

## Dutch Nineteenth-century Attitudes to International Copyright

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In 1869 Wilkie Collins had occasion to write the following piece of invective to the Dutch publisher Gebroeders Belinfante in The Hague:

Gentlemen,—The grave error that I have committed is the error of assuming you to be more just and more enlightened men than you are. Your answer to my letter tells me what I was previously unwilling to believe—that you have persisted so long in publishing books by authors of all nations, without paying for them, that any protest against that proceeding on my part, which appeals to your sense of a moral distinction between right and wrong, appeals to something that no longer exists.

What am I to say to men who acknowledge that they, and the people whom they employ, all derive profit from publishing my book; and who, owning this, not only repudiate the bare idea of being under any pecuniary obligation towards me as the writer of the book, but shamelessly assert their own act of spoliation as a right—because no law happens to exist which prohibits that act as wrong? There is nothing to be said to persons who are willing to occupy such a position as this.

[...] I persist, in the interests of public morality, in asserting my right to regard as my own property the produce of my own brains and my own labour—any accidental neglect in formally protecting the same, in any country, notwithstanding. I declare any publisher who takes my book from me, with a view to selling it in any form for his own benefit—without my permission and without giving me a share in his profits—to be guilty of theft, and to be morally, if not legally, an outlaw and a pest among honest men. {Reprinted in Robinson, *Wilkie Collins: A Biography*, London, 1951, pp. 212-15.}

Collins' letter is about one of the tropes of Anglo-Dutch relations of the nineteenth century: the irritating disregard in which the Dutch book trade held their neighbours' intellectual property rights. In the nineteenth century the besetting Dutch vice was not so much, as it had been in previous centuries, piracies in the usual sense of the word (reprints of the original work in the original language), but chiefly unauthorised translations. For Wilkie Collins there was no difference between the two, but it is useful to make a distinction between piracies "proper" and unauthorised translations. The distinction stays closer to the most widely used definition of piracy, but, more importantly, allows me to do justice to the realities of contemporary Dutch practice. While both piracy and publishing (unauthorised) translations of foreign works were

perfectly legal acts in the Netherlands throughout the nineteenth century, it was widely felt that unauthorised translation was less reprehensible, for reasons to be discussed.

Piracy in the sense of reprints of foreign books in the original language did occur in the Netherlands in the nineteenth century, but on a scale nowhere near to that of the seventeenth century—or that of, for example, French piracy in the first half of the nineteenth century. Though not expressly forbidden by Dutch law, it was more frowned on by the booktrade than was unauthorised translation, and never went beyond a few incidental—and hotly debated—cases, which I shall not go into here. {I hope to write on nineteenth-century cases of Dutch piracy, concerning, for example Tennyson and Motley, at greater length elsewhere. Unauthorised translation, incidentally, was also much debated, as we shall see.} The subject of this paper is nineteenth-century Dutch unauthorised translation—a problematic enough term as it is. It was not till the nineteenth century, when authorship had become a widely practised profession and the author's primacy in copyright ownership was becoming firmly established, that the concept of unauthorised translation became possible. This happened only gradually, and at varying times in different countries, and it happened late enough in the Netherlands compared to England to be able to provide cause for Wilkie Collins' outrage.

## **Background**

I should like to discuss unauthorised translations into Dutch by examining briefly a few cases of the reverse: translations that were in some way authorised. But it will be useful first to sketch some of the legal and institutional background. It is likely that a significant proportion of translations published in the Netherlands in the nineteenth century appeared without permission having been granted or even sought. This was not owing to the lawlessness of the Dutch booktrade, but because it was not demanded either by Dutch law or by the national Dutch booktrade organisation, the Vereeniging ter Bevordering van de Belangen des Boekhandels (VBBB). In 1817 copyright legislation was enacted in the Netherlands which, though it was in many ways inadequate, remained in force for almost the entire century, until it was eventually replaced by the relatively modern Copyright Act of 1881. The 1817 Copyright Act granted authors and their assigns the exclusive right to make public by print, to sell, and to allow to sell their original literary and artistic works. {E.D. Hirsch-Ballin, *Auteursrecht-in-wording: Over structuurveranderingen in het recht van den scheppenden mensch*, Zwolle, 1947, p. 14.} Copyright was limited to a term of twenty years after the death of the author or translator. The act protected the copyrights of domestic authors, including their translation rights, but remained silent about foreign authors. “Translation right”—the right by Dutch publishers to publish translations—was dealt with in Royal decrees of 1814 and 1815, which replaced the booktrade legislation of the French period and remained in force beside the 1817 act. The decrees described the

