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A TREATISE

ON THE LAW OF COPYRIGHT

IN

LITERATURE, THE DRAMA, MUSIC, ENGRAVING, AND SCULPTURE;

AND ALSO IN

DESIGNS FOR ORNAMENTING ARTICLES OF MANUFACTURE:

INCLUDING THE RECENT STATUTES ON THE SUBJECT.

BY

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PREFACE.

THE following treatise purposes to present, by incorporating recent statutes with former legal provisions, that entire view, which was wanting, of the present law of copyright. Wishing to supply the deficiency by a work of convenient size and moderate expense, the author hus made the volume less extensive than the deep interest of the subject otherwise inclined him to do. He has, however, studiously selected every thing important from that great mass of learning, the result of so many questions, discussions, and decisions upon copyright; and, where unable to give the extracts themselves on account of their length, he has carefully made reference to them. He therefore respectfully hopes the book may experience an indulgent reception, in consideration, too, of its chief intention,—immediate and practical utility.

The author cannot omit to notice here the

vast importance of the matter of this treatise. Among the many acts passed during the last session of Parliament, none, perhaps, are of event more momentous and beneficial than the two which tend to the perfection of the copyright law. Protected by one of these statutes, the manufacturer, no longer fearing piratical plunder of his property, will increase in inclination to foster those humbler, but highly meritorious schools of design, which beautify civilisation by the continual addition of new grace, in pattern or form, to almost every article of wear, ornament, or use. The other act has a still prouder aim, "the affording," to borrow its own words, "of greater encouragement to the production of literary works of lasting benefit to the world." That labour of the brain, which in general estimation stands the most eminent, has security there; and genius finds a shield which is to guard it from even its own proverbial improvidence. May the statute have the desired effect, and realize, in some measure at least, the great and good intentions of the poet-statesman, and his brother legislators, whose eloquence and exertions, during so long a struggle, led to its enactment. The change in the law of copyright, at any rate, does one thing: it places the nation on an equal footing with other countries in preserving the

just rights of manufacturers and authors. There will no longer attach to us the blame, that superior to foreigners in so much, we are inferior to them in that; since our boast may be for the future,

" ——— sunt hic etiam sua præmia laudi."

Temple, Michaelmas Term, 1842.

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A TREATISE

ON THE

LAW OF COPYRIGHT.

CHAPTER I.

COPYRIGHT IN LITERATURE.

COPYRIGHT DEFINED.

"THERE is," says Blackstone (*Comm.* vol. ii. p. 405.), "a species of property, which (if it subsists at common law), being grounded on labour and invention, is more properly reducible to the head of occupancy than any other; since the right of occupancy itself is supposed by Mr. Locke, and many others, to be founded on the personal labour of the occupant. And this is the right which an author may be supposed to have in his own original literary compositions: so that no other person, without his leave, may publish or make profit of the copies. When a man, by the exertion of his rational powers, has produced an original work, he seems to have clearly a right to dispose of that identical work as he pleases; and any attempt to vary the disposition he has made of it, appears to be an infringement of that right. Now the identity of a literary composition

consists entirely in the *sentiment* and the *language*: the same conceptions clothed in the same words must necessarily be the same composition; and whatever method be taken of exhibiting that composition to the ear or the eye of another, by recital, by writing, or by printing, in any number of copies, or at any period of time, it is always the identical work of the author which is so exhibited; and no other man, it hath been thought, can have a right to exhibit it, especially for profit, without the author's consent." This exclusive property of an author in his work is called COPYRIGHT, the existence of which, and its perpetual duration, at common law, have been much disputed. Opinions have been entertained by the most learned on either side of the question. In the case of *Millar* v. *Taylor*, 4 Burr. 2303., it was determined by three judges, one of them Lord Mansfield, (Mr. Justice Yates not concurring,) that an exclusive and permanent copyright in authors subsisted by the common law: the elaborate judgments given by their lordships on that occasion have been much admired for their argument and eloquence. The decision, however, in the case of *Donaldson* v. *Beckett*, 4 Burr. 2408., before the House of Lords, overthrew the former ruling, and held that no copyright subsisted in authors after the expiration of the several terms created by the 8 *Anne*, *c.* 19., which then formed the statute law on the subject. The new Copyright Act, the 5 & 6 *Vict. c.* 45., in its second section, defines the term COPYRIGHT to mean "the sole and exclusive liberty of printing, or otherwise multiplying copies of any subject to which the word is applied in that act."

A literary production, entitled to the protection of the law of copyright, is not only a work printed or written for the purpose of reading only; it may be any book or writing which conveys ideas to the mind by means of signs and marks. The term, therefore, applies to compositions consisting entirely of music, of mathematical or algebraic figures, or of any hieroglyphics whatsoever: *Bach* v. *Longman*, Cowp. 623. Nor is it requisite that the work be a volume of several sheets; it may be printed on one sheet only: nor does it lose its character of a book by being included with other compositions, even though the whole bear a different title from its own: so is there a copyright in notes, and new corrections and additions to an old work; so also in abridgments and translations, and in reviews and literary journals: *Hime* v. *Dale*, 11 East, 244. n.; *Clementi* v. *Goulding*, 11 East, 244.; *White* v. *Geroch*, 2 B & A. 298.; *Cary* v. *Longman*, 1 East, 358.; 3 Ves. & Bea. 77.

Pursuant to the second section of the 5 & 6 *Vict.* c. 45. (THE NEW COPYRIGHT ACT, which is given at full in the Appendix, No. 3.), the word "Book," in the construction of that statute, is to mean and include "every volume, part or division of a volume, pamphlet, sheet of letter-press, sheet of music, map, chart, or plan, separately published."

REPEAL OF FORMER ACTS BY THE 5 & 6 VICT. c. 45. — It will be well to here observe, once for all, that the first section of this new Copyright Act, the 5 & 6 *Vict.* c. 45., repeals the 8 *Anne*, c. 19., the 41 *G.* 3. c. 107., and the 54 *G.* 3. c. 156., the former copyright acts, except so far as the continuance of either of them may be necessary for carrying on or giving

effect to any proceedings at law or in equity pending at the time of its passing (the 1st July, 1842), or for enforcing any cause of action or suit, or any right or contract then subsisting.

THE DIFFERENT SPECIES OF LITERARY COPYRIGHT, AND THE EXTENT OF THEIR DURATION.

There are three different kinds of literary copyright. 1. The copyright possessed by the Crown or its patentees, called the Prerogative Copyright; 2. The copyright belonging to certain universities and colleges; 3. The copyright of authors and their assignees.

1. PREROGATIVE COPYRIGHT. — The first of these, the Prerogative Copyright, is the exclusive right of the Queen and her patentees to print the Acts of Parliament, proclamations and orders of council, the Bible, the liturgies and books of divine service, and, according to some, such law books, grammars, and other compositions as were compiled or translated at the expense of the Crown: 2 *Bl. Comm.* 410. This prerogative copyright, however, rests upon dubious grounds. The question has been much discussed; and although decisions have gone in favour of the Crown, it is still not satisfactorily settled: *Baskett* v. *the Univ. of Camb.*, 1 Bl. Rep. 105.; *Millar* v. *Taylor*, 4 Burrow, 2303.; *Roper* v. *Streater*, 4 Burr. 2316.; *S. C.* 1 Mod. 257., *See* 2 Ves. & Bea. 21.; Godson on Patents, last edition, 432. It is clear that there is no prerogative right to printing the Bible in the original languages, nor has any attempt ever been made to prevent publishing a part of the Bible, or the Statutes, or sending them

forth to the world with notes: *Grierson* v. *Jackson*, Ridgway's Rep. 304.; *Millar* v. *Taylor*, 4 Burrow, 2308. Formerly, the Crown claimed a prerogative in printing almanacks, but its patent for this was afterwards declared to be void: 2 Bl. Rep. 1004. When, however, a prerogative copyright does exist, it is unlimited as to time.

2. UNIVERSITY AND COLLEGIATE COPYRIGHT.—Pursuant to the 15 *G.* 3. *c.* 53. *s.* 1., the 41 *G.* 3. *c.* 107. *s.* 3., and also to the 5 & 6 *Vict. c.* 45. *s.* 27., by which last statute their rights are saved to them, the two universities of Oxford and Cambridge, and the colleges within them, the four universities in Scotland, Trinity College, Dublin, and the colleges of Eton, Westminster, and Winchester, have a copyright in books given or bequeathed to them for advancement of useful learning and other purposes of education: this copyright they hold in perpetuity, if the bequest is not expressly stated to be for a limited term, and if they continue to print at their own presses. Nevertheless, they have a power of selling, in the like manner as authors, the general copyright of works so given or bequeathed to them, but the perpetual privilege of exclusive publication ceases upon such assignment; since no university or college can delegate, grant, lease, or sell the monopoly itself.

The two universities of Oxford and Cambridge also share the right of the sovereign to print the Bible and the Statutes, but this privilege accrues to them only as grantees of the Crown.

3. GENERAL COPYRIGHT. — As regards the more general copyright, that of authors, the law has been varied and enlarged at different periods. The

8 *Anne, c.* 19. (passed 18th April, 1710), gave to the author or proprietor of a book then already printed the sole and exclusive right of printing it for twenty years. To the author and his assignee of a work then already composed, but not published, or of a work that should thereafter be composed and published, it gave the sole liberty to print and reprint it for the term of fourteen years and no longer, to commence from the day of its first publication; and it was further provided, that if the author should be living at the expiration of that term, then the sole right of disposing of the copies of the work should return to him for another term of fourteen years. By the 41 *G.* 3. *c.* 107. the law of copyright in Ireland was assimilated to that of Great Britain. In the 54 *G.* 3. *c.* 156. (passed the 29th July, 1814), all the provisions of the former statutes were consolidated; considerable alteration was at the same time made in the law; the term of copyright in the author and his assignee was extended to twenty-eight years absolutely, and for the life of the author; and to benefit the families of those authors who were alive at the time the act passed, but who might die before the first fourteen years from the day of publishing their works had expired, a further term of fourteen years was given to the personal representatives of the authors, without prejudice to all or any part of the former term.

The 5 & 6 *Vict. c.* 45., which extends to every part of the British dominions, repeals (with certain exceptions, see p. 3.) the above statutes, and makes still further alteration and addition. By the third sect. of the 5 & 6 *Vict. c.* 45., it is enacted, "That THE COPYRIGHT IN EVERY BOOK, which shall, after the passing

of this act (the 1st July, 1842), be PUBLISHED IN THE LIFETIME OF ITS AUTHOR, SHALL ENDURE FOR THE NATURAL LIFE OF SUCH AUTHOR, AND FOR THE FURTHER TERM OF SEVEN YEARS, COMMENCING AT THE TIME OF HIS DEATH, and shall be the property of such author and his assigns: Provided always, that IF THE SAID TERM OF SEVEN YEARS SHALL EXPIRE BEFORE THE END OF FORTY-TWO YEARS FROM THE FIRST PUBLICATION of such book, THE COPYRIGHT SHALL, IN THAT CASE, ENDURE FOR SUCH PERIOD OF FORTY-TWO YEARS; and that THE COPYRIGHT IN EVERY BOOK which shall be PUBLISHED AFTER THE DEATH OF ITS AUTHOR SHALL ENDURE FOR THE TERM OF FORTY-TWO YEARS FROM THE FIRST PUBLICATION thereof, and shall be the property of the proprietor of the author's manuscript, from which such book shall be first published, and his assigns." Thus, according to the present law, the copyright of a book published in its author's lifetime is to last for forty-two years certain, commencing from the date of its first publication; and for longer, if the natural life of the author, and the seven years after his decease, reach to a more extended period. The copyright in a book produced after the author's death will endure for a certain term of forty-two years from the date of its first publication.

The *5 & 6 Vict. c.* 45. makes a peculiar provision with regard to those books which have been published before the passing of the act, and in which a copyright still subsists. The 4th section of the act enacts, "that the copyright which, at the time of passing this act (1st July, 1842), shall subsist in any book theretofore published (except as hereinafter mentioned),

shall be extended and endure for the full term provided by this act in cases of books thereafter published, and shall be the property of the person who at the time of passing of this act shall be the proprietor of such copyright: provided always, that in all cases in which such copyright shall belong in whole or in part to a publisher, or other person who shall have acquired it for other consideration than that of natural love and affection, such copyright shall not be extended by this act, but shall endure for the term which shall subsist therein at the time of passing of this act, and no longer; unless the author of such book, if he shall be living, or the personal representative of such author, if he shall be dead, and the proprietor of such copyright, shall, before the expiration of such term, consent and agree to accept the benefits of this act in respect to such book, and shall cause a minute of such consent, in the form in that behalf given in the schedule to this act annexed, to be entered in the book of registry hereinafter directed to be kept, in which case such copyrights shall endure for the full term by this act provided in cases of books to be published after the passing of this act, and shall be the property of such person or persons as in such minute shall be expressed." Thus the copyright which subsisted before this act, and which had not expired at the time of its passing, has now an extended existence for the natural life of the author, and seven years after his death, or for forty-two years certain from the date of first publication. This benefit will not, however, accrue to the whole or part proprietor of a copyright who has obtained its assignment for other consideration than that of natural love and affec-

tion, unless its extension be agreed on between such proprietor and the author or his personal representative.

TITLE TO LITERARY PROPERTY.

LITERARY PROPERTY WHILST IN MANUSCRIPT ONLY.—A literary composition, and the right to its first publication while it remains in manuscript, are the private and exclusive property of the author, and he may keep the work in that condition for ever: *Donaldson* v. *Beckett*, 2 Bro. P. C. 144., 4 Burr. 2408.; Godson on Patents, last edition, p. 325.

LITERARY PROPERTY WHEN PUBLISHED. — The title to literary property, when the work is printed and published, belongs, during the period of copyright, to the author of the composition, his representatives or assigns. The 25th section of the 5 & 6 *Vict.* declares all copyright personal property, transmissible by bequest, or, in case of intestacy, subject to the same law of distribution as other personal property; and in Scotland it is to be deemed personal and moveable estate. In the case of *Bechford* v. *Hood*, 7 T. R. 620., it was decided that it is not necessary that an author should affix his name to a book in order to render his copyright effectual.

TITLE BY LAPSE.—To guard against the suppression of books of importance to the public, the fifth section of the 5 & 6 *Vict. c.* 45. enacts, that on complaint made to the Judicial Committee of the Privy Council, that the proprietor of a copyright in a book after the death of the author refuses to republish it, or to allow its republication, and that consequently the book is withheld from the public, the Judicial Committee may

license the complainant to publish the book, in such manner, and according to such conditions, as they may think fit.

OMISSION OF ENTRY IN REGISTRY NOT DESTRUCTIVE OF COPYRIGHT.—Pursuant to the 24th section of the 5 & 6 *Vict. c.* 45., the omission to make an entry in the book of registry at Stationers' Hall (of which more hereafter) does not affect the copyright in any book, but only the right to sue or proceed in respect of its infringement.

ESSENTIAL REQUISITES OF A COPYRIGHT.—It is essential to the existence of a copyright, that the book be not what in law would be termed a piracy upon another: *Trusler* v. *Murray*, 1 East, 362. Of what amounts to literary piracy more will be said presently.

There can be no copyright in any work the tendency of which is obscene, immoral, or libellous: *Fores* v. *Johnes*, 4 Esp. N. P. C. 97.; *Hime* v. *Dale*, 2 Camp. N. P. C. 28. n. The reason for this is, that there can be no property in what is publicly injurious. In the case of *Southey* v. *Sherwood*, 2 Meriv. 438., the Lord Chancellor Eldon, refusing to grant an injunction on this account, said, "I have examined the cases that I have been able to meet with, containing precedents for injunctions of this nature, and I find that they all proceed upon the ground of a title to the property in the plaintiff. On this head a distinction has been taken, to which a considerable weight of authority attaches, supported as it is by the opinion of Lord C. J. Eyre, who has expressly laid it down that a person cannot recover in damages for a work which is in its nature to do injury to the public. Upon the same principle this Court re-

fused an injunction in the case of *Walcot* v. *Walker*, 7 Ves. J., inasmuch as the plaintiff could not have recovered damages in an action. After the fullest consideration I remain of the same opinion as that which I entertained in deciding the case referred to. It is very true that in some cases it may operate so as to multiply copies of mischievous publications, by the refusal of the Court to interfere by restraining them; but to this my answer is, that sitting here as a judge upon a mere question of property, I have nothing to do with the nature of property, nor with the conduct of parties, except as relates to their civil interests; and if the publication be mischievous, either on the part of the author or the publisher, it is not my business to interfere with it." In the case of *Murray* v. *Benbow*, in Ch. 1822, MSS., Lord Eldon, giving a similar decision, said, "This Court has no criminal jurisdiction; it cannot look on anything as an offence; but it only administers justice for the protection of the civil rights of those who possess them. .... There is a great difficulty in these cases, because it appears a strange thing to permit the multiplication of copies by way of preventing the circulation of a mischievous work, which I do not presume to determine that it is; but that I cannot help." Again, in the case of *Lawrence* v. *Smith*, in Ch. 1822, MSS. the same Lord Chancellor expresses himself thus: "There was a peculiar circumstance attending this case, which was, that the defendant possessed no right in the work, but said to the plaintiff, 'This book is so criminal in its nature as to deprive you of all protection at law against others and myself, and I will therefore publish it.' Now he (the Lord Chancellor) knew it to be

said, that in cases where the work contained criminal matter, the Court, by refusing the injunction, allowed the greater latitude for its dissemination. But his answer to that was, that this Court possesses no criminal jurisdiction. It could only look at the civil rights of the parties; and therefore, whether a different proceeding were hereafter instituted against the defendant or the plaintiff, or both, was a circumstance with which he had nothing to do."

TITLE TO COPYRIGHT IN ARTICLES IN ENCYCLOPÆDIAS AND PERIODICALS. — The 5 & 6 *Vict. c.* 45. *s.* 18. enacts, that when a publisher or other person shall, before or at the time of the passing of this act, have projected, conducted, or carried on, or shall hereafter project, conduct, or carry on, or be the proprietor of any encyclopædia, review, magazine, periodical work, or work published in a series of books or parts, or any book whatsoever, and shall have employed or shall employ any persons to compose the same, or any volumes, parts, essays, articles, or portions thereof, and this shall have been done on the terms that the copyright shall belong to such proprietor, projector, publisher, or conductor, then, on payment by him, the copyright in every such composition shall be his property to the full extent, and for the same term, as are given by this act to the authors of books.

In the case, however, of essays, articles, or portions forming part, and first published in *reviews, magazines, or other periodical works of a like nature,* the section makes this exception: that, after twenty-eight years from their first publication, the right of publishing them in a separate form shall revert to the author for

the remainder of the term given by this act. But, during the twenty-eight years, the proprietor of the review, magazine, or similar periodical, cannot publish an article separately, without the previous consent of the author or his assignees.

There is then a proviso which affects encyclopædias, reviews, and all the publications mentioned in the section: it is this — that an author may publish his composition in a separate form, if, by contract, express or *implied*, he have reserved the right to do so; but he will be entitled to the copyright in his composition when so separately published, according to this act, without prejudice to the rights of the proprietor of the encyclopædia or periodical.

LETTERS.— The law as to copyright in letters is this. If the letters be originally intended for the press, the form of epistolary writing being merely given to the work, whilst in reality it is a literary composition, such letters will of course come within the law which protects every other kind of literary production. As to letters which have passed from one person to another, but which, from their subject, or the character of the author, assume the nature of a literary composition, their transmission by the writer to the person to whom they are addressed does not give the receiver any right to publish them; but with regard to common letters, such as are written on business, and on every other subject that may occur in the intercourse of private life, they cannot be considered as literary compositions, and are not entitled to protection on the ground of copyright; although courts of equity may sometimes interpose to stop their publication, when such publication is *a breach of con-*

tract or *confidence*, or when they are intended to be made a source of profit at the risk of wounding private feelings: *Pope* v. *Curl*, 2 Atk. 342.; *Thompson* v. *Stanhope*, Amb. 737.; —— v. *Eaton*, 2 V. & B. 27.; *E. of Granard* v. *Dunkin*, 1. Ball & Beat. 207.; Godson on Patents, last ed. 327.

