope of early improvement in Imperial copyright was not fulfilled. Two Bills, to the drafting of which the Association contributed, were produced by the Society of Authors¹ and the Copyright Association and were introduced into the House of Lords by Lord Monkswell and Lord Herschell respectively. Both were referred to a Select Committee, before which the Association gave evidence; a redraft by Lord Thring passed the House of Lords in 1900 and was forwarded to the Colonial Governments for their approval.

In 1896 the Association in concert with the Society of Authors and the Copyright Association represented to Mr Secretary Chamberlain at the Colonial Office the danger of any departure from the existing uniformity which secured for any book first published in the British Empire copyright within all countries signatory to the Berne Convention for forty-two years, or the lifetime of the author and seven years thereafter, whichever were the longer. There was a threat of separate Canadian legislation, but reassurance was received from the Governor-General and satisfactory discussion took place with a representative of the Canadian Authors' Society during the third International Congress of Publishers² in 1898; and although again in 1900 a Bill drafted for introduction in the Dominion Parliament gave protection only to books printed in Canada, the legislature agreed to await the expected new Imperial Act.

ABRIDGEMENTS AND PIRATES

Other problems related to copyright were less intractable. In November 1896 the Council agreed that a warning should be sent to the press generally, and to the editors of literary periodicals in particular, against

¹ The Chairman of the Society was then H. Rider Haggard, of *King Solomon's Mines* fame.

² see p. 17.