method for acquiring the right to translate a foreign title; stipulated that the copyright in a translation remained valid for an indefinite period after it had been acquired, and further stipulated that no new translation of the same work was to appear within three years of the first. While they also protect the translation right of the author of an original work first published in the Netherlands, again no mention was made of any similar right of the author of a foreign work.

In the meantime the VBBB, was founded, in 1815, when nineteen members of the booktrade signed the articles of association “with the aim to curtail the production and sale of reprints”. Its aim soon broadened, also in view of the complicated legislative situation, to regulating the trade in whatever way necessary, but chiefly regarding copyright issues. This was not only useful but necessary, since there was a good deal of uncertainty regarding the relationship between the 1814 and 1815 decrees and the 1817 act, and a number of imperfections in the 1817 act. {See, for example, L.G. Saalmink, “Het vertonen en aankondigen van te vertalen boeken”, *De negentiende eeuw*, vol. 17 (1993), pp. 67-86.} One of the tasks the VBBB took it upon itself to perform was to regulate the methods by which Dutch publishers could claim the right to translate foreign titles. Lack of clarity on this issue proved a particular source of problems. Though the details of the regulations changed in the course of time, the essence was that legislation and VBBB regulations allowed Dutch publishers to secure the exclusive copyright—at least for a number of years—on the translation of a given title. Publishers could secure this exclusive right by “showing” a copy of the work to be translated. This entailed presenting the copy to register an intention to translate, at first to the local authorities, and from 1857 to the VBBB translations committee. {There were more requirements, but “showing” (the Dutch word is *vertonen*) a copy of the original remained the central one throughout the nineteenth century.} Once again, these regulations concerned solely the technicalities that should be observed by Dutch publishers to prevent discord within the trade; they made no reference to the original author’s rights.

Throughout the nineteenth century there were many discussions in the Netherlands on both the legal and the moral status of the Dutch treatment of translation rights. The view prevailed that freedom of translation was not only legally enshrined but also morally defensible. The main argument ran that a literary text is a product of the mind, which cannot be treated as property in the same way rights in material properties are treated: thoughts expressed in words become public property as soon as they are published. (By limiting the period of protection to seventy years, copyright law still today universally recognises that literary property is unlike material property.) Moreover, it was argued, the act of translation constitutes an act of creation in its own right which may be equal to the original act of creation, if not actually surpass it.

But there were also counter voices. One publisher, Frederik Muller, stands up as early as 1840 to defend the author's right as a natural right. He proposes to extend the protection offered by the law to Dutch publishers to include foreign ones, which he regards as a moral duty resulting from the axioma of authorship. He favours an interpretation of the 1817 law according to the spirit rather than the letter to include foreign author/publisher's rights. {Chris Schriks, "Nadruk, geoorloofd of diefstal? Frederik Muller en het letterkundig eigendomsrecht", in *Frederik Muller (1817–1881): Leven en Werken*, ed. M. Keyser *et al.*, Zutphen, 1996, pp. 127–43, esp. 140–42.} The law can do no more than enshrine the rights of authorship. But even if it fails to do so, Muller argues, these rights still exist, as moral rights. Yet even Muller did consider that translations (especially in metric verse) might have to be treated differently, because of the disproportionate investment in effort. Translations are not achieved through mere mechanical reproduction: the resulting text constitutes a new work. A.C. Kruseman, a widely respected publisher and historian of the Dutch booktrade, sympathises with Muller. But even Kruseman did not feel moved to acknowledge Dickens' rights beyond showing him the courtesy of sending copies of the translations he published. And despite these and other voices, as late as 1896 the publisher Jacques G. Robbers felt moved to make a passionate plea for Dutch support for the Berne Convention. {J. G. Robbers, *Het auteursrecht: Opmerkingen en beschouwingen*, PhD dissertation, Amsterdam, 1896.} But these principled voices had little effect, and the Netherlands did not become a signatory to the Convention till 1911.