LECTURES. — By the 5 & 6 *W.* 4. *c.* 65. (an act for preventing the publication of lectures without consent), *s.* 1., the author, or his assignee, of lectures to be delivered in any school, seminary, institution, or other place, has the sole right of publishing them; and every person who obtains, by taking down in shorthand, or through any other means, a copy of the lectures, and publishes them without leave of the author or his assignee, and every person who knowingly sells or offers for sale lectures so unlawfully published, shall forfeit the illegal copies of the lectures, together with one penny for every sheet of them found in his custody, one moiety to the crown and the other moiety to the party suing for it. The 2nd section of the same statute inflicts a like penalty on the printers and publishers of newspapers, who publish such lectures without leave of the author or his assignee. By the 3rd section, persons allowed, on payment of fees, to attend lectures, are not licensed, on that account, to publish them. By the 4th section, the act does not prohibit the publication of lectures which have been published with the leave of the author or assignee, and of which the literary copyright given by the 8 *Anne*, *c.* 19. and the 54 *G.* 3. *c.* 156. has expired; nor does it prohibit the publication of lectures which have been printed or published before the passing of this act, the 9th Sept. 1835. The 5th section provides that

the act shall not extend to lectures of the delivery of which notice in writing has not been given to two magistrates living within five miles of the place of delivery, two days at least before the delivery; nor is it to extend to lectures delivered in a university or public school, or college, or on a public foundation, or by an individual in virtue of any gift, endowment, or foundation.

As far as regards lectures printed and published by the author or his assignee, they will now have the same term of copyright as is given to other literary productions by the 5 & 6 *Vict. c.* 45. The above act, however, remains valid to prevent the piratical publication of those lectures it protects, when only orally delivered by their author.

NEWSPAPERS.—The publication of newspapers is now regulated by the 6 & 7 *W.* 4. *c.* 76. The principal features of that statute are,—The declaration to be delivered at the stamp office, previous to first publication, containing the title of the newspaper, the name of its place of printing and publishing, and the names, additions, and places of abode of its printer, publisher, and proprietor, under penalty of 50*l.* for each publication, in case of omission. The giving of a distinct die or mark to each newspaper. The filing of the declaration at the stamp office, and a copy of it being made evidence. The names and residences of the printers and publishers, and the date of publication, being required to appear at the end of every newspaper. The delivery of two copies of each newspaper, signed by the printer or publisher, to the commissioner of stamps, under a penalty of 20*l.* for omission; and such copies being, within two years after

publication, evidence in any court of justice. The stamp, and the regulations and penalties relating thereto.

REGISTRATION OF LITERARY COPYRIGHT.

The *5 & 6 Vict. c.* 45. provides for the registration of literary copyright at Stationers' Hall. Pursuant to the 11th section of that statute, a book of registry is to be kept at the hall of the Stationers' Company, by an officer appointed by the company, and in it is to be registered the proprietorship in the copyright of books and their assignments; and in dramatic and musical pieces, whether in manuscript or otherwise, and licences affecting such copyright. This book of registry is to be at all convenient times open to the inspection of any person, on payment of one shilling for every entry searched for or inspected in it. The officer of the company, whenever reasonably required, is to give to any person requiring it, on payment of five shillings, a copy of an entry in the book of registry, certified under his hand, and impressed with the stamp of the company provided for the purpose. A copy so certified and impressed is receivable in evidence in all courts and summary proceedings, and is *primâ facie* proof of the proprietorship or assignment of copyright or licence, but subject to be rebutted by other evidence: so in the case of dramatic or musical pieces, such copy is *primâ facie* proof of the right of representation or performance, subject also to be rebutted by other evidence. The 13th section of the same statute gives directions for making entry in the book of registry. Pursuant to that section, the proprietor of

copyright in any book published before or after the passing of the act may, on payment of five shillings to the company's officer, make an entry in the registry book of — 1. *The title of the book:* 2. *The time of its first publication:* 3. *The name and place of abode of its publisher:* and 4. *The name and place of abode of the proprietor of the copyright of the book, or of any portion of such copyright.* (*A form for this is given in a schedule to the act: see the statute in the Appendix*). Pursuant to the same section, a proprietor so registered may assign the whole or part of his interest by entering in the book of registry, on payment of five shillings, *such assignment, and the name and place of abode of the assignee*, according to a form given also in the schedule to the act (see *Appendix*). An assignment so entered will be effectual in law to all intents and purposes whatsoever, without being subject to any stamp or duty, and it shall have the same force and effect as if the assignment had been made by deed.

Pursuant to the 14th section of the same statute, if any person feel aggrieved by an entry in the book of registry, he may apply to a superior court of law in term time, or to a judge in vacation, for an order that such entry be expunged or varied: upon such application the court or judge is to make an order for expunging, varying, or confirming the entry, either with or without costs; and on production of an order for expunging or varying, the officer of the Stationers' Company is to expunge or vary the entry according to the requisitions of the order.

REGISTRATION OF ENCYCLOPÆDIAS AND PERIODICALS. — The 19th section of the 5 & 6 *Vict. c.* 45. enacts that the proprietor of copyright in an

encyclopædia, review, magazine, periodical work, or work published in a series of books or parts, shall have all the benefits of registration at Stationers' Hall, on entering in the book of registry — 1. *The title of such encyclopædia or periodical.* 2. *The time of the first publication of its first volume, number, or part, or of the first number or volume published after the passing of this act.* 3. *The name and place of abode of the proprietor.* 4. *The name and place of abode of the publisher, when the publisher is not also the proprietor.*

EFFECT OF REGISTRATION.—The 24th section of the 5 & 6 *Vict. c.* 45. enacts that no proprietor of copyright in a book first published after the passing of this act shall maintain any action or suit at law or in equity, or any summary proceeding, for infringement of his copyright, unless, before the commencement of such action, suit, or proceeding, he shall have made an entry of the book, pursuant to this act, at Stationers' Hall: *provided always*, and this should be particularly observed, *that the omission to make such entry shall not affect the copyright in a book, but only the right to sue or proceed in respect of the infringement of that copyright.* There is also another proviso, that nothing in this section shall prejudice the remedies given by the 3 & 4 *W.* 4. *c.* 15. to the proprietor of the sole right of representation of a dramatic piece, although he may have made no entry in the book of registry.

PENALTY FOR A FALSE ENTRY.—The 12th section of the 5 & 6 *Vict. c.* 45. makes it an indictable misdemeanor, punishable accordingly, for any person to wilfully make or cause to be made any false entry

in the registry book of the Stationers' Company, or to wilfully produce or cause to be tendered in evidence any paper falsely purporting to be a copy of any entry in the registry book.

As to the registration of dramatic pieces, and musical compositions, see also under Dramatic and Musical Copyright.

TRANSMISSION OF LITERARY COPYRIGHT.

The case of *Power* v. *Walker*, 3 Mau. & S. 7., is the leading decision, which declares it necessary that the assignment of a copyright must be in writing. The ruling in that case went upon the statute 8 *Anne, c.* 19., which does not expressly require the assignment of a copyright to be in writing, but enacts a penalty against a party printing a book without the consent of the proprietor *first had in writing, signed in the presence of two or more witnesses.* Lord Ellenborough there said, "that the statute having required that the consent of the proprietor, in order to authorise the printing or reprinting of any book by any other person, shall be in writing, the conclusion from it seemed almost irresistible that the assignment must be also in writing; for if the licence, which is the lesser thing, must be in writing, *à fortiori* the assignment, which is the greater thing, must also be." The grounds for this opinion are certainly not satisfactory; nevertheless, the courts have since adhered to it. It was recognised in *Clementi* v. *Walker*, 2 B. & C. 861.; and also in *Barnett* v. *Glossop*, 1 Bing. N. C. 633., where it was laid down that the defence of want of writing should be specially pleaded.

The *54 G. 3. c. 156.*, which immediately followed the case of *Power* v. *Walker*, and which extended the 8 *Anne, c.* 19., made a similar enactment as the former statute with regard to the licence being in writing, except that it omitted the necessity of the signature in the presence of two witnesses. The new act, the 5 & 6 *Vict. c.* 45., also requires the licence to be in writing; and it is therefore probable that the law upon this point will continue the same, with this exception, that, pursuant to the 13th section of the 5 & 6 *Vict. c.* 45., the proprietor of a registered copyright may, by an entry in the book of registry, assign his interest, or any portion of his interest, in such copyright, in a manner as valid, without being subject to stamp or duty, as if that assignment had been made by deed.

A question, however, here suggests itself, whether at common law the transfer of a copyright, as a right to a thing incorporeal, should be not only in writing, but by deed. The two cases above cited, *Power* v. *Walker*, and *Clementi* v. *Walker*, which held that at least a transfer in writing was necessary, cannot be considered to have expressly decided that a writing not being a deed would be sufficient. In a recent case, that of *De Pinna* v. *Polhill*, 8 C. & P. 78., Tindal C. J. expresses an opinion that the agreement for the sale of a copyright must be by deed, though the point could not be raised on the state of the pleadings in that case. It would seem also that the framers of the 5 & 6 *Vict. c.* 45. had a notion of the necessity of a writing under seal, when, in the thirteenth section, they say that an assignment by entry in the register shall be as valid as if it *had been made by deed*.

It would therefore appear that where the original proprietor has not registered the book, or the transfer is not made in the manner provided by the thirteenth section of the statute, it would be highly advisable, if not absolutely requisite, that the assignment of a copyright, or any agreement relating to it, should be by deed. In many of the reported cases relating to copyright, it appears incidentally that the conveyance or contract was by deed.

GENERAL ASSIGNMENT. — In a case decided on the 54 G. 3. c. 156., it was held that by the author's general assignment of all his right in a work, the assignee had the benefit of the resulting term for the life of the author, when he survived the twenty-eight years from the day of publication: *Carnan* v. *Bowles*, 2 Bro. C. C. 58.

ASSIGNMENT OF AN EDITION. — In the case of *Sweet* v. *Cater*, 5 Jurist. 68., the plaintiff entered into a contract with the author of a work which had already passed through nine editions, to purchase from him, and to sell to the public at a fixed price, a tenth edition, consisting of 2500 copies. Upon a demurrer to a bill filed for an injunction to restrain the piracy of the work, it was held that the plaintiff had obtained a right in the copyright of the work until he should have sold off the tenth edition; that during such time the plaintiff had bound himself to sell the book at a fixed price, and the author would be bound not to interfere in the sale.

COPYRIGHT PERSONALTY. — The 5 & 6 *Vict. c.* 45. *s.* 25. makes all copyright personal property, transmissible by bequest; or, in case of intestacy, subject to the same law of distribution as other personal

property; and in Scotland it makes it personal and moveable estate.

As regards the gift or bequest of copyright to certain universities and colleges, and assignments by them, see above, at p. 5.

COMPULSORY DELIVERY OF COPIES OF BOOKS TO THE BRITISH MUSEUM, AND FOUR OTHER LIBRARIES.

To support the establishment of certain institutions for the benefit of learned bodies and the public, all acts protecting literature, or relating to books, have compelled a delivery to some libraries of copies of published works. The first of these statutes was passed in the reign of Charles II.: by it three copies were ordered for the two English universities and the King's library. The 8 *Anne, c.* 19., extended the number of copies demandable to nine; one for the Royal Library, two for the libraries of Oxford and Cambridge, four for the libraries of the four Scotch universities, one for Sion College in London, and one for the library of the Faculty of Advocates in Edinburgh. The 41 *G.* 3. *c.* 107. added two more copies for Trinity College and the King's Inn, Dublin. In the case of *The University of Cambridge* v. *Bryer*, 16 East, 317., a question arose upon these statutes, whether it were necessary that the title of the book should be entered at Stationers' Hall prior to the publisher being bound to deliver up copies for the use of the public libraries, as directed by the act; and it was there held that it was not requisite it should. The next statute of copyright, the 54 *G.* 3. *c.* 156., required that eleven copies

of every book should be distributed among the same libraries, except that, in place of the Royal Library, was substituted the British Museum.

The 5 & 6 *V. c.* 45., with greater regard to the interests of publishers, confines the extent of copies required to be delivered to a more just and limited number.

DELIVERY TO THE BRITISH MUSEUM.—The 6th section of that statute requires the delivery, on behalf of the publisher, to the British Museum, of—1. A printed copy of every book published after the passing of this act, together with all maps, prints, or other engravings belonging to it, finished and coloured as are the best copies of the work: 2. A printed copy of any second or subsequent edition published with additions or alterations, whether in the letterpress or in the maps, prints, or other engravings, and whether the first edition was published before or after the passing of this act: and, 3. A printed copy of any second or subsequent edition, of which the first or some preceding edition has not been delivered to the Museum. Each of these copies is to be bound, sewed, or stitched together, and to be upon the best paper on which the work is printed; and the delivery is to take place within one calendar month after the book is first published within the bills of mortality, or within three calendar months after it is first published in any other part of the United Kingdom, or within twelve calendar months after it is first published in any other part of the British dominions. Pursuant to the 7th section, this delivery is to be made at the British Museum between ten and four on any day except Sunday, Ash Wednesday, Good Friday, and Christmas Day, to

one of the officers of the Museum, or to some person authorised by the trustees of that institution. Such officer or person receiving the copy is to give a written receipt for it; and a delivery so made will fulfil all the requisitions of the statute.

DELIVERY TO THE OTHER LIBRARIES.—The 8th section of the same statute enacts that a copy of every book, or of any second or subsequent edition containing additions or alterations, together with all maps and prints belonging to it, which is published after the passing of this act (such copy to be upon the paper of which the largest number of copies of the book or edition is printed for sale, and in like condition to them), shall, on demand in writing, left at the publisher's abode within twelve months after publication, under the hand of the officer of the Stationers' Company, or of any person with authority from the Bodleian Library at Oxford, the Public Library at Cambridge, the Library of Advocates at Edinburgh, and the library of Trinity College, Dublin, be delivered within one month after such demand to the officer of the Stationers' Company. The officer of the Stationers' Company is to receive at the Company's hall the copies for the use of the libraries that have made their demand within the twelve months; he is to give a written receipt for them; and, within one month after delivery to him, to deliver them to the respective libraries. The 9th section provides that if any publisher wish, he may deliver the copy of a book demanded at any of the four libraries themselves, free of expense to the library, to the librarian, or other person authorised, who must receive it, and give a written receipt in return; and such delivery

will fulfil the intent of this act as much as a delivery to the officer of the Stationers' Company.

According to these provisions of the act, the main distinctions between a presentation to the British Museum and a presentation to any of the other four libraries, are these, — first, that the delivery to the Museum is to be made without demand on the part of that institution; whereas delivery to one of the other libraries need not be made at all, unless there be a written demand within twelve months after publication; and, secondly, that the copy presented to the Museum must be one from the best copies of the work, while that for any of the other libraries need be only a copy from the set the most numerous. Thus, if a publisher produce a superior and an inferior edition at the same time (as in cases of quarto and octavo editions, so frequent in illustrated works), he must give a copy of the more valuable impression to the Museum; whereas he need only make presentations to the other libraries from the set of lesser cost, provided that set exceed the other by even a single copy.

PENALTY FOR NON-DELIVERY.—The 10th section of the same statute enacts, that if the publisher of a book, or of a second or subsequent edition of a book, neglect to deliver it pursuant to this act, he shall for every default forfeit, besides the value of the copy he ought to have delivered, a sum not exceeding 5*l.*, to be recovered by the librarian or other authorised officer of the library, for whose use the copy should have been delivered; either summarily, on conviction before two magistrates for the county or place where the publisher making default resides; or by action of debt or similar proceeding at the suit of such librarian

or other officer in any court of record in the United Kingdom, in which action, if the plaintiff obtain a verdict, he shall recover his costs reasonably incurred, to be taxed as between attorney and client.

LITERARY PIRACY.

Literary piracy is the unauthorised publication of a book so transcribed from another in which copyright subsists, as to preclude the necessity of reading the original work.

It should be here observed that to constitute literary piracy, it is not necessary that the copy be likely to supersede *the sale* of the original work, for where even the copy is attainable only at a greater price than the original, still a piracy may exist. This was decided in the case of *Roworth* v. *Wilkes*, 1 Campb. 94. There the defendant's counsel contended that, though the article in the defendant's book (an encyclopædia) contained all that was material in the plaintiff's production, still its connection with a work of such magnitude and expence as the encyclopædia, precluded the possibility of injury arising to the plaintiff by the preference which the public might give to the larger publication. But Lord Ellenborough said: "The test by which we must decide whether or not a party has infringed on the copyright of another is, not by inquiring what was the intention of the trespassing party, but whether the work of the party complaining has been so copied, that the copy may by any possibility supersede the original work. . . . . It is true that a large work like the defendant's may be allowed to embrace all the information contained in the newest

works on the subject, but they must set limits to their extracts, and not publish the work of another merely in a different form. It has been argued that the defendant has used no greater liberty with the plaintiff's production than is assumed by reviewers; but the same rule holds in works of that kind; they fairly make extracts, and may comment on those portions, but it would be unfair if they should extract the substance of the work that they choose to review." See also *Sweet and others* v. *Shaw*, 3 Jurist. 217.; *Bramwell* v. *Halcomb*, 3 Myl. & C. 737.

PIRACY IN REVIEWS. — The case of *Roworth* v. *Wilkes* is also an authority with regard to reviews, magazines, literary journals, and periodicals. Sufficient may be given in them to form a correct idea of the work reviewed; but no one is allowed, under pretence of quoting, to publish either the whole or principal part of another man's composition, and therefore a review must not serve as a substitute for the book reviewed: *Roworth* v. *Wilkes*, 1 Camp. 97.; *Wilkins* v. *Aikin*, 17 Ves. 422.; *Lewis* v. *Fullarton*, 3 Jurist. 669.; *Saunders* v. *Smith*, 3 Myl. & C. 711. See also Eden on Injunctions, 281. As to the observations of critics in reviews, see *Carr* v. *Hood*, 1 Camp. 355.; *Nightingale* v. *Stockdale*, Selwyn's N. P. 9th ed. 1063.; *Watts* v. *Frazer*, 7 C. & P. 369.

PIRACY IN HISTORIES, DICTIONARIES, &c. — As to histories, dictionaries, calendars, and all works of calculation, from the generality of their nature, a similarity, more or less close, must necessarily arise in any two works upon one of the subjects to which they relate, yet in either work a copyright will subsist, since each of them is the produce of the ingenuity and

labour of its respective author, and it is but fair that both should take their chances of success; but if any circumstance transpire by which it can be shown that one book is merely a copy of another, then that copy will be a piratical publication: *Sayre* v. *Moore*, 1 E. 361. n.; *King* v. *Reed*, 8 Ves. 223. n.

PIRACY IN ABRIDGMENTS. — In the case of *Strahan* v. *Newberry*, Lofft's Reports, 775., the Lord Chancellor Apsley, after consulting Judge Blackstone, said, "that an abridgment, where the understanding is employed in retrenching unnecessary and uninteresting circumstances, which rather deaden the narration, is not an act of plagiarism upon the original work, nor against any property of the author in it." But if the abridged work be but colourably shortened, either by republishing only part of the original, or by omitting some parts and merely transposing the remainder, it is a piracy: *Giles* v. *Wilcox*, 2 Atk. 143.

PIRACY OF A TITLE. — The remarks of Lord Eldon, in the case of *Hogg* v. *Kirby*, 8 Ves. 215., would seem to show that there may be copyright in a title; as, where a periodical work represents itself to the public to be the same as one already in the course of publication, the former is an infringement on the property of the latter.

PUBLICATION WHEN PUNISHABLE AS A CONTEMPT. — Courts of justice have a control over the publication of their own proceedings. It is claimed and exercised not on the grounds of copyright and property, but on the principle that it is necessary for the due and impartial administration of the laws. Therefore, when any of the higher courts of law forbid the report of a particular case before them, it is a

contempt of court to publish it: *The King* v. *Clement*, 4 Barn. & Ald. 218. The houses of parliament treat a publication of their proceedings as a breach of privilege, and it is only by sufferance that the reports of debates appear in newspapers. The Lords also deem it an exclusive privilege of their house to publish their own judicial proceedings: *Gurney* v. *Longman*, 13 Ves. 493. The publication of matters before the Privy Council, or the Lord Mayor's court, are restrainable by injunction. A criminal information will lie for publishing an *ex parte* statement of the proceedings on a coroner's inquest: Godson on Patents, last ed., 460. et seq.; *The King* v. *Fleet*, 1 B. & A. 384.

REMEDIES AGAINST LITERARY PIRACY.

The remedies against literary piracy are, an injunction from a court of equity, an action at law, and, in some cases, a summary proceeding before magistrates.

INJUNCTION.—An injunction is the mode the most ready and the most usually adopted to prevent any injury accruing to the proprietor of a work from the infringement of his copyright. In the case of *Murray* v. *Benbow*, already cited, p. 11., Lord Eldon said, "The jurisdiction of this court (the Court of Chancery) in protecting literary property, is founded on this, *that where an action will lie for pirating a work*, then the court, attending to the imperfection of that remedy, grants its injunction, because there may be publication after publication, which you may never be able to hunt down by proceeding in the other courts. In *Giles* v. *Wilcox*, 2 Atkyn. 144., Lord Hardwicke said,

that the question of a supposed piracy by making an abridgment, was a case more proper to be examined in equity than to be sent to law, upon account of the necessity of examining and comparing the two books.

We have already seen (p. 10.) that the proprietor of a book can expect no protection of his property from law or equity, if the work be of an obscene, immoral, or libellous tendency. Nor will the Chancellor grant an injunction if there be even a doubt as to the evil nature of the publication: *Murray* v. *Benbow*, MSS.; but in the case of *Southey* v. *Sherwood*, 2 Meriv. 438., Lord Eldon intimated that he might grant an injunction to prevent the publication of a book of bad tendency, where the author repents of his work, and wishes to suppress it. To obtain an injunction against piracy, the proprietor of a work must show, together with possession, a title to the copyright, either clear or colourable: Godson on Patents, last ed., 486., et seq. Where the proprietor of copyright has for some time suffered several to extract from his work, the court will not grant an injunction to protect his publication without, at any rate, a trial at law in the first instance: *Saunders* v. *Smith*, 3 Myl. & C. 711. The 24th section of the 5 & 6 *Vict. c.* 45., as we have seen, makes it imperative on a complaining party (except as to the infringement of the right of dramatic representation) to have registered his copyright pursuant to that act, before he can move for an injunction.

ACTION AT LAW. — In the case of *Beckford* v. *Hood*, 7 T. R. 620., it was decided that the 8 *Anne*, *c.* 19., inflicting certain penalties for piracy, which were partly given to a common informer and partly to the crown, did not divest the author of his common

law remedies, because that act having vested the right of property in the author, there must be a remedy to preserve it. Where a statute, said the court, vests property in a party, the other consequence of redress at law follows as of course, unless there be a special provision to the contrary, which is not in this case, because the penalties are wholly inadequate; since they only operate as a punishment on the offender, and afford no redress to the party injured, because the action is not given to him, but to any person who may choose to sue for it.

Now, since the repeal of the 8 *Anne, c.* 29., the action for piracy will be pursuant to the 5 & 6 *Vict. c.* 45., the 15th section of which enacts, that if any persons, in any part of the British dominions, after the passing of this act, shall

1. print, or cause to be printed, either for sale or exportation, any book in which there shall be a subsisting copyright, without the consent in writing of its proprietor;
2. import for sale or hire any such unlawfully printed book, from parts beyond the sea;
3. or, with a guilty knowledge, sell, publish, or expose to sale or hire, or cause to be sold, published, or exposed to sale or hire, or have in possession for sale or hire, any such book so unlawfully printed or imported, without the consent of the proprietor;

such offenders shall be liable to a special action on the case, at the suit of the proprietor of the copyright, to be brought in any court of record in that part of the British dominions where the offence is committed: provided always, that in Scotland such offender shall

be liable to an action in the court of Sessions there, to be brought and prosecuted in the same manner as are other actions of damages there to the like amount.

To commence the action at law previous registration is necessary, pursuant to the 5 & 6 *Vict. c.* 45. *s.* 24.

SUMMARY PROCEEDINGS FOR IMPORTATION, &c., OF PIRATED BOOKS.—The 17th section of the 5 & 6 *Vict.* enacts, that after the passing of this act, it shall not be lawful for any person, not the proprietor of the copyright or some one authorised by him, to import into the United Kingdom, or other parts of the British dominions for sale or hire, any printed *book, first composed or written,* or printed and published, in the United Kingdom, wherein there is copyright, and reprinted in any country or place out of the British dominions; and if any person, not the proprietor or party authorised by him, shall

import or bring, or cause to be imported or brought, for sale or hire, any such printed book into the British dominions, contrary to this act;

or shall knowingly sell, publish, or expose to sale, or let to hire, or have in his possession for sale or hire, any such book;

then, every such book shall be forfeited, and be seized and destroyed by any officer of the customs or excise; and every person so offending shall, on due conviction before two magistrates of the county or place where such book is found, forfeit the sum of ten pounds, and double the value of every copy of such book so unlawfully imported, sold, published, or exposed to sale, or let to hire, or had in possession for sale or hire: five pounds of this penalty are to go to the officer of cus-

HARVARD LAW SCHOOL LIBRARY

toms or excise making the seizure, and the proof lies to the proprietor of the copyright.

PROHIBITION IN ANY CASE TO IMPORT REPRINTED BOOKS. — Pursuant to the 3 & 4 *W.* 4. *c.* 52. *s.* 58., books first composed, or written, or printed in the United Kingdom, and printed or reprinted in any other country, *imported for sale*, except books not reprinted in the United Kingdom within twenty years, or being parts of collections the greater parts of which had been composed or written abroad, are absolutely prohibited to be imported into the United Kingdom. This enactment will, however, be repealed after the 1st of April, 1843, by the 5 & 6 *Vict. c.* 47. *s.* 23., which statute extends the prohibition to the importation of similar books *in every case, whether for sale or otherwise.* For by the 24th section of the 5 & 6 *Vict. c.* 47., a statute relating to the customs, it is enacted, that after the 1st of April, 1843, all books, having copyright, first composed, or written, or printed in the United Kingdom, and printed or reprinted in any other country, shall be absolutely prohibited to be imported into the United Kingdom. The 25th section of the same statute, however, provides that no such books shall be prohibited to be imported, unless the proprietor of the copyright or his agent shall give notice in writing to the commissioners of the customs that such copyright subsists, and in the notice state when the copyright will expire; and the commissioners of the customs shall cause to be exposed at the several ports of the United Kingdom, from time to time, printed lists of the works respecting which the notice shall have been

duly given, and of which the copyright shall have expired.

RIGHT OF THE PARTY INJURED TO THE PIRATED COPIES. — Pursuant to the 23d section of the *5 & 6 Vict. c. 45.*, all copies of any book having copyright, and entered in the registry book, which have been unlawfully printed or imported, without the previous written consent of the registered proprietor of the copyright, shall be deemed the property of such registered proprietor; and after demand in writing he will be entitled to sue for and recover such printed copies, or damages for their detention, in an action of detinue from any party detaining them, or to sue for and recover damages for their conversion in an action of trover.

RULES AS TO LEGAL PROCEEDINGS REGARDING LITERARY PROPERTY.

RULE AS TO REGISTRATION. — The first principal rule, to which we have already repeatedly alluded, is that contained in the 24th section of the *5 & 6 Vict. c. 45.*, which enacts, "that no proprietor of copyright in any book which shall be first published after the passing of this act, shall maintain any action or suit at law or in equity, or any summary proceeding in respect of any infringement of such copyright, unless he shall, before commencing such action, suit, or proceeding, have caused an entry to be made in the book of registry of the Stationers' Company of such book, pursuant to this act."

RULE AS TO ACTIONS FOR PIRACY. — The 16th section of the *5 & 6 Vict. c. 45.* enacts, that after

the passing of that act, in any action brought within the British dominions against a person for printing a pirated book for sale, hire, or exportation, or for importing, selling, publishing, or exposing it to sale or hire, or causing it to be imported, sold, published, or exposed to sale or hire, the defendant, on pleading to the action, shall give to the plaintiff a notice in writing of any objections on which he means to rely on the trial of the action. If the nature of the defence be, that the plaintiff in the action is not the author or first publisher of the book in which by the action he claims copyright, or that he is not the proprietor of the copyright, or that some other person than the plaintiff is the author or first publisher or proprietor of the copyright, then the defendant must specify in his notice the name of the person he alleges to have been the author, first publisher, or proprietor of the copyright, together with the title of the book, and the time and place of its first publication; otherwise the defendant at the trial will not be allowed to give any evidence that the plaintiff is not the author, first publisher, or proprietor of the copyright: At the trial also no other objection will be allowed to be made on behalf of the defendant than the objections stated in his notice, nor can it then be urged that any other person is the author, first publisher, or proprietor, of the copyright, than the person specified in the defendant's notice; nor can any other book be given in evidence in support of the defence than the one substantially corresponding in title, time, and place of publication with the title, time, and place specified in the notice.

RULE AS TO PLEADING THE GENERAL ISSUE, AND

TO COSTS IN CERTAIN CASES.— The 26th section of the 5 & 6 *Vict. c.* 45. enacts, that if any action or suit be commenced or brought against any person for doing or causing to be done *anything in pursuance of this act*, the defendant may plead the general issue, and give the special matter in evidence; and if upon such action a verdict be given for the defendant, or the plaintiff become nonsuited, or discontinue his action, then the defendant shall have and recover his full costs, for which he shall have the same remedy as a defendant has by law in any case. It should here be observed that, according to frequent decisions, the words *in pursuance of this act* do not only refer to those who have kept within the strict line of their duty, but also to those who intended to do so, but have by mistake gone beyond it. The general rule seems to be settled that persons who *bonâ fide* and honestly believe that they are acting in the execution of the powers conferred on them by such a statute as the above, are within its privilege, although in fact they may have mistaken the extent of their power, and have exceeded it, or failed to comply with the directions of the enactment: *Smith* v. *Shaw*, 10 B. & C. 284. *See* also Roscoe's N. P. E., 8th ed. p. 602. 624.

LIMITATION OF ACTIONS.— The 5 & 6 *Vict. c.* 45. *s.* 26. enacts that all actions, suits, bills, indictments, or informations for any offence committed against this act shall be commenced within twelve calendar months after the committing of the offence, or the same shall be void and of none effect; provided, that such limitation shall not extend to any actions, suits, or proceedings commenced under this act in respect of

copies of books required to be delivered to the British Museum and the four other libraries.

FOREIGN COPYRIGHT.

There is no protection, equitable or legal, in this country for the copyright of a book which has been first published abroad, except pursuant to the 1 & 2 *Vict. c.* 59.: *Guichard* v. *Mori*, Law J. Reports, Ch. 226., 1 & 2 *Vict. c.* 59. *s.* 14. If an alien, however, while resident abroad, compose a work there, but publish it first in this country, it seems he is entitled to the protection of our laws relating to copyright: *Bentley* v. *Foster*, 10 Sim. 329. *See* also *Chapell* v. *Purday*, 4 Y. & Coll. 485.

An act, the 1 & 2 *Vict. c.* 59., has been passed for the purpose of effecting, on terms of mutual advantage, a protection here to foreign copyright. The 1st section of that statute enacts, that her Majesty, by an order in council, may direct that the authors of books which shall, after a future specified time, be published in any specified foreign country, and their executors, administrators, and assigns, shall have the sole liberty of printing and reprinting such books within the British dominions, for such term as her Majesty shall by such order in council direct, not exceeding the term which authors, being British subjects, are now by law entitled to in respect of books first published within the United Kingdom: provided, that no author or his assigns shall be entitled to the benefit of this act, unless, within a time prescribed in the order of council, there be entered in the register book of the Stationers' Company in London; 1. the title to the

copy of every such book; 2. the name and place of abode of its author; 3. the time and place of its first publication in the foreign country; and unless, within a time prescribed by the order in council, one printed copy of the book, upon the best paper upon which the largest number or impression has been printed for sale, together with all maps and prints relating to it, shall be delivered to the warehouse keeper of the Stationers' Company at Stationers' Hall. The 2d section of the same statute provides that, in case of books published anonymously, the name and address of the publisher, with a declaration that the entry is made on his own or the author's behalf, will be only required; and pursuant to section 6., in the event of a second edition, it is only necessary to deliver the additions or alterations made in the work. Section 3. provides for the amendment of a wrongful entry in the register by the Court of Chancery. Pursuant to sect. 4., a register book is to be kept at Stationers' Hall; 2*s.* are to be charged for an entry therein, and 1*s.* for an inspection: the warehouse keeper at Stationers' Hall is to give a certificate under his hand of entry and delivery, on payment of 1*s.*, and such certificate is made evidence. Sect. 5. directs the warehouse keeper to deposit the books he receives, one calendar month after delivery, in the British Museum. Sect. 7. enacts that the orders in council may specify different periods of copyright for different foreign countries. Sect. 8. enacts the penalties for piracy. By sect. 9. *no order in council is to have any effect unless it states that reciprocal protection is secured between this and the foreign country.* By sect. 10. orders in council may be revoked. Sect. 11. requires

the publication of the orders in council in the *Gazette*, when they will have the same effect as if included in this act. Sect. 12. requires the order in council to be laid before parliament. Pursuant to sect. 13. the act does not extend to translations of books first published abroad. The 14th section is important: it enacts "that the author of any book to be, after the passing of this act, first published out of her Majesty's dominions, or his assigns, shall have no copyright therein within her Majesty's dominions, otherwise than such (if any) as he may become entitled to under this act." The 15th section limits all legal proceedings for offences against this act to twelve months from the time of the offence committed. See the Act at full, Appendix, No. 2.

CHAP. II.

COPYRIGHT IN THE DRAMA, MUSIC, ENGRAVING, AND SCULPTURE.

THE DRAMA AND MUSIC.

ALTHOUGH dramatic and musical productions, when printed, were protected as to their sale as books by the statutes of copyright, and although in equity injunctions were granted, at the instance of the author or proprietor, to stop the performance on the stage of printed plays, still the mere acting of a dramatic piece without the owner's consent was held not to be such a publication as would constitute a piracy: 1 Mad. Ch. Pr. 153.; *Coleman* v. *Walthen*, 5 T. R. 245.; *Murray* v. *Elliston*, 5 B & A. 657. The same rule would necessarily apply to the performance of musical compositions, and thus, in a great measure, dramatic writers, and musical composers, were left entirely unprotected. Their works had copyright when printed; but they had no exclusive privilege to the far more valuable mode of giving their productions to the public, that of representation or performance. By the two recent statutes, the 3 *W.* 4. *c.* 15. and 5 & 6 *Vict. c.* 45., these defects in the law are now remedied.

TITLE TO COPYRIGHT IN THE DRAMA AND MUSIC, AND EXTENT OF ITS DURATION.

The 1st section of the 3 *W.* 4. *c.* 15. (the Dramatic Copyright Act, which see at full, Appendix No. I.)

gave to the author or his assignee of any printed and unpublished tragedy, comedy, play, opera, farce, or other dramatic piece or entertainment, the sole right of having it represented in any part of the British dominions; and to the author or his assignee of any such dramatic production which was printed or published after the passing of this act, or ten years before, a sole right of representation, *from the time of publication, or of the passing of the act*, for a period of twenty-eight years, or, if the author were living at the end of that time, for the remainder of the author's life.

The 20th section of the 5 & 6 *Vict. c.* 45. enlarges the term of copyright in favour of dramatic pieces, and extends also to musical compositions all its own benefits, and those of the 3 *W.* 4. *c.* 15.

By the 5 & 6 *Vict. c.* 45. *s.* 20., it is enacted, that the sole liberty of representing or performing, or causing or permitting to be represented or performed, any dramatic piece or musical composition, shall endure, and be the property of the author or his assignee for the term provided in this act for the duration of copyright in books, viz. for the author's life and seven years after his death, or for forty-two years. The same section extends the provisions in the act respecting literary copyright and its registration, to the liberty of representing or performing a dramatic piece or musical composition, except that the first public representation or performance shall be deemed equivalent to the first publication of a book.

An important question here arises, as to what is the effect of the two statutes combined, with regard to the exclusive right of performing dramatic or musical productions that have not been printed and published.

It is clear that the 1st section of the 3 *W.* 4. *c.* 15. gives to their author or his assignee, a sole liberty of *performing them, without affixing any limitation of* time. By printing and publishing he exchanges this perpetual monopoly for a new one, viz. the sole right of performance for the author's life, or twenty-eight years *from the time of publication.* Now the 5 & 6 *Vict. c.* 45. *s.* 20., which includes musical compositions, professes to extend the term given in the former act; and this it certainly cannot mean to effect by reducing that which is already perpetual, nor, on a close *inspection* of the *section*, and its concluding proviso, does it seem to do so. The enlargement of the term of copyright in the section merely relates to dramatic works when printed and published, leaving, it seems, the law as it was with regard to those productions whilst remaining in manuscript only, with this exception, that, in case of printing and publishing, the term of copyright will, for the future, date, not from the time of first publication, but of first performance.

Assuming this to be so, the law now stands thus: —

1. The author or assignee of a dramatic piece or musical composition, unprinted and unpublished, has a sole and perpetual right to its performance.
2. The author or assignee of a dramatic piece or musical composition printed and published within ten years before the passing of the 3 & 4 *W.* 4. *c.* 15. (10 June, 1833), or printed and published after the passing of that act, has the sole right of performance for the author's life and seven years after his death, and if that term expire before forty-two years from the time of first perform-

ance, then for such forty-two years: in case of the author's death before publication, the right will endure for forty-two years from the time of first performance.

REGISTRATION OF COPYRIGHT IN THE DRAMA AND MUSIC.

By the 20th section of the 5 & 6 *Vict. c.* 45., there is to be the same registration at Stationers' Hall for dramatic and musical as for literary copyright, with this provision, that, in case of a dramatic piece or musical composition in manuscript, the person having sole liberty of representation need register only, 1. the title of the production; 2. the name and abode of its author or composer; 3. the name and abode of its proprietor; 4. the time and place of its first representation or performance. Pursuant, however, to the 24th section of the same statute, the omission to register will not prejudice the remedies which the proprietor of the sole liberty of representing any dramatic piece has by virtue of this act, or of the 3 *W.* 4. *c.* 15.

ASSIGNMENT OF COPYRIGHT IN THE DRAMA AND MUSIC.

The 22d section of the 5 & 6 *Vict. c.* 45. enacts, that no assignment of the copyright of a book consisting of or containing a dramatic piece or musical composition shall convey to the assignee the right of representation or performance, unless an entry of the assignment be made in the registry book, ex-

pressing the intention of the parties that such right should pass by the assignment.

This section will prevent the recurrence of what took place in the case of *Cumberland* v. *Planché*, 1 Ad. & E. 580., where by the transfer of the copyright of a play, the right of representation was held to pass also.