### **Actual practice**

Against this legal and institutional—and, one might say, rhetorical—background it is worth studying actual practice. Research is bringing to light increasing evidence that some form of payment to British authors or publishers was frequently made, in spite of the official stance. As early as 1851, H.A. Kramers, owner of a bookselling and importing business in Rotterdam, who was apparently also active as an agent in Britain for Dutch publishers, may be found writing to one of his principals, the Leiden firm of Sijthoff, about the need to pay the English publisher of a title that had caught their interest for the "favour" of letting the Dutch publisher have an early copy of the title (which was necessary, as we saw, to claim the right to translate) to beat the competition. The payment concerned is only £5, and it is intended not as payment for any form of copyright, but literally for a favour (indeed, almost as a bribe). {Incoming correspondence ledger, 1851, Sijthoff archives, Leiden University Library.} Yet it shows in a clear light the straightforward commercial nature of the business transaction between two parties not bound by any legal code. The English party was clearly aware of, and resigned to, the absence of any possibility of legal redress.

Indeed, throughout the 1850s and 1860s resignation seems to be the norm. Six years after Kramers' letter to Sijthoff, on 23 November 1857, Charles Dickens wrote the following note to one of his Dutch publishers, A.C. Kruseman of Haarlem:

Dear Sir,

I beg to acknowledge, with many thanks, the safe receipt of the translations of my books into the Dutch language, which you have had the kindness to send me. Allow me to thank you heartily, both for that acceptable present, and for the account you give me of the esteem in which I am held in Holland. It causes me great pride and gratification.

Accept the assurance of my high regard Dear Sir, and believe me always,  
Your faithful Servant

Charles Dickens {Reproduced in J.W. Enschedé, *A.C. Kruseman*, vol. I, Amsterdam, 1899, p. 263. The "present" included *Dombey and Son*, which Kruseman had just published.}

Here Dickens, otherwise noted for his spirited defense of his rights as an author, shows himself remarkably civil considering that he never received a penny for the translations Kruseman published.

When, in 1870, Gebroeders Belinfante of The Hague began publishing a Dutch translation of Wilkie Collins' *Man and Wife* in installments they proudly stated that they were doing so "With the author's permission". {"Met toestemming van de schrijver"}. The statement was entirely factually true, but it gave no hint of the battle Collins had to fight before being able eventually to proclaim victory over the perpetrator of the unauthorised translation who had occasioned the wrath witnessed earlier. The details need not be repeated here, as they can be found in the biographies, but they included a fairly wide public airing both in English newspapers (the *Echo* and the *Daily News*), and in Dutch ones (the *Amsterdamse Courant*, and the *Nieuwsblad voor den Boekhandel*). {See *Nieuwsblad voor den Boekhandel*, vol. 36, no 49 (9 December 1869), pp. 399-400.} It looks as if by giving in to Collins the Gebroeders Belinfante became the first Dutch publishers ever to publish such an authorised edition of a translation. {P.J.M. van Winden, "Dutch Translations of Wilkie Collins' Work: A Publishing History", unpublished MA thesis, Leiden, 1997, pp. 28-38; see also *idem*, "Wilkie Collins and His 'Dear Dutchmen'", Wilkie Collins Society, 1998. As it happens, Belinfante specialised in legal publishing, and they had just published a standard work on Dutch copyright law, *Het letterkundig eigendomsrecht in Nederland, wetten, traktaten, regtspraak, benevens de wetgeving op de drukpers in Nederland en Nederlandsch Indië*, 2 vols, The Hague, 1865-1867.}

The form Gebroeders Belinfante's payment to Collins took was a share in its profits—one of many contemporary forms of publishing agreements. It was to be the first of a series of further agreements between the two parties. Though a mere token payment, it was clearly in recognition of the original author's copyright. Despite Collins' assumption that Belinfante caved in under his moral pressure, however, no clear indication exists of why Belinfante made the payment. They may have considered it a useful advertisement to be able to state that they were publishing Collins with the author's permission. Whatever the case may have been, it did not prevent another Dutch publisher, A. ter Gunne, a declared enemy of the VBBB's exclusive translation rights policy, to publish his book edition of *Man and Wife* in a rival translation ten days before Belinfante published his last monthly instalment. Yet Belinfante's acknowledgement of Collins' rights did eventually lead to a good and, more importantly from Belinfante's point of view, exclusive relationship: Belinfante went on to become the sole publishers of Collins' work in the Netherlands for the remainder of the century.