REMEDIES AGAINST PIRACY.

The 21st section of the 5 & 6 *Vict. c.* 45. gives to the proprietors of the right of dramatic or musical representation or performance during the term of their interest, all the remedies provided by the 3 *W.* 4. *c.* 15.; and to that latter statute, therefore, we must look for the penalties against piracy. By the 3 *W.* 4. *c.* 15. *s.* 2., it is enacted, that if any person, during the continuance of the exclusive right of representing a dramatic piece, cause to be represented, without the author's or proprietor's previous written consent, such production at any place of dramatic entertainment within the British dominions, every such offender shall, for each representation, be liable to the payment of not less than 40*s.*, or of the full amount of the advantage arising from the representation, or of the loss sustained by the plaintiff, whichever shall be the greater damage. These penalties are recoverable by the author or proprietor, together with double costs of suit in any court having jurisdiction in such cases, in that part of the British dominions where the offence is committed. Pursuant to the 24th section of the 5 & 6 *Vict. c.* 45., the right to recover these penalties is not prejudiced by an omission to register on the part of

the proprietor of the sole liberty of representing a dramatic piece.

It is a question of fact, and not of law, whether there has been a representation of part of a dramatic entertainment, under the 3 *W.* 4. *c.* 15.; and where the jury found that the singing the words of a song, taken from an opera written by the plaintiff, amounted to such a representation, the court refused to disturb the verdict: *Planché* v. *Braham*, 1 Jurist. 823.

INJUNCTION. — A right of property being vested by the act, dramatic writers and musical composers have also the remedy by injunction, on the same principles as the proprietors of literary copyright. *See* p. 29.

LIMITATION OF ACTIONS. — The 3d section of the 3 *W.* 4. *c.* 15. provides that all actions or proceedings for any offence or injury against that act shall be commenced within twelve calendar months from the committing of the offence, or else the same shall be void and of no effect.

COPYRIGHT IN ENGRAVING.

TITLE TO AND DURATION OF COPYRIGHT IN ENGRAVING. — By the 8 *G.* 2. *c.* 13. it is enacted, "That every person who shall invent and design, engrave, etch, or work in mezzotinto, chiaro oscuro, or, from his own works and inventions, shall cause to be designed and engraved, etched, or worked in mezzotinto or chiaro scuro, any historical or other print or prints, shall have the sole right and liberty of printing and reprinting the same for the term of fourteen years,

to commence from the day of the first publishing thereof, which shall be truly engraved, with the name of the proprietor on each plate, and printed on every such print or prints." The property in historical and other prints was by this act vested in engravers, who took from their own designs. By the 7 *G.* 3. *c.* 38. *s.* 1. the former statute was extended to the prints of any portrait, conversation, landscape, or architecture, *map, chart, or plan,* or any other prints whatsoever, whether they were taken from the artits's own original designs, or from any picture, drawing, model, or sculpture, either ancient or modern; and the term of enjoying the right was in all cases enlarged from fourteen to twenty-eight years.

By these statutes, the property in prints is vested in the artist, but no mention is made of his assigns. It is, however, enacted by the 8 *G.* 2. *c.* 13. *s.* 2. that any person who shall thereafter purchase any plate for printing from the original proprietors thereof may print and reprint from the same without incurring the penalties. And, moreover, it is necessary, pursuant to the same statute, *s.* 1.. before a print can be copied with impunity, to obtain the consent of its proprietor, in writing, signed by him in the presence of two witnesses. And therefore it was decided that, on these statutes, the assignee of a print may maintain an action against any person who has pirated it: *Thompson* v. *Symonds,* 5 T. R. 41.; Godson on Patents, last ed. p. 404.

The 5 & 6 *Vict. c.* 45. *s.* 2. expressly including in the term book when mentioned in that act, every map, chart, or plan separately published, it would seem that to those productions extend all the benefits, rights,

and privileges given to copyright by that statute. For the law regarding maps, charts, and plans, we may refer therefore to what has been already stated in respect to literary copyright. The International Copyright Act, the 1 & 2 *Vict. c.* 59., also includes maps, charts, or plans in the term book.

There cannot, no more than in a literary production, be copyright or property in an engraving of an obscene, immoral, or libellous nature: *Fores* v. *Johnes*, 4 Esp. N. P. C. 97.; *Du Bost* v. *Beresford*, 2 Campb. N. P. C. 511.

REMEDIES FOR PIRATING PRINTS AND ENGRAVINGS.—By the 8 *G.* 2. *c.* 13. any person pirating a print or engraving is made liable to forfeit the plate on which such print shall be copied, and every sheet whereon such print shall be copied or printed to the proprietor of the original, who is forthwith to destroy the same; and the offender is further to forfeit five shillings for every print found in his custody, one moiety to the king, and the other to any person, who shall sue for the same. And by the 17 *G.* 3. *c.* 57, extended to Ireland by the 6 & 7 *W.* 4. *c.* 59., persons pirating such prints are made liable to an action on the case for damages at the suit of the proprietor, together with double costs.

To enable a party to recover, in case of piracy, the penalties imposed by the statute, the day of publication and the name of the proprietor must be duly engraved according to the act on each plate and print: *Sayer* v. *Dicey*, 3 Wils. 60. But it was doubted, whether the fulfilment of these requisitions was necessary to support an action at law, or a bill in equity, for an injunction and an account: *Blackwell* v.

Harper, 2 Atk. 95.; *Rowoth* v. *Wilkes*, 1 Camp. 95.; *Harrison* v. *Hogg*, 2 Ves. jun. 323.; *Thompson* v. *Symonds*, 5 T. R. 41. In a late case, however, *Brooks* v. *Cock*, 3 Ad. & E. 138., it was decided that no action for the piracy of a print can be sustained, unless the date of the first publication according to the act was engraved upon it.

INJUNCTION. — An injunction may be obtained for the piracy of an engraving, on the same principles as an injunction is had with regard to literary property. *See* p. 29.

West v. *Francis*, in 5 B & A. 737., was an important case decided with regard to engraving. It was there laid down, that the right of an engraver cannot be evaded or defeated by another publishing the original print with some small variations; for the court held that the statute which prohibits the sale of prints, forbids the vending of any copy, by varying, adding, or diminishing from the main design; and therefore the vending of a print varying a little from the main design, but still preserving a similitude, was a colusive evasion of the statute.

COPYRIGHT IN SCULPTURE.

DURATION AND PROTECTION OF COPYRIGHT IN SCULPTURE. — By the 54 *G.* 3. *c.* 56. (which amended the 33 *G.* 3. *c.* 71.) the sole right and property of every new and original sculpture, model, copy, or cast of the human figure, or of any bust or any part of the human figure, clothed in drapery or otherwise; or of any animal, or of any part of an animal, combined with the human figure or otherwise; or of any sub-

ject being matter of invention in sculpture, or of any alto or basso relievo representing any of the above-mentioned matters; or any cast from nature of the human figure, or part of the human figure, or any subject containing or representing any of the above-mentioned matters and things, whether separate or combined, is vested in the person who shall make them, or cause them to be made, for the term of fourteen years from the time of first publication; provided that in every case the proprietor, before publication, cause his name, with the date, to be put on every such new and original sculpture, model, copy, or cast, and on every such cast from nature.

An additional term of fourteen years' copyright at the expiration of the prior fourteen is given by the 54 *G.* 3. *c.* 56. *s.* 6. to the person who originally made or caused to be made the sculpture or other matter above mentioned, if he be living at the end of the first term, and have not divested himself of the copyright by sale or otherwise.

PREVENTION OF PIRACY. — The 3d section of the 54 *G.* 3. *c.* 56. enacts that if any person, within the term of copyright, make or import, or cause to be made, imported, exposed to sale, or otherwise disposed of, a pirated copy or pirated cast of any original sculpture or other matter above mentioned, whether such pirated copy or cast be produced by moulding, copying, or other means of imitation, to the detriment, damage, or loss of the proprietor, then such proprietor or his assignee may, by special action on the case, recover against a person so offending such damages as a jury may assess at the time, together with double costs of suit.

The 4th section of the same statute provides that no person who may purchase the right or property of a new and original sculpture or other matter above mentioned of its proprietor, by deed in writing, signed by such proprietor in the presence of and attested by two witnesses, shall be subject to any action for copying, casting, or vending the same.

The party injured has also his remedy in equity, on the same principles as the owner of literary copyright.

ASSIGNMENT OF COPYRIGHT.—The above 4th section, therefore, points out the mode of assigning a copyright in sculpture, which must be by deed signed in the presence of two witnesses, and attested by them.

LIMITATION OF ACTIONS.—Pursuant to the fifth section of the *54 G. 3. c. 56.* all actions brought for any offence against this act must be commenced within six calendar months after the discovery of the offence.

CHAP. III.

COPYRIGHT IN DESIGNS FOR ORNAMENTING ARTICLES OF MANUFACTURE.

FORMER LAW. — By the several acts 27 *G.* 3. *c.* 38., 29 *G.* 3. *c.* 19., and 34 *G.* 3. *c.* 23., every person who should invent, design, and print, or cause to be invented, designed, and printed, and become the proprietor of any new and original pattern or patterns for printing linens, cottons, calicoes, or muslins, had secured to him the sole right and liberty of printing and reprinting the same for the term of three months from first publication; and any person who, within that period, printed the same without the proprietor's written consent, signed in the presence of two witnesses, was made liable to an action on the case for damages.

By the 2 *Vict.* *c.* 13. the benefits of the 27 *G.* 3. *c.* 38., the 29 *G.* 3. *c.* 19., and the 34 *G.* 3. *c.* 23. were extended to Ireland, and the protection was given to fabrics composed of wool, silk, or hair; to mixed fabrics composed of any two or more of the following materials, viz. linen, cotton, wool, silk, or hair.

The next statute, the 2 *Vict.* *c.* 17., gave a copyright of twelve calendar months' duration from the period of registration to the proprietor of a new and original design for any of the following purposes; viz. for,

1. patterns or prints worked in or on, or printed on or painted on any article of manufacture, being a tissue or textile fabric, except lace, and except

linens, cottons, calicoes, muslins, and any other article within the meaning of the above-mentioned acts:

2. the modelling or casting, or the embossment, or the chasing or engraving, or any other kind of impression or ornament, on any article of manufacture, not being a tissue or textile fabric. If such article were of *metal*, or *mixed metals*, the copyright was *for three years:*
3. the shape or configuration of any article of manufacture, except lace, and except linens, cottons, calicoes, muslins, and any other article within the meaning of the above-mentioned acts.

This act gave the copyright, on the conditions of registering, and of marking, after publication of the design, on every article to which it was applied, the name of the proprietor, the number of the design in the register, and the date of registration. The act forbade piracy, and enacted penalties against that offence: it also, for the purposes of the act, appointed a registrar of designs.

THE NEW LAW.—The 1st section of the 5 & 6 *Vict. c.* 100. (THE NEW COPYRIGHT OF DESIGNS ACT) repeals, after its coming into operation (the 1st of September, 1842), all the above statutes. The 2d section, however, provides that, notwithstanding such repeal, every copyright in force under the previous enactments shall continue so in force till its expiration; and with regard to offences or injuries committed against any such copyright *before this act shall come into operation*, every penalty and remedy in the previous enactments relating to such offences or injuries shall be applicable as if the acts had not been

repealed; but with regard to offences or injuries committed against any such copyright *after this act shall come into operation*, every penalty and remedy in this act relating to such offences or injuries shall be applicable as if the copyright had been conferred by this act. With this exception, the law regarding the copyright of designs will be entirely included in this recent enactment of the 5 & 6 *Vict.* passed on the 10th of August, 1842. What here follows, therefore, is an analysis of the remaining sections of that statute. The reader is also referred to the act itself in the Appendix.

ANALYSIS.

COPYRIGHT IN DESIGNS, AND ITS DURATION.

THE SUBJECT OF THE COPYRIGHT. — The copyright is given to any new and original design, (except designs for articles mentioned in the two statutes relating to sculpture), whether such new and original design be applicable to the ornamenting,

1. of any article of manufacture;
2. or of any substance, artificial or natural, or partly artificial and partly natural;

and whether the design be so applicable for

the pattern,
the shape or configuration,
the ornament,
or for any two or more of such purposes;

and by whatever means the design may be so applicable, whether by

printing, embroidery,
painting, weaving,

sewing, embossing,
modelling, engraving,
casting, staining,

or by any other means whatsoever, manual, mechanical, or chemical, separate or combined.

THE NATURE AND DURATION OF THE COPYRIGHT.—The copyright itself is this—The proprietor of every such above-mentioned design, not previously published in the United Kingdom or elsewhere, is to have the sole right, provided it be done in the United Kingdom, of applying the design to any of the above-mentioned articles or substances for the respective terms, as follow:—

FOR THREE YEARS, in respect to the application of the design to ornamenting any article of manufacture contained in

Class 1. Articles composed wholly or chiefly of METAL OR MIXED METALS.
Class 2. Articles composed wholly or chiefly of WOOD.
Class 3. Articles composed wholly or chiefly of GLASS.
Class 4. Articles composed wholly or chiefly of EARTHENWARE.
Class 5. PAPER-HANGINGS.
Class 6. CARPETS.
Class 8. SHAWLS, not comprised in Class 7.
Class 11. WOVEN FABRICS, composed of LINEN, COTTON, WOOL, SILK, OR HAIR, or of any two or more of such materials, if the design be applied by printing, or by any other process by which colours are or may hereafter be produced upon tissue or textile fabrics, such woven fabrics coming within the description technically called FURNITURES, and if the repeat of the design be more than twelve inches by eight inches.

For Nine Calendar Months, in respect of the application of the design to ornamenting any article of manufacture contained in	Class 7.	Shawls, if the design be applied solely by printing, or by any other process by which colours are or may hereafter be produced on tissue or textile fabrics.
	Class 9.	Yarn, thread, or warp, if the design be applied by printing, or by any other process by which colours are or may hereafter be produced.
	Class 10.	Woven Fabrics, composed of linen, cotton, wool, silk, or hair, or of any two or more of such materials, if the design be applied by printing, or by any other process by which colours are or may hereafter be produced upon tissue or textile fabrics, excepting the articles included in Class 11.
For Twelve Calendar Months, in respect of the application of the design to ornamenting any article of manufacture or substance contained in	Class 12.	Woven Fabrics, not comprised in any preceding class.
	Class 13.	Lace, and any article of manufacture or substance not comprised in any preceding class. (*s.* 3.)

CONDITIONS OF COPYRIGHT.

Pursuant to the 4th section of the 5 & 6 *Vict. c.* 100. the conditions on which such copyright is to be obtained are as follow:—

1. Registration of the design before its publication.
2. Specification, at the time of registration, of the number of the class of the article of manufacture or substance, in respect to its application to which the design is registered.

3. Registration, as proprietor of the design, of the name of the person registering.
4. Marking, after publication, on the article or substance to which the design is applied, at one end if the article be a woven fabric for printing, or at the end or edge, if it be of any other kind or substance, the letters Rd *, together with such numbers or letters, and in such form, as correspond with the date of registration in the registrar's office. These marks may be put on the article, either on the material itself or on a label attached to it. (*s.* 4.)

EXPLANATION OF THE TERM "PROPRIETOR."—The author of a new and original design is to be considered its proprietor, unless he have executed the work for another person for a good or a valuable consideration; in which case such person is to be considered the proprietor, and is entitled to registration in place of the author. Every person acquiring for a good or a valuable consideration a new and original design, or the right to its application to the above-mentioned articles or substances, either exclusively of any one else or otherwise, and every person upon whom the property in a design or the right to its application may devolve, shall be considered the proprietor of the design, in the respect in and to the extent which such property may have been acquired, but not otherwise. (*s.* 5.)

* The form of the register mark is thus: 

TRANSFER OF COPYRIGHT.

Every person purchasing or otherwise acquiring the right to the entire or partial use of a design may enter his title in the register. Any writing purporting to be a transfer of the design, and signed by the proprietor, shall operate as an effectual transfer. On request, and on production of the written transfer, or, if the right be acquired otherwise than by purchase, on production of evidence to the registrar's satisfaction, the registrar is to insert the name of the new proprietor in the register. (*s.* 6.) The same section gives forms in which the transfer and the requests to register may be made. (See the *Act, Appendix*, No. 4.)

REGISTRATION.

APPOINTMENT OF A REGISTRAR AND OTHER OFFICERS.—The Lords of the Committee of Privy Council for the Consideration of all Matters of Trade and Plantations may appoint a Registrar of designs, and, if they see fit, a deputy registrar, clerks, officers, and servants, who are to hold their offices during the pleasure of the Lords of the Committee. Their salaries are to be fixed from time to time by the Commissioners of the Treasury. The Lords of the Committee may, subject to the provisions of this act, make rules for regulating the execution of the duties of the registrar's office, and the registrar is to have an official seal. (*s.* 14.)

REGISTRAR'S DUTIES.—The registrar is not to register a design, in respect of any application of it, unless he be furnished, for each application, with,

1. two copies, drawings, or prints of the design; accompanied with

2. the name of every person claiming to be proprietor, or of the style or title of the firm under which such proprietor trades, with his place of abode or of carrying on his business, or other place of address; and,
3. the number of the class in respect of which the registration is made.

The registrar is to register all such copies, drawings, and prints, from time to time successively as he has received them, and upon every one of them he is to affix a number corresponding to such succession. One copy, drawing, or print he is to retain and file in his office; the other he is to return to the person who has forwarded it to him. In order to give ready access to the registered copies of designs, the registrar is to class them, and to keep a proper index of each class. (*s.* 15.)

CERTIFICATE OF REGISTRATION.—Upon or attached to every copy, drawing, or print of an original design returned to the person registering, and upon or attached to every one received for the purpose of registration, or of the transfer being certified thereon, or attached thereto, the registrar is to certify under his hand —

1. that the design has been registered:
2. the date of registration:
3. the name of the registered proprietor, or the style or title of the firm under which he may trade, with his place of abode or of carrying on his business, or other place of address:
4. the number of the design, together with such numbers and letters, and in such form as the registrar shall employ, to denote or correspond with the date of registration.

A certificate so made on every original design or its copy, purporting to be signed by the registrar or deputy registrar, and purporting to have the registrar's seal of office affixed to it, is, in the absence of contrary evidence, to be sufficient proof of,

1. the due registration of the design, and the name of the proprietor mentioned in the certificate;
2. the commencement of the period of registry;
3. the proprietorship of the person named in the certificate as proprietor;
4. the originality of the design; and,
5. the fact, that the provisions of this act, and of any rule under which the certificate appears to be made, have been complied with.

Any writing purporting to be such certificate is, in the absence of contrary evidence, receivable in evidence, without proof of the hand-writing of the signature, or of the seal of office, or of the person signing being the registrar or deputy registrar. (*s.* 16.)

INSPECTION OF REGISTERED DESIGNS. — Every person may inspect any design whose copyright has expired, on payment of the appointed fee. But no design whose copyright has not expired shall be open to the inspection of any one except the proprietor of the design, a person with written authority from him, or a person specially authorized by the registrar; and then only in presence of the registrar or some person holding an appointment under this act, and not so as to take a copy of the design or part of it, nor without payment of the appointed fee. There is, however, this provision, that the registrar may give to any person applying to him, and producing a particular design with its registration mark, or producing the

registration mark alone, a certificate stating whether there exist a copyright of the design; and if there do, the particular article in respect to which such copyright exists, the term of the copyright, the date of its registration, and the name and address of its registered proprietor. (*s.* 17.)