Correspondence between the Haarlem publisher Erven F. Bohn and Ouida regarding his Dutch translations of her work includes a brief note from Ouida, dated 14 November 1880, in the form of a receipt for the sum of Dfl 250 (about £20), for the right of translating *The Village Commune* into Dutch. {Archives Erven F. Bohn (not to be confused with the English firm of the same name), C.78: Correspondentie Mo-Z, Leiden University Library.} [#check (Dousa)] Ouida writes to Bohn, "Are you sure you are not mistaken in thinking there is no copyright treaty between your country and that of England. If there be none, I will accept the price you offer [...]" It is obvious that Bohn has made the point that he is under no obligation to pay. What is not obvious is why he *does* pay her. But the phrase in Ouida's letter that the novel was "shortly to be published in Engeland" probably provides a clue. It is likely that Ouida reserved the foreign rights for this title in the contract she made with her publisher, Chatto & Windus. {In 1890, Chatto & Windus wrote to Ouida to ask if they may comply with Bohn's request to be sent sheets of *Syrlin*, for which Bohn say they have bought the translation rights (see Mirjam Nieman, "Recasting a Victorian Woman Writer: Chatto & Windus' Letters to Ouida", unpublished MA thesis Leiden, 1995, p. 97). Bohn also paid Bentley for Rhoda Broughton's work (P.J.M. van Winden, "Wilkie Collins and His 'Dear Dutchmen'", Wilkie Collins Society, 1998, note 4), and further research may well bring to light cases of similar payments to other authors or publishers.} By dealing with her directly and procuring early sheets, Bohn managed to get the better of his rivals. Ouida's work had previously appeared with two other Dutch publishers, but from *The Village Commune* Bohn became her regular publisher. He also paid her for the copyright of *Wanda* and *In Maremma*. [#check 371 and 438 of Bohn outgoing correspondence C6: "We would be very glad in purchasing the so-called .... of early sheet on the same conditions as made for *The Village Commune* ..."; "... for the so-called right of translation of *In [Maremma]*." (Dousa)]

Correspondence between the Gouda firm of Van Goor and Ward, Lock & Bowden suggests that by 1895 Van Goor made payment for copyright as a matter of policy, albeit in the form of “extra expenses” rather than as a necessary item in the cost of producing a translation:

As you know, a literary treaty does not exist between England and the Netherlands. Notwithstanding, we pay almost always a small amount for the authorisation of a translated edition of a new work of Miss Turner’s, when you will enable us to publish this at the same time with the original. {Cited by Berry Dongelmans, “The Widening Circle: Contacts between Dutch and English Publishers and Booksellers in the Second Half of the Nineteenth Century”, paper read at the “Bookshop of the World” conference, British Library, 13-15 September 1999; forthcoming.}

These cases, spanning half a century of Anglo-Dutch literary relations, show a development from informal and reluctant payments made almost covertly (none of the evidence comes from trade publications or any official documents, but all from private business correspondence) to payments offered (and perhaps expected or even demanded) as a matter of course. Probably as a result of the increasing number of translations published in the 1850s and 1860s, English publishers became alerted to the commercial possibilities of selling if not copyright as such, then at least the service to Dutch publishers of providing them with early copies of a coveted work. In this way, despite the fact that Holland did not become a signatory to the Berne Convention till 1911, and despite the absence of any legislation or regulations, a *de facto* Dutch recognition of English copyright obviously developed some time in the second half of the nineteenth century.

Indeed, to take into account this *de facto* recognition, in 1878 the VBBB regulations for claiming translation rights were changed to allow a claim to be made on the grounds of a prior financial transaction between the Dutch publisher and the foreign party. {“Handelingen der 61<sup>e</sup> Algemeene vergadering van de Vereeniging tot Bevordering van de Belangen des Boekhandels, gehouden te Amsterdam, 12 augustus 1878”, supplement to the *Nieuwsblad voor den Boekhandel* vol. XLV (pp. 5-7).} These payments are obviously made in spite of the fact that neither the law nor the VBBB regulations required them. Unfortunately the sources remain reticent as to the motives of the publishers discussed so far for making their payments. Certainly the evidence points less at a willingness to extend the principles of fair dealing to foreign parties than at the desire to streamline business dealings, as the 1878 amendment of the VBBB regulations also suggests. Most may have been inspired by the simple pragmatism of merchants finding it to their commercial advantage to make small payments in order to expedite

transactions with their overseas trading partners. More particularly, making (token) payments helped to obtain a title early for “showing”, and thus beating the competition. Additionally, the notion of an authorised translation may have been thought to appeal to prospective buyers, and to take the wind out of the sails of the competition. {Van Winden suggests that the agreement between Collins and Belinfante discouraged the competition from producing further translations (*op. cit.*, pp. 39-54), and the case of Ouida roughly confirms this (out of a total of nineteen, four titles are published by other publishers).}

What I would suggest we are witnessing here is the effect of a growing awareness in the Netherlands of the commercial value of the copyrights of popular authors. This essential aspect of modern publishing practice depends of course on a wider market for print, which was significantly slower to emerge in the Netherlands than in England with its larger population. As a result, Dutch authors, as we shall see, simply never became as popular as some of their foreign counterparts.

### **Why did the Dutch persist in not acknowledging the intellectual property of foreign authors?**

It is easy to regard the nineteenth-century Dutch practice of publishing translations of foreign works without permission or payment as unenlightened and immoral, as Wilkie Collins certainly invites us to do in his public letter cited earlier. It is also easy, in retrospect, to see its defense by its practitioners as a doomed rearguard skirmish in the battle against the forces of light. But it is worth investigating a little more closely just why the Netherlands were still not recognising international copyright officially at a time when England was, despite many voices from within the booktrade advocating extending local rights to foreigners, and despite the fact that the practitioners of unauthorised translation may even have formed a minority within the VBBB. {Robbers, *op. cit.*, p. 82.}

In the nineteenth century the old concept of copyright, which always remained closely connected with the right to make physical copies, and as a result was more in the nature of a protection of publishers’ rights than authors’ rights, changed into that of an intellectual property right as it is generally understood today. This development took place in both England and the Netherlands (as it did in most of Europe) at about the same time, though, as we shall see, its impetus sprang from different sources in both cases.

In England authors played a major role in this process—defending what they saw as their right to what had by then become a valuable property. The British Copyright Act of 1842, which recognised the creator of a literary property as the first rightful claimant of copyright, as well as the International Copyright Act of 1838, were essentially the result



of intense lobbying by authors such as G.P.R. James, Dickens, Carlyle, Southey, Wordsworth. {John Feather, *A History of British Publishing*, corr. edn, London, 1991, pp. 171-72.} James' interest was occasioned by French piracies of his novels; Dickens, as we know, was to turn into an avid (some thought rabid) denouncer of American piratical practices. In this defense they were able to build on a tradition of statute law, most recently worded in the 1814 Copyright Act, which had already "made a specific connection between the lifespan of the author and that of the copyright in his works", thereby specifically recognising authors' rights. {Feather, *op. cit.*, p. 171.}

The situation in the Netherlands was significantly different, and more complicated. There the development towards a more author-centred notion of copyright also took place in the nineteenth century (if a little later) but its origins and impetus lie elsewhere. The differences are of two kinds: legislative and economic. To begin with the legislative aspect, there had been in the Dutch Republic no history of statute law on copyright or authorship. The only protection against piracy was based on a system of privileges, usually granted to publishers, but in rare cases to authors. This system broke down in 1795, when the authorities in Dordrecht ruled that the granting of privileges ran counter to the human rights spirit of the French Revolution. The 1796 Provincial Decree that resulted from lengthy deliberations about the matter was the first Dutch statute copyright law, even if it was only valid in the province of Holland. {Wink, *op. cit.*, 16-27.} From today's perspective perhaps surprisingly, especially in view of the event that had given rise to the whole exercise, the act was very much a publishers' act. It granted the publisher the sole right to publish a work of which he had obtained the copy, and this right was regarded as a property right in perpetuity, transferable to his heirs or assignees. Though a literary property right was acknowledged in the act, the creator of the property was not mentioned, and protection was afforded to the publisher, not the author. {Hirsch-Ballin, *op. cit.*, pp. 11-13; Wink, *op. cit.*, pp. 28ff.}