FEES. — The Commissioners of the Treasury are from time to time to fix the fees payable for the services performed by the registrar, which fees are to go to defray the expenses and salaries of the registering establishment, and the balance to the consolidated fund. The Commissioners are also to regulate how such fees are to be received, kept, and accounted for; they may also remit or dispense with the payment of fees in any cases where they may think it expedient. It is moreover provided, that

the fee for registering a design to be applied to any woven fabric in classes 7, 9, or 10, is not to exceed one shilling:

the fee for registering a design to be applied to a paper-hanging is not to exceed ten shillings:

the fee to the registrar for a certificate relative to the existence or expiration of a copyright *in* a design printed on woven fabric, yarn, thread, or warp, or printed, embossed, or worked on any paper-hanging, to a person exhibiting a piece-end *of a registered pattern with the registration mark* upon it, is not to exceed two shillings and sixpence. (*s.* 18.) *See Appendix, No. 5.*

PENALTY FOR EXTORTION. — If the registrar or any person employed under him demand or receive any gratuity or reward, whether in money or otherwise, except his authorised salary or remuneration, he

shall forfeit for every offence 50*l.* to any party suing for it by action of debt in the Court of Exchequer at Westminster. He is also, for such offence, liable to be suspended or dismissed, and to be rendered incapable of holding any situation in the registration office, as the Commissioners of the Treasury see fit. (*s.* 19.)

CANCELLATION OR AMENDMENT OF REGISTRATION. — In a suit in equity relative to a design, instituted by its proprietor, or by a person lawfully entitled to it, if it appear to the satisfaction of the judge that the design has been registered in the name of a person not the proprietor, or not lawfully entitled, the judge may, in his discretion, by decree or order, direct the registration to be cancelled, in which case it becomes void; or the name of the proprietor or person lawfully entitled to be substituted in the register for that of the wrongful proprietor or claimant, and this to be done in the manner directed in case of the transfer of a design. The judge may make what order he thinks fit respecting the costs of cancellation or substitution, and the proceedings to effect them. The registrar, on service of the official copy of the decree or order, and on payment of the proper fee, is to comply with the tenor of the decree or order, and to make the cancellation or substitution as the case may be. (*s.* 10.)

PENALTY FOR WRONGFULLY USING MARKS. — It is unlawful to apply to a design which has not been registered, or to an article to which a design when registered has not been applied within the United Kingdom, or to an article after the expiration of copyright, the marks required by this act, or any marks corresponding with them. If any person do unlawfully apply any such marks, or publish, sell, or

expose for sale, with a guilty knowledge, an article or substance having unlawful marks, he shall forfeit, for every offence, a sum not exceeding five pounds, to be recovered by any person proceeding for it by any of the ways directed with respect to penalties for piracy. (*s.* 11.)

PIRACY OF DESIGNS.

During the existence of a right to the entire or partial use of a design no person shall, without the registered proprietor's written licence or consent, do any of the following acts, with regard to any articles or substances in respect of which the copyright of the design is in force; viz.—

No person shall apply the design, or a fraudulent imitation of it, for the purpose of sale, to ornamenting any article of manufacture, or any substance, artificial or natural, or partly artificial and partly natural.

No person shall publish, sell, or expose for sale, any article or substance to which such design or fraudulent imitation is applied, after having either verbally, in writing, or otherwise received from any source other than the proprietor knowledge that consent to such application has not been given; or after having been served with, or having had left at his premises, a written notice to the same effect, signed by the proprietor or his agent. (*s.* 7.)

PENALTIES FOR PIRACY.—A person committing any of the above acts of piracy is to forfeit, for every offence, a sum not less than five and not more than thirty pounds to the proprietor of the design in respect of whose right the offence is committed. (*s.* 8.)

The proprietor may recover the penalty,

in ENGLAND, by an action of debt, or on the case, against the offender; or summarily before two magistrates having jurisdiction where the offender resides. The section (*s.* 8. *see Appendix, No.* 4.) directs, in the summary proceeding, the mode of process and of recovering the penalties and costs by distress: it also gives forms of information and conviction. The aggregate amount of penalties, however, for offences in respect of one design, committed by one person up to the time of proceedings being instituted, shall not exceed one hundred pounds. (*s.* 8.) By the 13th section, in such summary proceedings, the magistrates may award payment of costs to the prevailing party, and may grant a warrant for enforcing payment against the summoning party, if unsuccessful, in the same manner as any penalty with costs is recoverable under this act:

in SCOTLAND, by action before the Court of Session in ordinary form; or by summary action before the sheriff of the county where the offence is committed, or the offender resides. The section (*see Appendix, No.* 4.) directs, in the summary proceeding, the mode of process and the recovery of the penalties by poinding. If the sheriff dismiss the action, and assoilzie the defender, he may find the complainer liable in expenses; and his judgment is final:

in IRELAND, by action in a superior court of law at Dublin; or by civil bill in the Civil Bill Court of the county or place where the offence is committed. (*s.* 8.)

Notwithstanding the remedies above given, the proprietor injured may, *if he elect to do so*, bring an action for the recovery of the damages which he has sustained from the piracy of his design. (*s.* 9.)

LIMITATION OF ACTIONS.—No action or other proceeding for an offence or injury under this act shall be brought after the expiration of twelve calendar months from the commission of the offence. (*s.* 12.)

COSTS.—In every action or other proceeding for an offence or injury under this act, the prevailing party shall receive his full costs. (*s.* 12.)

A TABULAR VIEW

OF

THE DIFFERENT TERMS OF COPYRIGHT.

	Term of Copyright.
Books (*the 5 & 6 V. c. 45., including in that word* Maps, Charts, and Plans):	
Of which the copyright belongs to the Crown	Perpetual.
Of which the copyright is given or bequeathed to the Universities of Oxford or Cambridge, the colleges within them; to the four Universities in Scotland; to Trinity College, Dublin; or to the Colleges of Eton, Westminster, or Winchester	Perpetual, while printed at their own presses, if the term be not limited in the donation.
In manuscript	Perpetual.
Published after the passing of the 5 & 6 V. c. 45., the 1st July, 1842	*If published in the author's lifetime*, the author's life and 7 years after his death; or 42 years from the time of first publication. *If published after the author's death*, 42 years from the time of first publication.
Published before the passing of the 5 & 6 V. c. 45., the 1st July, 1842, and having at that time subsisting copyright; provided that that copyright belong to the author or his representative, or have been transferred in consideration	Ditto.

	TERM OF COPYRIGHT.
BOOKS:	
of natural love and affection; or, in case of any other kind of transfer, there be an agreement between the author or his representative and the actual proprietor to accept the benefits given by the 5 & 6 V. c. 45.	
Published before the passing of the 5 & 6 V. c. 45., the 1st July, 1842, and having at that time subsisting copyright; *in any other case than those above mentioned.*	THE AUTHOR'S LIFE, OR 28 YEARS FROM THE TIME OF FIRST PUBLICATION.
Published by licence of the Privy Council, pursuant to the 5 & 6 V. c. 45. s. 5.	ACCORDING TO THE CONDITIONS OF THE LICENCE.
Articles in Encyclopædias	*If published in the author's lifetime*, THE AUTHOR'S LIFE, AND 7 YEARS AFTER HIS DEATH; OR 42 YEARS FROM THE TIME OF FIRST PUBLICATION. *If published after the author's death*, 42 YEARS FROM THE TIME OF FIRST PUBLICATION.
Articles in Reviews, and Periodicals to be published therein	Ditto; with this proviso, that after 28 years from the time of their first publication in the review or periodical, the author may publish them in a separate form.
DRAMATIC PIECES AND MUSICAL COMPOSITIONS, right to the representation or performance of:	
While in manuscript	PERPETUAL. Semble.
When published	THE AUTHOR'S LIFE, AND 7 YEARS AFTER HIS DEATH; OR 42 YEARS FROM THE TIME OF FIRST REPRESENTATION OR PERFORMANCE.
ENGRAVINGS AND PRINTS	28 YEARS FROM THE TIME OF FIRST PUBLICATION.
SCULPTURES, MODELS, OR CASTS	14 YEARS FROM THE TIME OF FIRST PUBLICATION; AND, TO THE AUTHOR, IF HE BE LIVING AT THE END OF THAT PERIOD, 14 YEARS MORE.

	Term of Copyright.	
Designs for ornamenting: Articles in metal	3 years from the time of registration.	
wood	3 years	ditto.
glass	3 years	ditto.
earthenware	3 years	ditto.
Paper-hangings	3 years	ditto.
Carpets	3 years	ditto.
Shawls (patterns printed)	9 months	ditto.
Shawls (patterns not printed)	3 years	ditto.
Yarn, thread, or warp (printed)	9 months	ditto.
Woven fabrics, not furnitures (patterns printed)	9 months	ditto.
Woven fabrics, furnitures (patterns printed)	3 years	ditto.
Woven fabrics (patterns not printed)	12 months	ditto.
Lace and all other articles	12 months	ditto.

APPENDIX.

No. I.

3 WILL. IV. c. 15.

An Act to amend the Laws relating to Dramatic and Literary Property.

[10th June, 1833.]

WHEREAS by an act passed in the fifty-fourth year of the reign of his late Majesty King George the Third, intituled "An Act to amend the several Acts for the Encouragement of Learning, by securing the Copies and Copyright of Printed Books to the Authors of such Books, or their Assigns," it was amongst other things provided and enacted, that from and after the passing of the said act the author of any book or books composed, and not printed or published, or which should thereafter be composed and printed and published, and his assignee or assigns, should have the sole liberty of printing and re-printing such book or books for the full term of twenty-eight years, to commence from the day of first publishing the same, and also, if the author should be living at the end of that period, for the residue of his natural life: and whereas it is expedient to extend the provisions of the said act; be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority

54 G. 3. c. 156.

The author of any dramatic piece shall have as his property the sole liberty of representing it, or causing it to be represented, at any place of dramatic entertainment.

of the same, That from and after the passing of this act the author of any tragedy, comedy, play, opera, farce, or any other dramatic piece or entertainment, composed, and not printed and published by the author thereof or his assignee, or which hereafter shall be composed, and not printed or published by the author thereof or his assignee, or the assignee of such author, shall have as his own property the sole liberty of representing, or causing to be represented, at any place or places of dramatic entertainment whatsoever, in any part of the United Kingdom of Great Britain and Ireland, in the isles of Man, Jersey, and Guernsey, or in any part of the British dominions, any such production as aforesaid, not printed and published by the author thereof or his assignee, and shall be deemed and taken to be the proprietor thereof; and that the author of any such production, printed and published within ten years before the passing of this act by the author thereof or his assignee, or which shall hereafter be so printed and published, or the assignee of such author, shall, from the time of passing this act, or from the time of such publication respectively, until the end of twenty-eight years from the day of such first publication of the same, and also, if the author or authors, or the survivor of the authors, shall be living at the end of that period, during the residue of his natural life, have as his own property the sole liberty of representing, or causing to be represented, the same at any such place of dramatic entertainment as aforesaid, and shall be deemed and taken to be the proprietor thereof: provided nevertheless, that nothing in this act contained shall prejudice, alter, or affect the right or authority of any person to represent or cause to be represented, at any place or places of dramatic entertainment whatsoever, any such production as aforesaid, in all cases in which the author thereof or his assignee shall, previously to the passing of this act, have given his consent to or authorised such representation, but that such sole liberty of the

Proviso as to cases where, previous to the passing of *this act*, a consent has been given.

author or his assignee shall be subject to such right or authority.

II. And be it further enacted, That if any person shall, during the continuance of such sole liberty as aforesaid, contrary to the intent of this act, or right of the author or his assignee, represent, or cause to be represented, without the consent in writing of the author or other proprietor first had and obtained, at any place of dramatic entertainment within the limits aforesaid, any such production as aforesaid, or any part thereof, every such offender shall be liable for each and every such representation to the payment of an amount not less than forty shillings, or to the full amount of the benefit or advantage arising from such representation, or the injury or loss sustained by the plaintiff therefrom, whichever shall be the greater damages, to the author or other proprietor of such production so represented contrary to the true intent and meaning of this act, to be recovered, together with double costs of suit, by such author or other proprietors, in any court having jurisdiction in such cases in that part of the said United Kingdom or of the British dominions in which the offence shall be committed; and in every such proceeding where the sole liberty of such author or his assignee as aforesaid shall be subject to such right or authority as aforesaid, it shall be sufficient for the plaintiff to state that he has such sole liberty, without stating the same to be subject to such right or authority, or otherwise mentioning the same. Penalty on persons performing pieces contrary to this act.

III. Provided nevertheless, and be it further enacted, That all actions or proceedings for any offence or injury that shall be committed against this act shall be brought, sued, and commenced within twelve calendar months next after such offence committed, or else the same shall be void and of no effect. Limitation of actions.

IV. And be it further enacted, That whenever authors, persons, offenders, or others are spoken of Explanation of words.

in this act in the singular number or in the masculine gender, the same shall extend to any number of persons and to either sex.

No. II.

1 & 2 Vict. c. 59.

An Act for securing to Authors, in certain Cases, the Benefit of International Copyright.

[31st July, 1838.]

Her Majesty, by order in council, may direct that authors of books first published in foreign countries, and their assigns, shall have a copyright in such books within her Majesty's dominions.

WHEREAS it is desirable to afford protection within her Majesty's dominions to the authors of books first published in foreign countries, and their assigns, in cases where protection shall be afforded in such foreign countries to the authors of books first published in her Majesty's dominions, and their assigns; be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, That it shall be lawful for her Majesty, by any order of her Majesty in council, to direct that the authors of books which shall, after a future time to be specified in such order in council, be published in any foreign country to be specified in such order in council, and their executors, administrators, and assigns, shall have the sole liberty of printing and reprinting such books within the United Kingdom of Great Britain and Ireland, and every other part of the British dominions, for such term as her Majesty shall by such order in council direct, not exceeding the term which authors being British subjects are now by law entitled to in respect of books first published within the United Kingdom; provided that no such author or his

assigns shall be entitled to the benefit of this act unless, within a time to be in that behalf prescribed by such order in council, the title to the copy of every such book, and the name and place of abode of the author thereof, and the time and place of the first publication thereof in such foreign country, shall be entered in the register book of the Company of Stationers in London; and unless, within a time to be also prescribed by such order in council, one printed copy of the whole of such book and of every volume thereof, upon the best paper upon which the largest number or impression of such book shall have been printed for sale, together with all maps and prints relating thereto, shall be delivered to the warehouse keeper of the Company of Stationers at the hall of the said company.

Title of book to be entered at Stationers' Hall, and one copy delivered to the warehouse keeper.

II. Provided always, and be it enacted, That if a book be published anonymously it shall be sufficient to insert in the entry thereof in such register book the name and place of abode of the first publisher thereof, instead of the name and place of abode of the author thereof, together with a declaration that such entry is made either on behalf of the author or on behalf of such first publisher, as the case may require.

In case of books published anonymously, the name of publisher to be sufficient.

III. And be it enacted, That every such entry shall be *primâ facie* proof of a rightful first publication; but if there be a wrongful first publication, and any party have availed himself thereof to obtain an entry of a spurious work, the author or his first publisher may apply by petition or on motion to the Court of Chancery to order such entry to be amended; but no such order shall be made unless it be proved to the satisfaction of the said court, first with respect to a wrongful publication in a country to which the author or first publisher does not belong, and in regard to which there does not subsist with this country any treaty of international copyright, that the party making the application was the author or first publisher, as the case requires;

Wrongful first publication may be amended by Court of Chancery.

second, with respect to a wrongful first publication either in the country where a rightful first publication has taken place, or in regard to which there subsists with this country a treaty of international copyright, that a court of competent jurisdiction in any such country where such wrongful first publication has taken place has given judgment in favour of the right of the party claiming to be the author or first publisher.

Register book to be kept at Stationers' Hall, and to be open to inspection.

IV. And be it enacted, That such register book shall at all times be kept at the hall of the said company, and for every such entry the sum of two shillings, and no more, shall be paid, and the same register book may at all seasonable and convenient times be inspected by any person on payment of the sum of one shilling, and no more, to the warehouse keeper of the said Company of Stationers; and

Certificate by warehouse keeper.

such warehouse keeper shall, when and as often as thereto required, give a certificate under his hand of every or any such entry and delivery, and of the time of making the same respectively, and for every such certificate the sum of one shilling shall be paid; and such certificate, upon proof of the handwriting of the person signing the same, and that such person was in fact the warehouse keeper of the said company, shall without further proof be admitted in all courts as evidence of such entry and delivery, and of the time of making the same respectively.

Warehouse keeper to deposit books in the British Museum.

V. And be it enacted, That the said warehouse keeper shall receive at the hall of the said company every book or volume so to be delivered as aforesaid, and within one calendar month after receiving such book or volume shall deposit the same in the library of the British Museum.

Second or subsequent editions.

VI. Provided always, and be it enacted, That it shall not be requisite to deliver to the warehouse keeper of the said Stationers' Company any printed copy of the second or of any subsequent edition of any book or books so delivered as aforesaid, unless

the same shall contain additions or alterations; and in case any edition after the first of any book so delivered as aforesaid shall contain any addition or alteration, it shall not be requisite to deliver any printed copies thereof, if one printed copy of such additions or alterations only, printed in an uniform manner with the former edition of such book, be, within a time in that behalf to be prescribed by any such order in council as aforesaid, delivered to the warehouse keeper of the said Company of Stationers.

Orders in council may specify different periods for different foreign countries, &c.

VII. And be it enacted, That the respective terms to be specified by such orders in council respectively for the continuance of the privilege to be granted to the authors of books to be first published in foreign countries, and their respective assigns, may be different for books first published in different foreign countries, and that the times to be prescribed for the entry of the titles to the copies of such books, and the delivery to the said warehouse keeper of the aforesaid copy, may be different for different foreign countries and for different classes of books.

Booksellers, &c. who shall print, &c. any book to which order in council may extend, without consent of proprietor, liable to penalties.

VIII. And be it enacted, That if any bookseller or printer, or other person whatsoever, in any part of the United Kingdom of Great Britain and Ireland, or in any other part of the British dominions, shall, within the term to be limited by any such order in council, print, reprint, or import for sale, or cause to be printed, reprinted, or imported for sale, any book to which such order in council shall extend, without the consent of the author or other proprietor of the copyright of and in such book first had and obtained in writing, or, knowing the same to be so printed, reprinted, or imported for sale without such consent of such author or other proprietor, shall sell, publish, or expose to sale, or cause to be sold, published, or exposed to sale, or have in his possession for sale, any such book without such consent first had and obtained as aforesaid, then every such offender shall be liable to a special action

on the case, at the suit of the author or other proprietor of the copyright of and in such book so unlawfully printed, reprinted, imported, or published or exposed to sale, or being in the possession of such offender for sale as aforesaid, contrary to the true intent and meaning of this act; and every such author or other proprietor shall and may, by and in such special action on the case to be so brought against such offender in any court of record in that part of the said United Kingdom or of the British dominions in which the offence shall be committed, recover such damages as the jury on the trial of such action or on the execution of a writ of inquiry thereon shall give or assess, together with double costs of suit, in which action no privilege or protection shall be allowed; and every such offender shall also forfeit such book, and every sheet being part of such book, and shall upon order of any court of record in which any action at law or suit in equity shall be commenced or prosecuted by such author or other proprietor, to be made on motion or petition to the said court, deliver the same to the author or other proprietor of the copyright of such book, or to his attorney or agent to be thereto lawfully authorised, and he shall forthwith damask or make waste paper of the same; and every such offender shall also forfeit the sum of three-pence for every sheet thereof, either printed or printing, or published or exposed to sale, contrary to the true intent and meaning of this act, the one moiety thereof to her Majesty, and the other moiety thereof to any person who shall sue for the same in any such court of record by action of debt, bill, plaint, or information, in which no privilege or protection shall be allowed: provided always, that in Scotland such offender shall be liable to an action of damages in the court of Session in Scotland, which shall and may be brought and prosecuted in the same manner in which any other action of damages to the like amount may be brought and prosecuted there, and

in any such action where damages shall be awarded double costs of suit or expences of process shall be allowed.