In 1803 the first national copyright act was passed in the new Batavian Republic. It was based on the example of the 1796 Provincial Decree, which it followed in essence. The one major difference was that it recognised, for the first time, the creator of the literary property as the first rightful claimant of copyright, but that right remained based on the publication rather than the creation of the work. "Door de scheppingsdaad is de auteur wel *prius in tempore*, doch geenszins *potior in jure*." {"Through the act of creation the author may be *prius in tempore*, but by no means *potior in jure*" (Hirsch-Ballin, *op. cit.*, p. 13).}

It was during the Napoleonic era that authors' rights became first recognised in any significant sense, in the Printing Press and Book Trade Act of 1811, which followed the example of the French 1793 act. It granted the property right of literary works to the author and his widow for life, and to their heirs for a further 20 years. This act, which

was rather advanced in the matter of authors' rights, stayed in force for a mere couple of years. Immediately after the fall of Napoleon in 1813 it was abrogated, leaving the publishers free to reassert their earlier rights. Nevertheless, it had provided a small seed of thinking about author's rights.

The 1817 Copyright Act owed enough to the human rights spirit of its forebear to grant once again to the author the exclusive right to make public by print, to sell, and to allow to sell original literary and artistic works to their authors and assigns. But it is in essence a publishers' act, with authors' rights still depending on publication. {Hirsch-Ballin, *op. cit.*, p. 14.} The 1817 Act enshrines certain fair trading practices among Dutch booksellers rather than that it addresses any principles of authorship. It was the distinction between copyright as a publisher's right and copyright as an author's right that led to the *de facto* difference in protection granted to local publishers (and authors) and foreign ones. The latter were not included in the fair trading practice so scrupulously entertained among local publishers.

The important difference between the Netherlands and England in the legislative developments regarding copyright is obviously that in the Netherlands authors made little or no contribution to it. That the copyright position of Dutch authors improved at all in the nineteenth century resulted more from the almost abstract human rights legacy of the French Revolution than from any strenuous defense of their economic rights. For there were no political lobbying activities comparable to those involving T.N. Talfourd in England in the 1830s. While there were occasional rifts, the VBBB managed to unite almost the entire book trade, presenting a voice of some strength. Dutch authors—the publishers' natural enemies in the movement towards greater authorial power in copyright legislation—had no organised voice at all. Even on an individual basis, they lacked the force of (at least some of) their British counterparts. The reasons for this (and here we begin to touch on the second major difference between the Dutch and English situation), are largely economic. Not only was the Dutch market intrinsically so much smaller, Dutch authors were also nowhere near as popular in their own country as their imported counterparts. {Also typically, Dutch authors first organised themselves in 1905, more than twenty years after the foundation of the Society of Authors in Britain (1883).}

A further factor to be borne in mind in explaining the persistence with which the Dutch held on to the principle of free translation is that translations were of great economic importance in the Dutch nineteenth-century booktrade, especially in the middle period of the century. Kruseman's breakdown of the 1,648 titles in the *Nederlandsche bibliographie* of 1862 showed that 21% (or 347 titles) were translations, including 55 from French, 190 from German, and 89 from English. {Kruseman, *Bouwstoffen voor de geschiedenis van den Nederlandschen boekhandel gedurende de halve eeuw 1830-1880*, 2

vols, Amsterdam, 1886 and 1887, vol. II, pp. 734-35.) A table of the number of books deposited for intended translation in the period 1835-1879 shows figures which range from an average of 388 in the ten-year period 1835-1844 up to an average of 612 in the twenty-year period 1845-1864, and back down to an average of 400 in the remainder of the period. About half of these claims would have resulted in actual publication. {Kruseman, *op. cit.*, vol. II, p. 736.} Even at the end of the century (in the period 1883-1891), translations still accounted for more than 10% (2526 titles) of the total title production. {Chris Belton, "Trends and Patterns in the Translated Book Market of the Netherlands 1883-1891", unpublished MA thesis, Leiden, 1997, p. 25. Suggestions are that for fiction percentages would be much higher (see, for example, Robbers, p. 100).}

This brings us to another significant factor why the Netherlands kept insisting on the right to translate freely. This was the perceived need for what was referred to as "free intellectual traffic". This may sound more than a little disingenuous, but it is worth examining the argument more closely. It has to be regarded in the context of the prevailing sense in the Netherlands in the nineteenth century that the country had become a backwater in Europe. With ship building, trade, technological innovation—in short, all the things that mattered and that the Dutch had always excelled at—now increasingly taking place elsewhere, the Dutch fell victim to an unaccustomed sense of being on the European fringe. The period of French sovereignty at the turn of the previous century will certainly have contributed. The sense of dependence on products of foreign culture was so strong as to be almost postcolonial. {A comparison with Ireland as a publishers pirates' nest in the eighteenth century is not altogether frivolous. However, unlike Irish eighteenth-century or French nineteenth-century piracies, the Dutch translation industry would not have competed seriously with the sale of English original editions.} It led to the aggrieved notion that the balance of cultural and intellectual trade between the Netherlands and the rest of the world was unequal, with the Dutch being nett importers in a world where no-one outside of the Netherlands was even interested in the products of Dutch culture. These sentiments (not necessarily wholly founded on facts) go a long way to explain the Dutch booktrade's reluctance in recognising copyright in translations. {Bilateral treaties with France (1855) and Spain (1863) were strenuously resisted by the Dutch booktrade. Only in the case of Belgium (1858), a country with which a better balance of intellectual trade existed—that is to say, reprinting took place in both directions—did the booktrade favour the treaty (Loosjes, #[title] pp. 58-59).}

## **Conclusion**

Not surprisingly, then, the conclusion must be that the significant differences between Dutch and British copyright legislation during the middle part of the century (roughly 1842 and 1881), which coincides, as we have seen, with the period in which translations were crucial to the Dutch booktrade, sprang first and foremost from

economic factors. Britain stood to gain from international recognition of intellectual property rights, and the piracy of British literary property (on the Continent and in America) led to the world's first international copyright act, the International Copyright Act of 1838. The Dutch on the other hand stood to lose from international recognition of intellectual property rights, and they refused to recognise them, perceiving them—in a not altogether fanciful way—as an economic barrier to free cultural traffic.

Paradoxically however, at the same time as one set of economic arguments (including the free cultural traffic argument) formed a barrier to any attempt at changing the law to recognise foreign authors' rights, another set (including the need to compete with fellow publishers) *did* stimulate the *de facto* recognition of the monetary value of those rights. It was this that drove Dutch publishers in making their (token) payments to foreign authors and publishers. In a situation where a rival might not be making any payments at all, it was possible to gain a competitive edge by making payments, even if these were largely symbolic.

The ultimate domination of the economic argument over any lofty principles may be illustrated by the following quotation from a contribution by Bernhard Shaw to *The Author*, the journal of the *Society of Authors*. Discussing his dealings with American publishers, he refers to Harper's of New York as "pirating" British authors, but goes on to qualify his terms:

Note that I have put the word "pirated" between inverted commas. There was no piracy in the matter. If the USA, instead of joining the international copyright convention, preferred to make us a present of their literature and leave us as free to "pirate" Mark Twain and Artemus Ward (which we did profusely) as they to exploit Trollope and Ouida, the effect being that they could have our books, we theirs, without contributing to the support of the authors, there was nothing dishonest in that arrangement [...]. {Bernhard Shaw, "Sixty Years in Business as an Author", repr. in *Author! Author! A Selection from The Author, the Journal of the Society of Authors since 1890*, ed. Richard Findlater, London, 1984, pp. 35-41, at p. 37.}

Piracy, in other words, is not a problem, so long as one does not find oneself on the deficit side of an unequal balance of trade. Unfortunately, Anglo-Dutch book trade relations were characterised by inequality throughout the nineteenth century. Here we see the Dutch in an unwonted position of dependence, which from a Dutch perspective makes the nineteenth century a low point wedged between the seventeenth century, when the Dutch Republic had truly been the bookshop of the world, and the twentieth century, in which the Netherlands has once again become one of the largest international publishing forces.