No order in council to have any effect unless it states that reciprocal protection is secured.

IX. Provided always, and be it enacted, That no such order in council shall have any effect unless it shall be therein stated, as the ground for issuing the same, that due protection for the benefit of the authors of printed books first published in the dominions of her Majesty, and their assigns, has been secured by the foreign power in whose dominions the books to which such order in council shall relate shall be first published.

Orders in council may be revoked.

X. And be it enacted, That it shall be lawful for her Majesty, by an order in council, from time to time to revoke or alter any order in council previously made under the authority of this act, but nevertheless without prejudice to any rights acquired previously to such revocation or alteration.

Orders in council to be published in Gazette, and to have same effect as this act

XI. And be it enacted, That every order in council to be made under the authority of this act shall, as soon as may be after the making thereof by her Majesty in council, be published in the London Gazette, and from the time of such publication shall have the same effect as if every part thereof were included in this act.

Orders in council to be laid before parliament.

XII. And be it enacted, That a copy of every order of her Majesty in council made under this act shall be laid before both houses of parliament within six weeks after issuing the same if parliament be then sitting, and if not, then within six weeks after the commencement of the then next session of parliament.

Translations of books first published abroad.

XIII. Provided always, and be it enacted, That nothing in this act contained shall be construed to prevent the printing, publication, or sale of any translation of any book, the author whereof and his assigns may be entitled to the benefit of this act.

Foreign authors not entitled to copyright except under this act.

XIV. And be it enacted, That the author of any book to be after the passing of this act first published out of her Majesty's dominions, or his assigns,

shall have no copyright therein within her Majesty's dominions otherwise than such (if any) as he may become entitled to under this act.

Limitation of actions.

XV. Provided nevertheless, and be it enacted, That all actions, suits, bills, indictments, or informations for any offence that shall be committed against this act shall be brought, sued, and commenced within twelve months next after such offence committed, and not afterwards.

Interpretation clause.

XVI. And be it enacted, That in the construction of this act the word "book" shall be construed to include "volume," "pamphlet," "sheet of letter-press," "sheet of music," "map," "chart," or "plan"; and the words "printing" and "reprinting" shall include engraving and any other method of multiplying copies; and the expression "her Majesty" shall include the heirs and successors of her Majesty; and the expressions "order of her Majesty in council" and "order in council" shall respectively mean order of her Majesty, acting by and with the advice of her Majesty's most honourable privy council; and in describing any persons or things any word importing the plural number shall mean also one person or thing, and any word importing the singular number shall include several persons or things, and any word importing the masculine shall include also the feminine gender; unless in any of such cases there shall be something in the subject or context repugnant to such construction.

Act may be amended.

XVII. And be it enacted, That this act may be amended or repealed by any act to be passed in this present session of parliament.

No. III.

5 & 6 VICT. c. 45.

An Act to amend the Law of Copyright.

[1st July, 1842.]

WHEREAS it is expedient to amend the law relating to copyright, and to afford greater encouragement to the production of literary works of lasting benefit to the world; be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, That from the passing of this act, an act passed in the eighth year of the reign of her Majesty Queen Anne, intituled "An Act for the Encouragement of Learning, by vesting the copies of printed books in the authors or purchasers of such copies during the times therein mentioned;" and also an act passed in the forty-first year of the reign of his Majesty King George the Third, intituled "An Act for the further Encouragement of Learning in the United Kingdom of Great Britain and Ireland, by securing the copies and copyright of printed books to the authors of such books, or their assigns, for the time therein mentioned;" and also an act passed in the fifty-fourth year of the reign of his Majesty King George the Third, intituled "An Act to amend the several Acts for the Encouragement of Learning, by securing the copies and copyright of printed books to the authors of such books, or their assigns," be and the same are hereby repealed, except so far as the continuance of either of them may be necessary for carrying on or giving effect to any proceedings at law or in equity pending at the time of passing this act, or for enforcing any cause of action or suit, or any right or contract, then subsisting.

Repeal of former acts;

8 Anne, c. 19.

41 G. 3. c. 107.

54 G. 3. c. 156.

Interpretation of act.

II. And be it enacted, That in the construction of this act, the word "book" shall be construed to mean and include every volume, part or division of a volume, pamphlet, sheet of letter-press, sheet of music, map, chart, or plan separately published; that the words "dramatic piece" shall be construed to mean and include every tragedy, comedy, play, opera, farce, or other scenic, musical, or dramatic entertainment; that the word "copyright" shall be construed to mean the sole and exclusive liberty of printing or otherwise multiplying copies of any subject to which the said word is herein applied; that the words "personal representative" shall be construed to mean and include every executor, administrator, and next of kin entitled to administration; that the word "assigns" shall be construed to mean and include every person in whom the interest of an author in copyright shall be vested, whether derived from such author before or after the publication of any book, and whether acquired by sale, gift, bequest, or by operation of law, or otherwise; that the words "British dominions" shall be construed to mean and include all parts of the United Kingdom of Great Britain and Ireland, the islands of Jersey and Guernsey, all parts of the East and West Indies, and all the colonies, settlements, and possessions of the Crown which now are or hereafter may be acquired; and that whenever in this act, in describing any person, matter, or thing, the word importing the singular number or the masculine gender only is used, the same shall be understood to include and to be applied to several persons as well as one person, and females as well as males and several matters or things as well as one matter or thing, respectively, unless there shall be something in the subject or context repugnant to such construction.

Endurance of term of copyright in any book hereafter to be published

III. And be it enacted, That the copyright in every book which shall after the passing of this act be published in the lifetime of its author shall endure for the natural life of such author, and for

the further term of seven years, commencing at the time of his death, and shall be the property of such author and his assigns: provided always, that if the said term of seven years shall expire before the end of forty-two years from the first publication of such book, the copyright shall, in that case, endure for such period of forty-two years; and that the copyright in every book which shall be published after the death of its author shall endure for the term of forty-two years from the first publication thereof, and shall be the property of the proprietor of the author's manuscript from which such book shall be first published, and his assigns.

in the lifetime of the author;

if published after the author's death.

IV. And whereas it is just to extend the benefits of this act to authors of books published before the passing thereof, and in which copyright still subsists; be it enacted, That the copyright which at the time of the passing of this act shall subsist in any book theretofore published (except as hereinafter mentioned) shall be extended and endure for the full term provided by this act in cases of books thereafter published, and shall be the property of the person who at the time of passing of this act shall be the proprietor of such copyright: provided always, that in all cases in which such copyright shall belong in whole or in part to a publisher or other person who shall have acquired it for other consideration than that of natural love and affection, such copyright shall not be extended by this act, but shall endure for the term which shall subsist therein at the time of passing of this act, and no longer, unless the author of such book, if he shall be living, or the personal representative of such author, if he shall be dead, and the proprietor of such copyright, shall, before the expiration of such term, consent and agree to accept the benefits of this act in respect of such book, and shall cause a minute of such consent, in the form in that behalf given in the schedule to this act annexed, to be entered in the book of registry hereinafter directed to be kept, in which

In cases of subsisting copyright, the term to be extended, except when it shall belong to an assignee for other consideration than natural love and affection; in which case it shall cease at the expiration of the present term, unless its extension be agreed to between the proprietor and the author.

case such copyright shall endure for the full term by this act provided in cases of books to be published after the passing of this act, and shall be the property of such person or persons as in such minute shall be expressed.

Judicial committee of the Privy Council may license the republication of books which the proprietor refuses to republish after death of the author.

V. And whereas it is expedient to provide against the suppression of books of importance to the public; be it enacted, That it shall be lawful for the Judicial Committee of her Majesty's Privy Council, on complaint made to them that the proprietor of the copyright in any book after the death of its author has refused to republish or to allow the republication of the same, and that by reason of such refusal such book may be withheld from the public, to grant a licence to such complainant to publish such book, in such manner and subject to such conditions as they may think fit, and that it shall be lawful for such complainant to publish such book according to such licence.

Copies of books published after the passing of this act, and of all subsequent editions, to be delivered within certain times at the British Museum.

VI. And be it enacted, That a printed copy of the whole of every book which shall be published after the passing of this act, together with all maps, prints, or other engravings belonging thereto, finished and coloured in the same manner as the best copies of the same shall be published, and also of any second or subsequent edition which shall be so published with any additions or alterations, whether the same shall be in letter-press, or in the maps, prints, or other engravings belonging thereto, and whether the first edition of such book shall have been published before or after the passing of this act, and also of any second or subsequent edition of every book of which the first or some preceding edition shall not have been delivered for the use of the British Museum, bound, sewed, or stitched together, and upon the best paper on which the same shall be printed, shall, within one calendar month after the day on which any such book shall first be sold, published, or offered for sale within the bills of mortality, or within three calendar months if the

same shall first be sold, published, or offered for sale in any other part of the United Kingdom, or within twelve calendar months after the same shall first be sold, published, or offered for sale in any other part of the British dominions, be delivered, on behalf of the publisher thereof, at the British Museum.

Mode of delivering at the British Museum.

VII. And be it enacted, That every copy of any book which under the provisions of this act ought to be delivered as aforesaid shall be delivered at the British Museum between the hours of ten in the forenoon and four in the afternoon on any day except Sunday, Ash Wednesday, Good Friday, and Christmas Day, to one of the officers of the said Museum, or to some person authorised by the trustees of the said Museum to receive the same; and such officer or other person receiving such copy is hereby required to give a receipt in writing for the same, and such delivery shall to all intents and purposes be deemed to be good and sufficient delivery under the provisions of this act.

A copy of every book to be delivered within a month after demand to the officer of the Stationers' Company, for the following libraries: the Bodleian at Oxford, the Public Library at Cambridge, the Faculty of Advocates at Edinburgh, and that of Trinity College, Dublin.

VIII. And be it enacted, That a copy of the whole of every book, and of any second or subsequent edition of every book containing additions and alterations, together with all maps and prints belonging thereto, which after the passing of this act shall be published, shall, on demand thereof in writing, left at the place of abode of the publisher thereof at any time within twelve months next after the publication thereof, under the hand of the officer of the Company of Stationers, who shall from time to time be appointed by the said company for the purposes of this act, or under the hand of any other person thereto authorized by the persons or bodies politic and corporate, proprietors and managers of the libraries following, (*videlicet*,) the Bodleian Library at Oxford, the Public Library at Cambridge, the library of the Faculty of Advocates at Edinburgh, the library of the College of the Holy and Undivided Trinity of Queen Elizabeth near

Dublin, be delivered upon the paper of which the largest number of copies of such book or edition shall be printed for sale, in the like condition as the copies prepared for sale by the publisher thereof respectively, within one month after demand made thereof in writing as aforesaid, to the said officer of the said Company of Stationers for the time being, which copies the said officer shall and he is hereby required to receive at the hall of the said company, for the use of the library for which such demand shall be made within such twelve months as aforesaid; and the said officer is hereby required to give a receipt in writing for the same, and within one month after any such book shall be so delivered to him as aforesaid to deliver the same for the use of such library.

Publishers may deliver the copies to the libraries, instead of at the Stationers' Company.

IX. Provided also, and be it enacted, That if any publisher shall be desirous of delivering the copy of such book as shall be demanded on behalf of any of the said libraries at such library, it shall be lawful for him to deliver the same at such library, free of expence, to such librarian or other person authorized to receive the same (who is hereby required in such case to receive and give a receipt in writing for the same), and such delivery shall to all intents and purposes of this act be held as equivalent to a delivery to the said officer of the Stationers' Company.

Penalty for default in delivering copies for the use of the libraries.

X. And be it enacted, That if any publisher of any such book, or of any second or subsequent edition of any such book, shall neglect to deliver the same, pursuant to this act, he shall for every such default forfeit, besides the value of such copy of such book or edition which he ought to have delivered, a sum not exceeding five pounds, to be recovered by the librarian or other officer (properly authorised) of the library for the use whereof such copy should have been delivered, in a summary way, on conviction before two justices of the peace for the county or place where the publisher making de-

fault shall reside, or by action of debt or other proceeding of the like nature, at the suit of such librarian or other officer, in any court of record in the United Kingdom; in which action, if the plaintiff shall obtain a verdict, he shall recover his costs reasonably incurred, to be taxed as between attorney and client.

Book of registry to be kept at Stationers' Hall

XI. And be it enacted, That a book of registry, wherein may be registered, as hereinafter enacted, the proprietorship in the copyright of books, and assignments thereof, and in dramatic and musical pieces, whether in manuscript or otherwise, and licences affecting such copyright, shall be kept at the hall of the Stationers' Company, by the officer appointed by the said company for the purposes of this act, and shall at all convenient times be open to the inspection of any person, on payment of one shilling for every entry which shall be searched for or inspected in the said book; and that such officer shall, whenever thereunto reasonably required, give a copy of any entry in such book, certified under his hand, and impressed with the stamp of the said company, to be provided by them for that purpose, and which they are hereby required to provide, to any person requiring the same, on payment to him of the sum of five shillings; and such copies so certified and impressed shall be received in evidence in all courts, and in all summary proceedings, and shall be *primâ facie* proof of the proprietorship or assignment of copyright or licence as therein expressed, but subject to be rebutted by other evidence, and in the case of dramatic or musical pieces shall be *primâ facie* proof of the right of representation or performance, subject to be rebutted as aforesaid.

Making a false entry in the book of registry, a misdemeanor.

XII. And be it enacted, That if any person shall wilfully make or cause to be made any false entry in the registry book of the Staticners' Company, or shall wilfully produce or cause to be tendered in evidence any paper falsely purporting to be a copy of any entry in the said book, he shall be guilty of

an *indictable misdemeanor, and shall be punished* accordingly.

Entries of copyright may be made in the book of registry.

XIII. And be it enacted, That after the passing of this act it shall be lawful for the proprietor of copyright in any book heretofore published, or in any book hereafter to be published, to make entry in the registry book of the Stationers' Company of the title of such book, the time of the first publication thereof, the name and place of abode of the publisher thereof, and the name and place of abode of the proprietor of the copyright of the said book, or of any portion of such copyright, in the form in that behalf given in the schedule to this act annexed, upon payment of the sum of five shillings to the officer of the said company; and that it shall be lawful for every such registered proprietor to assign his interest, or any portion of his interest therein, by making entry in the said book of registry of such assignment, and of the name and place of abode of the assignee thereof, in the form given in that behalf in the said schedule, on payment of the like sum; and such assignment so entered shall be effectual in law to all intents and purposes whatsoever, without being subject to any stamp or duty, and shall be of the same force and effect as if such assignment had been made by deed.

Persons aggrieved by any entry in the book of registry may apply to a court of law in term, or judge in vacation, who may order such entry to be varied or expunged.

XIV. And be it enacted, That if any person shall deem himself aggrieved by any entry made under colour of this act in the said book of registry, it shall be lawful for such person to apply by motion to the Court of Queen's Bench, Court of Common Pleas, or Court of Exchequer, in term time, or to apply by summons to any judge of either of such courts in vacation, for an order that such entry may be expunged or varied; and that upon any such application by motion or summons to either of the said courts, or to a judge as aforesaid, such court or judge shall make such order for expunging, varying, or confirming such entry, either with or without costs, as to such court or judge shall seem just; and

the officer appointed by the Stationers' Company for the purposes of this act shall, on the production to him of any such order for expunging or varying any such entry, expunge or vary the same according to the requisitions of such order.

Remedy for the piracy of books by action on the case.

XV. And be it enacted, That if any person shall, in any part of the British dominions, after the passing of this act, print or cause to be printed, either for sale or exportation, any book in which there shall be subsisting copyright, without the consent in writing of the proprietor thereof, or shall import for sale or hire any such book so having been unlawfully printed from parts beyond the sea, or, knowing such book to have been so unlawfully printed or imported, shall sell, publish, or expose to sale or hire, or cause to be sold, published, or exposed to sale or hire, or shall have in his possession, for sale or hire, any such book so unlawfully printed or imported, without such consent as aforesaid, such offender shall be liable to a special action on the case at the suit of the proprietor of such copyright, to be brought in any court of record in that part of the British dominions in which the offence shall be committed: provided always, that in Scotland such offender shall be liable to an action in the Court of Session in Scotland, which shall and may be brought and prosecuted in the same manner in which any other action of damages to the like amount may be brought and prosecuted there.

In actions for piracy the defendant to give notice of the objections to the plaintiff's title on which he means to rely.

XVI. And be it enacted, That after the passing of this act, in any action brought within the British dominions against any person for printing any such book for sale, hire, or exportation, or for importing, selling, publishing, or exposing to sale or hire, or causing to be imported, sold, published, or exposed to sale or hire, any such book, the defendant, on pleading thereto, shall give to the plaintiff a notice in writing of any objections on which he means to rely on the trial of such action; and if the nature of his defence be, that the plaintiff in such action

was not the author or first publisher of the book in which he shall by such action claim copyright, or is not the proprietor of the copyright therein, or that some other person than the plaintiff was the author or first publisher of such book, or is the proprietor of the copyright therein, then the defendant shall specify in such notice the name of the person who he alleges to have been the author or first publisher of such book, or the proprietor of the copyright therein, together with the title of such book, and the time when and the place where such book was first published, otherwise the defendant in such action shall not at the trial or hearing of such action be allowed to give any evidence that the plaintiff in such action was not the author or first publisher of the book in which he claims such copyright as aforesaid, or that he was not the proprietor of the copyright therein; and at such trial or hearing no other objection shall be allowed to be made on behalf of such defendant than the objections stated in such notice, or that any other person was the author or first publisher of such book, or the proprietor of the copyright therein, than the person specified in such notice, or give in evidence in support of his defence any other book than one substantially corresponding in title, time, and place of publication with the title, time, and place specified in such notice.

No person except the proprietor, &c. shall import into the British dominions for sale or hire any book first composed, &c. within the United Kingdom, and reprinted elsewhere, under penalty of forfeiture thereof, and also of 10*l.* and double the value.

XVII. And be it enacted, That after the passing of this act it shall not be lawful for any person, not being the proprietor of the copyright, or some person authorized by him, to import into any part of the United Kingdom, or into any other part of the British dominions, for sale or hire, any printed book first composed or written or printed and published in any part of the said United Kingdom, wherein there shall be copyright, and reprinted in any country or place whatsoever out of the British dominions; and if any person, not being such proprietor or person authorized as aforesaid, shall import or bring, or cause to be imported or brought,

for sale or hire, any such printed book, into any part of the British dominions, contrary to the true intent and meaning of this act, or shall knowingly sell, publish, or expose to sale or let to hire, or have in his possession for sale or hire, any such book, then every such book shall be forfeited, and shall be seized by any officer of customs or excise, and the same shall be destroyed by such officer; and every person so offending, being duly convicted thereof before two justices of the peace for the county or place in which such book shall be found, shall also for every such offence forfeit the sum of ten pounds, and double the value of every copy of such book which he shall so import or cause to be imported into any part of the British dominions, or shall knowingly sell, publish, or expose to sale or let to hire, or shall cause to be sold, published, or exposed to sale or let to hire, or shall have in his possession for sale or hire, contrary to the true intent and meaning of this act, five pounds to the use of such officer of customs or excise, and the remainder of the penalty to the use of the proprietor of the copyright in such book.

Books may be seized by officers of customs or excise.

XVIII. And be it enacted, That when any publisher or other person shall, before or at the time of the passing of this act, have projected, conducted, and carried on, or shall hereafter project, conduct, and carry on, or be the proprietor of any encyclopædia, review, magazine, periodical work, or work published in a series of books or parts, or any book whatsoever, and shall have employed or shall employ any persons to compose the same, or any volumes, parts, essays, articles, or portions thereof, for publication in or as part of the same, and such work, volumes, parts, essays, articles, or portions shall have been or shall hereafter be composed under such employment, on the terms that the copyright therein shall belong to such proprietor, projector, publisher, or conductor, and paid for by such proprietor, pro-

As to the copyright in encyclopædias, periodicals, and works published in a series, reviews, or magazines.

jector, publisher, or conductor, the copyright in every such encyclopædia, review, magazine, periodical work, and work published in a series of books or parts, and in every volume, part, essay, article, and portion so composed and paid for, shall be the property of such proprietor, projector, publisher, or other conductor, who shall enjoy the same rights as if he were the actual author thereof, and shall have such term of copyright therein as is given to the authors of books by this act; except only that in the case of essays, articles, or portions forming part of and first published in reviews, magazines, or other periodical works of a like nature, after the term of twenty-eight years from the first publication thereof respectively the right of publishing the same in a separate form shall revert to the author for the remainder of the term given by this act: provided always, that during the term of twenty-eight years the said proprietor, projector, publisher, or conductor shall not publish any such essay, article, or portion separately or singly without the consent previously obtained of the author thereof, or his assigns: provided also, that nothing herein contained shall alter or affect the right of any person who shall have been or who shall be so employed as aforesaid to publish any such his composition in a separate form, who by any contract, express or implied, may have reserved or may hereafter reserve to himself such right; but every author reserving, retaining, or having such right shall be entitled to the copyright in such composition when published in a separate form, according to this act, without prejudice to the right of such proprietor, projector, publisher, or conductor as aforesaid.

Proviso for authors who have reserved the right of publishing their articles in a separate form.

XIX. And be it enacted, That the proprietor of the copyright in any encyclopædia, review, magazine, periodical work, or other work published in a series of books or parts, shall be entitled to all the benefits of the registration at Stationers' Hall under this act, on entering in the said book of registry the title of

Proprietors of encyclopedias, periodicals, and works published in series, may enter at once at Stationers'

such encyclopædia, review, periodical work, or other work published in a series of books or parts, the time of the first publication of the first volume, number, or part thereof, or of the first number or volume first published after the passing of this act in any such work which shall have been published heretofore, and the name and place of abode of the proprietor thereof, and of the publisher thereof, when such publisher shall not also be the proprietor thereof.

Hall, and thereon have the benefit of the registration of the whole.

XX. And whereas an act was passed in the third year of the reign of his late Majesty, to amend the law relating to dramatic literary property, and it is expedient to extend the term of the sole liberty of representing dramatic pieces given by that act to the full time by this act provided for the continuance of copyright: and whereas it is expedient to extend to musical compositions the benefits of that act, and also of this act; be it therefore enacted, That the provisions of the said act of his late Majesty, and of this act, shall apply to musical compositions, and that the sole liberty of representing or performing, or causing or permitting to be represented or performed, any dramatic piece or musical composition, shall endure and be the property of the author thereof, and his assigns, for the term in this act provided for the duration of copyright in books; and the provisions hereinbefore enacted in respect of the property of such copyright, and of registering the same, shall apply to the liberty of representing or performing any dramatic piece or musical composition, as if the same were herein expressly re-enacted and applied thereto, save and except that the first public representation or performance of any dramatic piece or musical composition shall be deemed equivalent, in the construction of this act, to the first publication of any book: provided always, that in case of any dramatic piece or musical composition in manuscript, it shall be sufficient for the person having the sole liberty of representing or

The provisions of 3 & 4 W. 4. c. 15. extended to musical compositions, and the term of copyright, as provided by this act, applied to the liberty of representing dramatic pieces and musical compositions.

performing, or causing to be represented or performed the same, to register only the title thereof, the name and place of abode of the author or composer thereof, the name and place of abode of the proprietor thereof, and the time and place of its first representation or performance.

Proprietors of right of dramatic representations shall have all the remedies given by 3 & 4 W. 4. c. 15.

XXI. And be it enacted, That the person who shall at any time have the sole liberty of representing such dramatic piece or musical composition shall have and enjoy the remedies given and provided in the said act of the third and fourth years of the reign of his late Majesty King William the Fourth, passed to amend the laws relating to dramatic literary property, during the whole of his interest therein, as fully as if the same were re-enacted in this act.

Assignment of copyright of a dramatic piece not to convey the right of representation.

XXII. And be it enacted, That no assignment of the copyright of any book consisting of or containing a dramatic piece or musical composition shall be holden to convey to the assignee the right of representing or performing such dramatic piece or musical composition, unless an entry in the said registry book shall be made of such assignment, wherein shall be expressed the intention of the parties that such right should pass by such assignment.

Books pirated shall become the property of the proprietor of the copyright, and may be recovered by action.

XXIII. And be it enacted, That all copies of any book wherein there shall be copyright, and of which entry shall have been made in the said registry book, and which shall have been unlawfully printed or imported without the consent of the registered proprietor of such copyright, in writing under his hand first obtained, shall be deemed to be the property of the proprietor of such copyright, and who shall be registered as such, and such registered proprietor shall, after demand thereof in writing, be entitled to sue for and recover the same, or damages for the detention thereof, in an action of detinue, from any party who shall detain the same,

or to sue for and recover damages for the conversion thereof in an action of trover.

No proprietor of copyright commencing after this act shall sue or proceed for any infringement before making entry in the book of registry.

XXIV. And be it enacted, That no proprietor of copyright in any book which shall be first published after the passing of this act shall maintain any action or suit, at law or in equity, or any summary proceeding, in respect of any infringement of such copyright, unless he shall, before commencing such action, suit, or proceeding, have caused an entry to be made, in the book of registry of the Stationers' Company, of such book, pursuant to this act: provided always, that the omission to make such entry shall not affect the copyright in any book, but only the right to sue or proceed in respect of the infringement thereof as aforesaid: provided also, that nothing herein contained shall prejudice the remedies which the proprietor of the sole liberty of representing any dramatic piece shall have by virtue of the act passed in the third year of the reign of his late Majesty King William the Fourth, to amend the laws relating to dramatic literary property, or of this act, although no entry shall be made in the book of registry aforesaid.

Proviso for dramatic pieces.

Copyright shall be personal property.

XXV. And be it enacted, That all copyright shall be deemed personal property, and shall be transmissible by bequest, or, in case of intestacy, shall be subject to the same law of distribution as other personal property, and in Scotland shall be deemed to be personal and moveable estate.

General issue.

XXVI. And be it enacted, That if any action or suit shall be commenced or brought against any person or persons whomsoever for doing or causing to be done any thing in pursuance of this act, the defendant or defendants in such action may plead the general issue, and give the special matter in evidence; and if upon such action a verdict shall be given for the defendant, or the plaintiff shall become nonsuited, or discontinue his action, then the defendant shall have and recover his full costs, for which he shall have the same remedy as a defendant

Limitation of actions;

in any case by law hath; and that all actions, suits, bills, indictments, or informations for any offence that shall be committed against this act shall be brought, sued, and commenced within twelve calendar months next after such offence committed, or else the same shall be void and of none effect:

not to extend to actions, &c. in respect of the delivery of books.

provided that such limitation of time shall not extend or be construed to extend to any actions, suits, or other proceedings which under the authority of this act shall or may be brought, sued, or commenced for or in respect of any copies of books to be delivered for the use of the British Museum, or of any one of the four libraries hereinbefore mentioned.

Saving the rights of the Universities, and the colleges of Eton, Westminster, and Winchester.

XXVII. Provided always, and be it enacted, That nothing in this act contained shall affect or alter the rights of the two universities of Oxford and Cambridge, the colleges or houses of learning within the same, the four universities in Scotland, the college of the Holy and Undivided Trinity of Queen Elizabeth near Dublin, and the several colleges of Eton, Westminster, and Winchester, in any copyrights heretofore and now vested or hereafter to be vested in such universities and colleges respectively, any thing to the contrary herein contained notwithstanding.

Saving all subsisting rights, contracts, and engagements.

XXVIII. Provided also, and be it enacted, That nothing in this act contained shall affect, alter, or vary any right subsisting at the time of passing of this act, except as herein expressly enacted; and all contracts, agreements, and obligations made and entered into before the passing of this act, and all remedies relating thereto, shall remain in full force, any thing herein contained to the contrary notwithstanding.

Extent of the act.

XXIX. And be it enacted, That this act shall extend to the United Kingdom of Great Britain and Ireland, and to every part of the British dominions.

Act may be amended this session.

XXX. And be it enacted, That this act may be amended or repealed by any act to be passed in the present session of parliament.

SCHEDULE to which the preceding Act refers.

No. 1.

FORM OF MINUTE OF CONSENT TO BE ENTERED AT STATIONERS' HALL.

We, the undersigned, A. B. of , the author of a certain book, intituled Y. Z. [or the personal representative of the author, *as the case may be*], and C. D. of , do hereby certify, that we have consented and agreed to accept the benefits of the act passed in the fifth year of the reign of her Majesty Queen Victoria, cap. , for the extension of the term of copyright therein provided by the said act, and hereby declare that such extended term of copyright therein is the property of the said A. B. or C. D.

Dated this day of , 18 .

Witness (Signed) A. B.
C. D.

To the Registering Officer appointed by the Stationers' Company.

No. 2.

FORM OF REQUIRING ENTRY OF PROPRIETORSHIP.

I, A. B., of , do hereby certify, that I am the proprietor of the copyright of a book, intituled Y. Z., and I hereby require you to make entry in the register book of the Stationers' Company of my proprietorship of such copyright, according to the particulars underwritten.

Title of Book.	Name of Publisher and Place of Publication.	Name and Place of Abode of the Proprietor of the Copyright.	Date of First Publication.
Y. Z.		A. B.	

Dated this day of , 18 .

Witness, C. D. (Signed) A. B.

No. 3.

ORIGINAL ENTRY OF PROPRIETORSHIP OF COPYRIGHT OF A BOOK.

Time of making the Entry.	Title of Book.	Name of the Publisher, and Place of Publication.	Name and Place of Abode of the Proprietor of the Copyright.	Date of First Publication.
	Y. Z.	A. B.	C. D.	

No. 4.

FORM OF CONCURRENCE OF THE PARTY ASSIGNING IN ANY BOOK PREVIOUSLY REGISTERED.

I, A. B., of being the assigner of the copyright of the book hereunder described, do hereby require you to make entry of the assignment of the copyright therein.

Title of Book.	Assigner of the Copyright.	Assignee of Copyright.
Y. Z.	A. B.	C. D.

Dated this day of , 18 .

(Signed) A. B.

No. 5.

FORM OF ENTRY OF ASSIGNMENT OF COPYRIGHT IN ANY BOOK PREVIOUSLY REGISTERED.

Date of Entry.	Title of Book.	Assigner of the Copyright.	Assignee of Copyright.
	[*Set out the title of the book, and refer to the page of the registry book in which the original entry of the copyright thereof is made.*]	A. B.	C. D.

No. IV.

5 & 6 Vict. c. 100.

An Act to consolidate and amend the Laws relating to the Copyright of Designs for ornamenting Articles of Manufacture.

[10th August, 1842.]

Whereas by the several acts mentioned in the schedule (A.) to this act annexed, there was granted, in respect of the woven fabrics therein mentioned, the sole right to use any new and original pattern for printing the same during the period of three calendar months: and whereas by the act men-

tioned in the schedule (B.) to this act annexed, there was granted, in respect of all articles, except lace, and except the articles within the meaning of the acts hereinbefore referred to, the sole right of using any new and original design, for certain purposes, during the respective periods therein mentioned; but forasmuch as the protection afforded by the said acts in respect of the application of designs to certain articles of manufacture is insufficient, it is expedient to extend the same, but upon the conditions hereinafter expressed; now, for that purpose, and for the purpose of consolidating the provisions of the said acts, be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, That this act shall come into operation on the first day of September one thousand eight hundred and forty-two, and that thereupon all the said acts mentioned in the said schedules (A.) and (B.) to this act annexed shall be and they are hereby repealed.

Commencement of act, and repeal of former acts.

II. Provided always, and be it enacted, That notwithstanding such repeal of the said acts, every copyright in force under the same shall continue in force till the expiration of such copyright; and with regard to all offences or injuries committed against any such copyright before this act shall come into operation, every penalty imposed and every remedy given by the said acts, in relation to any such offence or injury, shall be applicable as if such acts had not been repealed; but with regard to such offences or injuries committed against any such copyright after this act shall come into operation, every penalty imposed and every remedy given by this act, in relation to any such offence or injury, shall be applicable as if such copyright had been conferred by this act.

Proviso as to existing copyrights.

III. And with regard to any new and original design (except for sculpture and other things within

Grant of copyright.

the provisions of the several acts mentioned in the schedule (C.) to this act annexed), whether such design be applicable to the ornamenting of any article of manufacture, or of any substance, artificial or natural, or partly artificial and partly natural, and that whether such design be so applicable for the pattern, or for the shape or configuration, or for the ornament thereof, or for any two or more of such purposes, and by whatever means such design may be so applicable, whether by printing, or by painting, or by embroidery, or by weaving, or by sewing, or by modelling, or by casting, or by embossing, or by engraving, or by staining, or by any other means whatsoever, manual, mechanical, or chemical, separate or combined; be it enacted, That the proprietor of every such design, not previously published, either within the United Kingdom of Great Britain and Ireland, or elsewhere, shall have the sole right to apply the same to any articles of manufacture, or to any such substances as aforesaid, provided the same be done within the United Kingdom of Great Britain and Ireland, for the respective terms hereinafter mentioned, such respective terms to be computed from the time of such design being registered according to this act; (that is to say,)

In respect of the application of any such design to ornamenting any article of manufacture contained in the first, second, third, fourth, fifth, sixth, eighth, or eleventh of the classes following, for the term of three years:

In respect of the application of any such design to ornamenting any article of manufacture contrined in the seventh, ninth, or tenth of the classes following, for the term of nine calendar months:

In respect of the application of any such design to ornamenting any article of manufacture or substance contained in the twelfth or thirteenth of the classes following, for the term of twelve calendar months:

Class 1. — Articles of manufacture composed wholly or chiefly of any metal or mixed metals:

Class 2. — Articles of manufacture composed wholly or chiefly of wood:

Class 3. — Articles of manufacture composed wholly or chiefly of glass:

Class 4. — Articles of manufacture composed wholly or chiefly of earthenware:

Class 5. — Paper-hangings:

Class 6. — Carpets:

Class 7. — Shawls, if the design be applied solely by printing, or by any other process by which colours are or may hereafter be produced upon tissue or textile fabrics:

Class 8. — Shawls not comprised in Class 7:

Class 9. — Yarn, thread, or warp, if the design be applied by printing, or by any other process by which colours are or may hereafter be produced:

Class 10. — Woven fabrics, composed of linen, cotton, wool, silk, or hair, or of any two or more of such materials, if the design be applied by printing, or by any other process by which colours are or may hereafter be produced upon tissue or textile fabrics; excepting the articles included in Class 11:

Class 11. — Woven fabrics, composed of linen, cotton, wool, silk, or hair, or of any two or more of such materials, if the design be applied by printing, or by any other process by which colours are or may hereafter be produced upon tissue or textile fabrics, such woven fabrics being or coming within the description technically called furnitures, and the repeat of the design whereof shall be more than twelve inches by eight inches:

Class 12.—Woven fabrics, not comprised in any preceding class:

Class 13. — Lace, and any article of manufacture or substance not comprised in any preceding class.

Conditions of copyright.

IV. Provided always, and be it enacted, That no person shall be entitled to the benefit of this act, with regard to any design in respect of the application thereof to ornamenting any article of manufacture, or any substance, unless such design have before publication thereof been registered according to this act, and unless at the time of such registration such design have been registered in respect of the application thereof to some or one of the articles of manufacture or substances comprised in the above-mentioned classes, by specifying the number of the class in respect of which such registration is made, and unless the name of such person shall be registered according to this act as a proprietor of such design, and unless after publication of such design every such article of manufacture, or such substance to which the same shall be so applied, published by him, hath thereon, if the article of manufacture be a woven fabric for printing, at one end thereof, or, if of any other kind or such substance as aforesaid, at the end or edge thereof, or other convenient place thereon, the letters "Rd," together with such number or letter, or number and letter, and in such form as shall correspond with the date of the registration of such design according to the registry of designs in that behalf; and such marks may be put on any such article of manufacture or such substance, either by making the same in or on the material itself of which such article or such substance shall consist, or by attaching thereto a label containing such marks.

Registration

Marks denoting a registered design.

The term "proprietor" explained.

V. And be it enacted, That the author of any such new and original design shall be considered the proprietor thereof, unless he have executed the work on behalf of another person for a good or a valuable

consideration, in which case such person shall be considered the proprietor, and shall be entitled to be registered in the place of the author; and every person acquiring for a good or a valuable consideration a new and original design, or the right to apply the same to ornamenting any one or more articles of manufacture, or any one or more such substances as aforesaid, either exclusively of any other person or otherwise, and also every person upon whom the property in such design or such right to the application thereof shall devolve, shall be considered the proprietor of the design in the respect in which the same may have been so acquired, and to that extent, but not otherwise.

Transfer of copyright, and register thereof.

VI. And be it enacted, That every person purchasing or otherwise acquiring the right to the entire or partial use of any such design may enter his title in the register hereby provided, and any writing purporting to be a transfer of such design, and signed by the proprietor thereof, shall operate as an effectual transfer; and the registrar shall, on request, and the production of such writing, or in the case of acquiring such right by any other mode than that of purchase on the production of any evidence to the satisfaction of the registrar, insert the name of the new proprietor in the register; and the following may be the form of such transfer, and of such request to the registrar:

Form of Transfer, and Authority to register.

'I, A. B., author [*or* proprietor] of design, No.
'having transferred my right thereto, [*or, if such*
'*transfer be partial,*] so far as regards the orna-
'menting of [*describe the articles of ma-*
'*nufacture or substances, or the locality with respect*
'*to which the right is transferred,*] to B. C. of
'*do hereby authorize you to insert his name on the*
'register of designs accordingly.'

Form of Request to register.

'I, B. C., the person mentioned in the above transfer, do request you to register my name and property in the said design as entitled [*if to the entire use*] to the entire use of such design, [*or, if to the partial use,*] to the partial use of such design, so far as regards the application thereof [*describe the articles of manufacture, or the locality in relation to which the right is transferred*].'

But if such request to register be made by any person to whom any such design shall devolve otherwise than by transfer, such request may be in the following form:

'I, C. D., in whom is vested by [*state bankruptcy or otherwise*] the design, No. [*or if such devolution be of a partial right,* so far as regards the application thereof] to [*describe the articles of manufacture or substance, or the locality in relation to which the right has devolved*].'

Piracy of designs.

VII. And for preventing the piracy of registered designs, be it enacted, That during the existence of any such right to the entire or partial use of any such design no person shall either do or cause to be done any of the following acts with regard to any articles of manufacture, or substances, in respect of which the copyright of such design shall be in force, without the licence or consent in writing of the registered proprietor thereof; (that is to say,)

No person shall apply any such design, or any fraudulent imitation thereof for the purpose of of sale, to the ornamenting of any article of manufacture, or any substance, artificial or natural, or partly artificial and partly natural:

No person shall publish, sell, or expose for sale any article of manufacture, or any substance, to which such design, or any fraudulent imitation thereof, shall have been so applied, after having received, either verbally or in writing, or other-

wise from any source other than the proprietor of such design, knowledge that his consent has not been given to such application, or after having been served with or had left at his premises a written notice signed by such proprietor or his agent to the same effect.

Recovery of penalties for piracy.

VIII. And be it enacted, That if any person commit any such act he shall for every offence forfeit a sum not less than five pounds, and not exceeding thirty pounds, to the proprietor of the design in respect of whose right such offence has been committed; and such proprietor may recover such penalty as follows:

In England, either by an action of debt or on the case against the party offending, or by summary proceeding before two justices having jurisdiction where the party offending resides; and if such proprietor proceed by such summary proceeding, any justice of the peace acting for the county, riding, division, city, or borough where the party offending resides, and not being concerned either in the sale or manufacture of the article of manufacture, or in the design to which such summary proceeding relates, may issue a summons requiring such party to appear on a day and at a time and place to be named in such summons, such time not being less than eight days from the date thereof; and every such summons shall be served on the party offending, either in person or at his usual place of abode; and either upon the appearance or upon the default to appear of the party offending, any two or more of such justices may proceed to the hearing of the complaint, and upon proof of the offence, either by the confession of the party offending, or upon the oath or affirmation of one or more credible witnesses, which such justices are hereby authorized to administer, may convict the offender in a penalty of not less than five

pounds, or more than thirty pounds, as aforesaid, for each offence, as to such justices doth seem fit; but the aggregate amount of penalties for offences in respect of any one design committed by any one person, up to the time at which any of the proceedings herein mentioned shall be instituted, shall not exceed the sum of one hundred pounds; and if the amount of such penalty or of such penalties, and the costs attending the conviction, so assessed by such justices, be not forthwith paid, the amount of the penalty or of the penalties, and of the costs, together with the costs of the distress and sale, shall be levied by distress and sale of the goods and chattels of the offender, wherever the same happen to be in England; and the justices before whom the party has been convicted, or, on proof of the conviction, any two justices acting for any county, riding, division, city, or borough in England, where goods and chattels of the person offending happen to be, may grant a warrant for such distress and sale; and the overplus, if any, shall be returned to the owner of the goods and chattels, on demand; and every information and conviction which shall be respectively laid or made in such summary proceeding before two justices under this act may be drawn or made out in the following forms respectively, or to the effect thereof, *mutatis mutandis*, as the case may require:

Form of Information.

'BE it remembered, That on the at
' in the county of
'A. B. of in the county of
'[*or* C. D. of in the county of
' at the instance and on behalf
'of A. B. of in the county of
'], cometh before us
'and two of her Majesty's Justices

'of the peace in and for the county of ,
'and giveth us to understand that the said
'A. B., before and at the time when the offence
'hereinafter mentioned was committed, was
'the proprietor of a new and original design
'for [*here describe the design*], and that within
'twelve calendar months last past, to wit, on
'the at in the county
'of E. F. of in the
'county of did [*here describe the*
'*offence*], contrary to the form of the act passed
'in the year of the reign of her
'present Majesty, intituled "An act to con-
'solidate and amend the laws relating to the
'copyright of designs for ornamenting arti-
'cles of manufacture."'

Form of Conviction.

'Be it remembered, That on the
'day of in the year of our Lord
' at in the county
'of E. F. of in
'the county aforesaid, is convicted before us
' and two of her
'Majesty's Justices of the peace for the said
'county, for that he the said E. F. on the
' day of in the
'year at in the county
'of did [*here describe the offence*]
'contrary to the form of the statute in that
'case made and provided; and we the said
'justices do adjudge that the said E. F. for his
'offence aforesaid hath forfeited the sum of
' to the said A. B.'

In Scotland, by action before the Court of Session in ordinary form, or by summary action before the sheriff of the county where the offence may be committed or the offender resides, who, upon proof of the offence or offences, either by con-

fession of the party offending or by the oath or affirmation of one or more credible witnesses, shall convict the offender and find him liable in the penalty or penalties aforesaid, as also in expences; and it shall be lawful for the sheriff, in pronouncing such judgment for the penalty or penalties and costs, to insert in such judgment a warrant, in the event of such penalty or penalties and costs not being paid, to levy and recover the amount of the same by poinding: provided always, that it shall be lawful to the sheriff, in the event of his dismissing the action and assoilzieing the defender, to find the complainer liable in expences; and any judgment so to be pronounced by the sheriff in such summary application shall be final and conclusive, and not subject to review by advocation, suspension, reduction, or otherwise:

In Ireland, either by action in a superior court of law at Dublin, or by civil bill in the civil bill court of the county or place where the offence was committed.

Proviso as to action for damages.

IX. Provided always, and be it enacted, That notwithstanding the remedies hereby given for the recovery of any such penalty as aforesaid, it shall be lawful for the proprietor in respect of whose right such penalty shall have been incurred (if he shall elect to do so) to bring such action as he may be entitled to for the recovery of any damages which he shall have sustained, either by the application of any such design or of a fraudulent imitation thereof, for the purpose of sale, to any articles of manufacture or substances, or by the publication, sale, or exposure to sale, as aforesaid, by any person, of any article or substance to which such design or any fraudulent imitation thereof shall have been so applied, such person knowing that the proprietor of such design had not given his consent to such application.

Registration may in some

X. And be it enacted, That in any suit in equity

cases to be cancelled or amended.

which may be instituted by the proprietor of any design or the person lawfully entitled thereto, relative to such design, if it shall appear to the satisfaction of the judge having cognizance of such suit that the design has been registered in the name of a person not being the proprietor or lawfully entitled thereto, it shall be competent for such judge, in his discretion, by a decree or order in such suit to direct either that such registration be cancelled (in which case the same shall thenceforth be wholly void), or that the name of the proprietor of such design, or other person lawfully entitled thereto, be substituted in the register for the name of such wrongful proprietor or claimant, in like manner as is hereinbefore directed in case of the transfer of a design, and to make such order respecting the costs of such cancellation or substitution, and of all proceedings to procure and effect the same, as he shall think fit; and the registrar is hereby authorized and required, upon being served with an official copy of such decree or order, and upon payment of the proper fee, to comply with the tenor of such decree or order, and either cancel such registration or substitute such new name, as the case may be.

Penalty for wrongfully using marks denoting a registered design.

XI. And be it enacted, That unless a design applied to ornamenting any article of manufacture or any such substance as aforesaid be so registered as aforesaid, and unless such design so registered shall have been applied to the ornamenting such article or substance within the United Kingdom of Great Britain and Ireland, and also after the copyright of such design in relation to such article or substance shall have expired, it shall be unlawful to put on any such article or such substance, in the manner hereinbefore required with respect to articles or substances whereto shall be applied a registered design, the marks hereinbefore required to be so applied, or any marks corresponding therewith or similar thereto; and if any person shall so unlawfully apply any such marks, or shall publish, sell, or expose for sale any

article of manufacture, or any substance with any such marks so unlawfully applied, knowing that any such marks have been unlawfully applied, he shall forfeit for every such offence a sum not exceeding five pounds, which may be recovered by any person proceeding for the same by any of the ways hereinbefore directed with respect to penalties for pirating any such design.

Limitation of actions.

XII. And be it enacted, That no action or other proceeding for any offence or injury under this act shall be brought after the expiration of twelve calendar months from the commission of the offence; and in every such action or other proceeding the party who shall prevail shall recover his full costs of suit or of such other proceeding.

Justices may order payment of costs in cases of summary proceeding.

XIII. And be it enacted, That in the case of any summary proceeding before any two justices in England such justices are hereby authorised to award payment of costs to the party prevailing, and to grant a warrant for enforcing payment thereof against the summoning party, if unsuccessful, in the like manner as is hereinbefore provided for recovering any penalty with costs against any offender under this act.

Registrar, &c. of designs to be appointed.

XIV. And for the purpose of registering designs for articles of manufacture, in order to obtain the protection of this act, be it enacted, That the lords of the committee of privy council for the consideration all matters of trade and plantations may appoint a person to be a registrar of designs for ornamenting articles of manufacture, and, if the lords of the said committee see fit, a deputy registrar, clerks, and other necessary officers and servants; and such registar, deputy registrar, clerks, officers, and servants shall hold their offices during the pleasure of the lords of the said committee; and the commissioners of he treasury may from time to time fix the salary or remuneration of such registrar, deputy registrar, clerks, officers, and servants; and, subject to the provisions of this act, the lords of the said committee may make rules for regulating the execution of the duties of the office of the said re-

gistrar; and such registrar shall have a seal of office.

Registrar's duties.

XV. And be it enacted, That the said registrar shall not register any design in respect of any application thereof to ornamenting any articles of manufacture or substances, unless he be furnished, in respect of each such application, with two copies, drawings, or prints of such design, accompanied with the name of every person who shall claim to be proprietor, or of the style or title of the firm under which such proprietor may be trading, with his place of abode or place of carrying on his business, or other place of address, and the number of the class in respect of which such registration is made; and the registrar shall register all such copies, drawings, or prints, from time to time successively, as they are received by him for that purpose; and on every such copy, drawing, or print he shall affix a number corresponding to such succession; and he shall retain one copy, drawing, or print, which he shall file in his office, and the other he shall return to the person by whom the same has been forwarded to him; and in order to give ready access to the copies of designs so registered, he shall class such copies of designs, and keep a proper index of each class.

Certificate of registration of design.

XVI. And be it enacted, That upon every copy, drawing, or print of an original design so returned to the person registering as aforesaid, or attached thereto, and upon every copy, drawing, or print thereof received for the purpose of such registration, or of the transfer such design being certified thereon or attached thereto, the registrar shall certify under his hand that the design has been so registered, the date of such registration, and the name of the registered proprietor, or the style or title of the firm under which such proprietor may be trading, with his place of abode or place of carrying on his business, or other place of address, and also the number of such design, together with such number

or letter, or number and letter, and in such form as shall be employed by him to denote or correspond with the date of such registration; and such certificate made on every such original design, or on such copy thereof, and purporting to be signed by the registrar or deputy registrar, and purporting to have the seal of office of such registrar affixed thereto, shall, in the absence of evidence to the contrary, be sufficient proof, as follows:

Of the design, and of the name of the proprietor therein mentioned, having been duly registered; and

Of the commencement of the period of registry; and

Of the person named therein as proprietor being the proprietor; and

Of the originality of the design; and

Of the provisions of this act, and of any rule under which the certificate appears to be made, having been complied with:

And any such writing purporting to be such certificate shall, in the absence of evidence to the contrary, be received as evidence, without proof of the handwriting of the signature thereto, or of the seal of office affixed thereto, or of the person signing the same being the registrar or deputy registrar.

Inspection of registered designs.

XVII. And be it enacted, That every person shall be at liberty to inspect any design whereof the copyright shall have expired, paying only such fee as shall be appointed by virtue of this act in that behalf; but with regard to designs whereof the copyright shall not have expired, no such design shall be open to inspection, except by a proprietor of such design or by any person authorized by him in writing, or by any person specially authorized by the registrar, and then only in the presence of some person holding an appointment under this act, and not so as to take a copy of any such design or of any part thereof, nor without paying for every such inspection such fee as aforesaid: provided always, that it shall be

lawful for the said registrar to give to any person applying to him, and producing a particular design, together with the registration mark thereof, or producing such registration mark only, a certificate stating whether of such design there be any copyright existing, and if there be, in respect to what particular article of manufacture or substance such copyright exists, and the term of such copyright, and the date of registration, and also the name and address of the registered proprietor thereof.

Application of fees of registration.

XVIII. And be it enacted, That the commissioners of the treasury shall from time to time fix fees to be paid for the services to be performed by the registrar, as they shall deem requisite, to defray the expences of the said office, and the salaries or other remuneration of the said registrar, and of any other persons employed under him, with the sanction of the commissioners of the treasury, in the execution of this act; and the balance, if any, shall be carried to the consolidated fund of the United Kingdom, and be paid accordingly into the receipt of her Majesty's exchequer at Westminster; and the commissioners of the treasury may regulate the manner in which such fees are to be received, and in which they are to be kept, and in which they are to be accounted for, and they may also remit or dispense with the payment of such fees in any cases where they may think it expedient so to do: provided always, that the fee for registering a design to be applied to any woven fabric, mentioned or comprised in Classes 7, 9, or 10, shall not exceed the sum of one shilling; that the fee for registering a design to be applied to a paper-hanging shall not exceed the sum of ten shillings; and that the fee to be received by the registrar for giving a certificate relative to the existence or expiration of any copyright in any design printed on any woven fabric, yarn, thread, or warp, or printed, embossed, or worked on any paper-hanging, to any person exhibiting a piece-end of a registered pattern with the

registration mark thereon, shall not exceed the sum of two shillings and sixpence.

Penalty for extortion.

XIX. And be it enacted, That if either the registrar or any person employed under him either demand or receive any gratuity or reward, whether in money or otherwise, except the salary or remuneration authorised by the commissioners of the treasury, he shall forfeit for every such offence fifty pounds to any person suing for the same by action of debt in the Court of Exchequer at Westminster; and he shall also be liable to be either suspended or dismissed from his office, and rendered incapable of holding any situation in the said office, as the commissioners of the treasury see fit.

Interpretation of act.

XX. And for the interpretation of this act, be it enacted, That the following terms and expressions, so far as they are not repugnant to the context of this act, shall be construed as follows; (that is to say,) the expression "commissioners of the treasury" shall mean the Lord High Treasurer for the time being, or the Commissioners of her Majesty's treasury for the time being, or any three or more of them; and the singular number shall include the plural as well as the singular number; and the masculine gender shall include the feminine gender as well as the masculine gender.

Alteration of act.

XXI. And be it enacted, That this act may be amended or repealed by any act to be passed in the present session of parliament.

SCHEDULES referred to by the foregoing Act.

SCHEDULE (A.)

Date of Acts.	Title.
27 Geo. 3. c. 38. (1787.)	An Act for the Encouragement of the Arts of *designing* and *printing* Linens, Cottons, Calicoes, and Muslins, by vesting the Properties thereof in the Designers, Printers, and Proprietors for a limited Time.
29 Geo. 3. c. 19. (1789.)	An Act for continuing an Act for the Encouragement of the Arts of designing and printing Linens, Cottons, Calicoes, and Muslins, by vesting the Properties thereof in the Designers, Printers, and Proprietors for a limited Time.
34 Geo. 3. c. 23. (1794.)	An Act for amending and making perpetual an Act for the Encouragement of the Arts of designing and printing Linens, Cottons, Calicoes, and Muslins, by vesting the Properties thereof in the Designers, Printers, and Proprietors for a limited Time.
2 Vict. c. 13. (1839.)	An Act for extending the Copyright of Designs for Calico-printing to Designs for printing other Woven Fabrics.

SCHEDULE (B.)

Date of Act.	Title.
2 Vict. c. 17. (1839.)	An Act to secure to Proprietors of Designs for Articles of Manufacture the Copyright of such Designs for a limited Time.

SCHEDULE (C.)

Date of Acts.	Title.
38 Geo. 3. c. 71. (1798.)	An Act for encouraging the Art of making new Models and Casts of Busts and other Things therein mentioned.
54 Geo. 3. c. 56. (1814.)	An Act to amend and render more effectual an Act for encouraging the Art of making new Models and Casts of Busts and other Things therein mentioned, and for giving further Encouragement to such Arts.

No. V.

NOTICE AND DIRECTIONS FROM THE OFFICE OF THE REGISTRAR OF DESIGNS.

OFFICE OF REGISTRAR OF DESIGNS,
35. Lincoln's Inn Fields.

By the Consolidated Designs Copyright Act, 5 & 6 Vict. c. 100., commencing its operation the 1st September, 1842, a copyright or property is given to the authors or proprietors of original designs for ornamenting any article of manufacture or substance, for the various terms specified in the following classes: —

CLASS.	ARTICLE.	COPYRIGHT.
1.	Articles in metal - - - -	3 years.
2.	Articles in wood - - - -	3 years.
3.	Articles in glass - - - -	3 years.
4.	Articles in earthenware - - -	3 years.
5.	Paper-hangings - - - -	3 years.
6.	Carpets - - - -	3 years.
7.	Shawls (patterns printed) - - -	9 months.
8.	Shawls (patterns not printed) - -	3 years.
9.	Yarn, thread, or warp (printed) - -	9 months.

Class.	Article.	Copyright.
10.	Woven fabrics, not furnitures (patterns printed) - - - - -	9 months.
11.	Woven fabrics, furnitures (patterns printed)	3 years.
12.	Woven fabrics (patterns not printed) -	12 months.
13.	Lace and all other articles - - -	12 months.

The rights conferred upon the authors or proprietors of original designs are subjected to the following conditions:—

1st. The design must be registered.

2nd. After registration, every article of manufacture published by the proprietor on which such design is used must have thereon a particular MARK, which will be exhibited on the certificate of registration.

These conditions being observed, the right of the proprietor is protected from piracy by a penalty of from five pounds to thirty pounds for each offence, each individual illegal application or sale of a design constituting a separate offence. This penalty may be recovered by the aggrieved party either by action in the superior courts, or by a summary proceeding before two magistrates.

If a design be executed by the author on behalf of another person for a valuable consideration, the latter is entitled to be registered as the proprietor thereof; and any person purchasing either the exclusive or partial right to use the design is in the same way equally entitled to be registered, and for the purpose of facilitating such transfers, a short form is given in the act.

A penalty of five pounds is imposed in the case of any person using the registration mark on any design not registered, or the copyright of which has expired, or when the design has not been applied within the United Kingdom.

All designs of which the copyright has expired may be inspected at the registrar's office on the payment of the proper fee; but no design, the copyright of which is existing, is in general permitted to be seen. Any person, however, may, by application at the office, and on production of the registration mark of any particular design, be furnished with a certificate of search, stating whether the copyright be in existence, and in respect to which article of manufacture it exists; also, the term of such copyright and the date of registration, and the name

and address of the registered proprietor. Any party may also, on the production of a piece of the manufactured article with the pattern thereon, together with the registration mark, be informed whether such pattern, supposed to be registered, be really so or not.

DIRECTIONS FOR REGISTERING.

All persons wishing to register a design must bring or send to the registrar's office two copies thereof, together with the proper fees. These copies may consist either of portions of the manufactured articles, when such can be conveniently done (as in the case of *paper-hangings*, *calico prints*, &c.), or else of prints or drawings, which, whether coloured or not, must be correct representations of the design. These must be accompanied with the name and address of the proprietor or proprietors, or with the title of the firm under which he or they may be trading, and the place of carrying on business, and and *also with the number of that one of the above classes* in respect of which such design is intended to be registered. After the design has been registered, one of the two copies will be filed at the office, and the other returned to the proprietor, with a certificate annexed, on which will appear the mark to be placed on each article of manufacture on which the design is used.

A design may be registered in respect of one or more of the above classes, according as it is intended to be employed in one or more species of manufacture; but separate copies must be furnished, and a separate fee paid on account of each separate class, and all such registrations must be made at the same time.

All communications with the office for the registration of designs may be made either through the general post, or any other mode of conveyance, provided the carriage be paid; and if the proper fees, or an order for payment, be enclosed, the designs will be duly registered, and the certified copies returned to the proprietor free of expense.

The registrar's office will be open every day on and after the 1st September, 1842, between the hours of 10 in the morning and 4 in the afternoon, and designs and transfers will

be registered from 11 until 3; and the following are the fees ordered to be paid by the Treasury: —

TABLE OF FEES.

REGISTERING DESIGNS: —

	£	s.	d.
Class 1 - -	3	0	0
Class 2 - -	1	0	0
Class 3 - -	1	0	0
Class 4 - -	1	0	0
Class 5 - -	0	10	0
Class 6 - -	1	0	0
Class 7 - -	0	1	0
Class 8 - -	1	0	0
Class 9 - -	0	1	0
Class 10 - -	0	1	0
Class 11 - -	0	5	0
Class 12 - -	1	0	0
Class 13 - -	1	0	0

	£	s.	d.
Transfer - -	1	0	0
Certifying design same as registration fee, but for Class 1.	1	0	0
Cancellation or substitution -	1	0	0
Search - -	0	2	6
Inspection of designs of which the copyright has expired, each class -	0	1	0

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THE END.

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